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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari to Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

—————
STACY MURRAY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000684

—————
APPENDIX
—————

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE)	2018-GS-23-05197
	)	2018-GS-23-05198
	)	2018-GS-23-07007
)	
)	

STATE OF SOUTH CAROLINA,

vs.

STACY DEANGELO MURRAY,
 DEFENDANT.

TRANSCRIPT OF RECORD

ORIGINAL

April 12, 2021
 Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE.

A P P E A R A N C E S:

CLARK L. GROUNDSELL, ESQ.
 GRACE BARRINGER, ESQ.
 Assistant Solicitors

R. ASHER WATSON, ESQ.
 Attorney for Defendant Stacy Deangelo Murray

WILLIAM G. YARBOROUGH, III, ESQ.
 Attorney for Defendant Deaundre Shaquille Thomason

HOLLIE M. JENKINS
 Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE CLERK: Your Honor, in the case of
3 2018-GS-23-5197, the State vs. Stacy Deangelo Murray,
4 indicted for trafficking methamphetamine, pleading to
5 drugs, trafficking in meth second offense. And this is a
6 true bill.

7 In the case of 2018-GS-23-5198, he's indicted for
8 possession of cocaine base, pleading to the same. And
9 this is a true bill.

10 In the case of 2018-GS-23-7007, he's indicted for
11 failure to stop for a blue light, pleading to the same.
12 And this is a true bill.

13 In the case of 2019-GS-23-8804, the State vs.
14 Deandre Shaquille Thomason, indicted for trafficking in
15 illegal drugs, pleading to trafficking in fentanyl four to
16 14 grams first offense. And this is a true bill.

17 In the case of 2019-GS-23-8805, he's indicted for
18 trafficking methamphetamine and possession of a weapon
19 during the commission of a violent crime, pleading to
20 trafficking methamphetamine 28 to a hundred grams first
21 offense. And this is a true bill.

22 In the case of 2020-GS-23-5273, he's indicted for
23 trafficking methamphetamine, pleading to the same. And
24 this is a true bill.

25 Please raise your right hands.

1 WHEREUPON,

2 STACY DEANGELO MURRAY,

3 DEAUNDRE SHAQUILLE THOMASON,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: Thank you.

6 THE COURT: Have you got jail days on these folks?

7 MR. GROUNSELL: Yes, Your Honor. Mr. Murray has
8 1,119 days.

9 THE COURT: Okay.

10 MS. BARRINGER: And Mr. Thomason has 288 days.

11 THE COURT: All right. In the last 24 hours, have
12 you had any drugs, alcohol, or medication, Murray?

13 DEFENDANT MURRAY: No, sir. No.

14 THE COURT: Thompson [sic]?

15 DEFENDANT THOMASON: No, sir.

16 THE COURT: Have you ever been treated for substance
17 abuse or mental illness, Murray?

18 DEFENDANT MURRAY: No, sir.

19 THE COURT: Thompson?

20 DEFENDANT THOMASON: No, sir.

21 THE COURT: Mr. Murray, you're up here on several
22 indictments. The first one alleges that you did here in
23 Greenville County on March 20, 2018, knowingly sell
24 manufacture, deliver, or bring into South Carolina, or you
25 were in actual or constructive possession of more than 10

1 grams of methamphetamine. This carries five to 30 years.

2 It is, also, a violent offense, which impacts parole
3 eligibility. It is a serious offense. If you get
4 convictions for three or more serious offenses, you're
5 eligible for life in prison without parole.

6 Do you understand that?

7 DEFENDANT MURRAY: Yes, sir.

8 THE COURT: The next indictment alleges you did here
9 in Greenville County on March 20, 2018, unlawfully possess
10 crack cocaine first offense. Three years or \$5,000.

11 Do you understand that?

12 DEFENDANT MURRAY: Yes, sir.

13 THE COURT: Next one, Greenville County on March 20,
14 2018, you failed to stop for a police vehicle when
15 signalled to do so by blue lights or a siren. And that
16 carries three years.

17 Do you understand?

18 DEFENDANT MURRAY: Yes, sir.

19 THE COURT: Thomason, yours alleges you did here in
20 Greenville County, count one, on July 23, 2019, knowingly
21 sell, manufacture, deliver or bring into South Carolina,
22 or provide some sort of assistance to do that, or you were
23 in actual or constructive possession of 400 or more grams
24 of methamphetamine. And this carries -- this is a first
25 offense.

1 What does this one carry?

2 MS. BARRINGER: The one he's pleading to carries
3 seven to 25, I believe.

4 THE COURT: Seven to 25.

5 This is a violent offense, which impacts parole
6 eligibility. And it's, also, a serious offense. With
7 convictions for three or more serious offenses, you are
8 eligible for life in prison without parole.

9 Do you understand that?

10 DEFENDANT THOMASON: Yes, sir.

11 THE COURT: The next one alleges you did here in
12 Greenville County on May 14, 2019, knowingly sell,
13 manufacture, deliver, or bring into South Carolina, or
14 provide financial or other assistance to do that, or you
15 were in actual or constructive possession of 28 or more
16 grams of methamphetamine. That's another seven to -- to
17 25. It's a violent and a serious offense.

18 Do you understand that?

19 DEFENDANT THOMASON: Yes, sir.

20 THE COURT: I'm sorry.

21 DEFENDANT THOMASON: Yes, sir.

22 THE COURT: The next one alleges you did in
23 Greenville County on July 23, 2019, knowingly sell
24 manufacture, deliver, or bring into South Carolina, or you
25 were in actual or constructive possession of 28 or more

1 grams of fentanyl.

2 And, again, is this a seven to 25?

3 MS. BARRINGER: Also, pleading to the seven to 25.

4 THE COURT: Seven to 25.

5 And this is violent and serious.

6 Do you understand that?

7 DEFENDANT THOMASON: Yes, sir.

8 THE COURT: Okay.

9 MR. YARBOROUGH: What was the -- the drug weight that
10 you just read out on the --

11 THE COURT: That was on the indictment. I'm not sure
12 what the --

13 MS. BARRINGER: He's pleading down.

14 MR. YARBOROUGH: Yeah.

15 THE COURT: It's four to 14 grams is the sentence. I
16 just read the indictment.

17 MR. YARBOROUGH: Okay.

18 THE COURT: All right. Understanding the nature of
19 the charges and the maximum possible punishment, how do
20 you want to plead, Murray?

21 DEFENDANT MURRAY: Guilty, sir.

22 THE COURT: Thomason?

23 DEFENDANT THOMASON: Guilty.

24 THE COURT: Is that your free and voluntary decision,
25 Murray?

1 DEFENDANT MURRAY: Yes, sir.

2 THE COURT: Thomason?

3 DEFENDANT THOMASON: Yes, sir.

4 THE COURT: Do you understand that you have an
5 absolute right to a trial by jury where you'd be presumed
6 innocent, unless and until the State could prove beyond
7 any reasonable doubt each and every element of each
8 offense that you are charged with?

9 You would have a right to confront and cross-examine
10 the witnesses and the evidence put up against you by the
11 State. You would have a right to compel in court all
12 relevant and competent evidence in your own defense, or
13 you can remain silent. Your silence cannot be held
14 against you. And you can never be compelled to
15 incriminate yourself.

16 Do you understand all those rights, Murray?

17 DEFENDANT MURRAY: Yes, sir.

18 THE COURT: Thomason?

19 DEFENDANT THOMASON: Yes, sir.

20 THE COURT: Are you guilty, Murray?

21 DEFENDANT MURRAY: Yes, sir.

22 THE COURT: Thomason?

23 DEFENDANT THOMASON: Yes, sir.

24 THE COURT: Are you totally and completely satisfied
25 with the representation of your attorney, Murray?

1 DEFENDANT MURRAY: Yes, sir.

2 THE COURT: Thomason?

3 DEFENDANT THOMASON: Yes, sir.

4 THE COURT: And do you know what the evidence is the
5 State has against you, Murray?

6 DEFENDANT MURRAY: Yes, sir.

7 THE COURT: And Thomason?

8 DEFENDANT THOMASON: Yes, sir.

9 THE COURT: All right. Please listen while the State
10 tells us about your cases.

11 MR. GROUNSELL: Yes, Your Honor.

12 As to Mr. Murray, on March 20th, 2018, in Greenville
13 County, law enforcement attempted to pull the Defendant
14 over to serve active warrants. The Defendant fled,
15 despite lights and sirens activated.

16 After a short chase, they went through a yard. The
17 Defendant struck a fence and crashed into a ditch. The
18 Defendant was apprehended and a search of his vehicle
19 turned up 10.10 grams of methamphetamine and .43 grams of
20 cocaine base on the floorboard of his truck. The
21 Defendant, also, had a large roll of cash on his person.

22 The Defendant, also, claimed the meth was under
23 trafficking weight because he had watched the dealer weigh
24 it.

25 He, also, has a record, Your Honor. Would you like

1 his record?

2 THE COURT: Yes, please.

3 MR. GROUNSELL: 1990, peeping tom; '91, petit
4 larceny; '92 --

5 THE COURT: Slow -- slow down a little bit.

6 MR. GROUNSELL: I'm sorry. '92, use of vehicle
7 without consent, a UCAP; '93, petit larceny; '94, ABHAN,
8 auto breaking times four, petit larceny times three --

9 THE COURT: You've got to slow down a little bit. I
10 got the ABHAN times four.

11 What was that?

12 MR. GROUNSELL: No. ABHAN, and then an auto breaking
13 times four.

14 THE COURT: Okay.

15 MR. GROUNSELL: Petit larceny times three.

16 THE COURT: Okay.

17 MR. GROUNSELL: Receiving stolen goods.

18 THE COURT: Yeah.

19 MR. GROUNSELL: Forgery times two, fraud check.

20 THE COURT: Okay.

21 MR. GROUNSELL: '95, petit larceny times two, fraud
22 check times two, shoplifting; '96, ABHAN; '99, simple
23 possession of marijuana and receiving stolen goods; 2000,
24 receiving stolen goods and habitual traffic offender;
25 2002, possession of cocaine base; 2004, HTO, DUS, and a

1 possession of cocaine base second offense; and then a
2 federal 2007, possession of a weapon.

3 THE COURT: All right. True and correct?

4 DEFENDANT MURRAY: Yes.

5 THE COURT: All right. What do you want to tell me?

6 MR. WATSON: Thank you, Your Honor.

7 May it please the Court.

8 May I approach the podium just to bear down?

9 THE COURT: Sure, yeah.

10 MR. WATSON: Before you is Mr. Stacy Deangelo Murray.
11 He's 47 years old. He's been in jail, as the Solicitor
12 said, 1,100 -- I have 120. The Solicitor has 119.

13 THE COURT: Well, we'll make it 20.

14 MR. WATSON: All right. He's lived in Greenville his
15 whole life. He grew up in north Greenville where his
16 father was and continues to be a beloved preacher for many
17 decades. I believe he's come out of retirement to
18 minister again. He's here today to briefly speak at the
19 appropriate time when the Court may -- may ask.

20 Also, here in support is his friend, Travis Edmonds,
21 who's been a friend of Mr. Murray's in the church for over
22 a decade.

23 He's spent most of his adult life working drywall and
24 plaster, sometimes as an employee, but mostly as a sole
25 proprietor.

1 He's struggled with addiction from the early 2000s
2 and has beat it at several junctures in his life,
3 including most recently in jail.

4 If I may approach and show --

5 THE COURT: You can just show it to me and tell it to
6 me. You're an officer of the Court.

7 MR. WATSON: Okay.

8 THE COURT: I believe what you tell me.

9 MR. WATSON: He has completed -- the first thing he
10 did once he was able was to apply and then get enrolled,
11 and completed in January of 2019 an alcohol and drug abuse
12 treatment program -- outpatient program at the jail.

13 Mr. Murray knows what he did was wrong. He will
14 address the Court to that effect very briefly at the
15 appropriate time.

16 However, there are compelling reasons why his
17 sentence should be set at the lower end of the sentencing
18 range of five to 30 years. For one, while he has a
19 record, including theft crimes in the 90s and two
20 possession level crack charges from 2002 and 2004, the
21 only thing he's had from that point until now is the
22 weapons charge and, I believe, a DUS is my understanding
23 from 2012.

24 So it's worth noting his previous convictions that
25 elevate this charge are not trafficking level, nor are

1 they even distribution weight convictions from 2002 and
2 2004. It's, also, worth noting how far back in time these
3 convictions were administered from 2001 back to most
4 recently a drug crime in 2004.

5 It's, also, worth noting Mr. Murray was in
6 position -- possession of 10.10 grams of meth and lab
7 weight at 43 [sic] grams of cocaine base, just barely
8 above distribution weight for the methamphetamine.

9 He's accrued a lot of time in jail. And much and
10 not -- much of this time can be attributed to COVID-19.
11 But he, also, acknowledges that most of how this has
12 dragged out has been his own doing. And he wants to
13 address the Court and give some comments on that. I --

14 THE COURT: All right.

15 MR. WATSON: -- slated for 20 to 30 seconds, Your
16 Honor.

17 THE COURT: Okay.

18 MR. MURRAY: Yes, Your Honor. You know, I was in the
19 jail, you know. I done had the COVID-19 twice. So, you
20 know, I kind of thought I would die of COVID.

21 To the Prosecutor -- I apologize to everybody, the
22 courts, and everybody, you know. You had me set for
23 trafficking first, you know. I didn't, you know, get back
24 in time. And then I told my family I was going to take
25 the plea. Then all this arise. And now here I am up in

1 trial. I didn't want to take no trial, you know. And I
2 ain't never said nothing about it.

3 But I just want mercy from the Court, sir.

4 THE COURT: Okay.

5 MR. WATSON: While this Court may be inclined to
6 account for case age as a factor in imposing a punishment,
7 Mr. Murray has, actually, punished himself by missing out
8 on opportunities for, you know, work release -- or work
9 credit, good time credit, none of which he's been earning
10 while he's been here. So he shot himself in the foot for
11 doing that.

12 There was an offer on the table prior to this trial
13 date of seven years on a trafficking first offense, which
14 the SCDC calculator estimated would lead to an earliest
15 parole -- or possible release date of one year from now.
16 That would be April the 11th of 2022. We know that it
17 can't be lowered to a first offense at this juncture.

18 However, the calculator does show that if Mr. Murray
19 was sentenced today to the minimum, he would serve a
20 sentence that's, actually, slightly longer than what the
21 previous offer was by about two months. For the foregoing
22 reasons we give, we -- we're asking for mercy from the
23 Court for a -- the southern most sentence in the range.

24 But I would like Mr. -- Reverend Murray to speak, if
25 you are so inclined, Your Honor.

1 THE COURT: Sure.

2 MR. WATSON: Reverend Murray, will you stand?

3 THE COURT: If you would, state your name for the
4 record and speak loudly and clearly.

5 DEFENDANT MURRAY'S FATHER: All right. My name is
6 [inaudible] Murray.

7 And I [inaudible]. I just wanted to come with my
8 son -- behind him and know that I -- when it happened to
9 him, I've been there for him. And I -- I love him. And I
10 know him. And I know his heart.

11 These things that happened, you know, just -- and I
12 just feel that -- still know that he have for what he
13 done. And I know I have faith in my son. And I know who
14 he belongs to. And I just --

15 Thank you, sir.

16 I just give honor to the Lord today. I've been
17 preaching for about 32 years. And it saved me.

18 THE COURT: Okay. Thank you very much.

19 DEFENDANT MURRAY'S FATHER: Yes. Just wanted -- on
20 his behalf -- and I know -- I know my son.

21 THE COURT: Okay. Thank you.

22 All right. Is there somebody else you mentioned, or
23 is that it?

24 MR. WATSON: I don't believe he's here to speak.

25 He's a friend of Mr. Murray's of over a decade at the

1 church. But I believe it was just Reverend Murray who was
2 here to speak, Your Honor.

3 THE COURT: All right. Anything else from the State?

4 MR. GROUNDSELL: Yes, Your Honor, just briefly. The
5 original offer in this case was seven years on a second.
6 That was offered three years ago that he turned down.

7 He, also, has a PWID from 2013 pending in our office,
8 a DV second from 2016 pending in our office, and a 2018
9 stalking, and a 2018 arson pending in our office.

10 THE COURT: Okay. Well, a bird in the hand is worth
11 two in the bush.

12 12 years, three years, and three years. All
13 concurrent.

14 Good luck to you.

15 *****END OF TRANSCRIPT OF RECORD*****
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 12th day of April, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

May 16, 2022

A handwritten signature in cursive script that reads "Hollie M. Jenkins". The signature is written in black ink and is positioned above a horizontal line.

Hollie M. Jenkins, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)
County of Greenville)
STACY Murray 270820)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

v.

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2022-CP-23-02304

22 MAY 3 PM 2:33
Paul Wickensimer CDC 6UL SC

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center

2. Name and location of Court which imposed sentence Greenville County Courthouse, 305 East North Street, Greenville, South Carolina 296
3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018-GS-23-05197 2018 A2330202462
 - (b) _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 12, 2021 12 years
 - (b) _____
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) under Duress scared because Asher Watson told me the court can do what they want to do and they are gonna give me 3 years.
 - (b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Sixth and Fourteenth Amendment of Constitution Prohibita prior

(b) ineffective counsel

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) C.it-44-53-375(A) Doc-D46 52302864 Court Date 11-17-2004

(b) failing to properly handle plea offer tried to fire

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO YES

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. To Relieve Counsel

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. Office of the Clerk of Court Greenville South Carolina

ii. _____

iii. _____

iv. _____

10. A UNCOUNSELED CONVICTION ~~that~~ resulting in a sentence of imprisonment from being used to enhance the punishment for a subsequent conviction

11A WARR-H49700 prosecutor 'Matt Wallace'
 Cit- 44-53-375(A) Doc. 02952310-216 WARR- G621477
 Court date 12/10/2002 Pam McDonald

11.B Asher Watson on March 11, 2021 at ~~the~~ Hearing Asher admitted that he disagree ~~ed~~ with Prosecutor Clark Grousel that he would properly represent me after Clark said he would Judge Kenshaw heard and witnessed but didn't release Asher Watson as my counsel after he said he didn't want to represent me. I requested a copy of the transcript and wrote Desiree Allen and sent the form back they wouldn't send a copy because they knew Judge Kenshaw and Prosecutor Clark Grousel violated my Due Process rights

For telling me on my court date to not say anything and I will get single digit but lied and I got 12 years

Telling me the courts can do what they want and ~~its~~ nothing he can do Competence ~~of~~ skills in investigating my circumstances and evaluating my liabilities and need and preparation which he didn't do I sat in Greenville County for 3 years without going up for a Bond or anything I had no Bond for 3 years Denied Due Process

(c) the disposition thereof:

- i. Denied to Revoke Counsel
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. March, 11, 2021
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

~~No~~ Yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. ineffective Counsel
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. to revoke Counsel on March 11, 2021
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) The Use of a UNcounselled Conviction for enhancement
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Asher Watson
416 E North ST. Greenville SC 29601
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Court of general Sessions
April 12, 2021
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:

This is my first offense Trafficking 10-28 grams its 3 to 10 years I told the lawyer I would take 7 years he said they would agree but never accepted the plea I would like to have the deal of the 7 years 1st offense

20. Are you now under sentence from any other court that you have not challenged?

STATE OF SOUTH CAROLINA)
County of Greenville)

VERIFICATION

I, Stacy Murray, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Stacy Murray

SWORN to and subscribed before me this 11th day of April, 2022.

Kangra Johnson (L.S.)
Notary Public

My Commission Expires: 8/5/2024

TRENTON Correctional Institution
Stacy Murray 270820 2C-4B
34 Greenhouse Rd
Trenton S.C 29847



2022-CP-23- 02304

Office of the Clerk of Court
Greenville County Courthouse
305 East North Street
Greenville, South Carolina
29601

RECEIVED
APR 11 2022
Trenton Correctional Institution

LEGAL MAIL

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE)	
Stacy Murray #270820,)	
Applicant.	)	Case No.: 2022-CP-23-2304
v.)	
	)	RETURN AND MOTION TO DISMISS
State of South Carolina,	)	<i>(counsel appointed)</i>
)	
Respondent.)	
_____)	

Applicant filed the above captioned post-conviction relief (PCR) action on May 3, 2022. On May 31, 2022, Susannah Ross, Esq., was appointed as counsel for Applicant. Respondent now makes its return and submits that the application should be dismissed as untimely filed. In support of its position, Respondent would respectfully show this Court:

Procedural History

Applicant is currently confined in the Trenton Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. A Greenville County grand jury indicted Applicant during a September 2018 term for Trafficking Methamphetamine (2018-GS-23-5197); Possession of Cocaine Base (2018-GS-23-5198); and Failure to Stop for Blue Light (2018-GS-23-0707). (Attachment 1). R. Asher Watson, Esq., represented Applicant on the charges.

On April 12, 2021, Applicant appeared before the Honorable Edward Miller and pled guilty as indicted. Judge Miller sentenced Applicant to 12 years for the trafficking charge, 3 years for the possession charge, and 3 years for failure to stop for blue light, with all charges to run concurrently, and credit for time served. (Attachment 2, Tr. 16).¹ Applicant did not file a direct appeal.

¹ The State noted that Applicant at that point also had additional pending charges: a 2013 PWID; a 2016 domestic violence second; and a 2018 arson. (Attachment 2, Tr. 16).

Allegations Raised and Relief Sought

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Sixth and Fourteenth Amendment of Constitution Prohibita Prior."
2. "Ineffective counsel."

Applicant is seeking to be re-sentenced to seven years imprisonment.²

Attachments

Respondent attaches, and incorporates the following:

1. Indictments: Trafficking Methamphetamine (2018-GS-23-5197); Possession of Cocaine Base (2018-GS-23-5198); and Failure to Stop for Blue Light (2018-GS-23-0707);
2. April 12, 2021 Guilty Plea Transcript.

Summary Dismissal Standard

"The [PCR] court may grant a motion by either party for summary disposition of the [PCR] application when ... there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." *McCoy v. State*, 401 S.C. 363, 369, 737 S.E.2d 623, 626 (2013) (citing S.C. Code Ann. § 17-27-70(c))." "[W]here no evidentiary hearing has been held, the PCR judge must assume facts presented by the applicant are true and view those facts in the light most favorable to the applicant." *McCoy*, 401 S.C. at 369, 737 S.E.2d at 626. Even with this deferential review, if an applicant is not entitled to any relief, summary dismissal is appropriate. *Id.*

The Application was Not Timely Filed

S.C. Code § 17-27-45(A) provides:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from

² The State noted at sentencing immediately following the plea that Applicant was offered a seven-year sentence "three years ago" that had been turned down. (Attachment 2, Tr. 16).

an appeal or the filing of the final decision upon appeal, whichever is later.

Applicant did not file a direct appeal. Thus, his plea and sentence became final at entry of judgment, *i.e.*, sentencing, on April 12, 2021. This action filed on May 3, 2022 – 21 days after the one-year period ended on April 12, 2022 – was not timely filed and should be summarily dismissed for that reason. Because the record definitively shows that the application was not timely filed, no hearing is warranted, and the application should be summarily dismissed. *McCoy, supra*.

Alternatively the Allegations Have been Waived by Entry of a Voluntary Plea

“It is beyond dispute that a guilty plea must be both knowing and voluntary.” *Parke v. Raley*, 506 U.S. 20, 29, 113 S.Ct. 517 (1992). It is also clear the record should reflect that voluntary choice. *Boykin v. Alabama*, 395 U.S. 238, 242, 89 S.Ct. 1709 (1969) (“a guilty plea should only be accepted where the record evidences ‘an affirmative showing that it was intelligent and voluntary.’”). “Where, as here, a defendant is represented by counsel during the plea process and enters his plea upon the advice of counsel, the voluntariness of the plea depends on whether counsel’s advice ‘was within the range of competence demanded of attorneys in criminal cases.’ ” *Hill v. Lockhart*, 474 U.S. 52, 56, 106 S.Ct. 366 (1985) (quoting *McMann v. Richardson*, 397 U.S. 759, 771, 90 S.Ct. 1441 (1970)).

Indeed, “[a] defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the defendant would not have pled guilty, but would have insisted on going to trial.” *Kolle v. State*, 386 S.C. 578, 588, 690 S.E.2d 73, 78 (2010) (quoting *Rolen v. State*, 384 S.C. 409, 413, 683 S.E.2d 471, 474 (2009)); *Burket v. Angelone*, 208 F.3d 172, 189 (4th Cir. 2000) (same). This is the *Strickland* test as applied in the guilty plea context. As the general test sets

out, to be entitled to relief on a claim of ineffective assistance, an applicant must show that (1) trial counsel's performance fell below an objective standard of reasonableness, and (2) a reasonable probability exists that but for counsel's error, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052 (1984).

Notably, statements made during a guilty plea should be considered true: "... accuracy and truth of an accused's statements at ... his guilty plea ... are 'conclusively' established by that proceeding unless and until he makes some reasonable allegation why this should not be so." *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985); *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (same).

The record here supports that the plea was a voluntary choice among alternatives as guided by counsel against whom Applicant made no complaints at the time of the plea. (*See* Attachment 2, Tr. 4-5 and 7-9). Moreover, Applicant did not contest the recitation of facts that would support the charges. (Attachment 2, Tr. 9-11). It is, therefore, unlikely that Applicant, even if he could avoid the procedural bar, would be unlikely to show any basis for relief. Again, summary dismissal would be warranted. *McCoy, supra*. However, the procedural bar as asserted above should be applied without exception and this action dismissed as untimely filed.

WHEREFORE, having made its Return, Respondent submits the action should be dismissed as untimely.

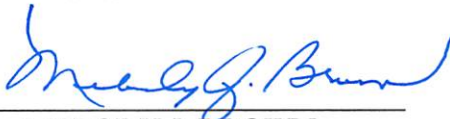
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General
SC Bar No: 14244
mbrown@scag.gov

P. O. Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

BY: 

MELODY J. BROWN
ATTORNEYS FOR RESPONDENT

July 22, 2024
Columbia, South Carolina.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)	THIRTEENTH JUDICIAL CIRCUIT
)	
)	
Stacy Murray, #270820,)	C/A No. 2022-CP-23-2304
)	
Applicant,)	
)	
v.)	AFFIDAVIT OF SERVICE
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

1. I am an employee of Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss**, in the above-captioned matter on the following by depositing same in the United States mail, postage prepaid:

Susannah C. Ross, Esquire
330 East Coffee Street
Greenville, South Carolina 29601

DATED this 22nd day of July, 2024.



Angela Brown
Administrative Coordinator

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2022-CP-23-02304
COUNTY OF GREENVILLE)	
)	
)	
)	
STACY D. MURRAY,)	
APPLICANT,)	
)	
vs.	)	TRANSCRIPT OF RECORD
)	
STATE OF SOUTH CAROLINA,)	
RESPONDENT.)	
_____)	

October 8, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE PATRICK CLEBURNE FANT, III, JUDGE

A P P E A R A N C E S:

SUSANNAH CONYERS ROSS, ESQ.
Attorney for the Applicant

TOMMY EVANS, JR., ESQ.
Attorney for the Respondent

CHERYL A. SMITH
Circuit Court Reporter

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(AW) - Denotes Applicant's Witness
 (RW) - Denotes Respondent's Witness

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

(WHEREUPON, proceedings convened at 1:33 PM.)

THE COURT: Please proceed.

MR. EVANS: Thank you, Your Honor. This is postconviction relief action Stacy Murray vs. The State of South Carolina, Case Number 2022-CP-23-02304.

Right now, Your Honor, before this court we have filed a motion to dismiss his PCR action for two reasons. One, we feel that this motion to dismiss was filed beyond the statute of limitations. Of course, the Court knows, under Section 17-27-45, a PCR must be filed within one year of the ending of the case or one year after the remittitur was sent from the appellate court down to the clerk of court's office. He pled guilty on April 21, 2021, and his PCR was filed May 3, 2022, which goes beyond the statute of limitations.

Our second reason we ask this court to dismiss this case is pursuant to the 17-27-70(c) of the Postconviction Relief Act which states the Court must -- may grant a motion by either party for summary judgment when the applicant has not raised a genuine issue of material fact.

In his application, Your Honor, he is seeking the old seven-year sentence or plea offer that was given to him that he rejected, Your Honor. And, of course, this

1 court knows a PCR action is not for that purpose. A PCR
2 action is to resolve the case and send it back to General
3 Sessions Court as though it never was -- hadn't happened
4 before. And so it looks to me he's looking for a
5 resentencing which this court does not have the authority
6 to do. So we would ask to dismiss on those grounds also.

7 Thank you, Your Honor.

8 THE COURT: Okay. Mrs. Ross?

9 MS. ROSS: Thank you, Your Honor. May it please the
10 Court.

11 You can see in the transcript there's sort of a lot
12 of back-and-forth about being satisfied with his attorney
13 before the plea. So we would certainly, if we survive
14 this motion to dismiss, amend the application to have
15 some other argument about we would ask for the case to be
16 remanded if we survived this motion to dismiss today.

17 We would argue Mose v. State sets out some case law
18 wherein a situation, especially where it's fairly close
19 like this is ---

20 THE COURT: 21 days.

21 MS. ROSS: Yeah. 21 days where there's an argument
22 where if the applicant made a concerted effort to file,
23 then he can be given equitable tolling which sort of
24 means sort of a soft tolling of the statute of
25 limitation. And we'd ask for that.

1 You sent me some mail. I did not even receive it.
2 That what you gave me today, I haven't even received it.
3 You said you sent that about a month ago or so and I
4 haven't even got that. You gave me that today. And --
5 but I had put it in the box. And the lady -- you know,
6 you've got to get it notarized and everything. And
7 that's all, you know.

8 Q So what's the date -- I make a copy of letters that
9 I send to my clients. What's the date of that -- on that
10 letter on the top?

11 A August the 21st.

12 Q All right. And so today on October 8th, as of then
13 you've not received that in your mail?

14 A You asked me did I receive this today, and I said
15 no, ma'am, I haven't.

16 Q So you never got that packet. I just provided my
17 copy to you this morning, correct?

18 A Yes, ma'am.

19 Q Okay. And where are you -- were you at Trenton --
20 are you at Trenton now?

21 A Trenton Correctional Institution.

22 Q Okay. Have you been there or were you there at the
23 time of ---

24 A I was there at the time I've been there, yes, ma'am.

25 Q Okay. And during this time period, were there still

1 some delays due to COVID that you recall?

2 A Yes, ma'am. We were still going into quarantine,
3 being locked down whenever somebody have a fever or
4 anything.

5 Q All right. Okay. And so it's your testimony today
6 that you delivered -- as far as you knew, your
7 application was made in a timely manner?

8 A Yes.

9 MS. ROSS: All right. I have no further questions.

10 THE COURT: Any questions?

11 CROSS EXAMINATION

12 BY MR. EVANS:

13 Q Mr. Murray, you pled guilty on April 12, 2021; is
14 that correct?

15 A Yes.

16 Q Okay. And at that time, did you realize you had a
17 year to file a PCR?

18 A Yes.

19 Q Okay. Do you recognize what that is right there?

20 A Yes.

21 Q Okay. That's a PCR application; is that correct?

22 A Yes.

23 Q Okay. And you filled this out yourself?

24 A Yes.

25 Q Okay. Now, the date you got it notarized was

1 April 11, 2022. That's correct, right?

2 A Yes.

3 Q That's what it says.

4 Okay. Did you mail it on that date?

5 A I can't mail it. That's the postmaster's job. But
6 she notarized it and I gave it to her, and I guess that's
7 in her possession, sir.

8 Q Okay. So you got it notarized, and you gave it to
9 them and they mail it. That's what you're saying.

10 A Yes.

11 Q Okay. So you waited until April 11th when the
12 deadline was on the 12th, correct?

13 A So something I seen say if it's postmarked in a
14 timely manner, it is -- so it's by being the day before
15 it was too late.

16 Q I'm just asking a question. You got it notarized on
17 the 11th when the deadline was on the 12th; is that true?

18 A I got it in the box, sir.

19 Q Okay. And you pled guilty to trafficking second and
20 got a seven-year sentence; isn't that correct?

21 A No, sir. 12.

22 Q You got a 12-year sentence.

23 A Yes, sir.

24 Q Okay. But you had an offer of seven years ahead of
25 it.

1 A I never had no offer of seven years.

2 Q You never had an offer.

3 A When the COVID hit, Mr. Watson came down there and
4 said do you remember what you said? Because when I first
5 went to jail I wrote a letter saying that I would take
6 seven years, 65, first offense, which it was because the
7 conviction that enhanced me over -- about 30 years ago
8 was uncounseled, you know. I was in the county and I got
9 pulled up to the detention -- up to court. And then all
10 the prosecutors got together and the judge -- the
11 prosecutor said, "Judge, we all agree on this."

12 The judge at the time that sentenced me said, "Is
13 that legal?" You know what I'm saying?

14 So that's how it -- I ain't have no knowledge of
15 what really was going on. But, you know, it was good in
16 my behalf how that worked like that, but, you know, I
17 didn't -- there wasn't no turning nothing. I just got
18 pulled, the last person in the holding cell down there
19 and got pulled up here. So it had to be about five or
20 six prosecutors there to agree to that it was legal
21 because the judge asked can I sign off on this. So, you
22 know, that's -- that's -- that's the one I -- that's all.

23 MR. EVANS: Beg the Court's indulgence.

24 BY MR. EVANS:

25 Q Now, you were originally facing five to 30 years on

1 trafficking methamphetamine; isn't that correct?

2 A Yes.

3 Q Okay. And you realize that if the judge allows this
4 PCR to go, you'll be facing 30 years.

5 A Are we doing that today?

6 Q No. We're not doing it today. But I'm just letting
7 you know. You understand that?

8 A Yes.

9 Q Okay. So you could get way more time than you got
10 in the Department of Corrections. You're aware of that.

11 A Oh, I got the evidence on the uncounseled
12 conviction, though. So, I mean, they say they can't use
13 it, so I guess I just have to get my evidence on that.
14 That way it won't be used to be charged as a second
15 offense trafficking.

16 MR. EVANS: All right. Nothing further, Your Honor.

17 MS. ROSS: No redirect, Your Honor.

18 THE COURT: Okay. Mr. Murray, you can step down.
19 Anything from the parties?

20 MR. EVANS: Nothing from the State, Your Honor.

21 MS. ROSS: Judge, I'd just refer back to Mose v.
22 State on the statute of limitations. If there is --
23 there's a McCray v. State where they allow equitable
24 tolling as well. The Court has determined the statute of
25 limitations shall be equitably tolled where circumstances

1 preventing petitioner from making a timely filing are
2 both beyond his control, unavoidable even with due
3 diligence. So here was a situation where, you know, it
4 was signed and in their hands before the deadline, and I
5 would just ask for equitable tolling in this situation.

6 THE COURT: And, Counsel, I'll look at that case.
7 But I'm just curious. I mean, you know, we have the
8 mailbox rule. It's like an additional five days. So, I
9 mean, how do you set parameters on the amount of time?
10 And -- you know, I mean, we can have people coming in
11 here saying, you know, it was six months and, you know,
12 it's the prison mailbox rule.

13 MS. ROSS: Well, it's that date on the application
14 when it was signed which was before. So I think that's
15 where he's hinging his argument here.

16 MR. EVANS: One thing, Your Honor. On Mose v.
17 State, it states the circumstance preventing a petitioner
18 from making a timely filing are both beyond the
19 petitioner's control and unavoidable despite due
20 diligence. He went and got this notarized the day before
21 it's due so he had to have known it's not going to get to
22 the court on time. Unless -- I mean, unless the post
23 office is across the street, there's no way it's going to
24 get there in a day. And we have to not only look at the
25 fact that he mailed it, but his due diligence.

1 He had a year to file this PCR application. He
2 waited until the last minute so that should also be taken
3 into consideration when you try to think about equitable
4 tolling. It has to be out of the control of the
5 defendant in order for him to be awarded equitable
6 tolling. And it was in his control. He just waited
7 until the last minute to file it; therefore, it should be
8 dismissed because he filed it beyond the statute of
9 limitations, Your Honor.

10 THE COURT: Counsel?

11 MS. ROSS: Well, Judge, you know, I believe his
12 testimony was there were things going on at his
13 particular -- you know, at Trenton, I believe it was,
14 made it hard to get it notarized. COVID was going on and
15 there were lockdowns that I think he made reference to
16 that caused delay in getting that notarized. But I just
17 argue that it was notarized, in fact, before the due
18 date. And had it been mailed immediately, arguably it
19 could have been clocked in time.

20 THE COURT: Anything else?

21 MR. EVANS: Nothing else, Your Honor.

22 MS. ROSS: No, Your Honor.

23 THE COURT: All right. Thank you. I'll take it
24 under advisement.

25 (WHEREUPON, proceedings concluded at 1:47 PM.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 8th day of October, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 14, 2025

Cheryl A. Smith

Cheryl A. Smith, CVR-M

Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
)	
Stacy Murray, SCDC #270820	)	Case No. 2022-CP-23-2304
)	
Applicant,)	
)	
v.	)	ORDER OF DISMISSAL
)	<i>(with prejudice)</i>
State of South Carolina,)	
)	
Respondent.)	ENTERED COMPUTER
)	

25 APR 8 PM 2:49
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This matter comes before the Court by way of an application for post-conviction relief filed May 3, 2022. On July 24, 2021, the State filed a return and motion to dismiss the application on the grounds that the application was untimely filed, and in the alternative, the allegations presented have been waived by Applicant’s voluntary guilty plea.

A hearing on the State’s Motion to Dismiss was convened on October 8, 2024, at the Greenville County Courthouse before the Honorable Patrick C. Fant, III. Applicant was present with his appointed counsel, Susannah C. Ross, Esq., and Assistant Attorney General Tommy Evans, Jr., of the South Carolina Attorney General’s Office represented the State. This Court received testimony from Applicant and heard arguments from both parties. At the conclusion of the hearing, this Court took the matter under advisement.

After consideration of the issues raised in Applicant’s application and the arguments of counsel, this Court advised the parties by email October 28, 2024, that it would grant the State’s Motion to Dismiss. At that same time, the court also requested that counsel for the State prepare a

proposed order.¹ This Court now **GRANTS** the State's motion to dismiss the application for the specific reasons set out in this order.

PROCEDURAL HISTORY

Applicant is currently confined in the Trenton Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. A Greenville County grand jury indicted Applicant during a September 2018 term for Trafficking Methamphetamine (2018-GS-23-5197); Possession of Cocaine Base (2018-GS-23-5198); and Failure to Stop for Blue Light (2018-GS-23-0707). R. Asher Watson, Esq., represented Applicant on the charges.

On April 12, 2021, Applicant appeared before the Honorable Edward Miller and pled guilty as indicted. Judge Miller sentenced Applicant to 12 years for the trafficking charge, 3 years for the possession charge, and 3 years for failure to stop for blue light, with all charges to run concurrently, and credit for time served. Applicant did not file a direct appeal.

CURRENT PCR ACTION

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Sixth and Fourteenth Amendment of Constitution Prohibita Prior."
2. "Ineffective counsel."

Applicant is seeking to be re-sentenced to seven years imprisonment.

¹ The proposed order was provided to counsel for Applicant prior to this Court's acceptance. Applicant's counsel was also allowed sufficient time to review the proposed order while this Court made its own detailed review. *See Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019) (providing a "proposed order should be transmitted to opposing counsel" for review and that counsel "should ... alert preparing counsel and the PCR court as to any deficiencies in the proposed order.").

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In addition to carefully considering the record and the arguments presented by counsel, this Court has also had the opportunity to consider Applicant's testimony presented at the PCR hearing and has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

ARGUMENTS PRESENTED

The State argues that the application should be dismissed as untimely pursuant to S.C. Code Ann. § 17-27-45(A). Applicant was sentenced on April 12, 2021. Applicant did not appeal. The application was, therefore, due to be filed on or before April 13, 2022. This application was not filed until May 3, 2022, after the statutory filing period had expired.

Applicant argues that the filing is timely in accordance with the "prison mailbox rule," referencing *Mose v. State*, 420 S.C. 500, 803 S.E.2d 718 (2017), which found that an Applicant's application was entitled to equitable tolling when the Applicant placed his application in the hands of prison authorities prior to the expiration of the statute of limitations, but the application was not filed with the clerk of court until after the deadline had passed. Applicant argued that the notary signed his application on April 11, 2022, and prison authorities received the application on the same day. Applicant argues that any further delay was out of his control and that he should be entitled to equitable tolling considering he delivered his application to prison authorities prior to the expiration of the statute of limitations.

In response, the State argues that Applicant is not entitled to equitable tolling as he did not exercise due diligence in preserving his legal rights. The State argued that Applicant gave his application to prison authorities two days prior to the expiration of the filing deadline, which is an unreasonable time frame to expect the application to be processed and sent from prison authorities

and received, processed and filed by the Clerk of Court. The State argued that the late filing was of Applicant's own doing for failing to diligently file in accordance with the statute.

THE APPLICATION IS UNTIMELY

The Uniform Post-Conviction Procedure Act requires as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of offense or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A). The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. *Peloquin v. State*, 321 S.C. 468, 469 S.E.2d 606 (1996).

There is no confusion as to the statutory deadline which the application is required to be filed by the Clerk of Court in this case. Applicant was sentenced on April 12, 2021, and did not appeal his conviction or sentence. The application was, therefore, due to be filed on or before April 13, 2022, however, Applicant's application was not filed with the Clerk of Court until May 3, 2022, after the statutory filing period had expired.

Mailing does not constitute filing of a PCR application for statute of limitations purposes. *Gary v. State*, 347 S.C. 627, 629, 557 S.E.2d 662, 663 (2001). Rather, the application is deemed "filed" when it is delivered to and received by the Clerk of Court. *Id.* However, there are circumstances which warrant equitable tolling of the statute of limitations, notably, where "circumstances preventing a petitioner from making a timely filing [are] both beyond the petitioner's control and unavoidable despite due diligence." *Ferguson v. State*, 382 S.C. 615, 618, 677 S.E.2d 600, 602 (2009) (quoting *Commonwealth v. Carneal*, 274 S.W.3d 420, 429 (Ky. 2008)) (holding that PCR applicant's failure to timely file due to mental incompetency warranted

equitable tolling of the statute of limitations); *cf. Pelzer*, 378 S.C. at 522, 662 S.E.2d at 621 (determining equitable tolling was not warranted where inmate missed filing deadline due to mailing application to wrong venue).

Applicant argues that he should be entitled to equitable tolling, considering prison authorities received his application on April 11, 2022, two days prior to the statutory deadline. He thereby contends that the delay in filing was beyond his control and should be considered an extraordinary circumstance. Thus, a fact specific determination is warranted to determine if the equitable tolling defense is justified. *Mose v. State*, 420 S.C. 500, 511, 803 S.E.2d 718, 723 (2017). *See Hooper v. Ebenezer Sr. Servs. & Rehab. Ctr.*, 386 S.C. 108, 117, 687 S.E.2d 29, 33 (2009). (“Equitable tolling may be applied where it is justified under all the circumstances. We agree, however, that equitable tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use.”). *see, e.g., Irwin v. Dep’t of Veterans Affairs*, 498 U.S. 89, 96, 111 S.Ct. 453, 112 L.Ed.2d 435 (1990) (“stating that while equitable tolling was allowed where claimant actively pursued remedies but filed defective pleading, or was induced by adversary into allowing deadline to pass, ‘[w]e have generally been much less forgiving in receiving late filings where the claimant failed to exercise due diligence in preserving his legal rights.’”)

Of particular note, prison authorities received Applicant’s application two days prior to the filing deadline. Applicant had one year from the date of his conviction to file a PCR application and chose to submit the application two days prior to the deadline. Any delay in the regular course of processing is entirely avoidable had Applicant exercised due diligence in submitting his application. The narrow window by which Applicant’s filing passed the statutory deadline cannot be construed as so exceptional a circumstance as to warrant equitable tolling. “It is clear under South Carolina law that mailing does not constitute filing.” *Gary v. State*, 347 S.C. 627, 629, 557

S.E.2d 662, 663 (2001). “When a statute requires the filing of a paper or document, it is filed when delivered to and received by the proper officer.” *Id.*

“[T]olling the statute of limitations in circumstances in which an applicant demonstrates the failure to timely file for PCR was due to no fault of his own ‘does not create an exception by which incarcerated litigants may avoid time restrictions.’” *Mose*, 420 S.C. at 510, 803 S.E.2d at 723 citing *Lewis v. Richmond City Police Dep’t*, 947 F.2d 733, 736 (4th Cir. 1991). “Instead, it provides PCR applicants with functionally equivalent time bars and seeks to ensure equal access to the courts for all. *Id.* citing *Lewis*, 947 F.2d at 736. *See Hooper*, 386 S.C. at 115, 687 S.E.2d at 29 (“Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness.” (internal quotation marks and citations omitted)). Thus, in review of the circumstances of each case, the determination must be aimed at protecting fundamental fairness without disregarding the statutory time restriction.

Applicant relies on the holding in *Mose*, in which Mose gave his application to prison authorities on February 18, 2014, and the application was not filed until March 10, 2014 – seventeen days later. Our Supreme Court held that Mose was prevented from timely filing due to circumstances beyond his control. The circumstances in *Mose* are comparable to Applicant’s, however, Applicant submitted his application to prison authorities *two* days before the statutory deadline, as opposed to Mose’s *seventeen*. Our Supreme Court has “expressly decline[d] to adopt a rule that automatically deems a PCR application ‘filed’ on the date an applicant claims it was delivered to prison authorities.” *Mose*, 420 S.C. at 510, 803 S.E.2d at 723-724. As such, this Court finds that Applicant has failed to show that his circumstances warrant a justifiable equitable tolling defense.

CONCLUSION

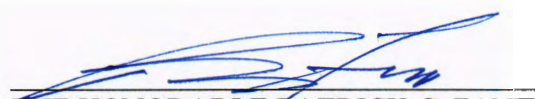
Based on all the foregoing, this Court finds and concludes that the State's Motion to Dismiss is **GRANTED** and this PCR application must be **DENIED** and **DISMISSED** with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. Respondent's motion to dismiss is granted and Applicant's application is dismissed with prejudice; and
2. Applicant is remanded to the custody of Respondent for completion of his sentence.

AND IT IS SO ORDERED this 3rd day of April, 2025.



 THE HONORABLE PATRICK C. FANT
 Presiding Judge

Greenville, South Carolina

Copy mailed to
 Attorney general (KK) Susannah Rosa
 on 4 / 8 / 2025.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Apr 10 2025

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Patrick C. Fant, Circuit Court Judge

2022-CP-23-2304

Stacy Murray , Appellant,

v.

The State, Respondent.

NOTICE OF APPEAL

Stacy Murray appeals the Honorable Patrick C. Fant's Order of Dismissal filed April 3, 2025.

This 10th day of April, 2025

s/ Susannah Ross
Susannah Ross, Attorney at Law
Bar # 11025
330 E. Coffee St.
Greenville, SC 29601
susannah@rossenderlin.com
(864) 242-0029
Attorney for Appellant

Other Counsel of Record:
Kaylee Kemp, Assistant Attorney General
Tommy Evans, Jr., Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
(803) 734-3970
Attorney for Respondent

ROSS & ENDERLIN, PA
ATTORNEYS AT LAW**RECEIVED****Apr 10 2025****S.C. SUPREME COURT**

April 10, 2025

The Honorable Patricia A. Howard
Clerk of the South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

Re: Stacy Murray v. State of South Carolina
Case No. 2022-CP-23-2304

Dear Ms. Howard:

As an explanation of why the Order of Dismissal was improper as required pursuant to Rule 243(c), SCACR, we argue that the equitable tolling should have applied to the Applicant. Mr. Murray testified that he made an effort to file his PCR application in a timely manner. Though it was not notarized and left with prison authorities for mailing until April 11, 2022, two days prior to the filing deadline, the dismissal assumed free access of prison inmates to notaries which was not the case. The fact that the application was notarized April 11 and not filed until May 3, 2022, demonstrates the inefficiency and delays in mailing within the prison system. Clearly the exact date of filing was beyond the Applicant's control as he left the application for mailing over twenty days before it was filed. Because it was notarized and left with prison authorities within one year of his plea, equitable tolling should have applied.

The undersigned was appointed in this matter and moves to be relieved at this time.

Sincerely,

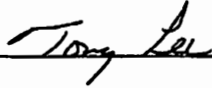


Susannah Ross
Attorney at Law #11205

cc: Assistant Attorney General Tommy Evans, Jr.
Office of Appellate Defense
Greenville County Clerk of Court
Stacy Murry

WITNESSES

Joseph C Corneroli



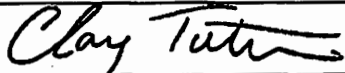
Greenville County Sheriffs Office

3/20/2018

ARREST WARRANT NUMBER

2018A2330202462

**ACTION OF GRAND JURY
TRUE BILL**



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23-05197

CLG

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2018

THE STATE

vs.

STACY DEANGELO MURRAY

Indictment for

0452

TRAFFICKING METHAMPHETAMINE

VIOLATION § 44-53-0375

ENTERED ACC.



STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 TRAFFICKING METHAMPHETAMINE

At a Court of General Sessions, convened on _____ the Grand Jurors of Greenville
 County present upon their oath: **SEP 25 2018**

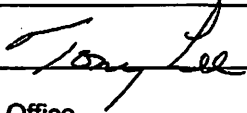
That STACY DEANGELO MURRAY did in Greenville County, on or about the 20th day of March, 2018, knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aid, abet, attempt or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 10 grams of Methamphetamine (Crank). This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR BAR # 100370

WITNESSES

Joseph C Corneroli



Greenville County Sheriffs Office

3/20/2018

ARREST WARRANT NUMBER
2018A2330202464

ACTION OF GRAND JURY
TRUE BILL


FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23-
CLG

035198

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2018

THE STATE

vs.

STACY DEANGELO MURRAY

Indictment for

3009

POSSESSION OF COCAINE BASE (CRACK
COCAINE)

VIOLATION § 44-53-0375

ENTERED ACCT



FILED

JUL 06 2018

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE BASE (CRACK COCAINE)

At a Court of General Sessions, convened on **SEP 25 2018** the Grand Jurors of Greenville
County present upon their oath:

That STACY DEANGELO MURRAY did in Greenville County, on or about the 20th day of March, 2018,
willfully and unlawfully have in his possession and under his control a quantity of Cocaine Base (Crack Cocaine),
a controlled substance. This is in violation of §44-53-375 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR BAR # 100370

WITNESSES

Joseph C Corneroli

Tony Pa

Greenville County Sheriffs Office

3/20/2018

ARREST WARRANT NUMBER
2018A2330202465

ACTION OF GRAND JURY
TRUE BILL

Clay Tuttle
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-23-
CLG

007007

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2018

THE STATE

vs.

STACY DEANGELO MURRAY

Indictment for

0065

FAILURE TO STOP FOR A BLUE LIGHT

VIOLATION § 56-05-0750

ENTERED ACCT

GN

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
FAILURE TO STOP FOR A BLUE LIGHT


At a Court of General Sessions, convened on
County present upon their oath:

the Grand Jurors of Greenville

SEP 25 2018

That STACY DEANGELO MURRAY did in Greenville County, on or about the 20th day of March, 2018, willfully, knowingly, and unlawfully commit the offense of failure to stop for a law enforcement vehicle in that the said defendant while driving on a road, street or highway of the State did intentionally fail to stop when signaled to do so by a law enforcement vehicle using blue lights and/or siren. This is in violation of §56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 100370