

BOBBY JOE BARTON, #163629  
PETITIONER,

APPELLATE CASE NO. 2024-001190

v.

MOTION FOR LEAVE TO FILE  
RELIEF FROM JUDGMENT  
PURSUANT TO RULE 60(b) SCRPC

STATE OF SOUTH CAROLINA,  
RESPONDENT.

THE PETITIONER IN THE ACTION ABOVE MOVE ON THE COURT WITH A MOTION FOR LEAVE TO FILE RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b) SCRPC. THIS MOTION IS BROUGHT BEFORE THE COURT OF APPEALS DURING THE DEPENDENCY OF AN APPEAL IN ACCORDANCE WITH SCRPC, RULE 60, CODE OF LAWS OF SOUTH CAROLINA 1976 ANNOTATED, SC RULES OF CIVIL PROCEDURE.

PETITIONER ASK THE COURT TO TAKE NOTE THAT THE CLAIM OF "FRAUD UPON THE COURT" SHOULD HAVE BEEN FILED UNDER RULE 60(b) RELIEF FROM JUDGMENT OF SCRPC, RULE 60(b) AND NOT UNDER THE POST CONVICTION RELIEF APPLICATION. V

THE PETITIONER IS NOT A LAWYER AND SHOULD NOT BE HELD TO THE SAME STANDARDS WHEN FRAMING AND FILING A MOTION OR APPLICATION. THE CLERK OF COURT HAS A DUTY TO FILE A CLAIM IN THE PROPER VENUE WHERE IT SHOULD BE, "FRAUD UPON THE COURT" MAY NOT BE FILED IN A POST CONVICTION RELIEF APPLICATION AND THE COURT

THAT REVIEWS IT OR A DeNovo HEARING HAS A DUTY AND A OBLIGATION TO STATE ON THE RECORD ON THE FINDINGS OF FACTS SPECIFICALLY SUPPORTED BY CONCLUSIONS OF LAW AS REQUIRED BY S.C. CODE §17-27-80 (1976). WHEREAS PETITIONER DID FILE A RULE 59(e), SCRPC WITHIN (10) DAYS OF THE JUDGE'S SIGNING THE ORDER OF DISMISSAL ON JUNE 20<sup>TH</sup> 2024, "MCCRARY V. STATE" (SC, 1991) 305 SC 329, 408 S.E.2d, 241. AND WITH A REQUEST FOR 52(d) SCRPC, WITH BRINGS TO THE COURT ERRORS PLACED IN THE PROPOSED ORDER,

THE COURT OF COMMON PLEAS FAILED TO ADDRESS THIS ONE AND ONLY CLAIM PLACED BEFORE IT "FRAUD UPON THE COURT" THROUGH THE LENS OF "INEFFECTIVE ASSISTANCE OF COUNSEL" BY AN OFFICER OF THE COURT, WHOM WHERE AN WITNESS FOR THE STATE, YET THROUGH THE COURT HAS FAILED TO ADDRESS THIS CLAIM OR PLACE IT IN THE CORRECT OR PROPER VENUE OF RULE 60(b), SCRPC, RELIEF FROM JUDGMENT WHICH CITES THAT "FRAUD UPON THE COURT" HAS "NO STATUTE OF LIMITATIONS" AS LONG AS IT'S FILED SOON AS POSSIBLE AND THE PETITIONER HAS STATED ON THE RECORD THAT HE HAS FILED THE ACTION IN THE COURT SOON AS POSSIBLE.

PETITIONER DID ALLEGE AND SUBSTANTIATE THAT TRIAL COUNSEL DID COMMIT "FRAUD UPON THE COURT" BY DELIBERATELY PLANNED AND CAREFULLY EXECUTED ~~SCHEME~~ TO DEFRAND THE COURT AND DECEIVE THE HEARING JUDGE TO COME TO AN ERRONEOUS DECISION OF MANIPULATING THE ~~INTEL~~ OF THE JUDICIAL SYSTEM AND THE GOOD ORDER OF SOCIETY WHILE AT THE SAME TIME A GROSS MISCARRIAGE OF JUSTICE

PREVAILS AND TAINTS THE COURTS AND JUDICIAL SYSTEM DUE TO THE FACT THAT "FRAUD UPON THE COURT" WAS COMMITTED BY AN OFFICER OF THE COURT, A BAR CERTIFIED ATTORNEY AND THE OFFICE OF ATTORNEY GENERAL. AN EXAMPLE WOULD BE BRIBERY OF A JUDGE, JURY TAMPERING, AND FRAUD SUBMISSIONS BY A LAWYER IN A JUDICIAL PROCEEDING (P.C.R. HEARING) SUCH AS TENDERING DOCUMENTS HE/SHE KNOWS TO BE FORGED OR EVEN TESTIMONY HE/SHE KNOWS TO BE PERJURED AS IN THIS CASE AT HAND BEFORE THE COURT,

PETITIONER STATE THAT THE STATUTE ON THE RULE 60(b) "FRAUD UPON THE COURT" DOES NOT HAVE A STATUTE OF LIMITATIONS ON TIME HOWEVER IN SOME CASES THAT IT DOES THERE IS A CRITERIA CALLED EQUITABLE TOLLING AND BASED UPON CIRCUMSTANCES AND FACTS OF THIS CASE WOULD QUALIFY PETITIONER FOR EQUITABLE TOLLING WHERE IT'S AVAILABLE AND WHERE IT WOULD BE UNCONSCIONABLE TO ENFORCE THE LIMITATIONS AGAINST THE PARTY AND GROSS INJUSTICE WOULD RESULT. "ROUSE V. LEE," 339 F.3d, 238, 246 (4<sup>th</sup> Cir., 2003)

PETITIONER ALSO CITE THAT THE SAVING CLAUSE ESTABLISHED BY RULE 60(d)(3), PERMITS A COURT TO EXERCISE ITS INHERENT EQUITABLE POWERS TO OBLIATE A FINAL JUDGMENT AFTER ONE YEAR FOR "FRAUD ON THE COURT," "FOX V. ELKRUN COAL CO.," 739 F.3d, 131, 135-136 (4<sup>th</sup> Cir, 2014) & "TURNER V. PLEASANT," 663 F.3d, 770, 777-78 (5<sup>th</sup> Cir, 2011).

PETITIONER MOVE ON THE COURT REQUESTING A MOTION FOR LEAVE TO FILE A 60(b) INDEPENDANT ACTION MOTION FOR RELIEF FROM JUDGMENT WITH THE LOWER COURT WHICH WOULD RELIEVE THE COURT FROM HAVING TO RE ENTERTAINING THE SAME ISSUE, THE SAME CAUSE OF ACTION AND THE SAME PARTIES JUST FILED UNDER A DIFFERENT APPLICATION, RULE 60(b), SC RCP, IN ACCORDANCE PURSUANT TO SC R RCP, RULE 60, CODE OF LAWS OF SOUTH CAROLINA 1976 ANNOTATED, SC RULES OF CIVIL PROCEDURES.

PETITIONER RESPECTFULLY MOVE ON THE COURT THROUGH AN INDEPENDANT ACTION REQUESTING "LEAVE TO FILE FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b), SC RCP, AND STATING THAT THIS MOTION FOR LEAVE TO FILE A 60(b) WOULD NOT CREATE ANY UN-DUE PREJUDICE, NOR DOES IT CREATE A FUNDAMENTLY DIFFERENT CASE WITH NEW CAUSES OF ACTIONS AND DIFFERENT PARTIES, "STANDARD OIL CO. V. U.S." 429 U.S. 17, 975. Ct. 31 (SC U.S., 1976), & "MR. T. V. MS. T." 378 SC 127, 662 S.E.2d 413 (Ct. App., 2008),

PETITIONER STATE THAT WITH GOOD CAUSE THAT HE BELIEVES THAT HE'S SHOWN JUST CAUSE WHY THE COURT SHOULD GRANT HIS MOTION FOR LEAVE TO FILE RELIEF FROM JUDGMENT THROUGH AN INDEPENDANT ACTION THROUGH A 60(b).

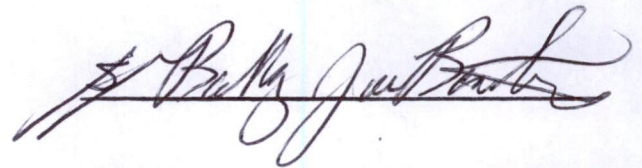
IT IS WITH MUCH HOPES AND MANY PRAYERS THAT THE COURT WILL GIVE HIM INDULGENCE AND GRANT THE MOTION

REQUESTED IN THIS BRIEF.

WHEREFORE, PETITIONER RESPECTFULLY ASK THE COURT TO GRANT HIS MOTION FOR LEAVE TO FILE RELIEF FROM JUDGMENT THROUGH AN INDEPENDANT ACTION OF A 60(b) AND ANY SUCH OTHER THE COURT DEEMS JUST AND APPROPRIATE. See; NOTE \* BELOW,

MAILED FROM THE COUNTY OF SPARTANBURG, ON THE 24, DAY OF OCTOBER, 2024

RESPECTFULLY SUBMITTED,



BOBBY JOE BARTON, #163629

Pro Se REPRESENTATION

CC: Melody J. Brown, ASST. ATTY. GENERAL  
BOBBY JOE BARTON, PETITIONER

Heather Kover famer  
5/21/24  
Notary SC

\*NOTE: THE WORDING "VENUE" IS MEANT TO REPRESENT THE PROPER APPLICATION, 60(b) APPLICATION NOT JURISDICTION, OR COUNTY,