STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	
)	
Edmond S. Adams, III #265717)	CASE NO: 2023-CP-400-2976
Applicant)	
)	
)	
"VS")	RESPONSE TO THE CONDITIONAL
)	ORDER OF DISMISSAL
)	
State of South Carolina)	
Respondent	

[PREAMBLE]

The State of South Carolina prepared a conditional order of dismissal, and presented it to the court to dismiss this action.
The order drafted by the state avers that this action should be dismissed for the following particulars, (1) This action is untimely filed, (2) This action is barred by the statute of limitations, (3) This action is successive to Applicants previous PCR action, (4) Its barred by the doctrine of res judicata, and (5) This action fails to comply with the Uniform Post Conviction Procedures Act.

Applicant will demonstrate to the State, and to this court that there are rock solid exceptions to these asserted defenses that I respect, however the [l]aw still requires a PCR hearing in this matter.

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[STANDARD OF REVIEW]

Summary dismissal of a PCR application without a hearing is appropriate [o]nly when (1) it is apparent on the face of the application that there is no need for a hearing to develope any facts and (2) the Applicant is not entitled to relief S.C. Code Ann. § 17-27-70(b).
"When considering the states motion for summary dismissal, where no evidentiary hearing has been held the PCR judge must assume fact's presented by the applicant are [t]rue and view those fact's in light most favorable to the Applicant, Leamon "vs" State, 363 S.C. 432, 61 S.E.2d.494 (S.C.2005); McCoy "vs" State, 401 S.C. 363, 737 S.E. 2d. 623 (2013).
Critically serious, When an Applicant alleges fact's that would establish

an [e]xception to either the statute of limitations or the prohibition against successive PCR applications and these fact's are [n]ot conclusively refuted by the record before the PCR Court, a question of fact is raised which can only be resolved by having a PCR hearing, McCoy 401 S.C. at 369,737 S.E. 2d. at 626.

* * * * * * * * * * * * *

There are several iron clad Federal Constitutional Law, and State jurisprudence that requires a PCR hearing for Appliant's factual predicates to be adjudicated on the merit's.

[11-A-1]

APPLICANT HAS NEVER HAD A FULL AND FAIR BITE OF THE PCR APPLE DURING HIS FIRST OR SECOND PCR ACTIONS

Every PCR Applicant is entitled to a [F]ull and [F]air bite of the PCR apple. Applicant has never had that bite, and because he has not, he is entitled to a PCR hearing for the following particulars;

[A]. There has been a total breakdown in procedural due process in Applicant's first PCR action. Applicant was impermissibly denied counsel for 406 day's before he appeared in court. The net effect is this was 406 day's with no counsel to assist him. 406 day's with no attorney to confer with, 406 day's with no counsel to insure that [a]ll my available ground's for relief were included in my PCR pleading's, and 406 day's with no counsel to amend my PCR application.
Secundum Regulam, I was suppose to be [p]rompty appointed counsel, and my logic to this diction is anchored from [R]ule 71.1(d) SCRCP:
17 S.C. Jur. Post Conviction Relief § 21; styled "Appointment of Counsel"
Whitehead "vs" State,310 S.C. 532,426 S.E. 2d. 315 (S.C.1992)
Odem "vs" State,337 S.C. 256,523 S.E. 2d. 753 (S.C.1999)
Richardson "vs" State,377 S.C. 103,659 S.E. 2d.493 (S.C.2008).*
A violation such as this in a PCR setting in simply [U]nprecedented, and [U]njustifiable, and if this would happen to anyone in your family or friend, you would scream.

This much is certain, out of all the PCR precedent's that I have reviewed, I AM THE [O]NLY PERSON WHO WAS NOT APPOINTED PCR COUNSEL AT ALL !
U.S. Supreme Court jurisprudence inform's us that "Assistance of Counsel [b]egins with [A]ppointment of counsel;"
U.S. "vs" Cronic, 466 U.S. 648, 104 S.CT. 2039 (1984);
Wright "vs" Van Patten, 552 U.S. 120, 128 S.CT. 743 (2008).
From this respective, I can say as a truth to this court and to God that I never had assistance of counsel during my first PCR litigation which offends Federal law as determined by the U.S. Supreme Court,
Martinez "vs" Ryan, 566 U.S. 1, 132 S.CT. 1309 (2012),
and the due process clause of the 14th Amendment which guarantees Applicant equal protection of the laws, fundamental fairness and procedural due process.

Some may quibble that I waived counsel on the 407th day of PCR case.
Well what about the 406 day's before the purported waiver ?
Jurisprudentially speaking, there is no 6th Amendment Right to counsel in a PCR setting. With that being said, A waiver under the Constitutional law of counsel in a trial setting is totally [d]ifferent in a PCR Seeting.
My point is this, in a PCR Setting you must first be [a]ppointed counsel before you can waive it, because you have no Constitutional entitlement to even have it.
However when your waiting to go to trial, you can waive counsel [b]efore you are appointed counsel because your Constitutionally entitled to counsel under the Federal and State Constitutions, so there is a recognizable distinction.
To sum this matter up, because I am the [o]nly man in the History of the State of South Carolina who has never had assistance of counsel to help me prepare for my PCR hearing, which is a total abolition of Rule 71.1(d) SCRCP I can say with confidence that I have not had a full and fair bite of the PCR apple, all I got was the brown stem hanging out the apple.

[B].To add fuel to the fire, I wanted the solicitors from my case to be present at my PCR hearing so I could question them under oath on the stand. Shockingly, Luck Campbell, nor Dan Johnson even showed up, they were both inabsentia.
It is not fundamentally fair for me to have my day in court and the state don't even show up with the two persons who prosecuted me.

I did not get the testimony on the record to demonstrate how I was mistreated by these two prosecutors, becuase they did not show up, and the court did not do anything relevant to get them to the court room.
This was certainly unfair, and prejudicial to my PCR case.
NOW, THAT LUCK CAMPBELL HAS BEEN DISMISSED FROM THE SOLICITORS OFFICE FOR MISCONDUCT IN OFFICE, AND DAN JOHNSON HAS BEEN SENT TO THE [F]EDERAL PENITENTIARY FOR HIS CRIMES AGAINST THIS STATE, AND TO THE UNITED STATES, I CAN SAY WITH THAT THE STATES CREDIBILITY HAS WENT DOWN THE DRAIN AND THE DOOR TO JUDICIAL SCRUTINY IS WIDE OPEN.
Now my claim that the state fabricated this case and the documents in this case are now alive, because I was being prosecuted by people who were perpetrating solicitors but they really were criminals.
To all the people who I told Luck and Dan were Criminals and you didn't believe me, go look in the mirror and see how stupid you look now, and I'll pull that shoe out of your mouth for you.
I cant have a full and fair hearing if the main witnesses for the state don't even show up.

[C].When I received my order of dismissal, I didn't know what to do.
I had never been in a PCR setting before. I had to read and try and figure the process out by myself.
I truly believe I should have had counsel to help me prepare this motion properly and I did not.

[D].Several of my PCR claims have never been adjudicated, and the court refused to entertain cognizable claims during my PCR hearing which I will discuss infra.

[E].During my second PCR litigation, I raised several claims of lack of subject matter jurisdiction, and the court never appointed me counsel for theses jurisdictional defects, that were not conclusively refuted by the record.

[F]. A full and fair bite of the PCR apple entails appellate review,
Odem "vs" State,337 S.C. 256,523 S.E.2d.753 (S.C.1999);
Aice "vs" State,305 S.C 448,409 S.E.2d. 392 (S.C.1991);
Mack "vs" State,433 S.C. 267,856 S.E.2d. 160 (S.C.2021);
Austin "vs" State,305 453,409 S.E.2d. 395 (S.C. 1991);
At the time I mailed my notice of appeal to the S.C. Supreme Court the mail-room here at the institution was having problems with staff to do these

sevices, so I could not do certified mail.
I present to this court as my evidence, a letter from the Clerk of the S.C. Supreme Court that the State high Court did receive my notice of appeal with certificate of service. (SEE EXHIBIT A)
However for some unknown reason my appeal was impermissilby dismissed because I did not show that the state was served the notice of appeal.
Rule 203 SCACR only requires that I serve the court with the notice of appeal and a proof of service, which is what I did and I did not get appellate review.
Being so, I did not have a full and fair bite of the PCR apple during my second PCR litigation either.

* * * * * * * * * * * * * * *

[11-B-1]

I raised the factual predicate that "I was denied effective assistance of counsel at my competency hearing held on April 10th, 2000 during my first PCR litigation".
It is hypercritical for this court to recognize and acknowledge that this factual predicate has [n]ever [e]ver been adjudicated on the [m]erit's by any court.

Let me be pellucid, there were [t]wo competency hearing's held in this case. The first one was held on OCTOBER 18TH 1999, and the second one was held on APRIL 10TH 2000 which was the first day of my crimial trial.
Importanly, both these hearing's were pursuant to State "vs" Blair, 275 S.C. 529, 273 S.E.2d.536 (S.C.1981).
The transcript of the [f]irst PCR hearing is concrete proof that I informed the court that there was no court order appointing me effective assistance of counsel for Bair hearing on April 10th 2000, and this matter was litigated almost to an argument.
Shockingly, the order of dismissal states:
THIS COURT FINDS NO MERIT WHATSOEVER IN THE APPLICANTS CLAIM THAT HE WAS NOT REPRESENTED BY COUNSEL DURING THE BLAIR HEARING. AS CHIEF ADMINISTRATIVE JUDGE, I SIGNED AN ORDER OF DISMISSAL DATED OCTOBER 13TH 1999 APPOINTING DOUG THUSLOW TO REPRESENT THE APPLICANT AT THE [F]INAL COMPETENCY EVALUATION HEARING". (See order of dismissal page 27-31.)
Everybody will understand my point here, The First PCR court did not see any merit's with my claim because the state who drafted this order wrote down the [w]rong Competency hearing to keep me from automatic reversal.
Most obvious, the PCR court adjudicated this claim on the on a issue that

I did [n]ot even raise.
I filed a rule 59(e) motion to alter or amend the judgment because it was a "FACTUAL INACURACY"in this matter that was vital to my litigation.
The Court didn't pay no attention at all.
Jurisprudentially speaking, "[s]pecification of one thing is the exclusion of the other,(ENUMERATIO UNIUS EST EXCLUSIO ALTERIS)has critical importance in this matter, because when I put my PCR pleadings before the court that I was denied [e]ffective assistance of cousel at my Blair hearing on the day of my trial, which was April 10th, 2000 , I should [n]ot have received an order of dismissal denying me relief from a Blair hearing that took place on October 18th 1999, which is in the wrong year.
This much is certain, the diction in the order of dismissal is grossly off point on the real fact's in this matter, so there is no debate that the order of dismissal does not adhere to the finding of fact, and conclusion of law jurisprudence require by the S.C. Code Ann. § 17-27-80.
The law arises from fact's.(Ex facto Jus Oritur) however when the court adjudicates a claim on the wrong fact's, reality is that adjudication is tantamount to no adjudication at all on the real merit's of the case.

This claim was timely filed, and it cannot be deemed as successive, because it has never been adjudicated, and raised in the first PCR application.

I cannot believe that I saw a Res Judicata issue in the order of dismissal.
I don't know what they do in China, North Korea, or Russia or any other flam country, but here in the United States Of America, there must be prior adjudication of the issue on the merits in a court of competent jurisdiction before a res judicata defense can be forthwith. this is a key element of res judicata,Zinn "vs" CFI Sales & Marketing,415 S.C. 93,780 S.E.2d.611(2015).
Given this sharp reality, nobody can seriously say that Applicant had a full and fair bite at the PCR apple when his claim of being denied counsel at a compentency hearing is being ignored by the court's.
TO DEMONSTRATE HOW CONSTITUTIONALLY REPUGNANT THIS MATTER IS, LOOK AT THIS FROM MY RESPECTIVE, WHICH IS "I AM THE ONLY AMERICAN IN THE HISTORY OF THE UNITED STATES WHO EVER REPRESENTED THEM SELF IN A COMPETENCY HEARING PRO.SE.
No matter where you look in the records of this case, you will not find adjudication on the merits of my claim that I was denied counsel on April 10th 2000. I welcome you to look, good luck.

In Applicant's first PCR application, Applicant claimed that he was denied effective assistance of counsel on [r]emand to repair his trial transcript. This factual predicate was raised as ground 10-P-1 on page 15.
There is a plethora of transcript record to show that Applicant had a meaningful discussion with the PCR Court judge about this issue.
THIS COURT IS NOT EVEN READY FOR THIS, , BUT WHAT SHOULD SHOCK THE CONSCIENCE OF THIS COURT IS THAT THE ORDER OF DISMISSAL DOES NOT EVEN ADDRESS OR ADJUDICATE THIS FEDERAL LAW CLAIM AT ALL, NOW HOW ABOUT THAT ?
The State and the Court just Vanished my Federal Law Claim, the real reality is the court's have said F_____ the U.S. Constitution, and F_____ ALL THE JUSTICES OF THE U.S. SUPREME COURT WHO MADE THE LAW THAT A CRIMINAL DEFENDANT IS ENTITLED TO EFFECTIVE ASSISTANCE OF COUNSEL AT EVERY CRITICAL STAGE OF THE JUDICIAL PROCESS AND ON THE FIRST APPEAL.
Put another way, there is absolutely [N]o finding's of fact or conclusions of law on this factual predicate which is absolutely shocking when this country bolsters that it is the Champion of Democracy.

I would ask this court to pause, and review the proposed order of dismissal for yourself, regardless of what the A.G. office writes in the proposed order.
If you do review the diction drafted by the state, you will acknowledge my point, that there is no adjudication at all on this claim, which is the most [e]gregious Constitution violation there is for a criminal defendant. This was a structual, jurisdictional defect that required automatic reversal and I was cheated out of my relief by the **FRAUD OF OMISSION.**
Effective assistance of counsel should have been appointed because the trial and the appeal integrity hinged on getting the transcript in proper form, and no counsel was ever appointed. The state and the court ran from this claim because it's the undisputed truth, and the best thing they could do was not answer the claim, which they did to there own peril, because now the law is lurking.
This is certainly a procedural irregularity that requires a PCR hearing. Washington "VS" State, 324 S.C 232, 478 S.E. 2d. 833 (S.C.1996).
I STILL CANNOT BELIEVE THAT THE COURT DID NOT INCLUDE THIS CLAIM IN THE ORDER OF DISMISSAL AT ALL.
Again, "NOT AT ALL" Please, I am asking this court to look for yourself, and don't believe what in the order of dismissal.
NONE OF THE DEFENSES IN THE ORDER OF DISMISSAL APPLIED TO THIS FACTUAL PREDICATE.

Applicant aver's that he was denied effective assistance of counsel during [d]ifferent critical stages of the judicial process.

The first order of dismissal does not adhere to the S.C. Code Ann. § 17-27-80, because it does not specifically and unequivocally in it's diction state that Applicant had effective assistance of counsel or not during these stages. To prove this point, the diction in the order of dismissal states; *"The Applicant has failed to demonstrate any prejudice whatsoever entitling him to relief even [a]ssuming his allegations were legitimate" (see first order of dismissal pg. 27 of 31)

This language leaves us to speculate and conjecture as to whether the Constitutional command was met or not.

To be sure, the word [a]ssuming cannot be used in the fact finding process required by the S.C. Code Ann. § 17-27-80, because assuming is defined as "TO THINK THAT SOMETHING IS TRUE OR PROBABLY TRUE [W]ITHOUT [K]NOWING THAT IT IS TRUE", likewise the word [f]act is defined as "SOMETHING THAT TRULY EXIST OR HAPPENS: SOMETHING THAT HAS ACTUAL EXISTENCE: A TRUE PIECE OF INFORMATION".(Merriam Wester Dictionary 2024)

Acknowledging these definitions, there is a glaring [d]istinction between the words [a]ssuming and [f]act.

Plainly put, In the United States of America our Constitutional Law is strict, rigid and inflexible about being provided effective assistance of counsel during critical stages of the judicial process, and when a criminal defendant raises a claim of being denied counsel in a PCR setting, the order from the court must state plainly if the Applicant was denied counsel or [n]ot, anything to the contrary is a bunch of cow patties.

There was no finding of fact, and there was no conclusion of law either. How can this be elementary, the court order plainly stated Applicant failed to demonstrate any [p]rejudice whatsoever assuming his allegations were true". I don't know who in the A.G.'s office drafted the order of dismissal but this is the most UnAmerican language that I have ever witnessed in a court order, because it is edged in stone in both state and federal precedents that no prejudice is required or need to be demonstrated when a criminal is denied effective assistance of counsel during a critical stage of the judicial process. To be sure the language of the S.C. Supreme Court is straight forward, to wit, "IT IS NOW SETTLED HOWEVER THAT AN ACCUSED IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY STAGE OF THE PROCEEDING, AND THE FAILURE TO HAVE SUCH ASSISTANCE IS [R]EVERSABLE ERROR EVEN THOUGH NO PREJUDICE IS SHOWN" State "vs" Williams, 263 S.C. 290, 210 S.E.2d. 298

In Brect "vs" Abrahamson,507 U.S. 619 (1993) the U.S. Supreme Court explained "A CRIMINAL DEFENDANT NEED [N]OT DEMONSTRATE ANY PREJUDICE IF HE SHOWS THAT HE WAS DENIED COUNSEL AT A CRITICAL STAGE OF THE CRIMINAL PROCESS, THE DENIAL OF THE SIXTH AMENDMENT RIGHT TO COUNSEL IS A [S]TRUCTUAL ERROR THAT REQUIRES [A]utomatic [R]EVERASAL, AND NO [P]REJUDICE IS REQUIRED".

Also see, Roe "vs" Florez-Ortega, 120 S.Ct. 1029 (2000);
Smith "vs" Robbins,528 U.S. 259,120 S.CT.746 (2000);
Strickland "vs" Washington,466 U.S. 668 (1984);
Woods "vs" Donald,575 U.S. 312 (2015)
Wright "vs" Van Patterson,552 U.S. 120 (2008);
Bell "vs" Cone,535 U.S. 685 (2002);
Gorza "vs" Idaho,139 S.CT. 738 (2019);

Compelling respect, Federal law as determined by the United States Supreme Court is the [S]upreme [L]aw of the land (UNITED STATES CONSTITUTION VI CL.2)-THE CONSTITUTION AND LAWS OF THE UNITED STATES SHALL BE MADE IN PURSUANCE THEREOF; AND ALL TREATIES MADE, OR WHICH SHALL BE MADE, UNDER THE AUTHORITY OF THE UNITED STATES, SHALL BE THE SUPREME LAW OF THE LAND; AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY, ANY THING IN THE CONSTITUTION OR LAWS OF ANY STATE TO THE CONTRARY NOTWITHSTANDING !

The net effect of this diction from our nations Constitution pertaining to this matter is that the court order in regard to me demonstrating prejudice is notwithstanding. This is not my logic, this is the command of the Constitution, because I was denied relief contrary to the law. Requiring me to demonstrate prejudice is not the law in the United States, if you don't believe me call Washington, and they will surely tell you the samething. Reality is this, I did not get a finding of fact, or a conclusion of law on [N]one of my denial of counsel claims.

The court order is so disrespectful to the U.S. Constitution, and Federal Law as determined by the U.S. Supreme Court that it's a shame to all our military men and women who have died for this country, and I say this because my grand father bled on the battle field for this country and this is how you treat me ?

The purported conclusion of law in the order of dismissal is really no conclusion of law at all, because it's not the law, it might be the law in another country, But one thing for sure, requiring a Applicant to prove prejudice from being denied counsel during a critical stage is not the law in the United States.

[11-B-4]

Applicant aver's that he was denied effective assistance of counsel to consult with prior to his psychiatric examinations pursuant to the precedent Estelle "vs" Smith, 451 U.S. 454, 101 S.Ct. 1866 (1981).
This is the first time that I have raised this claim.
The reason why is, that I was denied assistance of counsel during my first PCR case to make sure all my claims were raised which is a rule 71.1(d)SCRCP violation.

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[11-B-5]

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In Applicant's first PCR action, he raised the factual predicate that he was denied effective assistance of counsel at his **PRE-TRIAL** motion hearing held on March 29th 2000.
In the order of dismissal on page 26 of 31 the caption is styled,
"**INEFFECTIVE WAIVER OF COUNSEL DURING [P]RE-TRIAL, AND POST TRIAL STAGES (11-K-1), (11-L-1), (11-M-1), (11-N-1), (10-O-1), and (11-P-1).**
As a threshold matter, these claims should have been adjudicated [s]eperately under the fact finding, conclusion of law criteria stated within the S.C. Code Ann. § 17-27-80, and they were not.
however, and most important, and critically serious, the order of dismissal does not adjudicate this Constitutional claim **AT ALL!**
I know this is shocking, but you can't find nothing in the order of dismissal making reference to the **PRE-TRIAL MOTION HEARING HELD ON MARCH 29TH, 2000.**
Now I know you want to look for yourself, so I will hold up, and take a coffee break. (5 minute Break).
Ok, now that your back, and see for yourself that the order of dismissal does not address this Constitutional claim at all, how can you say that I had a full and fair bite of the PCR apple ?
One thing me and the state have in common, I'm tired of litigating this case. The remedy is send me the very best person out of the Attorneys Generals office and meet me in the court room, let's litigate the issues, and when The Court do a proper court order, this matter will be ended, however it's not right to not address my issues at all and scream res judicata, and the court never produced a finding of fact or conclusion of law on this claim, Nevertheless, this is a procedural irregularity that requires another PCR HEARING, Washington supra.

[11-C-1 & 11-C-2]

These factual predicates were not raised in the first PCR application. The reason why is because, I was denied PCR counsel to consult with and to amend my application, which is a rule 71.1(d) SCRCP violation. Applicant aver's that he was denied effective assistance of counsel on appeal when he relieved himself as counsel.
Likewise because Applicant is entitled to effective assistance of counsel on his first appeal, this matter is Constitutionally serious, and the court should entertain and adjudicate this factual predicate on the merits because it's not conclusively refuted by the record.

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[11-D-1]

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Applicant also aver's that his purported waiver of his 6th Amedment Right to counsel was Constitutionally infirm, to wit, claims-11-A-1, 11-A-2, and 11-A-3 of the first PCR application.
In ground 11-D-1 in the PCR application in question, the law pertaining to adjudicating a claim of a [i]nvoluntary waiver of counsel for not having a transcript of the waiver hearing has [C]hanged, or in the alternative there is a new law in effect.
The new law pertaining to this is stated in the domestic precedent State "vs" Dial,429 S.C. 128,838 S.E.2d. 501 (S.C.2020).
Therefore, I assert the [d]iscovery [r]ule McCoy "vs" State, Supra at 627. (S.C. Code Ann. § 17-27-45(c)).
My PCR application sub judice was filed within 7 month after I discovered this new precedent.
It is of vital importance for this court to understand that the precedent State "vs" Dial, voids my waiver because every reason the state used to deny me relief on my waiver claim has been ruled UnConstitutional by the S.C. Supreme Court. I told them years ago that my waiver was UnConstitutional and nobody listened to me, years later for the exact same reasons, the S.C. Supreme Court now agrees with me.
I am entitled to hearing on this new law, and none of the defenses stated in the order of dismissal applies in this matter.

[11-D-2]

Applicant also avers that his purported waiver was UnConstitutional because the waiver was grounded in [M]istreatment.

The court should entertain this claim because the judge ignored the fact's and supporting evidence to my claim. Applicant was adamant about not getting an investigation to prepare for trial, and the evidence is letters to the U.S. Dept. of Justice in Washington D.C., National Head Quarters of the FBI in Washington D.C., Letters to the NAACP, ACLU, and I even filed a lawsuit in the court of Common Pleas in Richland County as a cause of action that I received no investigation.

The court ignored all this evidence and denied me relief with no findings of fact in the order of dismissal and used his personal opinion to deny my relief.

[11-E-1 & 11-E-2]

The court should entertain these claims on the merits because they are connected to the new law in State "vs" Dial.

The S.C. Court of Appeals used my purported waiver in the trial court to suffice as a waiver in the Appellate court, so these claims can be litigated under the discovery rule.

11-F-1, 11-G-1, 11-H-1, 11-H-2, 11-H-3, 11-I-1, & 11-J-1 all are subject matter jurisdiction claims, and lack of jurisdiction claims. These claims can be raised at anytime in any proceeding, and the doctrine of res judicata do not apply to these claims at all,

State "vs" Brown,343 S.C. 342,540 S.E.2d. 846 [No.1] (S.C.2001) (overruled on other grounds).

The factual predicates here are not conclusively refuted by the record, moreover, there is no findings of fact or conclusions of law on these claims at all, so a hearing is necessary to see if the courts had judicial power to here this case.

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THE STATE OF SOUTH CAROLINA HAS COMMITTED FRAUD ON THE COURT

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[F]raud is the knowing [m]isrepresentationof knowing concealment of a material fact made to induce another to act to his or her detriment, when willful may be a crime, also any kind of artifice by which another is deceived, Hence, all suprise, trick, cunning, dissembling, and other unfair way that is used to cheat anyone is to be considered as [f]raud.

(BLACKS LAW DICTIONARY 11TH ED).

Being acutely aware of what fraud is, I would direct the court's attention to Applicants factual predicate in ground **11-I-1** on page 21 of Applicant's memorandum to support PCR application.

Here Applicant raised the factual predicate that the "Appellate Court lacked Appellate court jurisdiction to entertain and adjudicate the appeal because the form 4 from the court was **[n]**ot signed by the PCR court judge.

The form 4 that I submitted to this court is the same form 4 that is in the record in the S.C. Supreme Court edged in stone. This same form 4 was has been sent to the Authoritied in Washington D.C., moreover put in the record by an attorney of this state.

Scandalously, the form 4 submitted to this court by the State of South Carolina is **[n]**ot the form 4 from the records of this case.

I'm wondering were did this form 4 come from ?

In the United States of America this much is certain, **"RECORDS ARE VESTIGES OF ANTIQUITY AND [T]RUTH" . (RECORDA SUNT VESTIGIA VETUSTATIS ET VERITATIS).**

The form 4 I submitted to the court is the true form 4 from the record, that's how I got it, the form 4 from the state is a contrivance used to deny me relief. A PCR hearing is necessary to obtain fact's in this matter and my [w]itness that my form 4 is authentic and true is a **OFFICER OF THIS COURT.**

This matter is not conclusively refuted by the record, and it is timely filed under the discovery rule.

I refuse to let the State cheat me out of this claim with fraud upon the court, what is more, there is no statute of limitations for fraud on the court. Somebody in the A.G.'s office needs to be fired for this.

The state has been committing fraud on the court every since they left all my denial of counsel claims out of the order of dismissal.

The State of South Carolina has also committed fraud on the court by [o]mmision.

Let me break it down so there won't be no misunderstanding.

First the state put [a]ll the documents from my first PCR appeal together and submitted them to this court, styled "Applicants first PCR Appeal 2009-131428.

When you review these documents, you will acknowledge that the state included Applicants **"NOTICE OF APPEAL AND THE CERTIFICATE OF SERVICE"** in these documents on the last four pages, Please Look, Ok, now that you see this, let's move on.

Now if you review the documents from my Second PCR appeal, to wit, 2022-000257 you will acknowledge the fact that the state did **[N]**ot include Applicants notice of appeal and certificate of service in these documents sub judice.

These documents are critical to my claim that I was denied Appellate review during my second PCR application, because the notice of appeal and certificate of service was my burden of proof that I did what's required by rule, and the state concealed these documents from the court and by definition this is **FRAUD !**

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Oh and another thing, in ground 11-A-3 of my my first PCR application, I raised the factual predicate that My waiver of counsel was UnConstitutional because the court was questioning my competency and allowing me to proceed PRO.SE. which is UnConstitutional, pursuant to the precedent, to wit, U.S. "vs" Purnett, 910 F.2d. 51 (1990). The court stated this was a direct but it was a PCR issue, the court just refused to answer the claim, becuase I was on point and there was no answer for it, so this claim was never adjudicated on the merit's.

[CONCLUSION]

for the reasons stated, Applicant should be granted a PCR hearing De Novo.

1-12-24
DATE

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