

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 Linda Ann Tyler, #248190)
)
 Applicant)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

2020-CP-40-1583

FINAL ORDER OF DISMISSAL

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 JONETTE M. MOSENFELDER
 C.C.P., G.S. & F.C.
 RICHLAND COUNTY
 FILED

This matter comes before the Court pursuant to an application for post-conviction relief filed by Applicant Linda Ann Tyler on March 18, 2020. Respondent made its Return and Motion to Dismiss on October 8, 2021, requesting the application be summarily dismissed because it was untimely, successive, and failed to make a *prima facie* showing of newly discovered evidence.

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 filed October 20, 2021, provisionally denying and dismissing this action, while giving 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 October 29, 2021, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant submitted a response filed on November 3, 2021, titled “Brief in Opposition to State’s Motion for Summary Judgement & Order of Dismissal of PCR” wherein Applicant argues she has presented a *prima facie* case of actual innocence. Applicant reasserts nearly identical arguments made in her application for PCR in this case, and claims the undersigned Judge should be removed from this matter as he had “prior possession over her (former P.C.R claim).”

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Applicant claims she did not cause the death of the victim in this matter, and rather asserts his death was caused by the attending physicians because the victim was deprived of life support. Applicant further alleges the medical records list a different cause of death than carbon monoxide. Applicant additionally claims she was denied the use of hypnosis, and raises various issues against the trial judge from the judge's charging decision to a failure to issue an arrest warrant.

Finally, Applicant argues the State did not timely respond to her application and thus she is entitled to summary judgment. This Court disagrees and finds Respondent completed the return required in this matter. The current PCR matter is Applicant's fourth application for post-conviction relief and is procedurally untimely and substantively successive. Therefore, in light of no demonstrable prejudice to Applicant as a consequence of the delay, this Court accepted Respondent's return as timely filed. *See Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extend the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

This Court has reviewed Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and 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 this Court's Conditional Order of Dismissal, the application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant he must file and serve a Notice of Appeal within thirty 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 this 23 day of November, 2021.



L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated Mary Williams (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF Greenwood) AFFIDAVIT OF PERSONAL SERVICE

On this 29 day of October 2021, I served the Conditional Order of Dismissal (2020-CP-40-1593), on Inmate Linda A. Tyler, SCDC Inmate #248190 by delivering personally and leaving a copy of the same at Leath Correctional Institution. Deponent is not a party to this action.

s/ Mary Williams
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 29th day of October, 2021

Angela T. Williams (L.S.)
Notary Public for South Carolina

My Commission Expires: May 1, 2024

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal (2020-CP-40-1593) is admitted at the South Carolina Department of Corrections Leath Correctional Institution), Greenwood County, SC this 29 day of October, 2021.

s/ Linda A. Tyler
Inmate
SCDC Inmate #: 248190

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2020-CP-40-1593

S.C. SUPREME COURT

Linda Ann Tyler, 248190
Leath Correctional Institution, P.A. 129
2809 Airport Road
Greenwood, SC 29649

Linda Ann Tyler # 24810
LEATH Correctional Inst
M-11-106 (b)
2809 Airport Rd,
Greenwood, S.C. 29649

GREENVILLE SC 296

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Supreme Court, of South Carolina
Mr. Daniel E. Shaverese
P.O. Box 11330
Columbia, S.C. 29211

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THE DEPARTMENT OF CORRECTIONS, MAILROOM
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ASSUME RESPONSIBILITY FOR ITS CONTENTS

PATRICIA YELDELL, WARDEN
LEATH CORRECTIONAL INSTITUTION
SC DEPARTMENT OF CORRECTIONS