

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

Victor E. Mason, 87817-071,)

Plaintiff)

v.)

State Of South Carolina)

Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.
2010-CP-38-1583

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

REC

| | |
|---|---|
| Plaintiff's Attorney: Victor E. Mason, Bar No. Address: USP Lee Post Office Box 305 Jonesville, VA 24263 phone: fax: e-mail: other: | Defendant's Attorney: Megan Harrigan, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other: |
|---|---|

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Megan E. Harrigan
 Signature of Attorney for Plaintiff / Defendant

July 13, 2012
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: _____
 EXEMPT:

(check reason) Rule to Show Cause in Child or Spousal Support

Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

 JUDGE

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

ATTEST: TRUE COPY
Winnaja B. Clark
 CLERK OF COURT

MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

RECEIVED

JUL 16 2013

STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
)
 Victor E. Mason, #87817-071)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2010-CP-38-1583

FINAL ORDER OF DISMISSAL

JUL 16 2013

S.C. Supreme Court

2012 JUL 25 AM 11:23

This matter comes before the Court pursuant to an application for post-conviction relief filed November 1, 2010. The State made its Return and Motion to Dismiss without Prejudice on July 8, 2011, requesting that the application be summarily dismissed for failure to state a cognizable claim. 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 without Prejudice dated September 8, 2011, provisionally denying and dismissing this action. This Court gave Applicant twenty 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 November 8, 2011, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

The Applicant responded to the Conditional Order of Dismissal by way of a document captioned "Response to -- The Court's Conditional Order of Dismissal..." filed December 1, 2011. In his response the Applicant alleges the following claims:

- "The Court does not address any of the issues responded to in 'Applicant's Reply to- 'Attorneys for the Respondents' Request for RETURN AND MOTION TO DISMISS' (Filed August 1, 2011);"
- "The Court contends that South Carolina's Code(s) (S.C. Code Ann.) and this Applicants claim that an "Uncounseled Guilty Plea" for the prior crimes having

ATTEST TRUE COPY
 Winnie B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

out of this Court, which resulted in a violation of Fifth (5th), Fourteenth (14th) and Sixth (6th) Amendment rights to the Constitution, are one in the same claim;”

- “The Court merely reasserts its timeliness defense without considering the collateral consequence caused by the uncounseled priors, and refuses to acknowledge the underlying basis of the claim raised in the PCR petition and this Applicant’s ‘Reply to the RETURN AND MOTION TO DISMISS’;”
- “The Court continues to asset that this Applicant was represented by Marshall B. Williams, Esquire, for the prior offense, even though, this Applicant submitted in the PCR petition and the reply to the ‘RETURN AND MOTION TO DIMSS’ that Mr. Williams only represented the Applicant during the bond hearing, not the judicial stages of the proceedings;”
- “Furthermore, properly submitted documents were attached to the PCR petition and the reply to the ‘RETURN AND MOTION TO DISMISS’ showing that this Applicant was not represented by counsel at the judicial stages of the proceedings, and the surest way to contest the claim would be to counteract the proof submitted by those documents.”
- “The Applicant maintains the claims set forth in the PCR petition and the reply motion to the ‘RETURN AND MTOIN TO DIMSSS’ filed by the Court.”

The Court finds that the Applicant has shown no reason why these issues were not raised within the statute of limitations for filing a Post-Conviction Relief application pursuant to S.C. Code. § 17-27-45(a). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996).

The Applicant pled guilty to the offense(s) he challenges in this Application on July 22, 1988.

The Applicant was therefore required to file his application before July 23, 1989. This

Application was filed on November 1, 2010, over two decades beyond the expiration of the

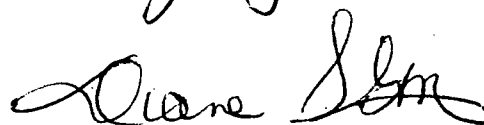
statutory filing period. Accordingly, this Court finds no reason why the Conditional Order of

Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for Post-Conviction Relief is hereby denied and dismissed with prejudice.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. See Rule 203, SCACR. The 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 18 day of July, 2012.



DIANE S. GOODSTEIN
Administrative Judge
First Judicial Circuit

Sumner, South Carolina.