

Notice of Appeal by Post conviction Relief

The State of South Carolina

In the Supreme Court

Common Plea Court Judge mark Hayes II

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FEB 22 2016

CASE NO: 2011-CP-42-2735

Curly Odell Keenon JR

S.C. SUPREME COURT

v

The State of South Carolina

Notice of Appeal

Curly Odell Keenon JR. Appeal his conviction and sentence in this case. This appeal was [is] taken from the Honorable Judge Mark Hayes II dated January 26, 2016, which denied the appellant motion for objection to final order of dismissal to pursuant to Rule 52A. Appellant received written notice of entry of this order on ~~Jan~~ February 1, 2016

S Curly Odell Keenon Jr 204551
Curly Odell Keenon JR. 204551
Perry Correctional Institution G-3B-204
430 OAK LAWN RD
Pelzer SC. 29669

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FEB 17 2016

P.C.I. MAILROOM

The State of South Carolina Proof of Service
In The Court of Appeal
In The Supreme Court

Appeal From Spartanburg County
Judge MARK Hayes II Chief Administrative Judge 7th Judicial Circuit

CASE NO: 2011-CP-42-2735
Curly Odell Keenon JR. Appellant

v.
The State of South Carolina Respondent

I certify that I have served the Notice of OBJECTION of Dismissal on Judge MARK Hayes II by depositing a copy of it in the United State mail postage prepaid on December 21, 2015 Addressed to his office from the Clerk of Court Post Office Box 3483 Spartanburg South Carolina AND the Attorney General Alicia A. Olive at her office Post office Box 11549 Columbia South Carolina.

RECEIVED

FEB 22 2016

S.C. SUPREME COURT

S Curly Odell Keenon Jr. 204551
Curly Odell Keenon JR 204551
Perry Correctional Institution Q-3B-204
430 OAK LAWN Rd.
Pelzer S.C. 29669

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P.C.I. MAILROOM

Letter to the Appellate Court Clerk Filing The Notice of Appeal

The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia South Carolina 29211

RE: curly Odell Keenon JR

CASE NO: 2011-CP-42-2735

Dear Mr Shearouse,

ENClosed for filing is a Notice of Appeal in the Above case, Also enclosed
Are the Following;

- (1) Proof of service of the Notice of OBJection To Final Order of Dismissal
To Pursuant To Rule 52A which was filed on December 21, 2015.
- (2) A copy of the Order [is] [Judgment] which is [are] to be challenged on Appeal.

RECEIVED

FEB 22 2016

S.C. SUPREME COURT

s curly Odell Keenon jr. 204551
Curly Odell Keenon JR. 204551
P.C.I Q-3-B-204
430 OAK LAWN Rd
Pelzer SC. 29669

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FEB 17 2016

P.C.I. MAILROOM

State of South Carolina
County of Spartanburg
Curly Odell Keenan JR.
V.
State of South Carolina

IN The Court of Common Pleas
CASE NO: 2011-CP-42-2735
OBJECTION TO Final Order OF
Dismissal Pursuant To Rule 52(A)

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FEB 22 2016

S.C. SUPREME COURT

This matter comes to the court Applicant to Rule 52(A), who move to hold the effect of final Order OF Dismissal. The Applicant will show the following facts:

I.

- 1) ON May 15, 2011 The Applicant discovered fact and evidence not previously heard in his first P.C.R. that would entitle him to relief from conviction of sentence.
- 2) The Final Order proposed by the Respondent does not include these factual date of discovery.
3. Applicant 2nd P.C.R. Application should not be absolutely barred because of the State Refusal to acknowledge the Provision included in 17-27-45(C) because Applicant has given sufficient reason why he could not have raised these issue in the Previous Application AND exercise reasonable diligence in bringing these issues to the attention of this court upon discovery.
- 4) Applicant has filed this second Application for P.C.R. within the (1) year statute of limitation of discovery of this fact Pursuant to SC Code ANN § 17-27-45(C), see meow v. State SC, 2013 401 SC 363, 737 S.E.2d 623.; Also see COAT V. State SC (2003) 352 SC 500 S.E. 2d 557

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FEB 17 2016

P.C.I. MAILROOM

1. If This court grants the Respondents Final Order of Dismissal, pursuant to Rule 52b, Applicant request the court to Amend it's entry of Judgment AND make AND additional findings stating facts Separately in the conclusion of the fact AND LAW thereon in relation to the fact of this Objection.

I ~~Curly Odell Keenan Jr~~ ^{Curly Odell Keenan Jr} certify AND verify under the penalty of Perjury that the foregoing is true AND correct, 28 USCA § 1746.

sworn or Affirmed to AND subscribed before me this

16th day of December, 2015.

Nancy C. Merchant
Notary Public

my Commission Expires: 1-23-2027

2015 DEC 21 AM 10:11
M. HOPE BLASNEY

RECEIVED

DEC 1 2015

P.C.I. MAILROOM

State of South Carolina

County of Spartanburg

Curly Odell Keenon JR
Applicant

V.

State of South Carolina
Respondent

In the Court of Common Pleas

CASE NO. 2011-CP-42-2735

PROOF OF SERVICE

I Curly Odell Keenon JR

Plaintiff certify that I have this day serve

Plaintiff's Motion of Objection to Respondent's Final Order of Dismissal upon the Clerk of Court & Attorney General, By Depositing one(1) original & one copy of the same in the US. mail through the Perry C. I. Legal mail system.

M. Hope Blackley
Clerk of Court, Spartanburg County
P.O. Box 3483
Spartanburg SC. 29304-3483

Attorney General:
Alicia A. Olive
P.O. Box 11549
Columbia SC. 29211-1549

Sworn or Affirmed to and subscribed before me this

16th day of December, 2015

Nancy C. Mendenhall
Notary Public

my commission Expires: 1-23-2017

2015 DEC 21 AM 10:11
M. HOPE BLACKLEY

RECEIVED
FEB 17 2016
P.C.I. MAILROOM

RECEIVED
FEB 17 2015
P.C.I. MAILROOM

12-16-2015

Dear Clerk of Court,

Please send copies to all parties of this matter AND ALSO AND court stamp copy by to me saying that it was filed. I'll appreciate all of your help AND time in the concern of this matter.

Respectful Submitted

Curly Odell Keenor Jr

Curly Odell Keenor Jr

2015 DEC 21 AM 10:11
HOSPITAL/CLERK

FILED

DEC 16 2015

P.O. MAIL ROOM

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Curly Odell Keenon, #204551,)

Case No.: 2011-CP-42-2735

Applicant,)

v.)

FINAL ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

2016 JAN 26 11:53

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed June 23, 2011. Respondent made its Return and Motion to Dismiss on September 12, 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 filed September 14, 2012, provisionally denying and dismissing this action, while giving the Applicant 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 from the Spartanburg Clerk of Court dated September 14, 2012, personally serving the above-mentioned Conditional Order of Dismissal on the Applicant.

In a document captioned, "Objection to Conditional Order of Dismissal," dated September 25, 2012, Applicant asks this Court to grant him an evidentiary hearing on his claims because his actions did not meet the elements of first degree burglary, the "two strikes" law violates the "ex-post facto" rule and his sentence violates the Eighth Amendment's prohibition on cruel and unusual punishment.

On June 17, 2013 Applicant filed a "Motion for Appointment of Counsel for Post-Conviction Relief" requesting that the Court appoint counsel for this case. Furthermore, Applicant filed a document titled, "Motion to Amend to Post Conviction Relief" on June 25, 2013, in which he requests that a hearing be granted because he has an "actual innocence claim," the strikes law violated the "Ex-Post Facto, Rule 609 SCRE," and "the 8th and 14th Amendment."

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

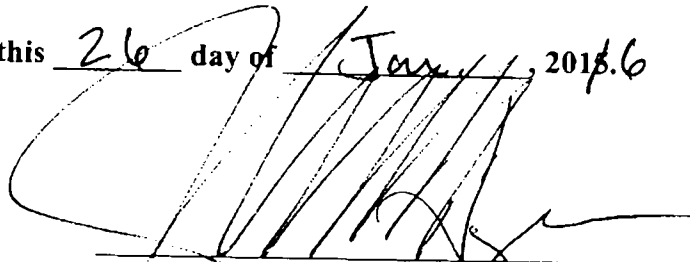
This Court notes the Applicant proceeded to trial and was sentenced on October 9, 2001, and the South Carolina Supreme Court affirmed his convictions and sentences on November 27, 2002. This action was filed on June 23, 2011—more than eight years after his conviction was affirmed and well outside of the expiration of the statute of limitations. See S.C. Code Ann. § 17-2745(a) (Supp.2003). Additionally, this is Applicant's second application for PCR. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). This Court finds Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on December 7, 2005. See Odom v. State, 337 S.C. 256, 261 523 S.E.2d 753, 755 (1999). ("[A]n Applicant is entitled to a full adjudication on the merits of the original petition, or 'one bite at the apple.'")

2016 JAN 25 AM 11:54

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 30 days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 26 day of Jan, 2016.



~~R. KEITH KELLY~~ J. Monte Hayer, II
Chief Administrative Judge
Seventh Judicial Circuit

Spartanburg, South Carolina.

2016 JAN 26 AM 11:54

Curly Keenan # 204551
P.C.I. Q-3-B-304
430 DAK LAWN Rd
Pelzer S.C. 29669

Amey

Honorable Daniel Shearouse
Clerk, Supreme Court of South Carolina

Post Office Box 11330
Columbia S.C. 29211

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FEB 17 2018
P.C.I. MAILROOM

MAR 17 '16

COMMISSARY

THE DEPARTMENT OF CORRECTIONS HAS
NOT INSPECTED OR CENSORED THIS ITEM.
THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS CONTENTS.
PERRY CORRECTIONAL INSTITUTION
DEPARTMENT OF CORRECTIONS