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JUN 29 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
L. Casey Manning, Circuit Court Judge

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ELIJAH MARSHALL, #186970,

APPELLANT.

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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EXPLANATION PURSUANT TO RULE  
243(c), SCACR  
Case No.: 2016-000957

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This case comes before this Court on an "Explanation" to explain why this Court should not summarily dismiss the Appellant's notice of appeal because the Respondent claims that the habeas petition filed in the state court in this matter exceeds the statute of limitation to file such a petition. However, there is no statute of limitation as to when a petitioner may petition a court for a writ of habeas corpus. Habeas corpus remains available as an "extraordinary" constitutional remedy in certain circumstances. See Gibson v. State, 495 S.E.2d 426, 428 (S.C. 1998). The circumstance involved here should be deemed "extraordinary" by this Court and review should be granted. Habeas corpus is available only when other remedies are unavailable. Id. It is clear here that the Respondent believes that a PCR application would be inappropriate at this time.

Not every constitutional error at trial will justify issuance of a writ of habeas corpus. The writ will only issue when the Petitioner's claims meets the Butler v. State, 397 S.E.2d 87, 88 (1990) standard - meaning that a violation has occurred "which, in the setting, constitutes a denial of fundamental fairness shocking to universal sense of justice". The Petitioner believes that this case meets the standard of denial of fundamental fairness because of his trial and appellate counsel ineffectiveness and being denied due process of law in this situation. The legal proceedings involved here are shocking to the universal sense of justice.

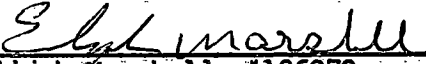
The South Carolina Supreme Court has granted the writ in only a handful of cases. See Tucker v. Catoe, 552 S.E.2d 712, 718 (S.C. 2001); Slack v State, 429 S.E.2d 801, 802 (S.C. 1993); and Butler v. State, supra.

If a petitioner has exhausted PCR remedies, as the Petitioner has here, he may file a petition for writ of habeas. The Petitioner alleged in his petition that he has exhausted all other remedies and has set out his constitutional claims in his petition, such as ineffective assistance of counsel and denial of due process of law under the Sixth and Fourteenth Amendments of the United States Constitution.

WHEREFORE, the Petitioner has made out a prima facie case showing that he is entitled to relief and this Court should accept the foregoing as a valid "explanation" and ignore the Respondent's contention that habeas corpus relief is improper because no PCR application would be timely at this juncture.

This 27 day of June, 2016

Respectfully submitted,

  
Elijah Marshall, #186970  
McCI F-4 B-side  
386 Redemption Way  
McCormick, SC 29899  
Appellant, pro-se

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
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SC Court of Appeals

ELIJAH MARSHALL, #186970,

APPELLANT.

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

AFFIDAVIT OF SERVICE  
Case No: 2016-000957

The above named Appellant certify that on this day he has served a copy of the Explanation on the Respondent by delivering a copy of same to the McCormick Correctional Institution mail room, with sufficient postage prepaid, and addressed as follows:

T. Parkin C. Hunter, Esquire  
Assistant Attorney General  
PO Box 11549  
Columbia, SC 29211-1549

Attorney for Respondent

This 27<sup>th</sup> day of JUNE, 2016

SWORN to and subscribed before me this

27<sup>th</sup> day of JUNE, 2016

[Signature]  
Notary Public of South Carolina

Mikhael Camare

[Signature]  
Elijah Marshall, #186970  
McCI F-4 B-side  
386 Redemption Way  
McCormick, SC 29899

My Commission Expires July 09, 2026

ELIJAH MARSHALL #186970

McCORMICK-4 B-side  
386 Redemption Way  
McCormick, South Carolina 29899

June 24, 2016

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SC Court of Appeals

Jenny Abbott Kitchings  
Clerk, S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: Elijah Marshall, Appellant v. State of South Carolina, Respondent  
Explanation Pursuant to Rule 243(c), SCACR  
Case No.: 2015-000957

Dear Clerk:

Please find enclosed for filing the Explanation, and the Affidavit of Service, in reference to the above entitled matter.

Please return to me a clock-stamped copy of the enclosed document at your earliest convenience.

Thank you for your attention and assistance in this very important matter.

cc: Attorney General's Office  
Personal file

Sincerely,

*Elijah Marshall*

MCL F-4 B-216  
386 REDEMPTION WAY  
MCCORMICK S.C. 29899

AUGUSTA, GA 309

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SC Court of Appeals

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CLERK S.C. COURT OF APPEALS  
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COLUMBIA, S.C. 29211

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