

Dear clerk of court,

5-20-15

RE: 2014-CP-26-01339

I'm hereby putting the appellate court on notice to the appeal that is required by Rule 243(c) SCACR. This is my original copy and i'm asking also for a copy back for my personal records if possible. My reason for sending my original copy was because i didn't know if the lower court, or Attorney General put the honorable courts on notice or not so i'm obligated..

I recently sent an amended explanation to the honorable courts to show that an already decided case dealing with the issue of Subject Matter Jurisdiction that could be raised at anytime which is "Slack v. State, 429 S.E.2d 801, 802 and ruled upon by the Supreme courts that either if raised during State Habeas Corpus, or post-conviction relief the issue of subject matter jurisdiction will be heard. SEE State v. Funderburk, (S.C. 1972) 259 S.C. 256, 191 S.E.2d 520.

Please notice that Slack v. State meets the Butler standard - meaning that a violation has occurred "which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice." my reason for stating that is so appellant will not have to go the distance of filing a State Habeas Corpus but if all fails that will be my next course of action!!!

for the appellant ever prays!!!

Sincerely,

Michael A. Dukes #311176
Michael A. Dukes, SR. #311176
ECI-RHU-223
610 Hwy 9 west
Bennettsville, SC
29512

RECEIVED

MAY 26 2015

80 SUPREME COURT

Date: 5-5-15

Dear clerk of court, RE: 2014-CP-26-01339

I'm hereby requesting you to file the appropriate notice of appeal within the honorable courts and also send a copy to the Attorney General's office. I'd also like to request a clocked copy of the notice of appeal.

I'd like to thank you in advance for your time, patience, and assistance in this matter at hand and may god bless you...

Sincerely,
5/ Michel A. Dukes, Jr. #311176
Michel A. Dukes, Jr. #311176
ECI-RHU-223
610 Hwy 9 West
Bennettsville, SC
29512

FILED
HURRY COUNTY
2015 MAY -7 PM 12:43
MELANIE HUGGINS-WARD
CLERK OF COURT

Date: 5-5-15

LETTER TO THE APPELLATE COURT CLERK FILING THE
NOTICE OF APPEAL

MAY 5th 2015

RECEIVED

MAY 26 2015

SC SUPREME COURT

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

RE: Michel A. Dukes, ^{SR.} #311176, Appellant v. The State, Respondent,
Case No. 2014-CP-26-01339

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 Supreme Court.

Sincerely,
~~Michel A. Dukes, ^{SR.} #311176~~
 Michel A. Dukes, ^{SR.} #311176
 ECI - RHU - 223
 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
 Attorney for Respondent

FILED
 JURY COUNTY
 2015 MAY - 7 PM 12:43
 MELANIE HUGGINS-WARD
 CLERK OF COURT

Date: 5-5-15

LETTER TO CLERK OF LOWER COURT FILING NOTICE
OF APPEAL

MAY 5th, 2015

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

RE: Michel A. Dukes^{SR.} #311176 Appellant, v. The State, Respondent,
Case No. 2014-CP-26-01339

Dear MRS. Huggins-Ward:

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

Sincerely,
~~St Michel A. Dukes^{SR.} #311176~~
Michel A. Dukes^{SR.} #311176
ECI-RHU-223
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
Attorney for Respondent

FILED
HORRY COUNTY
2015 MAY - 7 PM 12:43
MELANIE HUGGINS-WARD
CLERK OF COURT

Date: 5-5-15

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Michél A. Dukes, SR. #311176

Applicant,

VS.

STATE OF SOUTH
CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS FIFTEENTH
JUDICIAL CIRCUIT

C/A NO. 2014-CP-26-01339

WRITTEN EXPLANATION REQUIRED
BY RULE 243(C), SCACR

RECEIVED

MAY 20 2015

SC SUPREME COURT

FILED
HORRY COUNTY
2015 MAY -7 PM 12:43
MELANIE HUGGINS-WARR
CLERK OF COURT

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." 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 defendant's imprisonment without review would amount to a gross miscarriage of justice. SEE Butler v. State, 397 S.E.2d 87 (S.C. 1990).

2) Sufficient Explanation for the failure to timely file.

See §17-27-45 (B); in which South Carolina courts are required to follow the United STATES Supreme Court decisions on retroactivity. SEE Danforth v. Minnesota, 522 U.S. 128 S.Ct. 1029, 1035 (2008); Talley v. State, 640 S.E.2d 878, 880-881 (S.C. 2007). In general, a new procedural rule will not be applied retroactively unless like in applicants' case the new rule falls within one of two exceptions; (1) it "places certain kinds of primary, private individual conduct beyond the power of the criminal law-making authority to proscribe;" or (2) it "requires the observance of those procedures that.... are implicit in the concept of ordered liberty." See Teague v. Lane, 489 U.S. 288, 307 (1989). Applicants' explanation falls under the second exception which is "reserved for watershed rules of criminal procedure" which implicate the fundamental fairness and accuracy of the proceeding. See Teague, 489 U.S. at 311.

The Supreme Court has repeatedly as applicant is citing Gideon v. Wainwright, 372 U.S. 335 (1963), as an example of the watershed exception. Id. (holding that the Sixth Amendment right to assistance of counsel for all criminally accused is made obligatory on the States by the Fourteenth Amendment).

for the applicant ever prays,

Date: 5-5-15

Sincerely,
LSI Michél A. Dukes, SR. #311176
Michél A. Dukes, SR. #311176
ECI-RHY-223
610 Hwy 9 WEST
Bennettsville, SC
29512

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

RECEIVED

MAY 26 2015

SC SUPREME COURT

APPEAL FROM Horry County
Court of Common Pleas

STEVEN H. JOHN, Chief Judge for Administrative purposes
FIFTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-26-01339

FILED
HORRY COUNTY
2015 MAY - 7 PM 12:13
JELANIE HUGGINS-SHARR
CLERK OF COURT

MichêL A. Dukes, ^{SR.} #311176 Appellant,

v.

The State, Respondent.

NOTICE OF APPEAL

MichêL A. Dukes, ^{SR.} #311176 appeals the final order of dismissal signed by the Honorable STEVEN H. JOHN dated April 8th, 2015. Appellant received written notice of entry of this final order of dismissal on May 5th, 2015.

Sincerely,

LSI MichêL A. Dukes, ^{SR.} #311176

MichêL A. Dukes, ^{SR.} #311176
ECI-RH4-223
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

Date: 5-5-15

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAY 26 2015

SC SUPREME COURT

APPEAL FROM Horry COUNTY
COURT OF COMMON PLEAS

STEVEN H. JOHN, Chief Judge for Administrative purposes
FIFTEENTH JUDICIAL CIRCUIT

Case No. 2014-CP-26-01339

Michel A. Dukes, SR. #311176 Appellant,

v.

The State, Respondent.

PROOF OF SERVICE

FILED
HORRY COUNTY
2015 MAY -7 PM 12:43
MELANIE HUGGINS-WARD
CLERK OF COURT

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

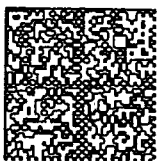
Sincerely,

~~Michel A. Dukes, SR. #311176~~
Michel A. Dukes, SR. #311176
ECI-RH4-223
610 Hwy 9 West
Bennettsville, SC
29512

Date: 5-5-15

Michael A. Dukes, SR. #311196
ECI - RHU-223
610 Hwy 9 west
Bennettsville, SC
29512

21 MAY '15
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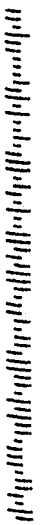


UNITED STATES POSTAGE
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0004276978 MAY 21 2015
MAILED FROM ZIP CODE 29512

The Honorable Daniel E. Sherrouse,
Clerk for the Supreme Court of South
Carolina

Post office Box 11330
Columbia, South Carolina
29211

DECAU 211133030



THE DEPARTMENT OF CORRECTIONS HAS NEITHER
CENSORED NOR INSPECTED THIS ITEM. THEREFORE,
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS.

EVANS CORRECTIONAL INSTITUTION
S.C. DEPARTMENT OF CORRECTIONS