

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal From Alex Kinlaw, Jr. Chief  
Administrative Judge 13th Circuit

Appellate Case No. 2020-001617

Eugene Thomas.....Appellate

v.

State of South Carolina.....Respondent

SUPPLEMENT TO THE EXPLANATION  
PURSUANT TO RULE 243(c) and  
15(d), SCRCP

Applicant filed his Explanation pursuant to Rule 243(c) ON  
December 29, 2020, and now moves this Court for an Order  
supplementing that explanation.

The Applicant objected to Judge Hayes dismissal as recorded for  
the Order issued October 27, 2016, to wit: Wherefore I find  
applicant has not proved by a preponderance of evidence that  
trial counsel was ineffective on any of the grounds presented by  
Applicant at the PCR hearing. In Fisburn v. State 832 S.E.2d 584  
(S.C. 2019) the Court remand was required for trial court to make  
finding of fact and conclusion of law on duly raised post  
conviction claim of ineffective assistance of counsel. In the  
Applicant is prejudiced by his PCR counsel, not only did counsel  
not file a rule 59(e) motion stating that the Judge use the wrong  
standard, he made it harder the file a second PCR, because the  
second would be considered successive to the present PCR. Initial  
PCR action (2015-CP-23-2998).

Moreover, in an application for PCR when counsel for either side prepares the proposed order, the order must include finding of fact and conclusion law as to all issues raised by an applicant. S.C. Code Ann. §17-27-80; S.C. R. Civ.P. 52(a). In addition, ineffective assistance of Appellate Counsel should be heard under Austin v State review since PCR counsel nor appellate counsel asked the Supreme Court for remand so that the Court could make a finding of fact and conclusion of law on each claim presented. The applicant is prejudice by PCR and Appellate Counsel's unprofessional performance, because under PCR rules, an applicant is entitled to a full adjudication on the merits of the original petition, or one bite at the apple. Odom 523 S.E.2d at 755, citing Aice v. State, 409 S.E.2d 392, 395 (1991).

CONCLUSION

Petitioner prays that this Court grant the relief prayed for in the Explanation pursuant to Rule 243(c).

Dated

January 19 2021

Eugene Thomas  
Eugene Thomas