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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal From Brian M. Gibbons, Chief Administrative  
Judge 6th Judicial Circuit

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Appellate Case No. 2020-001469

Sherman Dewalt.....Appellant

v.

State of South Carolina.....Respondent

**PETITION FOR REHEARING**

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The Respondent alleges that I have not shown a prima facie showing that he is entitled to relief, citing Welch v. macDougall, 143 S.E.2d 455 (1965). This Respondent alleges that this evidence was discovered prior to the entry of the guilty plea. Applicant pled guilty in January 28, 2008, Newly discovered evidence have five point to satisfy (1) the evidence is such that it would change the result if a new trial is granted, this mean he could not pled to murder and sentenced under that act where the seal is missing (2) the evidence was discovered since trial,

the missing of the Great seal was discovered since the guilty plea even if in error I said different, (3) the evidence, in the exercise of due diligence, could not have been discovered prior to trial, if I had known that the Great Seal was missing from the act which I got sentenced, then I would not have pled guilty but insisted on going to trial, (4) the evidence is material, this evidence is material because it has to do with the judgment of the court, and (5) the evidence is not merely cumulative or impeaching, because according to the Constitution the Great Seal must be affixed to the acts, or it would not have the force of law. Art III, § 18. McCoy v. State, 737 S.E.2d 623 (S.C. 2013).

Where an applicant alleges facts that would established, an exception to either or the statute of limitations or the prohibition against successive PCR applications and those facts are not conclusively refuted by record before the PCR court, a question of fact is raised which can only be resolved by a hearing. McCoy quoting Delaney v. State, 230 S.E.2d 679, (1971)..

The state must prove that I discovered the evidence prior to my guilty plea.

#### Conclusion

The Petitioner prays that this Court will grant a hearing.

Dated

January 21, 2021

  
Sherman Dewalt