



The Supreme Court of South Carolina

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October 16, 2018

Mr. Phillip Keith Sims, 301566
McCormick Correctional Institution
386 Redemption Way
McCormick SC 29899

Re: Phillip Sims v. State
Appellate Case No. 2018-001789

Dear Mr. Sims:

This Court has received your petition for a writ of certiorari. Since this appellate case was dismissed by order dated October 5, 2018 (copy enclosed), no action will be taken on this petition.

I note that any petition for rehearing regarding the dismissal of this appellate proceeding must *actually received* by this Court on or before October 22, 2018. Rule 221 of the South Carolina Appellate Court Rules.

Very truly yours,

CLERK

Enclosure

cc: DeShawn Herman Mitchell, Esquire

The Supreme Court of South Carolina

Phillip Sims, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001789

Lower Court Case No. 2015CP2900925

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. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



FOR THE COURT

C.J.

Columbia, South Carolina
October 05, 2018

cc: DeShawn Herman Mitchell, Esquire
Mr. Phillip Keith Sims, 301566