

Mr. Walter McDune #299882

F.C.I.

FZ-B-233

610 Hwy, 9 West

Bennettsville SC 29512

RECEIVED

APR 17 2017

S.C. SUPREME COURT

Daniel F. Shearouse

Clerk Office

P.O. Box 11330

Supreme Court Bldg

Columbia SC 29211

Re: Walter McDune v State of South Carolina
2013-CP-15-0214

Dear Clerk

Herein is a Petition for appeal for filing in your office, Pursuant to Rule 243(L), SCACR; Rule 242(b)(4) SC-ACR.

Respectfully submitted
/s/ Walter McDune

24-13-17

Date

Walter McDune 299882

88 U.S.C. 31746

RECEIVED

APR 17 2017

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM Colleton County
Perry M. Buchner, Circuit Court Judge

Case no: 2013-CP-15-0214

Walter Mc Anne 299882

Petitioner

State of South Carolina

Respondent.

Petition for Appeal

Walter Mc Anne 299882

F.C.I.

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TABLE OF AUTHORITY

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Question Presented

1. Is Petitioner entitled to Status Conference when Case pending more than 545 days from date PCR were file with Clerk of Court?

2. Did the Chief Administrative Law Judge, Law Clerk, Skyler Hutto, violated Petitioner Constitutional Right Due Process?

Statement of the Case

On March 19, 2013 PCR 2013-CP-15-0244 were filed with Colleton County. On October 23, 2014, the State made its Return and Motion to Dismiss and Conditional Order of Dismissal. On December 17, 2014, the Chief Administrative Law Judge, Perry M. Buckner file the state Conditional Order of Dismissal with Colleton County Clerk of Court. On March 24, 2016 SCPC serve Process Affidavit Personal Service. On April 16, 2016, Petitioner Objections to Conditional Order of Dismissal were file with Colleton County Clerk of Court. On November 11, 2016, Petitioner filed Summons with Proposal answer objections to Conditional Order of Dismissal with Colleton County Clerk of Court which were forward to Chief Judge, Perry M. Buckner. On November 22, 2016 Petitioner Summons and Proposal were rejected. On December 9, 2016, Petitioner Request Motion for Status Conference. On December 12, 2016, Petitioner Request Motion Status Conference rejected.

Fact before the Court

On November 28, 2016, Skyler Hutto, the Law Clerk of Chief Administrative Law Judge, Perry M. Buckner stated: [Furthermore since more than one party appeared in your case, most orders would require either the consent from the opposing party or a hearing at which the judge could make a ruling. On December 9, 2016, the Petitioner Motion for PCB Case promptly disposal, as it has been pending for more than 545 days since the date of filing with the Clerk of Court and Status Conference. On December 17, 2016, Skyler Hutto stated: [While your correspondence indicate that your case has been pending for over one thousand days, the Clerk files shows that this case was dismissed in 2014 through a Conditional Order of Dismissal. That Order of Dismissal became final twenty days after it was issued, pursuant to the terms of the Order, which states, "Applicant is granted twenty days from the service of this Order upon him to show why this Order should not become final. A sufficient showing was not made for Judge Buckner to reconsider his 2014 decision in this matter. As this case is resolved in the Circuit Court, Judge Buckner cannot schedule a Status Conference to address this matter.

ARGUMENT

Petitioner is entitled to status conference when case pending more than 545 days from date PCR were file with Clerk of Court.

Petitioner is entitled to status conference when case pending more than 545 days from date PCR were file with Clerk of Court. 753 S.F.2d 423 Chief Justice held that, "Cases which has been pending for more than 545 days since the date of filing with the Clerk of Court shall be promptly set for disposition by the Chief Administrative Law Judge for Administrative purposes..." 415 S.C. 470 The Chief Administrative Judge or his/her designee, will conduct status conference for all PCR cases listed on the status conference docket.

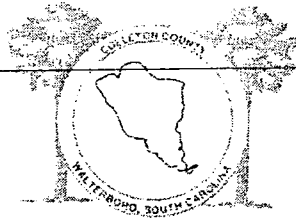
ARGUMENT

The Chief Administrative Law Judge, Law Clerk, Skyler Hutto, violated Petitioner Constitutional Right Due Process.

Skyler Hutto violated Petitioner Constitutional right of Due Process when he/she knew PCR 2013-CP-15-0214 were pending with the Clerk of Court as an action to state; "Es since more than one party appeared in your case," and denied Status Conference upon pretext, "[+] his case was dismissed in 2014 through a Conditional Order of Dismissal. That Order of Dismissal became final twenty days after it was issued, As this case is resolved in the Circuit Court, Judge Buchner cannot schedule a Status Conference to address this matter.

The privileges and immunities of Citizens of this state and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of Life, Liberty, or property without due process of Law, nor shall any person be denied the equal protection of the Laws (1970(56) 2684; 1971(57) 315.) S.C. Const. Art 1, §3.

PATRICIA C. GRANT
CLERK OF COURT



VICKI H. SYFRETT
DEPUTY CLERK

COLLETON COUNTY

October 19, 2016

Dear Mr. McQuine:

In response to your letter received 10/13/16, your Objections to Conditional Order of Dismissal were filed on April 16, 2016.

Sincerely,
The Common Pleas Department



State of South Carolina
The Circuit Court of the Fourteenth Judicial Circuit

Perry M. Buckner
Judge

Post Office Drawer 470,
101 Hampton Street
Walterboro, SC 29488-0470
Phone: (843) 549-7878
Fax: (843) 549-9876
pbucknerlc@sccourts.org

*I made the marking through the numbers
by Walter M. Cunn*

12 December, 2016

Re: December 9, 2016⁵ Request

Dear Mr. McQuene,

I am the law clerk for Judge Perry M. Buckner, and I received a copy of your Request for a Status Conference. While your correspondence indicates that your case has been pending for over one thousand days, the Clerk's file shows that this case was dismissed in 2014 through a Conditional Order of Dismissal. That Order of Dismissal became final twenty days after it was issued, pursuant to the terms of the Order, which states, "Applicant is granted twenty days from the service of this Order upon him to show why this Order should not become final." A sufficient showing was not made for Judge Buckner to reconsider his 2014 decision in this matter.

As this case is resolved in the Circuit Court, Judge Buckner cannot schedule a status conference to address this matter.

Respectfully,

Skyler Hutto
Law Clerk to the Honorable Perry M. Buckner, III

Enclosures



State of South Carolina
The Circuit Court of the Fourteenth Judicial Circuit

Perry M. Buckner
Judge

Post Office Drawer 470
101 Hampton Street
Walterboro, SC 29488-0470
Phone: (843) 549-7878
Fax: (843) 549-9876
pbucknerlc@sccourts.org

22 November, 2016

Re: Summons Dated 4 November, 2016

Dear Mr. McQuine,

I am the law clerk for Judge Perry M. Buckner, and I received a copy of your Proposed Order Answer Objection to Conditional Order of Dismissal. I have conferred with the Clerk of Court regarding this Order, and we believe it is not clear what this Order would demand of the Clerk of Court and Attorney General.

Furthermore, since more than one party has appeared in your case, most Orders would require either the consent of the opposing party or a hearing at which the Judge could make a ruling.

Judge Buckner cannot sign this Order in its current form.

Respectfully,

A handwritten signature in black ink, appearing to read "S. Hutto".

Skyler Hutto
Law Clerk to the Honorable Perry M. Buckner, III

Enclosures

CC: Attorney General
Collection Clerk of Court

CONCLUSION

Petitioner is entitled to Status Conference when Case pending more than 90 days from date PIR were file with Clerk of Court, and the Chief Administrative Law Judge, Law Clerk, Skyler Hutto, violated Petitioner Constitutional right Due Process

11-13-08

Date

Respectfully Submitted

/s/ Walter McQuinn

Walter McQuinn 299880

F.C.I.

F2-B-033

610 Hwy, 9 West

Bennettsville SC 29512

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM Colleton County
Perry M. Buchner, Circuit Court Judge

Case no: 2013-CP-15-0214

Walter McQuine 299882

Petitioner

State of South Carolina

Respondent

PROOF OF SERVICE

I Certify that I have served the Petition for Appeal on Elizabeth H. Noyke Esq. by depositing a copy of it in the U.S. mail Postage Pre-paid address as followed: Elizabeth H. Noyke Esq. P.O. Box 11549, RCR Division, Columbia S.C. 29201, Dennis Bldg.

/s/ Walter McQuine

Walter McQuine 299882

F.C.I.

F2-B-233

610 Hwy 9 West

Bennettsville SC 29512

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO: 2004-CP-15-1002

WALTER J. McQUNE #299882)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

ORDER OF DISMISSAL

07 AUG - 8 PM 3: 27

PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

This matter comes before the Court by way of an Application for Post-Conviction Relief filed October 15, 2004. The State, represented by Adrienne L. Tuner, Esq. of the South Carolina Attorney General's Office made its Return on June 8, 2005.

After careful consideration, the Applicant has informed his counsel of his intent to withdraw his Application for Post-Conviction Relief with prejudice. The Applicant has been informed by counsel that he will not be allowed to file any other Application's for Post-Conviction Relief to raise any issues that could have been raised in this Application for Post-Conviction Relief. The Applicant acknowledges that he is withdrawing his Application for Post-Conviction Relief freely and voluntarily and that he has not been threatened or promised anything to withdraw the Application for Post-Conviction Relief. The Applicant also acknowledges that he is satisfied with PCR counsel, Michelle R. Suggs, Esq.

This Court advised the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order or secure the appropriate appellate review. His

attention is also directed to South Carolina Appellate Court Rule 227 for the appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 2nd day of Aug, 2007.

C. T. Mullen
Presiding Judge
Fourteenth Judicial Circuit

Beaufort, South Carolina.

I so move,

Michelle R. Suggs
Michelle R. Suggs, Esq.
Attorney for the Applicant

I consent,

Jeanette Van Ginhoven
Jeanette Van Ginhoven
Assistant Attorney General

I consent,

Walter J. McQuine
Walter J. McQuine
Applicant for Post Conviction Relief.