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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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OCT 12 2023

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

THE HONORABLE G.D. Morgan, Jr., Chief Administrative Judge  
Case No. 2020-CP-23-1967

Kenneth Rivera, #318979,  
Appellant,

v.

State of South Carolina,  
Respondent.

NOTICE OF APPEAL

Kenneth Rivera appeals the order of the Honorable G.D. Morgan, Jr. dated September 25, 2023. Appellant received written notice of entry of this order on September 29, 2023.

September 30, 2023

Other Counsel of Record  
Melody J. Brown  
Senior Assistant Deputy A.G.  
P.O. Box 11549  
Columbia, SC 29211-1549

Kenneth Rivera  
Kenneth Rivera #318979  
BRCI-WAA #151  
4460 Broad River Rd.  
Columbia, SC 29210

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G.D. Morgan, Jr., Chief Administrative Judge

Case No. 2020-CP-23-1967

Kenneth Rivera, #318979,

Appellant,

v.

State of South Carolina,

Respondent.

### Proof of Service

I certify that I have served the Notice of Appeal on Melody J. Brown, Senior Assistant Deputy Attorney General by depositing a copy of it in the United States Mail, postage prepaid, on September 30, 2023, addressed to SC Office of Attorney General, P.O. Box 11549, Columbia, SC 29211-1549.

September 30, 2023

Kenneth Rivera

Kenneth Rivera #318979

BRC I - WAA #151

4460 Broad River Rd.

Columbia, SC 29210

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### Proof of Service

I certify that I have served the Notice of Appeal on the Honorable G.D. Morgan, Jr. by depositing a copy of it in the United States mail, postage prepaid, on September 30, 2023, addressed Chief Administrative Judge, 305 E. North Street, Greenville, SC 29601.

September 30, 2023

Kenneth Rivera  
Kenneth Rivera #318979  
BRCI-WAA #151  
4460 Broad River Rd.  
Columbia, SC 29210

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	

Kenneth Rivera, #318979,	)	Case No.: 2020-CP-23-01967
	)	

Applicant,	)
	)

v.	)
	)

State of South Carolina,	)
	)

Respondent.	)
_____	)

**FINAL ORDER OF DISMISSAL**  
**RECEIVED**  
 OCT 12 2023  
 SC Court of Appeals

This matter comes before the Court by way of an application for post-conviction relief filed on April 2, 2020, by Applicant Kenneth Rivera. Respondent made its return on or about June 7, 2021, and moved for the summary dismissal of the application. Respondent asserted that the application was not timely filed within the one-year statute of limitations.

After consideration of the application, return and relevant documents attached thereto, this Court issued a conditional order of dismissal on June 10, 2021, finding that the action should be dismissed as untimely. Applicant was given the opportunity to respond and show cause as to why the conditional order should not become final. As evidenced by the attached Certificate of Service, Applicant was served with the conditional order on July 21, 2021. (Attachment 1). Applicant filed a response on July 21, 2021.

This Court has reviewed its prior order along with Applicant's response and finds Applicant has failed to show cause as to why the Order should not become final. Applicant has presented no argument on the timeliness issue. This application was filed almost four years after the statutory deadline had passed and must be dismissed.

THEREFORE, this Court reasserts all its specific findings in the conditional order of dismissal and concludes that the application must be summarily dismissed as untimely.

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 denied and dismissed.

IT IS SO ORDERED this \_\_\_\_\_ day of September, 2023.

\_\_\_\_\_  
G.D. Morgan, Jr., Chief Judge for  
Administrative Purposes, Common Pleas  
Thirteenth Judicial Circuit

\_\_\_\_\_, South Carolina

ATTACHMENT TO FINAL ORDER  
Certificate of Service (Conditional Order of Dismissal)

**\*\*NOTICE\*\***

This Court gives notice that Applicant must file and serve a notice of appeal within 30 days of the receipt of this order to secure appellate review. *See* Rule 203(b)(1), SCACR. Applicant's attention is directed to Rule 243, SCACR, for further procedures regarding an appeal.



ALAN WILSON  
ATTORNEY GENERAL

September 25, 2023

*(Via Electronic Mail Only)*  
The Honorable G.D. Morgan, Jr.  
Chief Administrative Judge  
305 E. North Street  
Greenville, South Carolina 29601

Re: Kenneth Rivera, #318979 v. State of South Carolina  
Case No: 2020-CP-23-1967

Dear Judge Morgan:

Enclosed please find the proposed Final Order of Dismissal regarding the above-captioned case. For your convenience, I am enclosing a copy of the signed and served Conditional Order of Dismissal, along with Applicant's response filed with the Greenville County Clerk of Court on July 21, 2023 for your review.

If this Order meets your Honor's approval, kindly sign same and forward it to the Clerk of Court to be filed and served.

Thank you for your time and consideration in this matter.

Sincerely,

Melody J. Brown  
Senior Assistant Deputy Attorney General

MJB/abb  
Enclosure

cc: Kenneth Rivera, #318979 *(with enclosures)*

# The South Carolina Court of Appeals

Kenneth Rivera, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2023-001618

**RECEIVED**

**Oct 17 2023**

**S.C. SUPREME COURT**

The Honorable G. D. Morgan, Jr.  
Greenville County  
Trial Court Case No. 2020CP2301967

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ORDER

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This case is transferred to the Supreme Court of South Carolina pursuant to Rule 204(a) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY Catherine Hannibal, deputy  
CLERK

Columbia, South Carolina  
October 17, 2023

cc:

Alan McCrory Wilson, Esquire  
Melody Jane Brown, Esquire  
Kenneth Darrell Rivera  
The Honorable Patricia A. Howard

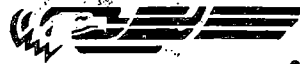
Kenneth Rivera #318979  
BRCI-WAA #151  
4460 Broad River Rd.  
Columbia, SC 29210

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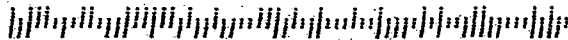
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OCT 12 2023

SC Court of Appeals

South Carolina Court of Appeals  
Jenny Abbott Kitchings, clerk  
P.O. Box 11629  
Columbia, SC 29211

29211-162929



THE DEPARTMENT OF CORRECTIONS HAS NO  
CENSORED THIS ITEM; THEREFORE, THE DEPARTMENT  
DOES NOT ASSUME RESPONSIBILITY FOR ITS CONTENTS

BROADRIVER CORRECTIONAL INSTITUTION  
S.C. DEPARTMENT OF CORRECTIONS

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