

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)
)
 Ricky Brannon, #179051,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2013-CP-11-018

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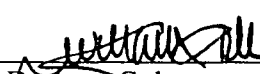
SC SUPREME COURT

ORDER

This matter comes before the Court by way of Applicant's *pro se* document titled "Motion Pursuant to Rules 59(e) and 52(b), SCRCPC, to Alter or Amend And/Or Reconsider, For Good Cause Shown." The Respondent made its Return to this Motion on February 5, 2015.

The Order of Dismissal in this matter was signed by me on November 20, 2014. Based upon careful reconsideration of all the evidence in this case and upon full consideration of Applicant's response and objections, this Court is not persuaded to alter or amend the judgment. This Court further finds that oral argument would not aid in the reconsideration of the original judgment. Therefore, this Court finds that the original Order of Dismissal, which was signed and then filed November 20, 2014, shall stand as it was written.

AND IT IS SO ORDERED this 5 day of March, 2015.


 J. Derham Cole
 Seventh Judicial Circuit

Gaffney, South Carolina

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2015 MAR 9 AM 10 13
 BRANDY W. MOBBE

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF CHEROKEE

CASE NO: 2013CP1100181

IN THE COURT OF COMMON PLEAS

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 NOV 24 AM 10:18
BRANDY W. MCBEE

Ricky Brannon #179051 vs. State Of South Carolina

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and 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: Final Order
- 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:

Final Order

Dated at Gaffney, South Carolina, this the 24th day of November, 2014.

Court Reporter:

s/ J. Derham Cole

PRESIDING JUDGE - J. Derham Cole

This judgment was entered on the the 24th day of November, 2014, and a copy mailed first class this the 24th day of November, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Ricky Brannon #179051 Perry Correctional Institution 430 Oaklawn Rd Pelzer, SC 29669

Alan McCrory Wilson PO Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Brandy W. McBee
Brandy W. McBee - Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
Ricky Brannon, #179051,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2013-CP-11-0181

FINAL ORDER

BRANDY W. MCBEЕ

2014 NOV 24 AM 8 38

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed March 20, 2013, and amendment filed June 28, 2013. Respondent made its Return and Motion to Dismiss on or about December 4, 2013, requesting that the Application 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 dated December 16, 2013, provisionally denying and dismissing this action, while giving the Applicant 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 a Certificate of Service dated December 19, 2013, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned, "Pro Se Applicant's 'Response' to the Conditional Order of Dismissal" and dated December 30, 2013, Applicant continues to argue that his application should be heard based on a claim of ineffective assistance of prior PCR counsel pursuant to Martinez v. Ryan, 132 S. Ct. 1309, 182 L. Ed. 2d 272 (2012). Applicant states that the application is not successive or barred by the statute of limitations since he raises claims pursuant to Martinez. Applicant also argues that the Honorable Roger L. Couch should be recused from ruling on this post-

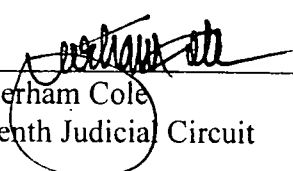
conviction relief matter because of his prior participation in Applicant's criminal and post-conviction relief matters. Applicant argues that the Conditional Order of Dismissal should be dismissed with prejudice because the Court did not draft its own proposed order and the validity of the proposed order should be questioned. Further, Applicant argues that the Respondent failed to properly file a return opposing the Applicant's current post-conviction relief application.

As previously discussed in the Conditional Order of Dismissal, the South Carolina Supreme Court has, along with other states, recognized that the holding in Martinez is limited to federal habeas corpus review and is not applicable to state post-conviction relief actions. Kelly v. State, 404 S.C. 365, 745 S.E.2d 377 (2013).

This Court has reviewed the original and subsequent pleadings and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. This Court finds that this application is successive and barred by the statute of limitations.

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.

AND IT IS SO ORDERED this 20 day of November, 2014.



J. Derham Cole
Seventh Judicial Circuit

_____, South Carolina.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2014 NOV 24 AM 8 38
BRANDY W. MCBEE