

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Thomas A. Russo, Circuit Court Judge

Case No. 2014-CP-26-1018

State of South Carolina,

Respondent,

v.

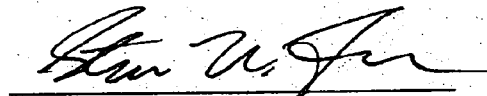
Zireek R. Brooks, #352900,

Appellant.

NOTICE OF APPEAL

Zireek R. Brooks appeals the order of the Honorable Thomas A. Russo dated December 21, 2015. Appellant received written notice of the entry of this order on January 8, 2016.

January 25, 2016



Steven W. Fowler, Esquire
1019 Highway 17 South #229
North Myrtle Beach, SC 29582
843-663-0006
Attorney for Appellant

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JAN 28 2016

S.C. SUPREME COURT

Other Counsel of Record:
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803-734-3970
Attorney for Respondent

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Zireek R. Brooks, #352900,)	Case No. 2014-CP-26-1018
)	
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

Horry County
 2016 JAN -4 PM 2:30
 MELANIE KINARD
 CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 21, 2014. Respondent made a timely Return on or about January 22, 2014, as well as motion to dismiss on August 1, 2015. The Court convened a hearing to address the motion to dismiss on November 12, 2015, at the Horry County Courthouse. Applicant was present at the hearing and represented by Steven Fowler, Esquire. Jessica E. Kinard, Esquire of the South Carolina Attorney General’s Office, represented Respondent.

Applicant testified briefly at the hearing. Applicant’s plea counsel, Ronald Hazzard, Esquire, was present at the hearing but did not testify. The Court had before it a copy of the trial transcript, the records of the Horry County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, and the pleadings. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. In January 2011, the Horry County Grand Jury indicted Applicant for attempted murder (2011-GS-26-361), kidnapping (2011-GS-26-362), carjacking (2011-GS-26-363), and armed robbery (2011-GS-26-364). Ronald W. Hazzard,

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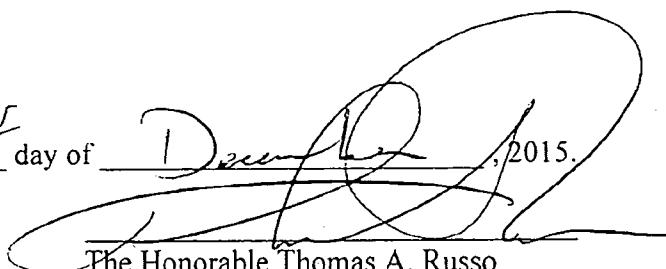
Esquire, represented Applicant. On January 3, 2012, Applicant pled guilty to as indicted. The Honorable Edward B. Cottingham sentenced Applicant to concurrent terms of twenty (20) years imprisonment for each charge. Applicant did not appeal his plea or sentence.

At the hearing, Respondent argued that the application should be dismissed because it was filed outside of the one (1) year statute of limitations provided by the PCR statute. Applicant testified that he did not know about the law regarding PCR, and he filed the application as soon as he learned about it from relatives. He further stated that Mr. Hazzard never informed him of the availability of the appeal process or PCR.

This Court does not find Applicant's testimony to be persuasive. Furthermore, this Court notes that the PCR statute does not provide for equitable tolling and, therefore, the one (1) year application window is a hard and fast deadline.

Based on the foregoing, the Court finds and concludes that Applicant has not filed his PCR Application within the one (1) year period allowed by the PCR Statute and, therefore, the Respondent's motion is **GRANTED**.

AND IT IS SO ORDERED this 21st day of December, 2015.



The Honorable Thomas A. Russo
Presiding Judge

Florence, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

ZIREEK R. BROOKS, #352900)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

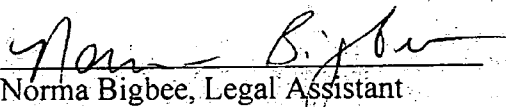
IN THE COURT OF COMMON PLEAS
2014-CP-26-1018

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a filed copy of the Order of Dismissal, in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Steven W. Fowler, Esquire
1019 Highway 17 South #222
North Myrtle Beach, SC 29582

DATED this 8TH day of January, 2016.


Norma Bigbee, Legal Assistant
For Respondent