

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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AUG 07 2023

Appeal from Greenville County
Honorable Donald B. Hocker, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT.

v.

ERIC CHARLES PETERSON,

APPELLANT.

APPELLATE CASE NO. 2019-002097

APPELLANT'S MOTION TO EXTEND TIME
for Filing PETITION OF
REHEARING
under Rule 263(b), SCACR

Alan Wilson, Attorney General
Ambree Muller, Asst. Atty Gen.
Postoffice Box 11549
Columbia, SC 29211
(803) 734-3727

W. Walter Wilkins, III,
Solicitor 13th Circuit
305 East North Street
Greenville, SC 29601
(864) 467-8647
Attorneys for Respondent

Eric Charles Peterson #274354
Turbeville CJ | RA-170
1578 Clarence Coker Hwy
Turbeville, SC 29162
Appellant, Pro Se

The appellant, Eric Charles Peterson, pursuant to Rule 263(b), SCACR, moves this Court to extend the time for filing the Petition for Rehearing of Appellant by ~~one~~ hundred twelve days, to and including 31st August, 2023. In support of the motion, the Appellant shows the following to the Court:

1) Appellant did not knowingly, willfully, and/or intentionally abandon his direct appeal. If appellant would have known at the proper time appellant would have pursued this appeal step at that time. Appellant's Counsel, David Alexander of South Carolina Commission on Indigent Defense, advised appellant in a letter dated January 6, 2023 of the Court of Appeals decision. Stating in his letter he "does not see any viability in further challenging the Court's decision." He advised Appellant only of his Post Conviction Relief and Habeas Corpus appeal opportunities which both occurring in the same time frame of one year. Counsel did not explain that Appellant had the options or opportunity to further seek relief through additional steps in his Direct Appeal with or without Counsel. Counsel also informed Appellant to "[f]eel free to contact me if you have any questions." However,

Counsel simultaneously sent a letter to the SC Department of corrections requesting blocking their number from "the individual's call list," preventing Appellant from timely contacting Counsel for "any questions" appellant may have had.

2) Appellant did not have, and has not been afforded opportunity to access the institutions physical law library. As education and Library services were not held due to lack of Security Staff and when services were held Appellant was not given an Order to Report or been included on "any Outcount Roster. Appellant has sent numerous Request to Staff member asking since August of 2022 and prior, to be admitted to the law library to do case research and other matters. Appellant was told repeatedly he is "added to the list."

3) Appellant was not able to access institutions electronic law library as the service, wifi, in the former unit he was in was repeatedly down due to a cut fiber optic cable, and Appellant could only intermittently research case files and law. Appellant addressed this to Staff repeatedly.

4) When Appellant was able to access the electronic law library appellant found the following:

a) this Court of Appeals opinion was and is in direct conflict with previous decisions of the

Supreme Court.

i) The Court of Appeals ruled in State v. Fonseca intent and motive cannot be used in Criminal Sexual conduct case when there is a challenge to physical contact regarding prior bad act evidence. State v. Fonseca, 383 S.C. 640, 681 S.E.2d 1 (Ct. App 2009). This was affirmed and "adopted" as "a well reasoned opinion" by Our Supreme Court. State v. Fonseca, 393 S.C. 229, 711 S.E.2d 906 (mem) (2011). In Appellant's opinion this Court held the prior bad act evidence as motive and intent where Appellant has always challenged physical contact.


ii) This Court overlooked precedent cases establishing a "logical chain of inferences" and "direct nexus" test in the admission of consciousness of guilt evidence. By these test Appellant proves that the consciousness of guilt evidence was not related to the charged or uncharged acts presented at trial.

5) After finding the above errors, Appellant attempted contact with his counsel informing him in writing of such errors and asking counsel to file for a reconsideration. At this time Appellant had no knowledge of any time deadline required for this step of his Direct Appeal. Since Appellant could not call counsel, Appellant's mother called making contact one time and only being told for Appellant to file his PCR.

Counsel did not explain the time limit was a fact or it had expired. Counsel also did not reply to Appellants letters asking questions and requesting the Reconsideration. Counsel and Counsel's Chief, Robert Dudek failed to return multiple phone calls from Appellant's mother when she was told by Counsel to call with any questions. Counsel repeated that Appellant or by proxy, Appellant's mother could call with any questions however Counsel failed to reply. Therefore, Appellant was abandoned by Counsel and Appellant now files this Motion and subsequent Petition, Pro Se, as Appellant was not informed of his opportunity to seek further review on his Direct Appeal.

WHEREFORE, the Appellant respectfully request and submits that good cause exist for this Court to extend the time for filing the Petition For Rehearing of Appellant by two hundred twelve (212) days, to and including August 3, 2023, from the date of this motion, and appellant moves that the Court extend the time accordingly.

Bridget Jones - Clerk
Sworn to and Subscribed
before me this August 3
day of 2023,


Eric Charles Peterson #274854
Appellant
Turbeville CI/RA-170
1578 Clarence Coker Hwy
Turbeville, SC 29162



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 6, 2023

Mr. Eric Charles Peterson, #274354
Turbeville Correctional Institution
1578 Clarence Coker Hwy.
Turbeville, SC 29162

Re: Your Case

Dear Mr. Peterson:

Enclosed is the Court's decision in your case. The Court affirmed your convictions. On each of the issues raised, the Court held the trial judge did not err. Regarding the "playing naked" game, the Court held Perry did not apply because it was the same victim and part of a continuing course of conduct. On the journal entries, the Court held they were relevant to intent and showed consciousness of guilt. On the mistrial, the Court held there was no abuse of discretion and the trial judge's curative was sufficient. I do not see any viability in further challenging the Court's decision, therefore I will not be filing a petition for rehearing nor seeking certiorari at the South Carolina Supreme Court. I am closing your case with this letter.

Please be aware that there is a **one-year statute of limitations for filing an application for post-conviction (PCR) relief**. This is one year from the date of the enclosed opinion. This statute of limitations is **very strictly enforced**, so please be sure that **you** comply with it. Please understand *it is your responsibility alone to be sure this PCR application is timely filed*. **This application must be filed with the clerk of court in the county of your conviction**. There is also now a **one-year statute of limitations for filing for federal habeas**. However, you must **exhaust your PCR claims** in state court, before raising them in federal court.

Please be aware that the time between your direct appeal becoming final, and the date your PCR application is filed **will count against your federal habeas statute of limitations in the future**. I do wish you the best. Feel free to contact me if you have any questions.

Sincerely,

David Alexander
Appellate Defender

DAA/cws

Enclosure: Post-Conviction Relief Application



SCCID

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Division of Appellate Defense
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Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 6, 2023

Mr. Bart Vincent, General Counsel
Office of General Counsel
South Carolina Department of Corrections
4444 Broad River Road
Columbia, SC 29210

Re: Eric Charles Peterson, #274354

Dear Mr. Vincent,

We are closing the file on the above-referenced client. Please remove our telephone number, (803) 734-1330, from the individual's allowed calling list. Please contact me if you have any questions or concerns. I thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "David Alexander".

David Alexander
Appellate Defender

DAA/cws

Fax Directly to SCDC telecom help desk 803-896-3986

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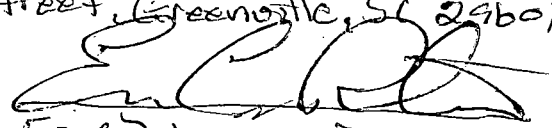
ERIC CHARLES PETERSON,

APPELLANT

APPELLATE CASE NO. 2019-000097

PROOF OF SERVICE

I certify that I have served APPELLANTS MOTION TO EXTEND TIME for Filing MOTION OF REHEARING, AND APPELLANTS MOTION FOR REHEARING on Respondents by depositing a copy in the United States mail, postage paid on August 3rd, 2023 addressed to its attorneys of record, Alan Wilson and Ambree Muller, W. Walter Wilkins III at their respected addresses of Postoffice Box 11549, Columbia, SC 29211jan & 305 East North Street, Greenville, SC 29601 on August 3, 2023.



Eric C. Peterson, Prose #274354

Appellant

Turbeville, SC 1RA-170

1578 Clarence Coker Hwy

Turbeville, SC 29462

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Eric C. Peterson #274354

Turbeville CT / RA-170

1578 Clarence Coker Hwy

Turbeville, SC 29162

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SC Court of Appeals

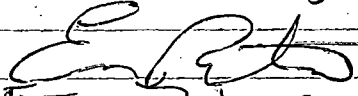
Honorable Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Dear Clerk of Court:

Please find the enclosed Motion
for extension of time for filing Petition
for Rehearing and Petition for Rehearing.
There are six (6) copies to be filed
and one additional copy to please be
stamped and returned in the self-addressed
stamped envelope.

Thank you for your time in this matter.

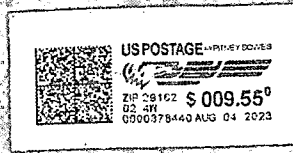
Respectfully,


Eric Peterson.

cc: File

enclosure (8) (original, 6 copies, return copy)

Eric Peterson #274354
Turbeville, CI 1 ~~RA-170~~
1578 Clarence Coker Hwy
Turbeville, SC 29167



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SC Court of Appeals

Honorable Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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