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S.C. Supreme Court

October 31, 2012

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

RE: State v. Deborah J. Sanders
2004-CP-24-446

Dear Mr. Shearouse:

Please accept this letter as the State's response to the pro se Petition for Permission to Appeal submitted by Deborah J. Sanders in the matter listed above.

In the petition, Deborah J. Sanders requests to be heard on "this matter." She lists the docket number from her second Post-Conviction Relief action in the caption of the petition. Ms. Sanders recounts facts and asserts that she received ineffective of counsel because counsel failed to identify her as a crime victim. She also contends the trial court committed error in his charge to the jury. She asserts that the judgment of guilt is unlawful and must be "arrested."

Respondent opposes the petition. Pursuant to the procedural background set forth in the order dismissing Ms. Sanders second Post-Conviction Relief action, Ms. Sanders was convicted of larceny and murder after a trial. She pursued a direct appeal and her conviction was affirmed by this Court in 1997. Ms. Sanders pursued her first Post-Conviction Relief action in 1998. An evidentiary hearing was convened, Sanders was represented by counsel, and the application was denied and dismissed in October 1999. Ms. Sanders appealed from denial of Post-Conviction Relief and this Court denied her Petition for Writ of Certiorari by written Order dated November 15, 2001.

Ms. Sanders thereafter pursued Federal Habeas Corpus remedies and filed the second application for post-conviction relief that she references in the petition before this Court. It appears the second application for Post-Conviction Relief was dismissed as successive and time-barred after



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a hearing was convened in August 2005. Ms. Sanders' attorney was served with the Order of Dismissal on August 24, 2005.

This Court should deny the Petition for Permission to Appeal because counsel for Ms. Sanders was served with the Order denying the second Post-Conviction Relief action in August of 2005. Ms. Sanders has taken no action to appeal the decision until 2012. Sanders' failure to timely appeal deprives this Court of jurisdiction to consider the appeal. The transcript of the Post-Conviction Relief hearing is also likely not available and the State would be greatly prejudice if Sanders is permitted to appeal seven years after resolution of the Post-Conviction Relief action and when a record of the hearing will likely be unavailable. Moreover, the second application was properly dismissed as successive and as having been filed beyond the applicable statute of limitations. Ms. Sanders fails to provide sufficient written explanation as to why the findings were erroneous. Instead, she merely argues the evidence against her and contends the judgment is unlawful. For these reasons, the State submits that the petition should be denied.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General
S.C. Bar No: 1871

SWE/ab

cc: Deborah Sanders, #221178
Ms. Trisha Allen