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ST. SUPREME COURT
S.C. COUNTY OF GREENVILLE)
)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Quasean David Marshall #371676,)
)
Applicant,)
v.)
)
State of South Carolina,)
)
Respondent.)

Case No.: 2023-CP-23-2605

FINAL ORDER OF DISMISSAL

24 JUN 12 AM 11:10
Bryce Sartorius, Clerk, SC

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed on May 24, 2023, by Applicant Quasean David Marshall. Applicant amended his application on November 29, 2023. Respondent made its return on or about February 29, 2024, 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, is improperly successive, and barred by *res judicata* and waiver.

After consideration of the application, return and relevant documents attached thereto, this Court issued a Conditional Order of Dismissal on March 14, 2024, finding that the action should be dismissed as untimely, improperly successive, and barred by *res judicata* and waiver. 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 of Dismissal on April 9, 2024, and given twenty (20) days to file a response. (Attachment 1). Applicant's response to the Conditional Order of Dismissal was filed on May 9, 2024.¹

¹ Applicant responded to Respondent's Return and Motion to Dismiss. Respondent received this response on April 8, 2024, and it was subsequently filed on May 1, 2024.

This Court has reviewed its prior Conditional 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 specific factual or legal reasons to show any applicable exception to the aforementioned procedural bars.

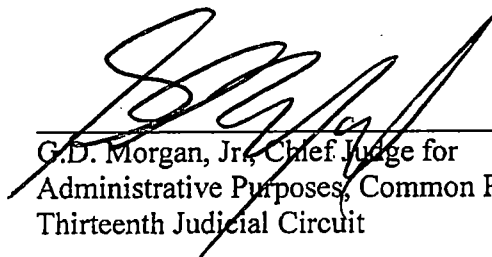
Applicant appears to be seeking review from the dismissal of his prior PCR action. He claims he did not withdraw his PCR action but intended to withdraw his plea. However, the Honorable Daniel D. Hall issued a written order on May 12, 2023, dismissing the action with prejudice. (See Conditional Order of Dismissal at 2). The Order reflects that Applicant advised Judge Hall that he wished to withdraw his application. Further, the Order reflects Applicant was sworn and questioned to ensure that the waiver of post-conviction remedies was voluntarily and knowingly made. See *Brannon v. State*, 345 S.C. 437, 439, 548 S.E.2d 866, 867 (2001) (the court is required "to ascertain the voluntariness of a request to withdraw). Notably, Applicant was represented by counsel. (See Conditional Order of Dismissal at 1). Any misunderstanding should have been addressed at the hearing or by motion by counsel. Applicant, in arguing against summary dismissal here, presents a letter that confirms prior PCR counsel received the order and sent a copy to Applicant. There is no indication that any error occurred. To the extent Applicant complains that he was not advised of his right to appeal the Order of Dismissal, an applicant cannot appeal after such a waiver. *Rush v. State*, 368 S.C. 144, 628 S.E.2d 42 (2006) (holding that when a petitioner moves to withdraw despite the fact that he was advised that the withdrawal would result in the dismissal of the matter with prejudice and because it was petitioner who sought the withdrawal, he may not appeal the order that resulted when his request was granted). Further, though Applicant attempts to argue other issues, the dispositive one is that there was a waiver of

his one timely PCR application filed as a matter of right. Applicant has shown no cause as to why the prior conditional order finding this action barred as improperly successive, untimely, and additionally barred under the theories of *res judicata* and waiver, should not become final.

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, improperly successive, and barred by *res judicata* and waiver.

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** with prejudice.

IT IS SO ORDERED this 11th day of June, 2024.


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

Greenville, 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.