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STATE OF SOUTH CAROLINA COUNTY OF YORK	IN THE COURT OF COMMON PLEAS FOR THE SIXTEENTH JUDICIAL CIRCUIT
Quentin J. Evans, #363391, Applicant, v. State of South Carolina, Respondent.	CASE NO. 2025–CP–46–02258 **CONSENT ORDER GRANTING APPEAL PURSUANT TO AUSTIN V. STATE**

This matter comes before the Court by way of Quentin J. Evans's (Applicant) application for post-conviction relief (PCR) filed on June 5, 2025. Respondent, the State of South Carolina, made its Return.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections (SCDC). During its April 2014 term, the York County Grand Jury indicted Applicant for Homicide by Child Abuse (2014-GS-46-01229). David Clayton Cook, Esquire (Trial Counsel), represented Applicant. Solicitor Kevin Scott Brackett and Deputy Solicitor Willy Thompson of the Sixteenth Circuit Solicitors Office prosecuted the case.

On March 16–19, 2015, Applicant proceeded to a jury trial before the Honorable Joseph Derham Cole, Sr., circuit court judge. The jury found Applicant guilty as indicted. On March 19, 2015, Judge Cole sentenced Applicant to forty-five (45) years' imprisonment for Homicide by Child Abuse, with credit for time served.

Applicant filed a timely notice of appeal. On January 29, 2016, Appellate Defender David Alexander of the South Carolina Commission on Indigent Defense perfected Applicant's appeal by filing an Anders[1] brief, raising the following issue:

> Whether the trial judge committed plain error by not charging the jury on the defense of accident when such a charge was supported by the evidence, the defendant's testimony, and the defense's theory of the case as stated in its arguments to the jury?

On November 23, 2016, the South Carolina Court of Appeals dismissed Applicant's appeal after review pursuant to Anders in an unpublished opinion. State v. Evans, Op. No. 2016-UP-495 (S.C. Ct. App. filed Nov. 23, 2016). The Remittitur was returned to the lower court on January 11, 2017.

First PCR Action: 2017-CP-46-01938

On July 6, 2017, Applicant filed his initial application for post-conviction relief along with an amendment, alleging that he was being held in custody unlawfully because of the following (excerpts verbatim):

1. Ineffective Assistance of Counsel.
   a. "Counsel was ineffective for failing to investigate this case."
      i. "Counsel has a duty to investigate."
   b. "Counsel failed to request for a jury instructions on the defense of accident when such a charge was supported by the evidence, the defendant testimony and the defense's theory of the case."
   c. "Counsel failed to object and argue the state never established a logical connection between the smoking photo's and the crime charged."
   d. "Counsel abandon cross-examination of computer specialist."
   e. "Counsel failed to obtain an expert witness for the defense."
   f. "Counsel failed to properly acquaint himself with the law and the facts surrounding my case and as a direct result of his intentional negligence, there was a very serious error in his assessment of both the law and the facts."

[1] Anders v. California, 386 U.S. 738 (1967).

On October 26, 2017, the State filed its Return. On April 17, 2023, an evidentiary hearing was convened before the Honorable Eugene C. Griffith, Jr. at the Moss Justice Center in York, South Carolina. Applicant was present and represented by Michael D. Brown, Esquire. Assistant Attorney General Zachary W. Jones represented the State. On September 6, 2023, Judge Griffith filed his Order of Dismissal dismissing the application with prejudice.

CURRENT APPLICATION

On June 5, 2025, Applicant filed this application for post-conviction relief, in which Applicant alleges he is being held in custody unlawfully based on the following (excerpts verbatim):

1. Ineffective Assistance of Counsel
   a. "Belated"
   b. "Counsel was ineffective for failing to file Notice of Appeal."

Applicant requests relief in the form of "[s]entence reduction, vacate conviction and sentence and remand for a judgment and any other relief this court deems just and proper."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

By way of his current application, Applicant has provided the following ground: Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant is requesting a belated appeal of the Order of Dismissal dated September 6, 2023, and issued on Case No. 2017-CP-46-01938. In support of this ground, the following factual support was provided: Applicant's counsel failed to file Notice of Appeal.

In Austin, the South Carolina Supreme Court provided for a belated appellate review of an initial post-conviction relief action where prior post-conviction relief counsel fails to timely appeal the denial of the application. Id. at 454, 409 S.E.2d at 396; see also S.C. Code Ann. § 17-27-100 (right to appeal final judgment by post-conviction relief court). Pursuant to Austin, an evidentiary

hearing may be conducted in regard to a successive post-conviction relief application "on the issue of whether in fact the petitioner requested and was denied an opportunity to seek appellate review." Id. at 454, 409 S.E.2d at 396. "If the circuit court finds that the petitioner never in fact sought discretionary review, the petitioner may appeal that finding." Id. at 455, 409 S.E.2d at 396. Austin, therefore, allows an applicant to petition the South Carolina Supreme Court for discretionary review of the dismissal of his initial post-conviction relief application, and may do so outside the ordinary time limits for bringing such an appeal.

Here, both Applicant and Respondent agree that Applicant requested and was denied an opportunity to seek appellate review of his initial post-conviction relief application. Based upon the consent of counsel for both parties, this Court finds that Applicant is entitled to a belated appellate review of his initial post-conviction relief application pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

This Court notes that Applicant, through counsel, must serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of the judgment to secure the appropriate appellate review, and file such notice in the South Carolina Supreme Court within ten (10) days of service. Rule 203 & 243, SCACR. Furthermore, Applicant and counsel are directed to Rule 203, 207, and 243, SCACR regarding to ensure the proper filing and perfecting of an appeal.

|CONCLUSION PAGE FOLLOWS|

IT IS THEREFORE ORDERED:

1. That Applicant is granted a belated appeal of his initial post-conviction relief application pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

AND IT IS SO ORDERED this 10th **day of** February**, 2026.**

THOMAS J. RODE
Presiding Judge
Sixteenth Judicial Circuit

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I consent,

/s Chelsey F. Marto
Chelsey F. Marto
Attorney for Applicant

I consent,

Jordan B. Killough
Attorney for Respondent

York, South Carolina