

STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable W. Jeffrey Young, Circuit Court Judge

Appellate Case No. 2015-002214

RECEIVED

AUG 14 2017

SC Court of Appeals

QUINTON LINEN, 238553

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

PETITION FOR REHEARING
And
Request for Rehearing *En Banc*

TARA DAWN SHURLING

Attorney and Counselor at Law
S.C. Bar No. 5099

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ATTORNEY FOR PETITIONER

NOW COMES the Petitioner in the above-captioned action, acting by and through undersigned counsel, seeking rehearing on this Court's Order in this matter. Pursuant to Rule 221(a), SCACR, the Petitioner petitions for rehearing on the ground that certain issues of material fact or law have either been overlooked or misapprehended by this Honorable Court in its decision in this matter. In support of this position, the Petitioner would show unto this Court the following.

Based upon the Order of this Court, filed July 28, 2017, it is not possible to know the Court's reasoning in denying the Petition for Writ of Certiorari filed in this PCR appeal. Prior to being transferred from the Supreme Court of South Carolina, this PCR appeal had already survived the initial review of Petitioner's explanation for this appeal pursuant to Rule 243(c), SCACR, as to why the determination of the lower court was improper notwithstanding the lower court's rulings that the matter was both time barred and successive. The Petition for Writ of Certiorari was filed in the Supreme Court of South Carolina on June 8, 2016, well before this appeal was transferred to this Honorable Court pursuant to Rule 243(I), SCACR, on March 2, 2017.

The pleadings below, the explanation for this appeal filed with the Supreme Court of South Carolina pursuant to Rule 243(c), SCACR, and the Certiorari Petition filed in this appeal all address in detail, the unusually complex procedural history of this case. Petitioner most respectfully submits that, in denying his prayer that the Writ be granted, this Court may have overlooked or misapprehended the reasons why this case is not the typical case where a Petitioner has missed a filing deadline pursuant to S.C. Code§ 17-27-45 or has filed a subsequent Post-Conviction Relief action simply because he did not win his first collateral challenge.

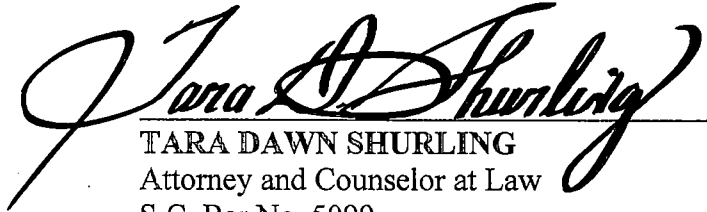
The documented procedural history of this case reveals a Petitioner who has diligently attempted to have the judgment and sentence that served as a predicate offense for his subsequent life without parole sentence properly reviewed. Simply put, Petitioner is sitting in the South Carolina Department of Corrections pursuant to a life sentence which is based upon a first strike that has never been properly reviewed under South Carolina law. The manner in which his previous PCR attempt was handled in the court below was procedurally flawed. For all the reasons set forth herein, as well as those more fully argued in his Petition for Writ of Certiorari, Petitioner prays that this Honorable Court will grant rehearing, withdraw its Order summarily dismissing this PCR appeal, and issue the Writ in order that Petitioner might have the opportunity to be fully heard on the reasons why his PCR on the judgment and sentence used as his first most-serious strike was improperly dismissed. Alternatively, Petitioner asserts that he has never had a proper appeal from the denial of his PCR on his predicate offense, and requests a belated PCR appeal on that PCR ruling. He submits that he has been prejudiced by the procedural abnormalities in this case *in as much* as they resulted in a subsequent life without parole sentence that is improper and constitutionally repugnant to the Sixth Amendment where he has never had the opportunity for his one full and fair bite at the apple on the legality of his first strike.

Given the gravity of the questions before the Court in this case, particularly the issue of whether a PCR Applicant should be prejudiced by a procedurally flawed ruling in his case, Petitioner most respectfully prays for rehearing *en banc* pursuant to Rule 219(b), SCACR. For all the reasons set forth herein, as well as those advanced in his Petition for Writ of Certiorari, Petitioner now asks that Rehearing *En Banc* be granted.

CONCLUSION

WHEREFORE, having set forth his grounds, the Petitioner, Quinton Linen, asks that this Honorable Court rehear his appeal, grant Certiorari and allow him the opportunity to be fully heard on the complex issues addressed in his PCR appeal.

Respectfully submitted,



TARA DAWN SHURLING
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ATTORNEY FOR APPELLANT

This 14th day of August, 2017.

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In the South Carolina Court of Appeals

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QUINTIN JAMES LINEN, 238553,

PETITIONER,

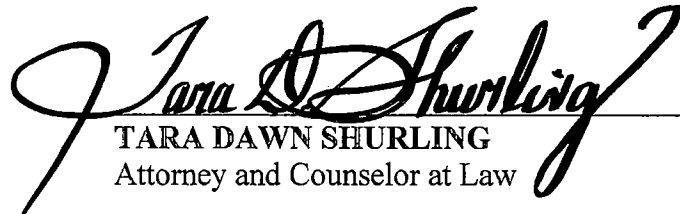
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STATE OF SOUTH CAROLINA,

RESPONDENT.

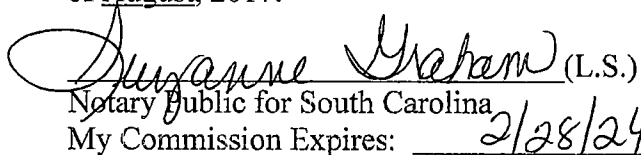
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Petition for Rehearing and Request for Rehearing *En Banc* in the above-entitled case have been served upon opposing counsel, Judah N. VanSyckel, Assistant Attorney General, by depositing in the U.S. Mail, postage pre-paid this 14th day of August, 2017.


TARA DAWN SHURLING
Attorney and Counselor at Law

ATTORNEY FOR PETITIONER.

SWORN TO BEFORE me this 14th day
of August, 2017.


Suzanne Graham (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/24

LAW OFFICE OF



TARA DAWN SHURLING, PA

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August 14, 2017

VIA HAND DELIVERY
1220 Senate Street, Columbia, SC

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

AUG 14 2017

SC Court of Appeals

Re: Quintin Linen v. State of South Carolina.
Appellate Case No.: 2015-002241

Dear Ms. Kitchings:

Attached please find for filing the original and six (6) copies of my Petition for Rehearing and Request for Rehearing *En Banc* with Certificate of Service in the above referenced matter. I would appreciate your returning two (2) clocked copies of the Petition for Rehearing and the Certificate of Service to my runner. Thank you for your assistance with this matter. With my best regards, I remain,

Sincerely yours,

A large, stylized handwritten signature in black ink that reads "Tara Dawn Shurling".

Tara Dawn Shurling
Attorney and Counselor at Law

TDS/sg

Attachment

cc: Judah N. VanSyckel, Assistant Attorney General (w/enclosure) via U.S. Mail
Quintin Linen, 238553 (w/enclosure) via U.S. Mail
Angel Linen (w/enclosure) via U.S. Mail