

# Spartanburg County

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**M. Hope Blackley**  
Clerk of Court

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

7<sup>TH</sup> JUDICIAL CIRCUIT

David Eugene Cross  
# 210197  
Applicant

CASE # 2011 CP 12-3521

CERTIFICATE OF SERVICE

State VS  
Respondent

I certify that, on this date, I served a copy of the Final Order  
In this action dated 7-2-2013 on 7-9-13

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Dee Miller  
Strawberry  
David Cross

7-9-13  
(Date)

Dee Miller  
(Signature)

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 David Eugene Gregg #296199, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 SEVENTH JUDICIAL CIRCUIT

2011-CP-42-3521

**FINAL ORDER**

This matter comes before this Court by way of an application for post-conviction relief filed August 11, 2011, first amendment filed November 14, 2011, and second amendment filed July 31, 2012. Respondent made its Return and Motion to Dismiss on or about August 22, 2012, 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 September 13, 2012, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. The Applicant was personally served with the signed Conditional Order of Dismissal on October 1, 2012.

In documents captioned, "Amendment to P.C.R. Application" and "Applicant Response and Objections to the Respondents Conditional Order of Dismissal and Return and Motion to Dismiss," filed September 28, 2012, Applicant argues that his application should not be summarily dismissed. Applicant asserts that he has discovered alleged corruption in the drug lab of the Spartanburg County Sheriff's Office. Applicant states that because of this alleged corruption, the chain of custody for the drugs he was convicted of trafficking was never complete. Applicant also continues to assert that the

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State's witness, his former wife, was threatened by police to testify against him, but that this information was just discovered in 2012. In support of this claim, Applicant includes an affidavit signed by his former wife, Deborah Gregg, in which she states that she was not aware of information regarding stolen motorcycle parts and was not aware of what cocaine looked like or smelled like. Additionally, the affidavit claims that she and her family were threatened until the former wife agreed to testify against the Applicant. A separate affidavit from a notary public, Felix L. Turner, III, questions the validity of alleged depositions or statements given by the former wife and used to obtain warrants against Applicant.

Additionally, Applicant argues that because he did not originally want counsel for his prior post-conviction relief application, he should be allowed to proceed on a claim of ineffective assistance of post-conviction relief counsel.

In a document captioned "Motion to Appoint Counsel," dated November 14, 2012, Applicant requests that an attorney be appointed and a hearing be held based upon his prior allegations and objections to the Conditional Order of Dismissal.

This Court has reviewed Applicant's responses to the State's Conditional Order of Dismissal 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 that the record is clear that Applicant's former wife assisted the Spartanburg County Sheriff's Office in making a controlled buy of cocaine from the Applicant in order to assist in his arrest. Ms. Gregg was extensively cross-examined by trial counsel about her motivation, potential bias, and credibility. This Court also finds that the Applicant failed to demonstrate how the corruption he alleges exists in the drug lab affected his case. This Court further finds that Applicant's current Application is successive to Applicant's previously filed application, fails to state a claim cognizable in post-

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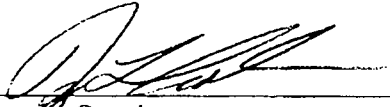
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conviction relief, fails to meet the standard for newly discovered evidence and that Applicant's current application was filed outside the statute of limitations.

**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.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED this 3rd day of July, 2013.

  
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Roger L. Couch  
Administrative Judge – Common Pleas  
Seventh Judicial Circuit

Spartanburg, South Carolina.

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