

Dear Honorable Daniel E. Shearouse,

RECEIVED (E: 5-18-2015)

MAY 21 2015

Re: MichêL A. Dukes, SR., #311176 v. State of
South Carolina 2014-CP-26-1339
S.C. Supreme Court

Amended sufficient explanation pursuant to Rule 243(c) SCACR

The above mentioned applicant would hereby like to clarify any and all discrepancies if any dealing with the above mentioned case at hand.

The PCR Court determined on April 8th 2015 that the post-conviction relief action is barred as successive or untimely under the Statute of Limitations; in which the applicant filed a timely notice of appeal with the clerk of the PCR Court and the clerk of the Supreme Court on May 5th 2015 as required by Rule 243(c) SCACR.

Applicant will ^{now} explain:

Applicant filed for post-conviction Relief March 5th 2014; in which the respondent made a timely Return and Motion to Dismiss on or about December 12th 2014, requesting the Application be summarily dismissed as successive and untimely.

But also please notice that on April 2nd 2015 at 2:54 pm and April 20th 2015 at 4:31 pm the applicant filed 2 Motions for Summary disposition of Application pursuant to S.C. Code Ann. § 17-27-70(c) ~~arguing~~ arguing that there was genuine issues of material fact and the applicant was entitled to judgment as a matter of law; but the Honorable Steven H. John; Chief Judge for Administrative purposes Fifteenth Judicial Circuit denied and dismissed the application with prejudice following the reasons set forth in the court's conditional order of Dismissal.

The genuine issue of material fact and the entitlement to judgment as a matter of law was the issue of subject matter jurisdiction which may be raised at any time. See criminal law key - 105, and criminal law key - 1033.1 which as in Slack v. State, 429 S.E.2d 801 where the Supreme Court, Finney, J., held that the circuit court ~~of~~ of Horry County, Ellis B. Drew, erred in ruling that motion for writ of habeas corpus was untimely, since issue of subject matter ^{jurisdiction} could be raised at anytime, and circuit

Court lacked jurisdiction to accept defendant's guilty plea to grand larceny, since defendant had neither been indicted for nor waived presentment of that charge.

The lower Circuit Court's determination was error not only because of the issue of subject matter jurisdiction but also because of 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" and also Aice v. State, 409 S.E.2d 395 to show that a SUCCESSIVE application may be permitted where the court's refusal to hear the claim would constitute a "gross miscarriage of justice".

The applicant hereby ~~will~~ ^{would} rely on Slack v. State, 429 S.E.2d 801, 802 where petitioner's denial of his petition for a writ of habeas corpus was reversed and plea and sentence vacated at the orders of South Carolina Supreme Court Justice Finney in which Harwell, C.J., Chandler, Toal, and Moore, JJ., CONCUR.

In Slack v. State the circuit court ruled that petitioner's motion for a writ of habeas corpus was untimely filed and that the motion, even if treated as a PCR action, could not be granted. This was error. The issue of subject matter jurisdiction may be raised at any time. Cf. State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 in which applicant cited within his motions for summary disposition of Application pursuant to S.C. Code Ann. § 17-27-70(c) and was denied relief.

The applicant is asking the Honorable Courts to review the circuit court's denial of Application for post-conviction relief and to also review applicant's sufficient explanation as required by rule 243(c) to show as to why the PCR Court's determination was improper but applicant also points the Supreme Court's attention to Slack v. State which benefits Aice v. State..

Respectfully submitted,

Middel A. Dukes^{sr.} #311176
ECI-RHU-223
610 Hwy 9 west
Bennettsville, SC
29512

STATE OF SOUTH CAROLINA }
County of Horry }

Mich^l A. DUKES, SR., #311176
VS Applicant,

STATE OF SOUTH CAROLINA }
Respondent. }

In The Supreme Court of
SOUTH CAROLINA

2014 ~~CP~~-26-1339

AFFIDAVIT OF SERVICE
BY MAIL

RECEIVED

MAY 21 2015

S.C. Supreme Court

- 1.) I am the applicant in the above captioned action.
- 2.) Regular communication by mail exists throughout the state of South Carolina and that this is a proper circumstance of service by mail.
- 3.) I have this day served a copy of the Amended sufficient explanation pursuant to Rule 243^(c) SCACR in the above-captioned matter on the following person by depositing same in the United States Mail, Postage prepaid:

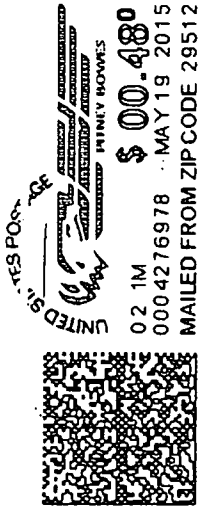
THE HONORABLE DANIEL E.
SHEAROUSE
clerk, Supreme Court of South
CAROLINA
Post office Box 11330
Columbia, South Carolina
29211

Dated this 18th day of May, 2015.

Respectfully submitted,
Mich^l A. Dukes, Sr.
ECI-RHU-223 311176
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29512

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COLUMBIA
SC 2901
19 MAY '15
PM 4 L



The Honorable Daniel E. Shearouse
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