Explanation to show why this appeal should not be **Dismissed,** in accordance with SCACR 243:

After the Client is convicted and sentenced, trial counsel in all cases has a duty to make certain that the client is fully aware of the right to appeal, and if the client is indigent, assist the client in filing an appeal. In re Anonymous Member of the Bar, 303 S.C. 306, 307, 400 S.E.2d 483 (1991); see also Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967)

To waive a direct appeal, a defendant must make a "knowing and intelligent" decision not to pursue the appeal. Davis v. State, 288 S.C. 290, 352 S.E.2d 60 (1986). White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

All of the previous Courts has ruled that because the trial attorneys says that the Appellant said he didn't want to appeal; that, that was enough to deny his previous applications, there were no determination made as to whether the alleged decision to not to appeal was "knowingly and intelligently made, as required by South Carolina's Law.

The only reason the PCR court did not grant any relief is because the "Court finds counsels' testimony more credible than Applicant's testimony". See page 2 of the Final Order. There's nothing in the record to show that any valid waiver was ever made not to appeal the issues raised in the trial of this matter.

In Roe v. Flores-Ortega, 528 U.S. 472, it states that "the question whether a defendant has made the requisite showing will turn on the facts of the particular case. Nonetheless, evidence that there were non-frivolous grounds for appeal or that the defendant promptly expressed a desire to appeal will often be highly relevant in making this determination".

Attorney Masty objected to the judge allowing the testimony of a prior crime being committed by the Appellant. See tr. trans. pg.146, lines 12-20. The judge denied the objection. Also, Attorney objected to the judge allowing testimony concerning the fingerprint evidence because the State had not establish a sufficient chain of custody of the fingerprint evidence.

None of the previous grounds stated are frivolous. The testimony concerning the fingerprint evidence was perjury, there was never any fingerprints found at this alleged crime scene.

Counsel objected to the introduction of the fingerprint evidence, the judge denied the objection, the issue was preserved in the records. See trans. pg. 171, lines 17- page 175, lines 1-8.

The Appellant promptly requested that his trial attorneys file a notice of appeal on his behalf at the conclusion of trial. As shown by the "letter" written to the Appellant by one of the trial attorneys. See exhibit - A of the application, the trial attorneys were under the impression that their representation of the Appellant ceased at the conclusion of trial. Exhibit - B is a letter advising the attorneys that the Appellant did wanted an appeal and it was their duty to file a notice of appeal on behalf of the Appellant.

There is so much inconsistencies in this matter, one is, the indictment in this case charges me with a crime allegedly committed at 1483 Old Chery Hill Road, see murder and burglary indictments associated with this case. At trial, without any new indictments, I was tried for crimes allegedly commited at 1428 Old Cherry Hill Road. See trial transcript, page 199, lines 10-20. The witness testified that she and her husband lived in that house for twenty-four years, she should know the correct address. As previously stated, there's no indictment charging me with a crime at that address.

The standards raised in Garza v. Idaho, 203 L.Ed.2d 77 (2019), should be applied to this case, Garza is newly discovered evidence, therefore, the issue of the statute of limitation or the application being successive should not be considered in this matter..

The South Carolina Supreme Court has ruled that the statute of limitation does not apply where an applicant does not "knowingly and voluntarily" waive his right to appeal his trial conviction and sentence. See Wilson v. State, 348 S.C. 215, 559 S.E.2d 581 (2002).

The Respondent argues that the Garza case should not apply because Garza pleaded guilty and the Appellant went to trial, nothing in the Garza case says that the standards raised raised by the United States Supreme Court applies only to guilty plea cases.

The Appellant Pray this Honorable Court grant him his one chance at a direct appeal, for this relief, the Appellant will forever Pray.

This 10th day of October, 2023

Signature

Johnny Lucas