

# THE SUPREME COURT OF SOUTH CAROLINA

Randevious H. Sims  
#364413

VS

State of South  
Carolina Supreme court

RE: Motion to reconsider  
due to procedural delay impacting  
default judgment filing  
Appellate case NO: 2024-001475

**RECEIVED**

NOV 25 2024

S.C. SUPREME COURT

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1.

## Introduction and Procedural Background:

The petitioner, Randerious H. Sims, respectfully moves this court to reconsider or reopen the consideration of his second Post-Conviction Relief (PCR) application due to an institutional delay in the delivery of his default Judgment filing. This motion is based on newly discovered evidence of a significant procedural oversight: The Petitioner's February 27, 2024, default Judgment filing was held by the institution and only recently returned, undelivered. This delay, entirely outside of the petitioner's control, may have prejudicially impacted his legal standing and deprived him of a fair review of his claims.

2.

The petitioner submitted his default Judgment on February 27, 2024, well within the appropriate timeframe, to the Fairfield County Courthouse. Enclosed herewith is evidence of the mailing, specifically the original envelope postmarked February 27, 2024, which confirms his timely compliance. Despite this, the envelope was returned to him on 11-07-24, unopened, due to apparent institutional delays.

The petitioner acted in good faith, endeavoring to fulfill procedural requirements diligently. However, the returned envelope demonstrates that his default Judgment was not processed as intended, likely due to factors beyond his control.

3.

Prejudice and harm caused by delay had his document been received and considered by the court in February, it could have provided substantial support to his claims in his second PCR. The failure to include this document, through no fault of his own, may have resulted in an incomplete understanding of his arguments. The court's recent decision to dismiss his PCR application may have been unduly influenced by this lack of complete information, as the missing default judgment presented critical arguments regarding procedural fairness and underlying case facts.

4.

Request for Judicial Remedy in light of this institutional delay, the petitioner respectfully requests that the court:

Grant him leave to resubmit his default judgment for the court's consideration. Reopen or reconsider the decision in his second PCR, taking into account the arguments and evidence initially submitted in good faith and within the prescribed timeline.

Permit a thorough review of the complete record, including the previously omitted default judgment, to ensure a fair and comprehensive assessment of the petitioner's claims.

5.

The petitioner submits that under Rule 60(b) of the South Carolina Rules of Civil Procedure, relief from a final judgment or order may be granted in cases of mistake, inadvertence, surprise, or excusable neglect. See *Colleton Preparatory Academy, Inc. v. Hoover Universal, Inc.*, 416 S.C. 79, 85 (2016). The unforeseen delay by institutional mail handling qualifies as excusable neglect, as it was outside the petitioner's control. South Carolina courts have consistently held that justice is better served when procedural fairness is prioritized over rigid adherence to technicalities, especially where procedural failures are not attributable to the party seeking relief.

6.

The petitioner anticipates that the respondent may argue that procedural deadlines are absolute and that reconsideration is unwarranted. However, given the extenuating circumstances, the petitioner asserts that strict adherence to procedural formalities, without regard to fairness and equity, would contravene the principles of justice. The petitioner's timely submission, evidenced by the postmarked envelope, demonstrates his commitment to compliance, and the unexpected delay should not be held against him. Moreover, South Carolina law has recognized exceptions in cases where procedural issues outside a party's control impact the legal process. To deny reconsideration under these circumstances would unfairly penalize the petitioner for factors beyond his influence.

7.

Request for expedited review and response deadline:

Given the time-sensitive nature of this matter and its potential impact on the petitioner's pending appeals, the petitioner respectfully requests that the court expedite its review of this motion. Additionally, he respectfully requests that the court set a reasonable deadline for the respondent to file any objections or responses to this motion, thereby ensuring timely resolution.

8.

Conclusion:

For the reasons stated above, the petitioner respectfully requests that this court grant his motion to reconsider or reopen his second PCR application. This request is made in good faith and in the interest of justice, to ensure that his case is evaluated with the full and fair consideration of all relevant facts and filings.

Respectfully submitted,

As/ Banderious H. Sims  
#364413

Evans Correctional Institution  
Bennettsville, SC 29512

11-21-24

Randevious H. Sims 364413  
Evans Correctional Institution  
610 Highway 4 west  
Bennettsville, SC 29512



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S.C. SUPREME COURT

The Supreme Court of South Carolina  
Patricia A. Howard, Clerk of Court  
Post office box 11330  
Columbia, South Carolina 29211

