

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Dillon County

Honorable Brooks P. Goldsmith, Circuit Court Judge

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**RECEIVED**

**Jul 27 2020**

S.C. SUPREME COURT

JOHN H. BRIDGES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001791

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JOHNSON PETITION FOR WRIT OF CERTIORARI  
PURSUANT TO AUSTIN V. STATE

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Wanda H. Carter  
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR PETITIONER

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**ISSUE PRESENTED**

The first PCR judge erred in dismissing petitioner's first PCR action as untimely filed under SC Code Ann. Section 17-27-45.

## STATEMENT OF THE CASE

Petitioner John H. Bridges pled guilty to murder, conspiracy, larceny, robbery, kidnapping, first degree burglary, and possession of a weapon during the commission of a violent crime during the November 2010 term of the Dillon County General Sessions Court before Judge Thomas A. Russo. App. 1-47. Petitioner was sentenced to an aggregate 40-year prison term. Public Defenders Richard Jones and Michael Stephens represented petitioner at the plea proceeding and Solicitors Kernard E. Redmond and Shipp Daniel appeared on behalf of the state.

Petitioner did not appeal his conviction and sentences, but on June 20, 2012, petitioner filed a PCR application with the Dillon County Office of the Clerk of Court. App. 49-58. The respondent filed a return and motion to dismiss primarily due to the untimely filing of the PCR action. App. 60-64. On August 28, 2012, and October 31, 2012, Judge Paul M. Burch signed and subsequently filed a Conditional Order of Dismissal, and a Final Order, respectively, granting the respondent's motion to dismiss petitioner's PCR action as untimely filed. App. 66-70.

Petitioner did not enjoy the benefit of an appeal of his first PCR action.

On April 30, 2014, petitioner filed a second PCR action in the case requesting a belated appeal of his first PCR action and an amended PCR application on August 26, 2019. App. 107 and App. 71-79. The respondent filed a return and motion to dismiss on the allegations raised in the second PCR action save the belated first PCR issue in the case. App. 80-86.

A PCR hearing was convened on August 21, 2019, at the Dillon County Courthouse before Judge Brooks P. Goldsmith. App. 88-105. Petitioner was present at the PCR hearing and represented by Tristan M. Shaffer, and Assistant Attorney General Jacob A. Isenberg appeared on behalf of the state. On August 29, 2019, Judge Goldsmith signed an Order granting

petitioner's belated PCR appeal under Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), but dismissed the remainder of petitioner's PCR allegations. App. 109-115.

Petitioner appealed. This petition follows.

### **ARGUMENT**

The first PCR judge erred in dismissing petitioner's first PCR action as untimely filed under SC Code Ann. Section 17-27-45.

The goal of PCR relief is to afford petitioner access to a collateral challenge of his convictions. See S.C. Code Ann. Section 17-27-10 -160. The rule is that a PCR action has to be filed within one year of the entry of one's conviction. S.C. code Ann. Section 17-27-45(a). Petitioner was convicted as a minor (age 16) on November 4, 2010. Petitioner filed his PCR action on June 20, 2012, which was two years later at age eighteen while at the adult correctional facility after leaving DJJ. Clearly, the intent of the legislature in enacting the deadline did not intend to deny a PCR action to an inmate because he or she did not file the PCR action as a juvenile. The intent of the legislation is the cardinal rule of statutory construction. Gavin v. State, 365 S.C. 16, 615 S.E.2d 451 (2005). If the late PCR action filing occurred due to youth, then the spirit of the law, which is the circumstance in the instant case, and not the letter of the law, should be applied so as not to punishment petitioner based on his status as a youth at the time of the filing deadline.

The first PCR judge erred in dismissing petitioner's PCR action as untimely filed und the letter of the law via a literal interpretation of the statute rather than allowing petitioner's PCR action to proceed under the spirit of the law because petitioner's youth was a factor in his late PCR filing deadline date that was missed.

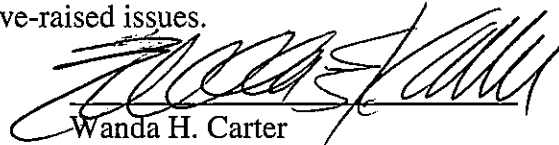
All rules of statutory construction are subservient to legislative intent and must be construed in light of the intended purpose of the statute. State v. Morgan, 352 S.C. 359, 574 S.E.2d 203 (Ct. App. 2002).

Moreover, the filing time limits should have been tolled in this case due to petitioner's youth age as a juvenile and how his incarceration transfers due to age affected his filing times. In other words, petitioner pled guilty when he was sixteen and stayed at DJJ until he was transferred after turning seventeen years old; and he did not file his PCR action until he was eighteen years old. It appeared that equitable tolling applied at least until he was eighteen and no longer a minor. App. 92, l. 13 – p. 94, l.9. The doctrine of equitable tolling halts the running of the statute of limitations in extraordinary circumstances to prevent unfairness to a diligent plaintiff who could not initiate an action or was prevented in some extraordinary way from exercising his or her right. Hooper v. Ebenezer Senior SVCS & Rehabilitation Center, 377 S.C. 217, 659 S.E.2d 213 (Ct App. 2008). Equitable tolling has been deemed available where 1.) extraordinary circumstance prevent the plaintiff from filing despite his or her diligence; 2.) the plaintiff actively pursued his judicial remedies by filing a defective pleading during the statutory period or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass or 3.) the plaintiff despite all due diligence is unable to obtain vital information bearing on the existence of his claim. App. 98, l. 17 – p. 99, l. 3.

Here, petitioner's young age and inability to gain information about the PCR filing deadline and his transfers to another institution all contributed to the extraordinary circumstances that warrant equitable tolling of the PCR filing limits for petitioner in order to allow the first PCR judge to entertain his first PCR action rather than dismiss the same.

**CONCLUSION**

Based on the foregoing arguments, counsel for petitioner requests that this Court grant the petition and allow full briefing on the above-raised issues.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a horizontal line.

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

This 27th day of July, 2020.

STATE OF SOUTH CAROLINA

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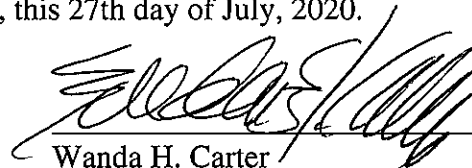
RESPONDENT

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CERTIFICATE OF SERVICE

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Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Petition for Writ of Certiorari and accompanying appendix in the above-referenced case has been served upon Chelsey Marto, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and a copy of the Petition for Writ of Certiorari and a copy of the Appendix have been served on John H. Bridges, #345950, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 27th day of July, 2020.



Wanda H. Carter

Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER



# SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense  
1330 Lady Street, Suite 401  
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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

July 27, 2020

Chelsey Marto, Esquire  
Assistant Attorney General  
Rembert Dennis Building  
1000 Assembly Street  
Columbia, SC 29201

Re: John H. Bridges v. The State

Dear Ms. Marto,

Attached please find a copy of the Petition for Writ of Certiorari and a copy of the Appendix in the above entitled case, which I have filed today with the South Carolina Supreme Court.

Please call me if you have any questions.

Sincerely,

Wanda H. Carter  
Deputy Chief Appellate Defender

WHC/sl

Enclosure



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

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Columbia, South Carolina 29201-3332

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Robert M. Dudek, Chief Appellate Defender  
Wanda H. Carter, Deputy Chief Appellate Defender

July 27, 2020

Mr. John H. Bridges, #345950  
Lieber Correctional Institution  
PO Box 205  
Ridgeville, SC 29472

Re: Your appeal

Dear Mr. Bridges:

Enclosed please find a copy of the Petition for Writ of Certiorari and a copy of the Appendix in your case, which I have filed with the South Carolina Supreme Court on your behalf.

Should you have any questions concerning this matter, please contact me.

Sincerely,

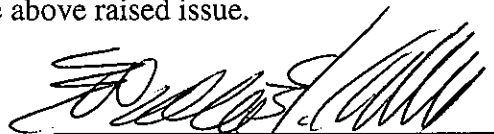
Wanda H. Carter  
Deputy Chief Appellate Defender

WHC/sl

Enclosure

**CONCLUSION**

Based on the foregoing argument, counsel for petitioner would request that this Court grant the petition and allow full briefing on the above raised issue.

A handwritten signature in black ink, appearing to read 'Wanda H. Carter', written over a horizontal line.

Wanda H. Carter  
Deputy Chief Appellate Defender

ATTORNEY FOR PETITIONER

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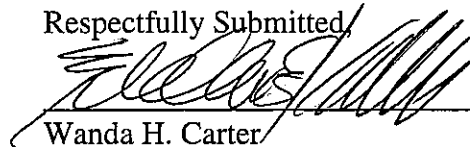
PETITION TO BE RELIEVED AS COUNSEL

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Counsel for John H. Bridges states that:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent petitioner.
  2. She has reviewed the record of petitioner's post-conviction relief hearing before Judge Brooks P. Goldsmith, which was held on August 21, 2019, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
  3. She has, pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), briefed an arguable legal issue which arose during the post-conviction relief process.
- Therefore, counsel requests that the Court relieve her as counsel for John H. Bridges.

Respectfully Submitted,

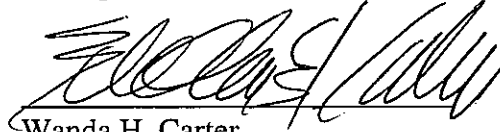


Wanda H. Carter  
Deputy Chief Appellate Defender  
ATTORNEY FOR PETITIONER

This 27th day of July, 2020.

**CERTIFICATE OF COUNSEL**

The undersigned certifies that to the best of her ability this Johnson Petition for Writ of Certiorari complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



Wanda H. Carter  
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South Carolina Commission on Indigent  
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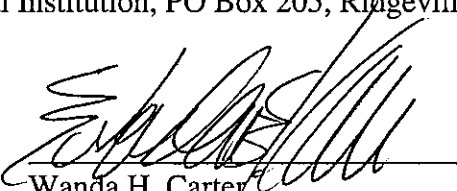
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Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Petition for Writ of Certiorari Pursuant to Austin v. State has been served upon Chelsey Marto, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and a copy of the Petition for Writ of Certiorari and a copy of the Appendix have been served on John H. Bridges, #345950, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 27th day of July, 2020.

  
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Wanda H. Cartey  
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