

Ajaron Gamble #00257354
Kershaw Correctional Institution
4848 Goldmine Hwy.
Kershaw, South Carolina 29067

May 12, 2015

Supreme Court Building
Clerk of Court
1231 Gervais Street
Columbia, South Carolina 29201

RE: Ajaron Gamble v. State of South Carolina
Case No.: 2014-CP-22-715 **243(c) Explanation**

Applicant relies on the plain language of South Carolina Appellate Court Rules 243(c) and asserts that he has the right to seek review of the denial of his initial Post-Conviction Application pursuant Rule 71.1(g). Appellant relies upon the one year discovery rule based upon his discovery that one of the jurors intentionally concealed information of a relationship with the victim. The information was discovered on January 24, 2011 by a retained private investigator. Appellant's post-conviction relief application was timely filed, pursuant to SC Code Section 17-27-45(C), on September 14, 2011. Appellant states the following:

The basis of Appellant's PCR Application and his desire to seek appellant review, relies in his Due Process Rights guaranteed to him, pursuant to the Fourteenth Amendment of the South Carolina Const. and the U.S. Constitution. Appellant appeals the denial of his initial PCR. Contrary to the State's assertion, Appellant does not argue that collateral counsel failed to properly articulate his position on appeal, "per se." Instead, Appellant was alluding to the facts of his case not presented by counsel, that is required in the explanation according to Rule 243 that counsel did not present.

Additionally, Appellant presents evidence of material facts before the court, not previously presented and heard that requires vacation of the conviction or sentence in the interest of justice. Appellant asserts that:

1. Counsel failed to fulfill his legal obligation pursuant SCACR 71.1 (g) thereby abiding by the Rules of Court in performing an appeal to afford the applicant his right to seek review of the denial of his PCR. *Austin v. State*, 305 S.C. 453, 454, 409 S.E. 2D 395, 396 (1991);

2. Appellant has not received a full "bite" at the apple whereas the gateway to appellate review was totally reliant upon counsel's performance as required in SCACR 243 in which counsel failed to comply.

" At some juncture judicial review must stop, with only the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendants imprisonment without review would amount to a gross miscarriage of justice." See Butler v. State, 397 S.E. 2d. 87 (1990). Factually, where there exist evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice, (such as in the present case, where the juror intentionally withheld information of a personal and work relation with the victim; and that evidence would have served for cause too strike, **prejudice** is presumed); then legally Appellant shall be afforded his right to appellate review.

This Appeal Follows.

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