

ROSS & ENDERLIN, PA
ATTORNEYS AT LAW

March 29, 2021

The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

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APR 01 2021

S.C. SUPREME COURT

Re: Jeremy Jackson v. State of South Carolina
Appellate case No. 2021-000291

Dear Mr. Shearouse:

By way of explanation Pursuant to Rule 243(c), SCACR, Mr. Jackson, by and through undersigned counsel, appeals the Order of Dismissal of his PCR due to its failure to consider internal conditions at Lee Correctional Institution in its determination of whether the doctrine of equitable tolling would apply in this case. The application was filed April 26, 2016, admittedly over a year after the appellant's March 16, 2015, guilty plea. However, the application was notarized on March 23, 2016, a week late.

To quote *Mose v. State*: "Notably, this Court has determined the statute of limitations shall be equitably tolled where 'circumstances preventing a petitioner from making a timely filing [are] both beyond the petitioner's control and unavoidable despite due diligence.' *Ferguson v. State*, 382 S.C. 615, 618, 677 S.E.2d 600, 602 (2009)..." *Mose v. State*, 803 S.E.2d 718, 420 S.C. 500 (S.C. 2017). (emphasis added). The Appellant testified that the conditions at Lee Correctional Institution created undue barriers that prevented him filing his PCR application. He admitted that due to his belief that his mother requested an appeal that was in progress, he did not immediately pursue a PCR. He said that when he did attempt to prepare his PCR application, months prior to the deadline, he met with numerous institutional obstacles that were beyond his control that delayed the filing of his application. He was in lockdown. He was not allowed access to the law library or a notary, requiring outside intervention to finally get his application notarized. The State presented no evidence to dispute Mr. Jackson's testimony. Thus, appellant argues that the PCR judge's ruling was in error.

As to the *White v. State* claim, the appellant said he wanted an appeal after he received twenty-six (26) years rather than a sentence in line with the fifteen (15) year recommendation that had expired one week prior to his guilty plea. The appellant and his mother testified that they made efforts to secure an appeal by contacting plea counsel but had difficulties reaching him by phone. See Order of Dismissal p. 11-14. The appellant said he was unable to reach his plea counsel from the jail until thirteen days after the plea when he was told he was too late. His mother testified that she lived out of town but tried to contact counsel by phone after speaking to her son about an appeal. After a number of tries she reached plea counsel at the public defender's office who told her he would not file the appeal unless the client

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contacted him directly. Counsel testified that the mother did call him within ten days of the plea but admitted to him that the appellant has not specifically directed her to ask for an appeal, so he did not appeal the matter. However, in this situation where the appellant's guilty plea went so badly that he received eleven years of additional prison time by missing a plea recommendation by one week, effective counsel would have expected that the appellant would want to do something, such as move to reconsider or appeal the plea and sentence. After the mother got through to him, counsel was on notice that applicant may want an appeal and effective counsel would have followed up with the appellant or filed notice of appeal to preserve the right.

Mr. Jackson is advised that he has twenty (20) days from the date of this letter to file to the Supreme Court at the above address a *pro se* explanation as to why he believes the determination of the court was improper and outline any issues which may be reviewed on appeal of his guilty plea. See Dennison v. State, 371 S.C. 221, 639 S.E.2d 35 (2006).

Sincerely,



Susannah Ross
Attorney at Law #11205

cc: Assistant Attorney General Taylor Smith
Office of Appellate Defense
Greenville County Clerk of Court
Jeremy Jackson

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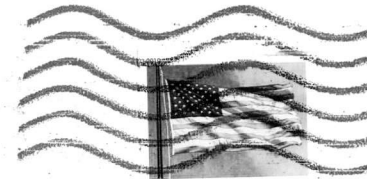
S.C. SUPREME COURT

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