

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

CASE NO. 2019-CP-42-03374

Rodney M. Davis Jr.  
SCDC # 357843  
Applicant

NOTICE OF APPEAL  
**RECEIVED**

AUG 12 2024

SC Court of Appeals

vs.  
STATE OF SOUTH CAROLINA  
Respondent

The determination of Applicant's application for post-conviction relief being denied and dismissed with prejudice is improper. As stated in the response to the conditional order of dismissal regarding Petitioner's untimely filing of his post-conviction relief application and according to the Uniform Post-conviction Procedure Act S.C. Ann. § 17-27-10 to -160, it was an exercise of right upheld by the Supreme Court of South Carolina

" The statute of limitations will be tolled where the Applicant demonstrates the failure to timely file a PCR application was due to mental incompetency." Ferguson v. State, 382 S.C. 615, 677 S.E. 2d 600 (2009).

I plead guilty but mentally ill due to the instruction of the ineffective assistance of my former counsel Clay T. Allen, Esquire and pursuant to S.C. Ann. § 17-24-70 (A) I was admitted into the Gilliam Psychiatric Hospital for treatment on November 11, 2013. On January 22, 2014 I was then transferred to the mental health program known as Intermediate Care Services (ICS) for further treatment. I displayed incompetency throughout my treatment for a period of more than five years. There is a multitude of documentation by my assigned and licensed psychiatrist and licensed counselors is sufficient evidence of this. I regained my ability, legal qualification and fitness to discharge my required duties, otherwise known as competency in the year 2019.

I then proceeded to file my post-conviction application and it was filed within one year of the date I regained competence.

"PCR should proceed only if Ferguson's application was timely filed within one year of the date that he regained competence." Ferguson v. State, 382 S.C. 615, 677 S.E. 2d 600 (2009).

IT IS THEREFORE REQUESTED that for the reasons set forth in the Applicant's response to the Court's Conditional Order of Dismissal in addition to the reasons set forth in this Notice of Appeal, my Application for post-conviction relief be continued for appellate review.

Pursuant to Rule 243 SCACR a copy of the transcript of the proceedings in the lower court must be obtained from the court reporter by petitioner. Respondent's attention is directed to Rule 243, SCACR, for this procedure.

I respectfully submit my notice of appeal pursuant to Rule 243 SCACR, laid out herein on this 6 day of August 2024.

Rodney Davis Jr.  
Rodney M. Davis Jr. #357843  
Applicant

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AUG 12 2024

SC Court of Appeals Applicant

Rodney M. Davis, Jr. #367843

v.

State of South Carolina,

Respondent

AFFIDAVIT OF SERVICE

The Undersigned hereby certifies that a true copy of the Notice of Appeal to the filed Order of Dismissal (2019-CP-42-03374) has been served upon the respondent by mailing one copy in the United States mail, postage prepaid, addressed to:

South Carolina Court of Appeals  
Office of the Clerk  
Attn: Jenny A. Kitchings  
P.O. Box 11629  
Columbia, South Carolina 29211

This 6 day of August 2024.

SWORN to before me this 6 day of August 2024

Melissa O. Ogden

Notary Public for South Carolina

My Commission Expires: 12-01-2025

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AUG 12 2024

Rodney M. Davis, Jr. #357843

SC Court of Appeals Applicant

v.

State of South Carolina,

Respondent

AFFIDAVIT OF SERVICE

The Undersigned hereby certifies that a true copy of the Notice of Appeal to the filed Order of Dismissal (2019-CP-42-03374) has been served upon the respondent by mailing one copy in the United States mail, postage prepaid, addressed to:

Spartanburg County Court  
Office of the Clerk  
ATTN: Amy W. Cox, Clerk  
P.O. Box 3483  
Spartanburg, South Carolina 29304

This 6 day of August 2024.

SWORN to before me this 6 day of August 2024

Melissa D. Spurgeon

Notary Public for South Carolina

My Commission Expires: 12-01-2025

August 6, 2024

South Carolina Court of Appeals  
Office of the Clerk  
Attn: Jenny A. Kitchings  
P.O. Box 11629  
Columbia, South Carolina 29211

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AUG 12 2024

SC Court of Appeals

Re: Rodney M. Davis, Jr. #357843 v. State of South Carolina  
Case No: 2019-CP-42-03374

Dear Clerk of Court:

Enclosed for service is a copy of the Final Order of Dismissal and the Notice of Appeal to this dismissal in the above-captioned Post-conviction relief case.

Sincerely,

Rodney Davis Jr.  
Rodney M. Davis Jr. #357843  
Applicant

Rodney Davis Jr. #3B7845  
K.C.I. F2-B264  
4344 Broad River Road  
Columbia, S.C. 29210

COLUMBIA SC 290

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Kirkland R&E Center  
Mailroom

South Carolina Court of Appeals  
Office of the Clerk  
Attn: Jenny A. Kitchings  
P.O. Box 11629  
Columbia, S.C. 29211

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SC Court of Appeals

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