



BAKER RAVENEL BENDER

ATTORNEYS AT LAW

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APR 26 2013

S.C. SUPREME COURT

April 24, 2013

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

RE: Cichey L. Mayo (284692) v. State of South Carolina
C/A No.: 2011-CP-40-06548
Our File No.: 10557.21

Dear Mr. Shearouse:

I, Wilson P. Davis, attorney at law, represent Cichey L. Mayo in an application for post-conviction relief from a guilty plea. This guilty plea took place on June 4, 2002 before the Honorable L. Henry McKellar.

On October 3, 2011, Mr. Mayo filed his application for post conviction relief. Mr. Mayo's post conviction relief hearing took place on October 18, 2012. The sole issue before the Court was Mr. Mayo's entitled to a belated appeal pursuant to White v. State. The Honorable Clifton Newman, by order dated February 27, 2013, denied Mr. Mayo's right to the belated appeal.

On March 7, 2013, I received the Honorable Clifton Newman's order. On March 12, 2013, I timely filed a Notice of Appeal. On March 29, 2013, pursuant to your request dated March 19, 2013, I informed the Court I was unable to provide a good faith explanation to the Court of an issue which can be reviewed upon a belated appeal. Therefore, I am unable to comply with Rule 203(d)(1)(B), SCACR. Pursuant to Dennison v. State, 371 S.C. 221, 639 S.E.2d 35 (2006), I, on March 29, 2013, provided petitioner Cichey Mayo a copy of the Court's correspondence. I advised Mr. Mayo of his right to provide the Court with a pro se explanation for an

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issue which the Court can review upon a belated appeal from Mr. Mayo's guilty plea.

On April 22, 2013, I received a letter from Mr. Mayo dated April 15, 2013 and post marked April 19, 2013. Enclosed is Mr. Mayo's pro se explanation to the Court. This letter is misaddressed to the South Carolina Commission on Indigent Defense. I have corrected this error in Mr. Mayo's explanation.

Due to the pressing time limit for submission of this explanation, I am submitting Mr. Mayo's pro se explanation to the Court.

Respectfully submitted,



Wilson P. Davis
SC Bar Number: 100062

cc: Robert Daniel Corney, Esquire
Megan Elizabeth Harrigan, Esquire
Cichey L. Mayo (284692)
Lee Correctional Institute

April 15, 2013

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

RE: Cichey L. Mayo (284692) v. State of South Carolina
C/A No.: 2011-CP-40-06548

Dear Mr. Shearouse:

Will you **PLEASE BE ADVISED** and **TAKE NOTICE** that I am writing to you in regards to the above referenced matter.

My name is Cichey L. Mayo, and I am an Inmate within the South Carolina Department of Corrections pursuant to Orders of Commitment by the Richland County Clerk of Court.

I had made a claim in the Post-Conviction relief (PCR) Court, seeking a Belated Appeal. In essence, the claim that Trial Counsel rendered Ineffective Assistance for failing to file a Notice of Intent to Appeal my entry of a Guilty Plea. I, now have become aware, absent extraordinary circumstances, that there is no Constitutional requirement that the defendant be informed of the Right to Appeal a Guilty Plea. However, I have contended that there were extraordinary circumstances, that I, a rational defendant wanted to appeal and that I have and did demonstrate an interest in wanting to appeal the guilty plea that was entered before the Court of General Sessions in Richland County.

The problem with all of this is that the meritorious grounds for appeal, involved deficiencies caused by the very same counsel, who would have had to bring them to the Applicant's attention, resulting in the possibility of being declared Ineffective and receiving sanctions, suspension, disbarment, etc.

For an example, Counsel never informed Applicant of any possible defenses to the very grave charges. Trial Counsel only told Applicant there was nothing he

could do and that he did not know of any defenses to present, so he might as well go ahead and plead guilty to avoid the death penalty.

This fact is shown within the Order of Dismissal from the Post- Conviction Relief Court on Page 6, where counsel admitted that he told the Applicant he had no defense.

In Neal v. Wainwright, 512 F.2d 92, the Courts reasoned that such statement amounts to a Constructive Denial of Counsel and Ineffective Assistance of Counsel. Also, the Applicant pointing the finger at the others as being trigger person and they likewise pointed the finger at the Applicant under such set of facts. There is South Carolina Supreme Court precedent, which makes it clear that the death penalty would not likely have been given, and if so, the South Carolina Supreme Court would have reversed it likely.

The Applicant contends that had Trial Counsel informed him of this South Carolina Supreme Court precedence set forth in State V. Peterson 335 S.E.2d 800, he would not have pleaded guilty but would have demanded his Constitutional Right to a Jury Trial. (NOTE: Keeping in mind, trial counsel telling Applicant that he did not have or know of any defense, thereby not putting the Prosecutor's case to any adversarial testing.)

The United States Supreme Court just issued a ruling in 2012, ruling that a defendant has a Constitutional Right to Effective Assistance of Counsel during plea negotiations. See Lafler v. Cooper, 132 S.Ct. 1376; Podila V. Kentucky, 130 S.Ct. 1473.

The United States Supreme Court ruled that the negotiation of a Plea Bargain is a critical stage. Podila, supra. Therefore, based on the recent United State Supreme Court precedence, alone, Applicant should be allowed to file another PCR Application, basing it solely on these two U.S. Supreme Court rulings and since the rulings are recent, Statute of Limitations should not apply, nor should it say, PCR Application be considered successive.

With Kindest Regards, I So remain,

Cichey L. Mayo

CLM: