

The State of South Carolina
In the Supreme Court

Appeal from Spartanburg County
Court of Common Pleas
Grace Gilchrist Knie Chief Adm. Judge

C/A 2021-000538

Tyrone Perry - - - - - Appellant

✓

State of South Carolina - - - Respondent

RECEIVED

JUN 22 2021

S.C. SUPREME COURT

Rule 243 (c) Explanation

Now comes the appellant who files this 243 explanation dated May 25, 2021 and received by the Appellant June 8, 2021

I the Appellant Tyrone Perry submit this 243 explanation with prayers that I'll receive a evidentiary hearing, since the very beginning the appellant has been denied procedural and substantial due process through out his entire efforts to obtain relief. In a land were every citizen has rights and innocent until proven guilty evaded me. The judge's order it states the appellant had a FULL opportunity to litigate all his allegations in prior actions. Untimeliness and Res Judicata bar me. From the beginning in guilty pleas PCR is the main platform for an applicant to attack his conviction. In my efforts I was given an ineffective PCR counsel who failed to give me any requested evidence or discovery. Which clearly is a Martinez-v-Ryan violation. The appellant has six months of letters

to PCR attorney Kenneth P. Shabel prior to the hearing requesting for tangible evidence and to issue subpoenas to witnesses. No evidence is submitted on the PCR record other than a letter I wrote to the Bar Association complaining on trial counsel prior to trial. Rule 5 of SCRPC and Brady-v-Maryland violation. At the only stage I have to attack my conviction I was denied my opportunity to fully be heard. So the record consists of two witnesses and a letter to the bar. PCR counsel never visited me or talk to me via phone or visit to discuss only numerous letters stating well be able to talk once he gets the requested evidence which NEVER come prior to my hearing. I've submitted exhibits with this to verify. Various rules of professional conduct was violated by trial counsel and PCR attorney in regards to 1.3 diligence, 1.4 communication, 1.6 Confidentiality, 1.7 conflict of interest and 1.14 diminished capacity. The appellant had to weather all of this as a layman with NO guiding hand to protect his rights. On July 29, 2008 my initial PCR commenced and with NO evidence other than two witness I went to my only platform to attack my conviction. Basically at an all out disadvantage. My initial PCR was dismissed on October 13, 2009. I was on solitary confinement. I received this order around October 20th or 21st or around or about this time. With NO help from a law clerk or Counsel. I filed this 59(e) motion Pro Se but hybrid representation thwarted that. Pursuant to Marler-v-State and Prutt-v-State PCR counsel is obligated to go over the order and file a motion if All issues are ^{not} adequately ruled upon. The Clerk of Court failed to serve PCR counsel so he had NO knowledge of the dismissal and hybrid representation prohibited me. I was on solitary confinement for NO reason at the time with no charge simply because prison officials can do as they please. So I was at another disadvantage trying to get legal supplies. Our Court system is bound and routes through Rules, statutes, and case law. I was denied and deprived all this being a layman. My efforts and diligence was shot down at every step

Unrebutted testimony by Sarah Dunn and Brenda Miller states I would receive 25 years and counsel coerce the plea with fake promises. Which is a U.S. - v Brady violation and Santobelo - v - NY violation. Court was held up by violence and my refusal to sign. So the only evidence I through my own due diligence could produce. Although I spent over six months asking counsel and writing various agencies to get my own. Statute § 17-27-90 clearly states relief can be sought and a ground can be heard if it wasn't asserted or was inadequately raised. If the appellant was denied discovery by state agents and PCR counsel who or how is the appellant afforded any bite of the apple with no supporting evidence. Then its noted that the appellant is mentally ill with a diminished capacity so how is constitutional requirements and goals met when all attempts at evidence are thwarted at the ONLY stage the appellant has to attack his conviction. Statute 17-27-80 states trial counsel MUST rule on ALL issues raised. With specific findings of fact and law. My only two witness testimony were not rebutted by the state in which they had an opportunity to cross examine. And trial counsel agreed I would not sign the plea and that he didn't speak to me about my case but my Mother. This violates attorney client privilege and my Mom NEVER speak with my attorney. A clear 6th Amendment violation and 14th amendment violation. Clearly a US - v - Cronin violation. The appellant had a tough hill to climb and court appointed attorneys made the hill slippery by NOT upholding their duties per the constitution. Statute 17-27-45 (B) states when a substantive standard not previously recognized or right not

existence at the at the state trial on applicant has one year to file. I met the year limitation and with the hands I been dealt over the years none of my issues were fully heard or adequately raised. There are many hardships prisoners face mail, legal supplies, research, late mail delivery and receiving and all these hardships fall on the prisoner who already has the weight of the world on their shoulders. Prison phones only allow prisoners to call lawyers at the Appellant defense in Columbia. NO PCR lawyers. So back in 2009 when I received my initial PCR order of dismissal 5 days before the deadline with no law clerk help or legal supplies with a diminished capacity I done it. Just to be told only my PCR attorney had to. Although state law relevant at the time obligated him Prust and Mexler it wasn't. He wasn't even given a orders that falls squarely only the clerk. So how is due process or the appellants basic constitutional rights fulfilled like this. I'm submitting substantial evidence through due diligence to support and I have more. The appellant throws himself at the Mercy of the Honorable Courts. And prays this explanation suffices the requirements.

WHEREFORE the appellant prays the Honorable Courts appoint counsel and commence an evidentiary hearing.

This 10th day of June 2021

80 Tyrene Perry 307793
4460 Broad River Rd MLT-2041
Columbia S.C. 29210