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SEP 25 2024

S.C. SUPREME COURT

State of South Carolina
In The Supreme Court

Certiorari to Florence County
Honorable Clifton Newman, Circuit Court Judge

James Edgar Hutchinson,
Petitioner.

v.

State of South Carolina,
Respondent.

Appellate Case No. 2024-000636

Response
Brief

For additional Issues and claims
pursuant to Appellate Counsel
Wanda H. Carter submitting a
Johnson Petition for Certiorari
on my behalf. I now present my
claims of my Constitutional Rights
of S.C. and the U.S. are in violation
and still suffering prejudice...

James E. Hutchinson #258003
Kershaw, C.T. Sycamore-B46
4694, Goldmine Hwy,
Kershaw, S.C. 29067

1.

Response Brief Contents

Brief in Support of Claims to be addressed by the Honorable Supreme Court of South Carolina, affidavits of merit, claims that were raised at PCR-hearing, also additional claims... to include why counsel's failure to investigate and Challenge prior conviction was ineffective and prejudiced my case preventing me from challenging the sufficiency of the states evidence,

Transcripts from 2002-GS-21-1670 invalid prior conviction showing the evidence of invalid waiver of the presentment of indictment where nothing in the record reflects that it was properly executed by the Clerk of Court, affecting the mode of proceedings and organization of the Court. Errors that survive a guilty plea, that are also jurisdictional *Patterson v. N.Y.*, 47 S.Ct. 52 (19). Evidence of indictment/arrest warrants, charging only 2-prior convictions. no proof of legal use of any prior convictions...

Rule 59(e) on case 2002-GS-21-1670 on invalid waiver that has never been addressed now being raised again...

Rule 59(e) in 2023-CP-21-331 that has also never been addressed now raised... and res judica does not apply to jurisdictional
2) Claims with Proof of Service

The PCR Judge erred in denying my claim that counsel was ineffective in failure to suppress evidence of pawn shop receipts that was "Fruit of the Poisonous Tree" that was illegally used to compel involuntary confession that was suppressible, to also claim Brady violation by the fact that the prosecution did suppress the evidence of law-enforcement's misconduct in violation of S.C. Code Ann. 23-1-210, -215, and 23-20-40, "under Color of Law Doctrine" to illegally ferret out evidence against me that an otherwise private citizen could not have done... There was also evidence of police misconduct that was suppressed which was police notes taken during law officer's harrassing and coercing my wife into involuntary statements in violation of our spousal privileges to learn of pawn shops. The evidence was suppressible and illegally obtained. Had I been made aware of the withheld evidence I would not have pled guilty, but would have insisted on a trial and a motion to suppress evidence of pawn shop receipts and any statements and the confession that was suppressible... Suppression of the ~~the~~ police misconduct did cause guilty plea to be involuntary. The law did become the law breakers in order to obtain this invalid conviction by breaking laws to investigate crimes without first being approved through a written agreement pursuant to statutes set in place that I, also as a citizen of 3) this republican state have a right to enjoy.

Kyles v. Whitley 1155 Ct 1555 (1995) Brady violation...
U.S. v. Fisher 711 F.3d 460 (4th Cir. 2013)...

Law Enforcement Investigator for the
County of Florence... James Allen III,
did violate the laws of this State in
order to illegally gather evidence
without authority through multi-county
Jurisdictional Agreement Plan Repealed
June 2016 S.C. Code 23-1-215 & 23-20-30 & 40.

By failure to comply with the Statutory
Requirements tainted the evidence of
Pawn Shop receipts and to include any
statements and the confession itself
because it was all derived illegally by
law Enforcement over-exercising his authority
and thus was not in a lawful position to claim
Plain View Doctrine or the appropriate law-en-
forcement with incident report as he had
failed to comply with statutory procedures
after coercing statements that were also
suppressed of my wife being harassed by
law Enforcement in violation of our spousal
privileges and then went to gather said
evidence outside authorized jurisdiction,
until he complied with statutory procedures,
his authority was limited to Florence County
and the evidence of the police misconduct
was withheld that caused involuntary plea.
Officer's misconduct in gathering evidence
outside territorial jurisdiction is the gist of
states whole case against me and invalid plea.
Counsel was ineffective in failure to suppress
and as stated at PCR hearing that by and through
ineffective Counsel the Court lacked the
jurisdiction to enter a valid judgment.

See State v. Thomas 203 S.E.2d 445 (1974), Ashby
v. Taugh 44 S.Ct. 409 (1968) Ineffective
Counsel serving as a jurisdictional defect.
Gibson v. State 514 S.E.2d 320 (1999). State v. Bos-
well 707 S.E.2d 265 (2011). State v. Copeland 468
S.E.2d 620 (2006) citing Wong Sun v. United States
43 S.Ct. 407 (1963) Com v. Hublin 204 A.3d 1032 (2019).
4.) State v. Phoenix 428 S.E.2d 262 (1992) unlawful...

Involuntary Guilty Plea

my guilty plea was Involuntary and was due to ineffective counsel who gave erroneous advice to enter an unintelligent and unknowingly guilty plea by misinforming me as to the crucial elements of the offense and the court's error by also informing me I had no burden of proof. Counsel failed to have court properly inform that there was an exception in my case as to the burden of proof shifting to the defendant as mentioned at PCR-hearing, quoting State v. Attardo 211 5e2d 868 (1975), State v. Payne 504 5e2d 335 (1994), Counsel misinformed me and failed to have court correct its misinforming me on critical aspects of my case... Counsel apparently did not understand the law regarding the burden of proof and attacking prior convictions to prevent their use for enhancement purposes, Counsel then conveyed her misstatements of the law to me that was material to the inducement of my Involuntary plea as the plea transcript also shows the erroneous instructions that counsel failed to correct, because counsel, myself or the court truly understood the nature of the elements of my reidivist hearing, had I not been misinformed, I would not have pled guilty but would have proceed to trial and requested a suppression hearing to invalidate the priors, See Anderson v. State 535 5e2d 619 (2000), Counsel's misunderstandings were conveyed to me. Frantz v. State 451 5w3d 697 (2014), Hicks v. Franklin 546 F3d 1279 (oca 2008), Miller v. State 79 A3d 1030 (2013) Bousell v. U.S. 118 5ot 1604 (1994) Requesting to vacate my involuntary plea Henderson v. Morgan 16 5ot 2253...

Breach Plea Agreement

Asking Court to Vacate Invalid Guilty Plea as to where I pled guilty under an improperly motivated misrepresentation in assertion by prosecution that he would absolutely have marion county charge dismissed, which is a breach of plea by a fact that the charge is still pending. Had I not been promised that these said Grand larceny charges in Arrest warrant number A-3310100272, I would not have pled guilty and proceeded to trial... I also would have invoked my right to a fast and speedy trial in Marion County on the Grand larceny charge... Thus, the delay has prejudiced my case because my wife, also my alibi witness to defend against the charge has since passed away. Not seeking specific performance of the plea but, now seeking to have plea withdrawn due to its prejudice & involuntariness, due to prosecution's breach of plea deal. See trial transcript where officer James Allen III spoke with officers from Marion on these offenses before he left his own "territorial jurisdiction" to gather illegal evidence. The plea contract was breached, and entered involuntarily under detrimental reliance that charges were being dropped. See *Custodio v. State* 644 S.e2d.36 (2007), *Hunter v. State* 477 N.e2d.317 (1985)... The prosecutor's improper inducement did deprive my guilty plea of its voluntary character causing prejudice. *Turner v. Hassiter* 91 S.Ct. 47 (1970). Guilty pleas are governed upon contract principles, prosecution's misrepresentation's equal "fraud" tainting plea agreement making it void. *Godly v. U.S.* 5 F.3d.1473 (Fed Cir. 1995)... *Santibello v. N.Y.* 92 S.Ct. 495 (1971)...

Counsel was ineffective in failure to obtain file on this complained of prior conviction 2002-GS-21-1670 and motion to suppress this prior conviction due to its constitutional infirmities that I am now suffering anew. Counsel did prejudice my case in failing to investigate and challenge priors to also prevent their normal function for the use of enhancement purposes. Counsel could have then used it as leverage in negotiations to lessen the severity of punishment. Counsel Lawson did cause prejudice, depriving me of effective assistance

I James Edgar Hutchinson would like to and is now invoking the right to assert my such right, that a void conviction can be asserted at any time. I now assert that right. See Howe v. U.S., 368 U.S. 596 (1962),
Skene v. U.S., 359 U.S. 419 (1959),
Skene v. U.S., 359 U.S. 419 (1959),

First error is the guilty plea involuntary which was obtained in violation of my due process rendering it void, for there was no factual basis to support guilty plea to nighttime burglary offense...
Second Error the waivers of presentment of indictment to the Grand Jury are invalid... The Clerk of Court failed to properly execute waivers. Prosecutor had no administrative authority to have waivers signed without clerk present. I was deprived of my public fundamental right of a Grand Jury Indictment. Neither did I properly execute waiver, affecting the mode of proceedings and organization of the Court, Patterson v. New York, 387 U.S. 95 (1967)...

Counsel was ineffective in failure to also investigate this complained of prior conviction to prevent its normal function and prevent its use for enhancement purposes... Had counsel not informed me that I had no burden of proof as to the prior convictions I would not have pled guilty but would have insisted on going to trial and a hearing to suppress this prior... A prior conviction obtained in violation of my right to effective assistance of counsel shall not be used for the use to enhance a sentence on a subsequent offense... U.S. v. Bryant 136 Sct. 1954 (2016) This prior conviction is void and the court lacked jurisdiction to enter a valid judgment State v. Thomas 203 Sct. 445 (1974) Ashby v. Haugh 98 Sct. 409 (1968) Ineffective assistance of counsel serves as also a jurisdictional defect. A prior conviction obtained in violation of my fourth amend. rights shall not be used for enhancement purposes Betts v. Stacks 408 Fzd. 313 (5ca 1969). I James E. Hutchinson now do assert my right that this is a void and illegal conviction and can be attacked at anytime... This prior conviction that was not legally used was obtained in violation of my right to effective counsel in his failure to suppress evidence illegally obtained by officer Phil Hanne who did illegally arrest, search & seize evidence outside his Territorial Jurisdiction and kidnapped me from my Dorlington County residence without a warrant & fraud... 8)

State v. McLeod 401 S.2d 175 (1991) law in effect...
Counsel was ineffective in failure to investigate and file motion to suppress this complaint of prior conviction to prevent its use for the use for enhancement purposes to stop its normal function and to be used for negotiations. This prior conviction was also obtained in violation of my Public Fundamental Right to have a Grand Jury indictment in the county where the offense took place or an effective waiver taken by the clerk of court pursuant to S.G. Code 17-23-130-140. No waiver was properly effected rendering the action of the court void, for the Grand Jury of Florence County had no power to issue an indictment for an offense that was committed in Darlington County. Vince Hawthorne's residence was and the same house is still located in Darlington County. The indictment was void Neve v. Ohio 67 S.Ct. 1521 (1941), challenge to indictment can be made at any time due to it being invalid on its face, there by depriving trial court of its jurisdiction Wallace v. N.C. 121 S.Ct. 581 (2000), State v. Funderburk 1st S.2d 52P (1972). The actions of the court are void. Failure to have an indictment in county where offense took place was in violation of my public fundamental right and there was no proper waiver of presentment of indictment. Errors that I can't consent to that survive a guilty plea Patterson v. N.Y. affecting organization of court & mode of proceeding. The right to trial county of offense in 1989 was jurisdictional. Also asserting right to attack this void judgment.

Fundamental Error

Structural Error, and a Invited Error

Insufficient Habitual Offender Evidence

A No-Evidence argument and counsel's ineffectiveness in failure to preserve

lead pipe claim of insufficiency of habitual offender evidence which did prejudice my case by failing to file notice of appeal as instructed to.

Since South Carolina chose to make the element of (a)(2) two or more prior convictions an element of the offense rather than a sentencing factor does mean that the state was required to prove prior convictions element beyond a reasonable doubt. Had counsel preserved these errors in failure to offer proof

would have resulted in a quittal equal to a quittal on insufficiency of evidence regarding habitual offender proof under S.C. Code 16-11-311(a)(2) two or more prior convictions for burglary. Thus my case was prejudiced because double jeopardy would have attached and the state would not have been able to use prior convictions or have another try at proving its habitual offender charge since in a sense the prosecution had already had a chance to prove but failed.

And thus, the state did also lack the subject matter jurisdiction to enhance my sentence under 16-11-311(a)(2) where there was no evidence proffered by the prosecution on issue of identity and failure to show the offense dates of prior convictions for a separate determination as a habitual offender.

See State v. Weary 2016 wh 916944 using S.C. code 56-1-1020 (2006) relates to offense dates.

(10)

There was no evidence proffered by the State regarding proof of a prior conviction, and no explanation by the prosecution on failure to do so, a no evidence argument nor was I required to object to evidence of prior convictions until the prosecutor proffered some type of evidence on the record which it failed to do so. See Ford v. State 534 A2d 992 (1987) Negative evidence argument. The state did fail to offer any proof of the offense dates to determine if prior convictions did occur on separate occasion for establishing habitual offender status. This is why I did raise at PCR-hearing when I also quoted the two U.S. Supreme Court cases to back my claims that was misspelled by the court reporter. The first was French v. Estelle 103 Sct. 2106 (1983) In view of the fact that the chronology of commission of prior felonies was an essential element of offense, the state's failure to show evidence of the offense dates my sentence was not supported by any sufficient evidence required reversal, and no rational juror or trier of fact could conclude proof beyond a reasonable doubt to convict under 16-11-311(a)(2) burglary statute. Jackson v. Virginia 99 Sct. 2741 (1979), also Linman v. New Mexico mentioned at PCR-hearing 100 Sct. 91 (1979) Evidence indicating only the date of prior offenses was insufficient to enhance sentence. There was also no separate determination to show any offense dates or proof of identity. See State v. Payne 504 Sct. 335 (1998) That it is necessary & the state must show when the prior offense "occurred" and that I was the same person in prior convictions that it failed to do.

The only reason I did not object to the identity is because none was proffered and I was misinformed that I had no burden of proof as to prior convictions, which made my guilty plea involuntary and thus did not relieve the state from its burden of proof. Counsel was also ineffective in failure to file a motion in the arrest of judgment or preserve in sufficient evidence claims which is also the structural error not subject to harmless error analysis mentioned at PCR-hearing. See Jordan v. State 256 Sw3d 246 (2008) Ex parte Miller 330 Sw3d 610 (2009) Counsel's ineffectiveness resulted in prejudice as the legal and sufficiency challenge would have prevailed. See also Hindler v. State 635 Ne2d 1102 (1994) Defendant was denied effective assistance of counsel on appeal in counsel's failure to also raise sufficiency of evidence to establish habitual offender statute as proof of prior convictions for sentence purposes of S.C. Code 16-11-311(a)(2). The span of years between convictions was no inference of habitual offender status... 539 Ne2d 26 (1999) McCombs v. State, and McCombs v. State 536 Ne2d 277 (1999), that absent the date of the offenses of prior convictions, defendant could not receive enhanced sentence as it was a "fundamental error", Zavesky v. Miller 117 S.Ct. 93 (1996)... Zavesky v. State 515 Ne2d 530 (1997) habitual offender determination could not stand without offense dates. Defendant could attack sufficiency of evidence despite failure to preserve for appeal as his guilty plea was involuntary State v. Johnson 689 P2d 166 (1984) State v. Harrington 893 N.W2d 36 (2017) Counsel failed to have judgment arrested.

(2)

The State also failed to establish proof of identity to support enhancement purposes which was also an "Invited Error" including defendant did not forfeit right to contest, contest sufficiency of identity evidence. It also is common knowledge that many names are common and a rap-sheet with the name James Hutchinson was not proof of identity and could not be converted into legally sufficient identity evidence, by my failure to offer evidence of rebuttal, and I was not deemed to have stipulated to the proof of identity. The State made no effort to link me to prior convictions U.S. v. Jackson 369 F3d, 59 (2nd, 2004), Riley v. U.S. 21 F. Supp. 3d, 540 (D. Md., 2014) U.S. v. Kellam 569 F3d, 125 (4ca 2009) The State failed to use one of the many methods in order to establish proof of identity, see also Jones v. Va. 141 Sct. 1041 (2021), as prior convictions were an essential element of burglary 16-11-311(a) (2) and state has to prove beyond a reasonable doubt. Double Jeopardy would have also attached to prior convictions. See also Brattle v. State 536 S2d 509 (2000)...
Bryant v. State 44 A3d, 125 (2014), Monge v. California 119 Sct. 2246 (1994) Thus, double Jeopardy would have attached to prior precluding a retrial to use same priors, Wesley v. Commonwealth of Va. 71 Sct. 75 (1950) Recidivist Statutes are highly penal and are strictly construed against the state Also circuit court has no power or any said jurisdiction to enhance sentence where the state failed to show each offense was committed subsequent to each offense, and I remained silent on identity of priors, McMannish v. Mohn 104 Sct. 1101 (1993) Norwood v. West Virginia 140 Sct. 1297 (2020)...

(3)

Exht.

Judicial admissions were not binding of priors,
State v. Savage Proof of Insufficient Evidence
1045ezd153 (1920)
as to habitual offender

The State did not legally use prior convictions

See next pages of exhibits being
arrest warrants, only charging for a
having two prior convictions... See also
that the indictments only charged on
having two prior convictions... The State
claims that it used other prior predicates
to establish its prior conviction element,
but failed to offer any proof of the 1st
2nd or 3rd conviction and was not in the
requisite order which was a fundamental
error. Prosecution used the 1999 prior
conviction as a second offense which
was not proper in sequence... The
State also through its invited error
claims that it used prior convictions
in my 1999 youthful offender sentence
and a 1995 6-year sentence was used
in their returns when I filed PCR on
those priors which was improperly
dismissed and my specific subject
matter jurisdiction claims have not
been properly addressed which also
prevents res judica as they are
errors that I can't consent to...

See trial transcript where there
was no proof offered whatsoever.
Neither did I nor counsel stipulated
to the priors... The State did fail to
give notice of use of or/more
prior convictions and should not be
allowed to claim them in collateral
proceeding, U.S. v. Benton 24 F.4th 420 (4a 2022)

(4)

"CONVICTION IN VIOLATION OF LAW OF THIS STATE, MY S.C. & U.S. CONSTITUTIONS"

MALICIOUS PROSECUTION, INEFFECTIVE COUNSEL, INVALID PLEA, CONVICTION & SENTENCE

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
V.
JAMES EDGAR HUTCHINSON

IN THE Supreme Court COURT
INVALID CONVICTION CASE NO. 2014-GS-21-1520-23
POST-CONVICTION CASE NO. 2017-CP-21-2409

**"PETITIONER HUTCHINSON REQUEST'S THE HONORABLE COURT"
ALLOW HIS SUBMITTED PRO SE ARGUMENT'S BE HELD TO A LESS STRINGENT
STANDARD IN PRESENTING ISSUES & CLAIMS OF CONSTITUTIONAL VIOLATIONS.**

"HAINES V. KERNER 92SCT.594(1972), GORDON V. LEEKE 574F2D.1147(4THCIR.1978)"

IT IS THE NATURE OF THE CHARGE THAT UNDERLINES THE NEED FOR COUNSEL. IN A TRIAL OF THIS KIND OF
LABYRINTH OF THE LAW IS, OR MAY BE TOO INTRICATE FOR THE LAYMAN TO MASTER.

"THOMPkins V. MISSOURI 65SCT.370(1945)"

VALIDITY OF ANY PRIOR CONVICTIONS USED TO BRING MULTIPLE-OFFENDER CHARGE INTO PLAY MAY BE
INQUIRED INTO. I HAVE BEEN UNCONSTITUTIONALLY CONVICTED AND IMPRISONED AS A BURGLAR...

"WILLIAMS V. KAISER 65SCT.363(1945)" "JACKSON V. VIRGINIA 99SCT.2781(1979)"

FAILURE TO RAISE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM ON DIRECT APPEAL DOES NOT BAR CLAIM
FROM BEING BROUGHT IN A LATER APPROPRIATE COLLATERAL PROCEEDING.

"MASSRO V. U.S.123SCT.1690(2003)" "PARKE V. RALEY 113 SCT.517(1993)"

INEFFECTIVE ASSISTANCE OF COUNSEL WILL EXCUSE A WAIVER UNDER THE [PCRA], AS LONG AS THE APPELLANT
HAD A CONSTITUTIONAL RIGHT TO COUNSEL IN STATE PROCEEDINGS WHERE COUNSEL'S INEFFECTIVENESS
RESULTED IN A WAIVER OF CLAIMS.

"CHRISTY V. PENNSYLVANIA 116SCT.194(1995)"

I WOULD NOT HAVE PLEAD GUILTY WITHOUT THE COUNSEL & PROSECUTOR'S ILLUSORY THREATS.

**"ALEXANDER V. STATE 402SE2D.484(1991)", "HAMMOND V. U.S. 528F2D.15(4THCIR.1975)", "GIL V.
TURNER 443F2D.1064(10THCIR.1971)", "TURNER V. LASSITER 91SCT.47(1970)" &**

"SMITH V. STATE 631SE2D.260(2006)"

I DID NOT KNOW AND WAS NEVER TOLD THAT I BELONGED TO A CERTAIN CLASS OF FELONS OR THAT I HAD
THE BURDEN OF PROOF TO SHOW PRIOR ARE INVALID IN ORDER TO PREVENT THE STATE FROM USING PRIOR
CONVICTIONS FOR ENHANCEMENT PURPOSES.

"STATE V. PAYNE 504SE2D.335(1998), GREER V. UNITED STATES 141SCT.2090(2021)"

COUNSEL'S IGNORANCE ON CRITICAL ASPECTS & POINTS OF LAW WAS FUNDAMENTAL TO MY CASE.

"CARTHORNE V. U.S. 134SCT.1326(2014), U.S. V. CARTHORNE 878F3D.458(4THCIR.2017)"

ERROR HAS BEEN DEEMED "STRUCTURAL" WHEN ERROR RESULTS IN A FUNDAMENTAL UNFAIRNESS.

"U.S. V. CRONIC 104SCT.2039(1984)"

BUT FOR COUNSEL ERRORS & ERRONEOUS ADVICE, I WOULD NOT HAVE PLED GUILTY & INSISTED ON A TRIAL.

"STRICKLAND V. WASHINGTON 104SCT.2052(1984), HILL V. LOCKHART 106SCT.366(1985)"

"MOUNTS V. BOLES 83SCT.298(1962), STATE V. EX REL BOLES 126SE2D.393(1962)"

"VOL.13. A PRECEPT OR WARNING "SYNONYMS LISTED: "COUNSEL, ADVICE, WARNING, ADMONITION."

HUTCHINSON SHOULD HAVE BEEN TOLD OF RIGHT TO CHALLENGE PRIOR CONVICTIONS BEFORE SENTENCING...

'STATE SMITH 531SE2D.294(2008), SMITH V. U.S. 304A2D.28(D.O.C.1973), SMITH V. U.S. 94.SCT.846(1973)'

"STATE RULINGS SHOULD NOT BE CONTRARY TO SUPREME COURT PRECEDENT"

"PROVISIONS ARE CONSTRUED AND APPLIED BY THE SUPREME COURT OF THE UNITED STATES"

15.)

"WILLIAMS V. TAYLOR 120SCT.1495(2000)"

RESPECTFULLY SUBMITTED ON THIS ____ DAY OF ____ . S/_____
JAMES EDGAR HUTCHINSON #258003 _____

"CONVICTION IN VIOLATION OF MY S.C. & U.S. CONSTITUTIONAL RIGHTS"

MALICIOUS PROSECUTION, INEFFECTIVE COUNSEL, INVALID PLEA, CONVICTION & SENTENCE

STATE OF SOUTH CAROLINA
V.
JAMES EDGAR HUTCHINSON

IN THE Supreme Court COURT
INVALID CONVICTION CASE NO. 2019-GS-21-1520-23
POST-CONVICTION CASE NO. 2019-CP-21-290A

NO FACTUAL BASIS TO SUPPORT HABITUAL OFFENDER FINDING

**STATE PLACED NOTHING ON RECORD PROOF OF CHRONOLOGY OF COMMISSION OF PRIORS OFFENSES/CONVICTIONS & NO PROOF IDENTITY NOT ESTABLISHED
"THROUGH THE STATES INVITED ERRORS, IT FAILED TO ESTABLISH"
"ESSENTIAL ELEMENT'S OF HABITUAL OFFENDER FINDING"**

"NO ATTEMPT WAS MADE TO LINK HUTCHINSON TO PRIOR CONVICTIONS ON PURPORTED RAP-SHEET"

"THE STATE FAILED TO ASK HUTCHINSON IF HE AFFIRMED OR DENIED PRIOR BURGLARY CONVICTIONS."

"STATE FAILED TO CONNECT IDENTITY OF ACCUSED, AN ESSENTIAL ELEMENT OF RECIDIVIST PROOF"

"SHEPARD APPROVED DOCUMENT'S FAIL TO INDICATE PRIORS OCCURRED ON SEPARATE OCCASIONS."

"STATE STRUCTURAL-ERRORS MAKE THE WHOLE TRIAL PROCESS COMPLETELY UNRELIABLE."

"COURT DID NOT ASK HUTCHINSON IF HE HAD ANYTHING TO SAY HELP TO MITIGATE SENTENCE."

WEARY V. STATE (2016) WL 1844633, OUR SUPREME COURT HAS EXPLAINED THAT S.C. CODE 16-11-311(A)(2), ALLOWS THE STATE TO PUNISH DEFENDANT FOR RECIDIVISM TO ENHANCE PUNISHMENT...STATE V. HAMILTON 486SE2D.512(1997), REHEARING DENIED, CERT. GRANTED, HAMILTON V. SOUTH CAROLINA 119SCT.239(1998), ALLOWING DEFENDANT TO STIPULATE TO PRIOR CONVICTIONS ELEMENT, INDEED, CAUSES A SUBSTANTIAL GAP IN THE STATE'S RECITATION OF THE FACTUAL BASIS TO SUPPORT A GUILTY PLEA AS A RECIDIVIST OFFENDER. QUOTING OLD CHIEF 117SCT.644, 654(1997), PEOPLE WHO HEAR A STORY INTERRUPTED BY GAPS OF ABSTRACTION MAY BE PUZZLED AT THE MISSING CHAPTERS, AND ASKED TO REST A MOMENTOUS DECISION ON THE STORY'S TRUTH CAN FEEL PUT UPON AT BEING ASKED TO TAKE RESPONSIBILITY KNOWING THAT MORE COULD BE SAID THAN THEY HAVE HEARD, STATE IS REQUIRED TO PROVE THE SPECIFIC NATURE OF THE PRIOR CONVICTIONS. DEFENDANT'S WILLINGNESS TO STIPULATE TO ALTERNATIVE ELEMENT OF CRIME, DID NOT PRECLUDE STATE FROM OFFERING EVIDENCE OF PRIOR CONVICTIONS. STATE V. BENTON 526SE2D.228(2000), CERT. DENIED 120SCT.220(2000), ALLOWING DEFENDANT TO STIPULATE TO PRIOR CONVICTIONS DILUTES THE STATE'S BURDEN OF PROOF TO FORM A FACTUAL BASIS TO SUPPORT A GUILTY PLEA. BOYLE V. U.S. 129SCT.2237(2009), EVEN IF THE SAME EVIDENCE MAY PROVE TWO SEPARATE ELEMENTS OF A CRIME, DOES NOT MEAN THAT THE TWO ELEMENTS COLLAPSE INTO ONE. STATE V. PAYNE 504SE3D.335(1998), WHEN THE STATE IS PROSECUTING A PERSON FOR AN OFFENSE THAT CARRIES AN ENHANCED PENALTY ON A CONVICTION OF A SECOND OR SUBSEQUENT OFFENSE, IT IS NECESSARY FOR THE STATE TO PROVE THAT A PREVIOUS CONVICTION EXISTS, THAT THE CONVICTION WAS FOR AN OFFENSE WHICH OCCURRED PRIOR TO THE COMMISSION OF THE OFFENSE FOR WHICH HE IS BEING TRIED, AND THAT THE DEFENDANT WAS THE SUBJECT OF THAT PRIOR CONVICTION. ESTELLE V. FRENCH, 103SCT.2108(1983), CHRONOLOGY OF COMMISSION PRIORS; ESSENTIAL ELEMENTS OF ENHANCED SENTENCE STATUTE. LINMAN V. N. M. 100SCT.91(1979), THE AVERMENTS IN THE INDICTMENT MUST BE SUPPORTED BY PROOF HUTCHINSON V. STATE 481SW2D.881(1972). U.S. V. JACKSON 368F3D.599(2ND CIR.2004), DEFENDANT IS NOT DEEMED TO HAVE STIPULATED TO IDENTITY. STATE V. VANCE 262SE2D.425(1980), REITERATING MERE PROOF OF IDENTITY OF NAMES BETWEEN DEFENDANT AND PERSON NAMED IN PRIOR CONVICTION FAILS TO ESTABLISH IDENTITY IN RECIDIVIST HEARING & ENTITLED SAME RIGHT TO NOT BE SUBJECTED TO UNDULY SUGGESTIVE IDENTIFICATION PROCEDURES. STATE V. JESTER 790SE2D.368(2016), LIST OF DEFENDANTS PRIORS ALONE FAILS TO ESTABLISH PROOF.

"TO SAY IN THIS CASE AS IN ANY OTHER CASE; PROPONENT OF A CLAIM OR CHARGE MUST EVIDENCE IT."

"COURT DID NOT ASK HUTCHINSON IF HE HAD ANYTHING TO SAY HELP TO MITIGATE SENTENCE..."

"COURT DID NOT IF HE FELT WHY THIS SENTENCE SHOULD NOT HAVE BEEN PRONOUNCED..."

"SMITH V. U.S. 304A2D.28(D.O.C.1973), SMITH V. U.S. 94.SCT.846(1973)..."

16)

RESPECTFULLY SUBMITTED ON THIS _____ DAY OF _____, S/_____
JAMES EDGAR HUTCHINSON #258003 _____

notice of two only
Affidavit of merits
notar more priors,
was given for use
of 3rd conviction...

ARREST WARRANT

2018A2110100307

STATE OF SOUTH CAROLINA

County/ Municipality of

Florence

THE STATE

2108-04-0223

against

James Edgar Hutchinson

Address: 5308 E Old Marion Hwy Lot 1

Florence, SC 29506-9080

Phone: [redacted] SSN: [redacted]
Sex: M Race: W Height: 5 9 Weight: 165
DL State: SC DL #: 008743977
DOB: 1/27/1971 Agency ORI#: SC0210000
Prosecuting Agency: Florence County Sheriff
Prosecuting Officer: James Allen, III - S00244
Offense: Burglary / Burglary (After June 20, 1985) - First degree
Offense Code: 0079
Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant James Hutchinson
on 4/19/18

[Signature] Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Court
181 North Irby Street, Suite 1100
Florence, SC 29501

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Florence

Personally appeared before me the affiant James Allen, III who
being duly sworn deposes and says that defendant James Edgar Hutchinson
did within this county and state on or about 4/9/2018 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Florence)
in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

On or about 4/9/2018 the defendant did commit the crime of Burglary 1st Degree by entering the victim's residence during the
daytime without permission. Once inside the defendant then removed a television belonging to the victim and sold it to a pawn shop
in a nearby municipality. The defendant was identified through records obtained from the pawn shop. The defendant has two prior
convictions for burglary. This incident occurred at 2518 E. Old Marion Hwy. Florence, located in Florence County. This case was
investigated by the FCSO. Case#2018-04-0223

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Florence

Affiant's Address 6719 Friendfield Road

Effingham, SC 29541-

Affiant's Telephone (843)665-2121

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/9/2018 defendant James Edgar Hutchinson

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Florence) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me

on 4/18/2018

[Signature] (L.S.)
Signature of Issuing Judge

Tommy G. Mourounas

Judge Code: 7232

Judge's Address 180 North Irby Street (Msc-W)

Florence, SC 29501-3456

Judge's Telephone (843)665-0031

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

CERTIFIED TRUE COPY
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

FILED
2018 MAY -
AM 8:30
CORRECORDS CLERK
FLORENCE COUNTY, S.C.

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BAIL set by

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
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Name: _____
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Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

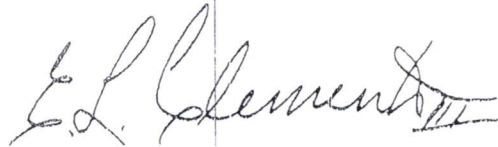
INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on AUGUST 23, 2018 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- BURGLARY FIRST DEGREE

That **James Edgar Hutchinson** did in Florence County on or about April 9, 2018, willfully and unlawfully enter the dwelling of Rita Patillo located at 2518 East Old Marion Highway, without consent and with the intent to commit a crime therein, and after having two prior convictions for burglary, in violation of the Common Law and Section 16-11-311, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

(A.)

Notice of only two. Affidavit of Merits was given for use of 3rd conviction. No proper notice.

ARREST WARRANT

2018A2110100306

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Florence

THE STATE

2018-04-0250

against

James Edgar Hutchinson

Address: 5308 E Old Marion Hwy Lot 1

Florence, SC 29506-9080

Sex: M Race: W Height: 5 9 Weight: 165

DL State: SC DL #: 008743977

DOB: 1/27/1971 Agency ORI #: SC0210000

Prosecuting Agency: Florence County Sheriff

Prosecuting Officer: James Allen, III - S00244

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the

[] County/ [] Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant James Hutchinson on 4/19/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Court 181 North Irby Street, Suite 1100 Florence, SC 29501

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Florence

Personally appeared before me the affiant James Allen, III who

being duly sworn deposes and says that defendant James Edgar Hutchinson

did within this county and state on or about 4/10/2018 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [] Municipality of Florence)

in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

On or about 4/10/2018 the defendant did commit the crime of Burglary 1st Degree by entering the victim's residence during the daytime without permission. Once inside the defendant then removed a television belonging to the victim and sold it to a pawn shop in a nearby municipality. The defendant was identified through records obtained from the pawn shop. The defendant has two prior convictions for burglary. This incident occurred at 2518 E. Old Marion Hwy. Florence, located in Florence County. This case was investigated by the FCSO. CASE# 2018-04-0250

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Florence

Affiant's Address 6719 Friendfield Road

Effingham, SC 29541-

Affiant's Telephone (843)665-2121

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/10/2018 defendant James Edgar Hutchinson

did violate the criminal laws of the State of South Carolina (or ordinance of

[X] County/ [] Municipality of Florence) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

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

Sworn to and subscribed before me

on 4/18/2018

Signature of Issuing Judge (L.S.)

Tommy G. Mourounas

Judge Code: 7232

Judge's Address 180 North Irby Street (Msc-W)

Florence, SC 29501-3456

Judge's Telephone (843)665-0031

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

FILED 2018 MAY -1 AM 8:38 DORIS FOLLOS O'HARA CLERK OF COURT

BAIL set by

Judge _____
on _____
Type and Amount: _____
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
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Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



Affidavit of Merits
PCR-case no. 2019-LP-21-2406

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

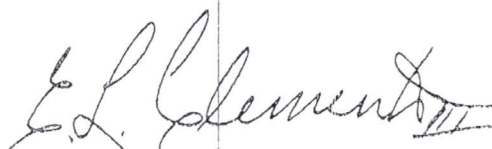
INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on AUGUST 23, 2018 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- BURGLARY FIRST DEGREE

That **James Edgar Hutchinson** did in Florence County on or about April 10 2018, willfully and unlawfully enter the dwelling of Rita Patillo located at 2518 East Old Marion Highway, without consent and with the intent to commit a crime therein, and after having two prior convictions for burglary in violation of the Common Law and Section 16-11-311, S. C. Code of Laws, 1976, as amended.

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



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

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"AFFIDAVIT OF MERITS"

"INVALID GUILTY PLEA, CONVICTION, ILLEGAL SENTENCE & INEFFECTIVE ASSISTANCE OF COUNSEL"

STATE OF SOUTH CAROLINA
V.
JAMES EDGAR HUTCHINSON

THE COURT OF Supreme Court
CASE NO. 2018-GS-21-1520 & CASE NO. 2018-GS-21-1523
INEFFECTIVE COUNSEL, INVALID PLEA, CONVICTION & SENTENCE

"EXTRAORDINARY CIRCUMSTANCES"

COUNSEL'S FAILURE TO PERFORM ESSENTIAL DUTIES BEFORE, DURING & AFTER GUILTY PLEA TO HAVE COURT PROPERLY INFORM HUTCHINSON OF RULE 32. RIGHT OF ALLOCUTION TO OFFER MITIGATION BEFORE SENTENCING WAS PREJUDICIAL...

COURT DID NOT ASK HUTCHINSON IF HE HAD ANYTHING TO SAY HELP TO MITIGATE SENTENCE IN 2018 COURT NEVER ASKED HUTCHINSON IF HE HAD ANYTHING TO SAY TO MITIGATE SENTENCE IN THE 2002 U.S. V. MILLER 849F2D.896(4THCIR.1988), PROCEDURES UNDER CRIMINAL SENTENCING RULES ARE TO BE COMPLIED WITH STRICTLY, UNITED STATES V. MURPHY 530F2D.1,2(4THCIR.1976), GREEN V. UNITED STATES 81SCT.653(1961), SEE ALSO ASHE V. STATE OF NORTH CAROLINA 586F2D.334(4THCIR.1978)...

IF I WAS MADE AWARE THAT I COULD ADDRESS COURT TO PRESENT A STATEMENT TO HELP MITIGATE MY SENTENCE WHY IT SHOULD NOT HAVE BEEN PRONOUNCED, I WOULD HAVE DONE SO, TO INFORM THE COURT THAT MY PRIOR CONVICTION USED FOR ENHANCEMENT PURPOSES WAS NOT REALLY A NIGHTTIME BURGLARY OR MOST-SERIOUS OFFENSE AND PROSECUTOR JEPERTINGER KNOWS MY 2002 CONVICTION WAS NOT "JUST", BECAUSE HE IS THE SAME PROSECUTOR WHO DID THE WRONGFUL CONVICTION IN THE 2002-GS-21-1670 CASE, WHERE I WAS ALSO NEVER INFORMED AND COMPLETELY DENIED MY RIGHT TO "ALLOCUTION." HAD I BEEN INFORMED BY THE COURT OR COUNSEL I WOULD HAVE TOLD THE JUDGE MYSELF THAT I WAS RAILROADED BY SAME PROSECUTOR TO PLEAD GUILTY TO A "NIGHTTIME" BURGLARY THAT I DID NOT DO. STATE V. TREZEVANT 20S.C.363(1884), FAILURE OF CIRCUIT COURT JUDGE TO ASK PRISONER "IF HAS ANYTHING TO SAY WHY JUDGEMENT SHOULD NOT BE PRONOUNCED ON HIM", IS ERROR, AND REQUIRES A RESENTENCE, ALTHOUGH THE PRISONER DID NOT DEMAND THIS QUESTION BE ASKED. COMMONWEALTH V. BROWN 492A2D.745(1985), STATE V. PHILLIPS 54SE2D.901(1949), STATE V. STOKES 548SE2D.202(2001), "ALLOCUTION" IS DEFENDANT'S OPPORTUNITY TO PRESENT ARGUMENTS IN MITIGATION BEFORE FACTFINDER DELIBERATES. McCOY V. LOUISIANA 138SCT.1500(2018), DEFENDANT MUST BE ALLOWED TO MAKE HIS OWN DEFENSES ABOUT PROPER WAY TO PROTECT HIS LIBERTY. MASSRO V. U.S. 123SCT.1690(2003), FAILURE TO RAISE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM ON DIRECT APPEAL DOES NOT BAR CLAIM FROM BEING BROUGHT IN A LATER APPROPRIATE COLLATERAL PROCEEDING. CHRISTY V. PENNSYLVANIA 116SCT.194(1995), INEFFECTIVE ASSISTANCE OF COUNSEL WILL EXCUSE A WAIVER UNDER THE [PCRA], AS LONG AS THE APPELLANT HAD A CONSTITUTIONAL RIGHT TO COUNSEL IN STATE PROCEEDINGS WHERE COUNSEL'S INEFFECTIVENESS RESULTED IN A WAIVER OF CLAIMS WITH MERIT. CARTHORNE V. U.S. 134SCT.1326(2014), U.S. V. CARTHORNE 878F3D.458(4THCIR.2017), COUNSEL'S IGNORANCE OF A POINT OF LAW IS FUNDAMENTAL TO HIS CASE. U.S. V. CRONIC 104SCT.2039(1984), ERROR HAS BEEN DEEMED "STRUCTURAL" WHEN ERROR RESULTS IN FUNDAMENTAL UNFAIRNESS. STRICKLAND V. WASHINGTON 104SCT.2052(1984), HILL V. LOCKHART 106SCT.366(1985), STATE V. SMITH 531SE2D.294(2008), BUT FOR COUNSEL'S INEFFECTIVENESS, I WOULD NOT HAVE PLED GUILTY, BUT INSISTED TRIAL, U.S. V. WEICHERT 836F2D.769(2NDCIR.1988), U.S. V. COLE 27F3D.996(4THCIR.1994), UNITED STATES V. ATKINSON 56SCT.391(1936), UNITED STATES V. ABNEY 957F3D.241(D.O.C.2020). POST-VERDICT MOTIONS & SENTENCING IS CRITICAL STAGES OF TRIAL U.S V. WADE 87SCT.1926(1967).

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RESPECTFULLY SUBMITTED ON THIS ____ DAY OF ____ . S/_____
JAMES EDGER HUTCHINSON #258003 _____

"AFFIDAVIT OF MERITS"

"INVALID GUILTY PLEA, CONVICTION, ILLEGAL SENTENCE & INEFFECTIVE ASSISTANCE OF COUNSEL"

STATE OF SOUTH CAROLINA
V.
JAMES EDGAR HUTCHINSON

THE COURT OF Supreme Court
CASE NO.2018-GS-21-1520 & CASE NO. 2018-GS-21-1523
INEFFECTIVE COUNSEL, INVALID PLEA, CONVICTION & SENTENCE

"EXTRAORDINARY CIRCUMSTANCES"

**"FAILURE TO PERFORM ESSENTIAL DUTIES BEFORE, DURING & AFTER GUILTY PLEA"
'FAILED TO FILE NOTICE APPEAL OR HAVE COURT INFORM OF RIGHT TO SEEK LEAVE TO
PROCEED IN FORMA PAUPERIS & DID NOT KNOWINGLY & INTELLIGENTLY WAIVE RIGHTS'
COUNSEL DID NOT PROVIDE EFFECTIVE ASSISTANCE AT THESE CRITICAL-STAGES OF TRIAL**
IF I HAD BEEN MADE AWARE THAT COUNSEL WAS GOING TO FAIL TO FILE A DIRECT APPEAL ON MY
BEHALF, AS INSTRUCTED TO DO SO, THEN I WOULD HAVE RESPECTFULLY ASKED THE JUDGE TO BEFORE
LEAVING THE COURTROOM FOR PERMISSION TO SEEK LEAVE TO PROCEED IN FORMA PAUPERIS BY
REQUESTING TO THE "CLERK OF COURT" TO FILE A NOTICE OF APPEAL ON MY BEHALF, WHEREAS MY
SENTENCE WAS PRONOUNCED, COUNSEL LAWSON JUST GRABBED HER FILES, WALKED OFF, LEFT ME
STANDING THERE. NO APPEAL CONVERSATION AND I WAS IMMEDIATELY RUSHED OUT COURTROOM...

U.S. V. BERRY 4FED.APPX.159,160(2001). MERELY ASSERTING THAT DEFENDANT'S RAISED CLAIMS
WERE CURRENTLY NON-MERITORIOUS WAS INSUFFICIENT TO DEMONSTRATE AN ABSENCE OF
PREJUDICE IN DISTRICT COURT'S ALLEGED FAILURE TO ADVISE DEFENDANT OF HIS RIGHT TO APPEAL
HIS SENTENCE AND OF HIS RIGHT TO APPLY FOR LEAVE TO PROCEED IN FORMA PAUPERIS, IF HE WAS
UNABLE TO PAY FOR COST OF AN APPEAL. COURT MUST ADVISE OF RIGHT TO RIGHT TO SEEK LEAVE
TO PROCEED IN FORMA PAUPERIS. MARTIN V. STATE 471SE2D.134(1995), MOTIONS TO PROCEED IN
FORMA PAUPERIS MAY BE GRANTED WHEN AUTHORIZED BY STATUTE OR REQUIRED BY
CONSTITUTIONAL PROVISIONS. RULES CIV. PROC., RULE 3(C). LAKES V. STATE 510SE2D.228(1988),
INMATE WAS ENTITLED TO PROCEED IN FORMA PAUPERIS. MASSARO V. U.S. 123SCT.1690(2003),
FAILURE TO RAISE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM ON DIRECT APPEAL DOES NOT BAR
CLAIM FROM BEING BROUGHT IN A LATER APPROPRIATE COLLATERAL PROCEEDING. CHRISTY V.
PENNSYLVANIA 116SCT.194(1995), INEFFECTIVE ASSISTANCE OF COUNSEL WILL EXCUSE A WAIVER
UNDER THE [PCRA], AS LONG AS THE APPELLANT HAD A CONSTITUTIONAL RIGHT TO COUNSEL IN
STATE PROCEEDINGS WHERE COUNSEL'S INEFFECTIVENESS RESULTED IN A WAIVER OF CLAIMS WITH
MERIT. CARTHORNE V. U.S. 134SCT.1326(2014), U.S. V. CARTHORNE 878F3D.458(4THCIR.2017), U.S. V.
CRONIC 104SCT.2039(1984), A STRUCTURAL-ERROR MAKES TRIAL PROCESS COMPLETELY UNRELIABLE.
STRICKLAND V. WASHINGTON 104SCT.2052(1984), HILL V. LOCKHART 106SCT.366(1985), WILSON V.
STATE 559SE2D.581(2002), ROE V. FLORES-ORTEGA 120SCT.1029), COUNSEL'S FAILURE TO FILE NOTICE
OF APPEAL, DEPRIVED DEFENDANT AN APPELLATE PROCEEDING ALTOGETHER & PRESUMABLY
PREJUDICIAL. DENIAL OF EFFECTIVE COUNSEL ALTOGETHER, ACTUALLY OR CONSTRUCTIVELY IS
PREJUDICIAL. WHITE V. STATE 208SE2D.359(1974), WILSON V. STATE 559SE2D.581(2002), U.S. V.
POINDEXTER 492F3D.263(4THCIR.2007), PEGUERO V. UNITED STATES 119SCT.961(1999)..., RULE 32.

22)
RESPECTFULLY SUBMITTED ON THIS ____ DAY OF _____. S/_____
JAMES EDGER HUTCHINSON #258003 _____.

"AFFIDAVIT OF MERITS"

"INVALID GUILTY PLEA, CONVICTION, ILLEGAL SENTENCE & INEFFECTIVE ASSISTANCE OF COUNSEL"

STATE OF SOUTH CAROLINA
V.
JAMES EDGAR HUTCHINSON

THE COURT OF Supreme Court
CASE NO. 2018-GS-21-1520 & CASE NO. 2018-GS-21-1523
INEFFECTIVE COUNSEL, INVALID PLEA, CONVICTION & SENTENCE

**"GENUINE MISAPPREHENSION OF LAW, COERCION, BASED ON ILLUSORY THREATS"
PRIOR CONVICTION DID NOT WARRANT ENHANCEMENT UNDER S.C. CODE 17-25-45.**

"HUTCHINSON WAS MISINFORMED OF INFORMATION NECESSARY TO MAKE AN INFORMED CHOICE"
THE COURT AND COUNSEL DEPRIVED HUTCHINSON OF DUE PROCESS BY FAILING TO INFORM HIM THAT HE BELONGED TO A CERTAIN "CLASS OF FELONS" THAT DO HAVE TO PROVE TO THE COURT THAT PRIOR CONVICTIONS ARE INVALID TO PROVE HE IS INNOCENT AS A HABITUAL OFFENDER. THUS, FORCING HIM INTO FEELING THAT HE HAD NO CHOICE BUT TO PLEAD GUILTY TO ESCAPE A LIFE SENTENCE, BECAUSE OF PROSECUTION & COUNSEL'S ILLUSORY THREATS, AND COURT MISINFORMING HUTCHINSON THAT HE DID NOT HAVE TO PROVE ANYTHING & BURDEN WAS COMPLETELY ON STATE.

"PROOF OF MISAPPREHENSION IN 2002-GS-21-1670 & 2018-GS-21-1520 & 1523 PLEA TRANSCRIPT'S"
HAMMOND V. U.S. 528F2D.15(4TH CIR.1975), GIL V. TURNER 443F2D.1064(10TH CIR.1971)

GREER V. UNITED STATES 141SCT.2090(2021), TURNER V. LASSITER 91SCT.47(1970).
BLACKBURN V. ALABAMA 80SCT.2749(1960), THE RACK & THUMBSCREW CAN BE MATCHED WITH MORE SOPHISTICATED MODES OF PERSUASION. MIRANDA V. ARIZONA 86SCT.1602(1966), SELF-INCRIMINATION IS NOT LOST UNTIL PROCEEDINGS AGAINST THE ACCUSED UNDER INDICTMENT HAVE BEEN TERMINATED, AND THE PRIVILEGE CEASES ONLY WHEN LIABILITY OF PUNISHMENT NO LONGER EXISTS. GUILTY PLEA WAS COERCED WITH THE ILLUSORY THREATS OF LIFE-SENTENCE WITHOUT PROOF TO WARRANT AN ENHANCEMENT. COUNSEL LAWSON FAILED TO INSURE CLIENT'S DUE PROCESS WAS PROTECTED BEFORE ALLOWING COURT TO ELICIT INCRIMINATING ADMISSIONS TO BE USED AGAINST HIM IN ORDER TO OBTAIN AN INVOLUNTARY GUILTY PLEA, CONVICTION AND SENTENCE IN CASE NUMBERS: 2018-GS-21-1520 & 2018-G2-21-1523. CONVICTIONS ARE ILLEGAL BEYOND STATUTORY MAXIMUM VIOLATING DUE PROCESS, AND THE RIGHT TO RECEIVE EFFECTIVE ASSISTANCE OF COUNSEL, TO NOT BE CONVICTED UPON INVALID PREMISES AND UNTRUE ASSUMPTIONS PROTECTED UNDER S.C. CONSTITUTION ARTICLE *1 SECTIONS 3. & 14. AND THE UNITED STATES CONSTITUTIONAL AMENDMENTS. U.S.C.A. 14., STATE V. PHILLIPS 712SE2D.457(2011), WHEN IMPLEMENTING 17-25-45. STATE BEARS THE BURDEN OF PROVING PRIOR CONVICTIONS FOR SERIOUS OR MOST-SERIOUS. STATE V. LINDSEY 583SE2D.740(2003), DEFENDANT'S PRIOR CONVICTION DID NOT CONTAIN ALL ELEMENTS OF MOST SERIOUS OFFENSE. BOWERS V. McFADDEN 153F.SUPP.3D.875(2015), "THERE WAS LITTLE EVIDENCE IN RECORD CONCERNING FACTS OF EARLIER CONVICTION, AND THUS IT WAS POSSIBLE THAT PRIOR OFFENSE DID NOT INVOLVE AGGRAVATING CIRCUMSTANCES, CITING SHEPARD V. UNITED STATES 125SCT.1254(2005), "CONCLUSIVE JUDICIAL RECORDS" SUCH AS INDICTMENTS, PLEA AGREEMENTS AND PLEA COLLOQUY IN WHICH THE "FACTUAL BASIS" FOR THE PLEA WAS CONFIRMED BY THE DEFENDANT." STATE V. JOHNSON 567SE2D.486(2002), NO ATTEMPT TO REBUT STATE'S EVIDENCE BECAUSE I WAS PLACED IN A "GENUINE MISAPPREHENSION" OF THE LAW, COURT MISINFORMED ON NATURE OF RECIDIVIST PROCEEDING. ALEXANDER V. STATE 402SE2D.484(1991), I WOULD NOT HAVE PLEAD GUILTY WITHOUT THE COUNSEL & PROSECUTOR'S ILLUSORY THREATS, SMITH V. STATE 631SE2D.260(2006). RICHTER V. MINNESOTA 86SCT.119(1965), FAILURE TO OBJECT WHEN TIME IS "FUTILE" NOT A WAIVER. HICKS V. FRANKLIN 546F3D.1279(10TH CIR.2008), 125SCT.1432.

²³
RESPECTFULLY SUBMITTED ON THIS ___ DAY OF _____. S/_____
JAMES EDGER HUTCHINSON #258003 _____

"AFFIDAVIT OF MERITS"

"INVALID GUILTY PLEA, CONVICTION, ILLEGAL SENTENCE & INEFFECTIVE ASSISTANCE OF COUNSEL"

"FACTS, MISAPPREHENSION OF LAW, COERCION & ILLUSORY THREATS "FACTS"

GUILTY PLEA WAS COERCED BY ILLUSORY THREATS OF LIFE-SENTENCE WITHOUT PROOF TO WARRANT AN LWOP ENHANCEMENT. COUNSEL LAWSON FAILED TO INSURE HUTCHINSON'S DUE PROCESS WAS PROTECTED BEFORE ALLOWING COURT TO ELICIT INCRIMINATING ADMISSIONS TO BE USED AGAINST HIM. FAILURE TO INSURE CLIENT WAS INFORMED OF HIS RIGHT TO PETITION COURT FOR A SENTENCE MODIFICATION BEFORE THE TEN-DAY LIMITATION ON FILING SAID MOTION. COUNSEL'S ERRORS RESULTED IN PREJUDICE, AFFECTING MY SUBSTANTIAL RIGHTS & OUTCOME OF THE PROCEEDINGS. BUT FOR COUNSEL'S UNPROFESSIONAL ERRORS I WOULD NOT HAVE PLEAD GUILTY IN CASE NUMBERS: 2018-GS-21-1520 & 2018-G2-21-1523. THE CONVICTION IS ILLEGAL IN VIOLATION OF HUTCHINSON'S DUE PROCESS AND OF HIS RIGHT TO RECEIVE EFFECTIVE ASSISTANCE OF COUNSEL TO NOT BE CONVICTED UPON INVALID PREMISES & UNTRUE ASSUMPTIONS PROTECTED UNDER SOUTH CAROLINA CONSTITUTION ARTICLE *1 SECTIONS 3., 14. & THE U.S. CONSTITUTIONAL AMENDMENT'S. U.S.C.A. COUNSEL LAWSON ACTED AS A FRIEND OF THE COURT, TO SIDE WITH THE STATE & COERCE CLIENT INTO A GUILTY PLEA WITH ILLUSORY THREATS OF A LIFE SENTENCE WITHOUT PAROLE FOR NOT ACCEPTING A TWENTY-YEAR OFFER BY NOON ON DECEMBER 3RD, 2018. KEEPING CLIENT HUTCHINSON AWAY & INCOMMUNICADO FROM HIS WIFE, WHO WAS HIS POWER-OF-ATTORNEY, IN COURTROOM THERE TO RELAY MESSAGES TO HIM, FROM HIS MOTHER THROUGH TEXT-MESSAGES WITH INFORMATION ON MEETING TAKING PLACE TO HIRE PRIVATE COUNSEL JOHNNY R. ETHERIDGE JR... COUNSEL LAWSON RAN MY WIFE HOME, TELLING HER THAT HER PRESENCE WAS NOT NEEDED THERE ANYMORE, THEN TOLD THE PROSECUTOR THAT I HAD REJECTED HIS OFFER, INSTEAD OF TELLING HIM THERE WAS AN ISSUE WITH THE PRIOR CONVICTION BURGLARY FROM 2002, ON THE FACT THAT IT WAS NOT ACTUALLY A "NIGHTTIME" BURGLARY, AND USE THAT AS LEVERAGE TO COMPEL MORE NEGOTIATIONS, THUS, FAILING TO PUT THE PROSECUTIONS EVIDENCE THROUGH AN ADVERSARIAL TESTING. FURTHERMORE, ALSO COMPELLING CLIENT INTO THE LAICAL PRESUMPTION OF REGULARITY, TO BELIEVE ACTIONS OF THE COURT IN PRIOR CONVICTION WAS "JUST"... WHILE BEING DETAINED AT FLORENCE COUNTY DETENTION CENTER FOR NINE-MONTHS, DEFENSE COUNSEL NEVER DISCUSSED ANY TRIAL STRATEGY OR MADE ME AWARE THAT I COULD PREVENT THE STATE FROM ENHANCING SENTENCE BY INVALIDATING PRIOR CONVICTIONS, BUT WAS INFORMED THAT, IF I DID NOT ACCEPT THE PLEA, THAT THE PROSECUTION WOULD NOT REMOVE ITS MOTION TO SEEK LIFE WITHOUT PAROLE AND I WOULD HAVE TO PLEAD GUILTY TO LIFE IF I "F ___ D" [VULGAR-LANGUAGE], WITH HER (COUNSEL LAWSON). SHE FAILED TO STEP FORWARD DURING HEARING WHERE I WAS SERVED SAID MOTION AND FAILED TO MOVE TO THE COURT WITH A MOTION TO HAVE 2002-GS-21-1670 PRIOR CONVICTION SUPPRESSED DUE TO THE FACT THAT IT WAS ACTUALLY A DAYTIME BURGLARY NON-VIOLENT, AND INVALID GUILTY PLEA DUE TO THE FACT THAT HIS PRIOR COUNSEL STEVEN L. HILL HAD ERRONEOUSLY INFORMED HIM TO PLEAD GUILTY AND THERE WAS NO FACTUAL BASIS TO SUPPORT THAT GUILTY PLEA. STEVEN L. HILL STATED HE INFORMED PROSECUTOR JOHN. C. JEPERTINGER, PLEA WAS INCORRECT BUT STILL ALLOWED CLIENT TO PLEAD GUILTY AND THE PROSECUTION GET BY WITH A WRONGFUL CONVICTION. HUTCHINSON WAS ALSO MISINFORMED DURING THAT PLEA BY JUDGE BY INFORMING HIM [TWICE]: HE DID NOT HAVE TO PROVE ANYTHING, WHEN THAT IS INCORRECT. ONCE THE STATE PROVES EXISTENCE OF PRIOR CONVICTIONS, BURDEN SHIFTS TO THE DEFENDANT TO "PROVE" THAT PRIOR CONVICTIONS ARE INVALID TO PREVENT USE FOR ENHANCEMENT PURPOSES. THAT BURDEN WAS COMPLETELY ON STATE PLACING HIM UNDER A MISAPPREHENSION OF THE LAW. BY COUNSEL CONCEDING GUILT & STIPULATING TO INVALID PRIOR CONVICTIONS WAS PREJUDICIAL...

24)

RESPECTFULLY SUBMITTED ON THIS ___ DAY OF _____. S/ _____.
JAMES EDGER HUTCHINSON #258003 _____.

TITLE 23

LAW ENFORCEMENT AND PUBLIC SAFETY

CHAPTER 1. GENERAL PROVISIONS & CHAPTER 20. LAW ENFORCEMENT ASSISTANCE AND SUPPORT ACT

23-1-210. REPEALED

TEMPORARY TRANSFER OR ASSIGNMENT OF LAW ENFORCEMENT OFFICER; WRITTEN AGREEMENT;
COMPENSATION.

2016 ACT NO. 222 (H3653), * 1, EFF JUNE 3RD, 2016.

23-1-215. REPEALED.

AGREEMENTS BETWEEN MULTIPLE LAW ENFORCEMENT JURISDICTIONS FOR THE PURPOSE OF CRIMINAL
INVESTIGATIONS OF LAW ENFORCEMENT OFFICERS.

2016 ACT NO. 222 (H3653), * 1, EFF JUNE 3RD, 2016.

23-20-30. MUTUAL AID AGREEMENTS.

(A) ANY COUNTY, INCORPORATED MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY ENTER
INTO MUTUAL AID AGREEMENTS AS MAY BE NECESSARY FOR THE PROPER AND PRUDENT EXERCISE OF PUBLIC SAFETY
FUNCTIONS. ALL AGREEMENTS MUST ADHERE TO THE REQUIREMENTS CONTAINED IN SECTION 23-20-40.

(B) NOTHING IN THIS CHAPTER MAY BE CONSTRUED TO ALTER, AMEND, OR AFFECT ANY RIGHTS, DUTIES OR
RESPONSIBILITIES OF LAW ENFORCEMENT AUTHORITIES ESTABLISHED BY SOUTH CAROLINA'S CONSTITUTIONAL OR
STATUTORY LAWS ESTABLISHED BY ORDINANCES OF SOUTH CAROLINA'S POLITICAL SUBDIVISIONS, EXCEPT AS
EXPRESSLY PROVIDED FOR IN THIS CHAPTER.

HISTORY; 2000 ACT NO. 382, 2016 ACT NO. 222 (H3653), * 1, EFF JUNE 3RD, 2016.

23-20-40. REQUIRED MUTUAL AID AGREEMENT PROVISIONS.

(A) ALL MUTUAL AID AGREEMENTS FOR LAW ENFORCEMENT SERVICES MUST BE IN WRITING AND INCLUDE, BUT
MAY NOT BE LIMITED TO, THE FOLLOWING:

- (1) A STATEMENT OF THE SPECIFIC SERVICES TO BE PROVIDED;
- (2) SPECIFIC LANGUAGE DEALING WITH FINANCIAL AGREEMENTS BETWEEN THE PARTIES;
- (3) SPECIFICATION OF RECORDS TO BE MAINTAINED CONCERNING THE PERFORMANCE OF SERVICES TO BE
PROVIDED TO THE AGENCY;
- (4) LANGUAGE DEALING WITH THE DURATION, MODIFICATION, AND TERMINATION OF THE AGREEMENT;
- (5) SPECIFIC LANGUAGE DEALING WITH THE LEGAL CONTINGENCIES FOR ANY LAWSUITS OR THE PAYMENT OF
DAMAGES THAT ARISE FROM THE PROVIDED SERVICES;
- (6) A STIPULATION AS TO WHICH LAW ENFORCEMENT AUTHORITY MAINTAINS CONTROL OVER THE LAW
ENFORCEMENT PROVIDER'S PERSONNEL;
- (7) SPECIFIC AGREEMENTS FOR THE USE OF EQUIPMENT AND FACILITIES; AND
- (8) SPECIFIC LANGUAGE DEALING WITH THE PROCESSING OF REQUESTS FOR INFORMATION PURSUANT TO THE
FREEDOM OF INFORMATION ACT FOR PUBLIC SAFETY FUNCTIONS PERFORMED OR ARISING UNDER THESE
AGREEMENTS.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C), A MUTUAL AID AGREEMENT ENTERED INTO ON BEHALF OF LAW
ENFORCEMENT AUTHORITY MUST BE APPROVED BY THE APPROPRIATE GOVERNING BODIES OF EACH CONCERNED
COUNTY, INCORPORATED MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THIS STATE. AGREEMENTS ENTERED
INTO ARE EXECUTED BETWEEN GOVERNING BODIES, AND THEREFORE, MAY LAST UNTIL THE AGREEMENT IS
TERMINATED BY A PARTICIPATING PARTY OF THE AGREEMENT.

(C) AN ELECTED OFFICIAL WHOSE OFFICE WAS CREATED BY THE CONSTITUTION OR BY GENERAL LAW OF THIS STATE
IS NOT REQUIRED TO SEEK APPROVAL FROM THE ELECTED OFFICIAL'S GOVERNING BODY IN ORDER TO PARTICIPATE IN
MUTUAL AID AGREEMENTS.

(D) PROVIDED THE CONDITIONS AND TERMS OF THE MUTUAL AID AGREEMENTS ARE FOLLOWED, THE CHIEF
EXECUTIVE OFFICER'S OF THE LAW ENFORCEMENT AGENCIES IN THE CONCERNED COUNTIES, INCORPORATED
MUNICIPALITIES, OR OTHER POLITICAL SUBDIVISIONS HAVE THE AUTHORITY TO SEND AND RECEIVE SUCH RESOURCES,
INCLUDING PERSONNEL, AS MAY BE NEEDED TO MAINTAIN THE PUBLIC PEACE AND WELFARE.

(E) THE OFFICER'S OF THE LAW ENFORCEMENT PROVIDER HAVE THE SAME LEGAL RIGHTS, POWERS, AND DUTIES TO
ENFORCE THE LAWS OF THIS STATE AS THE LAW ENFORCEMENT AGENCY REQUESTING THE SERVICES.

HISTORY; 2000 ACT NO. 382, 2016 ACT NO. 222 (H3653), * 1, EFF JUNE 3RD, 2016.

RESPECTFULLY SUBMITTED ON THIS ___ DAY OF _____, S/ _____.

25

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actual Innocence under Sentence
Enhancements, I am factually innocent

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE) 02-GS-21-1670 & 02-GS-33-169
and COUNTY OF MARION)

THE STATE,)

-vs-)

JAMES EDGAR HUTCHINSON,)
Defendant.)

TRANSCRIPT OF RECORD

December 5, 2002
Florence, South Carolina

B E F O R E:

THE HONORABLE B. HICKS HARWELL, JR., Judge.

A P P E A R A N C E S:

JOHN C. JEPERTINGER, Esquire
Assistant Solicitor for the Twelfth Judicial Circuit
Attorney for the State

STEPHEN L. HILL, Esquire
Assistant Public Defender for Florence County
Attorney for the Defendant.

PATRICIA A. McDANIEL
Circuit Court Reporter

I did not commit this offense and
I am actually innocent of the crime
of conviction in this wrongful conviction.
267)

1 DEFENDANT HUTCHINSON: Yes, sir.

2 THE COURT: You want to waive it?

3 DEFENDANT HUTCHINSON: Yes, sir.

4 THE COURT: I see where you've signed it here on this
5 proposed indictment.

6 Are you also waiving and giving up your right to a
7 trial by jury where the law presumes you to be innocent,
8 places the burden on the State to prove you guilty beyond
9 a reasonable doubt?

10 ~~You can't be compelled to call witnesses to testify.~~
11 You don't have to prove you innocent. They got to prove
12 you guilty of these charges, and all twelve's got to agree
13 unanimously before you could be found guilty. You could
14 confront your accusers while remaining silent. Dispute,
15 disagree, and challenge, and contest these charges. And
16 if you chose to compel witnesses to come from which you
17 might benefit -- But you can't be required to do that
18 either because you don't have to prove you're innocent.

19 But you're giving up all of those rights. You
20 understand what you're giving up?

21 You explained---

22 DEFENDANT HUTCHINSON: Yes, sir.

23 THE COURT: ---it to him in detail, Mr. Hill?

24 MR. HILL: Yes, I did.

25 THE COURT: You understand you know what the

27.7

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned Patricia A. McDaniel, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Criminal Court for Florence County, South Carolina, and Marion County, South Carolina, held in Florence County, South Carolina, on the 5th day of December, 2002.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Patricia A. McDaniel

Court Reporter

Florence, South Carolina

July 2, 2003.

28.)

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS
06-CP-21-375

JAMES EDGAR HUTCHINSON,)
Applicant,)

-vs-

THE STATE,)
Respondent.)

TRANSCRIPT OF RECORD

October 2, 2006
Florence, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, Judge.

A P P E A R A N C E S:

CHARLES T. BROOKS III, Esquire
Attorney for the Applicant

SABRINA C. TODD, Esquire
Assistant Attorney General
Attorney for the Respondent

PATRICIA A. McDANIEL
Circuit Court Reporter

29.7

1 take place before a -- a valid guilty plea can take place.
2 You've either got to plead out to the lesser-included
3 offense; or you'll get true-billed, presented with a valid
4 true-billed indictment; or you can waive a -- a valid
5 waiver of presentment.

6 And in order for a valid waiver of presentment to
7 take place, the Clerk of Court is s'posed to witness you
8 signing your sentencing sheet or your indictment. And in
9 that place -- In that case, mine never took place.

10 Whenever I signed my sentencing sheets, it was in the jury
11 room back in the back. And the only people that was back
12 there was my lawyer and the prosecutor and my mother.

13 Q. Now, let me ask you this: James, if -- if Mr. Hill
14 had raised an issue about that or had waited for you to be
15 indicted, how -- how do you feel that that would have
16 changed what you did in your case by pleading guilty?

17 A. Well, I was under the impression that I was already
18 indicted and that they was prepared to go to trial with
19 that indictment because, on the face of the indictment, it
20 says that on December 4th the grand jurors of Florence
21 County convened on that indictment and that it appeared
22 that they was ready to go forward with that indictment;
23 and, had we went forward with that particular indictment,
24 we could have proceeded to trial; and, with his opening
25 statements, he could have requested, from the judge, a

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1 A. In the indictment---

2 Q. ---for burglary, first, was pled?

3 A. That it occurred during the nighttime.

4 Q. Okay. And---

5 A. And that was not correct.

6 Q. Okay.

7 A. Which is why -- As Mr. Hutchinson stated, he recalls
8 that I stepped over to Mr. Jepertinger; and I think
9 something like this probably happened, is that I realized
10 that the proper aggravating circumstance wasn't alleged or
11 had not been put into evidence to support a plea on this
12 particular indictment. And I'm certain I told Mr.
13 Jepertinger -- I'm sure I told Mr. Jepertinger that, for
14 the plea to be proper, the correct aggravating
15 circumstance of two or more convictions for burglary
16 and/or housebreaking or a combination of those two had to
17 exist.

18 Upon my review of the record, there were at least
19 three (3) instances, once of which -- two of which you may
20 could have argued could have been treated as one
21 sentencing event or being closely enough related in time.
22 A third was -- I think there was at least a year, maybe
23 two, in-between those. So there was significant -- There
24 -- The number of convictions were appropriate, and I
25 wanted to make sure -- Since we were doing a waiver, I

31.)

1 A. I believe so. I know that there's a disagreement
2 between us as to that particular fact. I believe I would
3 have told him the correct status of the law at that time.

4 Q. And your understanding of that is?

5 A. That there's a mandatory minimum sentence of fifteen
6 (15) years; and it can go up to life, although I've never
7 seen anybody receive a life sentence for burglary, first
8 degree, even if it was appropriate unless it was in a
9 circumstance of a death penalty case.

10 Q. Okay. The Applicant, I believe you've testified, was
11 not indicted. Tell us a little bit about the -- the
12 charges of first degree burglary in the indictment.

13 A. I believe you know as much as I do. I could --
14 Without -- To answer your question, I'd have to refer, at
15 this time, to the incident reports given to me in
16 discovery.

17 Q. Okay.

18 A. And I have no objection to those being made a part of
19 the record if you choose to do so. But I have no
20 independent recollection of the facts.

21 Q. Okay.

22 A. Except for preparing for this hearing.

23 Q. Right. Actually, what I'd like to just focus on is
24 the indictments themselves. What aggravating cir-
25 circumstance---

32)

1 years as a part of P.C.R.s.

2 Q. Uh-huh.

3 A. I -- I didn't.

4 Q. Okay.

5 A. But -- But --.

6 Q. Did you see any basis for challenging the indictment
7 for failure to obtain an indictment within ninety (90)
8 days of arrest?

9 A. No. Because we were completing a waiver at -- It was
10 a waiver, and he was pleading pursuant to a waiver. So
11 any arguments that we would have made along those lines,
12 we were forfeiting.

13 Q. And that would also -- That answer would also be
14 sufficient for it not being filed -- the indictment not
15 being filed with the clerk?

16 A. Certainly.

17 Q. And for the clerk not being present for the waiver
18 itself?

19 A. Technically, the law has changed at this point.

20 Q. Uh-huh.

21 A. Technically, he's -- may have a valid argument to
22 that point.

23 Q. Okay.

24 A. But if he's still produced -- The waiver was taken on
25 the record, and -- but---

33.7

1 Q. Is there anything else regarding your representation
2 of the applicant that you would like the court to know?

3 A. No, ma'am. Except to explain one thing I'd already
4 said earlier.

5 Q. Uh-huh.

6 A. Anything that I did in this case was to expedite, and
7 that sounds -- If you go back and read that word on a
8 record, it's going to sound really bad. But perhaps I
9 misspoke. But anything I did in this case for his plea
10 was to expedite his ability to take advantage of the plea
11 offer that had been given to him that day.

12 If we had not taken it, the indictment would have
13 been prepared and presented to the grand jury with the
14 correct aggravating circumstances at that time. And we
15 may or may not have been able to receive the same plea
16 bargain that we had on that day that he pled in December
17 during a later term of court. Probably would have, but we
18 were not going to be able to receive what he and I both
19 wanted, which was a plea offer to burglary, second.

20 Q. Okay. Do you recall at all the facts of this case?

21 A. Only from reviewing the file for the purposes of this
22 P.C.R.

23 Q. Okay. Do -- Did you reach any opinion as to the
24 strength of the State's case?

25 A. I'd only have to make an assumption, and that's not a

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

I, the undersigned Patricia A. McDaniel, Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the post-conviction relief hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, on the 2nd day of October, 2006.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Patricia A. McDaniel

Court Reporter

Florence, South Carolina

June 8, 2007.

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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
APPEAL FROM FLORENCE COUNTY

THE HONORABLE JUDGE MICHAEL NETTLES, PRECIDING JUDGE

TWELTH JUDICIAL CIRCUIT

CASE NO. 2006-CP-21-375

JAMES E. HUTCHINSON # 258003
APPELLANT,

V.

STATE OF SOUTH CAROLINA
RESPONDANT.

RULE # 59 (E)
MOTION TO ALTER OR AMEND JUDGEMENT

The Appellant above named by undersigned pro se, respectfully requests pursuant to RULE # 59 (E) S.C.R.C.P. That the foregoing issue[s] that were not ruled upon in the written order of judgement, to please be reviewed and ruled upon for the appellant to have them preserved for further review in The Supreme Court Of South Carolina on a writ of certiorari and Habeus Corpus proceedings in the higher courts, if relief were not to be granted the issue[s] in the foregoing page.

James E. Hutchinson

A - POD
TO: SELF
KENNETH A. RICHSTAD
~~SALLY W. ELLIOT~~
CHARLES T. BROOKS
CONNIE R. BELL

Dillon County Jail
1027 Old Latta Hwy
Dillon SC 29536

JAMES E. HUTCHINSON #258003
~~Max Dangel E.I. Birch~~
~~1516 Old Billiard rd,~~
~~Ridgeville, S.C. 291~~

APPELLANT

35)

DATE: 11-28-06

Counsel ineffective for failing to object to and allowing an invalid waiver of presentment to take place by not following Legislatures' intent, whereas, the "CLERK OF COURT" shall have the defendant sign a valid written waiver of presentment of indictment.

FACTS

In the instant case the "CLERK OF COURT", failed to have the defendant effect a valid waiver of presentment. Defense Counsel Stephen Hill stated on record that applicant was correct on this issue concerning the waiver and that I did have an arguable issue at the PCR-hearing. The "CLERK OF COURT" never attested a signing of an indictment or sentencing-sheets and was not present.

LAW

Statute provides that the "CLERK OF COURT" shall have the defendant sign a valid of presentment. Similarly, that upon signing the waiver of presentment, the defendant may plead guilty.

The General Assembly may provide for a valid waiver of indictment by the accused.

The Supreme Court has held compliance with these sections as mandatory, and further that they require a valid written waiver.

In the absence of a valid true-billed indictment, there must be a valid waiver of presentment for the trial court to have jurisdiction of the offense.

Oral waiver of presentment is not sufficient to bestow jurisdiction. In the absense of an indictment, a valid written waiver is required.

Although a trial transcript argueably produces a waiver, applicant never executed a valid waiver of presentment.

South Carolina Supreme Court strictly construes to the requirements' of a valid written waiver of presentment.

Penal Statutes are construed strictly against the state and in favor of the defendant.

If a Statutes language is plain and unambiguous and conveys a clear and definate meaning, there is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning.

Through an administrative error, the applicant never executed a valid waiver of indictment.

What a Legislature says in the text of a statute is considered the best evidence of the Legislatures' intent or will.

The cardinal rule of statutory construction is a court must ascertain and give effect to the intent of Legislature.

To statutes plain an ordinary meaning, the Court may not resort to subtle or forced construction in an attempt to limit or expand a statutes scope.

The act of a court with respect to a matter as to which it has no jurisdiction are void.

Failure to properly execute valid written waiver of presentment attested by the "CLERK OF COURT" renders the guilty plea invalid.

TO: The Honorable Judge Michael Gary Nettles
12th Judicial Circuit
Florence City-County Complex
180 N. Irby St, MSC-0
Florence S.C. 29501

James E. Hutchinson
JAMES E. HUTCHINSON 259003
MACDOUGAL Corr. Inst. Birch-1.
1516 OLD Gilliard RD. Dillon City Jail
Ridgeville, S.C. 29472
A-POD 1027 OIDLATA HWY
APPLICANT Dillon SC 29536
11-28-06

36)

RELIEF

Appellant points to sufficient standard of proof or on preponderance or greater weight of the evidence specific facts showing genuine issue[s] of MATERIAL FACT exists to VACATE sentence of THE HONORABLE B. HICKS HARWELL, JR., in the twelfth judicial circuit GENERAL SESSIONS OF FLORENCE COUNTY on December 5, 2002.
Ruling in recommendation for State to grant appellant motion.

CONCLUSION

Based on the foregoing reasons, appellant respectfully requests that Motion is Granted.

James E. Hutchinsas

JAMES E. HUTCHINSON # 258008

Dillon County Jail ~~Max Douglas Ct Birch-1~~
1027010 LATA HWY ~~1516, Old Gittiard. rd,~~
A-POD ~~Ridgeville, S.C. 29472~~
Dillon SC 29536

TO: SELF
KENNETH A. RICHST
SALLY W. ELLIOT
CHARLES T. BROOKS
CONNIE R. BELL

APPELLANT

PRO SE

37)

Page 7 of 10

Date: 11-28-06

Mrs. ELEANOR Duffy Cleary
July 18, 2007.

**U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)**

7001 1140 0003 0085 8679

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| Return Receipt Fee (Endorsement Required) | 1.85 |
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Sent To
 Gary Michael Nettles
 Street, Apt. No. or P.O. Box No.
 12th Judicial Circuit
 City, State, ZIP+4
 Florence, SC 29501
 PS Form 3800, January 2001 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Judge Gary Nettles
 12th Judicial Circuit
 180 N. Irby St. MSC-0
 Florence, SC 29501

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A. Signature Agent Addressee
 X Marian Lee
 B. Received by (Printed Name) C. Date of Delivery
 MARIAN LEE 11-29-06
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 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
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2. Article Number (Transfer from service label) 7001 1140 0003 0085 8679
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Exhibit #1. Receipt from sending Rule 59(E) certified to The Honorable Judge Michael Gary Nettles 12th Judicial Circuit Florenc City-County Complex 100.N. Irby St. MSC-0 Florence S.C. 29501

3807

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
)
)
 James Edgar Hutchinson, SCDC # 258003,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

2006-CP-21-375

ORDER STRIKING 59(e) MOTION
TO ALTER OR AMEND JUDGMENT

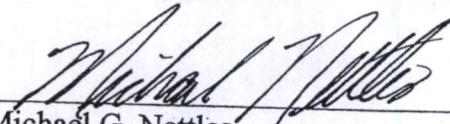
2006 DEC 28 PM 5:00
 COMMON PLEAS
 FLORENCE COUNTY, SC

FILED

PROCEDURAL HISTORY

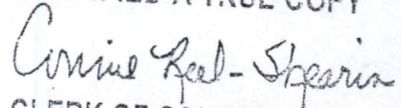
This matter comes before the Court by way of a pro se Rule 59(e) "Motion to Alter or Amend Judgment," dated October 28, 2006. This Court signed an order denying Applicant's application for post-conviction relief on November 11, 2006. This Court finds Applicant's motion is not well taken as he was represented by Charles T. Brooks, Esquire at his evidentiary hearing and thus the motion violates the rule against hybrid representation. Rule 11(a), SCRPC. Furthermore, Applicant has provided no proof that his motion has been filed with the Florence County Clerk of Court or that it has been served upon opposing counsel as required by Rule 5(a) of the South Carolina Rules of Civil Procedure. For these reasons, Applicant's pro se motion is hereby stricken.

AND IT IS SO ORDERED this 6 day of dec, 20006


 Michael G. Nettles
 Presiding Judge
 Twelfth Judicial Circuit


 _____, South Carolina.

3417

CERTIFIED A TRUE COPY

 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

"AFFIDAVIT OF MERITS"

2023-CP-21-331

INVALID PRIOR CONVICTION THAT WAS UNLAWFULLY GAINED BY INEFFECTIVE ASSISTANCE OF COUNSEL, INVOLUNTARY, UNINTELLIGENT, AND INVALID GUILTY PLEA, IN VIOLATION THE LAWS AND STATUTES THIS STATE, THUS DENYING ME DUE PROCESS PROTECTED BY THE CONSTITUTION OF SOUTH CAROLINA AND THE UNITED STATES IN THE OF CASE NO. 1989 -GS-21- 927 THAT IS STILL CAUSING PREJUDICE AND PRESISTENT LINGERING EFFECTS AFFECTING MY SUBSTANTIAL RIGHTS...

To: The Honorable Doris Poulos Ottara
Florence County Clerk of Court Suite-1100
181. North Irby Street. Florence, S.C. 29501

THE COURT OF COMMON PLEAS COUNTY OF FLORENCE SOUTH CAROLINA CASE NO.

RULES OF EVIDENCE

JUDICIAL NOTICE RULE 201. RULE 902 SELF-AUTHENTICATED EVIDENCE

S.C. RULES OF CIVIL PROCEDURE RULE

obtaining Documentary Evidence, Affirmative Evidence, any and all tangible items for the preparation on Post-Conviction Case No. ~~2023-CP-21-331~~ attack on the constitutional impropriety of his invalid prior convictions used for enhancement purposes, and the attack on his current conviction that is also considered a Constitutionally Invalid Plea, Conviction, and Sentence...

CERTIFIED A TRUE COPY

Doris Poulos Ottara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY S.C.

Mrs. Ottara,

Please find enclosed a motion & Notice of Motion pursuant to S.C.R.C.P. Rule 59 E. To alter or amend Judgment in PCR - case number 2023-CP-21-331. A copy has also been sent to Circuit Court Judge Michael G. Nettles and the Assistant Attorney General D. Russell Barlow III. In response to final order received on 9-14-2023.

Information is requested also pursuant to S.C.R.C.P. Rule 26. General Provisions Governing Discovery, Rule 34. Production of Documents (A)(B) to inspect and copy, test or sample any tangible things which constitute or contain matters within the scope of Rule 26(B), S.C.R.C.P. Rule 71.1(E). Preponderance of Evidence Standard is on the defendant to produce affirmative evidence of Invalidity of Prior Convictions. For the requested items listed above are in regards to cases that the investigation has closed and Trial has already occurred.

STATE V. PAYNE 504 SE2D (1988). THE STATE ASSUMES THAT A PRIOR CONVICTION LEGAL AS WELL AS A LAICAL PRESUMPTION THAT IT WAS JUST, STATE V. MCABEE 67 SE2D, 417 (1951). EVERY ACT OF A COURT IS PRESUMED RIGHTLY DONE 'TILL THE CONTRARY APPEARS, VORHEES V. JACKSON 35 U.S., (10 PET.) 499 (1836). THE STATE RELIES ON THE PRESUMPTION OF REGULARITY ATTACHING TO FINAL JUDGMENTS. THIS DOES NOT MEAN THAT THE PRESUMPTION OF REGULARITY MAY NEVER BE SUSPENDED. PARK V. RALEY 118 S. CT. 517 (1992). THE PRESUMPTION MAY BE SUSPENDED IF THE UNAVAILABILITY OF EVIDENCE TO SUPPORT THE DEFENDENTS ATTACK OF PRIOR CONVICTIONS IS DUE TO GOVERNMENT MISCONDUCT, BY DENYING ACCESS TO DISCOVERY AND DOCUMENTARY EVIDENCE PURSUANT TO THE RULES OF "CIVIL PROCEDURE".

RESPECTFULLY SUBMITTED ON THIS 23rd DAY OF Sept, 2023. *[Signature]*
JAMES EDGAR HUTCHINSON #258003

401)

FILED
2023 SEP 29 PM 1:21
DORIS POULOS OTTARA
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY S.C.

In and For the County Of Florence
State Of South Carolina

"Extraordinary Circumstances
affecting fundamental Rights
a Manifest Injustice"

CASE NO:

James Edgar Hutchinson

Petitioner.

2023-CP-21-331

Notice of Motion

v.

State of South Carolina
County of Florence

Plaintiff.

&
Motion to Alter or Amend
Pursuant to S.C.R.C.P. Rule 59 E.
Honorable Twelfth Judicial Circuit

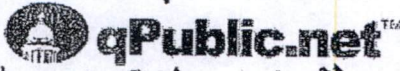
Fishburne 8325eadd5946201a11.

Now comes petitioner James E. Hutchinson acting pro se to request Honorable Court to Alter or Amend Judgment Pursuant to S.C.R.C.P. Rule 59 E., and render findings and conclusions on my claims related to jurisdictional issues that can be raised at any time. The issue that the State has misrepresented is "That I claim the Court lacked subject matter jurisdiction" is false." It is another misrepresentation on the state's part by erroneously assigning this issue to my claims and altering what the jurisdictional claims are really about. This was done to cover up police misconduct by omitting Darlington County from warrant to deceive the magistrate into thinking that Rt. 8 box 140 Florence, S.C. residence was in Florence County while it is located in Darlington County. This did cause the magistrate to exceed his jurisdiction and the Grand Jury. Also by and through ineffective assistance of course the court did lack subject matter jurisdiction to enter a valid judgment... Guilty plea involuntary and conviction void.

fundamental right
against ex post facto law

Affidavit of Merits Morgan U. Devine
2023-CP-21-331

355 Sct. 712 (1915)



Darlington County, SC

Burglary is a complete
Summerall v. State (1914)

Bowie v. Columbia
84 Sct. 1697 (1964)

Law in effect at time of offense 274 S.C.

103-1-500 West of 5th Avenue, Columbia, SC

Overview 255



Legend

- Parcels
- Roads



Venue
evidence
placed
before the
Grand Jury
and
testimony
concerning
locality
of the
offense
with held to
the
prosecution
was also
material &
Impeaching
Mackin U.
People 3
Need 222
(1985).

(1991)

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See State v. Paige 342 Sct. 844 (1986).

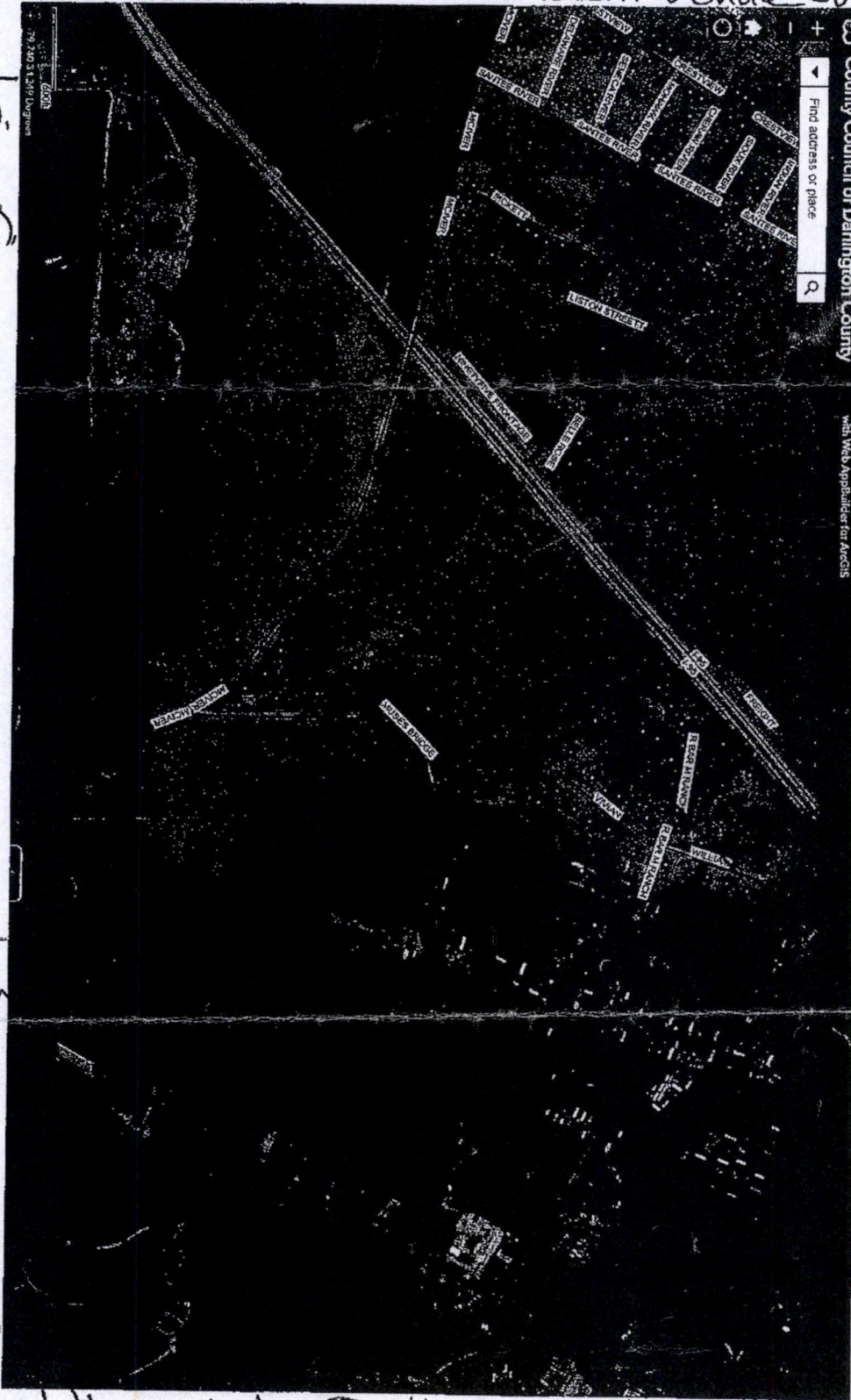
Developed by Schneider GEOSPATIAL

In 1989 the right to be tried in the
County where the offense took place was
jurisdictional. The offense occurred in 1989 and in
Darlington County. Also in Evans v. State 415 Sct. 816
(1992) went on to state: In the absence of an indictment
by a grand jury of the county where offense was
committed or a valid waiver of presentment of the
indictment the circuit court lacks jurisdiction over the
offense. State v. Gentry did not become law until 2005.
and applied retroactively to violate contract 1... 1144
42.)

Affidavit of Merits
2023-CP-21-331

Counsel's failure to inform of venue defenses, failure to present 4th Amendment violations and insufficient venue evidence was also

an
Quezada-Barrera v. State
673 Sezd. 126 (2009)
State v. Hampton
943
Nezd. 324 (2012).
Powers v. State
109 Sezd. 821 (2011).
West v. U.S. 254 F. 113 (1919).
Evidence of false swearing to a bill showing such a residence or jurisdiction amounts to perjury when facts appear showing a different venue of offense.



County Council of Darlington County
with Web Application for ArcGIS
Ineffective
Brown v. Butler
All Fzd. 938 (Sca 1949)
Arave v. Creech
113 Sezd. (1922). (1873)
Cornett v. Williams
Impeach
Evidence of venue and also to guard against fraud.
Rt. 6 box 140 in Darlington County.
State v. Mitchell
163 SE 541 (1932).

Thus, by and through ineffective assistance of counsel and an invasion of my sixth & 14th amendments depriving due process, the court did lack subject matter jurisdiction to enter a valid judgment State v. Thomas 2023

The Issues Raised on Jurisdiction, ineffective counsel... and Misconduct of Police suppress of evidence
First it was the law enforcement's disregard for the truth as to the locality of the offense by omitting Darlington County from the warrant. This area is in Darlington County but use Florence Postal addresses. This is what caused the "Genuine Misapprehension" in regard to my legal position Richter v. Minnesota 86 Sct. 119 (1965) In not knowingly waiving my fourth amendment claims or jurisdictional and Ineffective Counsel & Involuntary Guilty plea because I never knew this was Darlington County, but the Police knew and the Prosecutors did know or should have known. Prosecution's failure to turn over evidence of Police Misconduct, Material and impeaching evidence was a Brady violation that also caused guilty plea to be involuntary and obtained in violation of my due process rendering the conviction void. Also since I was tricked by the Government including the U.S. Post-Office into thinking that this area was Florence County there was no apparent defects on the face of the indictment that did contain a fatal flaw that the State used to create a false place State v. Platt 151 S. 206 (1930). The offense occurred in Darlington County, not Florence Burglary is a complete act not continuing. I was also deprived of my fundamental right to a fair trial in the County where offense took place. The grand Jury was without power to issue an indictment for offense committed wholly inside of Darlington County, Bennett v. Tulsa 162 P. 2d. 561 (1945), Nevins v. Ohio 67 Sct. 1521 (1947), Randolph 321 S. 2d. 864 (1984) cited in 121 Sct. 581 of Wallace v. N.C (2000), where indictment is alleged to be invalid on its face depriving the court's jurisdiction, a challenge can be raised at any time. Since there was no apparent defect on the face of the indictment, M. Nair v. N.C. 140 Sct. 969 (2020), State v. Richardson 146 S. 2d. 676 (1928), Counsel's ineffectiveness and oversight's in failure to inform me of my venue defense and insufficient venue evidence caused plea to be involuntary and the court did lack jurisdiction to enter valid judgment.

Affidavit of Merits

my fundamental Right to a fair trial in the county where the offense took place is in violation U.S. v. Walden 464 F.2d 1015 (1972) 4 Cal. My rights were abrogated willis v. O'Brien 84 Sct. 461 (1967), Collins v. S. C. 40 Sct. 199 (1959), Gibson v. State 514 S.2d 320 (1999). The suppressed facts: Vince Hawthorne Rt. 8, Box 140 Florence, S.C. was the former address now listed as 325, R. Bar-M. Ranch Rd. Florence, S.C. but sits on land plat with Tax Map Sheet TMS-214-00-01-015 vertical across the Interstate I-95 of the same area that the S.C. Supreme Court stated: This is not truly a multi-county district in county of Florence v. West Florence Fire District 811 S.2d 770 (2014) S.C. Code 4-23-1000.

The party moving for summary dismissal in a PCR proceeding must show that no material fact exists, Behr v. Meredith Corp, 414 N.W.2d 339 (1987) cited in Schmidt v. State 909 N.W.2d 774 (2014) and quoting Anderson v. Liberty 106 Sct 2505 (1946). The location of the residence still sits in Darlington County no matter what address the state used. The address and locality of the offense was material evidence before the Grand Jury and its true location impeaches State's claim of its prima facie jurisdiction. All other alleged evidence was circumstantial and would not tend to prove reasonable doubt. State v. Odems 5720 S.2d 484 (2011), and the venue evidence was insufficient to prove beyond a reasonable doubt standard, Lee v. State 699 S.2d 349 (2010), Jackson v. Virginia 99 Sct. 2741 (1979). I was tricked into involuntary plea by misrepresentations, an extraordinary circumstance Taylor v. Missouri 117 Sct. 1094 (1947). Based upon the evidence no rational trier of fact could conclude proof beyond reasonable doubt in a criminal trial and in a civil trial only proof beyond a reasonable doubt that Rt. 8, Box 140 Florence, S.C. Residence was in Darlington County. Anderson v. Liberty Lobby Co, 106 Sct. 2505 (1946) now the state still wants to benefit from its fraud, and suppression of evidence by adversaries that is what caused the delay in the first place 662 S.2d 614 (2004) Pelzer v. State...

Conclusion

The very gist of the case against me was the police misconduct acting as the arm of the prosecution that suppressed material and impeaching evidence from the magistrate, Prosecution, my counsel and myself which caused plea to be involuntary and a manifest Injustice by the misrepresentation that was also fraud upon the court & by counsel's ineffective and incompetent assistance. U.S. v. Fisher 711 F.3d 460 (4ca 2013), Casey v. Louisiana 121 Sct. 104 (2000), and the fraud practiced was in a manner of obtaining jurisdiction of the cause and cause for involuntary guilty plea, see Beard v. State 44 Nezd 769 (1949) and Sanders v. State 65 Ind. 314 (1862) cited in State v. Weldon 91 S. C. 29 (1912), Watkins v. State 66 Ind. 427 (1879) but it is such a fraud that deprived me of a fair trial by impartial jury in the county of the offense, surely entitles me to some relief. As this invalid prior conviction is still causing prejudice and I had no reason to have any available defenses so to attack it until the state used it for enhancement. Requesting Honorable Court to grant hearing to strike this conviction, McDuffie v. State 277 S. 2d 595 (1951) U.S. v. Lesane 40 F. 4th 191 (4ca 2022), Morgan 74 Sct. 247 (1950) and defending my rights I pray to this court for relief... For the states abuse of process and deceptive tactics in cherry-picking information, cause, fraud and delay in the first place Conley v. State 226 So 3d 354 (2017), Franks v. Delaware 99 Sct. 2674 (1978)... Also to include the state did not legally use this prior conviction as it alleged in its return motion to dismiss First, it was not even mentioned by showing a conviction date or offense date to show essential prior conviction element, the chronology to show subsequent offenses, failure to establish proof of identity, No effort was made to link me to this prior conviction. A structural error, an invited error and fundamental error... a no-evidence argument by the state's failure to proffer any proof of prior convictions was insufficient evidence (46.)

conclusion continued

No evidence argument showing cases in support. . .
There was no explanation on the States part in failure
There was no stipulation that a proffer would suffice
Court did not receive certified copy of conviction
and I was not under any obligation to object or say
anything because nothing was placed on the record
to controvert. Plus the fact that the Court misinformed
me as to the critical elements of prior convictions,
Counsel allowed the court to mislead me as to a
critical aspect of the charge by telling me I did not
have to prove anything or burden of proof as to the
prior convictions. . . Ford v. State 534 A2d 992 (1988).
State v. Payne 504 S2d 335 (1998). Linman v. N.M.
Estelle v. French 103 Sct. 2104 (1983) Jordan v. State
256 Sw3d 296 (2008). U.S. v. Jackson 364 F3d 59
2ca 2004) cited in U.S. v. Riley 21 F. Supp. 3d 54 D.Md
2014). U.S. v. Kellam 564 F3d 125 (4ca 2009). Norwood
v. W.V. 140 Sct. 1297 (2020). Hicks v. Franklin 546 F3d
279 (10ca 2009) Miller v. State 970 A2d 332 (2009)
Anderson v. State 535 S2d 449 (2000). As that guilty plea
was also involuntary. . .

Proof of Service

Served on: clerk of court
Parris Poulas Ottawa Suite-1100
141. N. Irby St, Florence S.C.
29501

manner of service
U.S. Postal Services
Evans Corr. Inst.

served by: James E. Hutchinson

Title: Petitioner

I certify that information is true. . . 258003

copy served on the
following also:
Judge Michael G. Nettles
Suite-3605 141. N. Irby St,
Florence, S.C. 29501

James E. Hutchinson
Evans, CO# F-4-B-234
610, Hwy 9-west
Bennettsville S.C.
29512

Asst. Atty General D. Russell Barlow II,
P.O. box-11549 Columbia, S.C.,
47.) 29211