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MAY 02 2018

S.C. SUPREME COURT

April 30, 2018

The Supreme Court of South Carolina
ATTN: Daniel Shearouse, Clerk of Court
PO Box 11330
Columbia, SC 29211

Re: Rule 243(c) Explanation:
Scott W. Carr, #316318, v. State of South Carolina;
Case Number: 2013-CP-32-02342

Dear Sir or Madam:

I am in receipt of your April 26, 2018 correspondence requesting a Rule 243(c) Explanation from me in the above-referenced case. Please know that I did include a Rule 243(c) Explanation with my Notice of Appeal received by you on April 26, 2018. However, the copy of my Rule 243(c) Explanation was returned to me without a "received" stamp, so it must have been overlooked in both the "original" and "copies."

I am, therefore, enclosing with this letter a Rule 243(c) marked by me previously as a "copy." I believe you will find the original with the Notice of Appeal already filed with your office. In the event the original is not already at your office, I will enclose a second "copy" for you to return to me so that you can treat one of the documents enclosed with this letter as an "original."

Thank you for your assistance.

Sincerely:

David K. Allen

DKA/idi
Enclosures

cc: Mr. Scott Carr
Sherrie Butterbaugh, Esq.

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THE SOUTH CAROLINA SUPREME COURT

MAY 02 2018

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT COPY

J. Cordell Maddox, Jr., Circuit Court Judge

Case No.
(2014-CP-40-06873)

Scott W. Carr,.....Appellant

v.

State of South Carolina,..... Respondent.

RULE 243(c) EXPLANATION

FAILURE TO MAKE TIMELY APPLICATION

Section 17-27-45(a) requires applications for relief to be filed within one year of the filing of the final appeal decision. However, §17-27-45(c) essentially creates a “discovery rule” caveat to this statute. Applicant contends he acted with reasonable diligence in discovering that his attorney failed to render effective assistance of counsel. Given Applicant’s alleged mental incompetency, it is Applicant’s position that he acted with reasonable diligence and that he filed within a year of “discovering” that he may have grounds for Post-Conviction Relief. In other words, Applicant contends he is in compliance with this statute’s requirement that he raise the issue within one-year from the time he knew (or should have known) of this new evidence [emphasis added].

Moreover, §17-27-45(a) is tolled during any period in which Applicant is found to be incompetent. As discussed in *Ferguson v. State*, the PCR court “should determine the duration

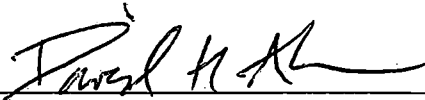
of the incompetence, and whether the application was filed within one year of [the applicant] regaining competency.” *Ferguson v. State*, 382 S.C. 615, 619, 677 S.E.2d 600, 602 (2009).

Applicant alleges that he has been mentally incompetent since well before he entered his plea.

Additionally, Applicant argues any time constraints on his raising this newly discovered evidence should be *equitably tolled* under the circumstances raised in the foregoing section.

Applicant’s incompetency and the passing of his trial-level attorney have created a situation of extenuating circumstances that justify equitable relief in the form of tolling the time constraints related to Applicant’s PCR filing. The case of *Pelzer v. State*, holds in part that such statutes of limitations should be tolled in circumstances where individuals are “unable to obtain vital information bearing on the existence of his or her claim.” *Pelzer v. State*, 378 S.C. 516, 521 (2008).

THE ALLEN LAW FIRM, P.A.



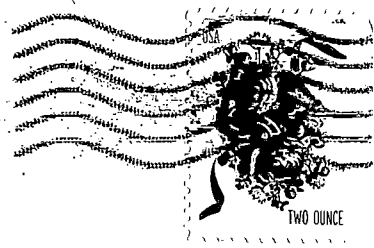
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April 25, 2018

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