

EXHIBIT

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FINAL ORDER

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Hammid Demmirio, #115800,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS

03-CP-40-5340

FINAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2006 MAY 18 AM 8:45
BARBARA A. SCOTT
C.C.C. & G.S.

This matter comes before this Court by way of an application for post-conviction relief filed November 3, 2003. Respondent made its initial return on June 5, 2004 and its amended return and motion to dismiss on January 24, 2006, 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 January 26, 2006, 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 an Affidavit of Service dated February 14, 2006, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

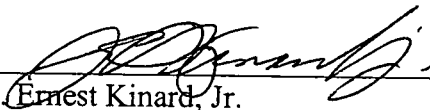
In a document captioned "Applicant's Response to Conditional Order of Dismissal" and dated February 8, 2006, the Applicant argues that the guilty plea record is reconstructible due to plea counsel being local. This Court has reviewed the Applicant's response to the State's motion to dismiss in its entirety, 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 that the presiding judge, the Honorable Frank Eppes, is deceased and his testimony would be key to reconstructing the record of the guilty plea. The absence of this testimony is prejudicial to the Respondent and Applicant was not diligent in pursuing his relief avenues within the State Courts. Applicant waited almost fifteen (15) years to file his application and has give no justification for this delay.

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 13 day of May, 2006.



J. Ernest Kinard, Jr.
Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina.