

STATE of South Carolina  
In the COURT of Appeals

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MAY 19 2021

Appeal from Darlington County  
Court of Common Pleas

SO/Court of Appeals

Paul M. Burch, Circuit Court Judge  
Case no: 2019-CP-16-00806

Curtis Nealey #337988 . . . . . Appellant

v.

State of South Carolina . . . . . Respondent

notice of appeal

I, Curtis Nealey appeals the order of  
the Honorable Paul M. Burch dated April  
27, 2021. Appellant received written notice  
of this order on May 3<sup>rd</sup>, 2021.

Dated May 10, 2021 <sup>s,</sup> Curtis R. Nealey #337988

See CI F6A-2140  
990 WISACKY Hwy  
Bishopville S.C. 29010

Other Counsel  
Chelsey F. Marto AAG  
Attorney General Office  
P.O. Box 11549  
Columbia S.C. 29211

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Paul M. Burch, Circuit Court Judge  
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Curtis Nealey #337988 appellant

v.  
State of South Carolina Respondent

### Explanation of notice of appeal

Here comes Curtis Nealey #337988 pursuant with SCACR Rule 243 to explain lower court order was improper. The following will contain facts, legal authority to show there is a arguable basis that the lower court order was improper.

#### Successive

Appellant assents to the extend the lower court found this PCR successive to Applicant's original PCR this determination was improper. Appellant current allegations happen during his original PCR proceedings, therefore his current allegation could not have been raised in any previous proceedings, because

of the ineffectiveness of Appellant's Appellate Counsel his original Issues has not been fully adjudicated. So, Appellant current PCR was not ~~not~~ successive under 17-27-90. Appellant was excised his right to one full bite of the apple under the Austin exception. Aice 409 SE2d 394

### statue of limitations

Applicant would state these current Allegation are part of his original PCR Application. The remittitur was not Issue until Feb 23, 2018. Then Applicant filed a pro se Habeas Corpus on March 20, 2018 and Summary Judgement was not Issue until December 20, 2018. Clearly, Appellant can not filed in two different Jurisdiction on the same Issue, at the same. So Applicant filed his current Application on 7-16-2019. The statue of limitation has not run out. under (Mose U. State

803 SE2d 718... Given the unique conditions of 'incarceration', the one year statue of limitations governing a PCR should be tolled if the circumstances warrant, clearly, under these circumstances the lower court order was improper, Appellant, should of been allow to have a evidentiary hearing to determine the merits of his Allegations.

### Cognizable claim

under sixth Admendment Applicant has

The Right to effective assistance of  
Appellate Counsel. Bennett v. State 680 S.E.2d  
273.J

Conclusion

Applicant has provided specific reasons,  
facts, legal authority why this appeal  
should be granted.

respectfully submitted,

Dated May 10, 2021 S,

Curtis R. Nealey #337988  
Box CI FB-A-2140  
990 Wisacky Hwy  
Bishopville S.C. 29010

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Appeal from Darlington County SC Court of Appeals  
Court of Common Pleas

Paul M. Burch, Circuit Court Judge  
Case no: 2019-CP-16-00806

Curtis Nealey #337988 Appellant

STATE of South Carolina v.  
Respondent

### Proof of Service

I certify that I have served the notice of appeal on Chelsey F. Marto, AAG, addressed to South Carolina Attorney General Office P.O. Box 11549, Columbia, S.C. 29211, by depositing a copy of it in the United States mail at the Lee County Correctional Inst. in Bishopville, South Carolina.

Dated May 10<sup>th</sup>, 2021

s,

Curtis R Nealey #337988  
Lee CI F6 A 2140  
990 WISACKY HWY  
Bishopville S.C. 29018

Dated May 10, 2021

Jenny A. Kitchings  
Clerk of Court  
Court of Appeals  
P.O. Box 11629  
Columbia, S.C. 29211

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MAY 19 2021

SC Court of Appeals

RE: notice of Appeal  
Nealey v. South Carolina  
CASE NO. 2019-CP-16-00806

Dear Clerk,  
Please find  
enclosed notice of Appeal, proof  
of service, that has been served  
upon opposing party, Chelsey F. Marts  
AAG, Attorney General office. Please  
file the appeal.

Respectfully,  
s, Curtis R. Nealey  
Curtis R. Nealey #337988  
Lee CI FG-A-2140  
970 Wisacky Hwy  
Bishopville S.C. 29016

Curtis R. Nealey 33-7986  
LCI P.O. Box 2150  
690 Bishopville SC 29010

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Clerk of Court  
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