

The Supreme Court of South Carolina

Shannon Tremell Hopkins, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-212681

ORDER

Petitioner filed an application for post-conviction relief (PCR) in which he alleged plea counsel allowed petitioner to proceed with a guilty plea even though petitioner was mentally incompetent at the time of the commission of the crimes and at the time of the guilty plea and that plea counsel failed to investigate petitioner's mental health history and request a mental health examination. The State moved to dismiss the application as untimely.

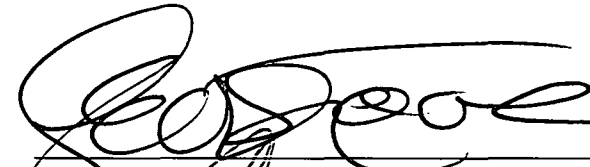
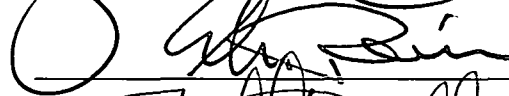
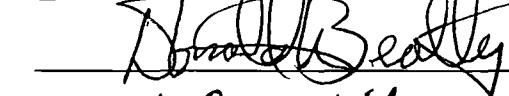

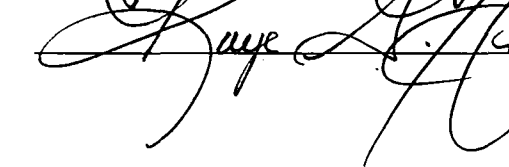
The circuit court issued a conditional order of dismissal on the ground that the application was untimely. Petitioner filed a response in which he maintained his application alleged incompetence at the time of his plea and that the plea judge was presented with petitioner's mental health records but failed to further inquire into petitioner's competency and sanity. He further maintained the one year statute of limitations was not applicable since he was incompetent at the time of his plea.

The circuit court subsequently issued a final order of dismissal stating a sufficient reason had not been shown why the conditional order should not become final. Accordingly, the circuit court dismissed the application as untimely and successive.

Petitioner filed a notice of appeal and has submitted an Explanation in Opposition to Dismissal, which we have construed as a Rule 243(c), SCACR, explanation. Therein, petitioner contends that because the failure to file the PCR application was due to mental incompetency, the statute of limitations should have been tolled.

We dispense with further briefing, reverse the order of the circuit court dismissing

petitioner's PCR application as untimely and successive, and remand this matter for a hearing pursuant to *Ferguson v. State*, 382 S.C. 615, 677 S.E.2d 600 (2009). Petitioner is entitled to counsel in the proceeding on remand. S.C. Code Ann. § 17-27-60 (2003).

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

September 19, 2012

cc:
Suzanne Hollifield White
Shannon Tremell Hopkins, 252133