

The Supreme Court of South Carolina

Tookie Brown, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-212904

ORDER

The circuit court issued a conditional order of dismissal, which gave petitioner twenty days to show cause why the conditional order should not become final. According to the final order of dismissal, petitioner did not file a response to the conditional order. Petitioner has now served and filed a notice of appeal from the final order.

Where, as here, a PCR applicant fails to file a response to a conditional order of dismissal,¹ this Court has held that the applicant cannot appeal. *Edith v. State*, 369 S.C. 408, 632 S.E.2d 844 (2006). Accordingly, the notice of appeal is dismissed. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.


C.J.
FOR THE COURT

Columbia, South Carolina
September 28, 2012

cc: Robert Daniel Corney, Esquire
Mr. Tookie Brown, 120395

¹ On the copy of the conditional order of dismissal that petitioner has provided, there is a handwritten notation indicating that the finding that he did not file a response to the conditional order of dismissal is erroneous. If petitioner did file a response to the conditional order of dismissal, then this factual issue should have been raised to the circuit court by appropriate motion.