

The Supreme Court of South Carolina

Brian A. Diggs, Petitioner,

v.

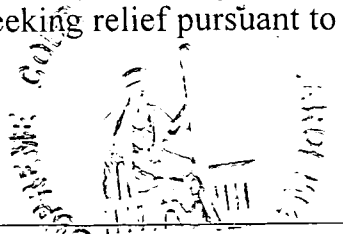
State of South Carolina, Respondent.

Appellate Case No. 2016-000666

ORDER

Petitioner has filed a notice of appeal from an order dismissing his fourth application for post-conviction relief as successive and imposing restrictions on future filings. Petitioner has also filed the explanation required by Rule 243(c), SCACR. We find petitioner has shown there is an arguable basis for asserting the determination by the lower court was improper. Accordingly, the appeal may proceed.

Petitioner has also requested he be added to a list he believes exists of persons whose motions for resentencing pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), are to be heard before a special judge. A special judge has not been appointed to hear such motions and no such list exists. Instead, individuals affected by this Court's holding in *Aiken* were informed in that opinion that they may file a motion for resentencing in the court of general sessions where they were originally sentenced,¹ and that remains the procedure to be followed. By administrative order dated March 16, 2016, a procedure for assigning a judge *after a motion for resentencing has been filed in the court of general sessions* was established. Accordingly, petitioner's request to be added to a list of persons seeking relief pursuant to *Aiken* is denied.





C.J.

FOR THE COURT

¹ By subsequent order of this Court, such individuals were given one year from July 23, 2015 to file a motion for resentencing.

Columbia, South Carolina

June 16, 2016

cc:

John Croom Colvin Hunter, Esquire

Brian A. Diggs, #248964

The Honorable Jeff L. Hammond
SC Appellate Defense