

The Supreme Court of South Carolina

Matthew T. Pickens, Petitioner,

vs.

State of South Carolina, Respondent.

Appellate Case No. 2014-00186 ^{AP} 9

Lower Court Case No. 2011-CP-04-02061

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S.C. SUPREME COURT

December 29, 2014

Petitioner in the above mention case ask this Honorable Court to Reinstated the above case base on the South Carolina Appellate Court Rule of Court and the explanation with sufficient facts, a argument and citation to legal authority to show why this determination was improper to dismiss Petitioner reasoning to show why his post-convict relief action that was appeal to this Court shouldn't have been barred by the lower circuit court as being successive and/or being untimely under the Statute of limitations. Base on the foregoing action Petitioner submit the post-conviction court was wrong in dismissing his PCR before a Ruling came out in Aiken vs Byars, op. No. 27465 which it was necessary to hold Petitioner case in abeyance to await for the rendering of an opinion in Aiken vs Byars, base on the fact that, Petitioner asserts pur 17-27-45 (b) which provides an exception to to ^{the} one year Statute of limitations and successive when the Supreme Court has established a New Rule of Law that has been held to be Retroactive, that he is entitled to a New Sentencing Hearing

base upon the Retroactive Rule in Aiken vs. Byars, op No 27465 (November 12, 2014) FN 4,6. As his Juvenile Sentencing procedure conducted at the time, he was 17 years old when offense was committed December 1987 (1988 GS-04-76, 77, 78, 83) First Degree Burglary (etc) did not comport with the Individualized Sentencing Requirements as his Life Sentence pursuant to 1987 Statutory Law 16-11-311 for a Non Homicide Offense, without Individualized Sentence Consideration violates Aiken vs Byars, 132 S.Ct. 2466 and Bear Cloud vs Wyoming, 2012 WL 2082444 (Oct 1, 2012), Bear Cloud did not receive a Life without parole sentence, but base on lack of Individualized Sentence Consideration for a 17 year old the U.S. Supreme Court remanded in light of Miller vs Alabama, 132 S.Ct. 2468 which forms the basis of Aiken vs. Byars.

Conclusion

Clearly the Petitioner is entitled to receive a New Sentencing Hearing based upon retroactive case of Aiken vs. Byars, and Bear Cloud vs. Wyoming.

December 29, 2014

cc:

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