

Terrence Bradshaw #320301
Applicant
-VS-
The State of South Carolina
Respondent

In The Regards of the Applicant Case #2015-CP-45-279 / In Relations to the Respondents motion, of the final order of Dismissal from 3th Circuit Court Sumter County, / The Applicant now file A Explanation Rule 243(C) Notice of Appeal with State Supreme Court of South Carolina.

On September 21st, The petitioner contends that the appropriate action under these circumstances would be to continue the case rather than dismiss it without prejudice. Because the petitioner has a birth defect from a brain disorder, with limited capacity from birth, from his mother's mental illness. This mental effect, cost the applicant to be incapacitated by being not aware how to consult with his PCR attorney diligently.

The prisoner has a poor insight with limited judgment skills and a lack of a written expression, and a communication disorder. This prisoner has an IQ of 73 with a verbal IQ of 76 and a performance IQ of 73, with a birth defect of a borderline of intellectual functioning. It is provided by the South Carolina Guidelines of Education, that prisoner Terrence Bradshaw is classified as learning disabled.

In the form of petitioner's Exhibit (A) which shows the recommendation from the presiding judge Mr. Clifton Newman. Mr. Newman stated as indicated his acknowledgment from observing the applicant's behavior to assist his counsel in his own defense due to the lack of having a low mental capacity. This report was a part of the judge's order for criminal responsibility and capacity to conform evaluation starting at page #2 paragraph #1 / This part is also highlighted by the court's review. The applicant contends that the other report pertains to petitioner's mental health documents along with his South Carolina Educational Guidelines report which is #6 pages in all for Exhibit (A)

The Applicant Claim, The PCR Counsel have not protect the Applicant Claim for his innocence in PCR proceeding for Violation's of the 6th Amendment Ineffective Assistance of Counsel, And 14th Amendment Due process violation. State-vs-Idell 262 SC 397 205 S2d (1973) Strader-vs-garrison 611 f2d 61 Hill-vs-Lockhart 106 Sct 366 Strickland-vs-washington 466 us At 688 104 Sct At 2064-65 McQueen-vs-Swenson 498 f2d 207-217 unitedstates-vs-Tucker 716 f2d 576-583 united State-vs-Blaylock 20 f3d 1458 Jeffries-vs-Blodgett martinez-vs-Ryan 132 Sct 1309 Powell-vs-Alabama 278 us 45 68-69 53 Sct 55 77 Led 158 (1932) Edwards-vs-Carpenter 529 us 446 120 Sct 1587 146 Led 2d 518 (2000) McClesKey-vs-zant 449 us 467 490 111 Sct 1454 13 Le2d (1991) Miller-El-vs-Cockrell 537 us 322 123 Sct 1029 154 Le2d 931 (2003) Hardin-vs-Arkansas 350 Ark 299 301 86 Sw3d 384 385 (2002) Jensen-vs-State 2004 ND 200 13 688 nm 374 378 Murray-vs-Carrier 477 us 478 106 Sct 2639-91 Montejo-vs-Louisiana 556 us 778 792 793 129 Sct 2079 173 Led 2d 955 (2009)

This issue should not become final, under 17-27-80 Because PCR Judge havent made the Spicific finding's and Conclusion's of law Repersenting to each particular issue that the Applicant Rase from his 2008 PCR Court order Docket No: 2008-cp-45-008 PCR Judge only made the Conclusion's of law only to Ineffective Assistance's of Counsel In Compliance with part(A) for failure to investigate the case and prepare A trial defence for Applicant.

The Applicant Also Contend's the PCR Judge Ruling's were Also made to the Involuntary guilty plea In Compliance to part(A) Those were the Only 2 Issue's were Conclusion's were made in the Applicant's case while the Issue's of part(B) And part(C) were misRepresented By PCR Judge In Compliance to Ineff-ective Assistance of Counsel Claim in A catch All phrase.

I contend that my PCR Counsel was ineffective for failure to file A Rule(59-e) motion to Alter or amend Judgement upon reading over the Judge's order and Seeing that he did not rule on each issue presented. my Attorney never inform me, that I could have Appeal my Conviction, for failer to properly protect my rights to seek Appellate Review of Denial of my frist PCR Application. Therefore, this order was procedurally barred from being heard on Appeal.

AS Stated In Several past cases where the final order lacked specific finding of fact and conclusions of law to remanded address the pervasive problem of Inadequate order. Mccullough vs State 320 SC 270 272 464 Se2d 340 341 (1995) Pruitt vs Applicant relief and Remanding for A new PCR hearing where PCR Courts order failed to make specific findings of fact and conclusions of law sufficient for Appellate Review.

Smith vs Padula 444 F Supp 2d 2006 CROOKS vs State (SC 1997) 326 SC 171 485 Se2d 374 Marlar vs State (SC App 2007) 373 SC 275 644 SC 2d 769. The petitioner in his diligence, is now aware as earlier of this Newly acquired Knowledge and applicable principles of rules governing evidence and applicability of his Conviction and Case Ann 17-27-90, which for sufficient reason was not Asserred OR inadequately raised in the original Supplement or amended Application. Primus vs Padula 2008 555 f sup 2d 596 Appeal Dismissed 298 Appx 236 2008 WL 4796 104 Cettiorari denied 129 Sct 1621 173 Led 2d 1004 Gibson vs State (SC 2003) 354 SC 630 583 Se2d 52 MCCOY vs State 737 Se2d 623 (2013) Leamon vs State 611 Se2d 494 495 citing SC Code Ann 17-27-80 where And Applicant Alleges facts that would establish and exception to either the Statute of limitations OR The prohibition Against ~~so~~ Successive PCR Applications and those facts are not conclusively Refuted By the Record before the PCR Court.

A Question of fact is Raised which can only be resolved by a Hearing. Delaney-vs-State 238 Se2d 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 Se2d At 749. Coats-vs-State 504 575 Se2d At 557 Also Coats-vs-State 503 575 Se2d 558 17-27-20(B) 17-27-160 Finke-vs-State 273 SC 157 158 255 Se2d 447 (447-48) Harvey-vs-South Carolina 31-C f Supp 83-85 Sutton-vs-State 361 SC 644 648 Se2d 779 781 (2004) overruled grounds By Brady-vs-State 366 SC 137 620 Se2d 743 (2005) Jackson-vs-State 331 SC 486 489 Se2d 915-916 (1997)

The general one year period does not apply where a defendant is denied his direct Appeal due to ineffective Assistance of Counsel. Wilson-vs-State 348 SC 215 559 Se2d 581 (2001) State-vs-Johnson 333 SC 459 510 Se2d 423 425-26 (1999) The fact that this order is barred from being heard on appeal, this violates my rights Pursuant to 17-27-100, right to seek appellate review of the denial of my PCR application. I contend that my PCR counsel was ineffective for failure to file a Rule (59-e) motion to alter or amend Judgment upon reading over the Judge's order and seeing that he did not rule on each issue presented.

This was a direct violation of my 6th Amendment right to effective assistance of Counsel and my 14th Amendment right to equal protection and due process of law. Marlar-vs-State 373 SC 275 644 Se2d 860 Jackson-vs-State SC 2003 355 SC 586 Se2d 562 Garner-vs-State SC 2006 371 SC 1636 Se2d 860 Humphries-vs-State SC 2002 351 SC 362 570 Se2d 160 Pauling-vs-State SC 2002 350 SC 278 565 Se2d 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 se2d 281
Patrick -vs- State SC 2002 349 SC 203 562 se2d 609 Grier -vs-
State SC 1989 299 SC 320 384 se2d 722. My Attorney never
inform me, that I could have Appeal my Conviction State -vs-
Vazquez 364 SC 293 613 se2d 359 (2005) Holmes -vs- South Caroling
~~361~~ SC 333 345 605 se2d (19-25) Holmes -vs- South Caroling 547
US 319 (2006) The petitioner seek's for A Belated Appeal White -vs-
State 263 SC 110, 208 se2d 35 (1974) Sheppard -vs- State 357 SC
646 594 se2d 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 the 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 se2d 735 (1980) The petitioner Brings forth
the details of the claim of newly discovered evidence based on
his diligent pursuit of equity in Justice and in his pursuit of
Such become aware of SCRCP Rules 60A-B 17-27-45(C) Hayden
-vs- State 278 SC 610 611 612 299 se2d 854 855 (1983) Whetell -vs-
State 276 SC 295 se2d 890 (1987) Rivers -vs- Strickland 264 SC
121 213 se2d 97 (1975)

The Attorney General didnt have the Jirdiction to Dismiss my Claim
The Applicant contends Because of 17-27-45(A) This does not Apply to
me Because I am not Attacking The merit's of my Conviction. I am
Attacking the procedure Defect of the Judge's failure to Comply with
17-27-80 By failing to make A specific Rule on each issue, there By
making A final order. Therefore Laches And 17-27-45(A) Does not Apply
to me Because of my mental Capability's. I was not Aware that
the Judge's order was not in Compliance with 17-27-80. And It was
not A final order only Because Another Inmate Allert me to the
Violation of my Statue right's And I didnt know to raise this Claim

therefore Lache's Should not Apply in my particular case. This Information comes in the form of Applicant's Exhibit (A) which is Base on the presiding Judge m R Clifton Newman Recommendation's And Applicant's mental Health Documents and South Carolina Education guideline.

Austin-vs-State 409 Se2d 395 396 SC (1991) whichever is later Austin appeals are considered belated appeals and are use to rectify unjust procedural defects such as when An Attorney does not file A timely Appeal. Hope-vs-State 328 SC 78 492 Se2d 76 (1997) permitting A belated appeal pursuant to Austin in 1992 from A denial of A PCR Application in 1989. Odom-vs-State 523 Se2d 753 (1999) Gamble-vs-State 379 Se2d 118-119 (1989) Carter-vs-State 362 Se2d 20 (1987) Case-vs-State 289 Se2d 413 (1982)

The Respondent now Raise's A Claim in the Conditional order of Dismissal Case Docket No: 2015-CP-45-279, By Stating that there is not A transcript of the Applicant's guilty plea is now unavailable, potential witness might also now be unavailable. The Applicant contend's that he can provide witness and Transcrip's. #1 BenJain George #107106 SC DC Turbeville Institution PO Box 262 Turbeville SC 29162. The Applicant claim, The PCR Counsel have not protect the Applicant claim for his innocence in PCR proceeding for violation's of the 6th Amendment Ineffective Assistance of Counsel, And 14th Amendment Due process violation. State-vs-Idell 262 SC 397 205 Se2d (1973)

In The form of petitioner's Exhibit (B) This is the Applicant T. Bradshaw preliminary Hearing, Transcrip of A total of #16 pg's. The Applicant contend's that PCR And Trial Counsel Mrs Jackson have Been Ineffective Assistance of Counsel Doing critical Stage's of the Applicant's case. The State called, State officer Jerry Gainey to the Stand. The Applicant object's Because If had trial Counsel And PCR Counsel would have A private Investigator in defence of the Applicant Case.

~~Case~~. It would have prove that the Applicant Terrence Bradshaw, was not there NOR-partake of this Allege criam. Please Review The Applicant's PCR Transcript Pg#74 line's 10-16. Also In The Applicant's Exhibit(B) Pg#4 line 5-16/ The State Investigator Conducted A interview with state witness MR Benjamin George. In Return of his Confession, It stated that there was only one Glen wilson with A weapon. Doing the Shotting inside the club, And state witness MR George and Defendant michael Hilton there until glen stop shotting inside the club.

Also In The Applicant's Exhibit(B) Pg#15 lines 1-7/ This Confession Conclude By the State Investigator MR Gainey upon the witness Stand. while Being in Question By Attorney MR Steven mckenzie, MR mckenzie Indicated to officer Jerry Gainey/ If had he taken A tape Recorded or viedo Confession from the eye witness MR George, The Investigator ~~Answer~~ Answer ON That Question was NO I have not And NO I did not.

Also In The Applicant's Exhibit(C) which is A Complete Copy from Case Docket no: 05-65-45-181 Guilty Plea Transcript from The Applicant's case. In Review of Pg's#20 line's 10-12 And Pg#21 line 2-3. The petitioner contend that this Statement was made By the State Investigator MR Rudy Tisdale. The officer Tisdale Stated that the victim MR Benjamin George said that there was A Third Individual who he did not Recognize would have been Inmate Terrence Bradshaw. The Applicant contend's that the officer Rudy Tisdale gave the Court A HereSay Statement AS Becomming A eye witness, when he could not have Because It is in the victim position to Identified Inmate Terrence Bradshaw, AS Being in the club OR with A weapon At the Criam. PCR And Trial Counsel was ineffective Assistance of Counsel for failure to object to this, And propety preserve this Claim for the ~~App~~ Appellate Review, And the Applicant Conviction OR Sentence was obtain in violation of the Sixth Amendment Confrontation Clase.

Any Allegation that trial Counsel ~~was~~ OR PCR Counsel was ineffective for failing to Investigate and present evidence OR call A witness must generally be Supported By the Applicant Own evidence of what the omitted testimony would have Been OR what the complete investigation would have produced. See SC Rule's of Civil Procedures (71.1-e) Cobbs-vs-State 305 SC 299 301 408 Se2d 223-225 (1991) Citing Griffin-vs-martin 278 SC 620 300 Se2d 482 (1983) Butler-vs-State 286 SC 441 442 334 Se2d (1985) Citing Bannister-vs-State 333 SC 298 509 Se2d 807 (1999)

The PCR Applicant must produce the testimony in Accordance with the rules of evidence at the PCR Hearing in order to establish preJudice from the witness failure to testify. Palacio-vs-State 333 SC 506 513 511 Se2d 62-66 (1999) In The Sufficiency of Evidence, The Applicant Contend By Allowing officer Rudy Tisdale to testify to Statement's made By the victim Benjamin George And Applicant's Co-Defendent Lynell Thompson. The Court ran Awry of the Confrontation Clause of the Sixth Amendment of the United States constitution. Thus Inadmissible under here say exception.

Crawford-vs-washington 541 US 36 124 Sct 1354 158 Led 2d 177 (2004) Davis-vs-washington 547 US 813 126 Sct 2266 165 Led 2d 224 (2006) Therefore the Applicant ASKS this Court to exercise its Authority to find that the Admission of the officers statements tantamount to palpable error. Applicant ALSO Argues that no Competent evidence was put forward to Justify A finding of Guilty on 16-11-330 Arm Robbery And Attempted Robbery charge. Commonwealth-vs-Benham 816 Sw 2d 186-187 Ky (1991) Burton-vs-Commonwealth 300 Sw 3d 126 144 Ky (2009)

Similarly, where the State Consents to the dismissal of a PCR A Application after the statute has run and Agrees the petitioner should be allowed to re-file and Application the State is estopped from asserting the statute of limitations as a defence to a subsequent PCR Application. Norris-vs-State 335 SC 30-33 515 Se2d 523 524 (1999) Austin-vs-State 409 Se2d 395 396 SC (1991) Hope-vs-State 328 SC 78 492 Se2d 76 (1997) Odum-vs-State 523 Se2d 753 (1999) Gamble-vs-State 379 Se2d 118-119 (1989) Carter-vs-State 362 Se2d 20 (1987) Case-vs-State 289 Se2d 413 (1982) 17-27-70 part(c)

The Applicant prays for grace upon his petition if it please the Court under 17-27-80 for Jurisdiction Granting over his petition for PCR Application. Because PCR Judge haven't made specific findings and conclusions of law representing to each particular issue that the Applicant raise from his 2008 PCR court order Docket No: 2008 CP-45-0008 Because PCR Judge only made the conclusions of law Part(A) for failure to investigate the case and prepare a trial defence for Applicant. And Involuntary guilty Part(A)

ON This September 22 year of 2015/ I Terrence Bradshaw #320361 hereby clarified the current documentation's which is a complete copy from his guilty Transcript #30 pg's and his preliminary Transcript #16 pg's and along with Applicant mental health documents and petition in the regard's of the Applicant objection to the conditional order of dismissal total of #10 pg's in all. Applicant witness A Kershaw Institution mail room personal deposit #2 legal envelop in the mail box (1 of which) was mail too Williamsburg County Clerk of Court, and (1 of which) was mail too the South Carolina office of Attorney General.

This Statement IS True to the Best of the Applicant Ability.

Sgt Terrence Bradshaw
Terrence Bradshaw 9/22/15

The Sworn To And Subscribed Before me This 22nd Day
of September, 2015.

Carmine A. Amador

Notary Public

My Commission Expires December 22, 2018

My Commission Expires