

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
[IN THE SUPREME COURTS]

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

THE HONORABLE JAMES R. BARBER, III
FIFTH JUDICIAL CIRCUIT

(CASE NO. 2011-CP-40-01450)

BRIAN W. MANSFIELD..... APPELLANT

V.

THE STATE..... RESPONDENT

NOTICE OF APPEAL

BRIAN W. MANSFIELD APPEALS THE ORDER OF THE HONORABLE JAMES R. BARBER III DATED July 31, 2012, WHICH AFFIRMED HIS CONVICTION IN THE COURT OF COMMON PLEAS. APPELLANT RECEIVED WRITTEN NOTICE OF ENTRY OF THIS ORDER [JUDGEMENT] ON 4-10-13

DATE: 4-10-13

OTHER COUNSEL OF RECORD:

ROBERT D. CORNEY

ASSISTANT ATTORNEY GENERAL

PO BOX -11549

COLUMBIA, SC 29211

15/ Brian Mansfield
BRIAN W. MANSFIELD #249124

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
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APPEAL FROM RICHLAND COUNTY
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FIFTH JUDICIAL CIRCUIT

(CASE NO. 2011-CP-40-01950)

BRIAN W. MANSFIELD APPELLANT

V.

THE STATE RESPONDENT

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE NOTICE OF APPEAL ON
ASSISTANT ATTORNEY GENERAL ROBERT D. CORLEY BY DEPOSITING A COPY OF
IT IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON 4-12-13
ADDRESSED TO HIS ATTORNEY OF RECORD ALAN WILSON ATTORNEY
GENERAL P.O. BOX-11549 COLUMBIA, SC 29211.

DATE: 4-12-13

/s/ Brian Mansfield
BRIAN W. MANSFIELD #249124

DATE: April 12, 2013

THE HONORABLE DANIEL E. SHEAROUSE
CLERK, SUPREME COURT OF SOUTH CAROLINA
Post Office Box-11330
COLUMBIA, S.C

DEAR MR. SHEAROUSE:

ENCLOSED FOR FILING IS A NOTICE OF APPEAL IN THE ABOVE CASE. ALSO ENCLOSED ARE THE FOLLOWING:

- (1) PROOF OF SERVICE OF THE NOTICE OF APPEAL ON RESPONDENT(S)
- (2) A COPY OF THE ORDERS (JUDGEMENT) WHICH IS (ARE) TO BE CHALLENGE ON APPEAL.
- (3) THIS APPEAL IS BEING FILED WITH THE SUPREME COURT BECAUSE... (SEE RULE 203 (D) FOR WHEN AN APPEAL CAN BE FILED WITH THE SUPREME COURT.

/s/ Brian Mansfield
BRIAN W. MANSFIELD

CC:

ROBERT D. CORNEY
ASSISTANT ATTORNEY GENERAL
P.O. BOX-11549
COLUMBIA, S.C 29211

(3).

(4-10-13)

Dear Mr. Shearouse,

May this letter please the Court please.

Sir, I would like to bring to the Court's attention that I'm just receiving the final Order of Dismissal (By way of the Honorable James Barber III), that is dated July 31, 2012.

I signed receipt of this Order on 4-10-13 at the Tiger River Institution Mailroom, although it arrived at the Warden's Office on 4-9-13.

Judge Barber III gave me 30 days from service of this Order to file a Notice of Appeal with this Court to secure Appellate Review of my case, although he signed his final Order on 7-31-12.

I'm asking the Court to please understand the delay in me filing my Notice of Appeal, due to me just receiving the final Order, and file my case in the Courts.

I'm also enclosing a copy of the envelope along with the final Order of Dismissal for the Court to review. I'm also asking the Court to check the records of the Department of Correction (Tiger River Institution Mailroom) to verify when I actually received receipt of this Order. Thank you for your time.

RECEIVED

APR 18 2013

S.C. SUPREME COURT

Yours Truly,

Brian Mansfield

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

Return to sender if not
delivered in five (5) days.

S

RECEIVED

APR 09 2013

TYGER RIVER C.I.
WARDEN'S OFFICE

Brian Mansfield #249124
Tyger River Correctional Institution US-226
200 Prison Road
Enoree, South Carolina 29335

Presort
First Class Mail
ComBasPrice



U.S. POSTAGE >> PITNEY BOWES



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02 1W
\$ 000.43³
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CYY-SMP 29335



THE STATE OF SOUTH CAROLINA

[IN THE SUPREME COURTS]

Appeal from Richland County

[COURT OF COMMON PLEAS]

THE HONORABLE JAMES BARBER, III

[FIFTH JUDICIAL CIRCUIT]

RECEIVED

APR 18 2013

CASE NO: 2011-CP-40-01950

S.C. SUPREME COURT

BRIAN W. MANSFIELD Appellant

v.

THE STATE Respondent

Reply to Rule 243. (c) Certiorari
to Review Post Conviction Relief
Actions

(1). NEWLY DISCOVERED EVIDENCE §17-27-45(c):

(A). FIRST THE APPELLANT SUBMITS THAT HE SHOULD HAVE BEEN GRANTED AN EVIDENTIARY HEARING FOR POST CONVICTION RELIEF BECAUSE HE WAS INFORMED BY WAY OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTION THROUGH A REQUEST TO STAFF MEMBER FROM HIS CASE WORKER MS. CASEY THAT HE IS SERVING A (30) YEARS SENTENCE FOR ATTEMPTED BURGLARY WHICH BY STATUTE CARRIES (10) YEARS OF INCARCERATION PURSUANT TO (S.C. 16-13-170). THE APPELLANT WILL SUPPORT HIS CLAIM WITH A COPY OF THE STAFF REQUEST FORM FOR THE COURTS CONVIENCE, THE APPELLANT FURTHER SUPPORTS HIS CLAIM PURSUANT TO COATS V. STATE 575 S.E. 2d 557, BECAUSE HE HAS JUST INFORMED BY HIS CASEWORKER ABOUT THE SITUATION SURROUNDING HIS CASE, AND HIS CASE FAILS WITHIN THE DISCOVERY RULE PROVIDING WHEN THERE WAS EVIDENCE OF MATERIAL FACTS NOT PREVIOUSLY PRESENTED, PCR APPLICATION WAS TO BE FILED WITHIN ONE YEAR AFTER DISCOVERY OF FACTS. THE LAW AS IT APPLIES IN COATS V. STATE, 575 S.E. 2d 557 (S.C. 2003) STATES POST CONVICTION RELIEF (PCR) PETITIONER CLAIM THAT COUNSEL WAS INEFFECTIVE FOR EMPROPERLY ADVISING HIM THAT HE WOULD BE PAROLE ELIGIBLE WITHIN DISCOVERY RULE PROVIDING WHEN THERE WAS EVIDENCE OF MATERIAL FACTS NOT PREVIOUSLY PRESENTED, PCR APPLICATION WAS TO BE FILED WITHIN ONE YEAR OF DATE OF ACTUAL DISCOVERY OF FACTS, AND DID NOT HAVE TO BE FILED WITHIN ONE YEAR AFTER CONVICTION. PETITIONER WAS ALLEGEDLY INFORMED BY COUNSEL AND THE DEPARTMENT OF CORRECTION THAT HE WAS PAROLE ELIGIBLE, PETITIONER FILED PCR APPLICATION WITHIN ONE YEAR AND DID

(1).

NOT HAVE TO BE FILED THEN ONE YEAR AFTER CONVICTION, THE APPELLANT SUBMITS THAT EVEN THOUGH THE COATS CASE AROSE IN A DIFFERENT PROCEDURAL POSTURE THAN HIS CASE, THE TEEBS ARE MERELY IDENTICAL BECAUSE HE WAS INFORMED BY THE SOUTH CAROLINA DEPARTMENT OF CORRECTION FROM HIS CASE WORKER OF THE FACT THAT HE IS IN FACT SERVING A (30) YEARS SENTENCE FOR ATTEMPTED BURGLARY 1ST WHEN IN ALL ACTUALITY, THE APPELLANT HAS ALWAYS BEEN UNDER THE IMPRESSION THAT HE WAS SERVING TIME FOR BURGLARY 1ST AND NOT ATTEMPTED BURGLARY 1ST. APPELLANT'S APPLICATION FOR PCR SHOULD HAVE BEEN GRANTED BECAUSE HE WAS INFORMED BY THE DEPARTMENT OF CORRECTION THAT HE HAS BEEN WRONGFULLY CONVICTED AND SENTENCED AND HE SHOULD HAVE BEEN INTITLED TO FILE PCR APPLICATION UNDER § 17-27-45(C). NEWLY DISCOVERED EVIDENCE THE APPELLANT WILL SUBMIT AFFIDAVITS THAT WILL SUPPORT EVERY ALLEGATION THAT HE IS RAISING IN HIS APPEAL. THE APPELLANT ADMITS THAT HAD IT NOT BEEN FOR THE EXERCISE OF REASONABLE DILIGENCE THESE NEWLY DISCOVERED ISSUES WOULD HAVE NEVER MADE IT TO LIGHT. APPELLANT DISAGREES WITH RESPONDENTS THAT HIS CASE IS OF A ADMINISTRATIVE MATTERS BECAUSE HE IS NOT ARGUING CREDIT RELATED CLAIMS OR CHALLENGING ANY OTHER CONDITION OF CONFINEMENT SUCH AS PAROLE ELIGIBILITY OR MISCALCULATION OF HIS SENTENCE BY THE DEPARTMENT OF CORRECTION WHICH RESPONDENTS WOULD WANT THE COURT TO BELIEVE. THE APPELLANT IS AWARE THAT § 16-11-311 BURGLARY 1ST DEGREE IS NOT A PAROLABLE OFFENSE AND UPON CONVICTION AND SENTENCE OF (30) YEARS MUST SERVE 85% OF HIS SENTENCE. THE APPELLANT IS FULLY AWARE THIS VERY HONORABLE COURT IS THE PROPER FORUM IN WHICH THE RELIEF SOUGHT BY APPELLANT CAN BE GRANTED PURSUANT TO (§ 17-27-45(C)).

(2). INEFFECTIVE ASSISTANT OF COUNSEL:

(B) THE APPELLANT'S ATTORNEY SHOULD HAVE BEEN FOUND TO BE INEFFECTIVE FOR FAILURE TO PROPERLY MOVE TO QUASH THE AMENDED INDICTMENT IN ACCORDANCE WITH S.C. CODE (§ 17-19-90). THE APPELLANT'S ATTORNEY ALSO WAS INEFFECTIVE FOR FAILURE TO SPECIFICALLY ENFORCE THE CONTRACTUAL OBLIGATION THAT THE STATE AND THE COURT WAS UNDER DUE TO THE APPELLANT'S INDICTMENTS AND SENTENCING SHEETS BOTH ALLEGING ATTEMPTED BURGLARY 1ST. THE APPELLANT'S ATTORNEY HAD A CONSTITUTIONALLY IMPOSED DUTY TO ATTEMPT TO ENFORCE THE TERMS OF THE INDICTMENTS AS THEY APPLIED TO ATTEMPTED BURGLARY 1ST AS WELL AS THE TERMS OF THE SENTENCING SHEET AS IT ALSO APPLIED TO ATTEMPTED BURGLARY 1ST. THE APPELLANT ARGUES THAT TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO SEEK SPECIFIC PERFORMANCES OF THE INDICTMENT AND SENTENCING SHEET WHICH WERE BOTH FOR ATTEMPTED BURGLARY 1ST. THE APPELLANT BASIS HIS ASSERTIONS PURSUANT TO THE MANDATES THAT ARE SET FORTH IN CUSTODIO V. STATE, 644 S.E.2d 36 (S.C. 2007) AND REED V. BECKA, 511 S.E.2d 396 (Ct. App. 1999). IN REED, THE SOLICITOR MADE AN ORAL OFFER, WHICH BECKA ACCEPTED, TO ALLOW BECKA TO PLEA TO A LESSER OFFENSE WITH A RECOMMENDATION OF PROBATION. HOWEVER, AFTER THE STATE CONSULTED WITH THE VICTIMS FAMILY, THE STATE WITHDREW THE PLEA OFFER. THE TRIAL JUDGE FOUND THE OFFER WAS A VALID AND ENFORCEABLE CONTRACT AND DENIED THE STATES MOTION TO WITHDRAW THE OFFER. AS IT SHOULD BE IN APPELLANT'S CASE. SIMPLY PUT, THE APPELLANT WAS INDICTED FOR ATTEMPTED BURGLARY 1ST. THE APPELLANT WAS CONVICTED AND SENTENCED TO (30) YEARS IMPRISONMENT FOR ATTEMPTED BURGLARY 1ST WHICH IS UNHEARD OF BECAUSE THE STATUTORY

OFFENSE OF ATTEMPTED BURGLARY (§16-13-170) CARRIES A PRESCRIBED PUNISHMENT OF NOT MORE THAN (10) YEARS IMPRISONMENT. THE APPELLANT WAS INITIALLY INDICTED FOR BURGLARY 1ST WHICH WAS AMENDED TO ATTEMPTED BURGLARY 1ST BECAUSE THE STATE KNEW THAT THE APPELLANT NEVER ENTERED ANYTHING TO MAKE IT BURGLARY. THE APPELLANT'S ATTORNEY SHOULD HAVE BROUGHT TO THE COURTS ATTENTION THE FACT THAT THE INDICTMENT WAS AMENDED AND MADE A MOTION TO QUASH THE INDICTMENT. THIS REPRESENTATION FELL BELOW THE PROFESSIONAL NORMS THAT ARE REQUIRED OF AN ATTORNEY IN ANY CRIMINAL PROCEEDINGS SINCE THE APPELLANT'S INDICTMENTS AND SENTENCING SHEETS ARE LITERAL CONTRACTS, BY WAY OF THE APPELLANT'S SIGNATURE ON BOTH AFFIDAVETS. THE APPELLANT'S ATTORNEY HAS TO BE FOUND TO BE INEFFECTIVE FOR FAILURE TO SEEK SPECIFIC PERFORMANCE OF THE CONTRACT AS THE TRIAL JUDGE FOUND IN REED V. BELKA, 511 S.E.2d 396 (Ct. App. 1999). THE APPELLANT SUBMITS THAT THE APPROPRIATE REMEDY IS THE SPECIFIC PERFORMANCE OF THE INDICTMENT AND SENTENCING SHEET AS IT APPLIES TO ATTEMPTED BURGLARY 1ST. SEE STATE V. SPROUSE, 585 S.E.2d 278 (2003) (SPECIFIC PERFORMANCE OF A PLEA AGREEMENT IS MOST EFFICIENT OPTION BECAUSE IT ELIMINATED NEED FOR NEW TRIAL OR PLEA HEARINGS AND GRANTED BOTH PARTIES NOTHING MORE OR NOTHING LESS THAN THE BENEFIT FOR WHICH THEY HAD BARGAINED). JORDAN V. STATE, SUPRA: (COUNSEL INEFFECTIVE FOR FAILING TO WITHDRAW GUILTY PLEA ONCE PROSECUTION RENEGED ON PLEA AGREEMENT/ PLEA BARGAIN REMANDED FOR EITHER SPECIFIC PERFORMANCE OF THE PLEA AGREEMENT AND RESENTENCING OR FOR A NEW TRIAL). THE APPELLANT SUBMITS UNDER STRICKLAND V. WASHINGTON, 1045, CT 2052 (1984) (1). HIS ATTORNEY WAS INEFFECTIVE FOR FAILING TO QUASH INDICTMENT AND ENFORCE SPECIFIC PERFORMANCE, AND (2). THAT INEFFECTIVENESS PREJUDICED THE APPELLANT AND CHANGE THE OUTCOME OF THE APPELLANT'S ENTIRE TRIAL.

(3). SUBJECT-MATTER JURISDICTION:

(C). THE APPELLANT SUBMITS THAT TRIAL COURT WAS WITHOUT SUBJECT-MATTER JURISDICTION TO ALLOW THE APPELLANT TO BE CONVICTED AND SENTENCED TO (30) YEARS FOR AN OFFENSE THAT ONLY CARRIES (10) YEARS OF INCARCERATION PURSUANT TO STATE V. JOHNSTON, 510 S.E.2d (1999). AND THE APPROPRIATE REMEDY WOULD BE TO RESENTENCE THE APPELLANT FOR WHAT HE WAS INDICTED FOR, AND THAT WOULD BE ATTEMPTED BURGLARY 1ST §16-13-170 AND ALSO STATE V. SMALLS, 613 S.E.2d 754 (S.C. 2003), BECAUSE THE APPELLANT WAS SENTENCED FOR AN OFFENSE THAT HE WAS NEVER LEGALLY INDICTED FOR. SIMPLY PUT, THE APPELLANT WAS SENTENCED TO (30) YEARS FOR BURGLARY 1ST BUT WAS INDICTED FOR ATTEMPTED BURGLARY 1ST AND THE APPELLANT'S SENTENCING SHEETS REFLECTS ATTEMPTED BURGLARY 1ST. ALSO THE COURT COMMITTED REVERSIBLE ERROR BY ALLOWING THE INDICTMENT TO BE AMENDED WHICH CHANGED THE NATURE OF THE OFFENSE WITHOUT SENDING THE INDICTMENT BACK BEFORE THE GRAND JURY. THE APPELLANT KNOWS THAT SUBJECT-MATTER JURISDICTION IS THE POWER OF THE COURT TO HEAR A PARTICULAR CLASS OF CASES, AND IT HAS NOTHING TO DO WITH THE INDICTMENT DOCUMENTS. THEREFORE, THE COURT HAD THE POWER TO CORRECT ALL WRONGS CREATED BY THE DOCUMENTS. THE APPELLANT IS NOT SAYING THAT HIS INDICTMENTS IS DEFECTIVE. THE APPELLANT IS ONLY STATING THAT THE TRIAL COURT WAS VESTED WITH ABSOLUTE POWER TO MAKE SURE THE APPELLANT WAS PROPER.

(3).

INDICATED SO THE COURT WOULD KNOW WHAT SENTENCE TO PRONOUNCE IN REGARDS TO THE APPELLANT'S CASE. THE COURT SHOULD VACATE THE APPELLANT'S SENTENCE OF (30) YEARS FOR BURGLARY 1ST. HOLDING THAT APPELLANT COULD HAVE EFFECTIVELY WAIVED PRESENTMENT OF THE INDICTMENT BECAUSE HE WAS NEVER INDICTED FOR BURGLARY 1ST. THE COURT HELD IN STATE V. SMALLS, 613 S.E.2d, 754 (S.C. 2005). HELD THAT SIGNING A SENTENCE SHEET FOR A CHARGE TO WHICH A DEFENDANT HAS PLED GUILTY CONSTITUTES A WRITTEN WAIVER OF PRESENTMENT. MOREOVER, A SIGNED DOCUMENTS THAT INFORMS A DEFENDANT OF THE CHARGES AGAINST HIM, SUCH AS A SENTENCING SHEET GIVES RISE TO A PRESUMED REGULARITY IN THE PROCEEDINGS THAT THE DEFENDANT WAS INFORMED OF ALL OF THE CHARGES AGAINST HIM. THE APPELLANT SUBMITS THAT EVEN THOUGH HE WENT TO TRIAL, THE SAME RULES APPLY IN HIS CASE, BECAUSE HE WAS INDICTED FOR ATTEMPTED BURGLARY 1ST AND HIS SENTENCING SHEET ALSO REFLECTS ATTEMPTED BURGLARY 1ST, THEREFORE, THE APPELLANT SHOULD HAVE THE FULL BENEFITS OF WHAT THE COURT HELD IN STATE V. SMALLS, 613 S.E.2d 754 (S.C. 2005). THE APPELLANT WILL DIRECT THE COURT'S ATTENTION TO THE FACE OF APPELLANT'S INDICTMENTS. (STATES:) ATTEMPTED BURGLARY FIRST, THE FACE ALSO CITES (§16-11-312). THE FACE ALSO STATES (§16-1-80). THE APPELLANT SUBMITS THAT THE STATE EVIDENTLY THINK THAT THIS VERY HONORABLE COURT IS SOMETHING TO BE PLAYED WITH BECAUSE THE STATE HAS TO KNOW TO KNOW THAT THE FACE NOR THE CAPTION HAS NOTHING TO DO WITH THE INDICTMENTS. THE BODY OF THE INDICTMENT DETERMINES WHAT THE APPELLANT IS CALLED UPON TO FACE AND WHAT SENTENCE TO PRONOUNCE IN CASE OF A CONVICTION. EVIDENTLY THE STATE IS BLINDING THE FACT THAT (§16-1-80) PRESCRIBES PUNISHMENTS FOR ATTEMPTED OFFENSES AS THOUGH THE PERSON COMMITTED THE PRINCIPLE OFFENSE. AGAIN THE APPELLANT SUBMITS IF HE WAS INDICTED AND CONVICTED UNDER (§16-11-311) AND GIVEN (30) YEARS WHEN THE PRINCIPLE OFFENSE (§16-13-170) ATTEMPTED BURGLARY 1ST ONLY CARRIES A MAXIMUM SENTENCE OF (10) YEARS? NEVER THE LESS, THE STATE WITH ALL OF THEIR RESOURCES AND STAFF SHOULD HAVE KNOWN THAT (1). THE FACE AND (2). THE CAPTION OF AN INDICTMENT HAS NOTHING TO DO WITH THE INDICTMENT, RATHER IT IS THE BODY OF THE INDICTMENT WHICH DETERMINES WHAT SENTENCE TO PRONOUNCE IN THE CASE OF A CONVICTION. SIMPLY PUT, THE STATE SHOULD HAVE CITED (§16-1-80) IN THE BODY OF APPELLANT'S INDICTMENT. ALSO (§16-1-80) SHOULD HAVE BEEN CITED ON APPELLANT'S SENTENCE SHEET. EVEN WITH THAT BEING THE CASE, THE APPELLANT'S PRINCIPLE OFFENSE WAS ATTEMPTED BURGLARY, PUNISHABLE BY (10) YEARS IN PRISON. EXAMPLE OF WHAT APPELLANT IS TALKING ABOUT WOULD READ AS FOLLOWS: (ARMED ROBBERY §16-11-330(A) 10-30 YEARS) (ATTEMPTED BURGLARY (§16-13-170) NOT MORE THAN 10 YEARS) (ATTEMPTED ARMED ROBBERY §16-11-330(B). NOT MORE THAN 20 YEARS) BURGLARY 1ST §16-11-311 15 YEARS TO LIFE) (§16-13-170) ENTERING HOUSE OR VESSEL WITHOUT BREAKING WITH INTENT TO STEAL, ATTEMPT TO ENTER). SINCE THE FACE NOR THE CAPTION IS NO PART OF THE INDICTMENT PURSUANT TO STATE V. STATE, 549 S.E.2d 601 (S.C. APP. 2001) AND KNUCKLES V. STATE, 560 S.E.2d 426 (S.C. APP. 2002). THE APPELLANT'S CASE SHOULD BE REMANDED FOR RESENTENCING, AND SINCE THE APPELLANT HAS BEEN INCARCERATED FOR (15) YEARS, HE SHOULD BE IMMEDIATELY RELEASED FROM INCARCERATION.

THE STATE OF SOUTH CAROLINA,

[IN THE SUPREME COURTS]

APPEAL FROM RICHLAND COUNTY

[COURT OF COMMON PLEAS]

THE HONORABLE JAMES BARBER, III

FIFTH JUDICIAL CIRCUIT

CASE NO. 2011-CP-40-01950

BRIAN W. MANSFIELD - - - - - Appellant

v

THE STATE - - - - - RESPONDENT

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE NOTICE OF REPLY TO RULE 243(c) CERTIORARI TO REVIEW POST CONVICTION RELIEF ACTIONS ON ASSISTANT ATTORNEY GENERAL ROBERT D. CORNEY BY DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON 4-12-13 ADDRESSED TO HIS ATTORNEY OF RECORD ATTORNEY GENERAL ALAN WILSON P.O. BOX-11549 COLUMBIA, S-C 29211.

DATE: 4-12-13

Brian Mansfield
BRIAN W. MANSFIELD

WITNESSES

Heinrich Blum
Bernard James

ARREST WARRANT NO.

1708267

ACTION OF GRAND JURY

TRUE BILL

Foreman of Grand Jury

VERDICT

DOCKET NO. 98-65-40-30543

The State of South Carolina,

County of Richland

COURT OF GENERAL SESSIONS

March

TERM 1998

THE STATE

vs.

Brian W. Mansfield

a/k/a Anthony Mansfield

**Indictment for ^{ATTEMPTED} Burglary
(Dwelling) FIRST DEGREE**

S.C. Code Sec. 16-1-80

Unc. 1151

S.C. Code Sec. 16-11-312

Fel/D 80

EXHIBIT (1)

ATTEST:
A TRUE COPY

Barbara C. Scott

G. O. G. P. & G. S.

08-0779

FORM 1 (12 87)

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)

**ATTEMPTED
INDICTMENT FOR BURGLARY
(DWELLING) FIRST DEGREE**

At a Court of General Sessions, convened on March 18, 1998
the Grand Jurors of Richland County present upon their oath:

16-13-170 Attempt or Intent
**COUNT ONE - ATTEMPTED
BURGLARY IN THE FIRST DEGREE
(DWELLING)**

That Brian W. Mansfield a/k/a/ Anthony Mansfield
did in Richland County on or about September 2, 1997
willfully and unlawfully enter the dwelling of Bernard R. Jones
without consent and with the intent to commit a crime therein and the defendant
has two prior convictions for burglary and/or housebreaking

**COUNT TWO - BURGLARY IN THE SECOND DEGREE
(DWELLING)**

That _____
did in _____ County on or about _____
willfully and unlawfully enter the dwelling of _____
without consent and with the intent to commit a crime therein.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

W. Berry
SOLICITOR

EXHIBIT C

ARREST WARRANT

F- 599779

F599779 STATE OF SOUTH CAROLINA 31492

County/ Municipality of COLUMBIA

THE STATE against

BRIAN WILLIAM MANSFIELD

Address: [REDACTED]

COLUMBIA SC 29210

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: B Height: [REDACTED] Weight: [REDACTED]

Date of Birth: [REDACTED] DL #: [REDACTED]

Agency ORI #: SC0400100

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: ONEILL JJ/PELLIZZARI

Offense: ATTEMPTED BURGLARY

Offense Code: BER

Code/Ordinance Sec. 16-13-312

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

COLUMBIA The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA) A

County/ Municipality of)

COLUMBIA)

Personally appeared before me the affiant JJ ONEILL being duly sworn deposes and says that defendant BRIAN WILLIAM MANSFIELD did within this county and state on 09/02/97 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of COLUMBIA

In the following particulars:

DESCRIPTION OF OFFENSE: ATTEMPTED BURGLARY 16-13-312

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 090297 AT 2926 TRUMAN STREET, COLUMBIA, SC, THE DEFENDANT DID ATTEMPT TO ENTER BY FORCE UNLAWFULLY THE RESIDENCE BY RIPPING OFF A FRONT SCREEN DOOR AND KICKING A 2ND FRONT DOOR WITH INTENT OF ENTERING THE RESIDENCE TO COMMIT A CRIME. THE DEFENDANT WAS OBSERVED BY A WITNESS TO COMMIT THE ABOVE OFFENSE AND WAS LATER POSITIVELY IDENTIFIED BY WITNESS AFTER BEING APPROACHED BY THE COLUMBIA POLICE.

Sworn to and subscribed before me on 09/02/97

Signature of Affiant [REDACTED]

Signature of Affiant [Handwritten Signature]

Affiant's Address 1409 LINCOLN ST

Affiant's Telephone 7338415

Ministerial Recorder

STATE OF SOUTH CAROLINA)

County/ Municipality of)

COLUMBIA)

ARREST WARRANT EXHIBIT (3)

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that on 09/02/97 defendant BRIAN WILLIAM MANSFIELD did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: ATTEMPTED BURGLARY 16-13-312

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge [Handwritten Signature] (L.S.) Judge's Address CITY OF COLUMBIA, SC

Ministerial Recorder [REDACTED] Judge's Telephone MUNICIPAL COURT, P.O. BOX 644 29202

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE vs.

Brian W. Mansfield

AKA: _____

Race: B Sex: M

DOB: 1/15/79 Age: _____

SSN: 247 23 2434

DL# _____

SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

98 -GS- 40 - 30543

A/W#: _____

Date of Offense: 9/2/97

S.C. CODE §: 16-11-311

CDR Code #:

SENTENCE

PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO:

Burg. 1st Degree

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code #

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

ATTEST:

Christine O. Sloan

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, or Under Youthful Offender Act for a term of 35 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____ months/years.

CONCURRENT or CONSECUTIVE to sentence on: 979540 22772

SPECIAL CONDITIONS:

RESTITUTION Heard, Waived, Ordered
Total: \$ _____
Pay Terms: _____
Recipient: _____

- PTUP EXHIBIT (4)
- _____ days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
- Other: _____
- Other: _____

*Fine: _____ \$
 §14-1-206 - Assessments 100% _____ \$
 §14-1-211 - Surcharge _____ \$
 (Exceptions: See §14-1-211)
 §56-5-2995 (DUI) _____ \$
 TOTAL _____ \$

Barbara A. Scott

Clerk of Court/Deputy Clerk

Court Reporter: W. L. L. L.

John Sturles

PRESIDING JUDGE

Sentence Date: 7/15/98

Judge Code:

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Brian W. Mansfield

AKA: Anthony Mansfield

Race: B Sex: M

DOB: [REDACTED] Age: [REDACTED]

SSN: [REDACTED]

DL#

SID#

Amended Sentence

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE #:

98 GS 40 30543

A/W#: DP 98167

Date of Offense: 7-2-97

S.C. CODE §: 16-11-311

CDR Code #: [REDACTED]

SENTENCE

FLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO:

Armed Burglary 1st

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # [REDACTED]

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The plea is: Without Negotiations or Recommendation Negotiated Sentence

Recommendation by the State

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, or Under Youthful Offender Act for a term of 30 days/months/years and/or to pay a fine of \$ _____; provided the sentence be suspended upon the service of _____ days/months/years and/or payment of \$ _____ plus costs and assessments as applicable*; the balance suspended with probation for _____ months/years. AND SUBJECT TO SCOPPS STANDARD CONDITIONS OF PROBATION

CONCURRENT or CONSECUTIVE TO 97954022772

SPECIAL CONDITIONS:

- RESTITUTION Heard, Waived, Ordered
- Total: \$ _____
- Pay Terms: _____
- Recipient: Reconsideration letter sent 6/1/98
- PTUP EXHIBIT (5)
- days/hours Public Service Employment
- Obtain GED
- Attend Voc Rehab. or Job Corps
- May serve W/E beginning _____
- Substance Abuse Counseling
- Random Drug/Alcohol Testing
- Fine may be pd. in equal, consecutive weekly/monthly parts of \$ _____ beginning _____
- Other: _____
- Other: _____

*Fees:
 §14-1-206 - Assessments 100% \$
 §14-1-211 - Surcharges \$
 (Receipts: See §14-1-211)
 §36-5-2995 (DUI) \$
 TOTAL \$

Babara A. Scott
 Clerk of Court/Deputy Clerk
J. Williams
 Court Reporter

PRESIDING JUDGE

Sentence Date: 6-1-98

Judge Code: [REDACTED]

SC00070007

CDR Codes

CDR Code: 80
Offense Description: Burglary / Burglary (Non-Violent) - Second degree
Offense Statute(s): 16-11-0312
Penalty Statute(s): 16-11-0312(C)(1)
Offense Type: Felony
Offense Class: E
Status: Active
Effective Date: 06-02-2010
Expiration Date:
Rescind/Retire Date:
Last Updated: 06-03-2010

EXHIBIT (c)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
Mrs. Casey	CASE Worker	3/11/11
INMATE'S NAME:	SCDC #:	
Brian Maxfield	249124	
INSTITUTION:	LIVING QUARTERS:	
Ridgeland C-I		

Mrs. CASEY, WHY Am I SERVING 30 YEARS
for A CHARGE That Only Carries 10 YEARS?
I'm SERVING A 30 year SENTENCE for
ATTEMPTED 1ST DEGREE Burglary

EXHIBIT (7)

DISPOSITION BY STAFF MEMBER:

you're serving a 30yr. sentence (mandatory
85% = 25 1/2 yrs) for BURGLARY 1ST (SS#
16-11-311) w/ A CHARACTER offense code of
"Attempted".

DATE:

3/11/11

SIGNATURE:

(D) Casey, FBI CLASSIFICATION

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 Brian Mansfield, #249124,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-1950

FINAL ORDER

AUG - 1 AM 10:45
 FILED
 RICHLAND COUNTY
 CLERK
 C. P. & G. S.
 W. McBRIDE

This matter comes before this Court by way of an Application for post-conviction relief (PCR) filed March 22, 2011, Respondent made a Return and Motion to Dismiss on September 23, 2011, requesting that the application be summarily dismissed. Pursuant to this request, and after reviewing the original pleadings in this matter and the relevant records attached thereto, this Court issued a Conditional Order of Dismissal dated April 11, 2012, and filed April 16, 2012, provisionally denying and dismissing this action, while giving the Applicant thirty (30) days from the date of service of said Order to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated May 3, 2012, serving the above-mentioned Conditional Order of Dismissal on Applicant.

Applicant responded to the Conditional Order of Dismissal by way of several *pro se* documents. The first was a letter informing Respondent that Applicant had received this Court's Conditional Order of Dismissal and that he was now incarcerated in a different correctional institution than the one listed on his PCR application.

The second was a document dated May 21, 2012, entitled "Rely to Rule 243(c) Certiorari to Review Post Conviction Relief Actions." In it, Applicant submitted the following objections to the Conditional Order of Dismissal:

1.

- (1). THE APPLICANT SUBMITS THAT HE SHOULD HAVE BEEN GRANTED AN
— EVIDENTIARY HEARING FOR POST CONVICTION RELIEF BECAUSE HE WAS INFORMED
BY THE WAY OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS THROUGH
HIS CASEWORKER (MS. CASEY) THAT HE IS IN FACT SERVING A (30) YEARS
SENTENCE FOR ATTEMPTED BURGLARY, WHICH BY STATUTE, CARRIES (10) YEARS
OF INCARCERATION PURSUANT TO (S.C. 16-13-170). THE APPLICANT WILL SUPPORT
HIS CLAIM WITH A COPY OF THE STAFF REQUEST FORM FOR THE COURTS
CONVENIENCE. THE APPLICANT FURTHER SUPPORTS HIS CLAIM PURSUANT
TO COATS V. STATE 575 S.E. 2d 557, BECAUSE HE WAS INFORMED BY HIS CASEWORKER
ABOUT THE SITUATION PERTAINING TO HIS CASE, AND HIS CASE FALLS WITHIN
THE DISCOVERY RULE. WHEN THERE WAS EVIDENCE OF MATERIAL FACTS NOT
PREVIOUSLY PRESENTED, PCR APPLICATION WAS TO BE FILED WITHIN ONE YEAR
AFTER DISCOVERY OF FACTS. THE LAW AS IT APPLIES IN COATS V. STATE, 575
S.E. 2d 557 (S.C. 2003), STATES POST CONVICTION RELIEF (PCR) PETITIONERS
CLAIM THAT COUNSEL WAS INEFFECTIVE FOR IMPROPERLY ADVISING THEM THAT
HE WOULD BE PAROLE ELIGIBLE WELL WITHIN DISCOVERY RULE PROVIDING WHEN
THERE WAS EVIDENCE OF MATERIAL FACTS NOT PREVIOUSLY PRESENTED.
APPELLANT'S APPLICATION FOR POST CONVICTION RELIEF WAS TO BE FILED WITHIN
ONE (1) YEAR OF DATE OF ACTUAL DISCOVERY OF FACTS, AND DID NOT HAVE TO
BE FILED WITHIN ONE YEAR AFTER CONVICTION. IN COATS V. STATE, 575 S.E. 2d 557

2.

- (2). THE APPELLANT NEXT SUBMIT THAT TRIAL ATTORNEY SHOULD BE HELD FOR BEING
INEFFECTIVE FOR FAILURE TO PROPERLY MOVE TO QUASH THE AMENDED INDICT-
MENT IN ACCORDANCE WITH S.C. CODE ANN. (S. 17-19-90). THE APPELLANT'S ATTORNEY
WAS ALSO INEFFECTIVE FOR FAILURE TO SPECIFICALLY ENFORCE THE CONTRACTUAL
OBLIGATION THAT THE STATE AND COURT WAS UNDER DUE TO THE APPELLANT'S
INDICTMENTS AND SENTENCING SHEET, BOTH ALLEGING ATTEMPTED BURGLARY 1ST.
APPELLANT'S ATTORNEY HAD A CONSTITUTIONALLY-IMPOSED DUTY TO ATTEMPT TO ENFORCE
THE TERMS OF THE INDICTMENTS AND SENTENCING SHEETS AS THEY BOTH APPLIED
TO ATTEMPTED BURGLARY 1ST. THE APPELLANT BASIS HIS ASSERTIONS PURSUANT
TO THE MANDATES THAT ARE SET FORTH IN CUSTODIO V. STATE, 644 S.E. 2d 36
(2007). AND REED V. BECKA, 511 S.E. 2d 396 (Ct. App. 1999). APPELLANT'S COUNSEL
WAS INEFFECTIVE FOR FAILING TO SEEK SPECIFIC PERFORMANCE OF THE
INDICTMENT AND SENTENCING SHEETS, WHICH BOTH WAS FOR ATTEMPTED
BURGLARY 1ST. THE APPELLANT WAS INDICTED FOR ATTEMPTED BURGLARY 1ST

3.

- (3). THE APPELLANT NEXT SUBMITS THAT TRIAL COURT WAS WITHOUT SUBJECT-MATTER JURISDICTION TO ALLOW THE APPELLANT TO BE CONVICTED AND SENTENCE TO (30) YEARS FOR AN OFFENSE THAT ONLY CARRIES (10) YEARS OF INCARCERATION PURSUANT TO STATE V. JOHNSTON, 570 S.E.2d (1999). AND THE APPROPRIATE REMEDY WOULD BE TO RE-SENTENCE THE APPELLANT FOR WHAT HE WAS INDICTED FOR, AND THAT WOULD BE ATTEMPTED BURGLARY 1ST (S-16-13-170) SEE STATE V. SMALLS, 613 S.E.2D 754 (S.C. 2003). THE APPELLANT WAS SENTENCED FOR AN OFFENSE THAT HE WAS NEVER LEGALLY INDICTED FOR. APPELLANT WAS SENTENCED FOR AN OFFENSE THAT CARRIES (30) YEARS AND SEVEN (30) YEARS FOR BURGLARY 1ST BUT THE APPELLANT WAS INDICTED FOR ATTEMPTED BURGLARY 1ST. THE COURT COMMITTED REVERSIBLE ERROR BY ALLOWING THE INDICTMENT TO BE AMENDED WHICH CHANGES THE NATURE OF THE OFFENSE WITHOUT SENDING THE INDICTMENT BACK BEFORE THE GRAND JURY. THIS COURT HAS THE POWER TO

After a thorough review of the record before this Court and Applicant's response, this Court finds the current application for post-conviction relief must be denied with prejudice. First, Applicant presents claims for which this Court cannot provide any cognizable relief. Aside from two matters specifically mentioned in the statute, post-conviction relief is a proper avenue of relief only when the Applicant mounts a collateral attack challenging the validity of his conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). A credit-related claim or challenge to other conditions of confinement are administrative matters and, thus, cannot be raised in a post conviction relief proceeding. Id. Likewise, a challenge to the conditions upon which parole eligibility is determined or decided is not cognizable in a post-conviction relief application. Jernigan v. State, 340 S.C. 256, 531 S.E.2d 507 (2000).

Here, the Applicant complains that the Department of Corrections (SCDC) is not properly calculating his sentence. The statutory right to sentence related credits is a protected "liberty" interest under the Fourteenth Amendment, entitling an inmate to minimal due process to ensure the state-created right was not arbitrarily abrogated. Wolff v. McDonnell, 418 U.S.

539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). Because SCDC's disciplinary and grievance procedures are consistent with the standards delineated in Wolff v. McDonnell, *supra*, inmates may seek review of such claims under the Administrative Procedures Act (APA). Al-Shabazz, 338 S.C. 354.

This Court finds that the Applicant's allegations all concern matters which should first be raised through SCDC. If the Applicant is dissatisfied with the decision rendered by SCDC, then he may seek review of the decision under the APA. See, Al-Shabazz, 338 S.C. 354/Furtick, *supra*. Therefore, this Court finds Applicant's claims to be without merit and that they must be summarily dismissed.

Applicant also alleges counsel was ineffective in failing to properly advise him of his parole eligibility where his indictment and conviction were for "Attempted Burglary - First Degree." He contends this allegation overcomes the untimely nature of the application as it is "newly-discovered evidence" that he just became aware of. Upon a more detailed look at Applicant's objection, this Court finds the contention to be erroneous. Applicant bases the argument on the idea that counsel improperly advised him of his parole eligibility as he advised about parole for a "Burglary - First Degree" type sentence. Applicant alleges his conviction was for an "Attempted Armed Robbery" and, therefore, his parole eligibility would have been based on a ten (10) year maximum sentence under S.C. Code §16-13-170. Applicant's contention of ineffectiveness is grounded on the idea that he could only receive a maximum ten (10) year sentence and, therefore, counsel's advice on parole eligibility for a thirty (30) year sentence was incorrect. This is an erroneous analysis. The indictment plainly sets forth the charge as Burglary-First Degree, characterized as "Attempted," based on Applicant's two prior burglary/housebreaking convictions under S.C. Code §16-11-311. The sentencing sheet reflects

the same, citing S.C. Code §16-11-311 as the offense convicted of. Therefore, Applicant's contention that counsel's advice on parole eligibility under a thirty (30) year Burglary-First Degree sentence was incorrect is wholly unsupported and without merit. Further, it is important to note Applicant was convicted after a jury trial, and therefore such alleged "bad advice" was not the basis for an induced guilty plea. Regardless of Applicant's current parole eligibility, he is facing the consequences of being convicted at trial after challenging the charges. Therefore, counsel's advice, even if erroneous, had no effect on the case.

The Applicant could have raised the new grounds for relief in his prior post-conviction relief application. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, this Court finds that these claims to be meritless, and that the application must be dismissed for being successive in nature.

In regards to Applicant's allegations related to subject-matter jurisdiction, this Court finds that Applicant has failed to prove that such a claim has any validity. Defects in the language of an indictment do not divest an otherwise proper court of subject matter jurisdiction over a case. U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). Applicant has claimed that the trial court lacked subject matter jurisdiction due to defects in his indictment. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the

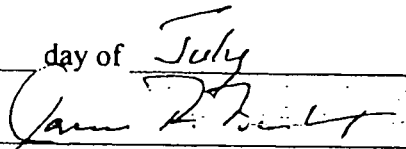
indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003). A claim of this nature is subject to the procedural bars in the Uniform Post-Conviction Procedure Act – notably the statute of limitations and successiveness. *See* S.C. Code §§ 17-27-45 and -90 (2003).

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 363 S.C. 93, 610 S.E.2d 494, 499 (2005); See also S.C. Const. Art. V, § 7. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. The Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction. As Applicant has failed to provide any other reason as to why the trial court lacked subject-matter jurisdiction over his case, this Court finds Applicant’s claims to be without merit.

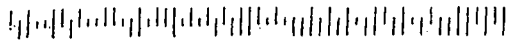
IT IS THEREFORE ORDERED that, for the reasons set forth herein as well as in the Court's Conditional Order of Dismissal, the application for PCR is hereby denied and dismissed with prejudice. This Court hereby advises Applicant that he must file and serve a Notice of Appeal within thirty (30) days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO-ORDERED this 31 day of July, 2012.



JAMES R. BARBER, III
Chief Administrative Judge for Common Pleas
Fifth Judicial Circuit

Columbia, South Carolina.



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200 Prison Rd

Tyrol - US - 226

NORNE, S.C 29335

Daniel E Shearouse
S.C. Supreme Court
P.O. Box - 11330
Columbia, S.C 29201

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