

RECEIVED

SEP 11 2023

S.C. SUPREME COURT

Jenny A. Kitching, clerk,
South Carolina court of Appeals
post office box 11629
Columbia, S.C. 29211

RE: Robert Earl Dillard v. State of South Carolina
County of Pickens, c/a no. 2022-000972/1490-1491.

1994-GS-39-1490/1491.

Dear Clerk;

Enclosed please find my original motion for summary judgment, Affidavit, and proof of service to be filed in your office.

CC: Respondent's Attorney
file.

Sincerely yours


Robert E. Dillard #22004⁵

date 7/17 2023.

IN THE SOUTH CAROLINA

COURT OF APPEALS

COUNT OF PICKENS)

ROBERT EARL DILLARD/220045)
petitioner's)

v.)

STATE OF SOUTH CAROLINA)
Respondent,)

MOTION FOR SUMMARY JUDGMENT,

case no. 2022-000972-1490-1491.

1994-GS-39-1490/1491

DATE 7/17 2023.

Robert E. Dillard

Robert E. Dillard/22004
perry correctional inst,
430 oaklawn road q4b/209
pelzer, s.c. 29669

IN THE SOUTH CAROLINA
COURT OF APPEALS

Robert Earl Dillard, 220045.
petitioner,

v.

State of South Carolina
Respondent,

case no. 2022-000972/1490-91

AFFIDAVIT FOR SUMMARY JUDGMENT

1994-GS-39-1490/1491.

PETITIONER , Robert Earl Dillard, being duly sworn, deposes and says:

- 1, I am the pro se petitioner in the above entitled matter.
- 2, The Respondent was served with a copy of the motion for Initial Brief of the petitioner's and Designation of matter Brief, as appears from the proof of service on file.
- 3, The Respondent was granted an extension of time to file an answer from may 7, 2023. but ask for a extension of 30 days more as appears by letter.
- 4, The Respondent was granted an extension of time to file an answer by 7-7-2023. but filed the answer on 7-8-2023. as appears for another 30 days extension on the Doc.
- 5, The Respondent assistance melode J. Brown, has not filed or served an answer or taken other action as may be permitted by law although the time for serving an answer have passed since the date of service of the initial brief and the Designation of matter brief, but ask for another 30 days extension from july 7, until aug 7, 2023; to extended the DELAY, THIS MATTER OF LAW.

DATE 7/17 2023.


Robert Earl Dillard #22004

IN THE SOUTH CAROLINA
COURT OF APPEALS COURT

ROBERT E. DILLARD#220045)
petitioner,)

v.)

STATE OF SOUTH CAROLINA,)
Respondent,)

MOTION FOR SUMMARY JUDGMENT

RULE 56, SCRCP.

case no.2022-000972-1490/1491

RECEIVED 194-GS-39-1490/1491

JUL 17 2023

PCI MAILROOM

THIS matter is before the court of appeals on petitioner's motion for summary judgment, petitioner filed the motion on 7/17/2023, the deadline to file a response was July 7, 2023. respondents' was granted an extension of time for 30 days. three time to file an answer, the respondents has not filed or served an answer in opposition, or taken other action as may be permitted by law although keep asking for extension of time, to delay an answer the time for serving an answer have passed since the date of service of the Initial Brief of the petitioner's and Designation of matter. remain nevertheless, this court remain obligated to independent by analyze the motion Robinson v. vizfiltration corp. 599 F3d 403, 409.8 (4th cir, 2010). IN considering a motion for summary judgment, the Court of Appeals must review the motion, even it unopposed, and determine from what it has before, whether the moving party is entitled to summary judgment as a matter of law, (quoting custer v. panam life ins, 10. 12F3d 412, 416 (4th cir 1993,

Petitioner Robert E. Dillard#220045, petition This court honorable court pursuant to Rule 56 of the south carolina civil procedure for summary judgment against the defendant, because there is no genuine issued of material fact exist in this Initial Brief and the Designation of matter brief, preccding and petitioner's is entitled to judgment as a matter of law,

THE Petitioner filed a motion to alter/ amend judgment pursuant to rule 59(E)(THE Petitioners in the above case entitled case respectfully petition this court honorable court to alter/a amend his judgment that was signed on june 7, 2022 and served on the petitioner on june 14, 2022.

THE Petitioner would show this court that he filed a motion on june 9, 2022. the pickens county clerk of court office rassing the following by way of a motion to hearing to his claim of false imprisonment/ false arrest and false indictnent, and failed to instruct the jury on reasonable doubt, request his pleading/ motion to be construed liberally and held to less strivgent standard maning forward pleadings drafted by lawyers, (did not state with certionty the reason for the dismissal other that,

THE Petitioner would show thia court that the motion was dented on june 7, 2022. before the motion was filed in the clerk's office, see order attached. (Appeals was file to the order of denied, to the court of appeals court, and on october 17, 2022. petitioner motion to allow late filing of his initial brief is granted, and Respondent's motion to compel A

Appellant to file Appellant's initial brief and designation of matter is granted, in part.

The Respondent's decision is an unreasonable determination of the facts in light of the evidence submitted and presented.

[[The petitioner raised the following claims for relief;

(1) After-discovered evidence of solicitor's knowing use of perjured testimony.

(2) Denial of due process by trial judge's definition of 'reasonable doubt'.

(3) Applicant's murder indictment(s) was not lawfully presented by a grand jury for trial of his case(S).

Submitted to south carolina Court of Appeals and decided by the court.

Summary judgment is proper because there is no genuine issue of material fact to be decided in this case, Petitioner is entitled to judgment as a matter of law. IN support of this motion, the petitioner shows the following to the court statement, and the records and exhibits of undisputed facts,

Petitioner in his complaint/motion, initial brief and his Designation of matter brief, has alleged specific facts, those facts not readily admitted by the Respondent have been supported by documents produced as exhibits to the complaint/motion and in his initial brief and Designation of matter brief, to this memorandum by petitioner, Respondent, on the other hand, has not produced anything as a

Defenses and no reference to affirmative defenses that Respondent may possibly raise in the future, no factual basis by the Respondent have been produced in their answer or return, unless the Respondent can offer evidence which establishes that a genuine issue of material fact exists which requires a trial of this matter, Petitioner's motion for summary judgment must be granted in accordance with Rule 56(e) When a motion for summary judgment has made a prima facie showing, as in the case at bar, that no genuine issues of fact exist for trial, then the opponent of the motion has the burden to produce sufficient evidence that there is an issue and the opposing party cannot defeat a motion for summary judgment and require a trial by a bare contention that an issue of fact exist, he must show that evidence is available which would justify a trial of the issues, *Dobson v. Brand Intern* *broth of locomotive engineers*, 101 Ariz. 501, 505, 1121 p. 2d 520, *Anderson v. Liberty lobby Inc.*, 477 U.S. 242, 106 S.Ct. 2505, see *v. v. Kroeger Co. v. Travelers Indem Co.* 112 Ariz. 285, 286, 541 p. 2d 385. (Respondent has the obligation of offering some proof that a genuine issue of material fact exist which requires the trial of this action on the merits, Respondent cannot defeat this motion by alleging merely that the Respondent may present at some future time, one or more AFFIRMATIVE defenses. Respondent should not be allowed to put petitioner to the burden and expense of a trial, and the court should not expand further judicial time and energy upon a claim[S] that has not been effectively disputed

as required by Rule 56(e) see Wakeham v. Omega, Const.,
Co, 96 Ariz 336, 339-40.

Request that summary judgment be granted to the petitioner for
the relief sought.

THE Petitioner would show this court that a quick ruling was made
in favor of the Respondent's motion for three(3) extension of time
Court of Appeals for south carolina, is intended to provide a
swift and imperative remedy in all cases of illegal restraint
or confinement, Fay v. Noia, 372 U.S. 391, 83 S.Ct. 822 motion
and Initial Brief, as well his Designation of matter Brief claim
should receive a swift, flexible and summary judgment determination
Priezer v. Rodriguez, 411 U.S. 475, 93 S.Ct. 1827.


The south carolina attorney general office is inordinate and
inexcusably delay (Barker v. Wingo) in failing to adjudicate
his state court motion court Appeals claims in a timely manner
under the due process clause of the 14th Amend, This type of
conduct by the Respondent by not timely responding to petitioner's
delay claims have established a pattern of intentional delay with
out regard to the petitioner's Due Process Rights being infringed
~~UPON~~ This Honorable court have given the Respondent, every benefit
of the doubt with their motions for extension of time, and have
disregarded everything that the petitioner have stated in his
petition pleading's

Fashion a remedy according to existing circumstances *odsen v. Moore*, 445 F2d 806, This case is on point that he have challenged his claims of inordinate and inexcusable delay at every stage of the proceeding in south carolina, This is not a case in which facted allegations were made to the Federal court, that were not before the states courts. The question here is simply whether on the record and argument before it, the S.C. Court of Appeals and S.C. Supreme court have a fair opportunity to consider his claim and to correct his constitutional claims, petitioner request this Honorable court to exercise it power not overlook the fact that all his claims for relief are exhausted request this honorable court to exercise his inherent powers and jurisdiction and grant the initial brief, and Designation of matter brief, for relief to include while petitioner await the decision of the S.C. Court of Appeals or whatever this court deems necessary to recitify the Due process violation inordinate and inexcusable delay, by the state, Respondent,

CONCLUSION

WHEREFORE, the Foregoing Reason, The Honorable Court Should Grant, Summary judgment, to the petitioner in this case.

date 7/17 2023.


Robert E, Dillard #220045

IN THE SOUTH CAROLINA

COURT OF APPEALS

ROBERT EARL DILLARD#220045
petitioner,

v.

STATE OF SOUTH CAROLINA
Respondent,

case no.2022-000972-1490/1291

1994-GS-39-1490/1491

PROOF OF SERVICE

PETITIONER, Robert Earl Dillard#220045, certify that he served true copies of the summary judgment (56) (e) upon Respondent's Attorney , and the court of appeals clerk, by placing same in the U.S. Mail, postage prepaid, addressed to;

melody j. Brown
senior assistant deputy
attorney general
post office box 11549
columbia, s.c. 29211-1549

The Honorable jenny A, Kitching
clerk, court of Appeals
post office box 11629
columbia, s.c. 29211.

Attorney general Alan Wilson,
post office box 11549
columbia, s.c. 29211-1549

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JUL 17 2023

PCI MAILROOM

date 7/17 2023.

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Robert Earl Dillard#220045
perry correctional inst,
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SEP 11 2023

S.C. SUPREME COURT

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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August 09, 2023

Ms. Melody Jane Brown, Esquire
PO Box 11549
Columbia SC 29211-1549

Re: Robert E. Dillard v. State
Appellate Case No. 2022-000972

Dear Counsel:

The Court received your request for an extension of time to file the respondent's initial brief and designation of matter. We will hold the appeal in abeyance pending a resolution on the appellant's motions filed July 5 and July 20, 2023. Accordingly, we will not take any further action on your request for an extension of time.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Robert Earl Dillard, 00220045
Alan McCrory Wilson, Esquire

The South Carolina Court of Appeals

Robert Earl Dillard, Appellant;

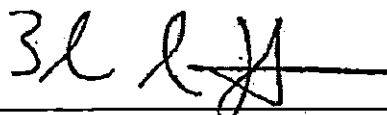
v.

The State, Respondent.

Appellate Case No. 2022-000972

ORDER

On July 5, 2023, Appellant filed a "motion for relief based on absence of any legal rebuttal by the state." On July 20, 2023, Appellant filed a motion for summary judgment. After careful consideration, we deny Appellant's motions.



FOR THE COURT

Columbia, South Carolina

cc:

Robert Earl Dillard, 00220045
Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire

FILED
Aug 24 2023
