

IN THE SUPREME COURT OF SOUTH CAROLINA  
In the Original Jurisdiction:

Ben Robert Stewart,

Appellate Case No:

2023-001478

V.

The State of South Carolina,

Ola A. Johnson, Esquire,

Sarah E. Shope, Esquire,

Angie Bryant, Clerk

Affidavit/Declaration  
Motion For Seizure of  
Person and Property

**RECEIVED**

OCT 18 2024

S.C. SUPREME COURT

Ben Robert Stewart 223006  
990 Wilsack Highway  
Bishopville, S.C. 29010

# Affidavit / Declaration

## Motion For Seizure of Person and Property

NOW, Regarding, Respondents; Ola A. Johnson Esq, Sarah E Shipe Esq & Angre Bryant.  
I, Ben Robert Stewart, filing pro se, pursuant to Rule 64 SCRPC,  
for seizure of person and property, and this Honorable Court has  
jurisdiction pursuant to Rule 243 SCACR and swear to penalty for perjury  
pursuant to 28. USC 1746, Regarding Appellate Case No: 2023-001478.

A. The petitioner seeks a seizure of ~~Persons~~ <sup>Person</sup>, named respondents in  
this petition for criminal offenses pursuant 8-1-80 s.c. code ann.  
in this Courts jurisdiction of South Carolina from a Post Conviction  
Relief proceeding in York County on April 17, 2023 until  
date of this instant petition see; State v. Hess, 279 S.C. 525, 309  
S.E.2d 741 (1983) prosecution for misconduct in office, or otherwise  
obstruction of justice, misconduct in office, which is its versatile  
nature, see; State v. Sharpe, 132 S.C. 236, 240, 128 S.E. 722  
(1925) upheld a misconduct indictment against the complaint  
that one instance of falsifying vouchers was listed under a single  
count. The respondents are being sought in federal Court

case; Stewart v. Johnson, et al, 0:24-CV-046XX-JFA) where extraordinary circumstances quoting Barker v. Wingo, 409 U.S. 514 (1972) for relief in the Section I, as No. 1 Barker v. Wingo standard. No. 2. holding of Tower v. Glover, 467 U.S. 914 (1984) No. 3 the Bush v. Muncy fundamental defect miscarriage of justice, prejudice show pursuant to Kerr v. Frickbmer, 757 F.2d 604 (4th Cir 1984) quoting Bush, 259 F.2d 402 (4th Cir 1981) Article III, Article III(b), No. 4. declaration, due to non sexual offense, exclude Plaintiff from registration; No 5. declaration pursuant to Main v. Thiboutot, 448 U.S. 1 (1980) standard. No 6. declaration because Barker v. Wingo violation requires and allow the federal Court to intervene under Yarger v. Harris, 401 U.S. 37 (1971), "No. 7. A injunction ordering defendants Ola A. Johnson Esquire, Sarah E. Shipe Esquire ordering both Attorneys to remove names of representing Plaintiff from Clerk record, No. 8 injunction ordering both Ola A. Johnson Esquire and Sarah E. Shipe Esquire to report misconduct and violation of professional conduct and misconduct provided in Rule 409 SCACR against Plaintiff." No. 9 Compensatory damages in the amount of \$100,000 against each defendants jointly and severally. No 10. Punitive damages in the amount of \$300,000

against each defendants jointly and served." No. 11 A jury trial on all issue triable by jury. "No. 12. Payment of Plaintiff's cost in this suit," No. 13 Any additional relief this court deem just, proper and equitable." No. 14. Plaintiff reserves the right, but request the right to amend if needed."

Pursuant to 40-5-10 S.C. code the Supreme Court is requested to determine the qualifications of the respondents, the Petitioner is seeking this Honorable Court to seize, S.C. Const Art 1 section 10, Also 17-13-140 (1) (2); 17-13-10, (a), (b) or otherwise U.S. Const 4th. 17-13-60 S.C. code ann and respondents are served process.

The State officials may be served; see; Frady v. Student Loan Servicing Center, 813 S.C 561, 443 S.E. 2d 580 (1994) (1) as servicing center was instrumentality of state it could not be sued for damages, and (2) servicing center could be made subject to injunction. The Court stated: "We agree that Frady may be able to establish a basis for

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injunctive relief and we accordingly reverse the trial court's order as to summary judgment on the injunction cause of action.

The Frady Court, the Appellant's Carl and Ad, Frady, attempted to sue in tort in South Carolina Id. Here in this instant case and suit Petitioner is filing 28 USC A 1331 (Federal Question), 42 USC A, 1983, 28 USC A 1332, 1352, 1357, 1367, 1443, 1602, 1604, and 1608, therefore, state officials could also be liable for compensation and punitive damages, and an injunction could also although one may not generally enjoin a state agency from the performance of duties imposed by rail statutes, 43A C.J.S. Injunctions Section 116 at 192 (1978) where one is threatened with irreparable damage and does not have an adequate remedy at law, she may enjoin state officials who are acting in an illegal manner. 43A C.J.S. Injunctions Section 116 at 195-96. The issue of injunctive relief

"is accordingly not resolved by a finding of sovereign immunity from tort liability"; further it was said...

"Accordingly, we reverse summary judgment as to the injunction cause of action and remand for a determination of whether agents of SLSC were acting illegally and whether Frady was irreparably damaged and without an adequate remedy at law."

The Petitioner raises the precise assertions and issues before this Honorable Court; see e.g., S.C. Const Art V, 4-5; injury and irreparable damage regarding lost of Vital witness Val Hudson due to intentional delay; Article I section 9; U.S. Const 6<sup>th</sup> Amend (Speedy remedy) *Barker v. Wingo* 409 U.S. (1972) 18 USC App 252 Article VI(b), III violations also 17-16-10 et seq; in circumstances and standing as to *Taver v. Glover*, 467 U.S. 914 (1984)

intentional misconduct against their client violating state and Federal laws and constitutions, the Bill of Rights, statutes and provisions and conspiracy with state officials to otherwise do the same. *Taver, supra*;

The state Constitution pursuant to Article V Section 4; mandates that the Supreme Court reviews disciplinary, and determine the qualifications of attorneys that practice law, the statutes; pursuant 40-5-10, et seq (Inherent Powers) and the rules pursuant to SCACR 407 professional conduct; - citing list.

~~Moreover~~, because just as the Plaintiff in *Taver v. Glaver, supra*, his indigent status, "under-class", as a poor prisoner, the Courts appear to disregard exercisement of its power when seeked by Petitioner, who is indigent and poor as well.

The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of powers admitted, see; *Kirven v. Secretary of Board of Com'rs on Grievances and*

Discipline, 271 S.C. 194, 246 S.E.2d 857 (1978) Supreme Court had exclusive jurisdiction to hear and determine the charges of Professional misconduct and the Circuit Court had no jurisdiction to issue its temporary order and rule to show cause. see (S.C. Const V, § 4.)

The cause is the Affidavit Motion To Relieve Counsel And Vacate or Remand For Default demonstrates that this Honorable Court denied Petitioner request to represent himself when an alleged conflict is brought before the Court two different occasions on August 13, 2024 and October 3, 2024 and it indeed denied Petitioners statutory rights and procedural rights in a civil matter see; 40-5-80 S.C. code ann, see; State v. Policao, 402 S.C. 547, 741 S.E.2d 774 (2013) citing Washington v. Washington, 308 S.C. 549, 419 S.E.2d 779 (1992); 71.1 (a), (e), S.C. Const Art 1 § 3; S.C. Const Art 1 § 3; U.S. Const. First Amendment; U.S. Const. Fourteenth Amendment; also; 28 USC 2254 Federal Habeas Corpus state prisoner.

Furthermore, the actions and inactions of Respondents; Ola A. Johnson; Sarah E. Shipe and Angie Bryant, in their official and in their original/personal capacity renders criminal by nature, and therefore, and demonstrated that such Court:

WHEREFORE; arrest the Respondents for violating,

1. State Constitutions, Art; 1 §3; Art 1 §9; Art 1 §14

2. Federal Constitutions, First, Fourth, Fifth, Sixth, Eighth & Fourteenth Amendment

3. State Statutory laws

4. Federal Statute laws

(a) Bill of Rights;

(b) because state officials acting in violation of federal law pursuant to Ex Parte Young, 209 U.S. 123 (1908)

(c) because exceptional circumstances exist denying speedy trial pursuant to Barker v. Wingo, 407 U.S. 514 (1972)

B.

## Seizure of Property

The Petitioner seeks a seizure of Property, pursuant to Rule 64. SCRPC; The S.C. Const. and the Fourth Amendment to the United States Constitution protects persons from unreasonable searches and seizures, see; U.C. Const IV and the attorney, Ola A. Johnson Esq. indeed received Petitioner's two C.D. disc containing discovery material regarding the criminal case in York County, and Post Conviction Relief civil case in York County. There is a issue whether Mr. Johnson gave those C.D.'s to Sarah E. Shipe Esq or not, and both attorneys are ignoring Petitioner's request for his property, which indeed are needed material to further demonstrate Petitioner's innocence and the lack of evidence; ineffectiveness of Counsel; prosecutor misconduct; professional misconduct and fruit of a poisonous tree doctrine see; *In re Jeremiah, W*, 361 S.C.620, 606 S.E.2d 766 (2004); *U.S. v. Lentz* 524 F.3d 501 (4th Cir 2008) also see; *Wong Sun v. U.S.* 371 U.S. 471 (1963)

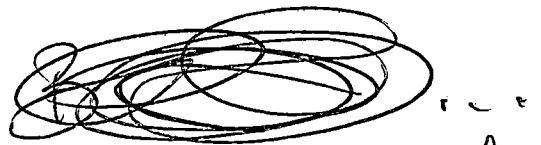
Therefore a request for seizure of property is needed.

see; *Soldal v. Cook County, Ill.*, 506 U.S. 56 (1992) held complaint alleging that deputy sheriff's alleged ("seizure" withing) meaning of fourth Amendment to state cause of action under 1983, also see; *Crownshield v. Strobel & Martin*, 2 Brev. 80, 4 S.C.L. 80 (1806) "A levy or seizure of property is necessary to secure a lien thereon under attachment, see; also; 22-3-1330 (a)

"An action may be brought by the sheriff on a note seized under this section 15-19-270 while a motion to vacate the judgment is pending see; *Nicholes v. Hill*, 42 S.C. 28, 19 S.E. 1017 (S.C. 1894)

WHEREFORE; seizure of property of Petitioner should be returned.

(a) upon order of the Supreme Court of South Carolina .



Respectfully Submitted,  
Ben Robert Stewart  
990 Wisacky Hwy  
Bishopville S.C. 29010

PROOF OF SERVICE case No: 2023-001428.

I, Ben Robert Stewart, hereby certify that I am filing  
1. Affidavit Petition for Injunctive relief and Temporary Restraining,  
2. Affidavit Pleading A Special Matter 3. Affidavit/Declaration  
Motion For Seizure of Person and Property and Summons  
to the Supreme Court of South Carolina; 1231 Gervais St,  
Columbia S.C. 29201

On this 15<sup>th</sup> of October 2024.

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Ben Robert Stewart  
990 Wisacky Hwy  
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