



The Supreme Court of South Carolina

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October 23, 2018

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Andrew Burnside v. State
Lower Court Case No. 2016CP2300399
Appellate Case No. 2018-001760

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,

Daniel E. Shearouse
DS

CLERK

cc:

DeShawn Herman Mitchell, Esquire
Andrew Davion Burnside, #328129

The Supreme Court of South Carolina

Andrew Burnside, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-001760

Lower Court Case No. 2016CP2300399

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.¹ 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

occ: DeShawn Herman Mitchell, Esquire
Mr. Andrew Davion Burnside, #328129

¹ Although petitioner did not provide a copy of the conditional order of dismissal and the final order of dismissal, a copy of these documents have been obtained by this Court.