

Exhibit A

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF Orangeburg )  
 )  
Frederick L. Henson #1310 )  
Full name and prison number (if any) of Applicant. )

IN THE COURT OF COMMON PLEAS

07-02-38 - 07-16-91

v. )

APPLICATION FOR

State of South Carolina )

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution
2. Name and location of Court which imposed sentence Orangeburg County Court of Common Pleas
3. Name(s) of co-defendant(s) (if any) 23
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
  - (a) 5-03-33-710, Simple 1st Degree
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:  
  - (a) Aug 14, 1985, 30 years 5372
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC COURT OF APPEALS
- ii. DEPT. OF REVENUE
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. SENTENCE WAS AFFIRMED
- ii. REVERSED
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. MARCH 13, 2007
- ii. APRIL 24, 2007
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Interim Appeal of Counsel
- (b) Interim Appeal of Counsel
- (c) Interim Appeal of Counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Failure to challenge the guilty plea in a timely manner
- (b) Defense counsel failed to procure a new attorney
- (c) Failed to adequately investigate and prepare for trial

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. Direct Appeal, claimed my guilty plea was conditional
- ii. petition for habeas corpus
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(b) the name and location of the Court in which each was filed:

- i. SC Court of Appeals, Columbia, SC
- ii. SC Court of Appeals, Columbia, SC
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. affirmed sentence
- ii. reversed
- iii. \_\_\_\_\_

iv. \_\_\_\_\_

(d) the date of each such disposition:

i. MAY 13, 2001

ii. APR 21, 2001

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) THE FREEDOM ASSOCIATES OF COUNSEL, IT COULD NOT HAVE BEEN PRESENTED

(b) \_\_\_\_\_

(c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? NA
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Richard Constantino: Defendants Corporation, P.O. Box 1112, Clarksburg, W. Va.
- ii. Joseph Santiz, III: Appellate Defense, 1330 14th St. Suite 401, Columbia, Md. 21024-3111
- iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

- i. Arraignment, Plea and Sentencing
- ii. Direct Appeal, Petition for Habeas Corpus
- iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

To have my case vacated or reversed and remanded

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )

VERIFICATION

County of DARKE )

I, \_\_\_\_\_, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

A. S. Howell

SWORN to and subscribed before me this 30  
day of May, 2007.

A. Bracey Simon (L.S.)  
Notary Public

My Commission Expires: 5/16/17

16 3 41

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, \_\_\_\_\_, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

*[Signature]*  
Applicant

SWORN or affirmed to and subscribed before me this

30 day of May, 2007.

*[Signature]*  
Notary Public

My Commission Expires: 5/16/17

# DEFENSE OF INDIGENTS ACTS

FORM NO. IV

## IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

ORDER OF APPOINTMENT OF LEGAL  
COUNSEL FOR INDIGENT DEFENDANT

VS.

07-CP-38690

FREDERICK HEWELL #310890

The defendant contends that (s) he is indigent and in need of services of an attorney as contemplated by law. THEREFORE, Claudia Goyen

Attorney-at-Law, is appointed as counsel for the defendant. 1239 Amelia St  
Suite F  
Orangeburg SC 29115

CHARGES: P.C.R.

THIS 17 day of June 20 07

at 3:00 (a.m. p.m.)

ADDRESS: \_\_\_\_\_

Paul Mize

TELEPHONE: \_\_\_\_\_

# CLERK OF COURT COUNTY OF ORANGEBURG

P. O. BOX 9000, ORANGEBURG, SC 29116-9000  
TELEPHONE (803) 533-6260

LISA W. MIZELL  
CLERK OF COURT

MARCIA GIBSON  
DEPUTY CLERK OF COURT  
COURT ADMINISTRATOR

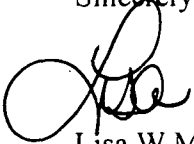
6/11/07, 2005

Dear Applicant:

I am in receipt of your PCR application. It was filed on 5-31-07, 2005 and the docket number is 2007-CP-38- 690. Since this is a new case you need to be made aware of the procedures in PCR cases. A copy of your application has been mailed to the office of the Attorney General. Upon receipt they will review your application and order the transcript of the hearing for which you are filing your application. When they receive it they will prepare and file the return of your case. At that time they will also advise us to appoint an attorney for your case. Once the appointment is made a copy of the appointment sheet will be mailed to you by the court. At some point after all this is done they will schedule your case for a hearing. We do not mail a copy of your application back to you. If you would like a copy you must send in a copy work fee of \$3.50 and a self addressed stamped envelope.

I hope this answers some of the question regarding PCR procedure. If you make any inquires to the court regarding your case you are **REQUIRED** to send a SELF ADDRESSED STAMPED ENVELOPE WITH ANY AND ALL REQUESTS. If you fail to do so your request will be ignored.

Sincerely,



Lisa W Mizell  
Clerk of Court  
Orangenburg County

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724  
Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

August 1, 2007

Frederick Howell  
SCDC No.: 310890  
Lee Correctional Institution  
SMN# 140  
1204 East Church St.  
Bishopville, South Carolina 29010

Re: Frederick Howell v. State of South Carolina

Dear Mr. Howell:

Please be advised that I have been appointed by the Court to represent you in the post-conviction relief action pending in the Court of Common Pleas for Orangeburg County. I am in receipt of the Court's file in regards to this case. However, I have not received a transcript of the challenged proceedings from the Attorney General's Office. I requested a copy of the transcript and other material in your file. Once I receive these documents, I will review them and schedule a visit with you to discuss your case.

In the meantime, if you have any additional questions or concerns, please feel free to contact me either at the above-referenced address or phone number.

With kind regards, I am

Sincerely,  


**Clarissa Warren Joyner**  
Attorney at Law

CWJ/jb

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724  
Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email joynerlawfirm@aol.com

August 1, 2007

Attorney General's Office  
Post Office Box 11549  
Columbia, South Carolina 29211-1549

Re: Frederick Howell v. State of South Carolina  
PCR No.: 2007-CP-38-690

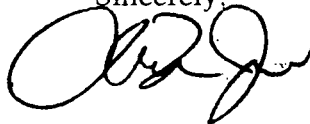
Dear Sir or Madam:

Please be advised that I was appointed to represent Mr. Howell in regards to the post-conviction relief case referenced above. I am hereby requesting that you forward a copy of the transcript of the challenged proceedings as well as any other applicable documentation or motions or returns in this matter.

Thank you for your cooperation in advance.

With kind regards, I am

Sincerely,



Clarissa Warren Joyner  
Attorney at Law

CWJ/jb

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724  
Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email joynerlawfirm@aol.com

March 11, 2008

Lance S. Boozer, Esquire  
Attorney General's Office  
Post Office Box 11549  
Columbia, South Carolina 29211-1549

Re: Frederick Howell v. State of South Carolina  
PCR No.: 2007-CP-38-690

Dear Lance:

Please be advised that I was appointed to represent Mr. Howell in regards to the post-conviction relief case referenced above in 2007. I am hereby requesting that you forward a copy of the transcript of the challenged proceedings as well as any other applicable documentation or motions or returns in this matter at your earliest opportunity.

Thank you for your cooperation in advance. With kind regards, I am

Sincerely,



**Clarissa Warren Joyner**  
**Attorney at Law**

CWJ/mdc  
cc: Frederick Howell

Exhibit B

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

March 27, 2012

**Frederick Howell SCDC # 310890**

McCormick CI

F-2A RM # 164

386 Redemption Way

McCormick, SC 29899

**Re: Frederick Howell v. State of South Carolina**  
**PCR No.: 2006-CP-38-0690**

Dear Mr. Howell:

Per your request, please find enclosed a copy of your file.

With kind regards, I am

Sincerely,



**Clarissa Warren Joyner**  
Attorney at Law

CWJ/mdc

Enclosure: As stated above

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

November 7, 2007

Frederick Howell  
SCDC No. 310890  
Lee Correctional Institution  
SMN# 140  
1204 East Church St.  
Bishopville, South Carolina 29010

Re: Frederick Howell v. State of South Carolina

Dear Mr. Howell:

Please be advised that I have received your letter dated October 30, 2007 on November 5, 2007 in regards to the above reference case. I am in the process of scheduling a visit through South Carolina Department of Correction to discuss your case with you.

In the meantime, if you have any additional questions or concerns, please feel free to contact me either at the above-referenced address or phone number.

With kind regards, I am

Sincerely,



Clarissa Warren Joyner  
Attorney at Law

CWJ/mdc

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

March 14, 2008

Frederick Howell  
SCDC No.: 310890  
Lee Correctional Institution  
SMN# 140  
1204 East Church St.  
Bishopville, South Carolina 29010

**Re: Frederick Howell v. State of South Carolina**  
**PCR No.: 2006-CP-38-0690**

Dear Mr. Howell:

Please be advised that I have received and reviewed your letters dated December 17, 2007 and January 28, 2008 in regards to the above reference case. However, I have not received a transcript of the challenged proceedings from the Attorney General's Office nor have I received a copy of the Return. I have previously requested a copy of the transcript and other material in your file, but I have not received a response. I am sending the Attorney General's Office a follow-up letter, a copy of which is enclosed, in an effort to receive these documents so that I can review them prior to meeting with you. Meeting with you prior to receiving the transcript and the Return would be futile. Once I receive the requested documents, I will schedule a visit with you through South Carolina Department of Correction to discuss your case with you.

Please be further advised that the visits that were previously scheduled were rescheduled due to unforeseen scheduling conflicts, including trial dates for other cases. Should you have any additional questions or concerns, please feel free to contact me either at the above-referenced address or phone number. With kind regards, I am

Sincerely,

  
**Clarissa Warren Joyner**  
Attorney at Law

CWJ/mdc  
Enclosure

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

April 18, 2008

Frederick Howell  
SCDC No.: 310890  
Lee Correctional Institution  
SMN# 140  
1204 East Church St.  
Bishopville, South Carolina 29010

**Re: Frederick Howell v. State of South Carolina**  
**PCR No.: 2006-CP-38-0690**

Dear Mr. Howell:

Please be advised that I just received a copy of the State's Return in regards to the above-referenced case. As such, I have scheduled a visit with you for Friday, May 2, 2008.

Please further advised that I have received and reviewed your letter dated April 2, 2008 in regards to the above reference case. While I appreciate you providing me with a copy of the contested transcript, this will not speed up the court date. As I'm sure you are aware, the Court sets its schedule and advises me accordingly. Furthermore, I needed the State's Return to properly proceed with the case.

Enclosed please find a copy of the State's Return and other documents. I look forward to meeting with you to discuss your case.

In the interim, should you have any additional questions or concerns, please feel free to contact me either at the above-referenced address or phone number. With kind regards, I am

Sincerely,

  
**Clarissa Warren Joyner**  
Attorney at Law

CWJ/mdc  
Enclosures

OCT 30, 2007

Dear Mrs. Joyner,

I regret that I was unable to speak with you on our scheduled meeting date. I'm very interested in hearing your views on what I provided to you, and what you have come up with concerning the issue's is wish to pursue on this appeal.

My reason for contacting you is that there are a few other things that I would like to present to you also and would like your input on the matters as well, that I would like to present.

The first thing is along the lines involving Dwelling For Burglary 1st degree. Now, we know that in order to be classified as a Dwelling For Burglary 1st degree according to S.C Code OF LAWS Sec. 16-11-10, it has to be a place which there sleeps a proprietor, tenant, watch man, Clerk, laborer or person who lodges there with a view to the protection of the property shall be deemed a Dwelling house. We also know that the hunting club is Alon's residence, meaning Alon was living there during the date of the burglary.

With that being said, the solicitor called it a hunting lodge in the transcripts on page 16 lines 10-12 but he then goes on to call it a house on page 18 lines 23-25 ending on page 19 line 1. A lodge (over)

is defined AS: A house set apart for residence in a particular season (as the hunting lodge) or to provide temporary quarters for. So if it is classified AS A lodge, who was the occupant or inhabitant during that period against whom the offense could have been committed? who was it occupied by to provide temporary quarters for during the period in question?

Keep in mind, someone must be living there either permanently or temporarily during that time the crime was committed. A lodger is a person who rents and occupies a room in another's house. So if no one was renting or sleeping there at that time, that means it was vacant and uninhabited. And to be a dwelling, it has to be a inhabited dwelling or building at night. So therefore by law it's still not classified AS A Dwelling because it was vacant.

Lee Alessandro, who reported the burglary, arrived at 6:00 A.M. According to the alarm company, the crime took place at approximately 1:30 A.M. Mr. Alessandro at no time stated he was living there or renting a room during the time the crime was committed. He gave his address at that time AS being in Mt. Pleasant. Mr. Willis, the owner, gave his home address AS being in Sumnerville at that time. He neither stated that he was occupying the house/lodge

(next page)

At that time and reported the Alchem Company notified him at home in Summitville. my question is this. Do you think it would strengthen that Argument IF they both was interviewed? I think so because I'll be thoroughly establishing the fact that neither was occupying the house/ lodge at that time. Since Mr. Alessandro was the one to call the crime in and was the first person on the scene, I think it would be wise to pursue this. I just would like not to leave no stone unturned and have all my I's dotted and T's crossed. I don't want to leave the state no room to be able to justify<sup>it</sup> being a Dwelling. with him stating he was not renting a room here when the burglary took place on sleeping there at that time will solidify my Argument.

I would like for you to interview them both and get a written statement from them. I'm aware that the Darden is on me to prove my Arguments and have them there to put their statement on record. I'm not sure of all that you have the authority to do in order to help me establish my claim. But if by law you are able to secure a written statement and then have them there, please do so. That way if I don't get a ruling in my favor the evidence I presented would still be preserved and on record.

As I stated previously on a prior letter, I'm fully (over)

Aware that you have other matters to handle. But  
IF you ~~will~~<sup>will</sup> send an Investigator to secure the statements  
and on the date of my hearing Superior then, that would  
be all needed to establish my claim challenging whether  
it was a dwelling during the period in question.  
These are the questions I would like to be asked  
and answered on their written statement.

★ Dee Alessandro Interview

1. Are you aware this interview is pertaining to the incident  
on March 31, 2005 in which you called and reported  
a burglary at the hunting Club in Holly Hill at  
2777 Dawson St. Belonging to Arthur Willis?
2. During that time did you live at the incident location?
3. During that time ~~on the~~<sup>on the</sup> 31<sup>st</sup> of March 2005, were  
you renting a room at that location?
4. The morning you called the authorities, didn't you give  
your home address as 1579 WALKENDAW, Mt. Pleasant?
5. Did you at any time tell the authorities that you lived  
there or were renting a room at 2777 Dawson St.?
6. Didn't you call to inform Mr. Willis at his home in  
Summerville of the burglary?
7. During that time you reported the burglary was  
~~anyone~~<sup>anyone</sup> there or renting and occupying a room?
8. Have you answered these questions truthfully and  
to the best of your knowledge?
9. Have you been promised anything or told you had

(next page)

To answer these questions the way you have answered them?

10. You are fully aware you gave these answers to  
X \_\_\_\_\_?

Witness Signature      Date \_\_\_\_\_ Name (Print) \_\_\_\_\_

Sign \_\_\_\_\_

Address \_\_\_\_\_

Home # \_\_\_\_\_

---

Arthur Willis Interviews (Owner)

1. Are you aware this interview is pertaining to the incident on March 31, 2005 at 2777 Dawson St in which Dee Alessandro called you at home to report that your hunting club had been burglarized when he arrived there at 6.00 A.M.?
2. During that time did you live at 2777 Dawson St?
3. Did Mr. Alessandro live there or was renting a room during the time the crime was committed?
4. Did anyone live there or was renting a room when this burglary took place on March 31, 2005?
5. During that time your residence and home address was 102 S. Oak St. Summerville, S.C.?
6. That's the address you gave the authorities?
7. Have you answered these questions truthfully and to the best of your knowledge?
8. Have you been promised anything or told you had to

Answer these questions the way you've answered them?

9. you are fully aware that you gave these answers to \_\_\_\_\_.

Business \_\_\_\_\_ Date \_\_\_\_\_ Name (Print) \_\_\_\_\_

Sign \_\_\_\_\_

Address \_\_\_\_\_

Home # \_\_\_\_\_

Now as you can see, my line of questioning will establish the fact clearly that during the time the hunting club was burglarized, Noone was renting, living nor occupying the place. The incident report will support their statement because it states that Mr. Alessandro Arrived at 6:21 A.M, after the burglary and called Mr. Willis in Summerville therefor rendering it vacant until Mr. Alessandro Arrived and that still depends on if he came with the intentions of renting a room or sleeping there. And at no time in the incident report does it state that he told ~~known~~ the authorities he lived there or was renting a room during that time and neither Mr. Willis.

provided for the defendant in the 6<sup>th</sup> Amendment, to have compulsory process for obtaining witnesses in my favor. S.C Const. Art I, Sec 14 and U.S Constitution Amend VII (1791). that clause grants

(next page)

me the right to offer the testimony of favorable witness's and to compel their testimony and attendance because their testimony would be material and favorable to me. This right is a fundamental element of due process of law applicable to the states by way of the 14th Amend.

So please as soon as possible, secure those statements and once that has been done notify the state that we are putting them on notice that mr. Alessandro and mr. Willis will be called to testify. So outside of my alibi's, my former public defender Richard Gustafson and the solicitor Bryan Jeffries they'll be subpoena as well. Of course you know why mr. Gustafson and mr. Jeffries attendance is required along with the video tape and that's to establish my claim that they falsified and fabricated evidence on record. That brings me to my final issue.

I know that I have to pursue to establish that during my P.C. is pending. But, even though I can do that then, like then any other way that I can't have that issue investigated before then and acted upon?

According to the rules for disciplinary enforcement rule 413, rule 407 and the Commission on Lawyer Conduct / Office of Disciplinary Counsel

(over)

in order for the Commission to Intervene, Investigate and punish them for those violations, I have to establish misconduct.

In the rule's for Lawyer Disciplinary Enforcement Rule 413, Rule 407 it clearly states that a lawyer who knowingly present evidence they knew to be false, falsified evidence, fabricated evidence, committed fraud (a knowing misrepresentation of the truth), commit's the violations that constitute's misconduct and shall be punished.

The proper authorities being, the Office of Disciplinary Counsel and Commission on Lawyer Conduct who enforce's, investigate and punish lawyers who commit the violations, refused to do anything. I filed a complaint and their responding letters inform me that those actions does not constitute misconduct when the law clearly states it do. my complaints have been dismissed without investigating and I was told I would have to pursue that issue during my P.C.H under Ineffectiveness of Counsel claim and they are not allowed to intervene because it's not within their jurisdiction. is it legally some way that you or me could get that matter heard and acted upon outside of a p.c.h? Nowhere does it states that I would have wait and do so thru the p.c.h stage. when I get a

(next page)

Putting in my favor on that issue, the facts will still be the same and not change so what would move them? Act then that wouldn't have done if anything has changed? Why the authorities refused to investigate when everything according to law say that they can? Who can I contact to get a matter of this magnitude looked into? As you are aware an allegation this serious and according to the S.C Code of laws is a crime listed under perjury and subornation of perjury, cannot and should not be allowed without intervention by the proper authorities.

I need you to respond back to this letter and please inform me have there been any progress made in securing the video, Alibi's statements and what course would have to be taken, if you can, about securing the statements of Mr. Alessandro and Mr. Willis, also your view and input on what I have presented to you and the route I wish to take for my A.C.H. hearing. That way if anything should arise that will hinder you from doing what I need of you to do, we can rectify the problem A.S.A.P and that will have me better and fully prepared for my hearing instead of trying to do so at the last minute.

I understand that you have other clients and not able to come and meet with me as much as you

(over)

or I would like to. But could you respond to this  
correspondence that way I'll know what course of  
action I need to take to help you better prepare  
me. Thank-you and I'll be looking forward to  
hearing from you soon.

C.C.:

- 1) Orangeburg County Clerk  
of Court
- 2) Personal File

Respectfully,

Frederick Howell #310890

Lee C.I.

Dahl-North #1124

990 Wisconsin Hwy.

Bishopville, SC 29010

P.S.: Various people may be calling you in my behalf.  
Please speak with them concerning this matter because  
I'm trying to employ the help from various political  
leaders and organizations concerning the actions  
and illegal conduct of my former attorney Michael  
Gustafson and the solicitor Bryan Jeffries.

Dec. 17, 2007

Dear Mhs. Joyner,

I regret that we were unable to meet and discuss my case again. As before, I was looking forward to hearing your views on the best way to present my case and have you been able to make any headway concerning being able to retrieve and present the evidence in the state's possession (video, print results) as well as contacting my alibi's and interviewing the complainant and victim in my case, have them present and their testimony on record during my P.C.H. hearing.

IF this would be of any help to you, I have already secured handwritten statements from (a) of my alibi's. One is dated April 1, 2006 and the other is dated April 3, 2006. The reason I have not sent them to you is because they are written on regular paper and not on any official document with someone witnessing it. I took precautions and secured as best I could from them, my main (a) alibi's version of events because people do die or move and can no longer be contacted. Also during the time the statements were written, I had no attorney to go about it the way that's acceptable to the courts and secure those very vital and necessary statements in my behalf, so I took it (over)

Upon myself to get them and protect my Interest.

Also, in my 1<sup>st</sup> Correspondence To you, I Asked that you Amend my P.C. n Application and Add misconduct by my former Attorney and the Solicitor for Fabricating and Falsifying Evidence on record. That letter goes into detail how it was done and where it occurs in the Transcripts by both parties. That's why the video Tape, prints are necessary to prove the issues I want to Address

As I stated before, I realize that I'm not your only Client and by where I'm being held, the distance you would have to travel causes another hardship for both of us. That creates a problem for us to confer with each other physically. But could you correspond back with me by letter and Address the issues and questions I presented to you on the previous two letters?

I understand things don't happen overnight but any information and answers to my questions is better than knowing nothing at all. At this point, I'm not able to help you, help me because I have nothing from you to go on except that you've been scheduling visits to discuss my case with me.

MAAMI, please don't think that I'm trying to rush you or have no concern for your schedule and

(next page)

That's not the case. I just want to be fully prepared and have all my T's crossed and I's dotted for my hearing. I can not afford to leave no room for error and allow the state to maneuver out from under my issue's because I'm not fully prepared and did not give them ample time to prepare and try to defend why I received 23 years for a crime I did not commit!

I realise you may hear that quite often but, I assure you, you won't the state can on will find any evidence that will show otherwise. But what you will see is that the only "Evidence" linking me to this crime is a Detective saying it's me who he believes to be on the video. You'll also find that the video only shows someone walking on the porch of the hunting club. No more, no less! But on record, in the transcripts my "Attorney" and Solicitor both lied concerning the contents of the video by telling the Court this video shows a burglary in progress and it's fully video taped when the actual video shows nothing even remotely similar to what they said!

Any and everything I've stated to you is fair as my issue's and my allegations towards my attorney and solicitor can be supported by everything I've written to you in my letters.

(over)

Mrs. Soyner, I know it would be better for both of us to be able to sit face to face and discuss these matters that way we both can have a clear understanding on how to proceed. But that does not mean that's the only way we can communicate and convey our point and messages.

I look forward to receiving a response from you answering my questions and addressing my concerns. If there's any other information that's needed from me, please let me know and I'll get what you need to you A.S.A.P. Thank-you and please have a safe and happy holiday.

Respectfully,  
Frederick L. Howell #310890

Lee C.I

Dahl-NI #1124

990 WISACHY HWY.

Bishopville, S.C

29010

C.C

1) PERSONAL FILE

P.S: IF possible could you please notify me when my hearing is scheduled that way I can have my A.I.B.I's ready to be present

(11)

12/19/07

Jul. 28, 2008

Dear Mrs. Sequer,

I hope this letter reaches you in the best of health and in good spirits. My reason for contacting you is that I've written to you on many occasions concerning things that I've let you to do in my behalf for my P.C.'s healing. I have left to get a response from you informing me what have been done at this point.

I've received two (2) letters from you stating that you scheduled a visit to discuss my case with me but, we have left to meet.

Mrs. Sequer, As I stated to you before, I'm fully aware that I'm not your only client and do not expect for you to come visit every week. That would be foolish on my part. But, by the same token, I at least would like for you to respond to my letters to let me know have any progress have been made in becoming the things that's needed for my healing or a response to tell me that my letters have been received.

Again, I've heard nothing but good things about you from people you've represented. So please don't think that I have any faith in your ability to represent me to the best of your ability and to do what's needed to be done concerning the things that I need you to do.

It's sad that I've been trying to open a line of communication with you that long but with no end

(over)

The same page but up until the point, it's been only going one way.

I've written at least four (4) letters to you concerning various issues and things that I need you to do and received no feedback from you. It's not to say that you have not done anything. But, as you know, during A.R.C. hearing it's my duty to prove the victimhoods I'm claiming and everything that I asked you to do is needed to support my claim in order to get the relief I'm seeking.

In the event that you have not received my prior letters, these are the things that I need for you to do and come and discuss with me.

(1) Amend my A.R.C. Application: I need you to add prosecutorial misconduct because the Senator falsified and fabricated evidence along with my attorney.

(2) Contact A.R.C.: Rosamunda Myers (803) 492-9354 Home (914) 303-7666 Cell: Valerie Fuller (803) 492-7108 Home Yolanda Howell (803) 496-8740 Cell: A.H.R.C. Howell (803) 496-3094 Home (803) 496-4788 Cell

IF need be I could have been. Schedule an appointment to come speak with you and give a statement.

(3) Get copy of the video: This will prove that the Senator and my attorney falsified and fabricated evidence. The video shows me crime being committed.

(4) Get results of the prints that was incriminated

(Abel)  
Page

(3) Consider and Informative (or Alternative) Compensation)  
Additional work (work or action)

\* If I could see more, I can help you with the line of ques-  
tioning and answer. Likewise the point the issue is being  
to not a question. Likewise a case law that is in the  
time the other team put, and it might be relevant.  
(Quoting Judge)

Please could you respond back and let me know  
what's been done at this point and what your  
opinion on the best way for me to pursue my issue's.  
That way at least I'll know how to proceed because  
I don't want on need to be preparing myself  
on issue's that I don't see worth. When that time  
could be devoted on relevant issue's that do.

Again, Mrs. Sequeira, I'm trying to help you, help  
me by informing you with issue's I wish to  
pursue during my H.C.H. you've been assigned  
to represent me for about seven (7) months now  
and I have no idea what's going on on your  
end on nothing I wrote to you about.

Again, I do not expect you to devote all your  
time and expertise on my case. I just would  
like to get about thirty (30) minutes of your  
time to respond back to the H.C.H. I send  
to you. That way at least I'll know that I'm not

(over)

waiting for nothing and my letters and opinions  
matter and deserve a response.

If I offended you in any way, I apologize because  
that's not my intention. It's just disappointing  
and aggravating to be waiting you concerning my  
case and never get a response not knowing what's  
going on. But I have not a doubt in my mind that  
you are the best Attorney I could have and is  
blessed to have you.

I looked forward to your response. Thank-  
you

Sincerely,  
Frederick L. Howell

P.S: All my previous letters went to  
1057 Anelia St., Suite A - But this one is to  
the Post Office Box

MPC 04.08.08

April 2, 2008

I received your letter dated March 14, 2008. It stated that you were still waiting to receive from the Attorney General's Office a copy of the transcripts and return.

I've taken it upon myself to provide you with a complete copy of the transcripts, as well as a complete copy of the motion of discovery. As you'll see, everything is in order and the only document that's not included is a copy of the indictment and that's because I don't have it myself.

MA'AM, we've wasted eight months of valuable time when all was required was that you communicate with me and let me know what's going on and that could have been avoided. My very first letter to you, I stated it's my job to help you, help me. Please allow me to do just that. I could have been sent you a copy.

Now that you have the documents needed to proceed, on my A.C.N application I submitted, I listed failed to contact Alibi's, Failure to Challenge Indictment and one other issue as my grounds.

My very first letter to you in June, 2007, I listed four issue's that I thought would be my (over)

Best And Strongest Arguments: Please be patient with me and allow me to go into detail as to why.

Argument 1: The place that was burglarized does not meet the requirements to be classified as a dwelling for the 1<sup>st</sup> degree burglary statute. In S.C. Code of Laws Title 16 Section 16-11-10, it defines a Dwelling ~~in cases of burglary and arson~~. It states: "any house, outhouse, apartment, building where there sleeps a person who lodges there with a view to the protection of the property." but specifically in cases of burglary it's defined as: "A place which there sleeps a proprietor, tenant, watchman, clerk, laborer or person who lodges therein with a view to the protection of the property shall be a dwelling house. In cases of burglary a dwelling house is defined as: The house or other structure in which a person lives; a residence or abode."

In Section 16-11-311, a person is guilty of first degree burglary if a person enters a dwelling without consent with intent to commit a crime, with aggravating factors. In my case, in the nighttime. The place that was burglarized is a hunting lodge (Transcripts page 16 lines 10-12 and page 24 lines 4-5) The law is very clear in stating that

(next page)

in order to be classified as a dwelling for the burglary statute, someone must "sleep or live" there for it to be a dwelling. This can be supported by the various cases at the end of this section. During the time of the burglary, the hunting lodge was VACANT. (see incident report) The complainant, who reported the crime the next morning and the owner by phone, gave their home address's in two different towns. The complainant did not live or was renting a room there during the crime. So since no one slept, occupied, lived or took up residence there it cannot be classified as a dwelling according to the burglary statute and the S.C. Code of Laws Title 16.

1. US v Williams 417 F.3d 999 : burglary 1<sup>st</sup> degree involves entry of a \*Inhabited\* dwelling or building at night
2. State v Cross 448 S.E.2d 569 : Burglary 1<sup>st</sup> degree applies only to a Dwelling.
3. State v. Ferabee 273 S.C. 403, 257 S.E.2d 154 and S.C. Code 16-11-10, 16-11-310 : The mere fact someone could live in a building does not make it a dwelling. Someone must sleep or reside in the building or have intent to return to continue to reside in the building. The conviction of burglary was not warranted where there was no occupant or inhabitant against whom the offense could have been

(over)

Committed

4. Padgett v. State 484 S.E.2d 101: ... SINCE NO ONE  
LIVED IN THE BAEN, the evidence did not support AN  
Indictment For burglary 1st degree
5. State v. Sowell 85 S.C. At 284, 69 S.E. At 318
6. S.C. digest words AND phrases: U.S.C.A. 1743  
(A)(b) (1,2)
7. Jury Instructions For Criminal defense. Published  
by the S.C. bar (refers to State v. Forebee)
8. State v. Brooks 283 S.E.2d 830, 277 S.C.111

Argument 2: By my previous Attorney not Challenging the  
Indictment and did not know or recognize the  
distinction between burglary 1st degree AND 2nd  
degree, Building and dwelling, he allowed me to plead  
guilty to the charge OF burglary 1st degree when  
there clearly NO OCCUPANT Against whom the offense  
could have been committed because for burglary,  
Dwelling is defined AS A Dwelling ONLY IF the  
house is OCCUPIED. SO He could not have decided  
AS A matter OF Strategy not to Challenge the Indictment  
AN Indictment MUST CONTAIN the NECESSARY AND  
CORRECT Elements OF the offense and recite the  
FACTUAL Elements.

1. U.S.C.A. Const. Amend. 4; Code 16-11-311
2. Padgett v. State 484 S.E.2d 101

(next  
page)

3. State v. Sowell 85 S.C. 47, 254, 67 S.E. 2d 318
4. State v. Dudley 354 S.C. 314, 581 S.E. 2d 171
5. State v. Guthrie 352 S.C. 103, 572 S.E. 2d 309
6. Flett v. State 298 S.C. 58, 378 S.E. 2d 249

Argument 3 By my previous attorney failing to contact and introduce my Alibi witness's is prejudicial and if he did I would have insisted on going to trial had all relevant evidence been secured and introduced. For his failure to investigate all potential witness's, Alibi's and research and prepare is equivalent to no representation at all. It's required under the 6th Amendment of the Constitution that he prepare and present case and failure to do so he's ineffective. He denied me effective assistance of counsel when he failed to make a reasonable effort to procure my Alibi witness's. It's also prejudicial for failing to investigate and introduce evidence that clears me from alleged fault or guilt. I could not comfortably go into trial knowing he did nothing to prepare for a trial. I have the right to present my own witness's to establish a defense and this right is a fundamental element of due process

(over)

OF LAW OF THE 14<sup>th</sup> Amend. The 5<sup>th</sup> Amend prevents me from being punished without due process OF LAW. Also in the 6<sup>th</sup> Amend, it mandatorily I be able to obtain witness's in my FAVOR AND HAVE EFFECTIVE ASSISTANCE OF COUNSEL. regardless OF whether Timely Alibi notices is given, it may be presented when an Alibi is newly discovered on good Cause is shown.

1. U.S. v. Cronie 466 U.S. 648, 104 S.Ct. 2039, 80L Ed 2d 657
2. Strickland v. Washington 466 U.S. 668, 104 S.Ct. 2052, 80L Ed 2d 674
3. U.S. Const Amend 6, Amend 14, Amend 5
4. Glover v. State 458 S.E.2d 538

#### Argument 4

In the TRANSCRIPTS on page 8 lines 24-25, page 9 line 1-2, The Judge Asks my attorney, "Do you think the state has enough evidence to convict him?" my attorney responds, "I think they have Overwhelming Evidence TO convict him, your honor."

On page 16 lines 18-22, the solicitor states to the court, "The defendant is seen on that VideoTape walking around, He's got gloves on, He's got sort of a coverall outfit on. He's

FLASHING A FLASHLIGHT IN THE WINDOWS. you never see him go inside the house at that time."

Now on page 21 lines 16-25 ending on page 22 lines 1-5 my attorney also states on record, "Very Simply the Facts are basically as the solicitor stated". when I said overwhelming, it's not necessarily that there is a great deal of evidence in this case, but I have never in my years of practicing, which, I think since Ninety-Two, I have never had a burglary in which they have had it \*Fully Video Taped\* And I would suggest that some, unfortunately, the victim has felt the need to have to do that in our County. But the tape, in and of itself, from a defense point of view, is a great Emcumbrance to us. My client did get an opportunity, I think approximately a week and a half or two weeks ago to view the tape in its entirety with myself and the solicitor present and he's actually seen that as well."

Also on page 10 lines 6-9, The Judge confirms what was said by my attorney, "... But he also says that He has reviewed the evidence in the case and He thinks there's overwhelming evidence to prove you are guilty."

Now, my reason for quoting verbatim what was said from the transcript is at

(over)

No Time do the video show Anyone Flashing  
A Flashlight in the windows, with glasses on  
As the solicitor stated, NOB does it show A  
burglary Fully video Taped And this overwhel-  
ming evidence my attorney suggest. But  
what the video do show is Someone walking  
Around. NO more, NO less.

By getting into Court And present evidence  
they knew to be false violated the S.C rules  
of Court. Rule 3.3 states in plain Terms  
That; "A lawyer should not knowingly make A  
False statement OF material FACT OR LAW TO  
Tribunal And offer evidence that the lawyer  
knows to be False!!

They both violated state and Federal law by  
Introducing Inappropriate and to use False  
evidence. By doing so, they engaged in conduct  
of dishonesty, misrepresentation As well as  
deprived me OF A Fair and Just trial. I received  
A Unfair outcome. my Attorney showed  
gross incompetence Towards me when he  
stated, expressed and gave all indications that  
the solicitor had all evidence to convict me  
with and the statements he made were FAR  
from the truth. Also, By my Attorney he relinquish-  
ing his role, He showed Actual conflict OF

(next  
page)

Interest and it Adversely Affected his performance. Once I have shown Actual Conflict, prejudice is presumed And no Further showing is necessary For reversal, new Trial or resentencing.

- \* 1. U.S Const Amend 6, Amend 14
- \* 2. Strickland v. Washington 4166 U.S 668, 104 S.Ct 2052, 80 L Ed 2d 674
- \* 3. Lopez v. Scully 58 F.3d 38 (Conflict of Int.)
- 4. U.S v Jones 900 F.2d 512 (Conflict of Int.)
- 5. Mathis v. Hood 937 F2d 790 (Conflict of Int.)
- 6. U.S v. Swartz 975 F2d 1042 (Conflict of Int.)
- 7. S.C Code ANN, Sec 16-9-10
- 8. U.S v CARRAWAY 108 F.3d 743, 761
- 9. U.S v. GRANADOS 168 F.3d 343, 346
- \* 10 Wainwright v. Sykes 433 U.S 72 9097 S.Ct 2497, 2058 53 L. Ed 2d 594
- \* 11. S.C Rules of Court
  - Rule 3.3 (A-1, A-4)
  - Rule 4.1 (A)
  - Rule 8.4 (A)(C)(D)(E)
  - Rule 7 (i)(5)(6)
  - Rule 1.3
  - Rule 407 SCACR
- 12. PAGE v. State 605 S.E 2d 740

(over)

As you'll see, The only Thing that places me at the crime scene is A Detective "Saying" it me he believes it to be on the video. Prints was recovered (see Incident report) but they don't belong to me. NO physical Evidence that was recovered places me at the scene.

The sole basis of the prosecution is this video Tape that has this burglary video recorded. (see Incident report) ~~ONCE~~ <sup>ONCE</sup> the video was seen And it did not show anything that it was reported to the police it was supposed to show, my Attorney And Solicitor, still repeated what was reported to them to prosecute me even after it was known to them that the video shows no crime being committed And what they stated on record was not true Therefore they intentionally helped falsify And fabricate evidence. (see video - vs - transcript)

There's no evidence presented that can or will show that I entered the Hunting lodge. By the detective placing me at the scene, with nothing more just raises suspicion and without more cannot support a conviction for burglary. But most importantly, A conviction that's obtained through the use of false evidence or testimony And known to be such by the prosecution is

(next page)

Acknowledgment of due process and violation of the  
14th Amend (Graham v. Wilson 828 F.2d 656)

Now AS TO why I chose to research and  
pursue these issues IS explained in detail  
on the letters that you stated you received from  
me on Oct. 30, 2007, Dec. 17, 2007 and Jan.  
28, 2008. Also on those letters, I provided  
you with my Alibi's Information and other  
things that will help me prove the claims I'm  
alleging. But the letters go into detail as  
to what transpired up until the day my trial  
was set to begin and I chose to plead guilty  
and they will clarify why I chose the issues  
I chose.

In the event you need any additional  
information, please let me know that way  
I can provide you with it A.S.A.P TO avoid  
any further delay. Again, it's my job to help  
you, help me.

Now that you've been provided what's needed  
to move forward, I look forward to hearing  
from you soon and possibly being able to  
meet with you because I would love to hear  
your input and opinion on the best course  
of action. Please reread my letters again  
and collectively they will give you a clearer

(over)

understanding of my position and hopefully  
now we can make some progress. But, if  
you ~~see~~ feel my application needs to be  
amended in order to raise these issues then  
please do so. Also, please get me on the docket  
for a date for my hearing.

Again, if you have any questions or still  
lacking something that will prohibit you  
from moving forward, please notify <sup>me</sup> to see  
if I can be of some assistance to help  
keep my case moving forward.

Attached to this is a typed Brief  
Summary as to what took place up until  
the day I plead guilty. Could you please  
notify me to let me know you received  
this packet.

Respectfully,  
Frederick L. Howell #310890

CC: Personal File

Orangeburg County Clerk of Court

June 1, 2008

Dear Mrs. Joyner,

The last correspondence I received from you stated you scheduled a meeting with me for May 2, 2008 but that was rescheduled for May 9, 2008. On May 7, 2008 I was shipped from Lee County to where I'm presently at now. Due to my unforeseen movement, I was unable to notify you that I was no longer at Lee County. Once I was able to notify my family by mail, I also informed them to inform you as well. I just hope you did not go to Lee County expecting a meeting with me and I wasn't there. If so, I would like to apologize to you because I was not in a position to have been able to notify you sooner. But, as you may know, S.C.D.C. do not inform prisoners until the last minute.

As you probably know by ~~the~~ now, I'm presently at Broad River in Columbia. In the event you're not able to meet with me soon, could you please by letter let me know your views concerning the things I presented to you and how you feel would be the best course of action to get the best results. I'm really looking forward to hearing your input now that you have everything to proceed. Again, I apologize if you made the trip

up to Lee County for nothing. But by me being in Columbia now, it's closer and maybe would not be as great a hardship for you to travel. I look forward to meeting or hearing from you soon.

Respectfully,  
Friedrich L. Howell  
F. L. Howell

P.S. I do have a question for you. Burglary 1<sup>st</sup> and Burglary 2<sup>nd</sup> have the very exact same elements except Burglary 2<sup>nd</sup> have "Dwelling and Building" when Burglary 1<sup>st</sup> have only "Dwelling". Now, what distinguishes Burglary 1<sup>st</sup> dwelling from Burglary 2<sup>nd</sup> dwelling when they both according to the statutes in S.C. Code of Laws Title 16 have the same elements? They are two different crimes because the severity is different. How is burglary 1<sup>st</sup> dwelling different from burglary 2<sup>nd</sup> dwelling and what's the difference because they are clearly two different crimes when the elements are the same for both. Are they classified like that because it's two different types of property because that's what burglary is a property crime? Reason why I'm inquiring is because in my case the place that was burglarized is a hunting lodge and what classified it as a burglary 1<sup>st</sup> instead of a burglary 2<sup>nd</sup> when

during the time the crime took place, NO ONE WAS LIVING  
OR BEHOLDING A ROOM THERE. IT WAS VACANT AND IT'S A  
PLACE FOR ENTERTAINMENT AND FOR THE SPOT OF HUNTING.  
THE VERY ELEMENTS OF BURGLARY AND "BUILDING"  
IF NOTHING ELSE, COULD YOU PLEASE EXPLAIN THIS TO ME  
AND REFER ME TO WHERE I CAN RESEARCH THIS BECAUSE  
EVERYWHERE I LOOKED IT DOES NOT AT ALL TELL ME THE  
DIFFERENCE IN THE TWO CHARGES AND THE TERM DWELLING  
FOR THOSE CHARGES AND WHAT HAS TO HAPPEN OR THE  
STATUS OF THE BUILDING OR DWELLING FOR IT TO BE A BURGLARY  
1<sup>st</sup> DEGREE. SUCH AS "SOMEONE MUST LIVE IN THE BUILDING  
IN ORDER FOR IT TO BE A BURGLARY 1<sup>st</sup> DEGREE". NOTHING  
I'VE RESEARCHED OR READ, ACCORDING TO S.C. LAW GIVES  
ME A DEFINITE DISTINCTION OR EXPLANATION

RECEIVED  
R 109 05

Dear MRS./MR. Sequeira

During our first and only meeting, we mutually discussed my case and I stated to you my reasons why my appeal of my conviction. Also during that time, I provided you the names and phone numbers of my alleged witnesses. Along with that information, I also gave you two (2) statements written by them offering their truthful reasons why it could not have been me on the video tape and the because I was with them during that time, one was typed and the other hand written.

Since June 17, 2007, you have been appointed to represent me during my p.c.h. proceedings. From that time, I continually wrote to you and explained in detail, why I was challenging my conviction. I also presented other things to you that needed to be addressed that was not listed on the application and for that reason, I asked that you amend the application, that way I'll be protected and afforded the opportunity to have those issues I said and placed on record.

On a letter, from you, dated March 14, 2008, it states that at that time you have got to receive a transcript of the proceedings and a copy of the state record. I immediately provided you with (transcript)

RECEIVED

A copy of the manuscript and a copy of the motion of discovery. Unfortunately, I neither had a copy of the states return

April 18, 2008 you contacted me and informed me that you just received a copy of the states return and you appreciate me, providing you with a copy of the corrected transcript, you could not properly proceed without the states return

I completely understand that even though you've been appointed to me since June 2007, but you initially informed me by letter in August 2007 that you would be representing me, that you cannot move forward without the necessary documents. In no way am I suggesting that you could. But according to you, you had everything you needed as of April 18, 2008 to proceed forward.

Everything that I provided you in June 2008 when we briefly met, you have had that information going on a year, so therefore if you've been reading my letters like you stated you have, you would have known all of that was already provided to you. If you would have familiarized yourself with my case before coming to see me. So I appreciate you taking the time out of your busy schedule to come and briefly see me, but that meeting was a waste of time

(next page)

Because Nothing was accomplished beneficial when all I did was provide you information that I've been providing you by letter since being informed that you would be representing me.

Please don't take this as an attack on your ability to do your job, because it's not and in no way I'm suggesting it is. But, my first and primary objective is to protect me from being poorly represented as I was initially and ultimately why I'm pursuing a P.C.H. I totally placed my freedom and life in the hands of a public defender to ultimately have my rights violated, for my "attorney" to help falsify and fabricate evidence and receive a 99 year 85% sentence. All because of my ignorance of the law and my belief and faith that this attorney, my attorney would do what's right.

But, back to the issue's at hand. On all of the letters I've been mailing to you and all the information I've been providing you for the past year, nothing to my knowledge, has been done or have updated me on anything concerning any information I've provided you. Again, as I continually told you, I'm fully aware that I'm not your only client and you cannot totally devote your time to my cause. Mrs. Mrs. Joyce in no way am I suggesting that. But, according to (over)

you, you had everything that was needed to move forward. You of all people, being a defense attorney and former solicitor, know the importance of securing the statements and interviewing alibi witness's. You have yet to do that. You know when it comes to witness's and alibi's, time is essential. This incident took place in 2005. People move, people die, people age, at times, not able to be located. It's only to my advantage and to my benefit that I have those in the event something do happens like that. Remember, I have the burden to prove my allegations. The state does not have to prove a thing. My freedoms in my hands.

As you have said, you have no control over the courts scheduling but what if you contacted and told my hearing is scheduled for January 2009? Do you think it would be fair to me that you have only prepared for two (2) months?

Please don't take this as an attack on your professionalism because it's not. I have no doubt that you are fully capable of representing me and successfully win at my P.C. hearing. Just try and understand my position because everyone involved except me have something to gain whether it goes in my favor or not. I'm the only one that stands to lose something and that's my

Freedom. No matter how the Judge feels, I've been  
wronged based off of my version, but if I  
can't prove it, then my version counts amount  
to nothing! The Courts only recognize proof.

I'll state this again, it's my job to help you  
help me. IF FOR ANY REASON you feel that  
your caseload will prevent you from properly  
representing me, please let that be known so  
we can take the necessary steps to correct  
this. IF NOT AND I TRULY HOPE NOT, THEN LET'S  
MOVE FORWARD. BECAUSE AT THIS POINT, ~~we~~ we ARE  
AT A COMPLETE STANDSTILL AND THE LONGER ~~we~~ <sup>we</sup> REMAIN  
AT A STANDSTILL, THE RESULTS CANNOT BE FAVORABLE  
FOR ME. I'M THE ONE THAT STANDS TO LOSE.

Even though I have not retained you, I still  
have the most absolute faith in your ability. you  
have represented a close family friend by the  
name of Ricky Anthony Taylor and his family.  
Spoke highly of you to my family. So there is  
NO QUESTION ABOUT YOUR ABILITY, I'm JUST  
QUESTIONING WHY HAS NOTHING BEEN DONE YET  
TOWARD CONTACTING AND SETTING A DATE TO INTERVIEW  
MY AUNT'S? ALSO, DO YOU HAVE ANY INTENTIONS  
ON AMENDING MY P.C. APPLICATION?

ON THE ORIGINAL P.C. APPLICATION I SUBMITTED,  
THE THREE (3) REASONS WHY I'M REQUESTING MY (OVER)

CONVICTION ALE.

1. Failed To Challenge the Burglary 1<sup>st</sup> Indictment: The place that was burglarized, a Hunting Club, does not meet the requirements for a burglary 1<sup>st</sup> indictment.
2. Defense Counsel Failed to Procure Alibi witness's
3. Failed to Adequately Investigate and produce evidence that demonstrates my Factual Innocence, i.e.: Alibi's, results of prints recovered,

I would like for you to add that my attorney engaged and participated in falsifying and fabricating evidence and knowingly allowed me to plea to the illegally obtained or introduced evidence. why? If you would look in the transcripts you would find that my attorney and solicitor stated, on record, the facts surrounding this case. Everything the state relied on as well as my attorney, was the video tape of the burglary. As you'll find on pages 8 lines 16-25, page 9 line 1, page 16 lines 18-22, page 21 lines 16-25, they both give a very detailed account of the evidence that the video tape shows, in turn. This is what's being used to prosecute me with. But the video tape, the evidence, shows nothing remotely close as to what was stated by them it showed. In fact the video tape contradicts everything stated by them. So I ask you this, if

my attorney along with the selection, states that the  
competence of the states case and only evidence  
is this video tape that has recorded a burglary in  
progress and have it fully video recorded. But, in  
reality, the video do not show anything that put  
on record it showed plus obtained a conviction  
from their misconduct, How can that conviction  
be legal, binding?

yes, I plead guilty, but only thru the advice  
of my counsel because he stated to me that, they could  
have to establish on phone active was committed  
with the video tape because the incident report  
will support that, but they just need to prove  
your identity and the tape I was done that. AS  
you'll read, I plead guilty the day my trial was  
set to begin.

Now, when we had our brief and initial meeting,  
you told me even though my former attorney  
may have committed those crimes, but by me pleading  
guilty, I let him off the hook. Well, I've done  
some researching concerning that issue and  
any and everything that is uncovered says that  
using false evidence to obtain a conviction violates  
due process and they have a responsibility and  
duty to correct it. But, the plea must stand  
unless it was induced by threats, misrepresentation - (even)

Talks on improper premises. In my situation  
I fall under misrepresentation. In BARNES LAW  
DICTIONARY IT STATES:

1. The act or fact of making a false or misleading  
assertion about something usually with the intent  
to deceive
2. An assertion that does not accord with the facts

My attorney made statements of something as  
a fact, which is untrue. It is entitled by the  
6<sup>th</sup> and 14<sup>th</sup> amend of the Constitution that I have  
a attorney who plays a role necessary to ensure  
the proceeding are fair, in which he did not.  
In other words, IF they arrested you for  
murder and the only evidence they have is a  
video that they say shows you committing this  
crime. your attorney also tells you they have  
you on video committing the crime. you see  
the video but it only shows a person before  
the crime was committed, just waiting. But your  
attorney tells you they just have to only establish  
that it's you on the video because the incident  
report proves a murder happened. you plead  
guilty but on record they states that the  
evidence they have and would have presented  
at trial, the video, does and will show you

in the video of course is the act of murder.  
but in fact the video doesn't even remotely show  
a crime being committed. but you plead guilty  
on the assumption and the misrepresentation  
by your attorney that it do. Also my question to  
you is this, if you were prosecuted and convicted  
on evidence that the state never had, and are  
sentenced to prison. How many times did you know that  
it does exist. How is it legally possible to  
uphold your conviction? Even if you did, BA,  
you plead to false and fabricated evidence. Why?  
Lies the evidence that shows you committed  
the crime? I'll tell you, it does not and never  
did exist! They made up the contents of the  
video.

my case is not complicated at all. In fact, the  
alleged burglary tape will say for everything  
incriminating to you because if what they let  
started on record about the contents of the video  
is not on the video, how can they disprove it?  
Importantly, also my attorney has to try and explain  
where did he get the information from. he stated  
on record because it's not on this "FBI video  
Taped burglary." so how could he possibly  
give me adequate and effective counsel when  
he is often not properly informed of the  
evidence on it? Compared to preparing a trial

upon the Court. And I need to be the initial!

Also, even if the state still holds on to the fact that the Detective stated it's me he believes to be on the video. That's purely the Detective's opinion. Nothing concrete places me at the scene. In fact, you can take a book of mug shots and compare it to the person on the video. How many Black men do you think would fit that profile out of that book? That's my point! Does that mean that everyone who looks like the person in the video is guilty of burglary?

Also, when we met, you told me to provide you with a phone request so I'll be able to call you. One is included because it's very important that we speak. But in the meantime until mine is applied, could you please respond and explain to me what's the situation and whether you'll amend the application because I can't do it, it has to go through you. Also here's my alibi's information. Again,

RODRIGUEZ, MARY

VALEIE Fuller

131 Shawwell Circle

Eutawville, S.C 29048

(503) 290-1844

(I don't have present add-  
ress. RODRIGUEZ can give  
you the info to contact  
her.



FREDERICK HOWELL

110 Thornton Lane

Holly Hill, S.C. 29059

(803) 496-7537 (Home)

(803) 496-8790 (Cell)

I'll say this again, please don't take this letter out of context because I mean no harm. I'm just trying to protect me because nobody is going to fight for my freedom: live me and if I don't show no interest in my case that shows how I rank my freedom on my list of priorities. I just want to make sure I have what's needed to win my case. It's nothing personal. I look forward to a detailed reply from you soon. Thank you.

Respectfully,

Frederick L. Howell #310890

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
TELEPHONE PRIVILEGE REQUEST  
PLEASE PRINT**

A copy of the first page of your most current telephone bill must be mailed with this form. All information requested on this form must be provided. After you have filled out the form, mail it to the address on the reverse side of this form. If you are the inmate's attorney, please see the reverse side of this form for additional information.

Inmate: Please fill out this block before you mail this form to the person who you want to be added to your telephone list.

**INMATE NAME:** Franklin, L. L. **INMATE SCDC NUMBER:** 510930

**INSTITUTION TO WHICH ASSIGNED:** B. H. C. I. **UNIT/ROOM#:** C-101-724

I wish to be added to the telephone list of the above inmate so that I can receive collect phone calls from this inmate. My name, relationship to the inmate, telephone number, telephone service provider, physical address, and mailing address are listed below. I understand that no toll-free numbers or cellular telephone numbers are allowed.

| Name of Requestor<br>(First and Last) | Relationship to<br>Inmate (e.g., mother,<br>friend, attorney) | Telephone<br>Number<br>(Include Area<br>Code) | Local Telephone Service<br>Provider Name |
|---------------------------------------|---------------------------------------------------------------|-----------------------------------------------|------------------------------------------|
| CLARISSA GARNER-JONES                 | Attorney                                                      | (803)<br>584-8893                             |                                          |

**Physical Address** (Required by the South Carolina Department of Corrections):

1259 Amelia St. Suite A Ch. P.O. Box 1724  
(STREET NUMBER, STREET NAME OR RURAL ROUTE AND BOX NUMBER)

Charleston S.C. 29406  
(CITY, STATE, AND ZIP CODE)

**Mailing Address** (Required by Sprint/If different from address above)

(POST OFFICE BOX NUMBER, CITY, STATE, AND ZIP CODE)

Both addresses are required if applicable. A Post Office box alone is not acceptable. A physical address is mandatory:

\*\*\*\*\*

By completing this form I am stating that I understand and agree to the following:

1. I am the party to whom the residential telephone service is billed or an acceptable agent for that party.
2. I agree to pay all costs associated with accepting collect telephone calls from the above inmate.
3. I will always be quoted the rate prior to acceptance and charges do not begin until I accept the telephone call.
4. It is always my choice to accept or refuse a call.
5. Since inmate telephone privileges are a privilege not a right of the inmate, I understand that any fraudulent information that I provide in connection with this form or any efforts to defraud the phone company or to commit fraud using this phone system may result in loss of or restricted use of these privileges for the inmate.
6. I understand that all calls are subject to monitoring and recording with the exception of an inmate's attorney who has provided a request to the South Carolina Department of Corrections General Counsel. (Attorneys, please see reverse side for more information.)
7. In the event that the inmate has reached the maximum of twenty (20) allowed numbers on his/her phone list the responsibility to accept or deny this request will be the sole responsibility and decision of the inmate.

\_\_\_\_\_  
(SIGNATURE OF RESPONSIBLE PARTY)

\_\_\_\_\_  
(DATE)

Data Entry Performed by: \_\_\_\_\_ on \_\_\_\_\_

**INSTRUCTIONS FOR INMATES:**

- This form must be mailed to anyone who you wish to call during your incarceration, including your attorney, if applicable. You should write your name, SCDC Inmate Number, Institution to which Assigned, and Unit/Room in the space provided.
- All telephone calls are collect calls and are charged to the person you call.
- The person you wish to call must complete the form and mail it to the address listed below. After the telephone vendor enters the information from the Form 2-3 into the telephone database, the Form 2-3 will be returned to you. This will serve as your notice that you may call that number.
- If you abuse telephone privileges, your telephone privileges may be suspended or restricted. Dependent on the circumstances, you may be prohibited from calling certain numbers or may be prohibited from using the telephone entirely, except for verifiable attorney calls.
- If you use the telephone to abuse or harass the recipient of the telephone call, you will be subject to disciplinary action. See SCDC Policies/Procedures ADM-15.02, "Telephone Use," and OP-22.14, "Inmate Disciplinary System," for additional information.

**INFORMATION FOR ATTORNEYS:** If you are an inmate's attorney and do not wish your call to be monitored you must send a letter to the South Carolina Department of Corrections Office of General Counsel requesting that your calls not be monitored. The letter must be on your law office letterhead and must include the following information: the inmate's name and SCDC identification number, the attorney's telephone number, the attorney's South Carolina Bar Association membership number, and the attorney's signature. These letters must be sent to the South Carolina Department of Corrections, Office of the General Counsel, P.O. Box 21787, 4444 Broad River Road, Columbia, S.C., 29221-1787 or you may send the letter on law office letter head with the same information to the inmate who must provide the letter to the Warden/designee. No verbal requests will be accepted.

**MAIL THIS FORM TO:**

**SPRINT**  
**C/O SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**  
**P.O. BOX 21787**  
**4444 BROAD RIVER ROAD**  
**COLUMBIA SC 29221-1787**

(NOTE: Many telephone companies provide only local service and/or will not bill for collect calls. Therefore, a block may exist on your telephone number, which will not allow the call to be completed. If your telephone service is offered by such a company, Sprint will offer alternatives such as direct billing or prepaid accounts that will make it possible for you to receive these calls.)

RECEIVED  
4-8-09

April 1, 2009

DEAR MRS./MS. JACQUIER

AS YOU KNOW, ON JAN. 6, 2009, I WAS SCHEDULED TO HAVE MY P.C.H. HEARING HELD, BUT YOU WAS GRANTED A CONTINUANCE.

NEEDLESS TO SAY, I WAS NOT MADE AWARE OF MY HEARING DATE UNTIL THE VERY LAST MINUTE WHEN I WAS INFORMED TO REPORT TO THE HOLDING CELL.

SINCE BEING INFORMED THAT YOU WOULD BE REPRESENTING ME DURING THESE PROCEEDINGS ON JULY 24, 2007, I'VE MADE NUMEROUS ATTEMPTS TO DEVELOPE A WORKING RELATIONSHIP WITH YOU CONCERNING MY APPEAL. I'VE REPEATEDLY ASKED OF YOU TO DO CERTAIN THINGS THAT'S NEEDED IN ORDER TO SUCCESSFULLY PRESENT MY CASE AND TO MY KNOWLEDGE, TODAY, NOTHING HAS BEEN DONE. THE LAST CORRESPONDENCE I RECEIVED FROM YOU WAS ON DECEMBER 9, 2008 WHEN YOU FORWARDED ME A COPY OF THE TRANSCRIPT OF RECORD. THE VERY SAME TRANSCRIPT THAT YOU INFORMED ME ON MARCH 14, 2008 THAT YOU HAVE YET TO RECEIVE FROM THE ATTORNEY GENERAL'S OFFICE, BUT ACKNOWLEDGED ON APRIL 18, 2008, THANKING ME FOR PROVIDING YOU WITH A COPY OF THE TRANSCRIPT AND STATING YOU RECEIVED THE STATES RETURN. THE VERY THINGS THAT PREVENTED YOU FROM PROPERLY PROCEEDING WITH THE CASE. IN SEVENTEEN (17) DAYS

It would be a year from the date of that letter stating you have everything needed. I've only met with you once last year around the end of May, beginning of June, also coming up on a year mark and still no progress.

MA'AM, Since the date of your very first letter formally informing me that you would be representing me, August 1, 2007, I have provided you with all the information and documents within my control to help you in preparation for my hearing date. As of yet, I have not received not one letter from you stating any progress that you have made. The only thing that I have received from you is on your letters stating if I have any additional questions or concerns to contact you. But you won't answer any questions I pose or address my concerns. What am I to think?

I've repeatedly wrote you and continually told you that it's my job to help you help me. But, this is obviously only going one way. Again, I realize that I'm not your only client and do not expect you to solely devote all your time to my cause. But, I do expect to be represented no differently from any other of your clients.

A P.C. hearing is a very important and a critical stage in the appeals process and how you (we)

present my case will determine future appeals,  
if there are any to be filed. MA'AM, please don't  
take this the wrong way but, I've waited for  
four (4) years to get to this point and before  
I let anyone ruin my chance to secure my  
freedom and be returned to my children, I will  
file a motion to have you relieved. I'm in prison  
because of a incompetent, corrupt attorney and  
I refuse to fall subject to that type of repre-  
sentation again. So if for any reason that you  
feel you are not able to properly represent me,  
due to whatever reasons, please let that be  
known so we can take the necessary steps  
and stop wasting time. This is nothing personal, but  
I have to do what's best for me and my protection.

Now, I would not have any problems with you  
continuing to represent me because as I stated  
before, I have heard nothing but good things con-  
cerning your ability. But, something has to give  
because as you know the state is ready to proceed  
and you have already gotten a continuance and I'm  
not sure as to how many we are allowed. The  
success depends on our ability to develop a  
working relationship and making it work. I  
want to go into that hearing knowing all my i's  
are dotted and T's are crossed. I don't want to

leave no room for them to be able to deny my Appeal. I want to leave that hearing knowing <sup>&</sup>we<sup>&</sup> did our Absolute best. That's all I ask. From you is to give me what I give you and that's my best!

Now, These are the things that has to be done to perfect my Appeal

- 1) Amend My P.C.R.: I need added my defense Attorney Falsified and Fabricated Evidence, Committed perjury: (In the transcripts he can be heard stating the video Tape has the burglary Fully recorded and states that everything the solicitor stated Concerning the contents of the Tape is True and Accurate; but the Tape itself does not show <sup>&</sup>Nothing remotely Close<sup>&</sup> to what they are on record stating it shows: (see previous letters) It does not show a crime being committed so where did they get their version from? } {Due process violation. 5<sup>th</sup> and 14<sup>th</sup> Amend. Due process bars conviction's obtained through the use of evidence known by the states representatives to be false and without Accurate and Complete information at plea bargaining stage the defendant is unable to make a voluntary and informed plea. }
- 2) Contact Alibi's: I already submitted hand written letters to you by them as well as all contact information. They can place me 10-12 miles from the scene
- 3) Get Copy of the burglary video: this will prove that everything stated by my "Attorney" and solicitor

On record is a lie concerning the evidence they had  
to convict me. Also this will allow us to view  
the Tape before the hearing date and better prepare  
the questions to be asked myself and my former  
attorney and we'll know exactly what the Tape shows

- 4) Retrieve the results of the Fingerprints: The Sol-  
icitor is stating the person in the video has gloves  
on and my former "Attorney" Agreed with this. But, once  
we can show that this is also not true, then we'll be  
able to present the results of the prints that was  
recovered. Even though only partial prints was  
recovered, they can still be tested then sled. To  
my understanding it's a process called ALIS. What  
it does is do a 10 point match up and let you know  
that those points could belong to X-amount of people  
and give you the names of those people that those  
prints could match. That will also give support to  
my Alibi.

Now, I want the Application Amended because that  
issue to me is my strongest and will set the stage  
for the rest. Also, I don't want the state to say  
that since it's not documented that I would be  
pursuing this that they didn't have ample time  
to prepare. Also it's a possibility the Judge won't  
rule on it. I want all my issue's heard and

ruled on. Keep the Amendment Simple. That way they know what i'm claiming but do not know how i'm going to present it And what Facts i'll present. Then they Can't say they didn't know And That won't Allow Them time To prepare A proper defense.

Now, MA'AM, I will look forward To A response From you Concerning this letter. IF I HAVE NOT received A letter From you within 10 Calendar days Informing me OF your position, then i will have TO Assume that you NO longer wish to represent me And wish to be relieved. Then i will Take the necessary Steps OF Informing the proper Agencies to get A replacement. Again, I have NO problems with you Continuing IF you wish to. but, As i stated before, I have to do what's best For me And my protection And you will have to start working with me And Communicate with me. That's All i Ask.

C.C

own File

Respectfully,

Frederick L. Howell #310890

Broad River C.I

Saluda A #148

4460 Broad River Rd.

Columbia, S.C

29210

# Exhibit C

4-1-06

TO whom this may Concern.

I Roshunda Mack, was with Frederick L. Howell on, March 31, 2005 from the time his sister dropped him off to He about 10:55 to 11:00 at my sister in law's house where I was getting my hair done and Frederick was with me the whole time we left my sister in law house to catch the store open before 12pm to get gas so I could make it home in Eutawville, SC at no time did Frederick Howell leave my eyesight Frederick & I lived together until the day of his arrest. I called Mr. Howell's Attorney to give my statement to Mr. Gustafson at (803) 536-5682 and he never returned my call or got a statement on Mr. Howell's whereabouts for further Questions I can be reached at (803) 493-3999.

Roshunda Mack  
57 Stearnwell Circle  
Eutawville, SC 29826

Roshunda Mack

On March 31, 2005 I Veronica Fuller was in the presence of Frederick Howell. At about 11:00 p.m. in front of my apartment along with girlfriend and sister. Once I finished talking to his girl friend who is my sister in law and his sister Frederick and his girl friend Roshunda Mack left to go and get gas and to go to Roshunda home in Eutawville s.c. They stayed in front of my home for about an hour. Then left to go catch the store open before it close at 12:00 p.m. at no time did he leave out of my sight and the sight of his sister and girl friend at any time until they both left together in Roshunda's truck. At no time have Frederick lawyer called me to get a statement from me or request that I came to court to testify in his behalf concerning the night night of the 31<sup>st</sup> of March 2005. Frederick ask could I call his lawyer Mr. Qustafson at 536-5682 to leave my name and number so his lawyer could contact me. I have yet to receive a call from his lawyer or any body from the public defenders office to question me about that night.

Veronica Fuller

Apt 7b Meadows apt  
Holly Hill S.C. 29059  
(803)492-7108

ON MARCH 31, I Veronica Fuller WAS IN THE PRESENCE OF FREDERICK L. HOWELL. AT ABOUT 11:00PM. IN THE FRONT OF THE APT. COMPLEX WHERE I LIVED. ALONG WITH HIS GIRLFRIEND AND SISTER ONCE I FINISHED TALKING TO THEM AFTER A HOUR ROSHUNDA MACK (GIRLFRIEND) AND FREDERICK THEN LEFT TO GO TO THE GAS STATION TO GET GAS BEFORE THEY CLOSE SO THEY CAN MAKE IT TO EUTAWVILLE AT ROSHUNDA'S HOUSE WHERE FREDERICK WAS LIVING BEFORE HIS ARREST. AT NO TIME DID MR. HOWELL OR MS. MACK LEAVE MY HOUSE FROM 11PM TO 12PM THEY WAS AT MY HOUSE I CALL MR. HOWELL'S LAWYER AT 803 536 - 5682 TO LEAVE MY NAME AND NUMBER AT NO TIME DID I RECEIVE A CALL FROM MR. GUSTAFSON OR ANYONE FROM HIS OFFICE. TO QUESTION ME ABOUT THAT NIGHT.

4-1-06

Present Address

Veronica Fuller  
109 Stairwell circle  
Eutawville SC 29048  
Veronica Fuller  
(803) 492-7108

Address at time of incident

8927 old state Rd  
Apt A6 Fallis Hall SC 29048

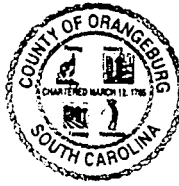
Exhibit D

# Orangeburg County Clerk of Court Office

WINNIFA B. CLARK  
CLERK OF COURT

YOJUANA T. CREWS  
DEPUTY CLERK OF COURT

SANDRA P. OWEN  
DEPUTY CLERK OF COURT



PO Box 9000  
ORANGEBURG, SC 29116-9000  
PHONE: (803) 533-6260  
FAMILY COURT FAX: (803) 534-3848  
CLERK OF COURT FAX: (803) 268-2763

JULY 13, 2009

FREDERICK L. HOWELL #310890  
BROAD RIVER C. I.  
SALUDA A #148  
4460 BROAD RIVER RD.  
COLUMBIA, S.C. 29210

REFERENCE YOUR LETTER DATED APRIL 13, 2009

COPIES WERE SENT TO PUBLIC DEFENDER AND SOLICITOR.

SINCERELY,

CRIMINAL CLERK  
CLERK OF COURT OFFICE

Exhibit E

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Frederick Howell, 310890

☐ Plaintiff

v.

State Of South Carolina

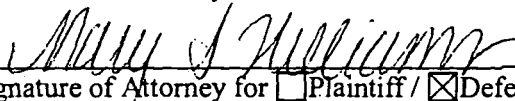
☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2007-CP-38-0690

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Plaintiff's Attorney:</b><br>Clarissa W. Joyner, Esquire, Bar No.<br>Address:<br>Post Office Box 1724, Orangeburg SC 29116<br>phone:        fax:<br>e-mail:       other:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>Defendant's Attorney:</b><br>Mary S. Williams, Bar No.<br>Address:<br>Post Office Box 11549 Columbia SC 29211-1549<br>phone: (803) 734-3737 fax: (803) 734-4113<br>e-mail:       other: |
| <input type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete <b>SECTIONS I and III</b> )<br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete <b>SECTIONS II and III</b> )<br><input checked="" type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete <b>SECTIONS II and III</b> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                            |
| <b>SECTION I: Hearing Information</b><br>Nature of Motion:<br>Estimated Time Needed:       Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                            |
| <b>SECTION II: Motion/Order Type.</b><br><input type="checkbox"/> Written motion attached<br><input checked="" type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.<br><div style="text-align: center;"> <br/>         Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant       </div> <div style="text-align: right;">         October 7, 2009<br/>         Date submitted       </div>                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                            |
| <b>SECTION III: Motion Fee</b><br><input type="checkbox"/> PAID - AMOUNT:<br><input checked="" type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support<br>(check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect<br><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party<br><input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief<br><input type="checkbox"/> Motion for Stay in Bankruptcy<br><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)<br><input type="checkbox"/> Proposed order submitted at request of the court; or,<br>reduced to writing from motion made in open court per judge's instructions<br>Name of Court Reporter:<br><input type="checkbox"/> Other: |                                                                                                                                                                                            |
| <b>JUDGE'S SECTION</b><br><input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | JUDGE _____<br>CODE: _____ Date: _____                                                                                                                                                     |
| <b>CLERK'S VERIFICATION</b><br>Collected by: _____<br><input type="checkbox"/> MOTION FEE COLLECTED: _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: _____                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                            |

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

Frederick Howell, #310890,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2007-CP-38-0690

**ORDER OF DISMISSAL**

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 31, 2007. The Respondent made its Return on or about April 16, 2008. An evidentiary hearing was convened on June 8, 2009, at the Orangeburg County Courthouse. The Applicant was present at the hearing and was represented by Clarissa Warren Joyner, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Richard Gustafson, Esquire. This Court had before it the records of the Orangeburg County Clerk of Court, the guilty plea transcript, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

**PROCEDURAL HISTORY**

The records before this Court indicate that The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. The Applicant was indicted for Burglary – 1<sup>st</sup> Degree (Dwelling) (2005-GS-38-0710). Richard Gustafson, Esquire, represented him. On August 18, 2005, the Applicant pled guilty

before the Honorable James C. Williams, Jr. Applicant was sentenced to twenty-two (22) years imprisonment.

A notice of appeal was filed and an appeal perfected. Following the submission of briefs, the conviction and sentenced were affirmed. State v. Howell, Op. No. 2007-UP-102 (S.C. Ct. App. filed March 6, 2007). Applicant's petition for rehearing was denied on April 24, 2007. Applicant filed a petition for writ of certiorari in the South Carolina Supreme Court. The petition was withdrawn and dismissed by order dated July 19, 2007. The remittitur was sent on July 24, 2007.

In his application for post-conviction relief (PCR), Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
  - a. "Failure to challenge the burglary 1st indictment..."
  - b. "Defense counsel failed to procure alibi witness[es]."
  - c. "Failed to adequately investigate and introduce evidence..."

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

##### **Ineffective Assistance of Counsel**

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence."

Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP).

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

### *Failure to Investigate*

Applicant asserts that counsel failed to adequately investigate his case. First, Applicant asserts that counsel failed to investigate whether the building which was burglarized was a dwelling or a building in order to challenge the charge of Burglary – 1<sup>st</sup> Degree (Dwelling).<sup>1</sup> Applicant introduced a letter from the tax assessor dated May 26, 2009, and indicating that property at 2777 Dawson Street in Holly Hill:

...is currently taxed in the name of Hayden B. Quattlebaum. However, it was listed in the name of Williston, LLC for the years 2004, 2005, and 2006. The land received agricultural classification for the applicable acreage. The two dwellings were taxed as non-legal residences.

Counsel testified that he did visit the address. Counsel testified that the subject building was a residence that had been converted to use as a hunting lodge, and people would spend the night there on hunting outings. The dwellings were appropriately furnished for such use.

Pursuant to S.C. Code §16-11-311(A), Burglary-1<sup>st</sup> Degree occurs when a “person enters a dwelling without consent and with intent to commit a crime in the dwelling, and ... [t]he entering or remaining occurs in the nighttime.”<sup>2</sup> See also S.C. Code § 16-11-10. Pursuant to S.C. Code §16-11-312(B), Burglary-2<sup>nd</sup> Degree occurs when a “person enters a building without consent and with intent to commit a crime therein, and ... [t]he entering or remaining occurs in the nighttime.” The term “dwelling” has been applied to structures such as apartments, motel rooms, and rarely-visited second homes, even if the occupants are not present at the time the defendant enters. State v. White,

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<sup>1</sup> In his application, Applicant asserts that counsel should have challenged the indictment on the basis that the premises was not a dwelling. The indictment properly gives notice of the charged offense of Burglary-1<sup>st</sup> Degree. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). A challenge as to whether the evidence supported the indicted offense would be properly brought as a motion for directed verdict or request to charge a lesser offense at trial. At PCR hearing, Applicant pursued the issue as a claim of failure to investigate, and it is treated as such.

<sup>2</sup> While there are other circumstances which will constitute a Burglary-1<sup>st</sup> Degree, in the present case it is undisputed

349 S.C. 33, 562 S.E.2d 305 (2002); State v. Evans, 376 S.C. 421, 656 S.E.2d 782 (Ct. App. 2008). I find counsel's testimony that he visited the site to be credible. While the tax assessor's office does tax the property as a "non-legal residence," the building's character as a hunting lodge where people spend the night on hunting outings would satisfy the requirements of a dwelling for purposes of Burglary-1<sup>st</sup> Degree. Counsel testified that he did discuss the concept of the definition of dwelling with Applicant and would have argued the issue in moving for a directed verdict had Applicant proceeded with trial. From the evidence presented, counsel correctly surmised that the hunting lodge would be considered a dwelling for purposes of Burglary-1<sup>st</sup> Degree. Therefore, I find no deficient performance by counsel in this regard.<sup>3</sup>

Applicant also argues that counsel failed to investigate potential alibi witnesses Valerie Fuller, Tyrone Benjamin, and Shanda Mack. Defense counsel noted that the evidence against Applicant included a video of the burglary in which his face could be clearly seen and fingerprints.<sup>4</sup> Counsel's failure to pursue an alibi defense in this circumstance would not be unreasonable. Moreover, none of the purported alibi witnesses testified at the PCR hearing. "[A] PCR applicant *must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence* at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). [Emphasis in original.] Because the witnesses did not testify, Applicant has failed to demonstrate prejudice from

---

that the burglary occurred at nighttime.

<sup>3</sup> I further note that counsel articulated additional concerns with the case. Because of the video and fingerprint evidence, Applicant faced strong evidence of guilt at trial. At the time of the plea, counsel was concerned that Applicant faced additional charges which could result in a life without parole sentence if the solicitor proceeded on all cases. These concerns, in addition to those raised by counsel's investigation, were taken into account in considering the option of a guilty plea.

<sup>4</sup> Counsel recalled that the owner of the dwelling had set up a camera due to previous break-ins, and Applicant could be identified on the video. The video was not in evidence at PCR hearing.

failure to contact these witnesses. See also Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995) (applicant cannot establish prejudice where alibi witnesses do not testify at PCR hearing).

#### **Other Allegations**

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

#### **CONCLUSION**

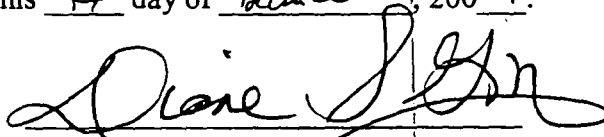
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to Rule 243, SCACR,<sup>5</sup> for appropriate procedures after notice has been timely filed.

#### **IT IS THEREFORE ORDERED:**

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 17 day of December, 2009.



DIANE S. GOODSTEIN  
Presiding Judge  
First Judicial Circuit

Summerville, South Carolina.

<sup>5</sup> Formerly Rule 227, SCACR. By Order of the South Carolina Supreme Court of April 29, 2009, Rules 224 through 230, SCACR, were renumbered as Rules 240 through 246, SCACR.

Exhibit F



State of South Carolina  
The Circuit Court of the First Judicial Circuit

Diane Schafer Goodstein  
Judge

Post Office Box 234  
101 Ridge Street  
St. George, SC 29477  
Phone: (843) 832-0388  
Fax: (843) 832-0389  
dgoodsteinj@sccourts.org

July 23, 2009

Frederick L. Howell, #310890  
Broad River C.I.  
Saluda A #148  
4460 Broad River Road  
Columbia, SC 29210

Mr. Howell,

I am in receipt of your letter from June 2009. Please be advised that this is considered ex parte communication. Judicial ethics do not allow a judge to have any form of communication with a party in an action outside of the proper setting (which is in the courtroom with all the necessary parties present).

Sincerely,

Diane S. Goodstein, Judge  
First Judicial Circuit

JUL 23 RECD

2007 JUL -2  
FILED FOR RECORD  
WITHIN 48 HOURS  
CLERK OF COURT  
# 3

2007 JUL -2  
FILED FOR RECORD  
CLERK OF COURT  
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During the Plea and Sentencing phase, in the Judge's Chamber and in the presence of the Jury, Judge Williams asks my "Attorney" and the Solicitor, Bryan Jeffries the FACTS surrounding my case.

In the transcripts on page 8 lines 16-23 ending on page 9 line 1, Judge Williams asks my attorney, "Do you think the State has enough evidence to convict him?" He responds, "I think they have Overwhelming Evidence to convict him your Honor."

On page 16 lines 18-22 and lines 24-25 Bryan Jeffries on record states, "The defendant is seen on that video tape wearing gloves, he's got gloves on, he's got sort of a cover all over him. He's flashing a flashlight in the windows. You never see him go inside the house at that time (implies at some point you do)... The State would have presented that evidence at trial."

On page 21 lines 16-23 ending on page 22 lines 1-5 my public defender, Richard Constafson states, "Very simply, the facts are basically as the Solicitor stated. When I said 'Overwhelming', it's not necessarily a great deal of evidence in this case, but I have never in my years of practicing, since '92, I have ever had a burglary in which they have had it fully video taped... but the tape, in and of itself, from a Defense point of view is a great exonerating factor to us."

Now, my reason for quoting verbatim what they said on record is it's all absolutely not true! At NO time do that video tape show anyone with gloves on, flashing a flashlight into the windows as the Solicitor states! At NO time do that video tape show this overwhelming Evidence of a burglary fully video taped that creates this great exonerating factor that my "Attorney" characteristically states it do. But, what the video do actually and accurately show is a very accurate summary of the facts of the case, and less and less all of them!

The Foreman for the Jury and the Solicitor's attorney, Bryan Jeffries, state that the video is not a reflection of what actually happened and that the video is not a reflection of what actually happened.

And ~~on~~ <sup>that</sup> I had concluded by the Cardboard, Post and Cardboard pack was con-  
firmed, "that this tape does show my finger prints on it" (a) and  
"In the house removing property... I believed it necessary to use  
that new positively Identified Finger prints belonged to my friend."

[illegible][illegible]

1. The first of these is the fact that the
 2. second of these is the fact that the
 3. third of these is the fact that the
 4. fourth of these is the fact that the
 5. fifth of these is the fact that the
 6. sixth of these is the fact that the
 7. seventh of these is the fact that the
 8. eighth of these is the fact that the
 9. ninth of these is the fact that the
 10. tenth of these is the fact that the

But let me point this out to you. It is not a good idea to have a large number of people in the same room. It is better to have a small number of people in a large room. This is because a large number of people in a small room will create a lot of noise and a lot of heat. This is not good for the people in the room. So, if you have a large number of people, it is better to have them in a large room. This is the best way to keep the people in the room comfortable and happy.

Pink to falsify and fabricate evidence they made up and deliberately  
allowed someone to be convicted and sentenced with evidence that they  
never had? MIAMI, they never had what they stated on record!

Your Honor, They both honestly and reasonably could not believe  
that their actions was not violative of my rights and permissible  
by law. They knew without a doubt that what they were doing was  
illegal and goes against any set standard and rules that govern the  
Judicial process! It goes against the laws you enforce and believe in!  
Why contact you? I've made numerous attempts to have various  
people and state agencies to investigate and hold these men acco-  
untable for their crimes, but to no avail! Either it's been stated  
it's not within their jurisdiction, can't help or have referred me to  
the very agency that replied and stated, "They did nothing that consti-  
tutes misconduct." without even investigating and looking into  
this matter, they automatically assumed that what I stated cannot be  
true because I'm a convicted felon! Everyone that I've contacted  
have refused to uphold, enforce and defend the very laws that we  
been sworn to enforce.

Miami, I ask that you not just take my version as the truth.  
Since this matter has happened in your court and the crime was  
committed, against, in front of you, I hope and pray that it is within  
your authority to investigate and ascertain is there any truth to  
my allegations. Once you do see that I speak the truth, then report  
your finding to the disciplinary authority. Then, they will have no  
choice but to enforce the law because a Judge has stated to them  
that they violated the law! Your credibility is not tarnished.

You will not hear from anyone claiming to be what I've  
stated and here to prove my allegations false. There is nothing that  
you or anyone else connected that will be able to support any  
they stated what they said. They cannot justify or produce any  
(over case)

Your Honor, and the resources and manpower is not required. Access to State of the Art Technology and Forensic Experts is not required. All is required is to read what was stated on August 13, 2003 and June 3, 2009 and compare their own statements to the actual video tape. Let their own words, not mine or yours, but theirs convict them! Let the very video tape, that they adamantly stated showed this incriminating footage, prove them to be the liars and cheaters they are because one thing is for sure, they could take back what was said and the contents of that tape is not go change to conform to their description! The damage has been done and the crime committed.

If a copy of the transcript of August 13, 2003 is needed, I'll gladly provide it to you, if you have not been provided one on June 3, 2009. As for the transcript for June 3, 2009, I have not been provided one as of yet, but, if needed, I'm sure you can either get it transcribed from the Court Reporter or listen to the recording yourself to properly conduct your investigation. You can get the video from the Clerk of Court, no problem. But you heard what he said.

It is claimed they conspired to not only convict their friends against me, but the Court, your Court, as well. By their doing, officers of the Court, they are held at a higher burden and responsibility to maintain and honestly exercise their duties.

Just imagine, how many innocent people that is on our parole to employ skilled defense attorneys, have fallen victim to this type of manipulation. There are how many people have been liberated and unjustly incarcerated into plea bargains and heavy fines to avoid more jail sentences? How many mothers that are home for the first time in 10 years because of this? How many people that have been sent to prison? Just how many people that have been sent to prison for a few years to a Court that made and profit because of this? How many more victims that are away from their families?

Thank you

leads me to believe it's been done before!

Again however, a blatant and willful disregard for the law. If they should indeed continue to be ignored because if so, people like me, the police, will continue to be their victims. Why? Because our very laws, our very Presidents, our rights mandated by the Supreme law of the land, the Constitution, are in these people's hands. Their actions and conduct must be judged as Criminal and Abuse of Office and position. In fact, the State has laws established to protect the public from corruption and misconduct of State and government officials and their related public Justice crimes.

I guess you're wondering if my allegations are what they say they are, why didn't I produce the video at my hearing? I made every attempt to have my attorney secure that video for that day, but the person entrusted to me, she refused to obtain it. But, I can also prove that claim as well. I also contacted the Clerk of Court to see if I could receive a copy, but was not able to. But the tape can be obtained!

Suche Goodstein, I would not begin to attempt to disprove you on your position by reporting to you crimes that I know never happened. Even I would not say these type of things about anyone and cannot prove them. Everything I've stated can be proven with evidence. The only thing that even remotely places me in this crime scene is a Detective stated it's me who he believes to be on the video!

I beg you to think about what I've attempted to do with my own mind and I'm simple and quiet but I have a purpose. I've been told that and must be corrected. Plus, the laws are not intended to only apply to a certain social bracket or people of a certain financial standing. They do not only protect the privileged few

(Last Page)

...of every citizen. Every adult who knowingly and intentionally violate the laws, must be held ACCOUNTABLE regardless of who they are, what position they hold. I firmly believe in that, and I'm positive you do too.

Again, I humbly ask you to please do what is right and take from answer for their crimes. I beg you to enforce the law that you're here sworn to enforce. I implore you to apply the law to ALL without fear or favor and insure that the laws be applied how they was meant to be, Just and Fair. Any assistance that you can provide would be greatly appreciated and I look forward to your response. Thank you!

P.S: This is a list of some of the people and agencies I contacted and their reply. Can provide copies of reply as well.

C.C  
Commission on Judicial Conduct  
(Hand written copy)

Respectfully,  
Frederick C. Howell #310890  
Broad River C.I.  
Saluda A #143  
4410 Broad River Rd.  
Columbia, S.C 29210

- 1) S.C State Bar - nothing they can do (Impossible)
  - 2) S.C Attorney General Henry McMaster - referred to #3, #4 (insured the town but defending them in court)
  - 3) Office of disciplinary Counsel
  - 4) Commission on lawyer conduct } Did nothing that constitutes misconduct! (How can that be true?)
  - 5) S.I.E.D - Don't become involved in legal matters. (they violated state law that S.I.E.D support to enforce)
  - 6) S.C Center on equal Justice - nothing they could do
  - 7) Parents Innocence Project - NO D.N.A, NO help
  - 8) U.S Dept. of Justice - Afford the state the opportunity to conduct trial
  - 9) Senator Robert Ford - Stated he would look into my matter. I provided him with copies of all relevant documents that he would need
  - 10) Chief Justice John Tamm - referred to #3, #4 but can't help later on file.
- \* They did not investigate because to them, this is a premeditated murder and as such is nothing. Can I depend on you to do what is right? would I go back all this work these people only to be present a day? I'm not!

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

August 21, 2009

**Frederick Howell SCDC # 310890**

Broad River CI

Saluda A #148

4460 Broad River Road

Columbia, SC 29210

**Re: Frederick Howell v. State of South Carolina**  
**PCR No.: 2006-CP-38-0690**

Dear Mr. Howell:

Please be advised that we are in receipt of your letter which was sent to Judge Diane Goodstein on July 23, 2009. Unfortunately, the copy is not legible and we have been unable to read it. I have enclosed a copy of the letter for your review.

I ask that you contact this office directly by letter or by phone to inform us of what you were inquiring about in your prior letter.

Thank you for your immediate attention to this matter. With kind regard, I  
am

Sincerely,



**Jasmine Y. Johnson**  
Legal Assistant for the  
Law Firm of Clarissa Warren Joyner

/jj

Sept. 5, 2009

Dear Mrs./Miss Johnson

This reply is in response to your letter to me dated August 21, 2009. You were inquiring about a letter that I sent to Judge Diane Goodstein on July 23, 2009 in which the copy that she provided you is not legible and unable to read. The reason behind my contacting Honorable Goodstein and have that correspondence stamped, clocked and filed is for my protection. Please allow me to explain.

On 6-11-07, I was notified my P.C.H. application was given a docket number. On 7-19-07, I was notified that I would be represented by Mrs. Joyner for my P.C.H. hearing. At that point, I wrote her and in detail explained why I was pursuing my appeal and on what grounds.

On 8-1-07 she responded and formally introduced herself and informed me she requested a copy of the transcript and other documentation on motions on returns. She provided a copy of the letter she sent to the Attorney General's Office requesting cooperation.

On 11-7-07 she acknowledged receiving my letter dated October 30, 2007 and is in the process of scheduling a visit. Again, my letter to her is in detail concerning issues that I would like pursued for my appeal.

On 3-14-08 she acknowledged again of receiving my letters dated Dec. 17, 2007 and Jan. 28, 2008 concerning my case. But she informed me she have not received a copy of the transcript nor a copy of the states return and those documents is needed before meeting with me. She also provided me a copy of another letter to the Attorney General's Office.

I then immediately sent her copies of all relevant documents pertaining to my case, except for the states

RECEIVED  
2009

Replied 9-24-09

RETURN I DID NOT HAVE AND AGAIN, IN DETAIL EXPLAINING my position on my issue's AND what needed to be done to prepare my CASE.

ON 4-18-08, SHE RESPONDED AND STATED SHE JUST RECEIVED THE STATES RETURN AND RECEIVED AND REVIEWED my letter dated APRIL 2, 2008 AND THANKED ME FOR PROVIDING HER WITH A COPY OF THE TRANSCRIPT AND HAVE SCHEDULED A VISIT WITH ME FOR MAY 2, 2008. BUT SHE COULD NOT PROPERLY PROCEED WITHOUT THE STATES RETURN. NOW SHE COULD

SOME TIME IN THE MONTH OF MAY, 2008 WE DID MEET AND DISCUSSED MY ISSUE'S. I PROVIDED HER WITH THE CONTACT INFORMATION FOR MY ALIBI'S, WHICH IS STILL CURRENT, EXPLAINED TO HER ABOUT MY CONCERNS INVOLVING THE VIDEO TAPE (THE CONTENTS THEY \*SOLICITOR + PUBLIC DEFENDER\* MADE UP THEMSELVES), OBTAINING THE FINGERPRINT RESULTS AND ASKED HER TO LOOK INTO WHETHER OR NOT THE PROPERTY MEETS THE CRITERIA TO BE A BURGLARY 1<sup>ST</sup> DEGREE AND AMEND MY P.C. & APPLICATION. ALL OF THESE ISSUE'S I WENT INTO DETAIL EXPLAINING WHY ON THE LETTERS TO HER IN WHICH SHE ACKNOWLEDGE RECEIVING.

FROM THE TIME I MET WITH HER UNTIL THE WEEK OF my P.C. & HEARING WHICH WAS JUNE 8, 2009 I REPEATEDLY WROTE TO HER REQUESTING WHAT PROGRESS HAS BEEN MADE IN OBTAINING THE DOCUMENTS THAT I WOULD NEED TO PRESENT MY CASE. THE ONLY RESPONSE I RECEIVED BACK WAS DATED MAY 7, 2009 INFORMING ME OF MY P.C. & HEARING DATE ON JUNE 8, 2009.

NOW, THE WEEK OF my P.C. & HEARING, SHE CAME TO VISIT ME AND AT THAT POINT SHE HAD DONE ABSOLUTELY NOTHING IN PREPARATION FOR my HEARING. IN FACT, SHE TOLD ME THAT SHE FELT I DIDN'T STAND A CHANCE. BUT, SHE KNEW NOTHING ABOUT my CASE. I THEN PROVIDED HER WITH A LETTER FROM THE COUNTY TAX ASSESSOR JIM MCCLEAN STATING THE PROPERTY IS LISTED AS A BUSINESS AND IS NON-LEGAL RESIDENCES. THEREFORE, IT'S NOT A

RECEIVED

replied with

Lungary is deaf. The very thing I asked her to do repeatedly. She did not obtain a copy of the video for my hearing despite my repeated requests because I'm ~~not~~ stating that the state made up the evidence they submitted against me. They state that video tape shows me wearing gloves, with a flashlight shining into the windows and they have the whole Lungary fully video taped. But the tape only shows someone walking on the porch. My Public Defender and Solicitor fabricated and falsified the contents of that video tape and the video tape will prove that they manufactured the evidence they used to obtain a plea. Why not get the video? She did not contact nor interview my Alibi's that will place me in another town, why? She did not obtain the fingerprint results as I also requested and at my P.C.H. hearing, Michael Gustafson states he received a document that identifies me as the owner of the prints. But, I contacted S.I.E.D Forensic Dept. that deal with fingerprint analysis and Kathryn J. Richardson replied to my inquiry on July 8, 2009 stating "A thorough search of our database using the information provided in your letter received June 16, 2009 revealed nothing found under the name Frederick L. Hausell." The very information I requested her to get but she did not and she allowed my former attorney to continue to falsify evidence, why? who is she protecting?

From day one, I stressed by letter's it's my job to help her, help me and I'm not under the illusion that she will devote her time solely to my cause. But, I've done all the legwork, she just have to retrieve the video tape, fingerprint results, Alibi statements because anything of that nature would have to be submitted by my attorney, not me because I'm being represented by counsel.

(on back)

But, I say all that to say this, I've kept very thorough records and copies of all letters I've mailed to Mrs. Joyner in the event I would run into the problems that I did from her and due to my experience with Court Appointed Counsel doing everything but what's required of them, I felt it would be in my best interest to have all my letters to her stamped, clocked and filed for future use and prevent denial.

Now that she has refused to properly represent my case and not pursue my issues that I've requested from day one, she has allowed the crime committed against me to continue to be used illegally. I wrote Judge Goodstein that letter explaining why I argued the issue of falsified and fabricated evidence to her at my P.C.R. hearing and did not have the video to support my claim because for reasons unknown, Mrs. Joyner refused to obtain the copy of the video. I knew with the allegations I was making that she would have that letter filed because I'm claiming a blatant criminal act by the states representative's and informed her that copies of the letter to her has been forwarded to the appropriate authorities. So for her protection, she did what she was supposed to do.

I went above and beyond to try and work with Mrs. Joyner but she refused to do the simplest inquiries I asked. I even wrote to her and stated if for any reason you feel you can't properly present my case, let me know and we'll do what's necessary to have her replaced. But she still moved ahead knowing she did nothing and could have quite possibly cause me to be denied my appeal by her neglect. But, it's nothing that can't be undone that's why I keep thorough records. One court appointed attorney broke the law and sold me out and I refuse

To allow her to do it to me AGAIN.

There is NO JUSTIFIABLE REASON FOR HER NOT TO  
PURSUE MY ISSUE'S AND PRESENT MY CASE. There is  
NO JUSTIFIABLE REASON FOR HER NOT TO introduce  
the evidence that will support my claims when it's  
supported by FACTS. Everything I stated to her in  
those letters can be supported by the evidence I  
asked her to obtain, so why did she not obtain them?

Had I had the funds to help her (8000 she  
requested in her July 19, 2006 reply) would her repre-  
sentation be JUST AS INEFFECTIVE? NO!

That's why I've documented all letters to her  
from me, notified various agencies and had my  
complaints against her documented AS WELL, beginning  
in January 2008 for my protection because it's  
obvious she's not out to do what's in my best interest.  
So therefore when the question is asked of her did  
she know of my issue's there can be no denyability  
because I have the documentation and reply letters  
to state otherwise from her and agencies I notified.

So, Mrs/Miss Johnson, what's why I contacted  
Judge Goodstein, to continue to protect me and my  
rights that these Court appointed Attorneys refuse  
to do and continue to have all my letters and  
responses filed for future use when these individuals  
will be held accountable for their blatant refusal to  
do what is required of them by law when it's  
clearly obvious to everyone but them.

C.C. (Handwritten)

Judge Goodstein

Commission on Judicial Conduct

PS - This is my home address, please forward all

responses or a copy of my file to the court and to my home

to this address because I have a 10 day window to submit

10/1/11

Thank you,

Fredrick Howell

*Clarissa Warren Joyner*

*Attorney at Law*

1259 Amelia Street, Suite A ~ Post Office Box 1724 ~ Orangeburg, South Carolina 29116-1724

Phone (803) 534-8393 ~ Facsimile (803) 534-7885 ~ Email [joynerlawfirm@aol.com](mailto:joynerlawfirm@aol.com)

September 24, 2009

**Frederick Howell SCDC # 310890**

McCormick CI

F-2A RM # 164

386 Redemption Way

McCormick, SC 29899

Re: *Frederick Howell v. State of South Carolina*  
*PCR No.: 2006-CP-38-0690*

Dear Mr. Howell:

This letter is to advise you that I am in receipt of your letter dated September 5, 2009, in which you explained your reasons for sending Judge Diane Goodstein that illegible letter on July 23, 2009 in which she forwarded to this office.

I want to inform you that Attorney Joyner is working to the very best of her ability to provide your case with the service and attention that it very well deserves. As requested in your September 5, 2009 letter, the moment we receive your PCR decision from the court, we will notify you immediately in writing.

Thank you for your immediate attention to this matter. With kind regard, I am

Sincerely,

  
*Jasmine Y. Johnson*  
Legal Assistant for the  
Law Firm of Clarissa Warren Joyner

/jj

# Exhibit G

DEAR MRS. JOYNER (Jasmine Y. Johnson)

I received the signed order of dismissal on January 6, 2010 From your office.

As to the matter of me wanting to file an appeal in this case, at this point, I feel would not produce a favorable ruling in my favor and would only delay the direction I need to be going in and concentrating on. But what I do need from you is for you to prepare a 59(E) motion and submit it to the Judge.

The reason for this is that the Judge ruled on the issues I presented but, did not rule on the issue I raised and spoke about concerning the falsified and fabricated contents of the alleged burglary video tape.

As you are aware, any motions or documentation that's to be presented to the Court, must come from you because you are the attorney on record and I cannot do such because I did not proceed pro-se. It is of the utmost importance that this motion be submitted in the allotted time frame because it would allow all of my issues to be preserved for further appellate review and the allotted time is ten (10) days.

Along with this letter is a 59(E) motion (on back)

RECEIVED  
JAN 13 2010  
CLERK OF COURT

Just re-read my letters to you, because they should be a vital part of that file, and you'll see that my extreme displeasure in your representation of my appeal is not unfounded. And I'm well within my rights to be so.

After the 59(E) motion has been submitted, please send me a copy of what you sent to the courts and once that's done, that will conclude our relationship. In advance, thank-you for perfecting and submitting the motion and providing me with a copy soon.

Sincerely,  
Frederick L. Howell #310890

C.C

Clerk of Court

(Honorable Diane Goodstien; letter to attorney and 59(E) motion) + HANDWRITTEN COPY

State of South Carolina  
County of Orangeburg

Frederick L. Howell, #310890

Applicant

vs.

State of South Carolina

Respondent

In the Court of Common Pleas  
Case No: 2009-CP-38-1090

59(E) motion to Alter  
or Amend the Judgment

Pursuant to Rule 59(E), SCRPC, Applicant hereby  
moves to Alter or Amend the Judgment of this  
Court Filed on December 17, 2009 and received  
by Applicant on January 6, 2010.

In the Order of Dismissal, This Court Ruled That the Applicant has not established Any Constitutional Violations or deprivations that would require this Court to grant his Application and Therefore, denied and dismissed with prejudice.

However, the Order never Addressed the issue of Applicant's Former Defense Attorney, Richard Gustafson, knowingly and Intentionally misrepresented, to Applicant, the evidence concerning the Contents of the Alleged burglary video Tape and willfully assisted the Solicitor in presenting False and Fraudulent evidence Against his own Client.

At the post-Conviction Relief hearing held on June 8, 2009, Applicant did in fact present and preserve this issue on record for Appeal. Also, the Correspondence to the Honorable Diane Goodstein, who presided over the hearing, goes into great detail concerning Applicant's concern on this very issue that he felt was not Adequately raised and discussed in detail, as well as his concern as to why his P.C.R. Attorney, Clarissa Wambert - Joyner, did not retrieve a copy of this video and present it as evidence to the court and the detrimental effect it would have on his Appeal (P.C.R.) for her not doing such. (see exhibit A-B)

In the signed order of dismissal, it's stated, "This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly." (page 3 of 6) Also, on page 5 of 6 states, "I further note that Counsel articulated concerns with the case. Because of the video and fingerprint evidence, Applicant faced strong evidence of guilt at trial. At the time of the plea, Counsel was concerned that Applicant faced additional charges which could result in a life without parole sentence if the Solicitor proceeded on all cases. These concerns, in addition to those raised by Counsel's investigation, were taken into account in considering the option of a guilty plea." (See foot notes #3)

But, most importantly, the order states, "Defense Counsel noted that the evidence against Applicant included a video of the burglary in which his face could clearly be seen and fingerprints." Thus establishing that this Honorable Court relied on former defense counsel's testimony as credible and the evidence of strong guilt that he testified was his reasoning for not pursuing Applicant's alibi defense and any other forms of defense, such as actual innocence.

Applicant fully understands that with respect to a guilty plea, he must show that there is a reason-

Able probability that, but For Counsel's Alleged errors, he would not have plead guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 38, 106 S.Ct 366, 88 L. Ed 2d 303

The guilty plea Transcript conclusively establishes that the day Applicants Trial was set to begin He opted to plead guilty, But why?

Upon hearing Former Defense Counsel, Richard Gustafson's, Testimony As to his reasoning For not preparing a Defense For Trial (video and Fingerprints\*) Applicant contacted S.I.E.D in reference to the "Alleged" Fingerprint Analysis that he (Mr. Gustafson) received that positively identified Applicant As the owner of the fingerprints recovered from the crime scene, As he testified, under oath, he received. S.I.E.D Forensic lab is in possession of a computer that goes by the acronym A.F.I.S that stores and identifies the owners of fingerprints submitted to them by County Agencies, "Unless", they have their own Forensic lab and In 2005, Orangeburg County did not.

After Applicants P.C.R hearing, he filed an Inquiry concerning these results Mr. Gustafson "received". He provided S.I.E.D with all the necessary information needed to receive these results, because he never heard of that until the hearing.

On June 23, 2009 Vinthayni J. Richardson of the F.O.I.A / Subpoena Compliance Coordinator

For, S.I.E.D. responded Informing him that she is in receipt of his letter and processing his request. (See exhibit C)

On July 8, 2009 she responded again but this time she states, "A Thorough Search of our data base using the information provided in your letter, revealed nothing found under the name Frederick L. Howell". Therefore, S.I.E.D. does not have or even had any evidence linking Applicant to any crime scene. So, where did Mr. Gustafson "believe" this analysis from that NO ONE has any knowledge that any such document existed, even the state? (See exhibit D) There is no documentation that can be produced by the state or, Mr. Gustafson, that can refute what the Applicant has proven by a preponderance of evidence.

Also, during Mr. Gustafson's testimony, he adamantly states, "The video shows him in two (2) rooms removing property". In the guilty plea transcript on page 1b, starting on line 14, it was clearly stated in 2005, when this crime had taken place, "video equipment was only on the outside". So how is it in 2009, this video all of a sudden shows Applicant on the inside removing property? If you'll read a little further, it was stated that Applicant had clones on during this crime, so again, why is Mr. Gustafson the "only" person through out this

Ondkal to be in receipt of this information and  
sent these things on this video that NOONE  
ELSE HAVE BELIEVED OR SEEN when he received  
discovery in this case from the state?

From the evidence Applicant has presented, his  
Former Defense Attorney knowingly and intention-  
ally falsified and fabricated video and fingerprint  
evidence that NEVER EXISTED, under oath, to this  
Honorable Court, clearly establishing Constitution-  
al violations or deprivations that would indeed  
require this Honorable Court to grant his applica-  
tion for relief, once the fraud has been uncovered.

Applicant has proven that Mr. Gustafson, A  
OFFICER OF THE COURT, CREDIBILITY, AND TESTIMONY  
under oath, CANNOT BE BELIEVED UPON TO BE TRUTH-  
FULL AND HONEST AND THE COURT MUST PRESUME  
THAT APPLICANT'S ALLEGATIONS ARE TRUE WHEN HE (ATTORNEY)  
HAS MADE A DELIBERATE AND ILLEGAL ATTEMPT TO  
DEPRIVE APPLICANT HIS RIGHTS AT EVERY STAGE OF  
his Judicial and Appeal proceedings.

The evidence Applicant has presented clearly and  
conclusively establishes that At his evidentiary  
hearing held on June 8, 2009, the County Public  
Defender Richard Gustafson, knowingly and intent-  
ionally committed the acts of falsifying and fabric-  
ating evidence, perjury, obstruction of justice and  
committed fraud upon the court.

By Former Defense Attorney's own testimony

Under oath, Applicant has shown that he acted with Intent to deceive the Court and made a Showing of Conscious wrongdoing. Mr. Gustafson is criminally responsible for his actions because he had the mental capacity to distinguish moral and legal right from moral and legal wrong and to recognize the particular act charged as morally and legally wrong. (S.C. Code of Laws 17-1-10; State v. Law, 270 S.C. 664, 244 S.E.2d 302)

He was present at the hearing and often referred to his file of Applicant's case on the stand. So he knew what he testified to as what evidence the state had and what the actual video would show would be totally false and made up by him! It was his every intention to mislead and commit the crimes he committed on June 8, 2009, to keep from being found at fault. By his own testimony and the evidence Applicant has presented, he intentionally and knowingly allowed Applicant to plead guilty to evidence the state never had that he personally participated in fabricating, causing Applicant not to pursue a trial. The plea transcript clearly establishes it was Applicant's every intention to have a trial and the record is clear that "those issues raised by Counsel's 'Investigation' were taken into account in considering the option of a guilty plea." (page 50 of 6 (Footnote #3) order of dismissal)

Furthermore, Applicant is fully aware in order to gain belief, he must prove his allegations by a preponderance of evidence.

Applicant went above and beyond to have the burglary video present during his hearing but as previously stated, his Appellate Attorney for reasons unknown, did not have it, after numerous attempts by letters to her, informing her of this and other issues that she acknowledged receiving. (See exhibit E)

Also, Applicant personally attempted to obtain a copy of the video, before the hearing, but was denied. (See exhibit F) ~~Applicant also attempted to obtain a copy of the video, before the hearing, but was denied.~~

For the foregoing reasons, the Applicant thus requests this Court to rule on the issue of the video as well in order to allow Applicant's issues to be preserved for further Appellate review. Also, to alter and amend your ruling since Applicant has proven that this Honorable Court reached its decision based upon the falsifying and fabrication of evidence and perjury by the State's witness.

Subscribed and sworn to, before  
me this \_\_\_\_\_ day of \_\_\_\_\_ 2010  
\_\_\_\_\_  
(L.S.)

Notary Public Commission  
Expires: \_\_\_\_\_

Respectfully Submitted  
Frederick L. Howell #310890  
McCormick C.I  
FSA - RM #164  
386 Redemption Way  
McCormick, S.C  
29599

Exhibit G-1

FORM 5

2010-CP-38-00147

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

County of Orangeburg )Frederick L. Howell )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention M<sup>c</sup>Combich C.I. - 386 Redemption  
Lang, McCombich, S.C. 29379
2. Name and location of Court which imposed sentence Orangeburg County  
Circuit Court - Probation Department, P.O. Box 100
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2005-10 (Indictment 17)
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) August 18, 2005 - 22 years (35% c)
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals (Direct Appeal)
- ii. Petition for Rehearing
- iii. Post-Conviction Relief
- (b) the result in each such Court to which you appealed:
- i. Sentence was Affirmed
- ii. Denied
- iii. Dismissed with prejudice
- (c) the date of each such result:
- i. MARCH 15, 2007
- ii. April 24, 2007
- iii. December 17, 2009 (signed) Jan 6, 2010 (received)
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_

(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of P.C. (Appellate) Counsel  
(b) Newly Discovered Evidence (Fingerprint Analysis)  
(c) Fraud upon the Court (Falsified + Fabricated Evidence)

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See Attached memorandum with Exhibits A-I  
(b) " Same AS Above "  
(c) " Same AS Above "

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? yes  
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes  
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO  
(d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. Direct Appeal - PBA WAS CONDITIONAL  
ii. P.C.M - Ineffective Assistance of Counsel  
iii. \_\_\_\_\_  
iv. \_\_\_\_\_

- (b) the name and location of the Court in which each was filed:

- i. S.C. Court of Appeals, Columbia, S.C.  
ii. South Carolina Supreme Court, Columbia, S.C.  
iii. \_\_\_\_\_  
iv. \_\_\_\_\_

(c) the disposition thereof:

- i. Affirmed
- ii. Dismissed with prejudice
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. MARCH 15, 2007
- ii. December 17, 2009 (Signed) Jan. 10, 2010 (Received)
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) INEFFECTIVE ASSIST. OF P.C. (Appellate Counsel) See  
(b) RECENTLY DISCOVERED EVIDENCE (Fingerprint Analysis) Attached w/Exh.  
(c) Findings from the Court (Factual, Material Evidence) Appellate Counsel A-

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes  
(b) your trial, if any? \_\_\_\_\_  
(c) your sentencing? yes  
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes  
(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
yes

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:  
i. Highland Garmonson-Defenders Corporation of Orangeburg  
County, Box 110, Box 1102 Orangeburg, S.C. 29113  
ii. Joseph Smith, III Appellate Defense 1330 Lady St.  
Suite 401 Columbia, S.C. 29201  
iii. Clarissa Warren - Lawyer 1059 Amelia Street,  
South Orangeburg, S.C. 29115  
(b) the proceedings at which each such attorney represented you:  
i. Arraignment and Plea  
ii. Direct Appeal  
iii. Plea - Conviction Prior to Appeal

19. State clearly the relief you seek in filing this application:

To be ATTORNEY A SEVERAL DAY BEHIND TO BE ATTORNEY MY  
"ONE BITE OF THE APPLE" TEST I WAS DENIED AND I HAVE MY  
COMMITMENT AND SENTENCE VACATED AND/OR REVERSED AND REWARDED

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA )

County of CHARLESTON )

VERIFICATION

I, FREDERICK L. HOWELL #3103910, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

FREDERICK L. HOWELL

SWORN to and subscribed before me this 25  
day of Jan, 2000.

Joyce L. Young (L.S.)  
Notary Public

My Commission Expires: 828 2011

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Frederick L. Russell #310390, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Frederick L. Russell  
Applicant

SWORN or affirmed to and subscribed before me this  
25 day of Jan, 2010.

Jayce R. Young  
Notary Public

My Commission Expires: 8 28 2011

State of South Carolina  
County of Orangeburg

Frederick L. Howell, "310390

Applicant

V.S.

State of South Carolina

Respondent

In the Court of General Sessions

CASE NO: 2007-CP-33-690

Memorandum Supporting  
P.C.R. Application with  
Exhibits A - I

Applicant Filed For A Post Conviction Relief hearing  
ON MAY 31, 2007. AN evidentiary hearing was ordered  
and held ON June 3, 2009. Applicant was represented  
by CLARISSA WARREN - Joyner and the Respondents  
Attorney was MARY S. Williams From the Attorney  
General's Office.

Applicant Received A Signed Order of dismissal ON  
JANUARY 6, 2010 that was signed by the presiding  
Judge, Honorable Diane Goodstein, ON December  
17, 2009.

Attached herewith are exhibits A - I in Support  
OF Applicant's P.C.R. Application Alleging Applicant was  
denied his Sixth (6th) and Fourteenth (14th) Amendment Right  
TO EFFECTIVE ASSISTANCE OF Appellate Counsel, where Post  
Conviction Counsel Failed to Amend the Applicant's Pro  
se Post Conviction Application to include ALL grounds  
presented in present Application, AND to obtain supp-  
orting documents.

L.F.C.

## FACTS

AFTER preparing and Submitting his Pro Se Application For Post Conviction Relief, The Applicant was Appointed Attorney CLARISSA WARREN-Joyner to represent him in the matter. Thereafter, the Applicant wrote his Attorney and Asked her to Amend his Pro Se Application To Include the Supporting grounds OF InEFFECTive ASSistance OF Counsel which appear in the present Application. However, P.C. R Counsel Failed to do so and did not Raise Same during the Applicants evidentiary hearing. AS A result OF the Applicant being a layman, he did not know how to present these claims in his Pro Se Application OR at the evidentiary hearing AND AS A result OF that negligence, his P.C. R Application was denied with prejudice. Had P.C. R Counsel Amended the Application and obtained the Supporting evidence IN the STATES Control and properly present Applicants case, That could have resulted in the Applicant being granted A new Trial and his Sentence vacated

## L A W

South Carolina Supreme Court rules 50(5) and 71.1 (d) make it "mandatory" that post conviction Attorneys make sure that "All available grounds are raised" in P.C. R Proceedings. AFTER Filing A Pro Se P.C. R Application AND AFTER being given Court Appointed Counsel, A Pro Se litigant cannot thereafter file any further Pleadings, Any Amendments to his Application must

be made by Counsel. Slake v Sanders, 369 S.C. 315, 337 S.E.2d 53; Foster v Slake, 393 S.C. 306, 379 S.E.2d 907. Thus, if P.C. H Counsel does not Amend the Pro se application, the Applicant has no way to have all Supporting grounds heard.\*

Since Slake v Carpenter, 377 S.C. 309, 396 S.E.2d 384 and Slake v Hornabrooks, 390 S.C. 381, 350 S.E.2d 180 Prohibits South Carolina Litigants From Raising Claims of Ineffective Assistance of Trial Counsel during their initial direct Appeals, P.C. H proceedings must be viewed as the First Appeal as of right on that particular claim. The South Carolina Supreme Court's decision in Aice v Slake, 409 S.E.2d 392 holding that there is no constitutional right to Counsel in state P.C. H proceeding is based on a reading of the Supreme Court decision in Pennsylvania v Finley, 491 U.S. 551, 107 S.Ct. 1990, 75 L.Ed.2d 539. The decision in Finley, merely held that there is no constitutional right to Counsel in state discretionary Appeals after the appellate stage has been exhausted. Id. 107 S.Ct. at 1993-1994.

Because the claim of ineffective assistance of Counsel cannot be exhausted until an application for P.C. H relief is filed, South Carolina Litigants clearly have a right to effective assistance of Counsel in presenting their claim of Ineffective Assistance of Trial Counsel. Evitts v Lucky, 4169 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821. Coleman v Thompson, — U.S. —, 111 S.Ct. 2546, 2568.

As a result, when an Applicant is not assisted by

A P.C.R. Attorney in Telling Forth All grounds to Support his Claim of Ineffective Assistance of Trial Counsel in his initial Application, he can't be barred Thereafter From Submitting A Second Application to include Additional grounds For A Courts review.

In CARRAN V. STATE, 293 S.C. 523, 362 S.E.2d 30 and Again in AICE, Supra, The South Carolina Supreme Court cited FOXWORTH V. STATE, 275 S.C. 615, 274 S.E.2d 415; LAND V. STATE, 274 S.C. 243, 262 S.E.2d 735 and South Carolina Code of Laws, 17-27-90 For the general proposition, That Successive Applications Are Viewed with disfavor and That the Applicant has the burden of showing that a new ground for relief could not have been raised in a previous application. However, AICE, Supra, does not give Attention To the Courts decision in CASE V. STATE, 277 S.C. 474, 289 S.E.2d 413, which held that if Applicant meets the burden, a hearing must be afforded despite the successiveness of the application. The Facts in CASE, established That CASE had NO Attorney in his First Application, And that it was highly doubtful whether, in point of Fact, that he could have raised Appropriate Arguments. AICE, Supra, Id., 409 S.E.2d at 374

In A Situation where A P.C.R. Applicant is not Assisted by his P.C.R. Attorney in properly Amending his First Application to include All Supporting grounds Underlying A Claim of Ineffective Assistance of Trial Counsel, and does not know of Such grounds, or does not know how to raise them, And is barred From

presenting ~~the~~ ~~se~~ pleadings in light of State v. Sanders, Supra, And Foster v. State, Supra, he or she must be seen to be "without Counsel" And in the same position as that of the Applicant in Case v. State, Supra. The Court, under such circumstances should find that the second Application should be heard despite its successive nature because the first Application lacked specificity, unless it can find that the Applicant intentionally waived his or her right to have the grounds stated in the subsequent Application heard in the first.

IF South Carolina litigants are entitled to appeal from denials of post conviction relief under Austin v. State, - S.C. -, 409 S.E.2d 395, IF they can establish that they did not voluntarily waive their right to appeal, then they should also be allowed to file a subsequent Application alleging that all grounds supporting a claim of ineffective assistance of trial counsel were not presented in the first Application due to ineffective assistance of post conviction counsel, who in reality, is not post conviction counsel on such claim, but instead is an appellate attorney in the first appeal as of right on that particular claim.

## CASE History

ON MAY 31, 2007 Applicant Filed An P.C. Application And ON JUNE 11, 2007, WAS ASSIGNED CLARISSA WILKINSON - JUDGE. ON AUGUST 1, 2007 SHE OFFICIALLY

informed Applicant, by letter, she would be representing him in his P.C. actions. Applicant then began to write and inform Mrs. Joyner that he needed her to; 1) Contact and Interview Alibi's; 2) Obtain a copy of the "Allene" burglary video because the verbal description given by his former Public Defender Richard Gustafson and the Solicitor Bryan Jeffries, in detail, as to what the burglary video would show and used as evidence against Applicant, was falsified, fabricated, made up, by the officers of the court. The video do not show what they are on record stating it shows; 3) To Investigate and Research property's status and characterization to see if it actually is a dwelling for burglary 1<sup>st</sup> degree; 4) To Amend his P.C. Application to correct and add what would be needed. She acknowledged receiving Applicants letters dating; October 30, 2007; December 17, 2007; January 28, 2008; April 2, 2008. (See exhibit A)

In the month of January 2009, when petition-  
er was scheduled to have his evidentiary hearing,  
but was canceled, he seen his attorney (P.C.)  
was not prepared nor did she inform him of  
any recovery of Evidence (video) by her, he then  
took it upon himself to try and obtain the  
burglary video for his P.C. hearing. Upon applic-  
ant's second attempt to obtain a copy of the  
burglary video from the Orangeburg County

Clerk OF Court, They responded on July 13, 2009 (one month after P.C. H hearing) And stated, "reference To your letter dated April 13, 2009 (Two months before P.C. H hearing) Copies were sent to public Defender And Solicitor". (See exhibit B) They did not provide him with A Copy. Applicant Also Took it upon himself To try and Find out the property's status because the incident location (crime scene) is not A Dwelling but A hunting Club. He contacted the County Tax Assessor and he responded on May 26, 2009 to the Applicant stating, "... The Two Dwellings were listed AS Non-legal residences". In which Applicant submitted the reply letter into evidence. (See exhibit C, page 4 of 6)

On June 8, 2009 Applicants Evidentiary hearing was held and his P.C. H Attorney, After Several letters And Two (2) Brief meetings, Still had not Contacted his Alibi's (After being given all contact information), obtained A copy of the security video, Investigated the property's status And Amended his P.C. H Application.

The Applicant, To the best of his ability, Tried to present his case to the P.C. H Judge And spoke about the letter he received from the Tax Assessor, his Alibi's and how they (Defense Attorney And Solicitor) lead Applicant to believe that they actually had one video, what they gave is A detailed verbatim description of the contents of his pre proceedings but in all actuality, was not true And had not exist.

At that time, Applicant was fully aware that in a P.C. Action, the burden of proof is on him to prove his allegations by "a preponderance of the evidence". THASIER V. STATE, 351 S.C. 385, 389, 570 S.E.2d 173, 174 (Citing Rule 11.1(E), SCACP) Applicant knew that without supporting evidence, his P.C. Application would be denied because his alibi and the burglary video was not present at the hearing and therefore, could not prove former Counsel was ineffective under the Strickland v. Washington, Two prong test. Also, as a result of the Applicant being a layman, he did not know how to present his claims at the evidentiary hearing and proceeded to attempt to present his claims on his own.

Immediately, after Applicant's P.C. hearing, he contacted the presiding Judge over the hearing and by letter, informed her about what was done to him by his former defense attorney and solicitor as well as him wanting to have that video present at the hearing but, for reasons unknown to him, his P.C. attorney did not obtain it and have it present and entered in as evidence. (See exhibit D)

The Honorable Dinnie Goodstein responded acknowledging she received the letter, but could not discuss or respond to my complaint. (See exhibit E) But, she forwarded a copy of my letter to her, to my P.C. attorney and my P.C. attorney contacted me in reference to the contents of the letter. (See Exhibit F)

I responded to Mrs. Turner's letter (P.C. attorney)

And in detail, explained to her what was in the letter. To the Judge And why I Contacted the P.C.R Judge but most importantly, my extreme displeasure in her Total Failure to do what she was appointed to do that lead to me informing the Judge.

Mrs. Joyner (P.C.R Attorney) responded And Attempted To Assure me that she represented me to the best of her Ability And At that point, still did not own up To the Fact that she is responsible For the Failure in me properly presenting my issue's due to her Intentional Negligence. (See exhibit G)

On January 6, 2010 Applicant received the states order of dismissal Signed by the Honorable Diane Goodstein on December 17, 2009. The P.C.R Application was denied with prejudice because Applicant did not prove Any Constitutional violations and deprivations that would warrant the Court to grant relief. (see exhibit Q) That order ruled on the issue's of the Alibi's (did not produce), The property's status And characterization (Found Attorney's testimony that he visited the site to be credible) but, did not Address the issue of the Fraudulent misrepresentation of the alleged burglary video tape because that was not listed on the P.C.R Application. (see exhibit Q)

To further show that it was Applicants every Intention to also pursue the issue of the Falsified and Fabricated evidence (video contents) by his former Attorney, And the Solicitor, once he realized

And Uncovered what was Illegally done to him, He immediately began contacting several State Agencies and Senates About their Conduct. (See exhibit #1) Starting From January 31, 2006 with S.I.E.D Former Chief of Staff, MAJor MARK A. Keel, TO July 30, 2009 the Washington D.C Pro Bono program, The Applicant recieved Twenty-Nine (29) responses back concerning his Allegations in an attempt to get Assistance with this matter. (See exhibit #1) Several of the reply letters, As you'll find, will state that I contacted them concerning my Defense Attorney Falsifying and Fabricating evidence. (Exhibit #1 - reply dates: Dec. 12, 2006; July 11, 2007; Sept. 7, 2007; Oct. 9, 2007; Nov. 21, 2007; Aug. 3, 2008; Sept. 30, 2008; July 13, 2009; march 24, 2009 )

Now that Applicant has established that It was his every intention to pursue these issues, but most importantly, To Try and receive Assistance with being "Sentenced and prosecuted with Falsified and Fabricated evidence", that the officers of the Court themselves made up and was repeatedly denied "At every stage", now will show why the claim holds merits and needs to be addressed, In the interest of Justice.

ON August 13, 2005, The day Applicants Trial WAS set to begin, He opted to plead guilty, on the advice of Counsel's recommendation that the State has this "Overwhelming Evidence" to convict him, despite his insistance of Actual Innocence. Also

Defense Counsel made NO Attempt to prepare for  
A TRIAL.

In the guilty plea proceedings, in the Judges Chamber, out of the Jury's presence, The Judge hears  
\*Testimony\* From the Public Defender Richard Gustafson and the Solicitor Bryan Jeffries concerning the Facts and evidence that was used in the prosecution of the Applicant.

In the transcript on page 8 lines 16-25, ending on page 9 line 1, Judge Williams asks Mr. Gustafson, "Do you think the state has enough evidence to convict him?" He responds, "I think they have <sup>\*</sup>overwhelming evidence<sup>\*</sup> to convict him your honor." (See exhibit J)

On page 16 lines 15-22 and lines 24-25, the "Solicitor" states, "The defendant is seen on that video tape walking around, He's got gloves on, He's got sort of a coverall outfit on. He's flashing a flashlight into the windows. You never see him go inside the house at that time" (implies at some point you do).... \*The state would have presented that evidence at trial.\* (See exhibit J)

On page 21 lines 16-25, ending on page 22 lines 1-5, Applicant's Attorney states, "Very simply, the facts are basically as the solicitor stated. When I said \*overwhelming\*, it's not necessarily a great deal of evidence in this case but, I have never in my years of practicing since Ninety-Two (92)

I have ever had a burglary in which they have  
had it Fully Video Taped.... But the Tape in and  
OF itself, From A Defense point OF View, is A  
\*great encumbrance\* To us And having said that,  
I have explained that to my client." (see exhibit 5)

The record is clear and establishes that both  
Public Defender and Solicitor gives A verbal  
detailed Account AS to what they seen ON the  
burglary video Tape And the Contents it will show.  
Applicants Attorney is also clear and adamant  
that he discussed the Contents And the hindrance  
it would have in his ability to prepare A Defense  
From what he seen on that Tape.

At no time do that Video show anything remotely  
close to what these officers of the Court claims  
it do And the Actual burglary video itself shows  
That everything stated by them on record is totally  
False!

It does not show anyone with gloves on,  
Flashing A Flashlight into any windows as the  
Solicitor stated. It do not show this \*overwhelming  
Evidence\* OF A burglary \*Fully Video Taped\* that  
caused this \*great encumbrance\* As my Attorney  
stated it do. But what the video do and only  
shows is Someone walking on the porch - no  
more, no less And that's All it shows.

Applicant viewed the burglary video Tape in it's  
entirety and knows From personally viewing

The video Tape, that everything stated by them is Falsified And made up. During the pre proceedings, Applicant was informed by his defense Attorney, To agree with the Facts in order to allow the Judge to accept the guilty plea. In fear of receiving a life sentence and wanting to be shown mercy, Applicant went along with the facts at that time because he was truly unaware as to what they (Attorney + Solicitor) was doing and his only concern was to not receive a substantial amount of time for a crime he did not commit.

Only until Applicant began to prepare and research for a appeal, did he then realize the criminal acts that was perpetrated upon him to force him into a guilty plea.

By them being officers of the court, they have a duty and a obligation, by law, to look and review what that video shows and only present on record, what they actually seen themselves. Even if they did get their versions of the contents from another source, they still knew that what they was stating and using against Applicant was false because the burglary video do not support their testimony about it's contents. They both presented and used their version of the contents as factual when they knew it wasn't. They actually stated that the state would present that evidence had Applicant pursued trial, but how could they

when they knew it didn't exist?

They knowingly pursued prosecution and obtained a conviction with Falsified And Fabricated evidence they themselves made up and intentionally leading the court and the Applicant to believe they actually had on video what they stated to have knowing that it was Absolutely and totally false and did not exist!

To further prove the falsifying and fabrication of evidence, at Applicant's evidentiary hearing for his P.C.M. Action on June 8, 2009, former defense counsel Testified under oath about the evidence and defending his actions. He stated, "The video shows him in two (2) rooms removing property... I received documentation that identified me Howell as the owner of the fingerprints recovered at the scene." (P.C.R. Trans., Exhibit C, page 50-51)

Now, in the plea transcript on page 16 starting on line 14, in 2005, it was stated that when this crime had taken place, "Video equipment was only on the outside". So how in 2009 it could show Applicant on the inside removing property? If you'll read further, as it was stated earlier in this memorandum, the suspect had gloves on. So again, how in 2009 could prints belong to the Applicant? Yes, fingerprints (partial) was recovered from the crime scene, but why it was never discussed or revealed until this hearing, by Applicant's former attorney and even until this very day, the state in no proceedings

even revealed or discussed the results of a fingerprint analysis, Ch can produce one.

Upon hearing Former Defense Attorney's Testimony "Under oath", concerning this "new evidence" that led to his Attorney's reasoning of "Overwhelming Evidence", Against Applicant, He then Contacted S.I.E.D Forensic Labs. They are in possession of a computer that goes by the acronym A.F.I.S that stores and identifies the owners of fingerprints recovered from crime scenes, If your profile (fingerprints) are in their Database, As mine would be.

Any evidence (D.N.A, Fingerprints, hair, etc.) collected at any crime scene that involve any type of analysis to be done, is sent to S.I.E.D, unless the County where the crime happened has their own lab and in 2005, Cherokee County did not.

Applicant Filed an inquiry and provided S.I.E.D with all the necessary information needed to fulfill his request. Incident date: March 31, 2005; Incident/Crime scene location: 2777 Dawson St, Holly Hill, S.C; Prosecuting Agency: Cherokee County Sheriff's Office C.I.D Division Submitting Detective: T. Logan, R. Williams - Cherokee County Solicitor's Office, Bryan Jeffries; Suspect Info: Frederick C. Howell - 110 Trenton Lane Holly Hill, S.C - D.O.B Sept. 9, 1971 - S.S.N "140-64-9205"; Case: 2005003903)

On June 25, 2009 Kathryn J. Richardson of the FOIA/Subject Compliance Coordinator responded stating that S.I.E.D received my request on June 17, 2009

1/5/2010

And is processing the request. (See exhibit I) On July 8, 2009 she responded again but stated, "A Thorough Search OF OUR DATA BASE USING THE INFORMATION YOU PROVIDED IN YOUR LETTER RECEIVED JUNE 16, 2009, REVEALED (EXHIBIT I 1) NOTHING FOUND UNDER THE NAME FREDERICK L. BOWELL."

There fore, S.I.E.D. OR ANYONE does not make never had any Fingerprint Analysis linking Applicant to any crime scene, so who provided this "Documentation" Applicant's Former Attorney Speaks of? It can not be the Orangeburg County Sheriff's Office because they do not have the capability nor the technology to perform such analysis's and they send all their samples taken to S.I.E.D. The state (respondent) has no knowledge or can produce any document to support his testimony because "again", what he has spoken about and testified to seeing and having never existed!

The preponderance of evidence petitioner has presented, cannot be refuted and proven false, that the officers of the court (Public Defender - Solicitor) by their willful and intentional acts, falsified and fabricated evidence, committed perjury, obstruction of justice, fraud upon the court and prosecutorial misconduct which clearly violated Applicant's due process rights and cause deprivations.

Had Applicant's P.C. Attorney, Clarissa Joyner Amend his Application to include "All Available grounds of relief", Had she obtained and presented a copy of

That burglary video and Alibi's, had she done what was required of her, by law, Applicant would have proven each and every Allegation and obtained the relief requested.

Applicant has shown that it was his every intention to pursue these issues and went above and beyond to attempt to have his Allegations heard and addressed not only by this Court but by many other State Agencies and Senators as well. At no time did Applicant waive his right to present and pursue these issues.

They (Public Defender, Solicitor, P.C. Attorney)\* At every stage\*, Intentionally and knowingly deprived Applicant of his Constitutional rights and Blatantly prevented him from fully exercising those rights. The process bans the use of false evidence to obtain a conviction and the officers of the Court is \*personally responsible\* for those deprivations were not only did they participate fully in the illegal violations, but she (P.C. Attorney) stood idly by when she could have prevented further deprivations by preparing and presenting Applicant's case for appeal and amended his Application.

By Applicant's Attorneys (Public Defender - P.C. Attorney) Intentional Relinquishment of their Attorney Role as Advocate, they showed actual Conflict of interest and it affected their decision making and performance and by "Assisting in the production, presentation of false evidence" Our Courts have ruled that once Applicant has shown

Actual Conflict, no further showing is necessary because  
The 6<sup>th</sup> Amendment Violation Cannot be harmless.

Both (Public Defender - Solicitor) officers of the Court  
reported and used false evidence against Applicant. The  
Solicitor entertained charges against Applicant to the grand  
jury, while at the same time, violating Applicant's due  
process rights from being falsely prosecuted. They  
both clearly had the mental capacity to distinguish moral  
and legal right from moral and legal wrong and to recog-  
nize their actions charged as morally and legally  
wrong and is criminally responsible. S.C Code of Laws  
Title 17; Section 17-1-10 (Public Offense) State Law, and  
S.C 604, 244 S.E.2d 302

P.C. Counsel honestly and reasonably could not  
believe that Applicants former Counsel and Solicitors actions  
was not violative of Applicants due process rights  
and believe their conduct was permissible by law or  
any set standard that governs their actions and conduct.  
P.C. Counsel Denied Applicant his, "one bite of the  
apple" and the evidence Applicant has presented establi-  
shes that fact.

Applicant has thus shown by a preponderance of  
evidence that all past proceedings cannot be relied  
upon as just. The evidence presented has shown  
that the S.C Code of Laws 16-9-10; 17-1-10; S.C rules  
of Court; rules of Professional Conduct; State Consti-  
tution and the Federal Constitution, which is the  
supreme law of the land, has indeed been violated

LS 17-10

in the course of Applicant's prosecution by the officers of the Court, would be required to know the laws of this state and the responsibility to see that Justice is done as well as "Adhere" to the laws of this state At All Times. Rule 401, State v. Dundas, 364 S.C. 36, 212 S.E.2d 587; State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105

Allowing Applicant his "one bite at the apple", under the circumstances found here is allowable by law and appropriate because it has been established that he has not been adequately afforded such.<sup>\*</sup> Allowing another Post Conviction Relief hearing in this case would act to both protect the integrity of our judicial system and vindicate Applicant, that by no fault of his own,<sup>o</sup> has been victimized by the officers of the courts. Illegal and unconstitutional actions. Allowing Applicant his "Full one bite of the apple", to finally properly litigate his case, prove his serious allegations of criminal acts would prevent a further deprivation of petitioner's constitutional rights, because it's been shown that the P.C.R. Court made its ruling based upon the testimony of former defense counsel concerning the evidence and found it to be credible<sup>o</sup> when Applicant has partially (Fingerprint evidence) shown it to be false and was prevented from fully exhibiting and presenting his case.

The Stechland Test of effective assistance of counsel <sup>o</sup>  
Applies equally to in force to analysis of the performance

LITTSO

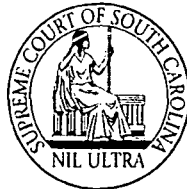
OF APPELLATE COUNSEL U.S.N. MANNING, 212 F.3D 835

Applicant humbly request that he be afforded a proper and fair evidentiary P.C. hearing and allow the court to actually see where the truth lie once and for all and not reach it's decision on the basis of Falsified and Fabricated evidence that applicant clearly was denied the right to show it was manufactured. Lastly, allow applicant provisions to have that burglary video present and to be viewed by all parties involved at that hearing but most importantly, get his "Full one bite of the apple" and prevent a further miscarriage of justice.

Respectfully Submitted  
Frederick L. Howell #310890  
McCormick C.I  
F2A - em #164  
386 Redemption way  
McCormick, S.C  
29899

212 F.3D

Exhibit H1



**South Carolina Court Administration**  
South Carolina Supreme Court  
Columbia, South Carolina

ROSALYN FRIERSON  
DIRECTOR

1015 SUMTER STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA  
29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-0269

April 20, 2010

Frederick L. Howell #310890  
F2A Rm #164  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Dear Mr. Howell:

I am responding to your letter in which you state you are requesting a transcript under the South Carolina Indigent Act. Unfortunately, court reporters have no obligation to prepare and deliver transcripts at no cost to you. Therefore, if you order the transcript, you must make satisfactory payment arrangements with the court reporter. If you would like to order the transcript, send your request to the court reporter, whose address is provided below:

Bonnie H. Kelly  
Post Office Box 50614  
Columbia, SC 29250-0614

When writing the court reporter, please be sure to include the exact date of your hearing, the judge, the county and the name of your case.

If you have further questions regarding *court reporters* and/or *transcripts*, please do not hesitate to contact me again.

Sincerely,

  
Desiree Allen  
Court Services Manager

Enclosure



## South Carolina Court Administration

South Carolina Supreme Court  
Columbia, South Carolina

ROSALYN FRIERSON  
DIRECTOR

1015 SUMTER STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-0269

December 21, 2011

Bonnie Kelly  
Post Office Box 50614  
Columbia, SC 29250-0614

Dear Kelly:

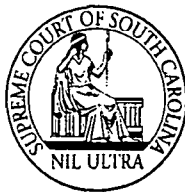
I have enclosed a letter from Mr. Howell who is requesting a copy of his court transcript from proceedings heard by Judge Diane Goodstein. Our records reflect that you were assigned to Judge Goodstein in 1st Circuit Common Pleas Non-Jury/PCR Court during the day of June 8, 2009.

Bonnie please determine if these proceedings were recorded by you and contact him to make arrangements for payment for preparation and delivery of the transcript. Kindly copy me on the correspondence. Thank you for your attention to this matter.

Respectfully,

Court Reporting Section  
South Carolina Court Administration

cc: Mr. Frederick Howell #310890  
LCI WC-255  
Post Office Box 205  
Ridgeville, SC 29472



## South Carolina Court Administration

South Carolina Supreme Court  
Columbia, South Carolina

ROSALYN FRIERSON  
DIRECTOR

1015 SUMTER STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-0269

December 21, 2011

Frederick Howell #310890  
LCI WC-255  
Post Office Box 205  
Ridgeville, SC 29472

Dear Mr. Howell:

You are requesting a transcript for a June 2009 hearing. You may write to the court reporter at the following address:

Bonnie H. Kelly  
Post Office Box 50614  
Columbia, SC 29250-0614

Court reporters have sixty days to prepare a transcript once satisfactory payment arrangements have been made. They may also ask for 30-day extensions of time if they are unable to complete the transcript. If you have further questions regarding court reporters and/or transcripts, feel free to contact me.

Sincerely,

Court Reporter Manager

CC: Ms. Bonnie H. Kelly, Official Court Reporter

Bonnie H. Kelly  
PO Box 50614  
Columbia, SC 29250

---

January 11, 2012

Frederick Howell, #310890  
LCI, WC-255  
PO Box 205  
Ridgeville, SC 29472

**In Re: Frederick Howell v State of SC**  
**Case No. 2007-CP-38-00690**

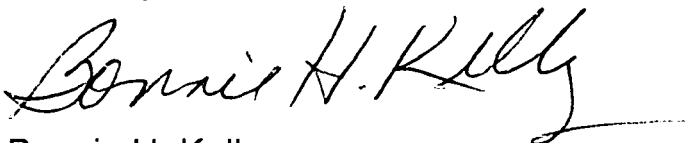
Dear Mr. Howell:

Your letter dated December 21, 2011, was forwarded to me regarding the above referenced case. I will be happy to produce a transcript of this hearing for you.

Advanced payment is required prior to production. I estimate the cost to be approximately \$159.25, which does not include postage. Upon receipt of your money order or cashiers check for this amount, I will begin to produce the transcript. Under our rules, I have 60 days from date of receipt of payment in which to produce the transcript.

Upon completion of the transcript, if more money is due I will require pre-payment before releasing the transcript to you. If there has been an overpayment, I will refund that amount to you along with the transcript.

Sincerely,



Bonnie H. Kelly  
Official Court Reporter

EXAM - DEFENSE COUNSEL GUSTAFSON BY THE COURT

8

EXAMINATION OF DEFENSE COUNSEL GUSTAFSON

BY THE COURT:

Q. MR. GUSTAFSON, HAVE YOU EXPLAINED TO YOUR CLIENT  
THE CHARGES HE IS FACING, BURGLARY, FIRST, THE  
EVIDENCE THAT THE STATE HAS AGAINST HIM, THE  
POSSIBLE PENALTY, WHICH IS UP TO LIFE IN PRISON,  
AND HIS CONSTITUTIONAL RIGHTS?

A. "YES, I HAVE, IN DETAIL."

Q. AND HAVE YOU EXPLAINED TO HIM THIS IS A MOST  
SERIOUS OFFENSE AND A VIOLENT OFFENSE, AND WHAT  
THOSE MEAN?

A. YES, SIR, I HAVE.

Q. AND DO YOU BELIEVE HE UNDERSTANDS ALL OF THESE  
MATTERS?

A. I BELIEVE HE DOES FULLY, YOUR HONOR.

Q. AND HOW HAS HE ADVISED YOU HE WISHES TO PLEAD?

A. HE HAS INDICATED HE WISHES TO PLEAD GUILTY.

Q. DO YOU CONCUR IN HIS DECISION TO PLEAD GUILTY?

A. NO, SIR, I DO NOT.

Q. WHY?

A. HE HAS EXPRESSED TO ME CONTINUALLY THAT HE IS  
INNOCENT AND TODAY HE TOLD ME HE'S PLEADING  
BECAUSE HE WANTS TO GET IT BEHIND HIM.

Q. DO YOU THINK THE STATE HAS ENOUGH EVIDENCE TO  
CONVICT HIM?

Read Page 8-9 Then skip to page 14

1 A. I THINK THEY HAVE "OVERWHELMING" EVIDENCE TO CONVICT  
2 HIM, YOUR HONOR.

3 (NOTE: Blank lines on this page do not indicate any  
4 part of record has been omitted. Headers on testimony  
5 pages and hard page breaks between testimony are now  
6 required by the Court. See next ensuing page for  
7 sequential continuation of record.)

EXAMINATION OF FREDERICK L. HOWELL

BY THE COURT CONTINUES:

Q. MR. HOWELL, YOU'VE HEARD WHAT YOUR ATTORNEY HAS  
TOLD ME. HE SAYS THAT YOU'VE TOLD HIM YOU ARE NOT  
GUILTY, THAT YOU ONLY WANT TO PLEAD GUILTY TO GET  
IT BEHIND YOU, BUT HE ALSO SAYS THAT HE HAS  
REVIEWED THE EVIDENCE IN THE CASE AND HE THINKS  
THERE'S OVERWHELMING EVIDENCE TO PROVE THAT YOU  
ARE GUILTY, DO YOU UNDERSTAND THAT?

A. YES, SIR.

Q. NOW, IN ORDER TO PLEAD GUILTY YOU HAVE TO GIVE UP  
CERTAIN RIGHTS. THE FIRST OF THESE IS YOUR RIGHT  
TO REMAIN SILENT, THAT IS YOUR RIGHT TO SAY  
NOTHING AT ALL ABOUT THESE CHARGES. YOU CAN'T BE  
FORCED TO TESTIFY AGAINST YOURSELF. BUT IF YOU  
PLEAD GUILTY YOU HAVE TO GIVE UP THE RIGHT TO  
REMAIN SILENT IN ORDER TO ADMIT THE TRUTH OF THESE  
CHARGES AGAINST YOU. THAT'S WHAT A GUILTY PLEA  
IS, AN ADMISSION THAT THE CHARGES OF BURGLARY,  
FIRST, IS TRUE. YOU HAVE A RIGHT TO A JURY TRIAL.  
WE COULD START YOUR TRIAL IN ABOUT TEN MINUTES  
FROM NOW, BECAUSE WE, IT'S SCHEDULED FIRST UP THIS  
MORNING, THERE'S A GROUP OF PEOPLE SITTING OUT  
THERE WAITING, WE WOULD GO IN AND ASK THEM A BUNCH  
OF QUESTIONS ABOUT THIS CASE TO SEE THAT THEY ARE

Exhibit J  
**SOUTH CAROLINA LAW ENFORCEMENT DIVISION**

**MARK SANFORD**  
Governor



**REGINALD I. LLOYD**  
Director

**June 25, 2009**

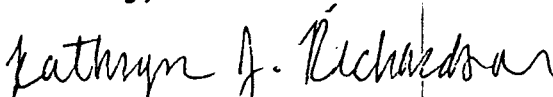
**Fredrick L. Howell, #310890**  
**Broad River Rd. C.I.**  
**Saluda A #148**  
**4460 Broad River Rd.**  
**Columbia, SC 29210**

**RE: Fredrick L. Howell**

**Dear Mr. Howell:**

**This letter is to inform you that we are processing your request, received June 17, 2009, and will be in touch with you soon regarding this matter.**

**Sincerely,**

  
**Kathryn J. Richardson**  
**FOIA/Subpoena Compliance Coordinator**

**KJR/mak/FOI#2009-335**



**An Accredited Law Enforcement Agency**

**P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041**



*Inquired About Fingerprint results*

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

MARK SANFORD  
Governor



REGINALD I. LLOYD  
Director

July 8, 2009

**Fredrick L. Howell, #310890**  
**Broad River C.I., Saluda A, 148**  
**4460 Broad River Rd.**  
**Columbia, SC 29210**

**RE: Freedom of Information Act Request**

**Dear Mr. Howell:**

**A thorough search of our database using the information provided in your letter received June 16, 2009, revealed nothing found under the name Fredrick L. Howell. We advise you to contact the arresting agency for any information they may have concerning this matter.**

**Sincerely,**

**Kathryn J. Richardson**

**FOIA/Subpoena Compliance Coordinator**

**KJR/mak/FOI#2009-335**



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7041



*Inquired About Fingerprint results*

# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY  
*Governor*



MARK A. KEEL  
*Chief*

November 21, 2011

Frederick L. Howell, #310890  
Lieber CI/Cooper A-18  
P.O. Box 205  
Ridgeville, SC 29472

RE: Freedom of Information Act Request

Dear Mr. Howell:

A thorough search of our database using the information provided in your letter received November 7, 2011, revealed nothing found under the name Frederick L. Howell. We advise you to contact the Orangeburg County Sheriff's Office for any information they may have concerning this matter.

Sincerely,

FOIA Request Processing  
Office of General Counsel

FOIA2011-640

