

The Supreme Court of South Carolina

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March 15, 2018

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

REMITTITUR

Re: Samuel T. E. Tessnear v. State
Lower Court Case No. 2017CP4200225
Appellate Case No. 2018-000240

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

CLERK

cc:
Rasheeda Cleveland, Esquire
Samuel Tessnear, 338476

The Supreme Court of South Carolina

Samuel T. E. Tessnear, Petitioner,

v.

State of South Carolina, Respondent.

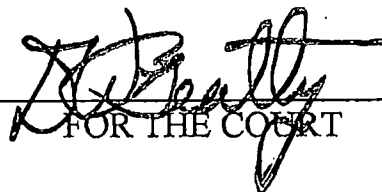
Appellate Case No. 2018-000240

Lower Court Case No. 2017CP4200225

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, 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, and the motion to appoint counsel is denied. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.¹


FOR THE COURT

C.J.

¹ This Court does direct petitioner's attention to the case of *Cooper v. State*, 338 S.C. 202, 525 S.E.2d 886 (2000) ("future claims challenging sentence starting dates will be handled under the APA [Administrative Procedures Act] approach outlined by *Al-Shabazz [v. State]*, 338 S.C. 354, 527 S.E.2d 742 (2000)").

Columbia, South Carolina

February ~~20~~, 2018

cc: Rasheeda Cleveland, Esquire
Mr. Samuel T. E. Tessnear, 3338476
Division of Appellate Defense