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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM YORK COURT  
COURT OF COMMON PLEAS

DAVID D. HALL  
CHIEF ADMINISTRATIVE LAW JUDGE

APPELLATE CASE NO. 2022-001493

JEFFREY LYNN CHRONISTER

APPELLANT

v

STATE OF SOUTH CAROLINA

RESPONDENT

INITIAL BRIEF OF APPELLANT

cc: ZACHARY WILLIAM JONES, AAG

JEFFREY LYNN CHRONISTER<sup>#</sup> 189829

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ATTORNEY FOR RESPONDENT

APPELLANT PRO SE

cc: DAVID HAMILTON, CLERK OF COURT

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YORK, S.C., 29745-0649

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## STANDARD OF REVIEW

APPELLANT, PRO SE LITIGANT, COMES PURSUANT TO RULE 201(c) SCACR. BECAUSE OF THE DELAYS IN RECEIVING THIS COURT'S ORDER WHICH PREVENTED TIMELY FILING OF A PETITION FOR REHEARING THAT ALSO ALLOWED THE REMITTITUR BEING SENT TO THE LOWER COURT. THE CIRCUMSTANCES SHOW THAT THE DELAYS WERE BEYOND APPELLANT'S CONTROL AND UNAVOIDABLE.

MOSEY STATE 420 S.C. 500, 403 SE2d 718 (2017); "NOTABLY THIS COURT HAS DETERMINED THE STATUTE OF LIMITATIONS SHALL BE EQUITABLY TOLLED WHERE "CIRCUMSTANCES PREVENTING PETITIONER FROM MAKING TIMELY FILING [ARE] BOTH BEYOND THE PETITIONER'S CONTROL AND UNAVOIDABLE DESPITE DUE DILIGENCE". RULE 221(c) AN "APPEAL MAY BE TAKEN AS PROVIDED BY LAW, FROM ANY FINAL JUDGMENT, APPEALABLE ORDER, OR DECISION. THE PROCEDURE FOR PETITIONING FOR A WRIT OF CERTIORARI TO REVIEW FINAL JUDGMENTS IN POST CONVICTION RELIEF CASES IS PROVIDED BY RULE 243." "RULE 201(c) SCACR (APPEAL MAY BE TAKEN AS PROVIDED BY LAW, FROM ANY FINAL JUDGMENT APPEALABLE ORDER [ ] OR DECISION". STONE V THOMPSON 418 S.C. 599, 795 SE2d 49 (2010)

## STATEMENT OF THE CASE

THE MATTER AROSE FROM AN "MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE" PURSUANT TO RULE 60(b) SCRPC, AND ITS RELATING "APPLICATION FOR POST-CONVICTION RELIEF (2019-CP-46-001421). ARGUMENTS INCLUDES;

FRAUD UPON THE COURT, AND SUBJECT MATTER JURISDICTION

THE LOWER COURT DETERMINED THE ACTION WAS SUCCESSIVE AND TIME BARED UNDER STATUTE OF LIMITATIONS OF S.C. CODE ANN. 19-27-70(b), (c). AN NOTICE OF APPEAL "WITH AN EXPLANATION" PURSUANT TO RULE 243(b) AND (c) SCACR WAS SERVED TO THIS COURT, AND A COPY OF THE COURT'S ORDER DATED DECEMBER 13,

2022, WAS RECEIVED BY APPELLANT ON DECEMBER 22, 2022 STATING THAT,  
"PETITIONER HAS FAILED TO PROVIDE AN EXPLANATION AS REQUIRED  
BY RULE 243(C) SCACR SHOWING THERE IS AN ARGUABLE BASIS FOR  
ASSERTING THE DETERMINATION BY THE LOWER COURT WAS IMPROPER  
ACCORDINGLY WE DISMISS THE NOTICE OF APPEAL IN THIS MATTER. THE  
REMITTITUR WILL BE SENT AS PROVIDED BY RULE 221(B) SCACR."

APPELLANT SERVING A "RULE 60(B) SCACR MOTION FOR RELIEF FROM ORDER,  
DATED DECEMBER 30, 2022, AND INCLUDED;

- (1) A COPY OF THE ORDER TO SHOW ITS DATE OF DECEMBER 13, 2022
- (2) THE ORIGINAL SCDC'S "RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION  
SHOWING THE ORDER WAS RECEIVED BY THE INSTITUTION'S MAILROOM ON  
"12/16/22", AND DELIVERED TO APPELLANT ON "12/22/22" WHICH WAS NINE  
(9) DAYS AFTER THE ORDER'S DATE, ON A THURSDAY, AND THE FOLLOWING  
DAY OF FRIDAY TO WEDNESDAY DECEMBER 29, 2022 THE INSTITUTION'S  
MAILROOM, LAW LIBRARY, PLUS OTHER OFFICES WERE CLOSED FOR  
THE CHRISTMAS HOLIDAY PREVENTING THE MEETING OF TIME PROVISIONS  
OF RULE 221(A) SCACR. THAT HOLDS;

"PETITION FOR REHEARING MUST BE ACTUALLY RECEIVED BY THE APPELATE  
COURT NO LATER THAN FIFTEEN (15) DAYS AFTER THE FILING OF THE OPINION,  
ORDER, JUDGMENT, OR DECREE OF THE COURT," AND RULE 221 (B) IN-PART;

"IF A PETITION FOR REHEARING IS RECEIVED BEFORE THE REMITTITUR  
IS SENT, THE REMITTITUR SHALL NOT BE SENT PENDING DISPOSITION  
OF THE PETITION BY THE COURT" Id. MOSE

- (3) AS TO THE ORDER STATING "FAILED TO PROVIDE AN EXPLANATION"  
APPELLANT RESPECTFULLY CONTENDS THIS IS A MISTAKE, AND ENCLOSED THE

FOLLOWING WITH THE MOTION TO SUPPORT:

(a) A COPY OF THE LETTER, DATED OCTOBER 19, 2022, THAT WAS ENCLOSED WITH THE NOTICE OF APPEAL, AND REQUESTING THE CLERK TO FILE THE NOTICE. IT ALSO SHOWING "THE ORIGINAL RULE 243(c) SCARER EXPLANATION" WAS ENCLOSED TO FILE AND AT NUMBER(3) OF LIST OF OTHER DOCUMENTS

(b) COPY OF THE "EXPLANATION" THAT CONSISTS OF EIGHT PAGES

(c) APPELLANT'S COPY OF THE "AGREEMENT TO DEBIT E. H. COOPER ACCOUNT", DATED OCTOBER 20, 2022, SHOWING THAT THE "ADDITIONAL POSTAGE" OF \$2.70 WAS NEEDED FOR MAILING IN BROWN MANILA ENVELOPES. WHERE WITHOUT THE "EXPLANATION" AND SENDING COPIES TO PARTY REGULAR WHITE PRESTAMPED ENVELOPES WOULD HAVE BEEN PROPER FOR THE TWO(2) PAGE NOTICE, AND ONE(1) PAGE PROOF OF SERVICE.

### ARGUMENT

THE CLERK OF COURT ERRED IN THE ORDERS BECAUSE OF THE DELAYS ARE PRESENTED IN THE RULE 60(b) MOTION, AND THE EVIDENCE THAT THE EXPLANATION WAS SENT.

APPELLANT RECEIVING AN ORDER, DATED JANUARY 9, 2023, FROM THE HONORABLE PATRICIA A. HOWARD THAT STATES:

" THIS RESPONDS TO YOUR CORRESPONDENCE RECEIVED JANUARY 9, 2023. PLEASE BE ADVISED THAT THE REMITTUR WAS SENT IN THIS CASE ON DECEMBER 29, 2022. SINCE SENDING OF THE REMITTUR ENDED APPELLATE JURISDICTION OVER THIS CASE, NO ACTION WILL BE TAKEN ON YOUR LETTER BY THIS COURT "

APPELLANT SERVING AN RULE 60(B) SCRP MOTION: MISTAKES: INADVERTENCE: EXCUSABLE NEGLIGENCE: NEWLY DISCOVERED EVIDENCE: FRAUD: ETC.. DATED FEBRUARY 6, 2023. BECAUSE OF THE MISTAKE IN THE ORDER OF FAILURE TO PROVIDE THE "EXPLANATION"; AND APPARENTLY THERE WAS INADVERTENCE ON APPELLANT'S PART IN FAILURE TO SUPPORT INITIAL RULE 60(B) MOTION. FOR THE CLERK REFERRING TO IT AS "CORRESPONDENCE" AND A "LETTER". ALSO THE DISCOVERED EVIDENCE RAISING FRAUD UPON THE COURT, AND SUBJECT MATTER JURISDICTION.

IN THE SECOND MOTION APPELLANT REQUESTING THE COURT'S DETERMINATION ON THE MISTAKE, INADVERTENCE, AND SUPPORTED THE MOTION BY CITING:

"MULLARKEY V MULLARKEY 397 S.E. 182, 223 S.E.2d 247 (SC. APR. 2012)  
[6] RELIEF FROM JUDGMENT OR ORDER PURSUANT TO SUBSECTION OF RULE AUTHORIZING RELIEF FROM JUDGMENT IF JUDGMENT HAS BEEN SATISFIED, RELEASED, OR DISCHARGED, OR PRIOR JUDGMENT UPON WHICH IS BASED HAS BEEN REVERSED OR OTHERWISE VACATED OR IT IS NO LONGER EQUITABLE THAT THE JUDGMENT SHOULD HAVE PROSPECTIVE APPLICATION IS AVAILABLE ONLY IN CASES OF FRAUD UPON THE COURT OR RARE, SPECIAL, EXCEPTIONAL OR UNUSUAL CIRCUMSTANCES THAT MAY WARRANT EQUITABLE BELIEF INCLUDING ACCIDENT OR MISTAKE. RULE CIV. PROC. RULE 60(B) (5)"

APPELLANT ALSO BE RAISING THE CIRCUMSTANCES OF THE DELAYS, MISTAKE OF THE "EXPLANATION"; AND SERVED AN "AFFIDAVIT" THAT IT WAS SERVED WITH THE "NOTICE OF APPEAL". ALSO TO THAT OF COPIES OF SAME WAS SERVED ON ATTORNEY FOR RESPONDENT

THE FOLLOWING ORDER, DATED FEBRUARY 14, 2023, FROM THE CLERK OF COURT WAS RECEIVED BY APPELLANT ON FEBRUARY 20, 2023 (COPY AT PAGE 6) AND A "NOTICE OF APPEAL" WAS SERVED ON MARCH 10, 2023.

"THIS RESPONDS TO YOUR FILING RECEIVED ON FEBRUARY 13, 2023. PLEASE BE ADVISED THAT THE REMITTURE WAS SENT TO THIS CASE ON DECEMBER 29, 2023. SINCE SERVING OF THE REMITTURE ENDED APPELLATE JURISDICTION OVER THIS CASE, NO ACTION WILL BE TAKEN ON YOUR FILING BY THIS COURT."

CONCLUSION

FOR THE REASONS STATED, APPELLANT ASKS THIS COURT TO GRANT THE APPEAL

APRIL 4, 2023

RESPECTFULLY SUBMITTED:  
Jeffrey Lynn Chroister  
JEFFREY LYNN CHROISTER #189827  
KIRKLAND C.I. B-II, '60  
4344 BROAD RIVER ROAD  
COLUMBIA, S.C. 29210



# The Supreme Court of South Carolina

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February 14, 2023

Jeffrey Lynn Chronister, 189827  
Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, SC 29210

Re: Jeffrey Chronister v. State  
Appellate Case No. 2022-001493

Dear Mr. Chronister,

This responds to your filing received February 13, 2023. Please be advised that the remittitur was sent in this case on December 29, 2022. Since the sending of the remittitur ended appellate jurisdiction over this case, no action will be taken on your filing by this Court.

Sincerely,

*Patricia A. Howard*

CLERK

cc: Zachary William Jones, Esquire

*(6.9.17)*