

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

FILED
2023 JUN 23 PM 3:20

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT

Makandi L. Terry, #353344

Applicant,

LEAH M. DUFFREE
CLERK OF COURT Case No.: 2018-CP-08-2440
BERKELEY COUNTY, SC

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,
Respondent.

This matter comes before this Court by way of application for post-conviction relief (PCR) filed by Makandi L. Terry (Applicant) on December 6, 2018. In response, Respondent filed its return and moved to summarily dismiss the action as procedurally barred by 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 December 2, 2019, 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 by reference is a letter from the Office of the Attorney General to the South Carolina Department of Services dated October 30, 2020, asking the Department of Corrections to serve the Conditional Order of Dismissal on Applicant.¹ Also attached to this Final Order and incorporated by reference is an "Answer to the Return and Motion to Dismiss and Conditional Order of Dismissal" signed by Applicant and filed with the Clerk of Court on January 28, 2020. In this filing, Applicant references the Conditional Order of Dismissal that was filed on December 2, 2019. Based on the foregoing, this Court finds Applicant was served the Conditional Order of

¹ Respondent does not have an affidavit of service in its file showing when Applicant was served.

CC: M. TERRY; D. DIXON 23 JUN 2023 AD

Dismissal on or before January 28, 2020.

In the January 28, 2020 “Answer to Return and Motion to Dismiss and Conditional Order of Dismissal,” Applicant again raised the issue of newly-discovered evidence, contending plea counsel testified for the State at his PCR hearing and committed perjury. Specifically, he averred

after discovered evidence provided by co-defendant’s attorney via letter dated January 17, 2018; stating, “...that co-defendant did not meet with State, nor provided the State with any statement or assistance in the case,” proves clearly that plea counsel gave inaccurate information to the Applicant to coerce Applicant into pleading guilty.

This Court considered this precise issue prior to signing the Conditional Order of Dismissal and determined it did not set forth a prima facie showing of newly discovered evidence. Applicant has not set forth any other prima facie showing that he is entitled to relief or to an evidentiary hearing.

In addition to the January 28, 2020 “Answer to Return and Motion to Dismiss and Conditional Order of Dismissal,” Respondent filed a “Petition this Court’s to Allow this Motion Rule 29(b) Evidence of Discovery” on January 14, 2021, asserting he “will present evidence to show just cause which will show that the prosecutor acted with malice as he or she sought to promote their career under the pretense of falsely accused . . . with perjury & testimony’s.” (ellipsis in original). To the extent this motion can be construed as seeking relief from this Court, it is denied. To the extent this motion can be construed as a response to this Court’s Conditional Order of Dismissal, this Court finds Applicant did not set forth a sufficient reason why the Conditional Order of Dismissal should not become final.

Additionally, Applicant filed a Motion for Judgement on Pleadings, Motion for Default judgment” on January 14, 2021. That motion is denied.² To the extent this motion can be

² This Court notes Respondent filed a return and motion to dismiss on November 4, 2019.

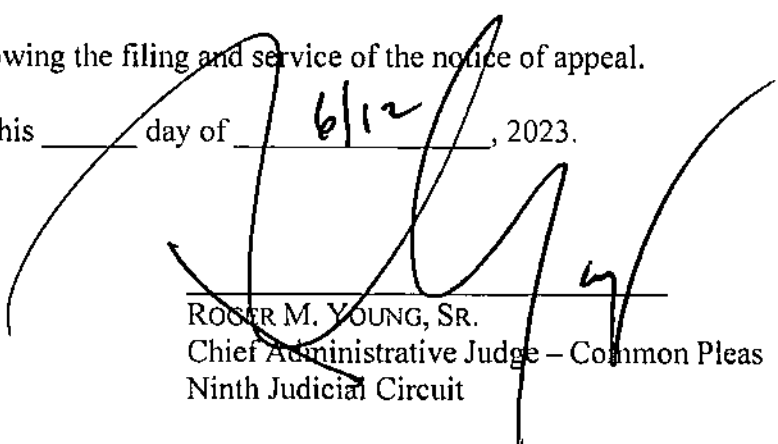


construed as a response to this Court's Conditional Order of Dismissal, this Court finds Applicant did not set forth a sufficient reason why the Conditional Order of Dismissal should not become final.

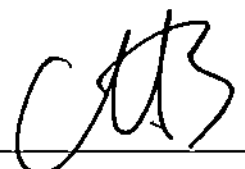
IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

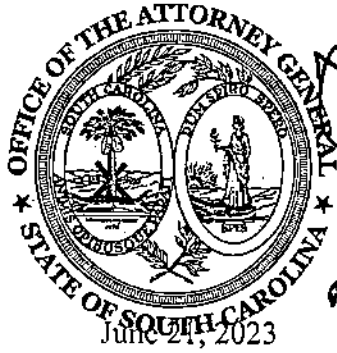
Should Applicant wish to procure appellate review, he must file and serve a notice of appeal within thirty days of this Order. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this _____ day of 6/12, 2023.



ROGER M. YOUNG, SR.
Chief Administrative Judge – Common Pleas
Ninth Judicial Circuit


_____, South Carolina



FILED

2023 JUN 23 PM 3:20

LEAH GUERRY DUPREE
CLERK OF COURT
BERKELEY COUNTY, SC

ALAN WILSON
ATTORNEY GENERAL

The Honorable Leah Guerry Dupree
Clerk of Court - Berkeley County
Post Office Box 219
Moncks Corner, South Carolina 29461-0219

Re: Makandi L. Terry, #353344 v. State of South Carolina
Case No.: 2018-CP-08-02440

Dear Ms. Dupree:

Enclosed please find the original Final Order of Dismissal signed by the Honorable Roger M. Young, Sr., in the above-captioned case, for filing in your office. In addition, please forward proof of service and a time stamped copy back to our office for our file.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Dixon".

Danielle Dixon
Assistant Attorney General

DD/vh

cc: Makandi L. Terry, #353344