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Feb 16 2021

S.C. SUPREME COURT

From: [Tara Shurling](#)
To: [Supreme Court Filings](#)
Cc: [Chelsey Marto](#)
Subject: Donald Scott Jones v. State; 2019-CP-11-00466
Date: Tuesday, February 16, 2021 11:59:41 PM

Dear Mr. Shearouse:

Petitioner in the above captioned PCR appeal has asked for an extension until today's date to submit his Rule 243 letter in support of this appeal. Undersigned Counsel arrived at her office today to discover that the storms of last evening had apparently knocked out both her phone service and server on her computer network. Neither her phone lines or her computers were working and she will not be able to get these problems until tomorrow or Thursday.

Counsel wishes to summarize the summarize the reasons she believes that this appeal should be permitted to go forward based upon a prayer for remand to the circuit court for further proceedings. Petitioners most recent PCR Application asserts claims of ineffective assistance of PCR Counsel in his previous PCR action addressing these same judgments and his life without parole sentence. The record of the PCR hearing bears out Applicants claim that he received ineffective assistance of PCR Counsel. The transcript verified that PCR Counsel repeatedly presented claims concerning trial counsel's failure to present certain evidence which would have been valuable to the defense, but failed to present that evidence himself in order to meet the prejudice prong of Petitioner's burden of proof. Undersigned counsel asks for leave to submit an additional 243 letter as soon as her computer network is restored and she can access the work previously finished on this Rule 243, SCACR, letter.

In addition, Counsel wishes to note that the current PCR Application's claim of after discovered evidence was treated by the lower court as only addressing the failure of counsel to present certain mental health medical records. The transcript of the first PCR in fact demonstrates that PCR Counsel presented the Court with a note from the Victim's son which called into question the credibility of the victim's testimony. The Court found the note to be inadmissible due to the fact that the author was not present in Court. The court went on, however, to hold the record open for ten (10) days for PCR Counsel to present the Court with a deposition from that witness. The lower court records do not reflect that such a deposition ever submitted. The Order of Dismissal in that PCR action does not even address the fact that the record was held open for a deposition. There is no indication of any submission by PCR counsel concerning why the deposition was not taken or filed. To complicate matters further, the note presented to the Court was not preserved as a Court Exhibit, and therefore is not available to undersigned counsel for inspection. See, Appendix to first PCR Appeal on lower court docket no. 2012-CP-11-0574. Counsel will provide the Court the documentation relevant to this issue once her computer network is restored. The instructions of the Court concerning the necessary deposition are found at App. P. 453-454. Counsel has requested that PCR Counsel, Shawn M. Campbell, retrieve his PCR file and provide Counsel with a copy of the note in question and an explanation as to why the deposition was not taken and submitted to the PCR Judge.

Counsel will provide additional information to the court as quickly as it is available. For now, I remain,

Tara Dawn Shurling
Attorney at Law
SC Bar No. 5099

Sent from my iPhone