

## Statue of Limitations

The Court continues to apply South Carolina Code Ann. Sec. 17-27-45 (a) (Cum. supp. 24) which is not applicable to disposition of case. When herant, the only Relevant inquiry is if the applicant satisfied standard in *McLoy v. State*, 401 S.C. 363 (2013); Sec. 17-27-45 (c).

Moreover the court does not address the three (3) year delay of Court to file PCR application. The State Supreme Court order directed Florence County Clerk to file Application. Respondent does not and has not addressed argument presented in any moving papers.

Under equitable tolling doctrine *Mose v. State*, 420 S.C. 500 (2017). Contrary to the ruling of Court because the court clerk hindered applicant from filing application. *Mose* Court ruling is both dispositive and Pervasive. and cases cited by Respondent are misplaced and offer nothing more than Confusion of issues.

**RECEIVED**

APR 04 2025

S.C. SUPREME COURT

Defendants motion is not barred by The Statute of Limitations, Due to the Fact that the defendant has attempted to file many motions requesting a hearing to put the Facts of the case on record since 2022 with the Clerk of court For Williamsburg County, Florence County, and The South Carolina Grand Jury Clerks of Court. The defendant cannot be held liable when the clerks refused to file the defendants motions, which is the Clerks Requirement. Letter From Florence County Clerk of Court is Enclosed. The State Grand Jury Clerk of Court and Williamsburg County Clerk of Court did not respond. The defendant filed all his motions through Lee Correctional Mailroom certified required all respondents to sign in order to receive the mail. After months of no response the defendant then contacted The Supreme Court of South Carolina who then order the Clerk of Court for Florence County to file the defendants motion, which the state is now trying to dismiss under the statute of Limitations

## 2. Newly After Discovered Evidence

The Affidavit given by Sheila Renee Webb Parker proves that warrant # 2015A47001000015 allegation of distribution is not true defendant did not sell any drugs to Sheila Renee Webb Parker as the warrant says. The affidavit shows that the Officers used intimidation, abuse of power, false charges, planting and tampering with evidence in order to indict the defendant. The Courts Allegation stating that the defendant had access to Sheila Renee Webb Parkers Affidavit before he pled, when he pled and directly after he pled is NOT TRUE. The defendant has been incarcerated since 2015 and has not had any contact with Sheila Renee Webb Parker. The Sworn Affidavit was received by the defendant in May of 2022. This proving the Affidavit to be Newly After discovered Evidence. In the states Final Order of dismissal page 2 Line 1 of the Foot Note the state has reworded Sheila Renee Webb Parkers Statement from her Affidavit in an attempt to Persuade the Court that Mrs. Webb-Parker is saying that a drug buy did happen but the officers got the date wrong, on page 4 of the Affidavit. This is not true! On page 5 of the Affidavit Lines 2-9 states,

"After Reviewing the video, "Timothy Johnson" could not be seen or Identified making it unsuccessful. The officers were upset Timothy Johnson gave me a scale and asked me to take it to Velli. Her statement plainly states the attempt was unsuccessful AFTER the officers viewed the video. The video and the Affidavit proves that the defendant did not commit a crime and is in fact innocent. The court is apparently saying that the attempted drug buy happened on September 7<sup>th</sup>, 2015. September 7<sup>th</sup> 2015 was labor day, a national holiday. None of the officers involved were actively working on September 7, 2015.

McCoy is controlling and despite Respondent Contentions to the contrary Court is not determining Credibility because respondent wrote order that sparingly addresses Sheila Renee Webb Parkers Affidavit. Nothing in order reflects Court independent Judgment in case at bar

Similarly the court ruled applicant newly after discovered evidence fails Clark v. State 315 S.C. 385. 387-88 (1993) five factors. Specifically factors 1, 3, 5 but satisfies 2, 4. Lets be clear, Applicant satisfied Factor 4, and if so the court ruling does not reflect applicant does not support the Record before Court.

Furthermore, One difference between applicant and all cases cited by respondent one Conditional order is all had hearings for Judgments on newly-discovered evidence. Hayden v. State. 278 S.C. 610-611 (1983) was a PCR case when court held a hearing on Hayden newly discovered evidence. None of the cases had Courts ruled without holding a hearing. Since Respondent Controls Docket has led to this systematic abuse of Constitutional. While it is conceded applicants have no Constitutional rights to Collateral Proceedings The "Due Process" Clause affords protections under Due Process that can not be disregarded. As herein the adversary written order reflects Respondent Objective opinion is really subjective argument that disregards facts and law. Respondent's subjectiveness destroys Constitutional Protections afford PCR applicants this order epitomizes what Pruitt, Marler, and Fishburne have cautioned against which is (1) Addressing all issues; (2) Preserving All issues

### 3. Waiver

All plea Agreements must be on record and must recite, scope, offenses, and individuals involved in agreement. Supreme Court will limit its review of Plea agreement only to those terms which are fully set forth in record and neither state nor defendant may enforce plea agreement terms which do not appear on record before trial judge who accepts plea. Before accepting plea of guilty trial court should have canvassed matter with accused to make sure he had full understanding of what plea connoted and of its consequences and then established record affirmatively showing that such plea was intelligent and voluntary before accepting it. The court continues to use the waiver to keep the defendant from putting the facts of his case on record by not granting the defendant a hearing. Court Records from the defendant's plea hearing and sentencing hearing show that the waiver in the defendant's plea agreement was done in secret. At no time did the court notify the defendant of a waiver in his plea agreement

A waiver of this nature requires the defendant to be made known on record of the waiver. The Judge is to question the defendant specifically pertaining to the waiver. Court documents show that the waiver was not a part of the defendants Colloquy. This Actical proves that the judge did not know about the waiver in the defendants plea Agreement. This is a direct violation of the defendants Constitutional Rights and Due Process. Defendants Attorney testified at defendants evidentiary Hearing that, "He cannot Recall going over the waiver with the defendant. The plea Agreement waiver was not properly made known to the Judge or the defendant. It is not ethical or acceptable for a lawyer, Prosecutor or Police officer to take advantage of a defendant simply because the defendant lacks knowledge of to law, and how it works. The professionals have a responsibility to uphold the principles of Justice and fairness within the legal system. When a defendant enters into a plea Agreement that includes a waiver of certain Rights or Claims it is required that the

waiver be made known to the defendant on Record.  
This official of the law has clearly violated the defendant's legal rights by using illegal or unethical procedures against the defendant because the defendant is uneducated as to how the law works. This waiver is **UNENFORCEABLE** because the plea court did not question the defendant specifically concerning the waiver provisions of the plea Agreement. Defendant was made none of the waive **ONLY** after filing for Post Conviction Relief. At that time Judge Nettles and the Prosecution told the defendant that he could not speak or anything about his case due to the waiver in the plea Agreement.

Throughout the adversarial process the state has refused to turn over the State Grand Jury transcript and Counsel did not have a copy of this when he advised the applicant to plead guilty to these charges. The violation of discovery extends beyond the grand jury minutes, it extends to the Brady material that the prosecution has intentionally suppressed such as documentation showing that the defendant was not involved

In crimes that he has been indicted and incarcerated on. The State is clearly avoiding the topic of the waiver of my Constitutional Rights. The Plea Record is VOID of any details concerning the waiver and the Court cannot make a Ruling on the silent Record presented by the State, which is what they are doing. Due Process demands more than what the State is seeking this court to afford applicant herein, but since the State has not presented any evidence supporting their denial. They seek the Court to justify their version of due process when they can avoid the protections that the Constitutional Rights afford Applicants. It is worth mentioning that the State Due Process Clause provides more protection than its Federal counterpart. The Respondent refuses to address issue that defendant waived certain Rights as state precedents control disposition of case since the full details of the Plea were not placed on Court Record and Respondent objections to the waiver fail to correct what they subjectively initiated. Applicant only seeks to correct what Respondent failed to do at the Guilty Plea which is clearly supported by *Reed v. Beck*, 333 S.C. 676 (1999) *Custodio v. State*, 373 S.C. 4 (2007)

wherefore it is prayed Court Grant Motion  
Date: 3-28-25

page 9 of 11

Respectfully  
Justin John  
Timothy Johnson  
Pro Se