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JUL 26 2021

S.C. SUPREME COURT

July 22, 2021

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

Re: Anthony Lounds v. State of South Carolina
Appellate case No. 2021-000645

Dear Mr. Shearouse:

By way of explanation Pursuant to Rule 243(c), SCACR, Mr. Lounds, by and through undersigned counsel, appeals the Order of Dismissal of his PCR action and the denial of his Motion to Alter or Amend because there exists sufficient reason to proceed because the allegations he presents were not asserted or were inadequately raised in his original PCR proceeding.

The Applicant alleges that counsel was unconstitutionally ineffective for failing to inform the Applicant of a plea offer. *See Davie v. State*, 675 S.E.2d 416, 381 S.C. 601 (S.C. 2009). Applicant admits that the allegation could have been raised at his prior PCR hearing and was, in fact, argued by Mr. Lounds at his one prior PCR hearing before Judge Verdin. There, Mr. Lounds offered letters into evidence from Assistant Solicitor George Campbell to appellate counsel, Susan Hackett, saying that he had extended plea offers to Nihar Patel. Mr. Patel was the Applicant's public defender and was relieved of representation when Scott Robinson was retained. Mr. Lounds offered letters indicating a plea offer had been extended in the case and testified that he did not receive any plea offer at any time prior to his trial where he was sentenced to life under § 17-25-45 of the South. PCR Tran. 23. Scott Robinson testified at the PCR hearing that he did not recall that there was any plea offer. He said he spoke to Assistant Solicitor Sloan Ellis who was second chair at the trial and was told there was no plea offer. This statement could not at the time have been disputed because the rebuttal evidence was not yet discovered by the Applicant. Mr. Lounds filed this most recent application after learning that Assistant Solicitor Sloan Ellis told Applicant's family members that as second chair at the Applicant's trial, he would not be in a position to know if a plea offer had been extended in the case. Mr. Ellis confirmed this to the undersigned counsel. This is relevant newly discovered evidence which brings into question whether trial counsel communicated the Applicant's plea offer to him creating a genuine issue of material fact.

Appellate counsel argued the issue in the petition for cert from Mr. Lounds initial PCR, but cert was denied after the State argued that the allegation was not preserved because the 2014 Order of Dismissal fails to address this allegation and there was no 59(3) motion to preserve the issue. The evidence that Sloan Ellis was not in a position to know of or discuss

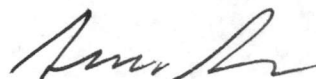
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a plea offer with trial counsel in the case is newly discovered evidence supporting Mr. Lounds argument that he did not receive a plea offer. This allegation had never been addressed or waived because was inadequately raised and not preserved at the initial PCR.

Mr. Lounds' PCR application also asserts that his sentence exceeds the maximum because he was no properly noticed under § 17-25-45(H) and that there were irregularities in the grand jury proceeding. These issues again were not asserted or were inadequately raised in his original PCR proceeding. Therefore, he should not be prohibited from filing further PCR applications, habeas corpus actions, or any other actions challenging his sentence or conviction without obtaining the permission of the court.

The undersigned moves to be relieved in this matter at this time. Mr. Lounds 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 he should not be prohibited from filing further PCR applications, habeas corpus actions, or any other actions challenging his sentence or conviction without obtaining the permission of the court. See Dennison v. State, 371 S.C. 221, 639 S.E.2d 35 (2006).

Sincerely,



Susannah Ross
Attorney at Law #11205

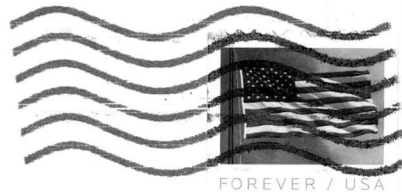
cc: Assistant Attorney General Taylor Smith
Office of Appellate Defense
Greenville County Clerk of Court
Anthony Lounds

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