

STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Daniel M. Coble, Circuit Court Judge

Case No. 2021-CP-32-00579

Roberto L. Herrera, #353435, Petitioner,

v.

State of South Carolina, Respondent.

EXPLANATION PURSUANT TO SCACR 243(C)

Mr. Herrera was unable to file his post-conviction relief application within the time limits proscribed through no fault of his own. Testimony was presented at the hearing from SCDC that corrections officers within SCDC will only allow an inmate access to the law library if they can show they have an appeal or court deadline approaching. Since there is nothing to show an corrections officer to prove a PCR deadline, the applicant was denied access to the law library at Kirkland and ultimately the paper post-conviction relief applications before he was moved to another facility.

Furthermore, Applicant first entered SCDC during covid lockdown. Many times his unit was on lockdown from the virus which again did not allow him access to the paper PCR applications. Thirdly, while Mr. Hererra did have tablet access to Westlaw, that doesn't negate the fact that he didn't have access to the law library in order to get the form he needed to file a PCR.

When Mr. Herrera was finally moved out of Kirkland, he was very close to the deadline for filing a PCR. He again was not allowed access to the law library in a timely manner. Only Westlaw on the tablet. Again his unit was on lockdown part of the time. Even once he was able to finally get a copy of the PCR application, he still had to request a notary¹ in addition to requesting that it be mailed to the Clerk

¹ Petitioner submits that the requirement of a notary on the PCR application is a burdensome hurdle for anyone in the Department of Corrections. Many times a notary is not readily available and it

of Court.

Based on the explanations above, the onerous manner in which SCDC requires inmates to jump through hoops to access the application, as well as from the testimony from the hearing, Mr. Herrera should be afforded the right to continue with his PCR and be allowed a full merits hearing.

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does add delay to the filing of PCR applications. Most pleadings filed in courts today do not require a notary anymore.