

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)
Rusty Dunbar, #294996,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE SECOND JUDICIAL CIRCUIT

Case No.: 2019-CP-02-1819

FINAL ORDER OF DISMISSAL

This matter is before the Court based on an application for post-conviction relief filed by Applicant Rusty Dunbar on July 18, 2019. In response, Respondent the State of South Carolina made its return, which the Court accepted as timely filed, and moved to summarily dismiss the action as procedurally barred as untimely and successive pursuant to the Uniform Post-Conviction Procedures Act, S.C. Code Ann. § 17-27-10 et seq. (2014).

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed July 10, 2021, and filed July 21, 2021, provisionally denying and dismissing this action, while giving the Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated August 19, 2021, serving the above-mentioned Conditional Order of Dismissal on Applicant.

In response to this conditional dismissal, Applicant filed four separate documents, three before the conditional order of dismissal was served on him and one after service. In the first document, captioned "Opposition to Conditional order of Dismissal" and filed on July 29, 2021, Applicant states he discovered prosecutorial misconduct on July 18, 2019, and attaches a letter

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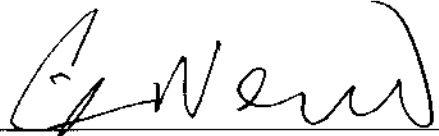
Robert J. Kente CMP
C.C.P. & G.S.
Charlea Griffin Plautz
Deputy Clerk

from the Aiken County Clerk of Court regarding a general sessions motion for a new trial pursuant to Rule 29(b), SCRCrimP, along with attachments that appear to be handwritten notes authored by Applicant asserting what he believes to be discrepancies in his trial, which are undated and without any supporting documentation. On the same date, Applicant also filed two documents related to a Motion for Default/Summary Judgment, asserting that there are no genuine issues of material fact and he should be granted relief and default judgment as a matter of law. On August 2, 2021, Applicant filed a letter in which he again asserts he is entitled to relief based on default judgment. In a final document filed August 27, 2021, Applicant compels the State to provide numerous materials to him, including numerous transcripts from co-defendants' pleas or collateral reviews.

After reviewing all of these filings, this Court finds Applicant has failed to meet his burden of establishing he is entitled to an evidentiary hearing on these claims of prosecutorial and judicial misconduct, denies his motion for summary judgment and default judgment, and affirms summary dismissal of this application based on the grounds set forth in the conditional order of dismissal. Applicant has failed to show why these claims could not have been discovered prior and timely raised in his prior actions. Therefore, this Court finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that for the reasons set forth in the Court's Conditional Order of Dismissal, this application for post-conviction relief is hereby **DENIED AND DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED this 15th day of September, 2021.


CLIFTON NEWMAN
Chief Administrative Judge – 2nd Circuit

Columbia, South Carolina