



ALAN WILSON
ATTORNEY GENERAL

April 18, 2018

The Honorable Renee N. Elvis
Clerk of Court, Horry County
Post Office Box 677
Conway, SC 29528-0677

HORRY COUNTY
CLERK OF COURT
HORRY COUNTY, SC
2018 APR 20 PM 1:13

Re: Raymond E. Chestnut v. State of South Carolina
2015-CP-26-2371

Dear Ms. Elvis:

Enclosed please find the original **Final Order of Dismissal** signed by the Honorable William H. Seals, Jr., in the above-captioned case, for filing in your office.

Pursuant to Rule 71.1(f), of the South Carolina Rules of Civil Procedure, please "provide notice of entry of judgment and serve a copy of the order or judgment to the parties as provided in Rule 77(d), SCRPC."

In addition, please forward proof of service and a time stamped copy back to our office for our file.

If you have any questions, please do not hesitate to call me at (803) 734-3737.

Sincerely,


Johnny Ellis James Jr.
Assistant Attorney General

JFJ/mm

Enclosure

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FOR THE FIFTEENTH JUDICIAL CIRCUIT

Raymond Edward Chestnut,) Case No.: 2015-CP-26-2371
F.B.O.P. No. 13465-171,)

Applicant,)

v.)

State of South Carolina)

Respondent.)

FINAL ORDER OF DISMISSAL

2018 APR 20 PM 1:18
CLERK OF COURT
HORRY COUNTY, SC

This matter comes before the Court by way of applications for post-conviction relief filed March 27, 2015; May 12, 2015; May 15, 2015; July 16, 2015; December 28, 2015; February 23, 2016; and June 15, 2016—thereafter merged by orders filed June 13, 2016, and April 10, 2017. Respondent made its return on or about August 1, 2016, requesting the application be summarily dismissed as untimely, successive, barred by the equitable doctrine of laches, and for failing to state claims cognizable under the Uniform Post-Conviction Procedure Act.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Honorable Benjamin H. Culbertson issued a Conditional Order of Dismissal signed September 9, 2016, and filed September 19, 2016, provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service of said Order in which to show why the dismissal should not become final.

By motion dated September 29, 2016, Applicant indicated his receipt of the Conditional Order on that day and requested additional time, up to and including November 4, 2016, to file a response to the Conditional Order of Dismissal. By Form 4 Order filed October 31, 2016, Judge

Culbertson denied Applicant's motion. Accordingly, Applicant had until Wednesday, October 19, 2016, to submit a response to the Conditional Order of Dismissal.

Ultimately Applicant filed an amended application for post-conviction relief on November 16, 2017. Though that amendment was filed under the incorrect case number, because that case number was merged into this present action, in the interests of fairness and judicial efficiency, the Court accepts it as though properly filed under the present and remaining case number. Applicant now alleges he is unjustly incarcerated on the following grounds:

1. "Applicant deprived of statutory right to direct appeal."
 - a. "Applicant did not freely or voluntarily waive his direct appeal."

This Court notes that Applicant's request for additional time was denied by Judge Culbertson and no response was received within the original 20 day window. As such, Applicant has failed to respond to either Respondent's motion to dismiss or this Court's Conditional Order of Dismissal. Therefore, this Court finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. Even if Applicant's ultimate response had been timely filed, it is without merit—the exhaustive procedural history set forth in the Conditional Order and the Order Restricting Future Filings show that Applicant has long been aware of the full breadth of his appellate rights and could have raised his White claim in his last round of applications.

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 hereby **DENIED AND DISMISSED WITH PREJUDICE**.

This Court hereby advises the Applicant that he must file and serve a Notice of Appeal within 30 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 April, 2018.



WILLIAM H. SEALS, JR.
Chief Judge for Common Pleas
Fifteenth Judicial Circuit

Marrs, South Carolina.

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Raymond Chestnut, F.B.O.P. 13465-171

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.
2015-CP-26-2371

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney:
Raymond Chestnut, Bar No.
Address:
Edgefield FCI PO Box 725 Edgefield, SC 29824
phone: fax:
e-mail: other:

Defendant's Attorney:
Johnny E. James Jr, Bar No. 101260
Address:
Post Office Box 11549 Columbia SC 29211-1549
phone: (803) 734-3737 fax: (803) 734-4013
e-mail: other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS II and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion:

Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

- ☐ Written motion attached
☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Harshesh Chandra
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

April 13, 2018

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:

- ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support
(check reason) ☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

- ☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE

CODE: Date:

CLERK'S VERIFICATION

Date Filed:

Collected by:

- ☐ MOTION FEE COLLECTED:
☐ CONTESTED - AMOUNT DUE: