

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

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

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).

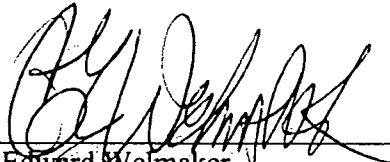
IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, "State Habeas Corpus" is hereby denied and dismissed with prejudice. This Court advises the Petitioner that he must file a notice of intent to appeal within thirty (30) days from the receipt of this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