

# The Supreme Court of South Carolina

Stanley M. Felder, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2021-001334

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## ORDER

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In this post-conviction relief (PCR) matter, the circuit court issued a conditional order of dismissal, giving Petitioner twenty days to file a response as to why the conditional order of dismissal should not become final. According to the final order of dismissal, Petitioner did not file a response.<sup>1</sup> 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 in by Rule 221(b) of the South Carolina Appellate Court Rules.

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<sup>1</sup> The final order and the public case index for Orangeburg County indicate that Petitioner sent a *pro se* document to the circuit court after the conditional order of dismissal was issued. Even if Petitioner intended the *pro se* document to serve as a response to the conditional order of dismissal, it was essentially a nullity because Petitioner was represented by counsel. *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 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.").



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C.J.

FOR THE COURT

Columbia, South Carolina  
November 29, 2021

cc:

Jonathan D Waller, Esquire  
Robert Michael Dudek, Esquire  
Samantha Jo Weidauer, Esquire