

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

HON. WALTON J. McLEOD, IV. CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2021-000860

BILLY WAYNE MCINTOSH, 87743 - - - - - APPELLATE

VS

STATE OF SOUTH CAROLINA - - - - - RESPONDENT

NOTICE OF INTENT TO APPEAL

APPELLATE HEREBY SERVES NOTICE OF INTENT TO APPEAL THE FINAL ORDER OF DISMISSAL IN BILLY WAYNE MCINTOSH, 87743, VS STATE OF SOUTH CAROLINA, CIVIL ACTION NO. 2020-CP-32-01083, LEXINGTON COUNTY COURT OF COMMON PLEAS, SIGNED BY HON. WALTON J. McLEOD, IV. CIRCUIT COURT JUDGE, FILED JUNE 30, 2021, AND SERVED ON APPELLATE JULY 13, 2021, AT LEE CORRECTIONAL INSTITUTION.

DATE: 8-31-21

Bj McIntosh
BILLY WAYNE MCINTOSH, 87743
998 WISACKY HWY.
BISHOPVILLE, SC 29010
PRO SE

CC: LILLIAN L. MEADOWS
ASSISTANT ATTORNEY GENERAL

RECEIVED

SEP 02 2021

S.C. SUPREME COURT

Hon. Patricia A. Howard
Clerk of Court.
PO Box 11330
Columbia SC 29211

RE: Billy W. McIntosh v State
Appellate Case No. 2021-000860

Dear Ms. Howard:

August 20, 2021, Appellate received the Court's Notice dated August 17, 2021, and makes the following reply:

- 1) Proof of Service of Notice of Intent to Appeal on Respondent is enclosed.
- 2) Appellate received the Final Order of Dismissal from the Lower Court July 13, 2021.
- 3) Appellate should not be sanctioned for filing this appeal, because the State reopened the case through retrospective application of the S.C. Sexoffender Registration Act, and *Thompson v State*, 415 S.C. 560 (2016). During that process Appellate discovered the evidence now before the court and filed this appeal based on the U.S. Supreme Court's ruling in *McQuiggin v Perkins*, 133 S.Ct. 1924, that a credible claim of innocence can overcome a statute of limitations or procedural bar to a belated claim of Ineffective Assistance of Counsel (Constitutional Violation).
- 4) Appellate's "Memorandum of Facts and Law" define the facts and Law establishing the foundation of the appeal and is sufficient at this point. Appellate seeks to ask the court 2 questions:
 - a) Can a Credible claim of Innocence overcome the Uniform Post-Conviction Act's 1 year statute of limitations and procedural bar against successive applications?
 - b) If so, did the Lower Court error by dismissing this appeal without an

evidentiary hearing when material facts were in dispute and needed further development?

Date: 8-31-21

cc: Lillian L. Meadows, AAG

Bj McIntosh
Billy W. McIntosh, 87743
998 Wisacky Hwy.
Bishopville, SC 29510
pro se