

Stewart filed his Notice of Appeal and requisite Explanation pursuant to Rule 243(c), SCACR ("Explanation I"), with the Court on January 27, 2025. On February 4, 2025, Stewart received a letter from Patricia A. Howard, Clerk of Court, directing him to file, within twenty days of his receipt of the letter, an explanation setting forth reasons why this Court should not place prohibitions on future filings made by him.¹ Stewart was further placed on notice the filing of said explanation was required for this matter to proceed.

Generally speaking, various rulings by this Court establish that, based on the circumstances in this matter, the Court prohibiting future filings would be unprecedented and unwarranted. Stewart demonstrates specific reasons why the Court should not prohibit future filings, as follows:

First, the Court would have to decide this matter in its original jurisdiction, as the PCR court did not issue a prohibition against future filings, though making such a ruling was within the lower court's discretion. And it is well established the "Supreme Court will not entertain matters in its original jurisdiction when the matter can be decided in a lower court". Rule 245, SCACR. Historically, this Court has taken the drastic measure of prohibiting future filings in matters brought before the Court in its original jurisdiction. *Cf. In re Maxton*, 325 S.C. 3, 4, 478 S.E.2d 679 (1996). The case sub judice is not before this Court in its original jurisdiction, and a ruling of the lower court prohibiting future filings is not before the Court for appellate review. These factors tend to place this matter beyond the scope of the Court's jurisdiction. *See S.C. CONST Art. 5, § 5.*

Second, the suggested prohibition is based solely on the number of filings, or "multiple post-conviction relief applications" filed by Stewart. However, this Court has held that such a

¹ The letter specifically states, in relevant part, "the Court, if it determines that you have failed to provide an adequate explanation under Rule 243(c), SCACR, may decide to prohibit you from filing a post-conviction relief application, habeas corpus action, or any other action".

prohibition is warranted only when the filings are repetitive, abusive, or totally frivolous. See *Williams v. State*, 354 S.C. 630, 632, 583 S.E.2d 52, 53-54 (2003).² In addition, Stewart has only filed three PCR applications, a number of filings this Court has found does not warrant a prohibition against future filings. *Williams v. State*, *supra*, (finding the filing of "merely four PCR applications" did not warrant a prohibition against future filings); *Lakes v. State*, 333 S.C. 382, 386, 510 S.E.2d 228, 230 (Ct.App. 1998)(court found that appellant's filing of "one direct appeal, three PCR applications, two petitions for writ of certiorari", and numerous other filings did not "rise to the level of repetitive and abusive filings"). Conversely, this Court has found a much higher number of filings is necessary to warrant such a drastic action as placing prohibitions on future filings. Cf. *In re Maxton*, *supra*, (prohibition placed on future filings by petitioner after he filed 64 frivolous pro se petitions in a three-year span).

Third, as reiterated by Stewart in Explanation I, the PCR court did not properly address the facts and issues presented by him in the PCR action. *Explanation I pp. 4-8*. For instance, the PCR court did not address Stewart's actual innocence claim, or the fact that this claim implicates the trial court lacked subject matter jurisdiction. *Id.* Moreover, the lower court failed to address the new evidence forming the basis of Stewart's claims, namely the sworn statement and other admissions from Dr. Harley *Id.* Instead, the lower court issued general rulings without expressing the factual basis for these rulings, or, if stated, the underlying rationale for the PCR court's rulings is based on incorrect facts. *Id.* This Court has, under identical or similar circumstances, consistently remanded the case to the lower court with instructions to take the appropriate action. See *McCray v. State*, 305 S.C. 329, 330, 408 S.E.2d 241 (1991)(this Court reversed and remanded, holding "the PCR court's conclusions...are insufficient for appellate

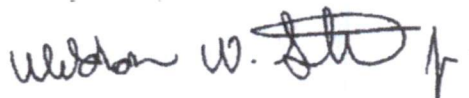
² Stewart's current claims are not abusive, repetitive, or frivolous as his claims are supported by credible newly discovered evidence, namely a sworn statement and other admissions from Dr. Russell Harley, the pathologist who performed the autopsy for the State in this case. Dr. Harley confirms that Stewart's suicide claim is viable based on his review of credible new evidence of suicide and various omissions that were made by him while conducting the autopsy.

review"); Pruitt v. State, 310 S.C. 254, 255, 423 S.E.2d 127, 127-28 (1992)(this Court vacated the PCR court's order and remanded the case to the PCR court to hold a new hearing); Simmons v. State, 416 S.C. 584, 593-94, 788 S.E.2d 220, 225 (2016)(this Court remanded case to PCR court to hold a hearing on DNA claim); Reese v. State, 425 S.C. 108, 111, 820 S.E.2d 376, 378 (2018)(this Court vacated both PCR orders and remanded case to the PCR court to prepare a "new order that complies with the law").

CONCLUSION

Based on the foregoing, Stewart respectfully requests that the Court decline to issue a prohibition against future filings and based on the grounds set forth in Explanation I, that the Court remand his case to the PCR court to issue rulings which comply with the law.

Respectfully submitted,



Weldon W. Stewart, Jr. #295095
Trenton Correctional Institution
84 Greenhouse Road
Trenton, South Carolina 29847
(803) 275-3301
Pro Se Petitioner

February 21, 2025

PRESS FIRMLY TO SEAL

PRESS FIRMLY TO SEAL

PRIORITY MAIL
FLAT RATE
POSTAGE REQUIRED

This envelope is made from post-consumer waste. Please recycle - again.

UNITED STATES
POSTAL SERVICE

Retail

P

US POSTAGE PAID

\$10.10

Origin: 29550
02/21/25
4538400650-07

PRIORITY MAIL®

0 Lb 2.10 Oz

RDC 03

EXPECTED DELIVERY DAY: 02/24/25

FEB 24 2025

B099

SHIP TO:

PO BOX 11330
COLUMBIA SC 29211-1330

- Date of deliv
- USPS TRAC
- international
- Limited inter
- Pick up avail
- Order suppl
- When used i
- declaration
- Domestic or

USPS TRACKING® #



9505 5115 8948 5052 9405 00

chedule free
age Pickup,
the QR code.



COM/PICKUP

FROM:

Lori Stewart
PO BOX 189
Georgetown SC 29542

RECEIVED

FEB 24 2025

S.C. SUPREME COURT

TO:

Supreme Court of South Carolina
1231 Gervais St.
PO Box 11330
Columbia, SC 29211



PS000

This packaging is the property of the U.S. Postal Service and is provided solely for use in sending Priority Mail® shipments. Misuse may be a violation of Federal law. This packaging is not for resale. EHP® © U.S. Postal Service, October 2018. All rights reserved.

* Domestic only. * For Domestic shipments, the maximum weight is 70 lbs. For international shipments, the maximum weight is 4 lbs.