

HON. DANIEL E. SHEAROUSE
Clerk of COURT
P.O. BOX 11330
Columbia, SC 29211

RECEIVED

APR 13 2017

S.C. SUPREME COURT

Re: Request for reconsideration and/or acceptance
of final order.

Greetings,

from what I understand you have filed an order of
Dismissal because I did not send a copy of the order,
along with the notice of appeal. I did not realize
or understand that I had to send a copy of that along
with the notice of appeal.

Also, it seems as if the filing of that notice
of appeal was premature. I think that is what you
are saying. I am not completely sure, so if you
can will you accept the copy of the final order,
but if it is too early to file can you specifically
let me know this. will you please let me know
what I need to do.

April, 11th 2017

PRO-SE

Humbly,



John Robinson
Evans C.S. 3-A-261
610 Hwy 9 west
Bennettsville, SC 29512

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

John Bernard Robinson, #280311,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

2014-CP-18-0406

FINAL ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 7, 2014. Respondent made its return on or about May 20, 2014, requesting the application be summarily dismissed based upon expiration of the statute of limitations and the presumption against successive PCR applications.

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 signed June 19, 2014 and filed July 2, 2014, provisionally denying and dismissing this action, while giving the Applicant 20 days from the date of service 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 July 18, 2014, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed a *pro se* response captioned "Objection to Respondent's Conditional Order of Dismissal," dated June 10, 2014, in which Applicant asserts, the original "PCR judge overstepped his authority by twisting the actual, factual record to fit his ruling, which is an erroneous application of the law."

Applicant also filed a document titled, "Objection to Conditional Order of Dismissal," dated July 28, 2014, in which Applicant argues that trial counsel was ineffective and the issues were never fully adjudicated at his first PCR because the PCR judge based his ruling on statements that weren't made during the hearing.

This Court finds that Applicant's claim of ineffective assistance of PCR counsel is dismissed, as it is not a cognizable claim for relief. Once a PCR Applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of PCR counsel. Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991). Further, Kelly v. State explicitly states, "that the holding in Martinez¹ is limited to federal habeas corpus review and is not applicable to state post-conviction relief actions." Kelly v. State, 404 S.C. 365, 365, 745 S.E.2d 377 (2013). Consequently, pursuant to Rule 12(b)(6), SCRCP, Applicant's contention that he received ineffective assistance of PCR counsel is not a cognizable claim for relief, nor does it raise any genuine issue of material fact for this Court to consider in evaluating the application.

This Court has reviewed Applicant's responses to the Conditional Order of Dismissal in their 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.

¹ Martinez v. Ryan, ___ U.S. ___, 132 S.Ct. 1309 (2012) (holding ineffective assistance of collateral counsel may constitute "cause" to excuse procedural default in federal habeas corpus actions under the federal "cause and prejudice" standard)

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, the Application for post-conviction relief 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. 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 _____ day of _____, 2017.

DIANNE S. GOODSTEIN
Chief Judge for Administrative Purposes
First Judicial Circuit

_____, South Carolina.

Mr. John Robinson (250731)
Evans C.S. 3-A.201
610 Hwy 9 west
Bennettsville SC 29512

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SC 29201
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