

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA

(In The Supreme Court)

APPEAL FROM ORANGEURG COUNTY

Court of Common Pleas

Edgar Dickerson, Presiding Judge First Judicial Circuit

Case No.: 2012-CP-38-0250

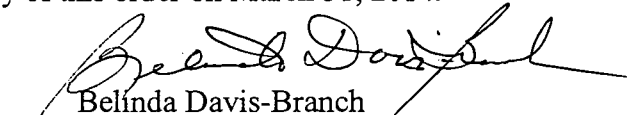
State of South Carolina.....Respondent

Vs.

Jamin Mazyck, #238056.....Appellant

NOTICE OF APPEAL

Jamin Mazyck, #238056 appeals the Order of Dismissal of the Honorable Edgar Dickerson dated December 27, 2013. Appellant received written notice of entry of this order on March 31, 2014.


Belinda Davis-Branch
205 Elliott Street
Orangeburg, South Carolina
Attorney for Appellant

Other Counsel of Record:
Megan Harrigan, Assistant Attorney General
Office of The Attorney General
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211-1549

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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
)
 Jamin Mazyck, #238056,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT

2012-CP-38-0250

FINAL ORDER OF DISMISSAL

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This matter comes before the Court pursuant to an application for post-conviction relief filed February 22, 2012. Respondent made its Return and Motion to Dismiss on September 13, 2012, requesting that the Application be summarily dismissed, as successive to his previous application and filed beyond the statute of limitations. 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 24, 2012 and filed on October 3, 2012, provisionally denying and dismissing this action, while giving Applicant's counsel twenty 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 16, 2012, serving the aforementioned Conditional Order of Dismissal on Applicant's counsel, Belinda M. Davis-Branch, Esquire.

Through his counsel, Applicant responded to the State's Return Motion to Dismiss and this Court's Conditional Order of Dismissal in a document captioned "Applicant's Response to Respondent's Return and Motion to Dismiss," which was received by Respondent on December

19, 2012¹. In this document, Applicant set forth reasons why he believed his application should not be summarily dismissed². In this response, Applicant alleges newly discovered evidence in the form of two affidavits from possible witnesses that present evidence supporting a self-defense claim. Applicant asserts that he would not have pleaded guilty if he had been aware of these witnesses.

One of the affidavits is from Danyel Smith, who describes a close personal relationship with Applicant at the time of the incident and during his trial. Smith asserts that he was involved in an altercation between Applicant and the deceased twelve days before the incident giving rise to the subject convictions. Smith asserts that he "provided a detailed account of this incident" to Applicant's counsel before trial.

The other affidavit is from Robert Greene, who also describes a close personal relationship with Applicant and states that he "shared a residence" with Applicant during the time of the incident. Like Smith, he too asserts that he told Applicant's trial counsel that he was a material witness and had personal knowledge of threats the deceased made to Applicant.

Applicant has shown no reason why this issue could not have been raised in his prior post-conviction relief applications or within the statute of limitations for filing a post-conviction relief application pursuant to S.C. Code. § 17-27-45. This Court finds that Applicant's allegations regarding the witness statements must have been presented in his initial post-

¹ Applicant's response to the Return Motion to Dismiss and Conditional Order of Dismissal has not been properly filed with the Orangeburg County Clerk of Court.

² Applicant also filed a *pro se* document captioned, "Memorandum of Law in Opposition to Respondent Order of Dismissal" on November 15, 2012. On May 22, 2013, Applicant filed an additional *pro se* document captioned "Motion to Amend Applicant's Response to Respondent's Return and Motion to Dismiss." On September 6, 2013, Applicant filed a *pro se* Freedom of Information Act request. Since Applicant is represented by Counsel, this Court will not take any action on these documents. See Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989) (South Carolina does not recognize hybrid representation); see also Rule 11, SCRCP, requiring every pleading, motion, or other paper of a party represented by counsel to be signed by at least one attorney of record who is an active member of the South Carolina Bar; if a pleading, motion, or other paper is not signed, "it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant."

conviction relief application. The South Carolina Supreme Court has consistently ruled that successive post-conviction relief applications are permitted in only the rarest of procedural circumstances. Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 756 (citing See, e.g., Case v. State, 277 S.C. 474, 289 S.E.2d 413 (1982) (allowing a successive post-conviction relief application where the applicant's first post-conviction relief application was dismissed without the assistance of legal counsel or a hearing); Carter v. State, 293 S.C. 528, 362 S.E.2d 20 (1987) (permitting a successive application where the applicant did not have post-conviction relief counsel that differed from his trial counsel). The present case is not a "rare procedural circumstance," as Applicant likely was, or at the very least should have been aware of these potential witnesses in his initial post-conviction relief application or within the statute of limitations. Both of the witnesses' affidavits state they were at the courthouse for multiple stages of the trial and describe a close personal relationship with Applicant. Furthermore, Applicant has not shown any evidence as to why these statements could not have been found prior to his initial post-conviction relief application when the witnesses gave their information to Applicant's original attorney. Therefore, Applicant has failed to present sufficient factual or legal basis to overcome summary dismissal of this action.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, this 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 thirty (30) days of the service of this Order to secure appellate review. See Rule 203,

SCACR. The 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 27th day of Dec., 2013.



EDGAR W. DICKSON
Chief Administrative Judge
First Judicial Circuit

Orangeburg, South Carolina.



BELINDA DAVIS-BRANCH
ATTORNEY-AT-LAW

205 ELLIOTT STREET
ORANGEBURG, SOUTH CAROLINA 29115
TELEPHONE 803.533.1006 | FACSIMILE 803.533.0026

April 4, 2014

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

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RE: Jamin Mazyck, 238056
Case No.: 2012-CP-38-0250

S.C. SUPREME COURT

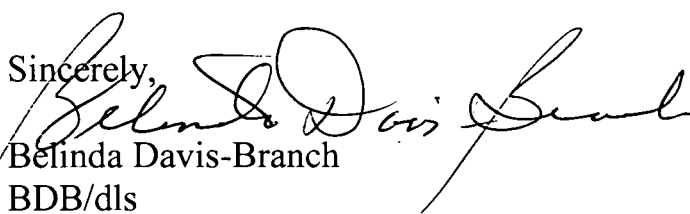
Dear Honorable Clerk Shearouse:

Please find enclosed an original and one copy of the Notice of Appeal regarding the above referenced matter. Please clock and return one copy to me in the envelope provided. Also enclosed is a copy of Judge Edgar Dickerson's decision denying appellant's application for Post Conviction Relief and Certificate of Service to the Office of Attorney General. By copy of this letter to Ms. Megan Harrigan, Assistant Attorney General I am serving her with the Notice of Appeal.

Pursuant to rule 227 (c), SCACR please be advised that I am unable to set forth any arguable bases for asserting that the determination by the PCR Judge was improper, therefore, I am filing the Notice of Appeal should the Appellant want to proceed pro se.

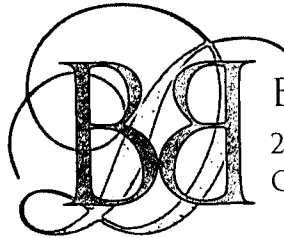
With kindest regards.

Sincerely,


Belinda Davis-Branch
BDB/dls

cc: Megan Harrigan
Jamin Mazyck

*Certified Mediator Family & Civil
South Carolina & Pennsylvania Licensed*



BELINDA DAVIS-BRANCH
205 ELLIOTT STREET
ORANGEBURG, SOUTH CAROLINA 29115

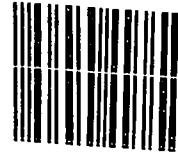
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The Honorable Daniel E. Shearouse
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