



APPELLATE AND FEDERAL CRIMINAL LAW

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Charleston County man granted successive PCR application

June 3, 2021 (Columbia, S.C.) – The Supreme Court of South Carolina granted Michael T. Barnes permission to file a successive post-conviction relief (PCR) application after his 2010 application was returned by the Charleston County Clerk of Court.

Barnes received his remittitur from his direct appeal December 1, 2009. He then mailed his pro se PCR application November 18, 2010, before his one-year statute of limitations expired. Then on November 29, 2010, Barnes received a letter from the Charleston County clerk's office that his PCR application was being returned because he used the wrong form. Barnes then filled out the correct form and mailed it, which was received January 7, 2011, at the clerk's office. This was 37 days after the expiration of the limitations period.

The State then filed a return and a motion to dismiss based on the expiration of the statute of limitations. Barnes responded within the 20-day window and explained he attempted to file the application in November, but his efforts were impeded by a prison lockdown. It was four years later, the PCR court issued a final order, granting the State's motion to dismiss and found Barnes has no credible proof to back his allegations for the delayed PCR application filing.

When Barnes reached out to appellate and criminal attorney Elizabeth Franklin-Best, she knew there was something that needed to be done to bring justice in allowing him to file a PCR application. She decided to file a common law petition for a writ of certiorari to request an order granting him permission to file the successive PCR application. That order was granted June 3, 2021.

“Our firm is so happy that Mr. Barnes will finally have his chance to earn his freedom with a PCR action,” said Elizabeth Franklin-Best. “He's waited 11 years for this.”

Elizabeth Franklin-Best is the owner of Elizabeth Franklin-Best, P.C., which is a firm focusing on criminal appeals and federal criminal defense work. She is licensed in New York, South Carolina, South Carolina District Court, the Second, Fourth, Fifth and Eleventh Circuit Courts of Appeal, and the United States Supreme Court. Her law office is located on Devine Street in downtown Columbia.

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