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July 10, 2024

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STATE OF South Carolina
In the Supreme Court

Honorable Diane Shafer Goodstein
Circuit Court Judge

Fred Freeman v. Petitioner
State of South Carolina Respondent
Case No: 2023-001221

Petitioner Brief

Fred Freeman
Perry Correctional Institution
430 Oaklawn Rd
Pelzer, S.C. 29669

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ISSUE PRESENTED _____
STATEMENT OF CASE SUPPORTED BY AFFIDAVIT _____
ARGUMENT

(1) Did Post Conviction relief court err, by not finding trial counsel ineffective, when: trial counsel failed to object to a jury trial.

(2) Petitioner was Prejudice because trial court lack subject matter jurisdiction to hear case, due to trial counsel deficient performances, Petitioner was denied of six an Fourteenth United States Constitutional Constitution Amendments.

(3) Pursuant to Rule¹⁸ of South Carolina magistrate court 18; Rule 75 of S.C. South Carolina Rule of Civil Procedure; Chapter 1 of Title 18 of S.C. 18-1-130 authorize appeal from "any intermediate order involving the merits and necessary effecting the judgment.

(4) Petitioner was Prejudice due to trial counsel deficient performances, where no Notice of intention to appeal have been given, as imperatively required by statutes, note. PP. 348, 349, States Position is Moot.

(5) Petitioner was denied of his Fourth, Sixth, and Fourteenth Amendments of

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e.

United States Constitution Amendments:
Interlocutory appeal - Chapter 1 -
Title 18 of S.C. aggrieved Party may
appeal 18-1-30 from "any intermediate
order, *Tenneker, v. Warren* - Supreme
Court of South Carolina, 20 S.C. 581 /
1884. WL 12181. No appeal were taken
by State, Pursuant to Magistrate Judge
order's of preliminary hearing, held
December 04, 2015, dismissed, Disposition(s)
December 09, 2015, dismissed NOT Indicted
NOT Indicted.

(6) Petitioner was denied of his
United States Constitution Amendments
Fourth, Sixth and Fourteenth, due to
ineffective assistance of, Preliminary
hearing and trial Counsel.

(7) The Circuit Court Jurisdiction to
hear the States appeal in this matter,
The Court addressed the gettle Principle,
that a) Pretrial order granting the
suppression of evidence with signifi-
cantly impair the prosecution of a
criminal case.

(8) The Circuit Court's narrow
reliance on this statutory provision
is misplaced for South Carolina.

The States right to appeal is
defined by our judicial decision,
not statutory Law, *State v. McKnight*,
353 S.C. 238, 577 S.E. 2d 456-457
(2003) is directly appealable under S.C.

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Code Ann § 14-330 (2) (a) (1976),
State v. McKnight, 237 S.C. 169, 165
351 S.E. 2d 208, 209 (1985), Permits
introductory appeal when order "in
effect determines the action -- or
discontinues the action, 14-5-340
EXPRESSLY authorize.

The authority provides amply
support for the circuit court ability
to hear the states appeal from
magistrate court pretrial ruling,
dismissing charges.

- (9) The court further concluded this
result is consistent with intent
of legislature, expressly when
statutory law is considered in its
entirety. Title 1-18 of S.C. code of
Law provides general guidelines
for appealing in criminal action.
P.34 Did Post Conviction relief court err,
(10) where trial counsel was ineffective
for not objecting to evidence of
Fruit of Poison Tree Doctrine.
(11) Petitioner was Prejudice due to
trial counsel deficient performances,
Prejudice the defense. Strickland v.
Washington, 466 U.S. at 694,
counsel objection fell below objectionable
objectionable, that such that petitioner

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was deprived of United States constitutional rights.

(13) P. 34 Did Post conviction relief court err, where trial counsel refused to object to inadmissible evidence, trial counsel was fully aware of subsequent, subsequent arrest for same charges, that were dismissed by Magistrate Judge on December 04, 2015, following Disposition(s) December 09, 2015. All charges were dismissed pursuant to Case Number(s) 2015A0820200784, 2015A0820200785, 2015A0820200786, 2015A0820200787.

(14) Trial counsel made errors so serious that trial counsel performances prejudice the defense, that such Petitioner deprived of United States constitutional rights.

(15) Petitioner was also prejudice as a result of ineffective assistance of preliminary hearing counsel, to assure that the Magistrate Judge pretrial order(s) will be carried out dated December 04, 2015 dismissed, Disposition(s) December 09, 2015, Not indicted.

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Order
Enclosed

(16) Did Post Conviction relief Court err, where Magistrate Judge dismissed all charges, where trial Counsel failed to object to inadmissible evidence, please order enclosed.

(17) The Records shows that Investigator REMOVED DEFENDER EARL JOHNSON, JR - name of AFFIDAVIT(S) and Placed Petitioner name Fred Freeman UPon Same.

(18) Petitioner was Prejudice resulting in trial Counsel, Preliminary hearing Counsel deficient Performances based on fact that Investigator Proceeded to another Magistrate Judge, MISLEADING SAID SECOND MAGISTRATE JUDGE, THE INVESTIGATOR ILLEGALLY AMENDED AFFIDAVIT(S). Also changing Warrant Numbers to reflect 2015A08201015, 2015A08201016, 2015A08201017, 2015A08201018,

(19) A Magistrate may discharge a defendant under this section - which obviously means discharge from custody, Williams v. State of S.C. (D.C.S.C) (1965) 237 F. SUPP. 360 Vacated 237, 356 F.2d 432.

(20) Did Post Conviction relief Court err,

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(21) Where trial counsel failure to object to a jury trial, where the act of a court in a matter over which it has no jurisdiction are void, State v. Funderburk, S.C. (1992), 256, 191 S.E. 2d 515, State v. McKnight, 287 S.C. 167, 168, 337 S.E. 2d 208, 209 (1985), S.C. Code Ann § 14-3-330 (2) (a), 2017.

(22) In a case against Mr. Palmer, where charges were dismissed by a Magistrate Judge at Preliminary hearing, in the opinion of Undersigned, this dismissal constitutes termination of the criminal proceeding in Mr. Palmer favor. See Owen v. Baltimore City State Attorney office, 776 F.3d 379 (4th Cir. 2014).

(23) Did Post conviction relief court err, where proceeding against Petitioner were favorable termination, including acquittal in court, where said discharge upon Preliminary hearing, to which the State NonAction is UNPRESERVED.

(24) The State did NOT file a motion, or appeal.

(25) Petitioner was Prejudice due to
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trial counsel, Preliminary hearing counsel, where the records shows favorable termination of charges, Dreher v. Experian information solution, Inc, United States court of Appeals, Fourth Circuit 856 F.3d 337, Without Jurisdiction a COURT cannot Proceed at all in any cause, Jurisdiction is Power to declare the law, and when it cease to exist, the only function remaining to the Court is that of announcing to the Court fact and dismissing the cause.

(26) Petitioner Fourth, Fifth, Sixth, and Fourteenth of United States Constitution Amendments been Violated.

(27) P. Did Post conviction relief Court etc, not finding trial Counsel ineffective, where Prosecution alleged, Solicitor office of Ninth Judicial Circuit, that Magistrate Judge dismissed due to SCRIVENER'S errors, CASE NUMBERS: 2015A0820200784, 2015A0820200785, 2015A0820200786, 2015A0820200787.

Enclosed are copies of AFFIDAVIT(S)

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Enclosure(s) also are copies of Magistrate Judge of Preliminary hearing order's, Disposition(s) dated December 09, 2015, case numbers as above, dismissed not indicted.

Magistrate Judge order(s) does NOT say dismissed due to SCRIVENER'S ERRORS.

(28) P.33 Did Post conviction relief court err, where trial counsel agreed to stipulation of Prior Burglary conviction(s) before jury.

Petitioner was Prejudice due to (29) trial counsel deficient performances, Prejudice defense, Strickland v. Washington, Counsel objection fell below objectionable standard, that such that the Petitioner was deprived of United States Constitutional rights.

(30) P.34 Did Post conviction relief court err, where trial counsel was in agreement for jury to be in form that Petitioner has Two conviction, Burgus Armed Robbery.

(31) Petitioner was Prejudice due to trial counsel deficient performances, Prejudice defense, Strickland v. Washington, counsel objection fell below objectionable

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Standard, Counsel agreed for jury to be MISINFORMED OF BUBUS ARMED ROBBERY CONVICTIONS), that such the Petitioner was deprived of United States constitutional rights.

(32) P. 18th Did Post conviction relief court err, where trial counsel was ineffective, where investigative reports of Coose Creek Police Department, and Pursuant to ms. Kulas testimony that Mr. Kulas was chasing a Black MALE wearing WHITE-SHIRT, down Pointer Drive.

(33) Petitioner was Prejudice due to trial counsel deficient performances, where Solicitor Turned OFF POLICE CAM VIDEOS, before jury. Evidence of said VIDEOS showed Petitioner was NOT wearing a WHITE SHIRT, No objection from trial counsel.

(34) P. 18th Did Post conviction relief court err, where trial counsel initially and throughout trial, vouching, Bolstering for Mr. Kulas.

(35) P. 5th Ineffective of trial counsel also is based upon Mr. Kulas Statement, testimony that a BLACK MALE was

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in his home when him and his family arrived home. That he grab Black MALE, that the subject and him fell over a fence. Mr. Kulas testified that he PULLED BLUE JACKET OF BLACK MALE.

(36) Petitioner was Prejudice due to trial counsel deficient performances, Evidence coming from Investigator SEAN mcWILLIAMS, He testified that Mr. Kulas told him he FOUNDED A BLUE JACKET AFTER POLICE CLEARED.

Petitioner was denied of Sixth Fourteenth U.S. Const Amends, Did Post conviction relief court err.

(37) ²⁴ Did Post conviction relief court err, ²⁴ where trial counsel was ineffective, ²⁴ the jury requested to rehear Mr. Kulas testimony, The court informed the jury that due to EQUIPMENT and ACOUSTIC, it would not allow Mr. Kulas testimony to be replayed, The court, we will have to let our COURT REPORTER GO INTO THE JURY ROOM WITH XALL AND PLAY THAT TESTIMONY ON HER LAB-TOP, HOWEVER "we can, CAN →

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PLAY OTHER TESTIMONY FOR YOU, but NOT
MR. KULAS TESTIMONY.

P. 211 Did Post conviction relief Court err, where trial counsel was ineffective - assistance, by not objecting to Court using statutory inferences, standing facing the jury, instructed jury that they may infer that Prosecution has established its elements of offenses, instead of Court answering jury notes, the Judge stood facing the jury, where Court instructions to jury was coercive in violation of 5.6.14 United States Constitutional Amendments.

(38) Petitioner was Prejudice due to ineffective assistance of trial counsel deficient Performances, where counsel objection fell below objectionable Standard. The court instructions to the jury binded the jury discretion.

P. 114 The jury discovered said Mr. Kulas committed Perjury, Mr. SEAN McWilliams, Ms. Kulas testimony,

P. 120
129 No Police corroborates Mr. Kulas testimony, statement that he was Placed in HAND CLIFFS for FOUR hours,

Trial Counsel was Paided, he Prepared Mr. Kulas, Asked and Answered

(39) P. 192 Did Post conviction relief court err, ^{trial} _{counsel} as above, trial allowed the court to use stipulation of Prior Burglary conviction(s) before the jury, ALSO FALSIFIED ARMED ROBBERY conviction(s) before jury.

(40) P. 193 Petitioner was Prejudice resulting from trial counsel deficient performances.

The court stated the issue here is whether a district court abuses its discretion, if the spurns such and offer and admits the full records a of Prior Judgment, when the name or nature of the prior offenses raises the risk of a verdict tainted by improper consideration, and when the purpose of the evidence is solely to prove the element of prior conviction(s), The court held it does.

(41) P. 194 Petitioner was Prejudice due to trial counsel deficient performances, where Propensity evidences is relevant, the risk that a jury will

convict for crime other than those - charge, or that certain of guilt, it will convict anyway because a bad person deserves punishment. Creates a Prejudicial effect that out weight Ordinary relevance.

(42) ^{34P.33} Did Post conviction relief Court err, where trial counsel was ineffective, during suppression of evidence, the solicitor stated that defendant at Preliminary hearing had all charges dismissed, so he was not indicted on those charges, - dismissed, but upon new charges.

(43) Petitioner was Prejudice resulting in trial Counsel deficient Performances, counsel objection fell below objectionable Standard. Trial Counsel at all times relevant to knew Case being Presented to Jury, to Court - Court, were same charges dismissed by Magistrate Judge, December 04, 2015. Please See - Arrest WARRANT - AFFIDAVIT(S) - 2015A0820200784, 2015A0820200785, 2015A0820200786, 2015A0820200787. OCA:2015-4816

(44) Personally appeared before me the affiant INV. Goodyear, who being duly sworn depose and say that defendant Earl Johnson Jr, did within this County and State on 10-03-15 violate the criminal laws of the State of South Carolina Cor Ordinance - County X Municipality

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of Goosecreek) in following Particulars:

DESCRIPTION OF OFFENSE: 16-11-0311
OF the South Carolina Code of Laws
as amended, 1976 Burglary 1st

Degree, signature of Issuing Judge -

Shirley L. Johnson Sworn to

10-5-15.

(45)

Petitioner was duly Prejudice,
as a result, as in caption, AFF, DAVID(S)
2015AO 8201015, 2015AO8201016, 2015AO
8201017, 2015AO8201018. OCA: 2015-4816,

the description of offense and
details is same offense of EATL
Johnson Jr.

(46) P. 245 Did post conviction relief court err,
where trial counsel, to include
Appellate Counsel ineffective,
Pursuant to SIXTY South Carolina
Appellate Court Rule, Federal
Rule of Civil Procedure Rule
SIXTY (60), Please -- See -- Jury
NOTE SIX Page -- 243, Jury NOTE
SIX wanting to know about TWO
CONVICTION(S) FOR ARMED ROBBERY,
FRAUD UPON the COURT OF LAW.

s. et.

s. c.

(47) Petitioner was Prejudice resulting due to Trial Counsel, Appellate Counsel failure to bring facts that jury were presented falsification by a Public official of Public court house Official documents - Frauds.

(48) Did Post conviction relief Court err, where at VIRTUAL (PCR-Hearing), Petitioner was reading from FBI response - Pursuant to Freedom of Information/ Privacy Act (FOIPA) request, Petitioner LOOK UP and Notice (PCR) Judge warning to Court Reporter not to copy, The FBI records shows no convictions for Armed Robbery.

(49) ^{trial} Petitioner was Prejudice resulting in counsel(s) deficient performances.

(50) Did Post conviction relief Court err, where the records shows that trial Counsel agreed for burden of Persuasion, Infer of element of intent.

(51) Petitioner was Prejudice, where trial counsel deficient performances Prejudice the defense. Trial Counsel

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refusal to object the infirmity was not cured. The error's in general to Burden shifting did not displace. Constitutional infirmity in jury instructions was not harmless error.

(52) 105 S. Ct. 1965 Supreme Court of United States, Due Process Clause of 14 Amendment, foregoing constitutional principle prohibits the state from using evidentiary presumption in a jury charge, that have effect of relieving the state of its burden of persuasion, Pursuant to whole records.

(53) P. 37 Did Post Conviction relief court err, where trial counsel was ineffective, refused to utilize EXCLUSIONARY Rule. sworn complaint - Affidavit(s)

(54) Petitioner was Prejudice due to trial counsel deficient performances. Evidence of records shows no Probable cause.

(55) Did Post Conviction relief Court err, where Brady violation(s) occurred.

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Petitioner was prejudiced due to ineffective assistance of trial counsel deficient performances, jury requested for DNA results, but was denied.

Additional prejudicial effects, that the guns in question was never in my possession, or have my finger prints upon them, exculpatory.

(56) Did Post Conviction relief court, where records shows petitioner invoked his Fifth Amendment rights, throughout trial, where South Carolina Supreme Court, mandate outlines pursuant to *Lyle v. State*, prior convictions is prohibited before a jury.

(57) Petitioner was prejudiced due to ineffective assistance of counsel(s), where Fourth, Fifth, Sixth and Fourteenth United States Constitutional Amendments were violated.

STATEMENT OF CASE

(58) On October 03, 2015 I was arrested, October 09, 2015 I was served Warrant(s), Affidavit(s). December 04, 2015 Preliminary hearing was held before Magistrate Judge, Magistrate Judge dismissed all charges, December 09, 2015 Magistrate Judge Disposition(s) dismissed not indicted

(59) April 16, 2021 Virtual Post-conviction relief hearing was held virtual, CPCH Judge asked all question(s) of ineffective assistance of trial counsel.

(60) After receiving Post conviction relief Transcript, more than SEVEN EIGHTH - 7/8 is EX PARTE.

VIDEOS and AUDIOS will Prove the same.

(61) This case also is Pursuant to Code 1926 § 17-23-20 Double Jeopardy, Constitutional rights against double Jeopardy, Art I § 12 S.C. Const.

Ms. Keisha White or Mr. Benjamin H. Limbaugh, were NOT Present

at (PCR) Virtual hearing held April 16, 2021.
The transcript states that they were.

Applicant had constitutional rights
to one bite of Apple.

The Ex Parte occurred Pursuant to, to
deny me to bring forth all Constitutional
violations supported upon (PCR) Application,
to include Attachments.

This case also is pursuant to Code 1976
§ 17-23-20 - Double Jeopardy, constitutional
rights against, See - S.C. Const Art 1. 12.

Petitioner states for the records
that there been continued Fabrications
of official court house records. That
I Plea before the court for adjudication(s)
of following facts before the court.

(62) Did Post Conviction relief Court err,
Pursuant to Code 1976 § 17-23-20
Double Jeopardy, S.C. Const Art 1. § 12.

(63) Petitioner was denied of his
United States Constitutional
rights of Fourth, Fifth, Sixth and
Fourteenth, also of South Carolina
Constitution, resulting in deficient
Performances of Preliminary
Counsel, Trial Counsel and Appellate
Counsel.

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(64) Did Post Conviction relief Court err, where trial Counsel was ineffective relating to Indictments.

(65) Petitioner was Prejudice to deficient Performances of trial Counsel. INVALID INDICTMENTS.

July 10, 2024
Fred Freeman

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STATE OF SOUTH CAROLINA RECEIVED
IN THE SUPREME COURT JUL 19 2024

Case No. 2023-001221

S.C. SUPREME COURT

AFFIDAVIT IN SUPPORT
OF PETITIONER BRIEF

Enclosed for Petitioner Brief are Twenty Pages, with additional Attachment(s) of Rule 18 of Magistrate, South Carolina Rule Magistrate Court, Rule 75 South Carolina Rule Criminal Procedure, clock in 19 Dec 30 Clerk of Court Berkeley County, South Carolina. Four copies of Case Number(s): Arrest AFFIDAVIT(S) 2015A0820200784, 785, 786, 787.

Magistrate Judge Disposition(s) December 04, 2015 dismissed, Disposition(s) December 09, 2015 dismissed NOT INDICTED, Case Numbers: 2015A0820200784, 2015A0820200785, 2015A0820200786, 2015A0820200787. AFFIDAVIT(S), See SUMMARY COURT.

Office of the Solicitor - Ninth Judicial Circuit - Case Numbers: 2015A0820200784, 2015A0820200785, 2015A0820200786, 2015A0820200787. OCA: 2015-4816 Defendant Earl Johnson Jr.

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Case No. 2023-00221

1 AFFIDAVIT(S) - 2015A08201015, 2015A08201016, 2015A08201017, 2015A08201018, OCA: 2015-4816. That in case before the court, descriptions of offenses and said location and particulars are same of Earl Johnson Jr, offenses against the peace and dignity of State of South Carolina and the City of Goose Creek. The only differences of is AFFIDAVIT(S) Numbers, as above in caption

Jud Freeman

Being duly sworn and subscribed
Before 11 day of July 2024

Jamara Conwell

NOTARY PUBLIC FOR SOUTH CAROLINA

Commission Expires

My Commission Expires
October 6, 2033

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FCI MAILROOM