

The Supreme Court of South Carolina

Tony Belton,

Petitioner,

v.

State of South Carolina,

Respondent.

Appellate Case No. 2012-213199

ORDER

Petitioner has filed a petition seeking a belated appeal from the order denying post-conviction relief (PCR) in 2010-CP-38-01758. While this petition was sent to the South Carolina Court of Appeals, it has been forwarded to this Court.

Since relief under Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991),¹ is sought by filing an application for post-conviction relief in the circuit court, the petition for relief is denied without prejudice to whatever right petitioner may have to seek relief under Austin by filing an application for post-conviction relief in the circuit court.


C. J.
FOR THE COURT

Columbia, South Carolina

October 25, 2012

cc: Megan Harrigan, Esquire
Mr. Tony Belton, #340217
Thomas Ray Sims, Esquire

¹ Cf. King v. State, 308 S.C. 348, 417 S.E.2d 868 (1992) (setting forth the appellate procedures to be followed depending on the findings made by the PCR judge regarding the Austin claim).