

Applicant filed this application for post-conviction relief on May 8, 2015, alleging he was being held unconstitutionally based on the following allegations:

1. "Applicant was denied the right to effective assistance of counsel"
 - a. "Counsel failed to investigate, develop (sic), and present all available, relevant and admissible evidence"
 - b. "Counsel failed to present expert witnesses i.e. handwriting-expert to expose a fraudulent signature on a fraudulent statement"
 - c. "Counsel failed to object on all possible grounds to inflammatory and irrelevant evidence presented by the prosecution. As a result of counsels failure to make all appropriate objections, applicants sentence is unreliable."
 - d. "Counsel instructs applicant to list all grounds in which he would be entitled to post-conviction relief, which counsel did not timely file appeal, left applicant without a transcript to fully review all his grounds for relief"

II.

At the outset of the hearing, Respondent renewed its Motion to Dismiss All Claims But White v. State as being untimely for being filed past the one year statute of limitations. This Court granted that motion and proceeded solely on the claim of relief under White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Respondent indicated to this Court that it consented to the granting of this relief.

This Court agrees that Applicant did not waive his right to a direct appeal. In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal if requested or comply with the procedure required by Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967). White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive his appellate rights, the

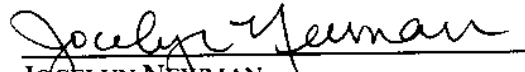
applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State, See Rule 227(g) (1), SCACR; Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986).

This Court affirmatively finds the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes that the Applicant is entitled to a belated review of his convictions. A petition for belated review pursuant to White v. State can remedy Applicant's lack of a direct appeal.

IT IS THEREFORE ORDERED:

1. That this current Application for Post-Conviction Relief be dismissed with prejudice.
2. That the Applicant is granted a belated review of direct appeal issues pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Within thirty days of service of this Order, counsel for Applicant must file a Notice of Appeal to secure the appropriate review of Applicant's convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and South Carolina Appellate Court Rule 227(g) for the appropriate procedure for securing belated appellate review.
3. That Applicant remain in custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 9th day of August, 2016.


JOCELYN NEWMAN
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina