

July 10th, 2019

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JUL 15 2019

S.C. SUPREME COURT

The Honorable Tampa A. Gee, Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, S.C. 29211

[The Honorable Daniel Shearouse, Clerk
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211]

Re: State of South Carolina, Respondent v. Patrick Delvon Harris, Appellant, Case No. 2018-CP-40-2982

Dear Ms. Gee, [Mr. Shearouse]:

Enclosed for filing is a Notice of Appeal in the above case.
Also enclosed are the following:

- 1) Proof of Service and Notice of Appeal on the Respondent(s).
- 2) A copy of the Order(s), [judgment's] which is [are] to be challenged on appeal.
- 3) Appeal is from Post Conviction Relief judgement.
- 4) Appeal is being with Supreme Court because of SCACR 243 and should be exempt from any/all costs on appeal thereof.

Sincerely,

1st Patrick D. Harris
Patrick D. Harris, Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF Common Pleas

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JUL 15 2019

S.C. SUPREME COURT

Jocelyn Newman, Circuit Court Judge

CASE NO. 2018-CP-40-2982

Patrick Nelson Harris, #257350, Petitioner,

v.

State of South Carolina, Respondent,

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT ABOVE-CAPTIONED
PETITIONER, [Harris] Appeals the June 10th 2019 Order
of the Honorable Jocelyn Newman, denying Harris'
June 6th 2019 'Notice and Motion to Alter or Amend Final
Order of Dismissal'. Harris makes reference to the conjoined
'Written Explanation of Improper Determination' as required
by SCACR 243(C).

Respectfully Submitted,

1st Patrick Nelson Harris

Patrick Nelson Harris, #257350, Petitioner

McCormick Corr. Inst.

386 Redemption Way F-3 #174

McCormick, S.C. 29899

07-10-2019

Date

THE STATE OF SOUTH CAROLINA RECEIVED

IN THE COURT OF APPEALS

JUL 15 2019

[IN THE SUPREME COURT]

APPEAL FROM RICHLAND COUNTY

S.C. SUPREME COURT

COURT OF COMMON PLEAS

Jocelyn Newman, Circuit Court Judge

CASE No. 2018-CP-40-2982

Patrick Delvon Harris, # 257350 Petitioner,

v.

State of SOUTH CAROLINA, Respondent,

WRITTEN EXPLANATION
OF IMPROPER DETERMINATION

ABOVE-CAPTIONED PETITIONER [Harris] submits the instant document, pursuant to SCACR 243(C), to provide sufficient facts, arguments, and citation to legal authority to show that there is an arguable basis for asserting that the determination rendered by Circuit Court Judge Newman was improper.

1.) Judge Newman's June 10th, 2019 Order is improper because it figuratively asserts, on Page 2, that Harris could have easily somehow exercised reasonable due diligence in discovering the deficiency in 1998 Act No. 402 in 1998, and could have raised the issue of the deficiency in various actions, including preliminary hearing; thus, the problem

with Judge Newman's critical position is that there is nothing in the record showing that this legislation is presumably invalid and needs to be researched to actually determine validity under Article III §18, because that is the only plausible way to justify Judge Newman asserting that Harris could have exercised any reasonable due diligence and discover, then raise claims of 1998 Act. No. 402; thus, being invalid in all prior proceedings - including preliminary hearing. Harris had no reason to presume that 1998 Act. No. 402 was invalid, prior to the November 24th, 2017 newspaper article and Harris clearly stated this in all the filings before Judge Newman; also, Judge Newman's, June 10th, 2019 Order fails to comply with the noted Luckabaugh, supra opinion and state facts of how legislation is presumed illegitimate and needs to be investigated prior to proceedings getting underway. Harris signed for Order on June 13th, 2019.

Respectfully Submitted,

(S) Patrick Delvon Harris

Patrick Delvon Harris, #257350

McCormick Corr Inst

386 Redemption Way F.3 #174

McCormick, S.C. 29899

07-10-2019

Date

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

[IN THE SUPREME COURT]

APPEAL FROM RICHLAND COUNTY
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S.C. SUPREME COURT

Jocelyn Newman, Circuit Court Judge

CASE NO. 2018-CP-40-2982

Patrick Delvon Harris, #257350..... Petitioner,

v.

State of South Carolina, Respondent,

PROOF OF SERVICE

I Patrick D. Harris, certify that I have today served a ~~written~~ Notice of Appeal upon the Respondent by depositing a copy of such in the U.S. Mail System, postage paid, addressed to this attorney of record Lindsey McCallister, Esq., AAG, Cola, S.C. 29211. I further certify that all parties required by SCACR Rule 243 to be served, have been properly served on this day of July 2019.

Respectfully Submitted,

(s) Patrick D. Harris

Patrick D. Harris, #257350

cc: S.C. Court Appeals, Clerk

S.C. Supreme Court, Clerk

S.C. office of Attorney General - Lindsey McCallister, AAG

P.O. Box 11549, Columbia, S.C. 29211-1549

Petitioner, pro se

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
Patrick Delvon Harris (SCDC #257350),
Applicant,
v.
State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
Civil Action No. 2018-CP-40-02982

**ORDER DENYING APPLICANT'S MOTION TO
ALTER OR AMEND**

This matter came before the Court upon "Notice and Motion to Alter or Amend Final Order of Dismissal" filed by Patrick Delvon Harris ("Applicant") on June 6, 2019 pursuant to Rule 59(e), SCRPC. The Court decides this motion without oral argument pursuant to Rule 59(d), SCRPC. For the reasons set forth below, Applicant's motion is DENIED.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant filed his Application for Post-Conviction Relief ("PCR Application") on June 6, 2018. Respondent filed its Return and Motion to Dismiss on February 13, 2019, requesting that the PCR Application be summarily dismissed based upon the expiration of the statute of limitations, the presumption against successive applications, and for failure to state a cognizable, meritorious claim of newly-discovered evidence. This Court issued a Conditional Order of Dismissal, which was signed on February 25, 2019 and filed on March 7, 2019. Applicant responded by way of "Opposition to Conditional Order of Dismissal" on March 25, 2019. After reviewing Applicant's response, the Court filed its Final Order of Dismissal on May 22, 2019.

Applicant now contends that the Court failed to make appropriate findings of fact and conclusions of law, and further alleges that the Court overlooked his arguments. In particular, Applicant reiterates his argument that the date of his *actual* discovery of certain things renders his

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JEFFREY A. GORDON
CLERK OF COURT

PCR Application neither time-barred nor successive. Although this argument was addressed in the Conditional Order of Dismissal – and adopted by reference in the Final Order of Dismissal – the Court’s ruling is reiterated here:

“The South Carolina Uniform Post-Conviction Procedure Act (PCR Act) allows an applicant to file an application for relief ‘[i]f the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence.’” *Jamison v. State*, 410 S.C. 456, 466, 765 S.E.2d 123, 127 (2014) (quoting S.C. CODE ANN. §17-27-45(C) (2014)). Pursuant to the PCR Act, however, PCR Applications must be filed “within one year of the date of actual discovery of the facts *or from the date when the facts “could have been ascertained by the exercise of reasonable diligence.”* S.C. CODE ANN. §17-27-45(C) (2014) (emphasis added).


Applicant has failed to make a *prima facie* showing to suggest why the alleged “newly-discovered evidence” could not have been discovered sooner; rather, the only logical conclusion is that it could have been discovered as early as the time of Applicant’s arrest. Although the action on Applicant’s part may have been inspired by his reading of a news article, any alleged deficiency in the legislation at issue – 1998 Act No. 402 – existed in 1998. Had Applicant exercised reasonable diligence as to this claim (which the Court finds to lack merit), he could have discovered this argument sooner and, therefore, raised the issue at his preliminary hearing, at his first trial, at his second trial, in his direct appeal, in his 2000 PCR Application, in his 2001 PCR Application, in his Petition for Writ of Habeas Corpus filed with the state Supreme Court, in his Petition for Writ of Habeas Corpus in federal court, in his Petition for Writ of Habeas Corpus filed in Circuit Court, in his 2012 PCR Application, or in his 2013 PCR Application. Because Applicant used none of the previous eleven (or more) opportunities to make this claim, his current PCR

Application is impermissibly successive, was not timely filed, and fails to state a cognizable, meritorious claim of newly-discovered evidence.

IT IS, THEREFORE, ORDERED that Applicant's Motion to Alter or Amend is DENIED.

The Court hereby advises 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.

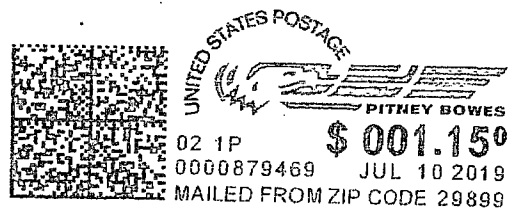
AND IT IS SO ORDERED.


Jocelyn Newman
Chief Administrative Judge

June 10, 2019
Columbia, South Carolina.

signed for June 13th, 2019

Harris #257350
Precedential Institution
on Way E.3 #174
29899



Attn: Honorable Daniel Shearouse - Clerk