

Appendix A



SUPREME COURT OF GEORGIA

Case No. S19H1383

March 13, 2020

The Honorable Supreme Court met pursuant to
adjournment.

The following order was passed.

LESTER WALLER v. VANCE LAUGHLIN, WARDEN.

Upon consideration of the application for certificate of
probable cause to appeal the denial of habeas corpus, it is ordered
that it be hereby denied.

*Melton, C. J., Nahmias, P. J., and Blackwell, Boggs,
Peterson, Warren, Bethel, and Ellington, JJ., concur.*

Trial Court Case No. 18CV074

Appendix B

IN THE SUPERIOR COURT OF WHEELER COUNTY
STATE OF GEORGIA

WHEELER COUNTY, GEORGIA
CLERK'S OFFICE

2019 MAY 21 AM 9:57

LESTER WALLER,

Petitioner,

GDC No. 943389

v.

VANCE LAUGHLIN, Warden,
and HOMER BRYSON, Commissioner,
GEORGIA DEPARTMENT OF
CORRECTIONS,

Respondents.

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) Habeas Corpus

) File No. 18CV074

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Carroll W. Brazz
CLERK, SUPERIOR COURT

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

The above-styled case appears before the Court on Respondent's Motion to Dismiss filed on November 26, 2018. After reviewing the record and providing Petitioner with an opportunity to respond, Respondent's Motion is granted and the instant habeas corpus petition is **DISMISSED** with prejudice based upon the following findings of fact and conclusions of law:

On May 11, 2010, Petitioner was convicted of malice murder, felony murder, and possession of a knife during the commission of a felony in the Superior Court of Fulton County. Petitioner timely filed a motion for new trial which was denied on November 21, 2013. Petitioner filed an untimely Notice of Appeal on December 26, 2013 which resulted in a dismissal of his appeal by the Supreme Court of Georgia on September 12, 2016. Petitioner filed the instant Application for Writ of Habeas Corpus with the Clerk of Court on August 3, 2018.

Georgia law provides that habeas corpus actions:

shall be filed within [. . .] four years in the case of a felony, other than one challenging a conviction for which a death sentence has been imposed or challenging a sentence of death from:

- (1) The judgment of conviction becoming final by the conclusion of direct review or the expiration of the time for seeking such review, provided, however, that any person whose conviction has become final as of July 1, 2004, regardless of the date of conviction, shall have until July 1, 2005, in the case of a misdemeanor or until July 1, 2008, in the case of a felony to bring an action pursuant to this Code section;

- (2) The date on which an impediment to filing a petition which was created by state action in violation of the Constitution or laws of the United States or of this state is removed, if the petitioner was prevented from filing such state action;
- (3) The date on which the right asserted was initially recognized by the Supreme Court of the United States or the Supreme Court of Georgia, if that right was newly recognized by said courts and made retroactively applicable to cases on collateral review; or
- (4) The date on which the facts supporting the claims presented could have been discovered through the exercise of due diligence.

O.C.G.A. § 9-14-42(c).

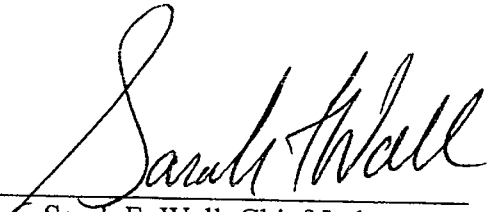
A conviction becomes final when direct review concluded or where the time for seeking further review had expired. *See, Turpin v. Todd*, 268 Ga. 820 (1997). As discussed above, Petitioner was convicted on May 11, 2010 and his motion for new trial was denied on November 21, 2013. Therefore, Petitioner had until December 23, 2013 to file a notice of appeal. Petitioner failed to file a timely notice of appeal and his appeal was dismissed as untimely. The filing of an untimely notice of appeal does not reset or extend the statute of limitations for commencing a habeas corpus action. *See, Randle v. Crawford*, 604 F.3d 1047 (9th Cir. 2010). Accordingly, Petitioner's conviction became final on December 23, 2013, the last date on which he could timely file a notice of appeal. Petitioner thus had until December 23, 2017 to file a habeas corpus petition challenging his conviction. The instant Petition, however, was not filed with the Clerk of the Superior Court of Wheeler County until August 3, 2018.

WHEREFORE, the instant Petition for Writ of Habeas Corpus is **DISMISSED**.

If Petitioner desires to appeal this Order, Petitioner must file a written application for certificate of probable cause to appeal with the Clerk of the Supreme Court of Georgia within thirty (30) days from the date of this Order. Petitioner must also file a Notice of Appeal with the Clerk of the Superior Court of Wheeler County within the same thirty (30) day period.

The Clerk of the Superior Court of Wheeler County is hereby **DIRECTED** to mail a copy of this Order to Petitioner, Petitioner's Counsel of Record, Respondent, and Special Assistant Attorney General Daniel M. King, Jr.

SO ORDERED, this 17 day of May, 2019.



Sarah F. Wall, Chief Judge
Wheeler County Superior Court

**IN THE SUPERIOR COURT OF WHEELER COUNTY
STATE OF GEORGIA**

LESTER WALLER,
GDC – 943389,
PETITIONER,

vs.

VANCE LAUGHLIN, WARDEN, and
HOMER BRYSON, COMMISSIONER,
GEORGIA DEPARTMENT OF
CORRECTIONS,
RESPONDENTS,

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CIVIL ACTION NO: 18CV074

CERTIFICATE OF SERVICE

I, Hannah Leyland, Clerk of Superior Court, do hereby certify that I have this day mailed a true and accurate copy of the ORDER DISMISSING PETITION to the below-named parties*, with sufficient postage thereon to assure delivery.

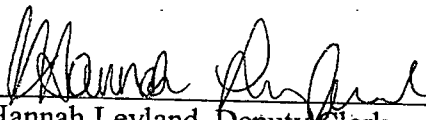
Lester Waller, GDC – 943389
Wheeler Correctional Facility
P. O. Box 466
Alamo, GA 30411

Vance Laughlin, Warden,
Wheeler Correctional Facility
P. O. Box 466
Alamo, GA 30411

Homer Bryson, Commissioner,
Georgia Department of Corrections
State Offices South at Tift College
P. O. Box 1529
Forsyth, GA 31029

Franklin Miller, Esq.,
of Counsel to
Daniel M. King, Jr., SAAG
P. O. Box 4329
Dublin, GA 31040

This the 21st day of May, 2019


Hannah Leyland, Deputy Clerk
Wheeler Superior Court

IN THE COURT OF APPEALS
STATE OF GEORGIA

LESTER WALLER,
Petitioner

v.

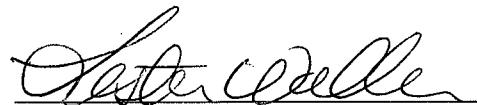
Case No. 18CV074

VANCE LAUGHLIN, WARDEN,
HOMER BRYSON, COMMISSIONER,
GEORGIA DEPT OF CORRECTIONS,
Respondents

**NOTICE OF FILING OF PETITION FOR WRIT OF CERTIORARI
IN THE SUPREME COURT OF THE UNITED STATES**

Appellant hereby notifies the Court of Appeals of the filing of a Petition for
Writ of Certiorari to the Supreme Court of the United States.

Respectfully submitted this 28th day of July, 2020.



Petitioner, pro se

Lester Waller

GDC # 943389

Wheeler Correctional Facility

PO Box 466

Alamo, GA 30411

