

Robert Little #273121-MA-36
Kershaw Correctional Institution
4848 Goldmine Hwy
Kershaw, S.C., 29067

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DEC 9 2015

S.C. Supreme Court

Date / 12 / 21 / 2015

The Supreme Court of South Carolina
Hon: Daniel E. Shearouse Clerk of Court
Post office Box 11330
Columbia, S.C., 29211

Hon: Mr. Shearouse

This is in reference to your letter I received
December 9, 2015.

Please find enclosed Copys of sufficient
facts, and argument and legal authority
conclusions of Law, the findings of fact,
The Exhibits, was mail to you 11-17-2015
Relations, to Case No: 2012-CP-29-1177 and the
Appellate Case No. 2015-002391.

Your Assistance greatly
Appreciated.

your Very Truly
s/ Robert Little

Robert Little #273121

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM LANCASTER COUNTY
COURT OF COMMON PLEAS
Hon. Brooks P. Goldmith, Circuit Court Judge

Case No: 2012-CP-29-1177
Appellate Case No. 2015-002391

Robert Little..... Applicant
S.C.D.C. 273121

v.

The State..... Respondent

NOTICE OF APPEAL

Robert Little, now files A MOTION FOR NOTICE OF APPEAL under Rule 243 in Relations to the Respondent's Motion for A Final order of Dismissal. This explanation sufficient fact and Exhibits, page 1-37, and argument, page 1-8, legal authority CONCLUSIONS OF LAW, the findings of fact, will show the Applicant, being held in Custody unlawfully.

and the denied of his first Pch application
and another belated appeal, defective
Indictment and denied Motion under Rule,
60(b)(5)., members of the jury panel and
handled investigation of the Case.

The Supreme Court of South Carolina
Hon: Daniel E. Shearouse, Clerk of Court
Post office Box 11330
COLUMBIA, S.C., 29211

Robert Little #273121-MA 36
Kershaw Correctional INS'
4848 Goldmine Hwy
Kershaw, S.C. 29067
S/ ~~Robert Little~~
Robert Little #273121
Date 11/21/2015

The Applicant contends that the Respondent motion should not become final. The Applicant contends that his PCR Counsel have not protected his claim for his Innocence in PCR proceeding for Violations of the 6th Amendment Ineffective Assistance of Counsel and 14th Amendment Due process Violation. Hill- vs- Lockhart 106 Sct 366 Strickland- vs- Washington, 466 US AT 688 104 Sct AT 2064-65.

The Applicant contends that the District Attorney has made a false finding of fact, without the Applicant being present at his PCR hearing. PCR Attorney Mr. Berge Speedy, was Ineffective Assistance of Counsel Against the Applicant, because the Applicant have not have the chance by making the Allegation's, that he need to be heard on the Record. The District Attorney fact's are not true because if it were so, The Record would show where the Applicant was present upon the witness stand as being duly sworn into Testifying to the fact's in his case. See page 374 line 1-5, from Exhibit (A) and Exhibit (B) Show's A, Staff Request Documentation Stating that the Applicant was At Kirkland Institution on 6-3-2003 Return from Court, not at Winnsboro, S.C. and see the Transcript of Record Exhibit (C) page (372).

This issue should not become final under 17-27-80 because PCR Judge haven't made the specific findings and conclusions of law representing to each particular issue that the Applicant raise from his 2012 PCR Court order Docket No: 2012-CP-29-1177, PCR Judge haven't made conclusions of law in compliance to the following issues.

Applicant argues the Conditional order should not become final for the following reasons:

(1)... Applicant alleges trial Counsel failed to make contemporaneous objections.

See Exhibit (D), Amended Application for post-conviction relief, page (1-10) defective indictment, no objection before the jury was sworn, see State v. Young, 243 S.C. 187, 133 S.E. 2d 210 (1963) and no body of indictment and no objection to amend an indictment. See page (232 and 233). also page (234), and, page (243).

(2)... Trial Counsel failed to appeal Applicant's case. see page (383).

(3)... PCR Counsel acted improperly see EXHIBITS (E) Applicant did not include any appeal action. page (1-10).

(4)... Applicant was not present for his initial PCB hearing, See Exhibit (A and B).

(5)... Applicant's prior PCB Counsel have all failed to properly present his Claims. was ineffective for failure to file a Rule (59-e) Motion to Alter or Amend

(6)... Applicant's Claims the Statute of Limitations should be tolled. See page (383) Exhibit (E), it falls within the Parameters of the one-year Statute. and the Trial Counsel, failed to do Investigators of the jury Panel, Jean Catoe, and Michael Catoe Members of the jury panel and handled Criminal Investigation of the Case. jury misconduct, error of Trial Counsel and judge, See Exhibit (F). The jury partiality, juror's Conduct Impairing a Applicant's Right to a fair trial. page (1-10)

I Contend that my PCB Counsel was ineffective for failure to file A Rule (59e) Motion to Alter or Amend Judgement upon reading over respondents Motion, and seeing that they did not Rule on each Issue presented, my Attorney never Inform me that I could have Appeal my Conviction for failure to properly protect my rights to seek Appellate ~~Review~~ Review of Denial of my PCB Application being heard on Appeal.

As stated in several Pass Case where the final order lacked specific of fact and conclusions of law to remanded for specific findings in some cases a new hearing in order to address the pervasive problem of inadequate order. McCullough - VS - State 320 SC 270 272 464 Se 2d 340 341 (1995). Prutt - VS - State SC 329, 330 408 SC 2d 241 (1991). Reversing order denying applicant relief and remanding for a new PCR hearing where PCR Courts order failed to make specific finding of fact and conclusions to law sufficient for Appellate Review.

Smith - VS - Padula 444 F Supp 2d (2006) Crooks - VS - State SC (1997) 326 SC 171 485 Se 2d 374. Marlar - VS - State (SC App 2007) 373 SC 275 644 Se 2d 769.

The petitioner in his diligence, is now aware as earlier of this newly acquired knowledge and applicable principles of rules governing in the evidence and applicable principles of rules governing. The applicability of his conviction and Case Ann 17-27-90. which for sufficient reason was not asserted or inadequately raised in the original supplement or amended Application.

primus - VS - padula 2008-555 F Supp 2d 596 Appeal Dismissed 298 Appx 236 2008 4790 109 Ceterari denied 129 547 1621 173 Led 2d 1004 Gibson - VS - State (SC 2003). 354 SC 630 583 Se 2d 52.

MCCoy-Vs-State 737 SC 5e2d 623(2013) Leamon-Vs-
State 611 5e2d 494 Citing SC Code Ann 17-27-80
where and Applicant Alleges facts that would
establish an exception to either the Statute of
limitations or the prohibition against successive
PCR Applications and those facts are not conclusively
refuted by the Record before the PCR Court.

Austin-Vs-State 409 5e2d 395 396 SC (1991) whichever
is later Austin appeals are considered belated
appeals and are used to rectify unjust procedural
defects such as when an Attorney does not file
a timely appeal. Hope-Vs-State 328 SC 78 492 5e2d
76 (1997). Permitting a belated appeal pursuant to
Austin in 1992 from a denial of a PCR Application in
1989. Odum-Vs-State 523 753 (1999). Gamble-Vs-
State 379 5e2d 118-119 (1989). Carter-Vs-State 362
5e2d 20 (1987). Case-Vs-State 289 5e2d (1982),
A question of fact is raised which can only
be resolved by a hearing, Delaney-Vs-State 238,
5e2d 679 (1977). The Court held that in general
PCR is a proper avenue of relief only when the
Applicant mounts a collateral attack challenging
the validity of his conviction or sentence.
Alshabazz-Vs-State 367 527 5e2d At 749,
Coats-Vs-State 504 5e2d At 557 ALSO ~~_____~~
Finklea-Vs-State 273 SC 157 158 255 5e2d (447-48)

Harvey vs South Carolina (31-C) F Supp 83-85
Sutton vs State 361 SC 644 648 Se 2d 779 781 (2004) over ruled ground By
Brady vs State 366 SC 137 620 Se 2d 743 (2005)
Jackson vs State 331 SC 486 489 Se 2d 915 916 (1997).

The general one year period does not apply where A defendent is denied direct Appeal due to Ineffective Assistance of Counsel.

Wilson vs State 348 SC 215 559 Se 2d 581 (2001)
State vs Johnson 333 SC 457 510 423-26 (1999)

The fact that this order is barred from being heard on appeal, this Violates my right pursuant 14-27-100 Right to seek appellate review of the denial of my Pch application. I Contend that my Pch Counsel was Ineffective for failure to file A Rule (59-e) Motion to alter or amend Judgement upon reading over the Respondents motion and Seeing that they did not rule on each issue, presented.

This was A direct Violation of my 6th Amendment right to Ineffective Assistance of Counsel and my 14th Amendment right to equal protection and due process of law Marlar vs State 373 SC, 295 644 Se 2d 860 Jackson vs State SC 2003, 355 SC 586 Se 2d 562 garner vs State SC 2006 371 (SC-1) 636 Se 2d 860.

Humphries-Vs-State SC 2002 351 SC 362 570,
Se 2d 160 Pauling-Vs-State SC 2002 350 SC 278
565 Se 2d 769. The Appellate Court will not
uphold the findings of A post-Conviction relief
of A PCR Court if there is no probative evidence
to support those findings.

Gilchrist-Vs-State SC 2002 350 SC 221 565 Se 2d,
281. Patrick-Vs-State SC 2002 349 SC 203 562,
Se 2d 609 Grier-Vs-State SC (1989) 299 SC 321,
384 Se 2d 722, my Attorney Never inform me, that,
I could have Appeal my Conviction. State-Vs-
Nazsquez 364 SC 293 613 Se 2d 359 (2005).

Holmes-Vs-South Carolina 361 SC 333 345 605 Se
2d (19-25), Holmes-Vs-South Carolina 547 US 319,

(2006). The petitioners seeks For A Belated Appeal
White-Vs-State 263 SC 110 208 Se 2d 35 (1974)

Sheppard-Vs-State 357 SC 646 594 Se 2d 462 (2004)

Anders-Vs-State of California 386 US 738-87 Sct 1396,
Led 2d 493.

Section 17-27-70 Part (c) where no evidentiary
hearing has been held, The PCR Judge must Assume
facts Presented by the Applicant are true and
view those facts in light most favorable to the
Applicant. The Applicant bears the burden of
showing that the Allegations could not have been
raised previously Land-Vs-State 274 SC 243
262 Se 2d 735 (1980).

The petitioner brings forth the details of the claim on newly discovered evidence base on his diligent pursuit of equity in justice and in his pursuit of such become aware of SCRPC Rules 60 A-B 17-27-45(C) Hayden-VS- State 278 SC 610 611 612 299 Se 2d 854 855 (1983) whetell-VS-State 267 SC 295 Se 2d 891 (1987) Rivers-VS-Strickland 264 SC 121 213 Se 2d, 97 (1975).

VI. PRAYER FOR RELIEF

WHEREFORE Applicant respectfully pray that this Court enter judgment granting Applicant.

Signed / Robert Little
Robert Little #273121

State of South CAROLINA
IN the Supreme Court

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Case No. 2012-CP-29-1177
Appellate Case No. 2015-002391

Robert Little..... Applicant
S.C.D.C. 273121
V.

The state..... Respondent

CERTIFIED MAIL

I, Robert Little, hereby Certified under the penalty of perjury that, I have served upon the following addresses below Copies of Sufficient Facts, and the legal authority Conclusions of Law, on this 21 day of 12 2015, from Hershaw Correctional Institution Mail Room.

Has Sworn to and Subscribed
before me this 21st day of December 2015.

Catherine C. Ormsour

Notary Public for South Carolina

My Commission Expires 12/22/2018

Sincerely

S/ Robert Little

Robert Little #273121

Robert Little #273121-MA-36

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Kershaw, S.C, 29069

The Supreme Court of South Carolina

Hon. Daniel E. Shearouse, Clerk of Court

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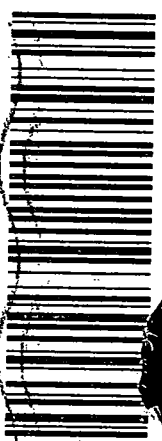
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4848 Gold Mine Hwy

Kershaw, S.C. 29064

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