

August 14, 2018

Alonzo C. Jeter, III  
Perry Correctional Institution  
Q2-A-108/#282902  
430 OAKLAWN ROAD  
Pelzer, SC 29669

The Honorable Daniel E. Shearouse  
Clerk, Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

RECEIVED

AUG 17 2018

S.C. SUPREME COURT  
RE: Alonzo C. Jeter, III, Appellant, v. State of South Carolina, Respondent  
Circuit Court Case No. 2017-CP-11-0486

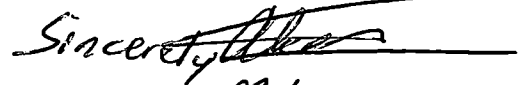
Dear Mr. Shearouse:

Enclosed for filing is the Explanation required by Rule 243(c). I inadvertently left this explanation out when I filed my notice of appeal with your office dated August 6, 2018. Proof of Service also.

Enclosed also is a copy of this explanation along with original and copy of Proof of Service and a self-addressed stamped envelope.

Please return to me a file-stamped copy of the Rule 243(c) Explanation and Proof of Service by way of the provided SASE.

Thank you for your assistance in this matter.

Sincerely,  
  
Alonzo C. Jeter, III  
APPELLANT

August 14, 2018

Alonzo C. Jeter, III  
Perry Correctional Institution  
Q2-A-108/#282902  
430 OAKLAWN ROAD  
Pelzer, SC 29669

The Honorable Brandy W. McBee  
Clerk, Cherokee County Court  
Post Office Drawer 2289  
Gaffney, SC 29342

RECEIVED

AUG 17 2018

S.C. SUPREME COURT

RE: Alonzo C. Jeter, III, Appellant, v. State of South Carolina,  
Respondent - Circuit Court Case No. 2017-CP-11-0486

Dear Ms. McBee:

Enclosed for filing is the Explanation required by Rule 243(e), along with Proof of Service in the above referenced case.

I am also mailing a copy of the Explanation and Proof of Service. Please return to me a copy of each bearing the Court's filed stamp by way of the provided self-addressed stamped envelope.

Thank you for your assistance in this matter.

Sincerely, 

Alonzo C. Jeter, III

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY  
Court of Common Pleas

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R. Keith Kelly, Circuit Court Judge

AUG 17 2018

S.C. SUPREME COURT

Case No.: 2017-CP-11-0486

Alonzo C. Jeter, III, #282902,

Appellant,

State of South Carolina,

✓

Respondent.

RULE 243(C) EXPLANATION

Jordan A. Cox, Esq.  
Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211

Alonzo C Jeter, III  
Perry Correctional Institution  
430 OAKLAWN ROAD  
Pelzer, SC 29669

PETITIONER

ATTORNEY FOR RESPONDENT

Petitioner in this case will show the Honorable Court that he pled guilty to the offense(s) of possession of less than one gram of crack, 1<sup>st</sup> Offense in the Cherokee County General Sessions Court on October 12, 2004 (2004-GS-11-925 and 2004-GS-11-926). Petitioner entered into the guilty plea under agreement and negotiations that the offenses would merge into one offense and conviction of possession of less than one gram of Crack 1<sup>st</sup> Offense.

Petitioner learned on June 30, 2017, during a motion hearing at the Spartanburg County Courthouse in regards of another PCR matter that the State would choose to unmerge his 2004 conviction and count it as two (2) separate convictions and would use the unmerged convictions to enhance his current convictions.

Petitioner files this current PCR (2017-CP-11-0486) due to this unmerging and ineffective assistance of counsel.

Petitioner will show this Honorable Court why the Lower Court's determination was improper in light of the facts and evidence presented. Petitioner filed this current PCR Application on June 19, 2017. Respondent made its Return on or about December 1, 2017, requesting the application be summarily dismissed.

Pursuant to this request, the Court issued a Conditional Order of Dismissal signed and filed December 11, 2017, which gave the Petitioner 20 days from the date of service of said order in which to show why the dismissal should not become final.

In Response to this Order, the Petitioner filed a document titled, "Petitioner's Response to Conditional Order of Dismissal" on December 27, 2017. Petitioner had also filed a document titled, "Memorandum In Support of Post-Conviction Relief Hearing" on December 8, 2017. The Petitioner also filed an amendment to his post-conviction relief application on December 18, 2017, in which he

did amend his post-conviction relief application by stating a claim cognizable under the Post-Conviction Relief Act, which was ineffective assistance of counsel.

Applicant added to the record, criminal background reports from the Cherokee County Sheriff's Office, a South Carolina Law Enforcement Division (SLED) NCIC criminal background report, City of Gaffney Criminal History Reports, Court transcripts from a July 16, 2015 Court appearance and an Affidavit of Authentication which certified and verified that all submitted documents and records were true and correct copies of official records and reports from all said agencies, ~~the~~ Petitioner also filed another amendment to his post-conviction relief application on March 20, 2018. Petitioner would direct the Court's attention to all submitted documents, as the Court would then clearly see that there is only one conviction on Petitioner's record in 2004 for possession of crack cocaine 1<sup>st</sup> offense.

Petitioner would show the Court that he has filed his current PCR Application based on grounds of which he could not have had knowledge of by the exercise of reasonable diligence. Petitioner discovered that the State would choose to unmerge his conviction for possession of less than one gram of crack by way of a motion which was filed by the State regarding another PCR matter. This motion was filed on May 1, 2017, and received by Petitioner on May 8, 2017. This unmerging became final on June 30, 2017, during the motion hearing which was held at the Spartanburg County Courthouse.

Petitioner would direct the Court's attention to all submitted criminal background reports, as the Court would then clearly see that the conviction for possession of crack cocaine in 2004 was merged into one offense. From October 12, 2004 until present, Petitioner's criminal background reports reflect the plea agreement that the conviction would merge.


This merging could be explored also by ~~the~~ examining the prosecutor's testimony to the court in the court transcripts from Petitioner's July 16, 2015, court appearance, which Petitioner has provided for the record. (See transcripts, Page 21). There was no way that the Petitioner would have known that the State would choose to unmerge this conviction years later by exercise of reasonable diligence.

The PCR Application must be filed within one-year after the date of actual discovery of the facts or after the date when the facts could have been ascertained by the exercise of reasonable diligence. S.C. Code Ann. 17-27-45 (c)

Petitioner's claim was discovered on May 1, 2017, and he has filed his application for post-conviction relief, well within the year timeline and statute of limitations set for newly/after discovered evidence. Therefore the lower court did in fact err in dismissing petitioner's application for PCR based on expired statute of limitations. The PCR Judge's decision in the Order was an unreasonable determination of the facts in light of the evidence submitted.

Petitioner has shown and provided specific facts and reasons why this PCR Application should not be dismissed, Petitioner would ask that this Honorable Court remand this case and matter back to the lower court for appointment of an attorney and ultimately an evidentiary hearing in this matter.

Respectfully Submitted,

  
Alenzo C. Deter, III  
PETITIONER

This 14 day of August, 2018  
at Pelzer, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY  
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No: 2017-CP-11-0486

RECEIVED

AUG 17 2018

S.C. SUPREME COURT

Alonzo C Jeter, III, #282902,

Appellant,


State of South Carolina,

V

Respondent.

PROOF OF SERVICE

I certify that I have served the Rule 243(c) Explanation on the State of South Carolina by depositing a copy of it in the United States mail, postage prepaid, on August 14, 2018, addressed to its attorney of record, Jordan A. Cox, Esq., Assistant Attorney General, Post Office Box 11549, Columbia, SC 29211, and Brandy W. McBeck, Clerk, Cherokee County Court, P.O. Box 2289, Gaffney, SC 29342.

Respectfully Submitted, 

Alonzo C. Jeter, III  
Perry Correctional Institution  
430 OAKLAWN ROAD  
Pelzer, SC 29669

APPELLANT

STATE OF SOUTH CAROLINA }  
COUNTY OF CHEROKEE }

IN THE COURT OF COMMON PLEAS  
IN THE SEVENTH JUDICIAL CIRCUIT

Alonzo Columbus Jeter, III }  
#282902 }

Case No.: 2017-CP-11-0486

APPLICANT }

CERTIFICATE OF SERVICE

v }

State of South Carolina }  
RESPONDENT }

I, Alonzo C Jeter, III, hereby certify that I have this 12<sup>th</sup> day of December, 2017, served Applicant's Amendment to Post-Conviction Relief Application upon the State of South Carolina; by depositing one (1) original and one (1) copy of the same in the U.S. mail (by and through the Perry Correctional Institution's Legal Mail System).

The following parties have been served at the below addresses:

Office of the Attorney General  
Attn: Valerie Giovanoli, Esquire  
PCL Division - 7<sup>th</sup> Circuit  
PO Box 11549  
Columbia, SC 29211

The Honorable Brandy W. Mabee  
Clerk, Cherokee County Court  
Post Office Drawer 2289  
125 E. Floyd Baker Blvd.  
Gaffney, SC 29342

S/ Alonzo C Jeter, III  
Alonzo C Jeter, III  
Perry Correctional Institution  
430 OAKLAWN ROAD  
Pelzer, SC 29669

SWORN and Subscribed before me  
this 12<sup>th</sup> day of December, 2017  
Nancy C. Murchant  
Notary Public for South Carolina  
My Commission Expires:

1-23-2023

**RECEIVED**

DEC 12 2017

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA  
COUNTY OF CHEROKEE

Alonzo Columbus Jeter, III  
#282902

APPLICANT

✓  
State of South Carolina  
RESPONDENT

} IN THE COURT OF COMMON PLEAS  
} IN THE SEVENTH JUDICIAL CIRCUIT

} Case No: 2017-CP-11-0486

} AMENDMENT TO POST-  
} CONVICTION RELIEF  
} APPLICATION

The applicant hereby amends answers to number <sup>10</sup> ~~9~~, number <sup>11</sup> ~~10~~, and number 19 of his Application for Post-Conviction Relief to state the following:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(A) Ineffective Assistance of Counsel - The Applicant was denied effective assistance of counsel, in violation of the Sixth Amendment of the United States Constitution and Article I, Section 14 of The South Carolina Constitution.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(A) My offenses were to merge as only a first offense. There exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice; That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error

heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy

19. State clearly the relief you seek in filing this Application; Indictment, Sentence Sheet and Plea corrected. Agreement between Solicitor, Attorney and myself honored. Sentence Corrected & Vacated.

Respectfully Submitted, Alonzo C Jeter III  
Alonzo C Jeter III  
APPLICANT  
430 OAKLAWN ROAD  
Pelzer, SC 29669

This 12<sup>th</sup> day of December, 2017  
at Pelzer, South Carolina.



MEMORANDUM

In light of the new information provided by the additional clerk's records attached, Respondent submits the following:

1. Applicant pled guilty on October 12, 2004, to **two** counts of Possession of Crack (2004-GS-11-925 and 2004-GS-11-926, records of which are attached hereto as a supplemental record to this action) in violation of S.C. Code Ann. § 44-53-375 (1976). Applicant did not appeal his guilty pleas or sentences.
2. Applicant was charged with the offenses which are the subject of this action in 2014 and 2015, including two counts of distribution of methamphetamine, third offense, and trafficking methamphetamine, third offense, in violation of S.C. Code Ann. § 44-53-375.
3. Applicant pled guilty to the charges for a negotiated sentence of fifteen years. He pled down to distribution and trafficking methamphetamine, second offense, instead of third offense.
4. Respondent submits that Applicant was appropriately charged with distribution and trafficking, third offense, and his charges and guilty pleas to the lesser offense are proper based on his prior convictions. Although both of his prior convictions are from more than ten years before his guilty plea, S.C. Code Ann. § 44-53-470(A)(4) provides:

(A) An offense is considered a second or subsequent offense if:

[...]

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has *at any time* been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute

relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

S.C. Code Ann. § 44-53-470(A)(4) (1976) (emphasis added).

5. Respondent submits that any allegation presented by Applicant that his indictments were insufficient, the plea court lacked subject matter jurisdiction, or that Plea Counsel was ineffective based on the argument that he did not have the proper prior convictions to support his enhancement should be denied.
6. For these reasons, Respondent asks this Court to deny and dismiss the application for post-conviction relief with prejudice.

---

Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT BOLCHOZ  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

JULIE A. COLEMAN  
Assistant Attorney General

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

---

By:   
ATTORNEYS FOR RESPONDENT

April 27, 2017



After 5 Days Return To:  
 Mrs. Brandy W. McBee  
 Clerk of Court, Cherokee County  
 Post Office Drawer 2289  
 Gaffney, SC 29342

SC 296  
 03 MAY '17  
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 MAY 08 2017  
 P.C.I. MAILROOM

Alonzo C. Jeter, III, #282902  
 Perry Correctional Institution Q1-B-215  
 430 Oaklawn Rd.  
 Pelzer, SC 29669

29669-870499

