

## EXPLANATION

IN CONSIDERATION of the following circumstances, Applicant Provides this EXPLANATION as to why the lower court determination was improper.

### Facts / Argument / Legal Authority

ROBERT WILLIAM WAZNEY, Appellant, Applicant, hereinafter Wazney, is a United States Citizen convicted of, or sentenced for, a crime in the State of South Carolina and which person claims that the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of South Carolina, that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice, or that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy, and is entitled to, without paying a filing fee, a proceeding pursuant Rule 71.1 South Carolina Rules of Civil Procedure (SCRCP) and S.C.Code Ann. §§ 17-27-10 to --120 (1985) also known as Uniform Post Conviction Procedure Act (PCR Act).

Wazney delivered a verified Application For Post-Conviction Relief (PCR)(See attached motion entitled LEAVE TO FILE SUPPLEMENT TO APPLICATION FOR POST-CONVICTION RELIEF ~~PCR~~ 'CERTIFICATE OF SERVICE'; and EXHIBIT H 'Agreement

*p. 14*

To Debit E.H. Cooper Account') to Sumter County Clerk of Court (town-clerk) of Sumter County, South Carolina, on May 10, 2018, pursuant PCR Act, by mailing PCR U.S. Mail certified and return-receipt. Town-clerk signed for the PCR, (EXHIBIT B), and town-clerk accepted service pursuant Rule 5 (j) SCRC, however town-clerk fails to docket PCR, and fails to notice PCR (see S.C. Supreme Court case number 2018-001730).

June 14, 2018, out of caution, Wazney mailed copy of the PCR to South Carolina Supreme Court (SC Sup. Ct.) to receive a file-date-stamp, and on June 21, 2018, SC Sup. Ct. file-date-stamped and returned the PCR copy back to Wazney (see attached motion entitled LEAVE TO FILE SUPPLEMENT TO APPLICATION FOR POST-CONVICTION RELIEF, pp. 4-14), without action, and stated "an Application for Post-Conviction Relief is filed with the circuit court, and that Wazney must provide indictment numbers. (See EXHIBIT D).

June 26, 2018, Wazney, additionally out of caution, mailed a copy of PCR to U.S. District Court, District Court file-date-stamped and crossed out stamp and returned the PCR copy.

June 29, 2018, Wazney followed SC Sup. Ct. form instruction (see EXHIBIT D) by providing town-clerk, through U.S. Mail, PCR SUPPLEMENT motion which included his four (4) indictment numbers, the Motion went unanswered.

July 17, 2018, Wazney filed Original Jurisdiction motion with SC. Sup. Ct. concerning the PCR, court eventually dismissed.

July 28, 2018, Wazney filed Complaint motion with S.C. Sup. Ct. concerning PCR, court eventually dismissed.

October 15, 2018, Wazney filed habeas corpus with U.S. District Court, District Court dismissed, Court said that Wazney needed to file his PCR.

December 15, 2018, February 21, 2019, and April 7, 2019, Wazney sent letters to S.C. Attorney General, April 30, 2019 Attorney General replies it re-checked town-clerk, PCR is not docketed (EXHIBIT E).

July 29, 2019, SC Sup. Ct. case 2018-001730, Supreme Court Order of return for town-clerk to answer Wazneys allegations, town-clerk August 6, 2019 answer (EXHIBIT F) claims it received papers other than PCR, papers town-clerk claimed to have received are dated one-month later, making town-clerk claim impossible, as stated in Wazney's "Objections" motion dated September 2, 2019.

November 27, 2019, Wazney serves Complaint on S.C. Attorney General Crime Victim Services Division Department of Crime Victim Ombudsman concerning town-clerk not filing PCR, ultimately claims it cannot help.

June 7, 2020, Wazney provides Complaint to S.C. Court Administration concerning town-clerk not docketing PCR, three attempts for reply, no resolution.

September 29, 2020, Concerning non-docketing of his PCR: Wazney sends Complaint to State Justice Institute (Virginia), no reply. Wazney sends Complaint to Thomas W. Cooper, Jr. c/o Commission on Judicial Conduct, (Columbia, SC), no reply. Wazney sends complaint to Alan D. Clemmons c/o Judicial Merit Selection Commission (Columbia, SC), no reply.

October 2, 2020, Wazney sends Complaint to State Inspector General (Columbia, SC) concerning non-docketing of his PCR, no reply.

October 4, 2020, Wazney provided 'DOCKET COMPLAINT' to South Carolina Court Administration (SCCA), no reply, no resolution. Wazney also complained to State Human Affairs Commission, Columbia, SC, no reply.

April 13, 2021, Wazney opened 'PCR COMPLAINT' with SC Court Administration, SC Sup. Ct. Chief Justice, U.S. District Court Justice Herlong, U.S. Court of Appeals Justice Traxler, town-clerk and U.S. Court Administration; the PCR COMPLAINT had continuing and numerous correspondences through and up until February 17, 2022, but still no PCR filing with county court.

During 2021--and during the process of 'PCR COMPLAINT' above--, on November 10, 2021, Wazney mailed complaint entitled PUBLICATION OF PROCESS AGAINST TOWN CLERK (EXHIBIT K), in attempt to compel town-clerk to docket PCR, to neighboring Lee County Court of Common Pleas, the Lee court sent the Complaint back to Wazney by order of Administrative Judge. That Complaint, which contained the PCR, was also served on town-clerk. The entire Complaint explained these instant allegations. Town-clerk sent the 28 page Complaint back to Wazney, no letter-head, and with a 'post-it' sticky note attached, pretending to be confused. (See EXHIBIT G).

December 13, 2021, Wazney files REQUEST FOR RELIEF CONCERNING APPLICATION FOR PCR with SC Sup. Ct., case number 2021-001472. August 11, 2022 the case was dismissed because 'no extraordinary reason exists to entertain them in th[at] courts jurisdiction'.

March 10, 2022, Wazney requested help from South Carolina Commission on Indigent Defense (SCCID) to help him get his PCR filed, the request (EXHIBIT L) went unanswered. July 2, 2022, Wazney resent the request to HUGH RYAN, Executive Director of SCCID, by Mailing it U.S. Mail certified return receipt, tracking 7021 0950 0001 9690 4005, but there is no reply.

July 22, 2022, Wazney reasserted his PCR claims by providing SUPPLEMENT TO APPLICATION FOR POST-CONVICTION RELIEF, et al., papers by mailing them by U.S. Mail to town-clerk, certified and return-receipt, and by certified to S.C. Attorney General. Town-clerk signed for the Supplement papers on July 28, 2022. (See EXHIBIT I). Town-clerk returned the Supplement papers, this time with a file-date-stamp and 'post-it' note reading "We need the original copy of your PCR Application" (EXHIBIT J) notwithstanding a photocopy of the original of PCR is included in Supplement papers on pp. 4-14. Photocopy, which is considered a 'duplicate', is admissible pursuant Rules 1001 through 1004, S.C. Rules of Evidence. Again, the town-clerk fails to docket Wazney's PCR.

According to S.C. Attorney general, Post Conviction Relief action cannot commence until town-clerk docket Wazney's PCR. (See EXHIBIT C). Wazney's list of attempts to pursue PCR is not exhaustive.

Town-clerk continuing failure to docket Wazneys PCR estopps the judicial machinery and prejudices Wazney which makes lower court determination improper.

Wazney is an unrepresented indigent prisoner and is entitled to a proceeding pursuant Rule 71.1 SCRPC and PCR Act. It has been greater than four (4) years since Wazney first delivered PCR to town-clerk and Wazney has diligently attempted, and he continues to attempt, to compel town-clerk to docket his PCR. There appears to be inordinate delay by and through misfeasance of town-clerk, and the circumstances are beyond Wazney's control. There is dilatory behavior on behalf of the State. See Allen v. Leeke, 328

F.Supp. 292 (S.C.S.C. 1971)(An inordinate and unjustified delay in the State corrective process may well result in the frustration of petitioners rights and be such a circumstance as to render that process ineffective.). Under normal circumstances in post-conviction relief actions, counsel is usually assigned and which counsel aids petitioners with their applications and amends or supplements those applications, Wazney given no such opportunity, he provides Supplement papers to his PCR those Supplement papers are attached herewith.

PREMISES CONSIDERED, Wazney instantly brings this NOTICE OF APPEAL with EXPLANATION and Post-Conviction Relief Supplement papers which are attached herewith and which include photocopy of Wazney's PCR, to SC Sup. Ct. to be heard.

September 19, 2022

/s/

ROBERT WILLIAM WAZNEY

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Appellant, Captive, Pro se

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**RECEIVED**

**SEP 26 2022**

**S.C. SUPREME COURT**