

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
James Charles Calwile,)
S.C.D.C. No. 299166,)
)
Petitioner,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2012-CP-23-3614

FINAL ORDER OF DISMISSAL

2013 JAN - 3 P 2:15

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER

This matter comes before the Court by way of "State Habeas Corpus" filed May 31, 2012. The Respondent made its return on September 11, 2012, requesting the matter be summarily dismissed.

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 signed September 19, 2012 and filed September 24, 2012, provisionally denying and dismissing this action, while giving the Petitioner twenty (20) 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 October 12, 2012, serving the above-mentioned Conditional Order of Dismissal on the Petitioner.

In a document captioned "Respond to States Return" and filed October 16, 2012, the Petitioner argues the issues raised in his petition could not have been raised in a prior post-conviction relief (PCR) application. Petitioner argues an "order of search and seizure" was issued before the Court of General Sessions had subject matter jurisdiction.

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In a document captioned "Respond to Conditional Order" and filed October 23, 2012, the Petitioner argues his petitioner should not be dismissed because "the issue that is being argue is contesting the authority of the court and the lack of proper due process provided by the court."

In a document captioned "Amended Responds to State Return" and filed October 23, 2012, the Petitioner re-asserts the issues raised in the prior two documents.

This Court has reviewed the Petitioner's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

It is well-settled that "[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." Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998). Furthermore, the Petitioner raises matters that are cognizable under the Uniform Post Conviction Procedure Act¹ and were, in fact, raised in his last PCR application. As such, our Supreme Court has held these matters "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." Al-Shabazz v. State, 338 S.C. 354, 365, 527 S.E.2d 742, 748 (2000).

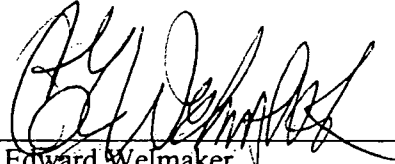
IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, "State Habeas Corpus" is hereby denied and dismissed with prejudice. This Court advises the Petitioner that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appellate review. His

¹ S.C. Code Ann. §§ 17-27-10 to -120 (2003).

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attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

AND IT IS SO ORDERED this _____ day of 12/14, 2012.



G. Edward Welmaker
Chief Administrative Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2012CP2303614

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2013 JAN - 3 P 2:15

James Charles Calwile vs. South Carolina State of

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this 3rd day of January, 2013.

Court Reporter:

PRESIDING JUDGE - G Edward Welmaker

This judgment was entered on the 3rd day of January, 2013, and a copy mailed first class this 3rd day of January, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

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O Box 580 Una, SC 29378

Karen Christine Ratigan PO Box 11549 Columbia,
SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court