

STATE OF SOUTH CAROLINA }
COUNTY OF HORRY }

Michèl A. DUKES, ^{SR.} #311176
Applicant,

vs.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON
PLEAS FIFTEENTH JUDICIAL
CIRCUIT

C/A No. 2013-CP-26-2886

WRITTEN EXPLANATION
REQUIRED BY RULE 243(c)
SCACR

1.) Sufficient Explanation for the Successive Application.

See Aice v. STATE, 409 S.E.2d 392 (S.C.1991); in which a successive application may be permitted where the court's refusal to hear the claim or claims would constitute a "gross miscarriage of justice." Applicant also would rely on McCleskey v. Zant, 499 U.S. 467, 468 (1991), where there was government interference and that there was the reasonable unavailability of the factual basis of the claim[s] impeded counsel's ability to raise the claim[s], or where some other circumstance beyond the applicant's control occurred.

2.) Sufficient Explanation for failure to timely file. Decisions on Retroactivity: See S.C. Code Ann. § 17-27-45 (B); where in Teague v. Lane, 489 U.S. 288 (1989) two exceptions apply: 1.) it "places certain kinds of primary individual conduct beyond the power of the criminal law-making authority to proscribe," and/or 2.) it is a "watershed rule of criminal procedure" implicating the fundamental fairness and accuracy of the proceeding.

Also see S.C. Code Ann. § 17-27-45 (C); where if the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence. See Coats v. STATE, 575 S.E.2d 557 (S.C.2003).

for the applicant ever prays;

Sincerely,
Michèl A. Dukes, SR. #311176
Michèl A. Dukes, SR.
ECI-FI-B-211B #311176
610 Hwy 9 west
Bennettsville, SC 29512

Date: 11-18-14

LETTER TO THE APPELLATE COURT CLERK FILING
THE NOTICE OF APPEAL

November 18, 2014

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

RE: The State, Respondent, v. Michel A. Dukes, Appellant, case No.
2013-CP-26-2686

Dear Mr. Shearouse:

Enclosed for filing is a notice of appeal in the above case. Also
enclosed are the following:

- (1.) Proof of service of the notice of appeal on the respondent[s].
- (2.) A copy of the written explanation required by Rule 243(c) SCACR;
which is to challenge the order of denial for relief for a PCR hearing.
- (3.) This appeal is being filed with the Supreme Court because... (See rule
203(d)(1)(B)(V) for when an appeal can be filed with the Supr.
eme court,

Sincerely,
/s/ Michel A. Dukes SR #311176
Michel A. Dukes, SR #311176
ECI-PI-B-211B
610 Hwy 9 west
Bennettsville, SC
29512

RECEIVED

NOV 19 2014

S.C. SUPREME COURT

CC: Joshua L. Thomas, Esquire
Assistant Attorney General
Post office Box 11549
Columbia, SC 29211
(803) 734-3737
Attorney for Respondent

LETTER TO CLERK OF LOWER COURT FILING NOTICE
OF APPEAL

November 18, 2014

The Honorable Melanie Huggins - Ward
Clerk of Court for Horry County
Post office Box 677
Conway, South Carolina 29528 - 0677

RE: The State, Respondent, v. Michél A. Dukes, Appellant, case No.
2013-CP-26-2686

Dear MRS. Huggins - Ward:

Enclosed for filing is a notice of appeal in the above case.

Sincerely,

~~Michél A. Dukes, #311176~~
Michél A. Dukes, SR, #311176
ECI-FI-B-211B
610 Hwy 9 west
Bennettsville, SC 29512

CC: Joshua L. Thomas, Esquire
Assistant Attorney General
Post office Box 11549
Columbia, SC 29211
(803) 734-3737

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NOV 19 2014

S.C. SUPREME COURT

NOTICE OF APPEAL IN A CIVIL CASE
THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM Horry County
Court of Common Pleas

Benjamin H. Culbertson, Chief Judge for Administrative
Purposes Fifteenth Judicial Circuit

Case No. 2013 - CP - 26 - 2686

The State, Respondent,
v.
Michél A. Dukes, Appellant.

NOTICE OF APPEAL

Michél A. Dukes appeals the order of the Honorable Benjamin H. Culbertson dated August 29, 2013. Appellant received written notice of entry of this order on October 4, 2013.

Date: 11-18-14

15/9 Michél A. Dukes, #311176
Michél A. Dukes, SR. #311176
ECT - FI - B - 211B
610 Hwy 9 west
Bennettsville, SC
29512

Other Counsel of Record
Joshua L. Thomas, Esquire
Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

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S.C. SUPREME COURT

PROOF OF SERVICE OF A NOTICE OF APPEAL
THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM Horry County
Court of Common Pleas

Benjamin H. Culbertson, Chief Judge for Administrative purposes
Fifteenth Judicial Circuit

Case No. 2013-CP-26-2686

The State, Respondent,
v.

Michêl A. Dukes, Appellant

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Melanie Huggins-wards, clerk of court of Horry County, P.O. Box 677 Conway, SC 29528-0677, Joshua L. Thomas, Esquire Assistant Attorney General, Post office Box 11549 Columbia, S.C. 29211, Daniel E. Shearouse, clerk of court for the Supreme Court of South Carolina, Post office Box 11330 Columbia, SC 29211 by depositing a copy of it in the United States Mail, postage prepaid on

Date: 11-18-14

Michêl A. Dukes, Jr. #31176
Michêl A. Dukes, Jr. #31176
ECI-F1-B-211B
610 Hwy 9 West
Bennettsville, SC
29512

Michiel A. Duker, Sr. #311106
ECI - FI-B-211B
610 Hwy 9 west
Bennettsville, SC
29512

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SC 290
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THE HONORABLE DANIEL E.
SHEAROUSE, CLERK
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CAROLINA
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29211

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