Anthony R. Taylor #197565 OAK-B-4
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC. 29067-8069

October 21, 2013

THE SC Supreme Court
Daniel E. Shearouse, Clerk of Court
P.O. Box 11330
Columbia, SC 29211

Re: Anthony R. Taylor V. The State of S.C.
CCA #0 2011-CP-40-05965

Dear Honorable Clerks

Please find enclosed the original copy of Petitioner's Notice of Intent to Appeal along with Explanation, and Proof of Service in the above mention Capital matter to be properly file and process into your office as required by the Rules of Court's.

Sincerely
/s/ Anthony R. Taylor #197565 OAK-B-4
Anthony R. Taylor #197565 OAK-B-4
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC 29067-8069

CC file
Asst. Attorney General
Magan Hanigan
Kershaw, SC 2013

THE STATE OF SOUTH CAROLINA
In the Supreme Court
NOTICE OF INTEN TO APPEAL
FROM RICHLAND COUNTY L. Casey Manning
Chief Admin Strate Judge Fifth Judicial Circuit

Anthony R. Taylor, ... Petitioner

Vs

Megan Harrigan, ... Respondent
Assistant Attorney
General and State

NOTICE OF INTENT TO APPEAL

Anthony R. Taylor, #197565 (Pro Se) Intend to appeal this Final Order of L. Casey Manning Chief Administrative Judge, dated, September 16, 2013, which affirmed dismissal of his Post conviction Relief Application (PCR), in the court of common pleas petitioner receive Written notice of Final Order, September 24, 2013

/s/ anthony R. Taylor #197565 OAK 134

Anthony R. Taylor, #197565 OAK 134
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC 29067-0069

Counsel of Record
Assistant Attorney General
Megan Harrigan
P.O. Box 11549
Cola. SC 29211-01549

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

NOTICE OF INTENT TO APPEAL FROM RICHLAND COUNTY

THE HONORABLE L. Casey Manning Chief Administrative Judge

FIFTH JUDICIAL CIRCUIT

EXPLANATION — 2011-CP-40-05965

This matter is before this Court pursuant to Rule 243, SCACR, denying Applicant (PCR) Application without an hearing under Section 17-27-45(A).

Petitioner explain there is an arguable basis for asserting that the determination by the lower court (PCR Judge), were improper and contravene to South Carolina legislatures clear intention under Section 17-27-45(C). The lower court improper determination disregards the statutory language as a whole by demanding upon the court to recognize only Subsection (A), while rendering other parts of it irrelevant or meaningless. See generally, IN re Irvin, 1716a. App. 794, 796, 321 S.E 2d 119 (1984), rev'd in Part on other grounds 254 Ga. 251, 328 S.E. 2d 215 (1985). under this Chapter S.C. legislatures has made it intention plain an clear by providing a three (3), part statutory Subsection. Surely, the legislatrues the law When creating these subsection and did not intended to elevate one subsection over the other but granted eachone their independed constitutionial volidity for the situation at issue.

In construing statutory language the statute must be read as Whole a section which is Part of the same general statutory law must be construed together and eachone given effect. See, TNS Mill Inc, V. South Carolina Dep't of Revenue, 331 S.C. 611, 620, 503 S.E. 2d 471, 476 (1998).

Citing. McCoy V. State, 401 S.C. 363, 737 S.E. 2d 623 (S.C. 2013). In this case the PCR Judge failed to considered the Facts presented by Applicant as true or viewed those facts in light Most Favorable to the

applicant. Lemon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005)[citing S.C. Code Ann. § 17-27-80], Where the applicant alleges facts that would establish an exception to either the statute of limitation or the prohibition against successive PCR Application and those facts are not conclusively refuted by the record before the PCR Court, a question of facts is raised which can only be resolved by a hearing. Cf. Delaney v. State, 269 S.C. 555, 556, 238 S.E.2d 679, 679 (1977), Further, the PCR Judge apparently overlooked the discovery Rule in section 17-27-45(C), which allows one year after the discovery of "material fact not previously presented and heard that require vacation of conviction or sentence to file a PCR Application.

The Petitioner argues that he did not discovered the trial judge abuse dis cretionary violation of flagrant sentencing error that exceed the maximum punish ment allowable under law, and conflict of intrest by unprofessional misconduct by PCR appointed counsel by the state, until September, 2010, and he promptly file his PCR Application after making that discovery. In this case petitioner is entitled to the benefit of the discovery rule has not been conclusively refuted by the record, the PCR Judge erred by dismissing Petitioner claim With prejudice.

Here, a genuine issue of facts exists as to Whether petitioner claim is successive under section 17-27-90, which permitts an applicant to file a subsequent PCR Application only if the applicant demostrate a sufficient reason why the claim asserted therein were not asserted previously. This court can also find that the Sentencing error was not adequately raise or presented in subsequent application.

Petitioner avers he has demonstrate sufficient reason why his claim was not included in his original or other PCR application in that trial judge abuse dis cretionary violation of flagrant sentencing error that exceeded maximum punishment

allowable under law, and Conflict of instrest of unprofessional misconduct of Court appointed counsel were not actually discovery by petitioner until well after the original or other PCR Application or Motion were dismissed. However, the State contend the trial judge abuse discretionary violation of flagrant sentencing error and Conflict of intrest of unprofessional misconduct could have been discovered earlier through exercise of due dilligence and therefore, petitioner has failed to state a "sufficient reason. This Court has held for this factual disparate a hearing was necessary to resolve this critial issue. The lower court (PCR) judge errored in granting the State motion for summary dismissal because genuine issue of material facts exist as to whether petitioner PCR Claims is successive or untimely. See, Lemon V. State, 363 S.C. at 434, 611 S.E.2d at 445 (Citing S.C. Code Ann. § 17-27-70(b)-(c)(2) Oroting summary dismissal of a PCR Application without a hearing is appropriate only when it's apparent on the face of the application that (1), there is no need for a hearing to develope any Facts and (2), the applicant is not entitled to relief.

But not always are the ends of justice best served by strict adherence to rule of procedures if the record clearly disclose that there will be a miscarriage of justice, this Court should not hesitate to grant the relief necessary to prevent it. Here, the record clearly dis close an abuse of discretion requirement has been proven by showing where a Penal Statutory law and Procedures guidelines under S.C. Code of law Ann, § 44-53-370(b)(2) 3rd or Subsequant offense has been violated is the test under law Petitioner must pass to prove an abuse of discretionary violation. Trial judge flagrant sentencing error during procedures guidelines under a statutory Penal Statute exceeded the maximum imprisonment term allowable under law when sentencing petitioner to a consecutive, cumulative twenty and ten years a imprisonment term of thirty years, The legislative intent is clear from the language of the statute a discretionary sentencing that Judges must not exceed or sentence below.

Therefore, this court should not hesitate to correct and prevent this miscarriage of justice.

It was not permitted of trial Judge acting in total disregard of law when he has not right or authority to disregard such law. In doing so judge discretionary abuse has cause petitioner to suffer actual and inherently prejudice, partiality and oppression, due to the harshness of consecutive nature that exceed the maximum imprisonment term allowable under S.C. law in violation of petitioner's human Rights and under both State and United States Constitutions. See, McCoy V. State, 401 S.C. 363, 737 S.E. 2d 623 (S.C. 2013). Similar case, Coats V. State, 575 S.E. 2d 587 (S.C 2003); Tilley V. State, 511 S.E. 2d 689 (S.C. 1999). see; State V. Miller, 375 S.C. 370, 378, 652 S.E. 2d 444, 448 (Ct. App. 2007); Horn V. Davis ~~Elec. Constructors, Inc.~~ 307 S.C. 559, 416 S.E. 2d. 634 (1992) (when punishment beyond the twenty years authorized by Statute is an illegal sentence and must be reversed). In this case this lower court improper determination and oversight of Petitioner not receiving the prescribed sentence of imprisonment of not more than twenty-years can not be overlook or ignored by this Court. This Court has explicitly settled that the General Assembly alone prescribed the minimum/maximum punishment which can be imposed on those convicted of a crime. The purpose of Section 44-53-370(b)(2) 3rd or subsequent offense is to supply the procedure guideline for the sentencing proceeding. This section prevents a defendant from receiving a sentence greater than or less than that prescribed by the General Assembly. In this case it is clearly disclose by the record Petitioner has receive unfairness of treatment by trial Judge abuse of discretion regardless of the two courts

indictments for Distribution and possession with intent to Distribute marijuana 3rd or subsequent offense violation during a single trial, involving a single drug transaction, for the same act and facts, for a single statutory provisional violation no matter the counts it results would have falling in according ly with the statutory language of legislative intent for a subsequent offense violation. [Black's Law Dictionary prescribes, subsequent offense violation. [Black's Law prescribe, subsequent offense, as combining or following] page 361, 7th Ed. and only that punishment should have been allowed.

The basic rule is to ascertain and effectuate the intention of the legislative body - where intent is determined according to the rules governing statutory construction this court is asked to examine (I) the language, (II), spirit, and (III), goal of statute, also this court must be mindful of the several other principles of general statutory construction in examining the issue before the court.

If the legislatures body had intended to allowed trial court to imposed some method of punishment of imprisonment for third or subsequent offense Distribution and PWID, marijuana other than the prescribe language of the statute they would have expressly stated as much in impose sentence in accordance with the express language of section 44-53-370(b)(2) 3rd or subsequent offense. see, State v. Tisdale, 467 S.E.2d 270 (S.C App. 1996); State v. Taub, 336 S.C. 310 519 S.E.2d 297 (S.C App. 1999) (Clearly instructed the trial Judge that no part of the minimum sentence may be suspended nor probation granted).

A sentence which exceed the maximum allowable punishment must be reversed for resentencing. See State v. Fowler, 277 S.C. 472, 289 S.E.2d 412 (1982); State v. Storgee, 277 S.C. 412, 288 S.E.2d 397. (1982);

In his orignal PCR Application nor any of the other PCR Application because he did not discovery that claim until well after they all been dismissed It was September, 2010, When he became Knowledgeable of that Material Fact and he promptly file his PCR application under the discovery Rule provided under Section 17-27-45(C). The records disclose that state officials were awear that a timely file 59(e), motion was Still pending upon the court 2001, that was never ruled upon by the PCR Judge that heard the case and no record of written order support the finding an order was issued by Clerk of Court Richland County Fifth Judicial Circuit. The State officials created this Procedural irregularity When deliberately introducing "Sham documents" against the Still Pending timely file 59(e)motion, which Stay all Applicant appeals process rights.

In this case the language of Rule 59(e)-(f), are clear an unambiguous and the State officials were obligated to obey that Statutory Statute) but instead of obeying Procedural Rules they made personal procedural Strategic decision to disregaid and move forward contrary to the 59(e)motion were a pending matter and the court could proceed Without first ruling upon or dismissing Such order, thereby denying Petitioner a Fundamental Right to a full appellate process and appeals of Rights. The Rule of Procedures, like Statute Should be given their plain meaning. Valentine V. Davis, 460 S.E.2d 218, 319 S.C. 169 (S.C.App.2001). The Rules of Appellate procedures Should be interperted in like Fashion to the analysis under taken in interpeting all other rules of Courts procedures, and thus When the rules

contains, clear and unambiguous terms, those terms should be given their plain and original meaning. State V. Gibbs, 550 S.E. 2d 908 346 S.C. 358, rehearing denied and certiorari granted, reversed 577 S.E. 2d 454 353 S.C. 226. Stark Truss Co. Inc. V. Superior Const. Corp. 602 S.E. 2d 99, 360 S.C. 503. Petitioner avers arguable reasons the lower court determination is an improper determination.

WHEREFORE, For the reason so stated above and due to this improper determination by the lower court failure to so recognize Section 17-27-45(C) Discovery Rule this court should not hesitate to act to prevent this miscarriage of justice by granting petitioner an immediately evidentiary hearing to solve all facts, modify Sentence, set aside, vacate, immediately release, or any other relief this Honorable Court deems proper.

This date of October 1 2013

Respectfull Submitted

S Anthony R. Taylor #197565 OAK B4

Anthony R. Taylor #197565 OAK-B-4
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC 29067-8069

CC file

Assistant Attorney General
Megan Harrigan

Kershaw SC 2013

Sworn To Before This day 2
October 2013
Cathrine C Orrosa
Notary Public of S.C.
My commission Expires _____

My Commission Expires December 22, 2018

THE STATE OF SOUTH CAROLINA
IN THE Supreme COURT
NOTICE OF INTENT TO APPEAL
From Richland County, L. Casey Manning
Chief Administrative Judge Fifth Judicial Circuit

EXPLANATION 2011-CP-40-05965

Anthony R. Taylor #197565 - - - - - - - - - - Petitioner

V.

Megan Harrigan, Assistant, Attorney General and State., - - - - - - - - - Respondent(S)

PROOF OF SERVICE

I, Certify that I have served the Notice of Intent to Appeal and along the Explanation on Attorney of record, Assistant Attorney General, Megan Harrigan by depositing a copy of same in the United States mail. postage prepaid on this day of October, 21, 2013 addressed to the Assistant Attorney General Megan Harrigan P.O. Box 11549 Columbia, SC 29211-1549 by mailing original copy of the same to the clerk of Court for the S.C. Supreme Court, Daniel E. Shearouse, P.O. Box 11330 Columbia, SC 29211

S/ Anthony R. Taylor #197565 OBY
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Megan Harrigan
Assistant Attorney General
Kershaw, SC 2913

ANTHONY R. TAYLOR #197565084
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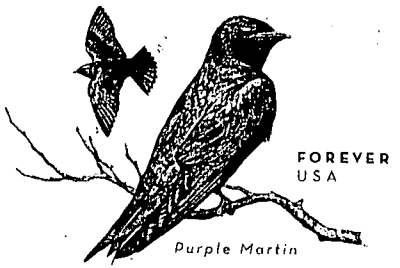

THE SOUTH CAROLINA SUPREME COURT
Daniel E. Shearouse, CLERK of COURT
Post office Box 11330
Columbia, South Carolina 29211