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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JOCELYN NEWMAN CIRCUIT COURT JUDGE

CASE NO. #2024-001289

KEVIN SMITH #161920 Appellant,
✓

STATE OF SOUTH CAROLINA RESPONDENT,

NOTARIZED CERTIFICATE OF PROOF OF SERVICE

The petitioner - appellant (KEVIN SMITH) IN THE ABOVE-CASE NO, HEREBY
Certify that I SERVED AN ORIGINAL COPY OF THE APPELLANT'S AMENDED
petition for rehearing supporting Memorandum of Documents (exhibits)
attached, pursuant to Rule 22.1 (a) S.C.A.C.R. upon DEFENSE COUNSEL
of RECORD, IN THE ABOVE-CAPTIONED CASE NO #2024-001289 THIS
30TH DAY OF SEPTEMBER 2024 A.D. V.I.A. "CERTIFIED" U.S. MAIL

Addressed to:

D. RUSSELL BARLOW II
ASSISTANT ATTORNEY GENERAL
P.O. BOX # 11549,
COLUMBIA, SC #29211

Mr. Kendal

SWORN AND SUBSCRIBED BEFORE THIS 30 DAY OF September 2024 A.D.

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA *Sarah Oulter*

MY COMMISSION EXPIRES: 2/28/34

2024-001289

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EXHIBIT A

Mr. KEVIN SMITH #164920
 # 610 HWY #4 WEST,
 BENNETTSVILLE, S.C. #29512,

5.24.24 AD

The Honorable JEANETTE W. McBride
 Richland County Clerk of Court
 P.O. Box #2766
 Columbia, S.C. #29202-#2766

RE: KEVIN SMITH vs. STATE OF SOUTH CAROLINA
 CASE NO# 2024-CP-4001526

Dear Ms. McBride,

Enclosed please find enclosed the plaintiff's original response to
 the conditional order of dismissal; notice of motion-motion to strike
 defendant's motion to dismiss. Affidavit of KEVIN SMITH in support of
 his motion to strike defendant's motion to dismiss-notice of motion motion
 for an order of declaration finding the defendant guilty of criminal
 conspiracy, affidavit of KEVIN SMITH in support of his motion for an
 order of declaration finding defendant guilty of criminal conspiracy,
 affidavit of evidence in the above-captioned case for filing with your
 office. To include notarized certificate of proof of service
 & plaintiff's copies of same for filing & return

Sincerely;

Mr. Kevin Smith

MR. KEVIN SMITH
 Plaintiff, pro-se

cc: Honorable Jocelyn Newman
 Alan Wilson

enclosures

KEVIN SMITH #164920,
 PLAINTIFF - PRO-SE,

5. 24. 24. AD.

The Honorable JOCELYN NEWMAN,
 Fifth Circuit Chief Administrative Judge - Common Pleas
 P.O. Box #192.
 Columbia, S.C. #29202-#192.


RE: KEVIN SMITH #164920 V. STATE OF SOUTH CAROLINA;
 CASE No #2024-CP-40-01526

Dear Judge NEWMAN:

Enclosed please find the plaintiff's response to the conditional order of dismissal; plaintiff's notice of motion - motion to strike defendant's motion to dismiss; affidavit of KEVIN SMITH in support of his motion to strike defendant's motion to dismiss; plaintiff's notice of motion - motion for an order of declaration finding the defendant guilty of criminal conspiracy; affidavit of KEVIN SMITH in support of his motion for an order of declaration finding defendant guilty of criminal conspiracy; plaintiff's affidavit of evidence in the above-captioned case to include notarized certificate of proof of service.

CC: ALAN WILSON

enclosures

Sincerely

 KEVIN SMITH
 Plaintiff - pro-se

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

KEVIN SMITH #164920
PLAINTIFF,

✓
VS

STATE OF SOUTH CAROLINA,
ALAN WILSON - WARREN B. GIESE,
R. MARK LEY DENNIS JR. DEFENDANTS,

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO# 2024-CP-4002526

PLAINTIFF KEVIN SMITH
TO THE CONDITIONAL
DISMISSAL
AND AFFIDAVIT OF KEVIN SMITH
IN CORPORATING CASE AUTHORITY

RICHLAND COUNTY
CLERK OF COURT
FILED
2024 AUG - 2
COURT HOUSE
COURT REPORTER
COURT REPORTER
COURT REPORTER

DISMISSAL OF THIS CASE WOULD BE A TRAVESTY OF JUSTICE - ERROR OF LAW
BASED ON THE FOLLOWING:

1
on January 30, 2024 AD. THE PLAINTIFF (KEVIN SMITH #164920) SUBMITTED HIS
NOTICE OF MOTION AND MOTION FOR A WRIT OF HABEAS CORPUS, AND A DECLARATION THAT THE
TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO CONVICT AND SENTENCE THE
PLAINTIFF BASED UPON VOID-NULL-UNFILED INDICTMENTS NO# 95-GS-40-3705, 95-GS-40-
3706, 95-GS-40-3707, 95-GS-40-3708, 95-GS-40-4282, 96-GS-40-1156, TO THE
RICHLAND COUNTY CLERK OF COURT FOR FILING [ALONG WITH CIVIL ACTION COVER SHEET
AND SUMMONS NAMING AS DEFENDANTS STATE OF SOUTH CAROLINA, ALAN WILSON, WARREN
B. GIESE, AND R. MARK LEY DENNIS JR., AND MOTION AND AFFIDAVIT TO PROCEED IN FORMA
PAUPERIS] TO INCLUDE HIS "VERIFIED" COMPLAINT AND SUPPORTING AFFIDAVIT
WHICH WERE FILED - CLOCK STAMPED ON MARCH 8, 2024 AD.

Page 1 of 2

1 THE PLAINTIFF (KEVIN SMITH) ALSO SUPPORTS HIS RESPONSE TO THE CONDITIONAL ORDER OF DISMISSAL
WITH PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S MOTION TO DISMISS (WITH SUPPORTING AFFIDAVIT),
PLAINTIFF'S MOTION FOR AN ORDER OF DECLARATION FINDING THE DEFENDANTS GUILTY OF CRIMINAL
CONSPIRACY (SUPPORTING AFFIDAVIT), AND PLAINTIFF'S AFFIDAVIT OF EVIDENCE IN THE
ABOVE-CAPTIONED CASE NO# 2024-CP-4002526; ATTACHED TO THIS RESPONSE

on March 11, 2024, The plaintiff's Motion and Affidavit To proceed in Perma
poeris was granted and signed by The Honorable Judge Jocelyn Newman,
 and was filed with The Richland County Clerk of Court Clerk, stamped on
 March 22, 2024, to which plaintiff's Motion for a writ of Mandamus, and
 Declaration, was assigned Case No. # 2024 CP-400-1526. SEE: plaintiff's
Exhibit A attached to this response

3.

AT NO TIME Did or Has The plaintiff (KEVIN SMITH) Commenced submitted
 or filed Any application for post conviction Relief (P.C.R.) To The Richland
 County Clerk of Court on March 8, 2024, and The Court Clerk's Records are
 devoid of such filings. SEE: Courts Records in these proceedings

4.

Thus, The Defendants are trying to have this Case No. # 2024 CP-400-1526
 (Motion for a writ of Mandamus, and Declaration) Dismissed under false
 Pretense of post-conviction Relief, and a successive applications. And The
 Defendants have once again committed fraud upon The Court by defend-
 ants perjured testimony. In their attempt to undermine these proceedings.
SEE plaintiff's Exhibit A, ALSO SEE: S. CAR. CODE OF LAWS SECTION § 16-7-10 (a) (2)

PERJURY AND SUBORDINATION OF PERJURY:

"IT IS UNLAWFUL for a person to willfully
 GIVE FALSE, MISLEADING, or IN COMPLETE IN-
 FORMATION on a DOCUMENT, RECORD, REPORT or
 FORM REQUIRED BY THE LAWS OF THIS STATE"

and an attorney has an ethical duty not to perpetrate a fraud upon The
 Court by knowingly presenting perjured testimony. IN THE MATTER OF GOODWIN,

279 S.C. 294, 305 S.E.2d 578 (1983) and a trial judge is not required to sit idly by and allow perjury to be committed without bringing it to the attention of proper authorities. STATE V. STANLEY; 365 S.C. 24, 615 S.E.2d 455 (2005)

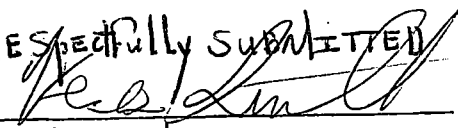
5

IT APPEARS THE DEFENDANTS ARE TRYING TO DECEIVE THE COURT V.I.A. DEFENDANTS REWORDING OF THE PLAINTIFFS MOTION FOR A WRIT OF MANDAMUS AND DECLARATORY JUDGMENT CASE NO# 2024-CP-4004526, AS A POST CONVICTION RELIEF (P.C.R.) APPLICATION WHICH THIS COURT SHOULD FIND IS NOT APPLICABLE IN THIS CASE. SEE: MILLER V. STATE; 377 S.C. 98; 659 S.E.2d 492 (2008) ("THE CLERK OF COURT SHOULD NOT CONSTRUCT A PETITION FOR A WRIT OF HABEAS CORPUS AS A PCR APPLICATION.")

HENCE, THE TRIAL JUDGE HAS A RESPONSIBILITY FOR SAFEGUARDING BOTH THE RIGHTS OF THE ACCUSED, AND THE RIGHTS OF THE PUBLIC IN THE ADMINISTRATION OF JUSTICE. STATE V. STANLEY; 365 S.C. 24, 25 (2005) HE IS PRESENT IN THE ATMOSPHERE OF THE TRIAL; AND MUST IN THE ADMINISTRATION OF JUSTICE; UPHOLD THE DIGNITY OF THE COURTS; AND WOULD BE DERELICT IN HIS DUTY IF HE DID NOT TAKE SUCH STEPS AS HE CONCEIVES IT HIS DUTY TO SEE THAT JUSTICE IS ADMINISTERED IN ACCORDANCE WITH SOUND PRINCIPLES OF LAW. STATE V. MCKAY; 89 S.C. 234; 71 S.E. 858 (1911) STATE V. CAMPBELL; 150 S.C. 449; 178 S.E. (1929)

2. PLAINTIFF RESPECTFULLY REQUEST FULL PROSECUTION OF THESE DEFENDANTS FINDING THE DEFENDANTS IN VIOLATION OF SECTION: 916-9-10 (a) (2) S.C CODE OF LAW AS A MATTER OF LAW TO INCLUDE DISBARMENT BY THIS COURT!


Wherefore Based upon Evidence and Cas Law submitted by
The plaintiff, The Conditional order of The Court should not
become final, and This Case should be allowed to proceed to
Trial for the requested Relief in the Motion for a writ of
Mandamus and Declaratory Judgment Case no# 20 24 CP-100 1526³
Respectively...

Respectfully Submitted
s/ 
KEVIN SMITH #164920
610 HWY #4 WEST
BENNETTSVILLE, S.C #29512

5.24.24 AD

I SWEAR UNDER PENALTY OF PERJURY THAT EACH STATEMENT IN
THIS RESPONSE TO THE CONDITIONAL ORDER OF DISMISSAL, AND EACH
EXHIBIT ATTACHED IS TRUE-ACCURAT-CORRECT-GENUINE AND AUTHENTIC!

SWORN AND SUBSCRIBED BEFORE ME THIS 24 DAY of May 2024 AD

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA 
MY COMMISSION EXPIRES: 2/28/34

³ BECAUSE OF DEFENDANT'S DECEIT-FRAUD UPON THE COURT [attempt to construe plaintiff's
Motion for a writ of Mandamus and Declaratory Judgment as a PCR application], a condi-
-tional order of Dismissal and Response from the plaintiff should not have been necessary...

2024-001889
 SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 Division of Inmate Services

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AGREEMENT TO DEBIT E.H. COOPER ACCOUNT

Inmate's Name: MR. KEVIN SMITH,	SCDC #: #164920,	Housing Unit: F-#3B-138	Date: 5.24.24
---	----------------------------	-----------------------------------	-------------------------

GENERAL MATERIAL

** Inmate must have the funds in his/her account to pay for the materials.

Item	Amount
Envelope	
Pen	
Paper	
Postage	
Tape	
Box	
Electronic Repair	
Other	

To be completed by
SCDC staff:

Cost	6.60
+ 4.40	11.00
9.50	4.40
4.40	13.90
9.50	4.40
4.40	13.90

Sub-Total:

LEGAL MATERIAL

** Inmate is not required to have the funds in his/her account to pay for the materials; however, his/her account must be debited for all materials s/he elects to receive.

CERT. Fico → #1 LEGAL MAIL ONLY ENVELOPE

Item	Amount	To be completed by SCDC staff:
Envelope		To office of ATTORNEY P.C.R. DIVISION, P.O. BOX #11549 COLA, SC #29211 HONORABLE MS. JEANNETTE W. MCBRIDE, RICHLAND COUNTY CLERK OF COURT, P.O. BOX #2766, COLA, SC #29202 - #2766/
Pen		
Paper		
Postage		
Other		

Sub-Total:

** Inmate may be required to have funds in his/her account. See SCDC Procedure GA-01.03(OP), "Inmate Access to the Courts," to determine if inmate may receive copies with/without funds.

#1 LEGAL MAIL ONLY ENVELOPE TO: HONORABLE JOCELYN NEWMAN
PHOTOCOPIES FIFTH CIRCUIT ADMINISTRATIVE JUDGE

COMMON PLEAS - P.O. BOX #192 - COLA, SC #29202 - #192

RE: SERVICE OF PLAINT AS RESPONSE TO CONDITIONS OF DISMISSAL

Item	Amount	To be completed by SCDC staff:
Photocopies	1.50	CASE # 2024-CV-900 - 1.50 cost

Inmate's Signature

Mailroom/Canteen Signature (Request filled by)

Date **5-24-24** **38.80**

White - Inmate
 Canary - Mailroom/Canteen Employee

2024-001289

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CASE No

2024-cp400-1526

2292 6405 0000 0990 9102

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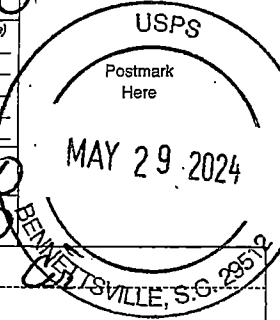
OFFICIAL USE

Certified Mail Fee \$ 4.40

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
 - Return Receipt (electronic) \$
 - Certified Mail Restricted Delivery \$
 - Adult Signature Required \$
 - Adult Signature Restricted Delivery \$

Postage \$ 6.60

Total Postage and Fees \$ 11.00



Sent To
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 City, State, ZIP+4®

ARR PDR DIVS 5th
 POB 11344
 COLA SC 29211

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2292 6405 0000 0990 9102

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
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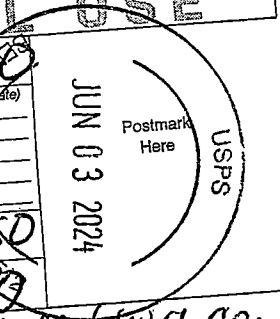
OFFICIAL USE

Certified Mail Fee \$ 4.40

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
 - Return Receipt (electronic) \$
 - Certified Mail Restricted Delivery \$
 - Adult Signature Required \$
 - Adult Signature Restricted Delivery \$

Postage \$ 9.50

Total Postage and Fees \$ 13.90



Sent To
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 City, State, ZIP+4®

SPANETTE MCBRIDE NICHOLS & CO.
 CLK OF COURT POB 2766
 COLA SC 29202

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

2292 6405 0000 0990 9102

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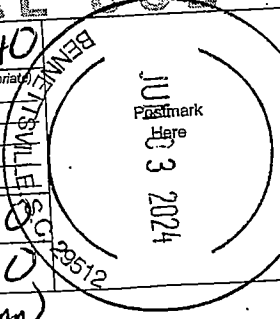
OFFICIAL USE

Certified Mail Fee \$ 4.40

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
 - Return Receipt (electronic) \$
 - Certified Mail Restricted Delivery \$
 - Adult Signature Required \$
 - Adult Signature Restricted Delivery \$

Postage \$ 9.50

Total Postage and Fees \$ 13.90



Sent To
 Street and Apt. No., or PO Box No.
 City, State, ZIP+4®

Jocelyn Newman
 POB 192, 5th Circuit Ct. Jcy
 COLA SC 29202

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated Sgt Mcrae (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF Marlboro)

AFFIDAVIT OF PERSONAL SERVICE

On this 31 day of May 2024, I served the Conditional Order of Dismissal (2024-CP-40-01526), on ^{KEVIN SWITH} Inmate SCDC Inmate #164920 by delivering personally and leaving a copy of the same at EVANS Correctional Institution. Deponent is not a party to this action.

s/ E. McRae

SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 31st day of May, 2024

Sarah Outlaw (L.S.)

Notary Public for South Carolina

My Commission Expires: 2/28/34

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal (2024-CP-40-01526) is admitted at the South Carolina Department of Corrections (Evans Correctional Institution), Bennettville, Marlboro County, SC this 31 day of May, 2024.

s/ [Signature]

Inmate
SCDC Inmate #: # 164920

#2074-001289

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EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

KEVIN SMITH #164920.
PLAINTIFF;

vs.

CASE NO. #2024-CP-400-1526

STATE OF SOUTH CAROLINA;
ALAN WILSON; WARREN B. GIESE;
R. MARKLEY DENNIS JR
DEFENDANTS

AFFIDAVIT OF PLAINTIFF:
KEVIN SMITH & NOTARIZED
CERTIFICATE OF PROOF OF
SERVICE

I KEVIN SMITH (PLAINTIFF) ¹ STATE UNDER OATH: THAT ON THE DATE OF JULY 26, 2024, I WAS SERVED A COPY OF THE Conditional order of Dismissal (2024-CP-40-1526). By Sgt. E. McRay. SEE: EXHIBIT-A. ATTACHED (AFFIDAVIT OF PERSONAL SERVICE)

2.
That I am submitting another original copy of plaintiff (KEVIN SMITH) RESPONSE TO THE Conditional order of Dismissal (#2024-CP-400-1526) TO THE Richland County Clerk of Court (JEANETTE W. MC BRIDE) FOR FILING WITH HER OFFICE ON THIS 29TH DAY OF JULY, 2024, V.I.A. "CERTIFIED MAIL" ADDRESSED TO: JEANETTE W. MC BRIDE, Richland County Clerk of Court, P.O. BOX #2766 - COLA; S.C. #29202-#2766.

[Signature]
PLAINTIFF
[Signature]
WITNESS SIGNATURE

I have read and SUBSCRIBED BEFORE ME THIS 29 DAY OF July 2024, A.D.

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA [Signature]

MY COMMISSION EXPIRES: 2/28/34

2024-001289

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Exhibit B

