

The Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

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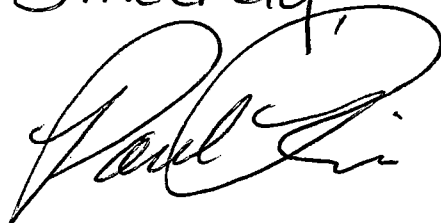
SEP 26 2017

S.C. SUPREME COURT

Dear Clerk

Please find enclosed the Certiorari
to Review PCR Action, pursuant to Rule 243(c).

Dated, September ~~22~~, 2017

Sincerely,


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SEP 26 2017

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT OF SOUTH CAROLINA

S.C. SUPREME COURT

APPEAL FROM FAIRFIELD COUNTY
IN THE COURT OF COMMON PLEAS, SIXTH JUDICIAL CIRCUIT

Honorable Brian M. Gibbons, Presiding Judge

Case No. 2016-CP-20-00187

Paul Anthony Rice, 262913.....Appellant

V.

State of South Carolina,..... Respondent

CERTIORARI TO REVIEW PCR ACTIONS

Pursuant to Rule 243(c), The Appellant submits
his written explanation as to why this determination
was improper .

I. Procedural History

The Appellant shall provide a brief history of the events:
The Appellant was originally arrested in Fairfield County
in October 1996 on a trafficking charge. On June 11, 1997,
this charge was dismissed, stating that the case would be,
"prosecuted Federally".

In July 1997, the Appellant was then arrested on a federal warrant and charged in a federal criminal complaint which alleged the same criminal activity, alleged in the state charge. (I) was indicted by a federal grand jury on August 1997, for conspiracy to possession with intent to distribute crack cocaine. The federal charges were dismissed "with prejudice" due to violation of the Speedy Trial Act. Nearly two years later, Appellant was then arrested and indicted by the State of South Carolina, State Grand Jury in May 1999 for the same criminal activity alleged in the first state charges, and federal charges. Appellant proceeded to a jury trial and was convicted on November 24, 1999, and was sentenced to twenty five (25) years of imprisonment.

The South Carolina Court of Appeals affirmed the conviction and the sentence in *State V. Rice*, 559 Se2d 360 (S.C. Ct App. filed December 20, 2001.) South Carolina Supreme Court denied Certiorari on September 19, 2002. First Remittitur was issued on September 23, 2002. Appellant filed PCR on March 5, 2003. An evidentiary hearing was convened on August 25, 2009 at the Fairfield County Courthouse. The PCR was denied on December 16, 2009. Appellant filed a timely notice of appeal. P.C.R. counsel filed a petition for Writ of Certiorari in the Supreme Court of South Carolina on September, 10, 2013. The Court of Appeals denied the petition. The South Carolina Court of Appeals issued the Remittitur on November 21, 2013. On January 24, 2014. The Appellant filed a Pro Se' Petition for Writ of Habeas Corpus. The district court granted the States motion for Summary Judgment on March 26, 2015 and dismissed the Petition. Appellant then filed a Notice of Appeal on April 3, 2015. The United States Fourth Circuit Court on Appeals issued an opinion dismissing the Appeal on June 23, 2015. The Court issued the Mandate on January 5, 2016 *Rice V. Pate* opinion #No. 15-6485. On May 5, 2016 the Appellant filed a Second PCR. On March 17, 2017, The Court issued a Conditional Order of Dismissal. On July 13, 2017 the Court issued a final Order of Dismissal. The Appellant filed a timely Appeal, which is the subject of this explanation as to why this determination was improper.

SUCCESSIVENESS

The Appellant submitted that trial counsel failed to inform him of a

Plea deal, in which they are required to do. "Counsel's failure to convey a Plea offer Constitutes deficient performance". Davie V. State 381 S.C. 601, 675 SE 2d 416 (Adopting Rule that Counsel's failure to convey a plea offer constitutes deficient performance. The Court seems to have Mis-Apprehended the Appellant's argument. The Appellant submitted that he did not discover the plea offer untill after his first PCR, when he spoke with the prosecuting Attorney General Jon Ozmitt, which prosecuted his case, and was at that time was the director of the Department of Corrections.

Mr. Ozmitt notified the Appellant that he was sure he offered him a "Plea Deal". The Court erroneously states that it was the Warden, which is incorrect. To be entitled to a Successive PCR Application, the Applicant must establish the the grounds raised in the Subsequent Application " could not have been raised in the previous application. "Id (A)s long as it was possible to raise (an) argument in the first PCR application, an applicant may not raise it in a Successive Application, Aice V. State 305 S.C. at 450, 409 SE 2d at 394. The Appellant submits that there was no way he could have raised this issue at the first PCR.

STATUTES OF LIMITATIONS

The filing procedures for PCR applications 17-27-45. An Application for relief pursuant to this chapter must be filed within one year after the entry of a judgment of conviction within one year after the sending of the Remittitur to the lower court from an Appeal or the filing of the final decision upon an Appeal, whichever is later. The Appellant submits that his case was on Appeal and he could not have filed any other actions. Appellant respectfully prays, that the Court will review the dates.

NEWLY DISCOVERED EVIDENCE

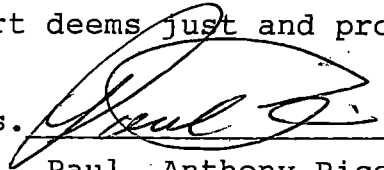
S.C. Code 17-27-45 (c), A Newly Discovered Evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained. Certainly the Statute does not convey that you

could raise Newly Discovered evidence while under a Appeal process, and also it must be raised in the proper venue. The Court also did not allow the Appellant an evidentiary Hearing to establish the facts.

CONCLUSIONS

The Appellant will request that this is the first time that he has ever been in any trouble, and would ask the Court to view this case in all fairness. In furtherance, the Appellant ask that this Court grants any relief that this Court deems just and proper.

Dated September 22, 2017

s. 
Paul Anthony Rice, # 262913
Goodman Corr. Inst.
4556 Broad River Road
Columbia, S.C. 29210

PROOF OF SERVICE

I, certify that I have this ____ day of September, 2017 via U.S. Mail serve a copy of the Certiorari To Review PCR actions pursuant to Rule 243(c), to The Supreme Court of South Carolina at P.O. Box 11330 Columbia, S.C. 29211; S.C. Attorney Generals Office .
Att. Megan Harrigan Jameson P.O.Box 11549 Columbia, S.C. 29211-1549

Dated September 22, 2017

s. 

Paul A. Rice # 262913
Goodman Corr. Inat.
4556 Broad River Road
Columbia, S.C. 29210

PAUL RICE #262913

Goodman CORR. Inst. B1-32B

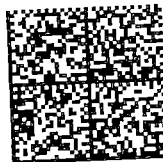
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