

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable R. Markley Dennis, Chief Administrative Judge

Case No : 2011-CP-10-4986

Herbert Palmer Appellant,
S.C.D.C. No : 260691

v.

State of South Carolina Respondent.

NOTICE OF APPEAL

Herbert Palmer, appeals his Denial for Post Conviction Relief in this case. The Order of Dismissal was imposed and signed by the Honorable R. Markley Dennis, Jr. January 8th, 2015, which I, Herbert Palmer received on February 3rd, 2015.

Herbert Palmer

Herbert Palmer #260691
Lieber Cor. Inst. Stono B-31
P.O. Box 205
Ridgeville, S.C. 29472
Pro se Appellant

Other Counsel of Record:
Ashleigh R. Wilson, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, S.C. 29211-1549

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FEB 13 2015

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
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v.

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PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 10th
day of February, 2015, I served the foregoing Notice of
Appeal, Order of Dismissal, as well as Proof of Service in this
matter by depositing a true copy of it in the United States
Mail, postage prepaid, on February 10th 2015, addressed to the
following as indicated below:

South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211
Office of Attorney General
Attn: Ashleigh R. Wilson, Esq.
Post Office Box 11549
Columbia, South Carolina 29211-1549

South Carolina Office of
Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina
29211-11589

Dated: February 10th, 2015



Herbert Palmer, #260691
Lieber Corr. Inst. Stano B-31
P.O. Box 205
Ridgeville, S.C. 29472
Pro Se Appellant

Herbert Palmer #260691
Lieber Corn. Inst. Stono B-31
P.O. Box 205
Ridgeville, S.C. 29472

February 10th, 2015

Clerk
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Herbert Palmer, #260691 v. State of South Carolina
Case No.: 2011-CP-10-4986

Dear Sir or Madam,

Enclosed herewith you will find the Notice of Appeal,
Order of Dismissal, along with a Proof of Service in reference
to the above named Applicant.

If you have any questions or concerns, please contact
me at the above address.

With kind regards, I am

Sincerely,

x

Herbert Palmer

Enclosed as stated

cc: Ashleigh R. Wilson, Office of Attorney General
South Carolina Office of Appellate Defense

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

This Court finds the Applicant has failed to show in his response why his claims regarding trial counsel's ineffectiveness and the validity of a jury instruction pursuant to Belcher could not have been raised in his first post-conviction relief proceeding. This Court finds further that ineffective assistance of post-conviction relief counsel is not a claim that is properly pursued on post-conviction relief. See Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991) (holding the PCR rules "contemplate an adjudication on the merits of the original petition, one bite at the apple as it were and "the contention that prior PCR counsel was ineffective is not *per se* a "sufficient reason" allowing for a successive PCR application under § 17-27-90); see also Coleman v. Thompson, 501 U.S. 722 (1991) (holding the sixth amendment right to effective assistance of counsel does not extend to state post-conviction relief actions). This Court finds no reason why the Conditional Order of Dismissal should not become final.

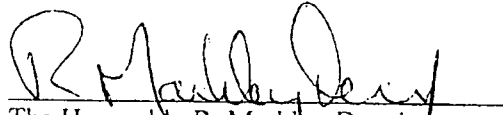
[Order continued on the following page.]

RM08/2

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for PCR 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 227, SCACR., for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 8th day of January, 2015.


The Honorable R. Markley Dennis
Chief Administrative Judge
9th Judicial Circuit

Markley Dennis, South Carolina.

RMD 8/3

Herbert Palmer Sr. 260691
Lieber Ct. S-B-31
P.O. Box 205
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FEB 10 2015
MAIL ROOM
LIEBER CJ

Clerk of Court
S.C. Supreme Court
P.O. Box 11330
Columbia, S.C.
29211