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THE SUPREME COURT OF SOUTH CAROLINA

S.C. SUPREME COURT

RE: William J. Henry v. State

Appellate Case No: 2026-002131

Since Rule 234(c) requires an explanation as to why the determination was improper. The lower court has determined that this action is barred as being successive and/or as being untimely under the statute of limitations.

The filing Procedure for PCR is 17-27-45. We turn to 17-27-45(c) which makes clear; if the applicant contends that there is evidence of material facts not previously presented and heard that required vacation of the conviction or sentence, the applicant must be filed under this chapter within one year of the dated of actual discovery of the facts by the applicantthis is well pleaded in my Response.

The Respondent is estopped from asserting a defense of statute of limitation, or successive to the applicant's last PCR, resjudicate and the like defense, because the State's failure to filled a timely Answer.

Lets look at the State's charged of murder. Its say, Applicant was sentenced on February 4, 2009. and the remittitur from his direct appeal was returned on or about December 12, 2011. This application was not filed until April 10, 2024, well beyond the statutory filing period. See page two of Final Order of

Dismissal. This is a manifest injustice in the place of the record. See McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (S.C. 2013) where the court made clear, where an applicant alleges facts that would established an exception to either the statute of limitation or the prohibition against successive PCR application and those facts are not conclusively refuted by the record before the PCR court, a question of fact is raised which can only be resolved by a hearing. Here it would be a manifest injustice to signed this order for the State.

The question remains whether he is entitled to relief? The Respondent has failed to make a prima facie showing that Applicant is not entitled to relief, by omitting the Word Murder from its pleading. As with this case Griffin v. Martin, 785 F.2d 1172 (4th Cir. 1986) this court announced, statutory definition has not altered in any way the ingredients which is the common law deem essential elements of the crime of murder. The definitions now located in § 16-3-10 in no wise affects ingredients which are necessary to murder, but leaves them exactly and in every particular as they stood at common law. State v, Judge, 208 S.C. 497, 38 S.E. 2d 715, 719 (1946). Consequently, the element of criminal intent for example, though not alluded to in § 16-3-10, still is, in South Carolina an essential element of the crime of murder.

Wherefore, the Applicant has satisfy the showing he is entitled to relief therefore this final order of judgment must be denied.

Dated
October 18th 2026

William Henry