

24 MAY 17 PM 4:35:28
Anderson, SC COC, CP/CS

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Steven C. McElrath, #328413,

Applicant,

v.

State of South Carolina,

Respondent.

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

) CASE NO. 2023-CP-04-01390

) **FINAL ORDER OF DISMISSAL**

This matter comes before this Court by way of a post-conviction relief (PCR) action commenced by Steven C. McElrath (Applicant), filed on July 3, 2023. Respondent made its Return and Motion to Dismiss on March 12, 2024, requesting this action be summarily dismissed because it was untimely, barred by the statute of limitations, successive to Applicant's previous application, failing to make a *prima facie* showing of newly discovered evidence, barred by the doctrine of *res judicata*, and failing to comply with the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 *et seq.* (2014).

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 filed on March 28, 2023, provisionally denying and dismissing this action while giving Applicant twenty days from the date of service of said order in which to show why the Conditional Order of Dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an affidavit of service dated April 11, 2024, indicating the State served the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant filed a Motion for Enlargement on April 15, 2024, requesting an extension of twenty days to respond to the Conditional Order of Dismissal. Over twenty days have passed since

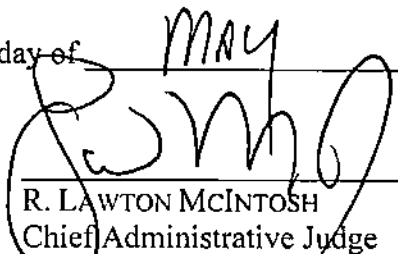
Applicant's request, and he has failed to file a response to the Conditional Order of Dismissal with specific reasons why the dismissal should not become final.

Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a showing based on the information set forth in his application, and failed to respond with reasons the Conditional Order of Dismissal should not become final. Therefore, he is not entitled to an evidentiary hearing in this matter. 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 in addition to the reasons set forth in this Final Order of Dismissal, the Application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises 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. 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 17 day of MAY, 2024.



R. LAWTON MCINTOSH
Chief Administrative Judge
Tenth Judicial Circuit

Anderson, South Carolina.



24 MAY 17 PM 4:35:24
Anderson, SC COC, CP/66

ALAN WILSON
ATTORNEY GENERAL

May 6, 2024

The Honorable R. Lawton McIntosh
Tenth Judicial Circuit Chief Administrative Judge
Post Office Box 8002
Anderson, SC 29622

Re: Steven C. McElrath, #328413 v. State of South Carolina
2023-CP-04-01390

Dear Judge McIntosh,

Enclosed please find the proposed Final Order of Dismissal in the above-captioned case. For your convenience, I have enclosed a copy of the signed and served Conditional Order of Dismissal for your review. If this proposed order meets your approval, please sign it, and return it to me in the enclosed envelope. I will then forward it to the Anderson County Clerk of Court for filing.

If you have any questions regarding this matter, please let me know.

Sincerely,

Talida Balaj
Assistant Attorney General

TB/zew
Enclosure

cc: Steven C. McElrath, #328413