IN THE COURT OF APPEALS OF SOUTH CAROLINA

(or South Carolina Supreme Court – Rule 243 Petition for Writ of Certiorari)
Josh R. Grizzard,

Appellant / Petitioner,
v.
McCormick County Magistrate / State of South Carolina,

Respondent.
Case No. 2024-CP-35-00085

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S.C. SUPREME COURT

(Circuit Court of McCormick County)
NOTICE OF APPEAL

(and/or PETITION FOR WRIT OF CERTIORARI TO REVIEW ORDER DISMISSING REQUEST TO FILE POST-CONVICTION RELIEF APPLICATION)
TO: The Honorable Frank R. Addy, Jr., Circuit Court Judge

TO: Clerk of Court, McCormick County

TO: South Carolina Attorney General's Office (PCR Section)
PLEASE TAKE NOTICE that Josh R. Grizzard, Appellant/Petitioner, hereby appeals to the South Carolina Court of Appeals (and/or petitions the Supreme Court for a writ of certiorari under Rule 243, SCACR) from the Order/Judgment entered August 24, 2026 (electronically signed that date), which dismissed his request to file a Post-Conviction Relief (PCR) action and ended the case.
Appellant's Information

Name: Josh R. Grizzard

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Pro Se
Statement of the Case / Questions Presented

Did the Circuit Court err as a matter of law in holding that a pro se criminal defendant is categorically barred from filing a PCR application under the Uniform Post-Conviction Procedure Act simply because he represented himself at trial and on appeal?
Did the Circuit Court err in refusing to consider Petitioner's due-process claim under the Fourteenth Amendment and Cole v. Arkansas, 333 U.S. 196 (1948)—that the conviction was sustained on a factual theory ("repeatedly yelled profanities") that is contradicted by the arrest video and the arresting officer's own statements—when that claim attacks the constitutional validity of the conviction itself?
Did the Circuit Court err by treating the request as frivolous and successive

without allowing Petitioner a full and fair opportunity to present the constitutional claim on the merits, contrary to S.C. Code Ann. § 17-27-20(A)(1), § 17-27-70, and the "one full bite at the apple" principle?

Concise Statement of Facts

Petitioner was convicted in magistrate court of disorderly conduct. He appealed. Judge McLeod affirmed. Further appeals to the Court of Appeals and Supreme Court were dismissed and a remittitur issued (Appellate Case Nos. 2025-001193 and 2025-002183).

Petitioner thereafter sought to file a PCR application raising, among other things, a Fourteenth Amendment due-process claim: the Circuit Court on direct appeal sustained the conviction on the factual assertion that Petitioner "repeatedly yelled profanities," yet the actual arrest video (previously reviewed by the courts) shows no such repeated yelling, and the arresting officer stated on video and at the bench trial that the arrest was for the use of vulgar language (protected speech under Cohen v. California, 403 U.S. 15 (1971)).

The Circuit Court (Judge Addy) held a hearing on August 24, 2026, and dismissed the request, ruling that (1) a person cannot file a PCR "against himself" because he was pro se, and (2) the grounds were the same as those previously litigated and therefore barred.

Argument Summary

The Order confuses ineffective-assistance claims (which a pure pro se litigant generally cannot raise against himself) with pure constitutional claims attacking the validity of the conviction. Section 17-27-20(A)(1) authorizes PCR for constitutional violations. Lewis v. State (2023) rejects a categorical bar for pro se defendants. The due-process claim under Cole is structural in nature and goes to whether the judgment rests on a factual theory contradicted by the objective record. The PCR Act requires courts to look to substance over form. Petitioner is entitled to at least one full and fair opportunity to present this claim.

Relief Requested

Reverse the Order of August 24, 2026, remand with instructions that the Circuit Court accept and docket a proper PCR application under the Uniform Post-Conviction Procedure Act (captioned Applicant v. State of South Carolina), appoint counsel if Petitioner qualifies as indigent, and afford him a hearing on the constitutional claims.

Respectfully submitted this 4 day of Sept., 2026.

Josh R. Grizzard, Pro Se

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