

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Marcus Daniel Allison, 350669, )  
(Petitioner) )  
 )  
v. )  
 )  
State of South Carolina, )  
(Defendant) )

MOTION  
For LEAVE To  
REINSTATE  
APPEAL

FEB 25 2020

S.C. SUPREME COURT

C/A No.: 2015-CP-37-0316

WHEREBY:

Petitioner, Marcus Daniel Allison, 350669, hereby requests Leave to Reinstate his untimely PCR appeal pursuant to Rule 260 (SCACR). Petitioner has past the filing deadline as set fourth in Rule 203(b)(1) and 243(b) (SCACR).

Per Rule 260(a), petitioner will show "good cause" as follows:

- 1) On April 13, 2015, petitioner filed a PCR application with the Oconee County Court of Common Pleas, by way of retained counsel of record William G. Yarborough, III.
- 2) A hearing was held on the application and all parties were present. Afterward, relief was denied by Order filed by the Honorable J. Cordell Maddox, Jr., on April 19, 2018.
- 3) Petitioner's attorney of record filed a timely Motion to Alter/Amend on May 04, 2018.
- 4) On July 29, 2019, after waiting (1) one year and (2) two months for a decision on the motion, petitioner filed a Pro Se Notice of Appeal (Appellate Case No. 2019-001266).

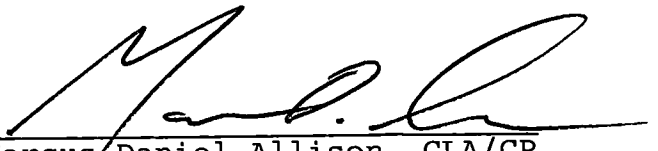
- 5) On August 27, 2019, the S.C. Supreme Court dismissed the appeal and remitted the case back to the lower court, pending the motion to alter/amend.
- 6) On October 03, 2019, Judge Maddox denied petitioner's motion and mailed a copy to petitioner's attorney of record and the Attorney General's Office (attached Exhibit A).
- 7) Petitioner was not made aware of Judge Maddox's denial Odom v. State, 523 S.E.2d 753,756 (S.C.1999), until he received a responsive letter from Mrs. Beverly H. Whitfield, Clerk of Court for Oconee County, responding to petitioner's request for a copy of the State's response to the motion to alter/amend, and asking for a status report on the same, dated February 10, 2020 (attached Exhibit B).
- 8) At such time, petitioner researched S.C. Law relevant to reinstating his untimely PCR appeal, and prepared this Motion due to: (a) retained counsel's ineffectiveness for not informing his client of the denial of the motion to alter/amend; (b) failing to ascertain whether or not petitioner desired to file an appeal; and (c) failing to file a proper PCR appeal pursuant to Rule 203, 243, and 264 (SCACR).

**WHEREFORE:**

As petitioner's counsel of record has failed in his obligations to perfect and timely file an appeal, White v. State, 208 S.E.2d 35,39 (S.C.1974), and petitioner has demonstrated

his desire to appeal (Appellate Case No. 2019-001266), petitioner should be allowed a belated or reinstated appeal pursuant to Odom v. State, 523 S.E.2d 753,756 (S.C.1999); Austin v. State, 409 S.E.2d 395,396 (S.C.1991), and for further prevention of a "gross miscarriage of justice", Aice v. State, 409 S.E.2d 392,394 (S.C.1991). see also; Sheppard v. State, 594 S.E.2d 462,466 (S.C.2004).

Respectfully Submitted,

S/   
Marcus Daniel Allison, CLA/CP  
I/M No. 350669  
MCCI., F1A-255  
386 Redemption Way  
McCormick, SC. 29899  
**PETITIONER PRO SE**