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**Dec 23 2025**

**S.C. SUPREME COURT**

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM GREENVILLE COUNTY  
The Honorable Patrick Cleburne Fant, III, Circuit Court Judge

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Appellate Case No. 2025-000684

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STACY MURRAY,

PETITIONER

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

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**RETURN TO PETITION FOR WRIT OF CERTIORARI**

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**PETITIONER'S ISSUE PRESENTED**

Whether the lower court erred by dismissing Petitioner's application for post-conviction relief as untimely because it was notarized before the statute of limitations expired, and equitable tolling applied to the time that elapsed before the Clerk of Court received Petitioner's application?

**RESPONDENT'S STATEMENT OF ISSUE ON APPEAL**

Did the Circuit Judge err in the dismissal of the Petitioner's application for post-conviction relief when the application was filed beyond the one-year statute of limitations established under South Carolina law, when the delay was caused by the actions of the Petitioner by attempting to mail his application a mere two days prior to the statute of limitations lapsing so denying him equitable tolling?

## STATEMENT OF THE CASE

On April 12, 2021, Stacy DeAngelo Murray (Petitioner) plead guilty to the offenses of trafficking methamphetamine second offense (Indictment No. 2018-GS-23-05197)(R. pp. 54-55), possession of crack cocaine (Indictment No. 2018-GS-23-05198)(R. pp. 56-57), and failure to stop for a blue light (Indictment No. 2018-GS-23-007007)(R. pp. 58-59). At the conclusion of his guilty plea the Petitioner was sentenced to a twelve-year period of incarceration for the offense of trafficking methamphetamine, and three years each for possession of crack and failing to stop for a blue light. The sentencing judge ordered that each of these sentences were to be served concurrently. (R. p. 16)

The Petitioner never appealed these convictions, however, on May 3, 2022, the Greenville County Clerk of Court received an application for post-conviction relief (PCR). (R. pp. 18-24) Within this application Petitioner alleged that he is entitled to post-conviction relief due to “an uncounseled conviction resulting in a sentence of imprisonment from being used to enhance the punishment for a subsequent conviction.” (R. p. 21). Petitioner also alleged ineffective assistance of counsel. (R. pp. 20). On July 22, 2024, the Respondent filed a return and motion to dismiss. (R. pp. 26-30). Within their return and motion to dismiss, Respondent argued that this case should be subject to dismissal due to the fact the Petitioner failed to file this application prior to the expiration of the one-year statute of limitations.

On October 8, 2024, this case was called before the Honorable Patrick Cleburne Fant, III for the hearing on this motion for dismissal. Petitioner appeared with his counsel Susannah Conyers Ross, and the State of South Carolina was represented by Assistant Attorney General Tommy Evans, Jr., of the South Carolina Office of the Attorney General.

During this hearing Respondent argued that Petitioner’s application was filed beyond the one-year statute of limitations pursuant to South Carolina law. (R. p. 34 l. 9-16). Respondent also argued that Petitioner seeks a resentencing from the previous plea, which was not the purpose of post-conviction relief. The Petitioner argued that there was some evidence that Petitioner was not satisfied with his counsel so they would be amending the application if they were able to survive this motion to dismiss. (R. p. 35 l. 11-16).

The only person to testify during this hearing was the Petitioner. The Petitioner testified that he put his PCR application in the mail on time and that the delay was beyond his control. (R. p. 36 l. 24-25). Petitioner also argued that there were some delays in the mail due to COVID, and they were in quarantine whenever someone had a “fever or anything.” (R. p. 37 l. 25 – p. 38 l. 4). On cross-examination the Petitioner admitted that after his April 12, 2021 guilty plea he knew that he only had a year to file his post-conviction relief application. (R. p. 38 l. 13-18). The Petitioner also admitted that he got his application notarized on April 11, 2022 on day before Petitioner’s due date. (R. p. 38 l. 25 – p. 39 l. 2). Petitioner asserted that he gave the application to the post-master at the prison, she notarized it, and it was up to her to mail it. (R. p. 39 l. 5-7). The Petitioner admitted that he waited until April 11 when the deadline was April 12, because he thought it would be accepted if postmarked before the expiration date. (R. p. 39 l. 11-15).

On April 3, 2025, the PCR judge issued an order of dismissal. (R. pp. 45 – 51). Within this order the PCR judge decided:

“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,<sup>1</sup> as opposed to Mose’s *seventeen*. Our Supreme Court has “expressly decline[d] to adopt a rule that automatically deems PCR application ‘filed’ on the date the applicant claims it was delivered to prison authorities. As such, this Court finds that Applicant has failed to show that his circumstances warrant a justifiable equitable tolling defense.” (R. p. 50)(citation omitted).

The PCR judge decided to grant the State’s motion to dismiss, and the court ordered it dismissed with prejudice. (R. p. 51). Petitioner filed a petition for writ of certiorari on September 8, 2025. The Respondent’s return to this petition follows.

### STANDARD OF REVIEW

Mailing of a petition for post-conviction relief does not constitute filing for statute of limitations purposes. *Gary v. State*, 347 S.C. 627, 629, 557 S.E.2d 662, 663 (2001). The party claiming the statute of limitations should be tolled bears the burden of establishing sufficient facts to justify it’s just. *Hooper v. Ebenezer Sr. Services and Rehabilitation Center*, 386 S.C. 108, 115, 687 S.E.2d 29, 32 (2009). Equitable tolling, is a doctrine rarely applied in South Carolina to stop the running of the statute of limitations. *Pelzer v. State*, 378 S.C. 516, 520, 662 S.E.2d 618, 620 (2008).

### ARGUMENT

- I. The PCR court correctly dismissed the Petitioner’s application for post-conviction relief since it was not filed within the one-year time limit pursuant to South Carolina law, and since the delay was caused by the actions of the Petitioner by attempting to mail his application only one day prior to the deadline he was not entitled to equitable tolling.**

The South Carolina Code of laws specifically does not allow an application for post-conviction relief to be filed beyond the one-year statute of limitations. Section 17-27-45 specifically states:

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<sup>1</sup> The Petitioner submitted his application to the mailroom at the prison on April 11, 2022 (R. p. 24), it was due on April 12, 2022. So the Petitioner submitted his application only one day before the expiration of the Statute of Limitations.

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

S.C. Code Ann. §17-27-45(1995).

Petitioner plead guilty and was sentenced on April 12, 2021. He never filed an appeal; therefore, his application for post-conviction relief had to be received by the Greenville County Clerk of Court by April 12, 2022. An application for post-conviction relief is deemed filed for purposes of the one-year limitations period governing the application, when it is delivered to and received by the Clerk of Court, not when it is delivered to prison personal for mailing. *Mose v. State*, 420 S.C. 500, 803 S.E.2d 718 (2017). During the post-conviction relief hearing Petitioner testified that they were in quarantine because of COVID. (R. p. 38 l. 2-4) However, he also testified that he thought it was delivered in a timely manner. (R. p. 38 l. 5-8). Petitioner testified that he read something that stated that if the application is postmarked prior to the deadline, it's timely. (R. p. 39 l. 13-15). Petitioner never testified that he could not mail the application within the one-year statute of limitations because COVID lockdowns caused delays. However, the Petitioner also testified that he believed if it was postmarked prior to the deadline it was filed on time. That was an incorrect interpretation of the law by the Petitioner. Ignorance of the statute of limitations is not an excuse for late filing. *Leamon v. State*, 363 S.C. 432, 435, 611 S.E.2d 494, 496 (2005).

During the hearing and their petition Petitioner compared his case to the South Carolina Supreme Court decision of *Mose v. State*. In *Mose*, the Appellant was convicted on March 7, 2013, and his PCR application was dated February 18, 2014. It was not filed in the Clerk's office until March 10, 2014. *Mose*, 420 S.C. at 504, 803 S.E.2d at 719-20. There were seventeen days between the date of the application and the actual filing. The Supreme Court decided:

Turning on the facts of this case, we find the PCR judge erred in dismissing Mose's application as untimely. Here Mose relinquished control of his application on February 18, 2014, when he placed it in the hands of the prison authorities for mailing. Mose provided proof, which was not contradicted by the State, that his application was notarized that same day. Moreover, Mose alleged in his affidavit that an associate warden confirmed Mose's application was mailed prior to the expiration of the one-year statute of limitations. Thus, viewing the facts presented in the light most favorable to Mose, we believe he was prevented from timely filing for PCR due to circumstances beyond his control. Therefore, the one-year statute of limitations should have been tolled from February 18, 2014 until March 10, 2014.

*Id.*, 420 S.C. at 511-21, 803 S.E.2d at 723.

In *Mose*, the Appellant took his application to the mail room seventeen days prior to the expiration of the statute of limitations. This should have been plenty of time for the application to have gotten to the Clerk of Court. In the present case Petitioner did not get the application to the mail room until one day prior to the expiration of the statute of limitations. It is not feasible that it would have arrived on time. That is solely the fault of the Petitioner. He is not entitled to equitable tolling.

During the hearing Petitioner stated that his prison was in quarantine due to COVID, however, he never mentioned how long. Was it for the entire year? Petitioner had a year to deliver his PCR application to the mailroom. He waited until the day before it was due. The Petitioner testified that he thought that if the application was postmarked before the expiration of the statute of limitations it would be considered filed before the expiration of the statute of limitations. Respondent argues that quarantine was not the reason for his late mailing, but it was his lack of knowledge of the law.

During his testimony, Appellant also discussed the difficulty he had getting materials from his counsel. That is irrelevant. There was never an argument raised by the Petitioner, that the Greenville County Clerk of Court never received the application. The application was received

after the expiration of the statute of limitations. The Application was stamped filed by the Clerk of Court on May 3, 2022.

The Respondent argues that the judge in this case made the correct decision. Petitioner did not attempt to file his application until one day before the application was due. He should have known that there was no way it would get there on time. The Respondent argues that although he knew it would not arrive on time, Petitioner thought if it was postmarked before the filing date it was considered filed on time. That was a misinterpretation of the law, which does not absolve him of the responsibility of filing the application prior to the expiration of the statute of limitations.

The PCR judge made a fair and lawful ruling. The judge stated that he was granting the motion of the Respondent because the circumstances were not comparable to the *Mose* decision. Petitioner mailed his application one day before it was due, instead of seventeen days as in *Mose*. The PCR judge determined that the Petitioner failed to show there were circumstances that warranted equitable tolling. The PCR judge was correct in his determination. Equitable tolling is a doctrine that should be used sparingly and only when the interest of justice compels its use. As part of this determination, the judge should consider any reasonably verifiable evidence of the date the document was purportedly in the possession of prison authorities for purposes of mailing. *Mose*, 420 S.C. at 511, 803 S.E.2d at 723. Petitioner admitted that the application was notarized and given to the prison postmaster for mailing the day before the expiration of the statute of limitations.

Evidence provided to the PCR judge revealed that the Petitioner waited until the day before the statute of limitations was to expire to submit his application for mailing. Petitioner had an entire year to submit this application. Petitioner stated that his prison was in quarantine due to COVID. However, Petitioner never testified that this quarantine lasted the entire year. Petitioner

also stated that he thought the law allowed the application to be filed near the expiration if the postmark was before the expiration of the statute of limitations. This revealed that he waited until the last day knowing that this was not going to arrive at the Clerk of Court's office prior to the expiration date but erroneously believing that a postmark before the expiration of the statute of limitations was valid. The PCR judge made the correct decision. This was a situation that was within the Petitioner's control. He could have mailed that application earlier, however, he chose not to since he thought he was good if it was postmarked prior to the expiration date. This case does not compare to *Mose* which was mailed seventeen days prior to the expiration and not one day as the case before this Court. Evidence supports the PCR judge's findings that Petitioner failed to prove that the delay was beyond his control, so he is not entitled to equitable tolling. Certiorari should be denied.

**CONCLUSION**

For the reasons stated above the Respondent argues that the PCR judge did not commit any error in the dismissal of the Petitioner’s PCR application. Therefore, the Respondent requests that this petition for certiorari be denied.

Respectfully submitted,

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