

The Supreme Court of South Carolina

Dominick L. Johnson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2020-001163

Lower Court Case No. 2016CP2307631

ORDER

In this post-conviction relief (PCR) matter, 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's counsel 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.

¹ Based on the final order and the public case index for Greenville County, it appears petitioner may have submitted various *pro se* documents to the circuit court after the conditional order of dismissal was issued. To the extent any of these *pro se* documents may have been intended as a response to the conditional order of dismissal, they are essentially a nullity. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity. . . . We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a party who is represented by counsel.").



C.J.

FOR THE COURT

Columbia, South Carolina
September 30, 2020

cc: Susannah Conyers Ross, Esquire
Taylor Zane Smith, Esquire