

2012-212-51

Terrall Flood, 302995  
Doe CI/SS-2108  
990 Wilsacky Hwy.  
Bishopville, S.C. 29010

RECEIVED

AUG 08 2012

August 7, 2012

S.C. SUPREME COURT

Donal E. Shearouse  
Clerk of Supreme Ct.  
P.O. Box 11330  
Columbia, S.C. 29911

Re: Terrall Flood v. State of S.C., 2012-212551, i.e. enclosed:  
Required Explanation per Rule 243(c), SCACR.

Dear Mr. Shearouse:

please see enclosed the Required explanation to my  
P.C.R appeal filed to the honorable Court, as it  
is due back in your office by August 16, 2012,  
please see I have promptly complied to  
this directive given by the Court and did  
provided to you the written explanation with  
to include the Proof of Service as is reflecting  
the Respondent's Counsel have been served with  
same.

Mr. Shearouse I further request for you to  
provide me with a copy of this pleadings having  
your office seals and stamps on it for my records.  
As soon as practical, I am thanking you in advance  
for your time and help and I look to hear from you  
real soon.

Respectfully Submitted,  
Terrall Flood  
Terrall Flood  
990 Wilsacky Hwy.  
Bishopville, S.C. 29010  
Petitioner, on se

August 7, 2012  
enclosures

TT/cm

cc: S.H. White Esq.  
Files/TE

State of South Carolina  
In the Supreme Court  
Appeal From Lancaster County  
Court of Common Pleas  
Hon. Earnest Kinard, Cir. Judge  
Case # 2012-212551

Terrall Flood, 302995, \_\_\_\_\_, Petitioner,

vs.

State of South Carolina, \_\_\_\_\_, Respondent.

Required Explanation to  
Appeal pursuant to Rule 243, SCACR.

Other Counsel of Record  
Suzanne H. White Esq.  
Asst. Atty General  
P.O. Box 11549  
Columbia, S.C. 29211-1549  
Respondent

Terrall Flood  
LACI/302995  
990 Wisbeck Hwy.  
Bishopville, S.C. 29010  
Petitioner

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S.C. SUPREME COURT

## Explanation to Why the Supreme Court Must entertain Petitioner Flood's Appeal:

Petitioner Jaccall Flood filed a timely appeal to post conviction relief final order of dismissal and the Lower Court ruled that Petitioner was time barred and that the PCR was successive; Petitioner comes now that to show that the Lower Court rulings are improper and the Supreme Court is compelled to reverse the Lower Court dismissal to the PCR and grant Petitioner relief, i.e.

Petitioner Flood relies on the following legal authority as taking a similar position that he is entitled to have his appeal granted. Petitioner will absolutely state that Dice v. State, 303 SC 448, 409 SE2d 392 (1991); because Petitioner issue about the Belcher Case is not time barred and for it is a fact that the Supreme Court could not review an issue not presented in the Lower Court, therefore compelling the Petitioner to raise, however, Petitioner is situated as same as is see Franklin v. Maynard, 356 SC 276, 588 SE2d 604 (2003); see New rule etc. new procedures, as here in Petitioner's case likewise in Belcher, supra. the decision by the Court whereas it stopped the lower from using the extreme malice formations with deadly weapon, as the Court did reverse cases from far as 1894 and 1895, hereby making it surely effective to Petitioner's appeal to PCR, it is established by the trial record that the officer even testified that the Petitioner did not use hate or any other criminal intents to

defend himself by because Petitioner did testify that he was sleep when the Police arrived and he thought that the commotion at the front door was his ex-girlfriend's boyfriend who made threats towards him prior to the incident happening with the Police, see trial transcript; Petitioner contends a change in the Law constitutes sufficient reason to file a successive PCR application, and this is what the Lower Court are improper for overlooking in Petitioner's case for PCR, now, an application can never be viewed as successive" in those cases in which like the Butcher, supra., now Petitioner comes to the Supreme Court showing that Petitioner did demonstrated that his current claims were unavailable to him at the time of his previous application, and he could not collaterally raise Counsel's failure to object to the jury charge because it was not proper under the prevailing law. as it is covered. see Robinson v. State, 308 S.C. 74, 417 SE2d 88 (1998) Culmore v. State, 314 S.C. 453, 445 SE2d 454 (1994) (finding that trial Counsel's effectiveness is judged by prevailing norms; Counsel need not anticipate future changes in the law). South Carolina changes to the Malice charge as in not to use it because not being good on the terms about the use of a deadly weapon occurred well after the Petitioner's conviction and a few years after the Petitioner's filed his first PCR application; it is also clearly documented

in the Final Order Of Dismissal from the Petitioner's First Post Conviction Relief and in the Appeal to Appellate Court that the issues raised and the time of the ruling were done to the Petitioner's Case after all effective Fixed Laws was Settled in *Belcher v. State*, Op. No. 26729, (2009), Petitioner further explicitly states that all other issues raised were ones that were improperly evaluated due to the appointed Counsel of the PCR case inadequately and inaccurately raising them to the PCR court at the evidentiary hearing, and it is also by facts that the PCR Counsel failed to seek a ruling of law to many of issues presented to the Court by way of the pose filed per application that of which it being a clear and established cause to show a deprivation to due process to have a fair review given to Petitioner's initial collateral attack to his imposed sentences and convictions. See *Coleman v. Thompson*, 501 U.S. 722, (1991) (holding that inadequate assistance of counsel at initial review collateral proceedings does establish cause for a prisoner's procedural default of a claim of ineffective assistance at trial,) see also quoted in *Martinez v. Ryan*, 566 U.S. — (2012). Petitioner will explicitly state unequivocally that he has a guaranteed right pursuant to the U.S. Const. 6th and 14th Amend. to receive a fair hearing and to be able to present his case on an appeal without being denied due process by the obstacles and snares the Respondent puts in place to prevent him with and by, and this is why the Court must

grant his appeal by the herein stated required explanation pursuant to Rule 213(c), SCACR, per se the U.S. Const. 14<sup>th</sup> and 11<sup>th</sup> Amend. and accordingly to S.C. Const. Art. V. § 21, all that of which is well settled to the herein stated authorities.

Conclusion

Petitioner Flood respectfully submitted and request that the Court entertain his appeal and grant relief after reviewing his case on Post Conviction Relief, with it all shown and complied to as required by the rules and laws settled by this honorable Court, this 7 day of August 2012.

August 7, 2012

Respectfully Submitted,  
s/ Terrall Flood

Terrall Flood, 302995  
See CI/SS-2108  
990 Wisacky Hwy.  
Bishopville, S.C. 29010  
Petitioner, po se

