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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT
APPEAL FROM CHARLESTON COUNTY
The Honorable S. Bryan Doby, PCR Action Judge
2026-002054

TERRELL CHANDLER, #300938,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

RULE 243 EXPLANATION

Petitioner filed a notice of appeal on September 16, 2026, appealing the denial of his post-conviction relief application. On September 18, 2026, the South Carolina Supreme Court gave Petitioner twenty days to provide a sufficient explanation as to why the appeal should not be dismissed. In support of the explanation Petitioner submits the following:

1. Petitioner was convicted of murder and possession of a firearm during the commission of a violent crime on June 16, 2010.
2. Petitioner's first PCR application was denied October 20, 2014, and the denial affirmed on appeal and remittitur send May 3, 2016. He pursued a federal habeas action, which was also denied.
3. Petitioner pursued this post-conviction relief action by filing the application August 24, 2020. At his motion to dismiss hearing he proceeded forward on two claims: one, that newly discovered evidence on account of Petitioner's co-defendant recanting and acknowledging Petitioner's lack of involvement in the case and, two, newly discovered evidence of a favorable plea offer.

4. Counsel for Petitioner submits that claim one specifically warrants the appeal proceeding forward in this case because it is properly classified as newly discovered evidence, not as successive and untimely.
5. A person may institute a PCR action if "there exists evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice." S.C. Code Ann. § 17-27-20(A)(4). If the petitioner contends there is evidence of a material fact not previously presented, under the discovery rule, the PCR application must be filed within one year after the date of actual discovery of the facts by the petitioner or after the date when the facts could have been ascertained by the exercise of reasonable diligence. S.C. Code Ann. §17-27-45(C).
6. To prevail, Petitioner must show the newly-discovered evidence: is such that it would probably change the result if a new trial were granted; has been discovered since the trial; could not in the exercise of due diligence have been discovered prior to the trial; is material; and is not merely cumulative or impeaching. *State v. Spann*, 334 S.C. 618, 619–20, 513 S.E.2d 98, 99 (1999).
7. Petitioner's co-defendant, Storme Carr, executed an affidavit on August 10, 2024, stating that Petitioner was not within the vicinity of the crime the night of the incident, that he was present for the incident, and that he was coerced by law enforcement into blaming Petitioner for the incident in exchange for leniency.
8. Carr's testimony at the PCR hearing correlated with his proffered testimony outlined in the affidavit.

9. Because the affidavit was executed on August 10, 2024, and Petitioner filed this PCR on August 24, 2020, the application was filed within one year of actual discovery as required by §17-27-45(C).
10. The PCR court erred in concluding the evidence was not newly discovered because it "could have been known before" and because the co-defendant did not testify at trial. Under §17-27-45(C), the question is not whether the evidence *could theoretically* have been known at some earlier point, but whether it was actually discoverable through reasonable diligence. Both Petitioner and Carr testified that they had no contact for years while incarcerated and Carr did not disclose his willingness to recant until recently. This testimony provides an arguable basis that the evidence was not discoverable earlier, contrary to the PCR court's conclusion.
11. The PCR court erred in concluding Carr's affidavit cannot constitute newly discovered evidence because he did not testify at trial. South Carolina's standard does not require that the witness have testified at a co-defendants trial to submit a statement exonerating Petitioner; it requires only that the evidence be material, discovered since trial, and not discoverable earlier through reasonable diligence. Carr's affidavit meets these criteria.
12. This evidence is material, not cumulative and impeaching, and could have impacted the outcome of trial. Specifically, a favorable witness to the defense from someone who could have testified to his whereabouts at the time could have made a significant impact in a case, like Petitioner's, that was centered around circumstantial evidence.
13. Petitioner contends that full briefing is appropriate and necessary in this case as the issue is properly considered newly discovered evidence and the Court erroneously considered the allegation untimely, successive, and not newly discovered evidence.

For these reasons, Petitioner has presented an arguable basis for appeal under Rule 243(c), and full briefing is warranted.

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