

The Supreme Court of South Carolina
Honorable Daniel E. Shearouse
Clerk of Court
P. O. Box 11330
Columbia, South Carolina
29211

RECEIVED

JUL 16 2014

S.C. SUPREME COURT

Re: Marro Kinoyes v. State
Appellate Case No. 2014-001071

Dear Mr. Shearouse,

I am this, July 7th 2014, in receipt of
your letter dated June 30th 2014 and the order
of dismissal.

Enclosed is a motion to reconsider
a copy of which I certifiy has been served
this day of July 7th 2014 by placing to
in the metropolitan mail box addressed to
Mrs Karen C. Patigan.

Respectfully
Marro Kinoyes

Brothamille SC
2014 July 7th

The Supreme Court of South Carolina

Marro Arias,
Petitioner,

Motion to Reconsider

vs.

State of South

Carolina,

Respondent.

App. C/No. 2014-001071

Lower court No. 2012 CP 307208

Petitioner proceeding pro se would move the Court to reconsider its dismissal on the above caption matter for the following reasons.

1) The proceedings were fundamentally unfair in violation of due process. I was never appointed counsel in Petitioner's original application for PCR where the state had the application dismissed based on law that had been abrogated 3 years before. Applicant had no way to know this at the time because his only access to any case passed 2014 is only on an automated computer which the Petitioner did not have access to one because he was being denied that right at that time.

This is clearly an external factor outside of the control of the Petitioner. And the State of South Carolina committed fraud through a misrepresentation of the law. All of this is in violation of due process and equal protection of law under the United States Constitution.

2) Petitioner was never given an evidentiary hearing on any of the merits for any of his claims. Nor has he been afforded fair opportunity to appeal his state conviction which he has as of right.

The Petitioner was required to file an explanation under 243(e) SCACR without even knowing what the lower courts decision was and what all ruled upon. He was not able to file 59(e) nor obtain the evidence necessary to prove to the courts that there had in fact been a Brady violation as well as a ~~Robles~~ violation, a Miranda violation, a Edwards violation, and a Jackson violation. This is all due to PER Counsel's failure to obtain this evidence and because of Petitioner's confine-

ment he is unable to obtain this evidence and has expressed to counsel the importance of this evidence.

Due to South Carolina law Petitioner is unable to file any motions or pleadings while represented by counsel and there have been effectively denied the appellate process through the appointment of state counsel which is the most important right the Petitioner has in the state of South Carolina. Because PCR Counsel is his only aid to protect his so much needed 6th Amendment right to counsel at the trial which convicted him.

3) Under South Carolina Law Petitioner is clearly entitled to an evidentiary hearing to determine the merits of his claims. This would be pursuant to Austin v. State, 305 S. C. 453, 409 S. E. 2d 395 (1991) and also King v. State, 308 S. C. 348, 417 S. E. 2d 808 (1992). Because Petitioner did not knowingly and intelligently waive his right to appeal. Both the appeal of PCR itself and the appeal of the PCR he should be entitled to an evidentiary hearing.

Under South Carolina Law Petitioner is not barred by the Statute of limitations nor is his application to be considered excessive see Austin, supra, Odum v. State, 337 S.C. 256, 523 S.E. 2d 753 (1999); Wilson v. State, 348 S.C. 215, 559 S.E. 2d 581 (2002) (reaffirming), Davis v. State, 288 S.C. 290, 392 S.E. 2d 60 (1986); White v. State, 263 S.C. 110, 208 S.E. 2d 35 (1974)

For the Supreme Court to bar Petitioner on the basis of statute of limitations and successiveness would make all of those decisions meaningless or it would just add emphasis to the fact that Petitioner is being denied equal access to the appellate process on his first appeal as of right to his United States Sixth Amendment right to counsel and thereby being denied his Sixth Amend. right to effective assistance of counsel by state procedures

4.) Petitioner timely asserted the defense of waiver to the statute of limitations and successiveness defenses which the state relies on for dismissal of the Application. The state

Failed to assert these defenses in a timely fashion as mandated by Congress in the rules and applicable statutes.

This was argued in pleadings but no hearing was held. The State knew the time frame in which they must plead therefore they cannot say they did not knowingly and intelligently waive their right to assert. The State also knows the proper proceedings to obtain additional time to plead and failed to request same.

Therefore the Apprehensions should not have been dismissed based on those defenses.

Whereby Petitioner would ask this Court to please reconsider dismissing the Petition and grant writ of Certiorari to allow the Petitioner to argue the grounds for relief set out to the lower court in this motion for default judgment.

Respectfully,
Marro H. Rojas

THE DEPARTMENT OF CORRECTIONS HAS NOT CENSORED
THIS ITEM. THEREFORE, THE DEPARTMENT DOES NOT
ASSUME RESPONSIBILITY FOR ITS WRITTEN CONTENTS.

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