

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Aiken County  
Court of Common Pleas

Clifton Newman, Chief Admin. Judge

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Case No. 2021-CP-02-0746  
App. No. 2022-000007

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Stephen Corley # 347938..... Applicant,

VS.

State of South Carolina..... Respondent,

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ENTITLEMENT TO RELIEF

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This matter comes before this court by way of Applicant, Pursuant to the Honorable Clerk of Court, correspondence dated February 4, 2022. The Applicant received it on February 8, 2022.

Also note, the Broad River Correctional Institution, and Applicant Unit/Dorm has been on lock-down January 10, 2022, due to Covid - 19 and Omicron exposure.

This return correspondence is pursuant to Rule - 243 (c) SCACR as requested by the Honorable Clerk.

The Applicant objects to the erroneous attempts to deny this (PCR) action. Applicant is entitled to a (PCR) hearing that is being unconstitutionally denied by the Honorable Judge Clifton Newman, Chief Administrative Judge, Second Judicial Circuit Court of Aiken County.

Applicant's (PCR) Application was timely filed by the Applicant, Pursuant to McCoy V. State, 401 S.C. 363, 732 SE 2d 623 (2013)., Pursuant to S.C. Code Ann - 17-27-45(c).

This issue was Ineffective Assistance of Plea Counsel for his failure to properly investigate and research the newly discovered documents that clearly supported prosecutorial misconduct and invalid plea.

Applicant plea was induced by the misrepresentation of of Applicant counsel, because the prosecution told the Honorable Court, during Applicant plea hearing that the Applicant, was speeding in which caused the crash.

The document that was provided by the Applicant, that this was not true. Applicant's attorney failed to read or investigate the states discovery, citing U.S. V. Myers, 892 F.2d. 642 ( CA 71990 ). Due to counsel not reviewing these documents was clearly prejudicial, citing Stono V. Dugger, 889 F.2d. 692 ( CA 11 1989).

According to Bethel V. U.S., 458 F.3d 711, 716 ( 7th Cir. 2006 ). (" In order to make out a claim of ineffective assistance of counsel in the context of guilty plea, A defendant must show (1) that counsel's performance fell below an objective standard of reasonableness, and (2) that there is a reasonable probability that, but for counsel's errors, the defendant could not have plead guilty and would have insisted on going to trial.

At the time of the plea hearing, the solicitor told the Honorable Court " The Highway Patrol Mate-Team would later calculate that Mr. Courley, speed at the time of the crash was ( 77 miles an hour ), an this was not true.

Investigator Rosedo, of the Highway Patrol Mate-Team document, ML-135-10, dated February 9, 2011. The victims speed was 81.88 miles an hour and the Applicant's speed was 11.82 miles an hour at time of impact. This was a "50" mile an hour speed zone.

The applicant was in a passing zone and was attempting to pass a slow driving person when the impact occurred. Applicant has objected to the Respondent's Return and Conditional Order of Dismissal, and objected to the final order.

Pursuant to Mccoy V. State, Supra, citing S.C. Code Ann 17-27-45(c) holds " That if a PCR Applicant, discovers "material facts" not previously presented and heard that require vacation of the Applicant's conviction or sentence. Applicant may file a PCR application within one year after the discovery date actually and the Applicant is entitled " to the benefit of the "Discovery Rule ".

The Applicant has not recited the same issues in his previous PCR application, this is Newly Discovered evidence that can not be conclusively refuted by the record before the PCR Court, and question of fact are raised which can only be resolved by a hearing, citing Robertson V. State, ( S.C.2016 ) 418 SC 505, 795 SE.2d 29.

It is quite clear that the Honorable Clifton Newman, denial of this PCR hearing application is controlled by the erroneous abuse of discretion standards and Applicant, has timely objected to these erroneous denial of a state created right that is pro-

tected under S.C. Code Ann - 17-27-10 to 120 citing Rule - 71.1  
SCRPC and the "Procedural Due Process of Law" Clause of the Fifth  
and Fourteenth Amendment of the United States constitution.

Applicants, motion to grant PCR hearing and deny Respondent  
Return and Motion to Dismiss by written order with ( 10 ) pages  
of exhibits, citing McCoy V. State, Supra, citing S.C. Code  
Ann - 17-27-45(c) dated May 5, 2020, was proper and to deny  
a PCR hearing in this case would be a "gross miscarriage of  
justice" and a complete denial of Applicant's "procedural due  
process of rights and law."

Feb \_\_\_\_\_, 2022.  
Columbia, South Carolina

Respectfully submitted

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