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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Post Conviction Relief

Daniel Coble, Circuit Court Judge

Lower Court Case No.: 2020-CP-40-4935

Jose Reyes, Jr., #375827,....................................... Petitioner

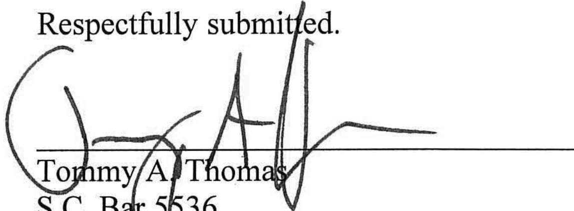
vs.

State of South Carolina, ...Respondent.

NOTICE OF APPEAL

The Petitioner, Jose Reyes, Jr., #375827, appeals the Order of Dismissal signed by the Honorable Jose Reyes, Jr. on April 26, 2024 and filed on May 8, 2024. Petitioner received written notice of this order on May 20, 2024.

Respectfully submitted.



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May 28, 2024

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vs.

State of South Carolina, ...Respondent.

EXPLANATION PURSUANT TO RULE **243(C)**

Petitioner, in explanation pursuant to Rule 243 (c) would respectfully respond as follows:

On September 13, 2023 an evidentiary hearing convened in Richland Count solely on the issue of whether counsel was ineffective for failing to file an appeal. Judge Coble ruled that he would take testimony on the claims within the application and would hear arguments on the motion at the end.

The matters before the Court were:

1. Whether the statute of limitations should be equitably tolled to allow Applicant a post-conviction relief hearing on the merits; and

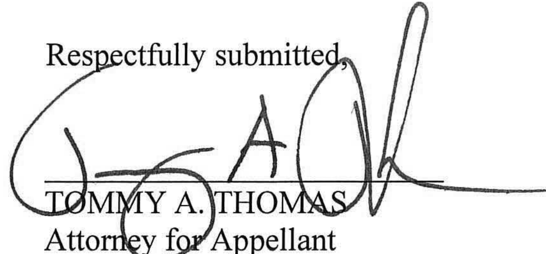
2. Was the Applicant entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

In rare circumstances, the statute of limitations will be equitably tolled to allow a petitioner the opportunity to exercise his or her rights when they were denied the chance to do so. This doctrine has been specifically extended into the context of post-conviction relief cases, as well. Equitable tolling has been deemed available where (1) extraordinary circumstances prevented the plaintiff from filing despite his due diligence; (2) the plaintiff actively pursued his or her judicial remedies by filing a defective pleading during the stator period or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass; and (3) the plaintiff, despite all due diligence, is unable to obtain vital information bearing on the existence of his or her claim. *Pelzer v. State*, 378 S.C. 516, 521, 662 S.E.2d 618, 619-20 (Ct. App. 2008).

On direct examination, Applicant testified that he pled guilty in July 2017 and was sentenced in September 2017. Applicant testified that he was held in Alvin S. Glenn Detention Center until April 2018, when he was transferred to Kirkland Correctional Institution. Applicant testified that he was transferred to Lee Correctional Institution just before the riots occurred. Applicant testified that they were locked down for a year and a half. Applicant testified that he could not file a PCR application during that time. Applicant testified that he could not go to the law library and had to wait for the mail to come to the door. Applicant testified that he could not take anything to the mailroom. Applicant testified that he learned what PCR was from his roommate. Applicant also testified that he had some learning disabilities, so he had to "learn some type of way." Applicant testified that he believe it was the State's actions in the lockdown as a result of the riot that prevented him from filing his PCR application within one year of sentencing.

The Applicant would respectfully request that the Court allow this Appeal to go forward.

Respectfully submitted,



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May 28, 2024

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
Jose Reyes, Jr., #375827, Applicant,	)	CASE NO. 2020–CP–40–4935
v.	)	**ORDER OF DISMISSAL WITH PREJUDICE**
State of South Carolina, Respondent.	)	

Presiding Judge: Hon. Daniel Coble
Applicant's Attorney: Tommy A. Thomas, Esq.
Respondent's Attorney: D. Russell Barlow, II, Esq.
Plea Counsel: John W. Tate, Esq.
Date of Hearing: September 13, 2023
Court Reporter Elizabeth B. Harris

This matter comes before the Court by way of Jose Reyes's (Applicant) application for post-conviction relief (PCR) filed on October 20, 2020. On April 9, 2021, Respondent filed its Return, Partial Motion to Dismiss, and Motion for Definite Statement. Respondent requested an evidentiary hearing be held solely on the issue of whether counsel was ineffective for failing to file an appeal. On September 19, 2022, Applicant, through Tommy A. Thomas, Esquire (PCR Counsel), amended the application for PCR.

On September 13, 2023, an evidentiary hearing convened at the Richland County Courthouse before the Honorable Daniel Coble. Assistant Attorney General D. Russell Barlow, II, represented Respondent. Applicant was present and represented by PCR Counsel. At the outset of the hearing, Respondent requested to be heard on the motion to dismiss. Judge Coble ruled that he would take testimony on the claims within the application and would hear arguments on the

motion at the end. In support of Applicant's claims, Applicant testified on his behalf. Respondent presented testimony from John W. Tate, Esquire (Plea Counsel).

The matters before the Court were two-fold: 1) Whether the statute of limitations should be equitably tolled to allow Applicant a post-conviction relief hearing on the merits and 2) Was the Applicant entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During the May 2016 term, the Richland County Grand Jury indicted Applicant for Murder (2016-GS-40-2423). During the July 2016 term, the Richland County Grand Jury indicted Applicant for Attempted Armed Robbery (2016-GS-40-2446). Fifth Circuit Assistant Public Defenders John W. Tate, Aleksandra B. Chauhan, and Robert L. Bank, Jr., represented Applicant. Assistant Solicitor Kathryn Cavanaugh of the Fifth Circuit Solicitor's Office prosecuted the case.

On July 27, 2017, Applicant appeared before the Honorable Thomas W. Cooper, Jr., and entered a guilty plea pursuant to a negotiated plea agreement for a cap of forty (40) years imprisonment for Murder. On September 19, 2017, Judge Cooper sentenced Applicant as negotiated to concurrent terms of thirty-four years (34) for Murder, and twenty years (20) for Attempted Armed Robbery.

Applicant did not appeal his conviction and sentence.

FACTS GIVING RISE TO THE CONVICTION

The incident giving rise to the facts in support of the plea were articulated by the State at Applicant's plea hearing as follows:

Thank you, Your Honor. This incident occurred on February 29th of 2016 at 413 Seton Hall Drive, located in Richland County, around 8:30 in the evening. Mr. Reyes is one of four individuals that are actually charged with murder in this case, and two other codefendants are charged with accessory, Your Honor. Those, all those cases are still pending. The victim's name in this case is Jaelen Josey; he was eighteen years old and a freshman at USC in the engineering school at the time.

Earlier this afternoon, one of the codefendants, Sterling Kessler, was actually robbed of marijuana and money. He's one of the individuals that's charged with accessory, and he was looking to recoup what he lost during that robbery. He called one of the codefendants who's charged with murder, Douglas Murphy, Jr., to find out if he knew anyone that they could rob in order to get that money and marijuana back. Douglas then got in touch with Trajan Mack, who is also a codefendant in this case charged with murder, who suggested the victim, Jaelen Josey.

Jose Reyes and Douglas Murphy and Trajan Mack and Thaddeus Lewis all gathered outside of Trajan Mack's house. It was at that point that a plan was devised for Douglas Murphy and Mr. Reyes to actually walk down to where the victim's vehicle was further down the street in that cul-de-sac to give him $10 for $100 worth of marijuana that they were planning to rob with -- rob from him. While discussing this plan outside of the vehicle and in front of all four codefendants, it was at that point that Mr. Reyes pulled out a gun and stated if he acts up, I've got something for him or something to that effect, Your Honor, as far as what was stated at that point.

Both Mr. Reyes and Mr. Murphy walked down the street and at some point -- and Mr. Reyes actually went to the driver's side. Mr. Murphy went to the passenger's side. At some point during this attempted armed robbery, Jose Reyes did pull out his weapon and shoot the victim in the back. He did not die immediately, but he did die very quickly once he arrived to the emergency room, Your Honor, as a result of that gunshot wound.
The investigators very quickly -- all these codefendants fled the scene. It was called in initially as a single vehicular accident because they didn't realize -- the neighbors did hear a gunshot, a gunshot, but they didn't realize what had actually occurred. Once Richland.

The investigators very quickly -- all these codefendants fled the scene. It was called in initially as a single vehicular accident because they didn't realize -- the neighbors did hear a gunshot, a

gunshot, but they didn't realize what had actually occurred. Once Richland County arrived, they realized what had actually occurred.

This case broke open fairly quickly due to the fact that Douglas Murphy, Jr., the one who walked down to the car with Jose Reyes, was actually on electronic monitoring at the time and dropped his cell phone in the victim's vehicle. So, he turned himself in, along with his parents, to Richland County Sheriff's Department that evening.

At that point, he implicated everyone that was actually involved in this crime. However, he did not fully admit to the fact that it was a planned armed robbery. However, once the other codefendants were advised of their Miranda rights the very next morning and also waived their rights, they did each give statements, too. That would be Douglas Murphy, Trajan Mack, and Thaddeus Lewis who did give statements that this was an attempted -- this was a planned armed robbery that obviously went very badly. They also implicated Mr. Reyes as the one who brought the gun to the scene and who shot the victim in the back.

Mr. Josey was actually one of the last -- he was the last to be interviewed. Like I -- as I stated, all the codefendants had already identified him as the shooter and the one who had brought the gun to the location and his -- he did -- he was advised of his Miranda warnings. He waived those.

The first statement, he wasn't fully forthcoming about what actually happened. The second statement given within an hour of the first statement where he was advised of his rights again, he did admit to being the shooter. He stated that one of the codefendants provided him with the gun. That he was not the one who brought it to the scene that afternoon, but he offered to be the one who actually handled the gun during the armed robbery. He also admitted to going to the driver's side.

He stated that there was another person in the back of the vehicle. He is the only one who actually said that. He actually tried to say that it was Joshua Wilson, the one who robbed -- who started this process when he robbed Sterling Kessler early in the afternoon. However, Joshua Wilson was on electronic monitoring at the time as well and according to those records, he was not in the vehicle, and no one else involved in this case stated that there was another person in that car. He said -- Mr. Reyes stated that Joshua Wilson handed the gun to the victim and that's when he shot the victim. However, that's not corroborated by any of the evidence in this case.

There is -- there was a gun located in the victim's car on the driver's floor board. However, this was a planned armed robbery.

> Mr. Reyes, according to the evidence, is the one who brought and handled the gun to the incident location to use in this armed robbery, and the victim was shot in the back, with Mr. Reyes being outside of the vehicle by the driver's side. So, that is the extent of the facts in this case, Your Honor.

(Plea Tr. pp. 11-16)

CURRENT ACTION BEFORE THIS COURT

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Belated Direct Appeal."
2. "Involuntary Guilty Plea."
3. "Ineffective Assistance of Counsel."

On September 19, 2022, PCR Counsel amended Applicant's application with the following allegations:

1. Belated Direct Appeal
    a. "The Applicant has a diagnosis of Bipolar Disorder (F31.9) Chronic Moderate Severity and is currently taking the following medication: Perphenazine 2 mg, Trazodone 100 mg, and Perphenazine 2mg."
    b. "That the Applicant was diagnosed with a mental illness at a young age and has also been hospitalized pre-incarceration due to his mental illness."
    c. "The Applicant was confused about the plea and the possible time he could receive even though he was told there was an agreement for a cap of forty years."
    d. "That the Applicant was instructed by the Court that he had the right to appeal and had asked trial counsel to request an appeal."
    e. "The Applicant learned after he was incarcerated that an appeal had not been filed."
2. Involuntary Guilty Plea
    a. "The Applicant was age seventeen (17) at the time of the incident. He was eighteen (18) at the time of the plea."
    b. "The Applicant was forced to speak with investigators for over 3 hours and believes that he was coerced into talking about the crime. He believes that he had defenses and/or mitigation to the crime and that counsel was ineffective in

his advice. As a result, the Applicant's plea was not freely, voluntarily, knowingly, and intelligently given."

3. Ineffective Assistance of Counsel
   a. "The Applicant was forced to speak with investigators for over 3 hours and believes that he was coerced into talking about the crime. He believes that he had defenses and/or mitigation to the crime and that counsel was ineffective in his advice. As a result, the Applicant's plea was not freely, voluntarily, knowingly, and intelligently given."
4. Equitable Tolling
   a. "The Respondent has moved to dismiss the Applicant's request for Post Conviction Relief, except for the Belated Appeal request, for failure to comply with the filing procedure of the Uniform Post Conviction Procedure Act. The Petitioner would assert that he is entitled to tolling of the Statute pursuant to Pelzer v. State, 387 S.C. 516, 521, 662 S.E.2d 618, 619-620 (Ct. App. 2008)."

Before this Court is Richland County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the South Carolina Department of Corrections, Applicant's guilty plea transcript with court exhibits, Applicant's sentencing transcript, Applicant's PCR transcript, and the records of Applicant's current PCR action.

TESTIMONY PRESENTED AT EVIDENTIARY HEARING

APPLICANT'S TESTIMONY

On direct examination, Applicant testified that he pled guilty in July 2017 and was sentenced in September 2017. Applicant testified that he was held in Alvin S. Glenn Detention Center until April 2018, when he was transferred to Kirkland Correctional Institution. Applicant testified that he was transferred to Lee Correctional Institution just before the riots occurred. Applicant testified that they were locked down for a year and a half. Applicant testified that he could not file a PCR application during that time. Applicant testified that he could not go to the law library and had to wait for the mail to come to the door. Applicant testified that he could not take anything to the mailroom.

Applicant testified that he learned what PCR was from his roommate. Applicant also testified that he had some learning disabilities, so he had to "learn some type of way." Applicant testified that he believed it was the State's actions in the lockdown as a result of the riot that prevented him from filing his PCR application within one year of sentencing.

Regarding an appeal Applicant testified that he wanted to appeal it "if possible." Applicant testified that he never discussed with Plea Counsel what an appeal was or how to file one. Applicant testified that he did not recall Judge Cooper informing him that he could appeal within ten (10) days. Applicant testified that he was just really depressed because of his disorder and was "not paying attention" at the guilty plea because he was "zoned out" and he was being "incriminated of a crime." Applicant testified that he is now asking for permission to file a direct appeal of his guilty plea. Contrary to Applicant's prior testimony, Applicant later testified that he asked Plea Counsel to file a direct appeal.

On cross-examination, Applicant testified that while at Alvin S. Glenn Detention Center, he could not file a PCR application, and when he got to Lee Correctional Institution, he could not request a PCR application. Applicant testified that he could request his mail. Applicant testified that no PCR applications were given out during the year and a half he was on lockdown, but he did not know what a PCR application was.

Regarding a direct appeal, Applicant was questioned as to whether or not he actually asked Plea Counsel to file a direct appeal or not because his prior testimony was conflicting. Applicant answered that he did not ask Plea Counsel to file an appeal because he did not know what an appeal was.

PLEA COUNSEL'S TESTIMONY

On direct examination, Plea Counsel testified that he received a document from the Richland County Clerk of Court, within which was Applicant requesting a PCR application from the Clerk's Office. Plea Counsel testified the date of that letter was December 21, 2018.

On recross-examination, Plea Counsel testified that when reviewing his form with a client he goes over each line by line to inform them of their rights, such as an appeal. Plea Counsel testified that he advises clients if they want to appeal, they must tell Plea Counsel they want an appeal and that the ten (10) day window is "super important."

Applicant's Recall Testimony

On recall, Applicant testified over objection that the letter Plea Counsel received from the Clerk's Office was written by him and signed by him.

On cross-examination, Applicant testified that the letter was from him asking for a PCR application in December 2018. Applicant testified that he never received a PCR application. Applicant testified that he never followed up on the request because he received an application from an inmate.

Findings Of Fact And Conclusions Of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. This Court has had the opportunity to observe the witnesses presented at the hearing and has weighed their testimony and credibility accordingly. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

Statute of Limitations

All allegations in the application, with the exception of the failure to file an appeal claim under White v. State, are summarily dismissed for failure to comply with the filing procedures of

the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of the statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

Applicant was convicted on July 17, 2017, and sentenced on September 19, 2017. The current application was not filed until October 20, 2020—*three years, one month, and one day* beyond the one-year statutory filing period expired.

Applicant attempts to circumvent the statute of limitations by arguing he was on lockdown at Lee Correctional Institution after the riots, he had no access to the law library, he could not request a PCR application, and he did not know what a PCR application was. This Court does not find Applicant's testimony **credible**. While this Court is aware of the limitations set forth by SCDC after the riots, this Court is not convinced Applicant was prevented from pursuing a PCR application over three years after his conviction. Also, there was evidence presented to this Court

that Applicant knew of the PCR process as early as December of 2018, and Applicant was able to mail a letter requesting the application from the Clerk's office in that same time. December of 2018 is well within the year and a half that Applicant testified he was on total lockdown at the Lee Correctional Institution and had no access to mail anything. Applicant also testified that he did not know what a PCR application was, yet again, he wrote a letter requesting one from the Clerk's Office. Notwithstanding that this Court does not find Applicant's testimony credible, even if it were the truth, this Court does not have the authority to equitably toll the statute of limitations based on his arguments.

"[S]tatutes of limitations are not simply technicalities, but are fundamental to a well-ordered judicial system." Pelzer v. State, 378 S.C. 516, 520, 662 S.E.2d 618, 620 (2008). "Equitable tolling is reserved for **extraordinary circumstances.**" Id. (citing Hooper v. Ebenezer Senior Svcs. and Rehabilitation Ctr., 377 S.C. 217, 230, 659 S.E.2d 213, 219 (Ct.App.2008). (emphasis added.) Equitable tolling is usually only available where "the claimant was **prevented in some extraordinary way** from exercising his or her rights, or in other words, if the relevant facts present **sufficiently rare and exceptional circumstances** that would warrant application of the doctrine." Id. (emphasis added.) In Pelzer, the Court goes on to detail instances in which equitable tolling would be warranted, all of which outline a plaintiff who actively pursues his or her rights and exercises due diligence or where a plaintiff was actively misled or prevented in some extraordinary way from asserting his or her rights. Id. 378 S.C. at 521, 662 S.E.2d at 620-621. Ultimately, the statute of limitations was not equitably tolled for Pelzer where he claimed he filed his *pro se* application in the wrong venue.

Applicant waited three years, one month, and one day before filing his PCR application. However, no credible evidence was presented to show Applicant was exercising due diligence in

asserting his rights and actively pursuing his judicial remedies.[1] No evidence has been presented that anyone misled him or prevented him in some extraordinary way from asserting his rights. Applicant simply waited – after he sent the Clerk's office a letter requesting a PCR application – without writing to the courts, without writing to his attorney, and without inquiring into the status of his requested application. This Court does not find Applicant's reason for failing to exercise due diligence to be the exceptional circumstances envisioned by our Supreme Court, which would warrant equitable tolling. It is exactly the type of reason warned about in the United States Fourth Circuit Court of Appeals case of Harris v. Hutchinson, 209 F.3d 325, 330 (4th Cir.2000)[2],

> Any invocation of equity to relieve the strict application of a statute of limitations must be guarded and infrequent, lest circumstances of individualized hardship supplant the rules of clearly drafted statutes. To apply equity generously would loosen the rule of law to whims about the adequacy of excuses, divergent responses to claims of hardship, and subjective notions of fair accommodation. We believe, therefore, that any resort to equity must be reserved for those rare instances where – due to circumstances external to the party's own conduct – it would be unconscionable to enforce the limitation period against the party and gross injustice would result.

Therefore, all allegations, with the exception of the White claim, are **DISMISSED** as **BARRED BY THE STATUTE OF LIMITATIONS.**

BELATED APPEAL PURSUANT TO WHITE V. STATE

Applicant also alleges that he should be entitled to relief pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

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[1] Again, this Court acknowledges that Applicant mailed a letter requesting a PCR application from the Clerk's office in December of 2018, but Applicant provided nothing to this Court to suggest he "actively pursued" this letter with any follow-ups. Rather, this Court only had Applicant's conflicting testimony on this issue.

[2] To which our Supreme Court cited in Pelzer.

> Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, "White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served." Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

This Court finds Plea Counsel's testimony on the issue **credible** and Applicant's testimony **not credible**. This Court further finds Applicant is not entitled to an appeal pursuant to White v. State. Applicant has failed to prove Plea Counsel was ineffective for failing to file a notice of appeal after Applicant's guilty plea and sentencing. Also of note, Plea Counsel **credibly** testified that he reviewed a form with Applicant in which he explained how important it was for Applicant to tell him if he wanted to appeal and that he only had ten (10) days to do so. Lastly, the plea court

informed Applicant of his right to appeal—that he had ten (10) days to do so—and Applicant replied that he understood. (Plea Tr. p. 11).

Accordingly, this Court finds Applicant is not entitled to White relief, and his claim thereto is **DENIED.**

|CONCLUSION PAGE FOLLOWS|

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his

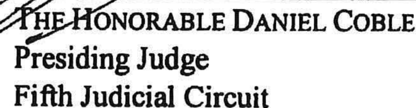
application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED with PREJUDICE.**

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. Respondent's motion to dismiss the instant PCR application based on the statute of limitations is **GRANTED.**
2. Applicant's PCR application is **DENIED WITH PREJUDICE,** and claims are deemed procedurally barred.
3. The request for a belated direct appeal pursuant to White v. State is **DENIED.**
4. Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 26 **day of** April **, 2024.**



THE HONORABLE DANIEL COBLE
Presiding Judge
Fifth Judicial Circuit

Richland, South Carolina