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S.C. SUPREME COURT

THE SUPREME COURT OF SOUTH CAROLINA

RE: Sherman Dewalt v. State

Appellate Case No. 2020-001469

243(c) Written Explanation

This written explanation pursuant to SCACR, 243(c) dated November 16, 2020 and received by me on November 24, 2020, and motion this court pursuant to Rule 6(b) for an Extension of Time, in which to file this explanation for twenty days due to the Christmas Holidays and covid 19 pandemic.

The Petitioner object that the Great Seal evidence was discovered prior to entry of the guilty plea. Conditional Order of Dismissal p. 8, paragraph 3. See exhibit A and B. that was submitted to the court on November 4, 2019, and the exhibits proves that Petitioner discovered the missing seal after the guilty plea.

The Respondent alleges that, The Uniform Post Conviction Procedure Act state a person may institute a PCR action if "there exist evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice." S.C. Code Ann. §17-27-29(A)(4). If the applicant contends there is evidence of a material fact not previously presented, the PCR application must be filed within one year after the actual discovery of the facts by the applicant

or after the date when the facts could have been ascertained by exercise of reasonable diligence. S.C. Code Ann. §17-27-45(c).

Petitioner submitted to the PCR court in his supplemental objection to the conditional order of dismissal section 17-27-45(c), he had a year to file his PCR application, and he alleges Since the Great Seal is not affixed to 2002 act No. 278, the act for which Applicant was sentenced for murder, (Exhibit A) Applicant request a hearing on this matter. The Petitioner notes §17-27-45(c) does not mentioned when this matter got to be mentioned, at a hearing or in the application.

The issue before this court is ineffective assistance of counsel and counsel failure to do reasonable investigation of whether the Great Seal of the State was affixed to the Acts for the punishment for murder which gave me a life sentence and first degree burglary. No part of a murder conviction can be suspended and probation granted. See statute for punishment for murder. §16-3-20 (2002).

Petitioner acknowledgment of newly discovered evidence does not change the claim be this court. The Respondent admits it does appear the Great Seal was not affixed to 2002 Act No. 278, the act for which Applicant was sentenced for murder (exhibit A). This alone creates a genuine issue of material fact whether counsel was ineffective for his failure to do a reasonable investigation of whether the Great Seal of the State was affixed

to the Acts for punishment for murder and First Degree Burglary. The Respondent alleges Smith v Jennings 45 S.E. 821, 824 (1903) Medical Soc. of South Carolina v Medical Unv. of South Carolina 513 S.E.2d 352, 356 (1999); Beaufort County v. Jasper County 68 S.E.2d 421, 430 (1951) and State v. Town Council of Chester, 17 S.E. 752, 755 (1893) and more ... (when the bill ... is deposited in the department of state, according to law, its authentication as a bill that has passed congress is congress is complete and unimpeachable).

The question should be, what is the legal effect upon an Act's validity when Art. III, § 18 is not complied with. In this instance, you state that the Secretary of State has failed to affix the Great Seal of the State upon a number of Acts. Our courts have yet to address this question directly, and so there is a genuine issue of material fact whether the Act is valid without the Great Seal affixed to it.

The Petitioner objects to this citing of cases by relying on State v Long, 753 S.E.2d 425 (2014), when this court is called to interpret our Constitution it is guided by the principle that both the citizen and the General Assembly have worked to create the governing law. See Miller v Fary, 133 S.E.2d 836, 841 (1963)(noting the Constitution is construed in the light of its framers and the people who adopted it). The Court will look at the ordinary and popular meaning of the words used.

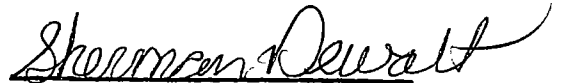
The Petitioner alleges in support of his claim of newly discovered evidence Article III, Section 18 of the South Carolina Constitution, "No Bill or Joint resolution shall have the force of law until it shall have been read three and on three several days in each house, has had the Great Seal if the State affixed to it ..." There is enough evidence to have an hearing pursuant to Hyman v State 723 S.E.2d 375, 379 (2012). Petitioner has proved when actual discovery and the Respondent admit the Great Seal was not affixed to 2002 Act No. 278, the act for which Petitioner was sentenced for murder.

CONCLUSION

The Petitioner pray for a hearing.

Dated

December 30 2020



Sherman Dewalt