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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE COUNTY, SOUTH CAROLINA
MELISSA C. BURTON
CLERK OF COURT
THE COURT OF COMMON PLEAS
FOURTH JUDICIAL CIRCUIT

2024 MAY 17 P 2:35

CASE NO. 2023-CP-37-00517

Dennis M. Temple, #274802,

Petitioner,

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before this Court by way of a Petition for *Writ of Habeas Corpus* commenced by Dennis M. Temple (Petitioner) filed on July 10, 2023, in the Common Pleas. Respondent, the State of South Carolina, made its Return and Motion to Dismiss on March 11, 2024, requesting this action be summarily dismissed pursuant to Rule 12(b)(1), SCRCPP, because the Court lacked subject matter jurisdiction.

A hearing convened on April 9, 2024, before the Honorable H. Steven DeBerry, IV, at the Anderson County Courthouse on Respondent's motion to dismiss. Petitioner was present and proceeded *pro se*. Assistant Attorney General Talida Balaj represented Respondent.

At the outset of the hearing, Respondent requested the Court summarily dismiss the Petition as Petitioner is required to file the Petition in the county where he is incarcerated, the original jurisdiction of the Supreme Court, or in a successive post-conviction relief application. Petitioner objected to the dismissal of his Petition, and argued Respondent should be held in default for failing to respond to his Petition in a timely manner.

This Court finds the Petition for *Writ of Habeas Corpus* was improperly filed in the Court of Common Pleas. Petitioner was required to file the Petition in the original jurisdiction of the South Carolina Supreme Court. See S.C. Const. art. V, § 5 ("The Supreme Court shall have power

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to issue *writs* or orders of injunction, *mandamus*, *quo warranto*, prohibition, *certiorari*, *habeas corpus*, and other original and remedial *writs*." (emphasis added); see also Simpson v. State, 329 S.C. 43, 46 n.4, 495 S.E.2d 429, 431 n.4 (1998) (expressly reserving the ability to entertain *writs* of *habeas corpus* in the Supreme Court's original jurisdiction [under article V, section 5 of the South Carolina Constitution]).

Alternatively, Petitioner could have filed the Petition in a successive post-conviction relief application. Gibson v. State, 329 S.C. 37, 41, 495 S.E.2d 426, 428 (1998) (The Uniform Post Conviction Procedure Act is "broadly inclusive and will rarely be inadequate or unavailable to test the legality of the detention."); Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998) ("[a] person is procedurally barred from petitioning the circuit court for a *writ* of *habeas corpus* where the matter alleged is one which could have been raised in a PCR application."); see Al-Shabazz v. State, 338 S.C. 354, 365, 527 S.E.2d 742, 748 (2000) (explaining that any matter that is cognizable under the Uniform Post Conviction Procedure Act,¹ "must be raised in PCR application, and may not be raised by a petition for a *writ* of *habeas corpus* before the circuit or other lower courts.").

Accordingly, this Court grants Respondent motion to dismiss, as the Petitioner is procedurally barred, leaving this Court without jurisdiction.

|CONCLUSION PAGE FOLLOWS|

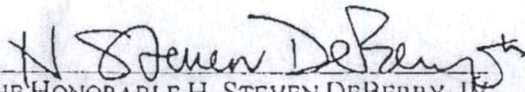
¹ S.C. Code Ann. §§ 17-27-10 to -120 (2014).

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IT IS THEREFORE ORDERED that for the reasons set forth above, the Petition for *Writ of Habeas Corpus* is hereby DENIED AND DISMISSED WITH PREJUDICE.

This Court hereby advises Petitioner 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. Petitioner'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 11 day of April, 2024.


THE HONORABLE H. STEVEN DEBERRY, II
Presiding Judge
Tenth Judicial Circuit

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Florence, South Carolina.

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STATE OF SOUTH CAROLINA, IN AND FOR OCONEE COUNTY, SC IN THE COURT OF COMMON PLEAS

COUNTY OCONEE

MELISSA C. BURTON
CLERK OF COURT

TENTH JUDICIAL CIRCUIT

Dennis M. Temple,

2024 JUL -1 P 4:02

C/A No. 2023-CP-37-00517

Applicant,

vs.

The State of South Carolina,

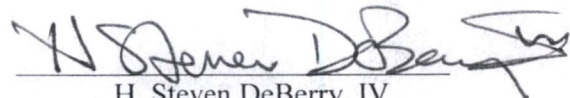
Respondents.

**ORDER DENYING APPLICANT'S
MOTION TO RECONSIDER**

The Applicant, Dennis M. Temple, requests the Court to reconsider the Order dated and filed on April 9th, 2024, in the Oconee County Clerk of Court's office.

Having duly considered the Applicant's motion, this Court has determined that the law and the evidence fully support its original April 9th, 2024 ruling and is hereby ratified and reconfirmed. The motion is therefore DENIED.

AND IT IS SO ORDERED.


H. Steven DeBerry, IV
Presiding Circuit Court Judge

Oconee, South Carolina
June 24th, 2024

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OCONEE COUNTY, SC

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