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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Pickens County
Honorable Daniel D. Hall, Circuit Court Judge

Vincent Missouri, #197996

Petitioner

Vs.

STATE OF SOUTH CAROLINA,

Respondent

APPELLATE CASE NO. 2024-000249

PRO-SE JOHNSON'S PETITION FOR WRIT OF CERTIORARI

By: Vincent Missouri, pro-se
Kershaw Corr. Institution
4848 Goldmine Hwy.
Kershaw, S.C. 29067

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STATEMENT OF THE CASE

This matter is being respectfully brought to the attention of this Honorable South Carolina Supreme Court, exhausting to the highest State Court, the Constitutional and Statutory violations associated with Petitioner's conviction and sentences.

From the 2014 direct appeal involving the indentical parties, State v. Vincent Missouri, Petitioner finds himself yet again, having to fend for himself after being appointed counsel from the Office of Appellate Defense, for the State of South Carolina. Which appears to be a normal occurrence, the intentional withholding and/or suppression of material claims for appeal, omitted documents and/or exhibits submitted to the court but missing within the appendix; and the 59(e) and 60(b), clearly outlining concerns with the "proposed order's" failure to address several claims brought forth during the March 7, 2023 PCR hearing before Judge Hall, yet and again. Ms Jessica M. Sexon, in this "catastrophic" failure to communicate with the client as required by SCACR, 407, 1.4(a). Filed a unacceptable Johnson's Brief which arrived at the Kershaw Correctional Institution, addressed to Petitioner. Which also accompanied the "Appendix of Record", that for the first time, Petitioner could comb through the record and communicate with counsel concerning the appeal.

However, since the appeal brief has already been submitted without communication with the client. Which creates a appearance of a "motive to establish conflicting interest". As well as a clear denial of well established due process concerns with the appeal. As a matter of first concern, "Petitioner respectfully request that the Johnson Brief filed by Ms. Jessica M. Sexon, hereby is rejected for the causes so stated herein. But allow Ms. Sexon to withdraw from the case as there is obviously an appearance she retains a existing conflict of interest.

1. WHETHER THE JOHNSON BRIEF MUST BE REJECTED AS A MATTER OF LAW?

In Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), rather than follow the decision associated with Pennsylvania v. Finley, 481 U.S. 551, 107 S. Ct. 1990 (1987), this Court would adhere to the Anders procedures which would permit a petitioner to address the Court within a pro-se brief, after appointed counsel determined no meritorious claims existed for appeal.

Petitioner on direct appeal had the Anders brief filed in his case by Ms. Tiffany Butler, now known as Ms. Tiffany Holt, which appeared during the March 7, 2023 PCR hearing for this case. The Court of Appeals, based on Petitioner's pro-se brief, rejected the anders brief and required briefing on the issue of whether Missouri was denied the right to represent himself five months before trial. See State v. Missouri, 2017 WL 4838465 (2017).

The first reason that as a matter of law, the Johnson Brief must be rejected is clearly outlined in this Court's Pruitt v. State, 310 S.C. 254, 423 S.E. 2nd 127 (1992) and Reese v. State, 425 S.C. 108, 820 S.E.2d 376 (2018) decisions. Which stated the following:

> "We take this opportunity to express our concern with the increasing number of orders in PCR proceedings that fail to address the merits of the issues raised by the appellant. Not only does this deprive the parties of rulings on the issues raised, but it makes review by the appellate court more difficult and ultimately increases the work load (sic) of all involved where, as in this case, a new hearing is required to secure the rulings which should have been made initially. Counsel preparing proposed orders should be meticulous in doing so, opposing counsel should call any omissions to the attention of the PCR judge prior to issuance of the order, and the PCR judge should carefully review the order prior to signing it. Even after an order is filed, counsel has an obligation to review the order and file a Rule 59 (e), SCRCP, motion to alter or amend if the order fails to set forth the findings and the reasons for those findings as required by §17-27-80 and Rule 52(a), SCRCP".

In otherwords, the PCR's proposed order is generated by a entity that harbors and will continue to harbor a obvious "conflict of interest". The system of criminal justice is known as a place where adversarial testing is being exercised. Whereby, should any court expect that a proposed order will be constructed neuturally or detached? But rather, should expect such will be constructed with that party's personal interest in mind.

Judge Daniel Hall, first "DENIED", without reason. Which according to the rules of civil procedure, "placed the buggy before the horse". See March 21, 2023 denial by Judge Hall, sent to attorney Thurmond Brooker, for the Petitioner, and Mr. Taylor Smith, for the State.

Within this "DENIAL" , there was no adherence to §17-27-80's finding of fact and conclusions of law. But rather, a one-sided request for the State to "clairvoyantly look into the mind of the court", and basically construct a "proposed order". When after a decision had been already asserted, "there was nothing to propose". The 3/21/2023 order read as follows:

> "After careful consideration, Plaintiff/Applicant's Application for Post Conviction Relief is Denied". Followed by instructing the AG's Office to prepare a proposed order reflecting the same. 3/21/2023.

The State went on to construct a "first proposed order", in which was objected to by the Petitioner. It intentionally omitted the concerns with the indictment being a fraud. It failed to address that there was no such thing as a grand jury as certified with the November 12, 2013 fraudulent document generated from Pickens County, according to S.C. Constitution, at Article V., Section 22. Or for that matter Title §14-7-1510 and 14-7-1540.

The State then submitted a subsequent proposed order which mirrored the

intial proposed order. And again, the second order was objected to which was again, proposed by the State.

These objections to the proposed orders are missing from the appendix. Next, on November 21, 2023, Judge Daniel D. Hall, signed the proposed order, totally totally failing to induce "service of such order". On page 457 of the instant Appendix, attorney Thurmond Brooker, filed the 59(e) and 60(b) motion to alter and/or amend, certifying "he was not made aware the court had entered any order in the case, until December 19, 2023".

Even where the Rules require all final judgments to be forwarded to all parties. The institutional mailroom will attest, "there had not been any legalmail associated with the timeframe of the denial, from the Clerk of Court", addressed to Petitioner here at the Kershaw Correctional Institution. As inmates must sign for "all legalmail".

<u>SECOND REASON FOR REJECTING THE JOHNSON BRIEF</u>

Reese and Pruitt is but the initial reason for rejecting the Johnson Brief filed in this case but moreover, the "contents of the intentional omitted claims in this case is the lack of subject-matter-jurisdiction", to have tried this case on May 19, 2014. When in fact as well as form, Petitioner expressed to a colleague of this Court (Judge Letitia L. Verdin), on December 19, 2013, "there was no true-billed indictment in this case, nor had the facts been presented to a grand jury". See Tr. tr. p. 8, lines 23-25; p. 9, lines 1-9.

Rather than halt the proceedings to assure jurisdiction was established, the court simly rebuffed; "that sounds like something we could remedy pretty easily". See Tr. tr. p. 9, lines 8-9.

As a matter of law for rejecting the Jonhson Brief filed in this case. Not only is this a jurisdictional question which may be raised at any time. But it was raised, preserved by 59(e). And even if it had not been, this Court is required to rule on jurisdictional questions. See Anderson v. State, 338 S.C. 629, 527 S.E.2d 398 (Ct. App. 2000)(Conviction obtained without the presentment of a grand jury will be voided on appeal. Const. Art. 1 §11)

The State's proposed order for good reason omitted responding to this issue. The 59(e) called the omission to its attention. Once the State forwarded what it thought was proof of a authorized court of general sessions, on November 13, 2013. But instead, the evidence sent by the State, from Pickens County affirmed exactly what Petitioner expressed to Judge Verdin, on December 19, 2012, "that his cases were not preseted to a grand jury". At least not one recognized under S.C. Constitution, or Statutory laws.

Moreover, there is two 59(e)'s one of which is omitted from the Appendix, one is included. Nevertheless, the entire order wholly fails to address either concern with the grand jury being proper in order to have indicted the Petitioner, or carry the cases to trial.

Additionally, since October 23, 2002. This Court has forewarned solicitors of this state which were playing fast and lose with the process of indictments, based on public criticism, and claims of rubber-stamping the process. That Rule 3(c) reqires solicitors to file indictments with the Clerk of Courts. That some are retaining indictments which have been returned by the grand jury until the proceedings are concluded. That practice lead to confusion and problems. That effective the date of this order, all original indictments which have been returned by the grand jury shall be immediately filed with the Clerk of Courts.

Thus, the errors committed with respect to the grand jury indictments are not a new phenomenon in this State. Yet, appellate counsel elected not to brief a direct subject-matter-jurisdictional issue, preserved in the record of the PCR Court, but never any finding of fact and conclusion of law on the claim.

THIRD REASON FOR REJECTING THE JOHNSON BRIEF

The 59(e) also clearly admonished Judge Hall, that the order failed to rule on the claims pursuant to §14-5-490(2) and 14-9-170 (2012). Whereas, November 12, 2013, was not a authorized term of the general sessions court. See Tr. tr. p. 459, 460. This claim was properly preserved by 59(e), as required by Pruitt and Reese. The PCR Court extended an additional ten(10) days for the State, through Mr. Taylor Smith, to come up with verification a special session was applied for and convened under statutory authorization, and "filed with the Pickens County Clerk of Court". In which was not done within the 10-days, nor any explanation or ruling in the proposed order.

How could Ms. Jessica M. Sexon miss these pertinent claims? Unimaginable. Petitioner would suggest its based on Judge Hall's failure to admonish the claims when denying the 59(e), with a single sentence, maintaining clearly, the refusal to abide by §17-27-80, and rule 52(a)'s "finding of facts and conclusions of law". Requiring as a matter of law, "remanding this case with instructions to the lower court to rule on all claims raised in the PCR hearing and subsequent record established "after the court extended 10 additional days to produce other evidence". See 59(e)'s argument 459, 460.

FOURTH REASON FOR REJECTING THE JOHNSON BRIEF

Here, the 59(e) preserved the claim that counsel(s), both the trial and appellate attorney, Mr. David Alexander, were ineffective in failing to argue "with precedent", Judge Barber had no authority on the first day of trial, "to grant a motion Judge Verdin had previously denied on December 19, 2013". See Sellers v. Nichols, 432 S.C. 101, 114, 851 S.E.2d 54, 60 (2020).

In otherwords, "the prior order of one circuit judge may not be modified by the subsequent order of another circuit judge, except in cases where the right to do so has been reserved to the succeeding judge, when it is allowed by rule or statute, or when the subsequent order does not substantially affect the ruling or decision represented by the previous order". Here, Judge Barber's subsequent ruling sought to reset 'the mode of trial'. A substantial change from the previous order by Judge Verdin.

Moreover, when questioned by PCR attorney Mr. Brooker; "was Mr. Alexander aware of any law to the contrary of the above rule. See Tr. tr. p. 396, lines 12-16.

> Okay. When you say that you don't believe that general principle, that one circuit court judge can't overrule another, when you said you don't believe that would apply in a Faretta situation, do you have any caselaw that says that general rule doesn't apply in a Faretta situation?

Answer: No. I haven't seen a case specifically addressing that. I've seen defendant's will serve their right of self-representation right at the eve of trial, which isn't exactly the same. That leaves me to believe that Faretta may be a special circumstance also. If the conditions change, a judge can revisit the earlier order.

Thus, Mr. Alexander candidly admitted the Petitioner discussed the above issue with him, asked him to raise it on appeal. Although there existed no caselaw for his belief, but centuries of supporting caselaw for Petitioner's

request to include the issue. Could it not be argued under ineffective assistance of counsel from the PCR court decision as a meritorious claim for review, especially when pointing out the PCR court failed to address this claim pursuant to §17-27-80, and 52(a), of the SCRCP?

See Ex Parte State, 263 S.C. 363, 210 S.E.2d 600, 602 (1974) ("We are next called upon to decide whether one judge within the court has the authority to reverse the decision of another judge of the same court upon the same facts). Ex Parte State held "such cannot be done, especially where the previous order is a 'denial'". Enoree Baptist Church v. Fletcher, 287 S.C. 602, 604, 340 S.E. 2nd 546, 547 (1986)("One Circuit Court Judge does not have the authority to set aside the order of another. Circuit Court Rule 60; Cook v. Taylor, 272 S.C. 536, 252 S.E.2d 923 (1979) The effect of Judge Pyle's order was to reverse the earlier substantive order, clearly an impermissible act"). And in Cook v. Taylor, 272 S.C. 536 (1979)("The order of Judge Moore amounted to a review by him of the order of another circuit court judge (Judge Robinson) and a reversal of the order of Judge Robinson "because Judge Moore disagreed as to the proper mode of trial. Judge Moore did not have the power to set aside the order of his predecessor").

In Cook v. Taylor above, Judge Moore disagreed with Judge Robinson's decision "as to the proper **'mode of trial'**. In Haygood v. Sommerville, 362 S.C. 191, 607 S.E.2d 707 (S.C. 2005). Missouri's Sixth Amendment right to proceed pro-se, denied by Judge Verdin, resulted in denying a particular **'mode of trial'** as to Missouri's request to represent himself. Contrary to what Mr. David Alexander's personal beliefs were concerning a Faretta circumstance. Law has it; "Judge Barber's disagreement with Judge Verdin's determination of the proper **'mode in which Missouri's trial would proceed'**, was and is a "impermis-

sible act". And could not, as a matter of law, inter alia, be used to deny the direct appeal as was done in this case.

While on the subject. The Petitioner also claimed ineffective assistance of appeal counsel Ms. Tiffany Butler (now Ms. Holt). The Court of Appeals had to have agreed, "that the Anders brief for direct review was inadequate". On that basis premised on Petitioner's pro-se brief, formal briefing was ordered. During the March 7, 2023 PCR hearing (Tr. tr. p. 405, lines 16-22), reads as follows:

Ques: "What was your understanding of the law at the time? Did you think that Judge Barber could've allowed Mr. Missouri to proceed pro-se? Dir. By State.

Answ: "Just based on my understanding of the issues, I don't believe that a judge could usually reverse another judge. However, I considered that as a potential issue to brief. I don't know. Probably not.

The above clearly and irrefutably satisfies both Strickland prongs by Ms. Holt's own in camera testimony during the March 7, 2023 PCR hearing before Judge Hall. She admitted she was aware one circuit judge did not have the authority to reverse another circuit judge. And gave no satisfactory reason for not briefing the issue for appeal. The prejudice prong hangs within the court of appeal's decision, affirming Missouri's conviction and sentence, based on judge Barber's impermissible act. In which Judge Barber "did not have the authority to do, and the court of appeals "erred in considering a five (5) month later circumstance", when the "structural error was fully complete December 19, 2013", when Judge verdin wrongly denied the right of self-representation.

Angain, citing Pruitt and Reese, the PCR Court failed to make any finding of fact or conclusion of law, pursuant to SCRCP 52(a), and §17-27-80, within the order denying PCR relief.

AS A FIFTH REASON TO REJECT THE JOHNSON BRIEF

Here, on page 462 of the Appendix in the instant case at bar. The 59(e), although unanswered by the Judge's order, preserved the claim of the denial of due process by the inordinate delay between the time Petitioner's Sixth Amendment right was initially invoked, as well as multiple times thereafter, and the December 19, 2013 Faretta hearing, when such request was finally heard.

On June 26, 2012, just eight (8) days after Petitioner's arrest in the Pickens case. He filed a motion to represent himself. Seeing the County Public Defender's Office claimed "conflict in interest". At the PCR hearing, counsel Brooker questioned Aaron Angell concerning "why he did not timely move to withdraw representation when he was well aware of the motion to self represent. See Tr. tr. p. 366, lines 4-22. That as well, "goes to the heart of ineffective assistance of counsel". See also Tr. tr. p. 367, lines 1-12. To which the PCR Judge "failed to make any finding of fact or conclusions of law" with regards to these claims. Thus, the record entered before the court was a request on June 25, 2012. Filed with the Clerk's Office June 26, 2012, and not heard until December 19, 2013. Certainly, an objective court on post conviction could have found for the applicant. As opposed to ignoring the claim totally.

AS A SIXTH REASON TO REJECT THE JOHNSON BRIEF

Here, at Tr. tr. p. 449 (9 of 16) of the PCR court's order. As described under federal law, see 28 U.S.C. §2254(d)(2). The court rendered its decision based on a unreasonable determination of the facts. Petitioner obtained "a written five (5) year plea offer from George Campbell on February 13, 2013, be-

fore being appointed counsel in the Greenville cases. Such plea offer "was the initial plea offer which was constructed January 24, 2013". At that time, the Pickens solicitor, Doug Richardson, had never indicated any offer. It wasn't until defense counsel Aaron Angell alerted Doug Richardson, of Pickens, of solicitor George Campbell's global plea offer. Did Doug Richardson, feel superior authority, and subsequently orchestrated the rejection of the five year written offer, combined with a fifteen year counter-offer.

Pursuant to SCRCP, 71.1(e). The Applicant bears the burden of proof by a preponderance of the evidence. In so doing, Tr. tr. p. 434 and 435, clearly proves and establishes by a preponderance of the evidence, even with bank robbery appearing at the bottom, "at least by February 19, 2013", Solicitor George Campbell in fact, extended a five year plea offer.

The February 19, 2013 "follow-up letter", was forwarded to Solicitor Doug Richardson, that took the stand under oath during the March 7, 2023 PCR hearing, with a most incredible recollection of the facts.

However, that fails to minimize the evidence introduced which directly contradicts the order stating; "Petitioner was under the impression there was a five year offer". When in fact, Petitioner produced the written, tangible evidence of the five year offer. Simply because another solicitor within the same judicial circuit disagreed with the "initial offer made by another solicitor", of that circuit, fails to undermind Petitioner's claim.

In <u>Sprouse v. State</u>, 355 S.C. 335, 585 S.E.2d 278 (S.C. 2003), Solicitor Doug Richardson of Pickens, was actually bound by the plea offer made by George Campbell, which was based on Missouri "coming clean" with other criminal acts (e.g. the Simpsonville bank robbery) that had not been charged until after the Greenville meeting with George Campbell. And is the bases of the favorable plea offer. See <u>Custodio v. State</u>, 373 S.C. 4, 644 S.E.2d 36 (S.C. 2007).

(The Supreme Court , Moore, J., held that plea counsel was ineffective in failing to have plea agreement between defendant and solicitor's office enforced based on the detrimental reliance exception).

The proof here, under 71.1(e), was the Greenville County Detention Center transport records, that clearly demonstrated Petitioner was transported to Simpsonville, South Carolina, and arraigned for a bank robbery. The one in which was detrimentally relied upon by the Petitioner. See Tr. tr. p. 424, lines 1-19.

When questioned by PCR attorney Mr. Brooker, relating to the specifics of the information Petitioner provided to Mr. Campbell. He explained, "without denying", that such could have occurred, by the decade length of time gone by, he simply couldn't recall. Again, the incredible testimony of hypothetics, could not be seriously applied. Only the facts, evidence and circumstances of this case should the PCR court been concerned with.

And again, like the above facts and evidence. The PCR Court's Order failed to rule on whether counsel was ineffective for failing to move under detrimental reliance, for the five year plea offer.

ARGUMENT AND CONCLUSION

Pursuant to 71.1(e). This Petitioner testified to numerous incidents associated with his case, all of which were the "exact truth of the matters". Being a pro-se litigant which the courts of South Carolina is familiar with. Although not proud of the many encounters with the courts. Vincent Missouri, has not one single time, given "false testimony", nor ever accused of doign so when on the witness stand.

December 19, 2013, Petitioner had finally made it before the court after waiting since June 25, 2012, to be heard on a motion to represent himself. The truthfulness, even when such truth hurts, was again proven to the federal judge by way of evidence introduced in case (8:23-cv-01990-MGL, awarding Petitioner $300,000.00), for a sexual assault on Petitioner while serving a sentence which is being challenged.

For a inmate to accuse a staff member, then have the South Carolina Department of Corrections, "to validate the inmate's side of the accusations". Clearly demonstrates the credibility and the moral duty by this Petitioner, that in addressisng any court, "the obligation to be absolutely truthful". That being said. From PCR Tr. tr. pgs. 284 to 346, coupled with exhibits of evidence, some of which omitted here. Petitioner completely sustained all claims raised.

Paying special attention to page 346, lines 7-10. One should consider the testimony of the Petitioner, and if the State felt such testimony was misleading, not believable, or inaccurate. The PCR Court extended to the State, a fair opportunity to "cross examine".

Mr. Brooker: No further questions, Your Honor

The Court : Mr. Smith.

Mr. Smith : No questions.

The Court : Thank you. You may step down, Mr. Missouri.

a. There was no counter evidence that questioned whether Missouri filed a motion to represent himself, June 25, 2012. See Tr. tr. p. 290-291. The facts and record clearly depicts the filing as well "as the acceptance by the Clerk of Court for Pickens County". However, sending this request to Doug Richardson, the solicitor's office. The motion was absolutely ignored, and the process of

back and not once, for over 18-months, moved to withdraw from unwanted representation. This is a catastrophic due process violation of one of the most fundamental rights of a criminal defendant.

This issus came before this Court in May of 2019. Yet, the facts surrounding this case was not before this Court. See State v. Vincent Missouri, (2019 WL 2184843). Where certiorari was initially granted, but instead, affirmed the Court of Appeals decision. See State v. Vincent Missouri, (2017 WL 4838465)(We find Missouri was initially denied the right to represent himself at a hearing five months before trial; however, Missouri abandoned or waived the right via his subsequent conduct on the day his trial began).

On Tr. tr. p. 24, lines 5-13, in a colloquy between the judge and the Petitioner, the following occurs:

> Your Honor, could I say one other thing before we go into that? To put on the record, I had also, eight days after this incident occurred in Pickens County, I also filed a motion prior to Mr. Angell being appointed to my case, to actually represent this situation myself. I had a motion that was filed with the Pickens County Clerk asking for self-representation so that we don't get into a situation whereas a motion that should have been filed is not.

On due process grounds, the Petitioner, because "he was reminding the trial court of the extent of the delay of convening the Faretta hearing. Noting such self-representation was already asked and answered by Judge Verdin on December 19, 2013. Petitioner was seeking to dismiss the case on Malicious Prosecutorial grounds. See Tr. tr. p. 22, lines 16-25; p. 23, lines

The mere failure to communicate with a client by trial and/or appeal counsel is a legal break-down of the attorney client relationship. See Matter of Brannon, 428 S.C. 633, 837 S.E.2d 488 (S.C. 2019); Matter of McGurk, 419 S.C. 588, 799 S.E.2d 910 (S.C. 2017); In re Houston, 415 S.C. 594, 784 S.E.2d 238

appointing counsel instead ensued. See Tr. tr. p. 291, lines 12-25.

Q: Did the Clerk's office respond back to you by letter dated June, 26, 2012? I can show yoy the letter.

A: Yeah, could you. I would like to recall my memory to that note.

Q: Yes, you want me to read it?

Q: Yes.

A: What she says is just a sentence.

Q: In that letter, did the court acknowledge you letter of self-representation on June 25, 2012?

A: Yes, it syas: I am in receipt of your letter/motion dated June 25, 2012.
It goes on to say: I will forward a copy of your letter/motion to the Solicitor's Office. I will place you letters in the court's file.

Tr. tr. p. 292.

Q: At that particular period of time, were you under the impression that the court had acknowledged you as representing yourself?

After the PCR Judge caught up with the exhibits in the case. It was confirmed, "the court did acknowledge Petitioner's June 25, 2012, request to represent himself. Which leads us to the "common-sense dictum in Raulerson v. Wainwright, 469 U.S. 966, 105 S. Ct. 366 (1984)(The foregoing makes clear, then, "that if a trial court judge holds a Faretta hearing when the accused clearly asserts his desire to proceed pro-se, the result will not do harm to the right to counsel. At the same time, the failure to hold a Faretta inquiry at this time will do injury to the right recognized in Faretta").

Considering the above analysis, "nothing could be more true or damaging to the Petitioner, than the State's clear refusal in Pickens County, after acknowledging, to convene a timely Faretta hearing". Coupled with the certainty, "Petitioner harbored "good reason" to not want appointed counsel, that just sat

(S.C. 2016).

We cannot seriously conclude that the Johnson Brief was submitted in good faith. When it arrived the same time along with the Appendix for the appeal, to which was Appellant's "first time" having reviewed any of the record on appeal.

Finally, similar to Anderson v. State, 338 S.C. 629, 527 S.E.2d 238 (2000), that case was required to be remanded to determine whether the lower court retained "subject-matter-jurisdiction", where the indictment bore no idication whether the grand jury had 'true-billed' the allegations of murder or not. Petitioner laid the foundation for such a claim on December 19, 2013.

Trial counsel neglected such jurisdictional challenge, and was brought before the PCR Court, as a result of such intentional failure. See March 7, 2023 hearing. See Tr. tr. p. 370, lines 10-20.

Trial counsel falsely asserts "he'd only heard Petitioner raise the concerns with the invalidity of the indictment on March 7, 2023, during direct examination of the Petitioner". However, on the first day of trial, May 19, 2014, Trial Counsel conveys Petitioner wanted to raise some issues with the indictment. See Tr. tr. p. 41, lines 22-25; p. 42, lines 1-4. Although trial counsel omitted all the concerns Petitioner had with the indictment. Regardless, with Petitioner being deprived "the right to represent himself and argue his take on the indictment violations". This Court is aksed, under the circumstances here to conclude those concerns were raised. Or, pursuant to State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (Ct. App. 1998)("Subject matter jurisdiction may be raised at any time").

South Carolina Constitution, at Artice I., Section 11, confirms "that no person may beheld to answer for any crime unless on a presentment or indictment of a grand jury". On a "Certified copy by the grand jury Foreman **'Steven Richardson'**, signed by Clerk of Court for Pickens County, Harold P. Welborn,

Jr., on November 12, 2013. That a illegally impaneled group of citizens indicted the Petitioner on that date. Only because Petitioner expressed "he was actually not indicted to Judge Verdin on 12/19/2013". Attempting to fashion this "easy remedy as described by the court on 12/19/2013". The compiling of fraudulent documents by persons not qualified in law, resulted in " a group of people if at all". Which the S.C. Constitution fail to recognize except that it be 18 members. By the use or the word **SHALL** within the Constitutional Article.

Thus, when Petitioner's case went to trial on May 19, 2014. The Court of General Sessions lacked subject matter jurisdiction, because there had never been an official grand jury to bound the case for trial. That being said, no way a Johnson brief should have been filed. Especially where the confirming evidence on most omitted claims "within the proposed order", is missing from the Appendix in this case.

Mr. Taylor Smith, of the S.C. Attorney General's Office, forwarded the documents. And the PCR case went silent for a inordinate delay in time. Then a order was signed, "failing to service all parties as required by the Rules of Civil Procedure".

Wherefore, based on these clear reasons, which Petitioner can go on and on. The errors in this case seems to get more and more egriegious for every avenue exercised as a matter of right. Thus, the Petitioner respectfully ask that this Court grant the por-se request to deny the Johnson brief, and order briefing on the merits. Or, remand the case to the PCR court for findings and conclusion of law based on "all claims raised". Or, simply vacate the conviction and sentences, where the Petitioner has satisfied even the "15" year sentence Pickens said it counter-offerd up from the five years, in the interest of justice, and to put this case at rest. And for any additional reasons this

Honorable Court deems just and proper.

Respectfully Submitted,

/s/ Vincent Missouri

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I, Vinient Missouri do hereby certify that this pro-se brief was placed in the mail at Kershaw Correctional Institution on January 6, 2025. Well within the 45 days allowed by law. with adequate postage attached thereto.

cc: "Copy of Grand Jury Document enclosed."

Vincent Missouri

cc: filed
1/6/2025

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