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THE STATE OF SOUTH CAROLINA S.C. SUPREME COURT

IN THE SUPREME COURT

APPEAL FROM YORK COUNTY

COURT OF COMMON PLEAS

DANIEL D. HALL

CHIEF ADMINISTRATIVE LAW JUDGE

APPELLATE CASE No: 2022-001493

JEFFREY LYNN CHRONISTER

PETITIONER

STATE OF SOUTH CAROLINA

RESPONDENT

RULE 60(b) SCRPC MOTION

FOR RELIEF FROM ORDER

THE MATTER AROSE FROM THE LOWER COURT'S DISMISSAL OF AN MOTION FOR APTER NEWLY DISCOVERED EVIDENCE AND RELATING POST-CONVICTION APPLICATION AS SUCCESSIVE AND UNTIMELY.

THIS MOTION COMES IN RESPONSE TO THE COURT'S DISMISSAL OF AN RULE 243(b) SCACR "NOTICE OF APPEAL" IN ITS ORDER, DATED "DECEMBER 13, 2022" THAT ITS COPY WAS RECEIVED BY PETITIONER ON "DECEMBER 23, 2022". [RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION AND ORDER AT PG. 4 ]

THIS MATTER RESPECTFULLY COMES FOR THE COURT'S DETERMINATION FOR THE REASON OF AN MISTAKE, AND THE CIRCUMSTANCES THAT

PREVENTED TIMELY SERVING A PETITION FOR REHEARING UNDER RULE 221(c) SCACR.

(A) IN RESPONSE TO THE ORDER THAT: "PETITIONER HAS FAILED TO PROVIDE AN EXPLANATION AS REQUIRED BY RULE 243(c) SCACR [Pg. 5]" PETITIONER RESPECTFULLY CONSENTS THAT THIS IS A MISTAKE. BECAUSE ENCLOSED AT [Pg. 6] IS AN COPY OF THE LETTER, DATED OCTOBER 19, 2022, WHICH WAS ENCLOSED WITH THE "NOTICE OF APPEAL" REQUESTING THE CLERK TO FILE THE NOTICE, AND IT ALSO SHOWS THAT THE ORIGINAL RULE 243(c) SCACR EXPLANATION WAS ENCLOSED AT #3. SUPPORTIVE OF THE (8) EIGHT PAGE EXPLANATION [COPY AT Pg. 7-14] WAS ENCLOSED WITH THE NOTICE AND OTHER (2) TWO DOCUMENTS LISTED IN LETTER IS THAT ADDITIONAL POSTAGE WAS REQUIRED FOR HAVING TO MAIL THE (1) ELEVEN PAGES IN BROWN 9"x11" MANILLA ENVELOPE, WHICH WAS ALSO THE CASE IN SERVING COPIES TO ZACHARY W. JONES A.A.C. ATTORNEY FOR RESPONDENT NAMED IN THE LETTER. THE "AGREEMENT TO DEBIT (PETITIONER'S) E.H. COOPER ACCOUNT" [Pg. 15] SHOWS THAT THE SAME AMOUNT OF "ADDITIONAL POSTAGE 2x 1.35" WAS DEDUCTED IN ORDER TO MAIL TO THE COURT AND COPIES TO THE ATTORNEY. WHERE WITHOUT MAILING THE EXPLANATION, AND ITS COPY, THE NOTICE AND OTHER (2) TWO DOCUMENTS COULD HAVE BEEN MAILED IN REGULAR PRESTAMPED WHITE ENVELOPE TO THE COURT / COPIES TO ATTORNEY.

(B) IN RESPONSE TO SERVING AN "PETITION FOR REHEARING": PETITIONER WAS UNABLE TO MEET THE REQUIREMENT OF RULE 221(c) IN THAT: "PETITIONS FOR REHEARING MUST BE ACTUALLY RECEIVED BY THE APPELLATE COURT NO LATER THAN FIFTEEN (15) DAYS AFTER

FILING OF ORDER." BECAUSE PETITIONER RECEIVING A COPY OF THE ORDER ON THURSDAY DECEMBER 22, 2022 WHICH WAS (9) NINE DAYS AFTER THE DATE OF THE ORDER DECEMBER 13, 2022. THEN ON FRIDAY DECEMBER 23RD TO WEDNESDAY DECEMBER 28, 2022 THE INSTITUTION'S MAILROOM, LAW LIBRARY, AND OTHER OFFICES WERE CLOSED FOR THE CHRISTMAS HOLIDAY. THUS PETITIONER WAS UNABLE TO TIMELY PREPARE SCHEDULE COPYING, AND MAIL.

### CONCLUSION

FOR THE REASONS STATED, PETITIONER ASKS THIS COURT TO:

- (1) GRANT THIS MOTION AND BE RELIEVED FROM THE ORDER
- (2) REINSTATE THE NOTICE OF APPEAL
- (3) GRANT THE ENCLOSED RULE 263(b)'S SACR "MOTION FOR EXTENSION OF TIME" FOR THE REASONS STATED IN THE MOTION [PG. 16-17] PETITIONER HAS ON HAND COPIES OF THE TRANSCRIPTS PAGES AND OF THE DOCUMENTS THAT ARE RELEVANT TO THE PETITION.

CC: ZACHARY W. JONES, A.R.G.

DECEMBER 30, 2022

RESPECTFULLY SUBMITTED:

Jeffrey Lynn Chronister  
JEFFREY LYNN CHRONISTER #189827  
KIRKLAND C.I., B-II, 60  
4344 BROAD RIVER ROAD  
COLUMBIA, S.C., 29210

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**RECEIVED**

**Receipt of Legal Correspondence Verification**

JAN 09 2023

S.C. SUPREME COURT

This is to verify that legal correspondence from (Name and Address):

Supreme Court of South Carolina  
PO Box 11330  
Columbia, SC 29211

Addressed to (Inmate Name, SCDC#, and Address):

Jeffrey Chronister #189827  
4344 Broad River Rd  
Columbia, SC 29210

was received and logged in on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log," at the  
Kirkland Correctional Mailroom on (Date) 12/16/22.

On (Date) 12/22/22, the above referenced correspondence was delivered to  
Inmate Jeffrey Chronister, SCDC # 189827, and his signature  
was obtained on SCDC Form 10-12, "Legal/Privileged/Certified Mail Delivery Log".

Additional Notes:

- 1. I/M was notified on 12/21/22 via "Order To Report".
- 2. Mailroom Shortage

Ofc. J. Myers  
Postal Director/Institution

12/29/22  
Date

# The Supreme Court of South Carolina

Jeffrey Lynn Chronister, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2022-001493

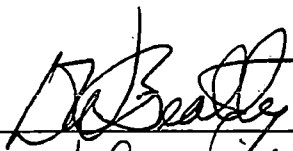
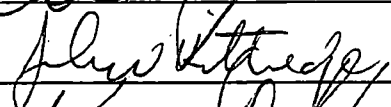
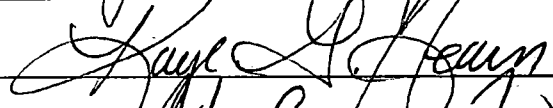

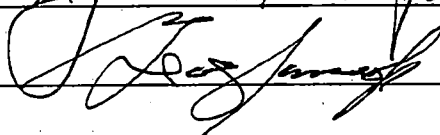
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## ORDER

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Petitioner has failed to provide an explanation as required by Rule 243(c), SCACR, showing there is an arguable basis for asserting the determination by the lower court was improper. Accordingly, we dismiss the notice of appeal in this matter. The remittitur will be sent as provided by Rule 221(b), SCACR.

Further, we hereby prohibit Petitioner from filing any further collateral actions in the circuit court, including post-conviction relief actions and habeas corpus actions, as well as any motions relating to previously filed collateral actions, challenging Petitioner's 1998 convictions or sentences for murder and possession of a firearm during the commission of a violent crime, or any motions in the underlying criminal case, including a motion pursuant to Rule 29, SCRCrimP, without first obtaining permission to do so from this Court.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina  
December 13, 2022

cc:

Zachary William Jones, Esquire  
Jeffrey Lynn Chronister, 189827

RECEIVED

JAN 09 2023

S.C. SUPREME COURT

THE HONORABLE DANIELE SHEAROUSE  
CLERK, SUPREME COURT OF SOUTH CAROLINA  
P.O. BOX 11330  
COLUMBIA, S.C., 29211

RE: JEFFREY LYNN CHRONISTER, APPELLANT v STATE OF SOUTH CAROLINA, RESPONDENT  
CASE No. 2019-CP-46-01421

HONORABLE CLERK:

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
- (2) A COPY OF THE ORDER TO BE CHALLENGED ON APPEAL
- (3) THE ORIGINAL RULE 243 (c) SCAC & EXPLANATION
- (4) THIS APPEAL IS BEING FILED WITH THE SUPREME COURT BECAUSE OF  
THE FINAL ORDER OF DISMISSAL IN PROSE POST CONVICTION RELIEF ACTION  
OF NEWLY DISCOVERED EVIDENCE

RESPECTFULLY,

OCTOBER 19, 2022

*Jeffrey Lynn Chronister*

JEFFREY LYNN CHRONISTER #189827

CC: ZACHARY W. JONES, AAG

KIRKLAND C. I. B-II, #60

S.C. ATTORNEY GENERAL'S OFFICE

4344 BROAD RIVER ROAD

P.O. Box 11549

-6 OF 18-

COLUMBIA, S.C., 29210

COLUMBIA, S.C., 29211

EXPLANATION

CASE HISTORY: APPELLANT'S ARREST FOR MURDER AND POSSESSION OF FIREARM OCCURRED ON SAME MORNING OF TRAGEDY, FEBRUARY 14, 1992, AND THE RESULTS OF A JURY TRIAL ON SEPTEMBER 21-22, 1992 WAS GUILTY (92-65-46-1229). COUNSEL WAS GERALD W. SMITH OF YORK COUNTY PUBLIC DEFENDERS OFFICE, SOLICITOR WAS LARRY GRANT, AND SENTENCING BY THE HONORABLE DOWS. RUSHING TO LIFE (20 YEAR) PLUS FIVE CONSECUTIVE YEARS FOR FIREARM'S POSSESSION.

AT TRIAL OTIS J. WHITSTINE'S TESTIMONY SHOWING WITH THE YORK COUNTY SHERIFF'S DEPARTMENT, AND INVOLVED IN "AN INVESTIGATION" OF INCIDENT ON THE DATE IT OCCURRED. HE WAS ADDRESSED AS "OFFICER" AND "DETECTIVE", AND SHOWS AS THE APPLICANT, "PROSECUTING OFFICER" OF THE ARREST WARRANT. ALSO SOLE WITNESS OF INDICTMENT FOR MURDER, AND THE ONLY LAW OFFICER TO TESTIFY TALKING WITH OR INTERVIEWING WITNESS THOMAS AULTEN ON THAT MORNING OF OCCURRENCE. SOLICITOR ADDRESSING WITNESS AS "THE EYEWITNESS IDENTIFICATION, AND LINE-UP", AND WARRANT STATES "PROBABLE CAUSE BASED ON WITNESS"

(I) ARGUMENT

SHOULD THE ACTION BE DISMISSED AS SUCCESSIVE, AND UNTIMELY UNDER THE STATUTE OF LIMITATIONS OF S.C. CODE ANN. 17-27-45(A)? (PAGE 4 OF THE ORDER)

APPELLANT RESPECTFULLY CONTENTS THAT THE DETERMINATION IS IMPROPER. BECAUSE THE ISSUES FIT UNDER 17-27-10(A) (1), AND (4):

(1) "THAT THE CONVICTION OR THE SENTENCE WAS IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES OR LAWS OF THIS STATE.

(4) THAT THERE EXIST EVIDENCE OF MATERIAL FACTS NOT PREVIOUSLY PRESENTED AND HEARD THAT REQUIRES VACATING THE CONVICTION OR SENTENCE IN THE INTEREST OF JUSTICE.

ALSO THE MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE SUBMITTED PURSUANT TO RULE 60(b) SCACP (SEE PAGE 1 OF THE ORDER) AND THIS ARGUMENT RAISING EVIDENCE OF FRAUD ON THE COURT PRODUCED BY MIS REPRESENTATION AND PROSECUTORIAL MISCONDUCT. CHEWNING v FORD MOTOR CO. 354 S.C. 72, 550 SE2d 584 (1998) "THERE IS NO STATUTE OF LIMITATIONS WHEN A PARTY SEEKS TO SET ASIDE A JUDGMENT DUE TO FRAUD UPON THE COURT" RULES CIV. PRO. RULE 60(b). HAGY v FRUIT 339 S.C. 425, 529 SE2d 914 (2000) "THE COURT HAS THE INHERENT AUTHORITY TO SET ASIDE A JUDGMENT ON THE GROUND OF EXTRINSIC FRAUD IN SPITE OF ANY FACIALLY APPLICABLE STATUTE OF LIMITATIONS"

FACTS: THE RECORD FAILS TO SHOW ANY INITIAL DIRECT EXAMINING OF OFFICER WHITSTINE AS TO TALKING WITH OR INTERVIEWING WITNESS AUTEN ON THAT MORNING OF THE TRAGEDY. AFTER WHICH HE IS SHOWN "TWICE" BEING UNCERTAIN OF TALKING WITH WITNESS ON THAT MORNING BUT CERTAIN HE HAD TALKED WITH WITNESS AT WITNESS'S RESIDENCE ON THAT AFTERNOON IN PRESENTING OF A PHOTO LINE UP. WHICH IS THE ONLY EVIDENCE OF OFFICER'S INVOLVEMENT IN THE INVESTIGATION, AND EXTRINSIC FRAUD SHOWN BY COUNSEL'S USE OF LEADING QUESTIONS AND THE OFFICER'S ANSWER OF TALKING WITH WITNESS ON THAT MORNING "DOING INTERVIEWS". ALSO COUNSEL LEADING TO ESTABLISH AN ALLEGED TIME FRAME THE ALLEGED INTERVIEW OCCURRED. WHERE WITNESS AUTEWS TESTIMONY OF OFFICER WHITSTINE HAVING TO INTRODUCE AND IDENTIFY HIMSELF UPON ARRIVAL AT THE RESIDENCE SUPPORTS THIS WAS THE FIRST TIME THAT THEY EVER MET, AND LACK OF PROBABLE CAUSE

THERE IS NO LAWFUL PHYSICAL EVIDENCE TO SUPPORT WITNESS AUTEW OR ANY WITNESS HAD BEEN INTERVIEWED ON THAT MORNING FOR PROBABLE CAUSE IN OBTAINING WARRANT. FOR THE RECORD FAILS TO SHOW A COPY OF ANY NOTE(S) WRITTEN THAT MORNING OF AN OFFICER TALKING WITH WITNESS

AND THE ONLY COPY OF AN INCIDENT REPORT ENTERED SHOWS FROM THE "YORK COUNTY SHERIFF'S DEPARTMENT." IT ALSO SHOWS WITNESS AULEN AS THE REPORT'S "COMPLAINANT" THOUGH FAILING TO SHOW THE REPORTING OFFICER'S NAME, AND APPELLANT ASKED FAMILY MEMBER TO OBTAIN ALL COPIES OF NOTES AND OF INCIDENT REPORTS THE SHERIFF'S DEPARTMENT HAD ON FILE OF THE OCCURRENCE. NO COPIES OF NOTES OBTAINED, AND THE ONLY COPY OF AN INCIDENT REPORT OBTAINABLE WAS OF THE SAME REPORT THAT ITS COPY WAS ENTERED INTO RECORD. THIS COPY SHOWING "SMITH T. B." AS THE REPORT'S REPORTING OFFICER, AND THERE IS NO EVIDENCE OF HIS INVOLVEMENT IN THE INVESTIGATION AT ANYTIME. FOR THE ONLY TIME THAT HIS NAME IS MENTIONED IN THE TRIAL/ON RECORD IS IT BEING CALLED ON FIRST DAY, AND HE WAS NOT PRESENT THROUGHOUT THE PROCEEDINGS. OUTSIDE OF THIS THE REPORT IS SHOWN FABRICATED BY ITS PRESENTMENTS TO THAT OF WITNESS'S TESTIMONY, AND HIS LACK OF TESTIMONY. FURTHER MISCONDUCT BY COUNSEL IS SHOWN IN ATTEMPTING TO LEAD WITNESS AULEN INTO CORROBORATING THE REPORT'S PRESENTMENTS OF THE SUSPECTS "HEIGHT 5'09" AND "WEIGHT 160" WHERE WITNESS PREVIOUSLY TESTIFIED "5'10" TO 6 FOOT" AND "170, 180 POUNDS." WHICH ALSO SHOWS COUNSEL'S KNOWLEDGE OF THE REPORT, FAILURE TO PRESENT IT IN COURT, AND ENSURE OFFICER SMITH'S PRESENCE TO TESTIFY AS TO ITS CONSTRUCTION. WHICH WAS SIGNIFICANT SINCE WITNESS AULEN WAS THE CHIEF WITNESS

PHOTO LINE-UP: UNDER INITIAL DIRECT EXAMINING OF WITNESS AULEN HIS TESTIMONY SHOWING HE GAVE OFFICER WHITSTINE THE NUMBER THAT WAS "BESIDE OF THE INDIVIDUAL'S PICTURE" IN THE LINE UP AND THE MISCONDUCT BY SOLICITOR AND ALSO COUNSEL IS SHOWN IN ONLY EXAMINING OFFICER WHITSTINE AS TO WHICH ONE OF THE NUMBERS WITNESS ALLEGEDLY GAVE HIM. AND FAILING TO CORROBORATE THE NUMBER BY EXAMINING WITNESS

UNDER INITIAL DIRECT EXAMINING OF OFFICER WHISTINE HIS TESTIMONY SHOWING HAVING HAD THE LIST OF NAMES OF THE PEOPLE IN THE SIX PICTURES OF LIVE-UP, AND "HAD PREPARED THE LIVE-UP" PRIOR TO MEETING WITH WITNESS AUBEN ALSO SHOWING A DETECTIVE JETER HAD MADE THE LIVE-UP'S RECORD" THOUGH THE ONLY EVIDENCE OF THE DETECTIVES INVOLVEMENT IS PREPARING THE LIVE-UP WITH PHOTOGRAPHS", AND PLACING APPELLANT'S PHOTO AS "NO. 3" IN THE RECORD. THERE IS NO TESTIMONY BY DETECTIVE OF HAVING THE LIST OF NAMES AND PREPARING THE OTHER NUMBERS TO THE OTHER INDIVIDUALS PHOTOS. THE MISCONDUCT FURTHER SHOWN BY COUNSEL IN FAILING TO CROSS EXAMINE AS TO HAVING THE LIST OF NAMES, PREPARING THE LIVE UP, AND AGAIN USE OF LEADING QUESTIONS WHICH WOULD APPEAR THE OFFICER HAD NOTHING TO DO WITH AND ALSO NO KNOWLEDGE OF PREPARING THE LIVE-UP.

FURTHER SHOWING OF MISCONDUCT BY COUNSEL AND SOLICITOR IS PERMITTING OFFICER WHISTINE TO MAKE A INADMISSIBLE IDENTIFICATION UNDER DIRECT EXAMINING ON THE NEXT DAY BEFORE THE JURY. THE IDENTIFICATION INADMISSIBLE BECAUSE OF OFFICER'S TESTIMONY SHOWING ALONE WITH WITNESS DURING VIEWING OF LIVE-UP, AND IT BASED ON LIVE-UP. FOR APPELLANT CONTENTS NEVER MEETING OFFICER OR SEEING HIM PRIOR TO THE TRIAL, AND THE RECORD FAILS TO SHOW ANY EVIDENCE/TESTIMONY OFFICER HAD MET OR SEEN APPELLANT. HIS NOT-KNOWING APPELLANT IS SHOWN IN HIS ANSWER OF "NO SIR" TO RE-CROSS EXAMINING OF (Q) "AND YOU DIDN'T KNOW NO. 3 FROM ADAM'S HOUSE CAT OF YOUR OWN KNOWLEDGE, DID YOU SIR?" U.S. v WADE 875 CT. 1986 (1987) "ABSENCE OF COUNSEL AT PRE-TRIAL LIVE UP RENDERS COURT ROOM IDENTIFICATIONS INADMISSIBLE UNLESS COURT ROOM IDENTIFICATION IS BASED ON OBSERVATION OF SUSPECT OTHER THAN LIVEUP": RULE 801(C) SCRE "ONE OF IDENTIFICATION OF A PERSON

MADE AFTER PERCEIVING THE PERSON": USCA MEND V (00) "AN OBT OF COURT IDENTIFICATION OF AN ACCUSED AT A POLICE LINE-UP IS A CRITICAL STAGE AT WHICH THE ACCUSED HAS A CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL" STATE V LYONS 251 S. C. 549, 169 SE2d 445

THE MISCONDUCT BY COUNSEL FURTHER SHOWN IN CROSS EXAMINING OF THE OFFICER. BECAUSE OF FURTHER FAILURE TO QUESTION ABOUT HIS HAVING THE LIST OF NAMES, PREPARING LINE-UP, AND USE OF LEADING QUESTIONS THAT WOULD HAVE FAISLY IMPRESSED UPON THE JURY THE IDENTIFICATION WAS RELIABLE IN OFFICER HAD NO ROLE OR KNOWLEDGE OF LINE UPS PREPARATION

DIRECTED VERDICT: COUNSEL MOVED FOR THE VERDICT (IN-PART) "BECAUSE OF THE NATURE OF THE TESTIMONY BY THE PEOPLE AS TO IDENTITY:

JOEL G. SMITH - TO "SAW NOTHING AND HEARD NOTHING" RELEASED FIRST DAY  
DANNY H. WILSON - "NO SIR MY ATTENTION WAS RIVETED ON HIS WEAPON, AND I DIDNT LOOK AT HIS FACE THAT WELL" ALSO RELEASED

SIDNEY BALLANGER IN - GOT "A GENERAL FEATURES LOOK AT INDIVIDUAL" WITNESS AUGEN - "NO SIR. WHAT I'M TELLING YOU IS THE PERSON I IDENTIFIED IN THE LINE-UP WAS THE PERSON I SAW IN THE PARKING LOT" AND "IF THIS MAN IS THE MAN I IDENTIFIED ON THE PHOTOGRAPH THEN INDEED THE SAME PERSON" (HE IS)

APPELLANT RESPECTFULLY CONTENTS GIVEN THE FOREGOING IDENTIFICATIONS THE VERDICT WAS PRODUCED BY FRAUD ON THE COURT IN THE USE OF OFFICER WHISTINE'S IDENTIFICATION IN THE COURT RULING THAT:

THE TESTIMONY IN THE CASE IS THAT THE DEFENDANT WAS IDENTIFIED AS BEING THE PERSON AT THE SCENE, THAT HE WAS IN POSSESSION OF A WEAPON, THAT GUNSHOTS WERE HEARD, AND VERY SHORTLY IN SECONDS THERE AFTER THE VICTIM'S BODY WAS FOUND SHE WAS DEAD, OF COURSE THE STATEMENTS MADE BY THE OFFICER ALL OF THOSE, AND THE USE OF A

DEADLY WEAPON. YOU DON'T HAVE TO FIND THE WEAPON IF THERE'S TESTIMONY OF USE OF A WEAPON"

U.S. v McDONALD 161 F3d 4 (TABLE) CA 4 (N.C. 1998) "A DECISION PRODUCED BY FRAUD ON THE COURT IS NOT IN ESSENCE A DECISION AT ALL AND NEVER BECOMES FINAL" SEE WRIGHT v MILLER FEDERAL PRACTICE AND PROCEDURE 2870 AT 409 (1995)

## II ARGUMENT

### SUBJECT MATTER JURISDICTION

SHOULD THE ACTION BE DISMISSED AS SUCCESSIVE, AND UNTIMELY UNDER THE STATUTE OF LIMITATIONS OF S.C. CODE ANN. 17-27-45 (A)?

APPELLANT RESPECTFULLY CONTENDS THAT THE DETERMINATION IS IMPROPER BECAUSE THE ARGUMENT FITS UNDER S.C. CODE ANN. 17-27-20 (A) (2):

"THAT THE COURT WAS WITHOUT JURISDICTION TO IMPOSE SENTENCE"  
CARTER v STATE 329 S.C. 355, 499 SE2d 773 (1995) "ISSUES RELATED TO SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANY TIME INCLUDING FOR THE FIRST TIME ON APPEAL IN THIS COURT" Id. 329 S.C. 355: "THE JURISDICTION OF A COURT OVER SUBJECT MATTER OF A PROCEEDING IS DETERMINED BY THE CONSTITUTION, THE LAWS OF THE STATE, AND IS FUNDAMENTAL LACK OF SUBJECT MATTER JURISDICTION MAY NOT BE WAIVED EVEN BY CONSENT OF PARTIES, AND SHOULD BE TAKEN NOTICE BY THIS COURT" ANDERSON v ANDERSON 299 S.C. 110, 115, SE2d 897 (1989)

IN APPELLANT'S CASE THE INDICTMENT FOR MURDER (S.C. CODE 16-3-10, CAR CODE 116) IS SUBJECT OF THE ARGUMENT. FOR THERE WAS NO PRESENTMENT OF INDICTMENT FOR FIREARM'S POSSESSION "COURT-TWO" OF INDICTMENT. WHICH IS SUPPORTED BY THE MURDER INDICTMENT BEING THE ONLY INDICTMENT INTRODUCED IN COURT BY SOICITOR. ALSO THERE WAS NO

WAIVERS EXECUTED NOR WAS A BOND OR PRELIMINARY HEARING HELD AND A PLEA OF NOT GUILTY WAS ENTERED AT TRIAL.

THIS ARGUMENT IS RAISED FOR THE INDICTMENT <sup>(1)</sup> FAILS TO BE FORMALLY STAMPED "TRUE BILL" OR "NO BILL". UNDER STATE V GRIM 341 S.C. 63 (S.C.2000) THE CASE WAS REMANDED FOR A HEARING TO DETERMINE THAT THE ROBBERY INDICTMENT WAS TRUE BILLED SUCH THAT TRIAL COURT HAD SUBJECT MATTER JURISDICTION TO ACCEPT GUILTY PLEA, AND RELYING ON PRINGLE (287 S.C. 409, 339 SE2d 127 ) THE COURT OF APPEALS HAS HELD AN INDICTMENT PROPER EVEN THOUGH IT WAS NOT STAMPED "TRUE BILL" WHERE THERE IS EVIDENCE IN FORM OF SWORN TESTIMONY FROM THE GRAND JURY'S DOCKET COORDINATOR, A COURT REPORTER, AND A LEGAL SECRETARY THAT THE INDICTMENT WAS IN FACT TRUE BILLED. ALIKE IN STATE V BULTON 318 S.C. 329, 329, 457 SE2d 616 (CT. APP. 1993); STATE V EVANS 307 S.C. 477, 415 SE2d 816 (1992) HOLDS, "A VALID INDICTMENT OR WAIVER OF PRESENTMENT PREREQUISITE FOR CIRCUIT COURT'S SUBJECT MATTER JURISDICTION" WHEREAS IN APPELLANT'S CASE THE RECORD FAILS TO SHOW ANY TESTIMONY AS TO THE INDICTMENT BEING TRUE BILLED, AND <sup>(2)</sup> THE FOREMAN INITIALLY THE INDICTMENT'S "T. BILL" A FACIAL IRREGULARITY. BECAUSE UNDER WEST'S SOUTH CAROLINA DIGEST 14 "INDICTMENT AND INFORMATION" SEC III AN "TRUE BILL" IS ONE OF THE "FORMAL REQUISITES" FOR INDICTMENTS. ALSO SEE S.C. CODE ANN 17-19-130; 17-19-10; ANDERSON V STATE 338 S.C. 629, 529 SE2d 348 (CT APP 2000) "A FACIAL IRREGULARITY DOES NOT RENDER AN INDICTMENT INVALID WHERE INDICTMENT IS IN WRITING AND PUBLISHED BY THE CLERK". UNDER PRINGLE 287 S.C. 409 <sup>[4]</sup> THE SIGNATURE OF GRAND JURY FOREMAN DID NOT APPEAR ON INDICTMENT FORM DID NOT RENDER INDICTMENT INVALID STAMPED APPLICATION OF "TRUE BILL" APPEARED ON INDICTMENT AND FOREMAN TESTIFIED

THAT REGULAR PROCEDURE WAS TO HAVE CLERK PUBLISH INDICTMENT IN OPEN COURT AFTER GRAND JURY RETURNED TRUE BILL. WHEREAS IN APPELLANT'S CASE THE INDICTMENT FAILS TO BE IN WRITING, AND THE RECORD FAILS TO SHOW INDICTMENT PUBLISHED BY CLERK IN COURT.

CONCLUSION

APPELLANT CERTIFYS THE FOREGOING TO BE TRUE AND TO THE BEST OF HIS KNOWLEDGE

OCTOBER 17, 2022

Jeffrey Lynn Chronister  
JEFFREY LYNN CHRONISTER #18982  
KIRKLAND C.I., B-II, 20  
4344 BROAD RIVER ROAD  
COLUMBIA, S.C., 29710

