

EXHIBIT A

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KEVIN SMITH #164920,

610 Hwy #9 West,

BENNETTSVILLE, S.C.

#29512

6.3.24 AD

THE HONORABLE JEANETTE W. MCBRIDE,

RICHLAND COUNTY CLERK OF COURT,

P.O. BOX #2766,

COLUMBIA, S.C. #29202 #2766

RE: KEVIN SMITH #164920 V. STATE OF SOUTH CAROLINA
CASE No #2017CP4004208

DEAR MS. MCBRIDE,

Enclosed please find the plaintiff (KEVIN SMITH) response & supporting affidavit to the conditional order of dismissal & plaintiff's affidavit of evidence - exhibits in support of plaintiff's response to the conditional order of dismissal; to include the plaintiff's notarized "Certificate of proof of service, verifying service of same upon the defendant's on the above date via certified mail. To include plaintiff's copy for filing & return.

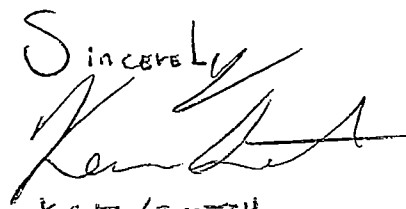
C.C

HONORABLE

Jocelyn NEWMAN

ALAN WILSON

ENCLOSURES

Sincerely


KEVIN SMITH

PLAINTIFF - PRO. SE

(3)

KEVIN SMITH #164920

PLAINTIFF PRO-SE

6.3.2024 AD

THE HONORABLE JOCELYN NEWMAN

FIFTH CIRCUIT CHIEF ADMINISTRATIVE JUDGE - COMUD ON PLEAS
P.O. BOX # 192,

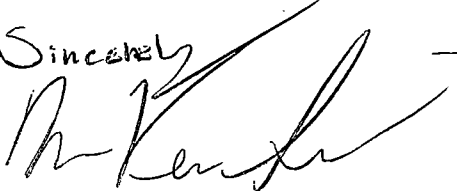
COLUMBIA, S.C. #29202, #192.

RE: KEVIN SMITH #164920 V. STATE OF SOUTH CAROLINA
CASE NO # 2019-CP-700-1206

DEAR JUDGE NEWMAN

Enclosed please find THE PLAINTIFF (KEVIN SMITH) RESPONSE & supporting affidavit to the conditional order of dismissal & plaintiff's affidavit of evidence - exhibits in support of plaintiff's response to the conditional order of dismissal; to include the plaintiff's notarized "Certificate" of proof of service; verifying service of same upon the defendant's on the above date via "Certified" mail.

C.C
ALAN WILSON

Sincerely


KEVIN SMITH
PLAINTIFF PRO-SE

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

KEVIN SMITH #164920,

✓
vs.

PLAINTIFF;

STATE OF SOUTH CAROLINA,

DEFENDANT;

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO. 2019-CP-400-4208

PLAINTIFF (KEVIN SMITH) RESPONSE
TO THE CONDITIONAL ORDER OF DISMISSAL
& SUPPORTING AFFIDAVIT

ISSUE 1. DISMISSAL OF THIS CASE PURSUANT TO THE POST-CONVICTION
PROCEDURES ACT, S. CODE ANN. § 17-27-10, AND ALL APPLICABLE CODES
ATTACHED TO THIS ACT. WOULD BE A CLEAR ERROR OF LAW

SUPPORTING FACTS - CASE LAW

THE PLAINTIFF FILED HIS VERIFIED COMPLAINT (NOTICE OF MOTION - MOTION
FOR A VACATION & EXPUNGEMENT OF SENTENCE) PURSUANT TO RULE 60(b)
(3)(4)(5) S.C.R. CIV. PROCEDURES, ACCOMPANIED WITH SUMMONS WITH
THE RICHLAND COUNTY CLERK OF COURT ON JULY 30, 2019, TO WHICH THE
COMPLAINT WAS ASSIGNED CASE NO. #2019-CP-400-4208¹. THE PLAINTIFF
ALSO FILED AN AFFIDAVIT & "CERTIFICATE" OF PROOF OF SERVICE OF
HIS FILING OF THE SUMMONS & COMPLAINT (MOTION) WITH THE CLERK
OF COURT WHICH WAS FILED JULY 30, 2019. (NOTARIZED - SWORN UNDER OATH)

¹ AT NO TIME DID THE PLAINTIFF SUBMIT A p.c.r. APPLICATION TO THE RICHLAND COUNTY COURT
OF COMMON PLEAS - CLERK'S OFFICE FOR FILING ON JULY 30, 2019, AND THE COURT'S RECORDS
ARE DEVOID OF SUCH!

SEE: THE PLAINTIFFS EXHIBIT-A-ATTACHED [Identifying each document submitted to the Richland County Clerk of Court by the plaintiff for filing on July 30, 2019.]

Thus, IT would be a clear error of law for the plaintiff's complaint in this case to be construed as a post-conviction relief application (p.c.r.). The South Carolina Supreme Court has emphasized in MILLER v. STATE, 377 S.C. 497, 65 S.B.2d 492 (2008)

"The Clerk of Court's duty is not discretionary. The Clerk of Court should not construe a petition for a writ of Habeas Corpus as a p.c.r. application" 2

ALSO SEE: Richland County Common Pleas Case History
for case 2019-cp-400-4208 attached as exhibit-B

Therefore defendant's argument in the conditional order for its dismissal under the uniform post conviction procedures act in regards to case no. 2019-cp-400-4208 is flawed & without precedence.

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2. THE DEFENDANT'S SHOULD NOT BE ALLOWED TO CONSTRUCT THE PLAINTIFFS COMPLAINT AS A p.c.r. APPLICATION IN THEIR ATTEMPT TO UNDERMINE THESE PROCEEDINGS IN DEFENDANT'S ATTEMPT TO TACTICALLY HAVE THE PLAINTIFFS CASE DISMISSED UNDER p.c.r. GUIDELINES AND SUCCESSIVE FILING OF p.c.r.'s

ISSUE 2. THE DEFENDANT ARE IN DEFAULT, ENTITLING THE PLAINTIFF
TO THE REQUESTED RELIEF IN THE COMPLAINT

SUPPORTING FACTS - CASE LAW

The Defendants did not make ITS appearance in this
Case No# 2019-CP-400-4208 until approximately FIVE (5) YEARS
AFTER SERVICE OF THE SUMMONS & COMPLAINT upon DEFENDANT'S
VIA THE Richland County Sheriff's Department. SEE THE PLA-
INTIFF'S EXHIBIT-C [affidavit of service of summons & complaint
upon Alan Wilson ATT. GENERAL OFFICE ELLEN SMITH (REGISTERED
CORPORATE AGENT) EFFECTED SERVICE 08/22/19, 10:31AM] ALSO SEE:
SOUTH CAROLINA CODE OF LAW § 15-9-210 SERVICE OF PROCESS ON
DOMESTIC CORPORATIONS: (a)

"A DOMESTIC BUSINESS OR NON PROFIT CORPORATION
REGISTERED AGENT IS THE AGENT OF THE CORPORATION
FOR SERVICE OF ANY PROCESS, NOTICE OR DEMAND RE-
QUIRED OR PERMITTED BY LAW TO BE SERVED, AND THE
SERVICE IS BINDING UPON THE CORPORATION"...

Subsequently THE PLAINTIFF EFFECTED SERVICE OF THE SUMMONS
& COMPLAINT CASE NO# 2019-CP-400-4208 UPON THE DEFENDANT'S

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3 SERVICE OF THE SUMMONS BRINGS CIVIL DEFENDANT WITHIN COURT'S JURISDICTION
AND GIVES THE COURT THE POWER TO RENDER PERSONAL JUDGMENT AGAINST PERSON
SERVED. SEE: LOUDEN V. MORAGNE, 327 SC 465; 486 S.E.2d (S.C. App. 1997)

pursuant to South Carolina Code of Law § 15-9-25. AFFIDAVIT AS PROOF OF SERVICE BY PUBLICATION. SEE: plaintiff's exhibit-D [p.c.r. 3.23-2020 MAIL ROOM NOTARIZED CERTIFICATE OF PROOF OF SERVICE & CERTIFIED MAIL RECEIPT AUGUST. 08. 2019] Attached

ENTRY OF DEFAULT IS ADMINISTRATIVE act which a clerk is required to perform once entry is made to appear by the affidavit of the moving party. STANK TRUSS Co. v SUPERIOR CONST. CORP., 366 S.C. 503; 509; 602 S.E.2d 99 (S.C. App. 2004) S.C.W. CIV. PROC. 55(CA) ALSO SEE: THE PLAINTIFF'S EXHIBIT-E [AFFIDAVIT OF DEFAULT FILED APRIL 6 2020 AT 10:00 AM & 2021 MAY 26 AT 9:46 AM WITH THE RICHLAND COUNTY CLERK OF COURT⁴]

THE DEFENDANT'S ANSWER TO THE SUMMONS & COMPLAINT IN THIS CASE [Having established that case no. #2019-CP-400-4208 is not an p.c.r. application] was due on September 22 2019 A.O. [within thirty (30) days after receipt of the summons & complaint] Restoring the defendant did not make an appearance in this case until approximately five (5) years after service of the summons & complaint pursuant to S. Code of Law § 15-9-210. v. I.A. Richland County Sheriff's Department.

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4. The plaintiff also filed a copy of same & a letter to the honorable judge Newman in this case no. #2019-CP-400-4208, on May 4, 2020 at 12:27 AM. So this court is well aware that this case is not an application for post conviction relief (P.C.R.). SEE: THE PLAINTIFF'S EXHIBIT-F [Letter to Judge Newman] attached

1
SEE: FINANCIAL FEDERAL CREDIT INC. V. BROWN 387 S.C. 555; 683 S.E.2d 486 (S.C. 2009)

[Holding: "where service is accomplished in a manner consented to by the Defendant, service of process is valid, and a court has jurisdiction over the Defendant for purpose of entering judgment."];

RICHARDSON V. P.V. INC. 383 S.C. 610; 682 S.E.2d 263 (S.C. 2009) ["HOTEL employee had apparent authority to accept service of summons and complaint."];

CASSIDY V. MEARES 266 S.C. 352, 223 S.E.2d 191 (S.C. 1996) ["Holding: unexplained inaction of Defendant's attorney to make an appearance in case was attributable to his client and was insufficient ground for relief from default."]

BECAUSE THE PLAINTIFF EFFECTED SERVICE OF THE SUMMONS & COMPLAINT CASE NO #2014-CP-400-420B UPON THE DEFENDANTS PURSUANT TO SOUTH CAROLINA CODE OF LAWS § 15-9-210.1 & § 15-9-15 [TO WHICH THE DEFENDANTS FAILED TO MAKE AN APPEARANCE FOR APPROXIMATELY FIVE (5) YEARS] WOULD NEGATE THE RULE 55(e) REQUIREMENT. AS THE SOUTH CAROLINA SUPREME COURT HAS HELD IN STATE V. COTTINGHAM; 227 S.C. 181, 71 S.E.2d 899 (S.C. 1953)

"NO LOCAL RULE OF COURT, ADMINISTRATIVE ORDER, POLICY OR OTHER PROCEDURE CAN TAKE PRECEDENT OVER STATUTORY LAW WHICH IS ALWAYS CONTROLLING". . .

THUS, THE DEFENDANTS ARE IN DEFAULT ENTITLING PLAINTIFF TO HIS REQUESTED RELIEF IN THIS CASE

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5. Thus, the Defendants attempt to respond to the summons & complaint in this case no #2014-CP-400-420B under the guise of Rule 22(c) S.C.R.C.P. HAS NO LEGAL STANDING; AS THE PRESIDING JUDGE IN THIS CASE SHOULD BE FULLY AWARE THAT THIS CASE IS NOT AN APPLICATION FOR P.C.R. . . .

6. SEE: Complaint p page 12. of 12.

CASE NO. #2014-CP-400-420B

ISSUE 3. UN FILED INDICTMENTS

SUPPORTING FACTS - CASE LAW

RULE 3(C) S.C.R. Crimp REQUIRES SOLICITORS TO FILE INDICTMENTS WITH THE CLERK OF COURT, YET AS EVIDENT, THE RECORD IS DEVOID OF STATES INDICTMENTS NO. 95-65-40-3705; 95-65-40-3706; 95-65-40-3707; 95-65-40-3708; 95-65-40-3709; 95-65-40-3710; 95-65-40-3711; 95-65-40-3712; 95-65-40-3713 EVER BEING (LOCK-STAMPED). FILED WITH THE RICHLAND COUNTY [COURT OF GENERAL SESSIONS] CLERK OF COURT⁹, THUS, WARRANTING A VACATION OF THE PLAINTIFFS SENTENCE-CONVICTION. SEE: STATEV. PRICE, 2023 WL 8588535 [S. CAROLINA SUPREME COURT "GRANTING "EXTRA-ORDINARY WRIT" AND A DECLARATION FINDING JUDGMENT ORDER VOID, BECAUSE DOCUMENTS WERE NEVER FILED-STAMPED WITH THE CLERK OF COURT"]

MOREOVER RULE 39 S.C.R. Crimp "MANDATES" THESE RULES "SHALL" APPLY TO EVERY TRIAL COURT OF CRIMINAL JURISDICTION WITHIN THIS STATE." [ADOPTED EFFECTIVE SEPTEMBER 2, 1988].

AND THE TERM "SHALL" IN A STATUTE MEANS THAT THE ACTION IS MANDATORY. SEE: STRICKLAND V. RICHLAND COUNTY LEGISLATIVE DELEGATION, 440 S.C. 438; 892 S.E.2D (S.C. 2023)

THUS, THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO TRY AND CONVICT THE PLAINTIFF (DEFENDANT) ON STATES NULL-INVALID INDICTMENTS (ABOVE-NUMBERED). SEE: KATZBURG V. KATZBURG, 410 S.C.

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? SEE: PLAINTIFFS EXHIBIT-G-ATTACHED; EACH INDICTMENT BEARS NO DATE OF TRUE-BILL

184-764 S.E.2d 3 (Ct. App. 2017) [Holding "a judgment of a court without subject matter jurisdiction is void and constitutes grounds for the court to vacate the judgment"]

KOSCIUSKO V. PARHAM, 728 S.C. 481, -836 S.E.2d 362 (2019) ["A judgment of a court without subject matter jurisdiction is void."]

DOVE V. GOLDKIST INC., 317 S.C. 235, 442 S.E.2d 598 (S.C. 1997) ["Court lacking subject matter jurisdiction has no authority to act regardless of geographical location or consent of litigants."]

and a null indictment is of no legal effect and therefore non-binding under law; plaintiff's null indictment is by its very nature insufficient to support a conviction or sentence and protects against double jeopardy. IT IS AN AXIOMATIC RULE OF LAW THAT AN INDICTMENT DEEMED TO BE A nullity is "something that is legally void" and of no "legal effect" [Citing BLACK'S LAW DICTIONARY 8TH EDITION 2004. nullity and void] SEE: EG: HARRISON V. GLEND HILL, 33 S.E.3d 921, 924 (1997) ["void, null, infertile, negatory; having no legal force or binding effect, unable in law to support the purpose for which it was intended"]

and most certainly, a conviction and sentence based on the fruits of illegal acts cannot be allowed to stand under any circumstances!

The facts and evidence in this case clearly show that the Defendant(s) (STATE) committed unconstitutional, illegal criminal acts in order to secure its conviction against the plaintiff.

ISSUE # ~~ILLEGAL~~ IMPANELMENT OF GRAND JURY

SUPPORTING FACTS - CASE LAW

THE MATTER PRESENTED BEFORE THIS COURT FOR REVIEW IS NOT A CHALLENGE TO THE COURT'S GRANT OF AUTHORITY TO HEAR AND DETERMINE CASES. THAT AUTHORITY IS RIGHTFULLY GRANTED BY OUR CONSTITUTION. STATE V. GENTRY, 363 S.C. 93, 610 S.E.2d 494 (2005), AND WILL NOT BE AT ISSUE HERE. INSTEAD THE PLAINTIFF CONTENDS THAT THE COURT OF GENERAL SESSIONS FOR RICHLAND COUNTY FAILED TO COMPLY WITH STATUTORY LAW JURISDICTIONAL IN NATURE, SPECIFYING THE MANNER AND MEANS FOR LAWFUL RETURN OF TRUE-BILLED INDICTMENTS.

THE JURISDICTION OF A COURT OVER THE SUBJECT MATTER OF A PROCEEDING IS DETERMINED BY THE CONSTITUTION, THE LAWS OF THE STATE, AND IS FUNDAMENTAL. STATE V. HEYWARD, 564 S.E.2d 397 (S.C. app 2002) (CITING ANDERSON V. ANDERSON, 382 S.E.2d 897, 900 (1984) (EMPHASIS ADDED)) SUBJECT MATTER JURISDICTION MAY NOT BE WAIVED EVEN WITH CONSENT OF THE PARTIES, AND MAY BE RAISED AT ANY TIME. BROWN V. STATE, 540 S.E.2d 846 (2001); AND NO INDICTMENT MAY BE TRUE-BILLED BY GRAND JURY WHEN CIRCUIT COURT LACKS JURISDICTION, SINCE GRAND JURY'S JURISDICTION IS CO-EXTENSIVE WITH CRIMINAL JURISDICTION OF THE COURT IN WHICH IT IS IMPANELED AND FOR WHICH IT IS TO MAKE INFERENCES... STATE V. MCLURE, 284 S.E.2d 258 (S.C. 1982); STATE V. FUNDERBURK, 191 S.E.2d 520 (1972); STATE V. WHEELER, 193 S.E.2d 535 (1972)

THE STATUTORY PROVISIONS AT ISSUE ARE CONTAINED IN SECTION 317-9-210, AND PROVIDES IN PERTINENT PART THAT:

THE COUNTY SHALL PREPARE AND THROUGH THE PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS SUBMIT TO THE GRAND JURY WHILE IN ATTENDANCE UPON THE COURT OF GENERAL SESSIONS BILLS OF INDICTMENT IN ALL CASES PENDING IN THE COUNTY COURT, IN WHICH THE PUNISHMENT MAY EXCEED A FINE OF ONE HUNDRED DOLLARS OR IMPRISONMENT FOR THIRTY DAYS, WHEN SUCH CASES HAVE NOT BEEN PREVIOUSLY ACTED ON BY THE GRAND JURY. THE GRAND JURY SHALL ACT THEREON, AND SHALL REPORT ITS ACTION TO THE PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS AND SAID JUDGE SHALL DIRECT THE CLERK OF THE COURT OF GENERAL SESSIONS TO REPORT THE SAME TO THE PRESIDING JUDGE OF THE COUNTY AT ITS NEXT ENSUING TERM
" " " "

THE STATUTORY TERMS ABOVE ARE CLEAR, UNAMBIGUOUS, AND REQUIRES THE COUNTY SOLICITOR TO PREPARE AND SUBMIT BILLS OF INDICTMENT THROUGH THE PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS NO EXCEPTIONS.

IT IS A CARDINAL RULE OF STATUTORY CONSTRUCTION THAT THE PRIMARY PURPOSE IN INTERPRETING STATUTES IS TO ASCERTAIN THE INTENT OF THE LEGISLATURE. HODGES V. RAINEY, 533 S.E.2d 578; 581 (2000); STATE V. JOHNSON, 349 S.E.2d 67, 552 S.E.2d 339 (CT. APP. 2001)

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When a Statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning. CAROLINA POWER & LIGHT CO. v. CITY OF BENNETTSVILLE, 742 S.E.2d 177; 199 (1994), and words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation. STATE v. SWEATE, 386 S.C. 334; 688 S.E.2d 569 (2010). Moreover, penal statutes must be construed strictly against the state and in favor of defendant. STATE v. BLACKMAN, 703 S.E.2d 660 (S.C. 1991)

Accordingly, section § 14-9-210 requires strict compliance with its provisions, and mandates that the grand jury must be impaneled under the jurisdiction of the Court of General Sessions before lawful return of a true-bill indictment can take place.

However, plaintiff's evidence will establish that state unlawfully impaneled its grand jury outside the jurisdiction of the Court of General Sessions of Richland County, and then willfully printed and published false information in its indictment in order to keep secret its violation of statutory law.

" Thus a controversy has come before the court
open your mouth; Judge Righteously; and plead
the cause of the poor and needy."

In This Case Indictment nos 95-45-40-3704; 3705; 3706-3707-3708, 1982 True-Bill of Indictment prints they were returned: "At a Court of General Sessions Convened on June 14, 1995, The Grand Jury of Richland County present upon their oath" The Indictments are signed by the Solicitor (Warren B. Giese) and Grand Jury Foreman with True-Bill stamp. [absent Date of True-Bill & Filing Date] Further more, the title page of state Indictments prints that it was published at a Court of General Sessions for Richland County Term Convened on June 14, 1995. see: plaintiff's Exhibit-g attached.

However, according to the Court of General Sessions order for Richland County Grand Jury Meet 1995 Term, there was no Term of Court for the Richland County (Grand Jury) Court of General Sessions on June 14, 1995. see: plaintiff's Exhibit-H-Attached [1995 Richland County Grand Jury Meet] B.

Therefore, recognizing the jurisdictional requirements set forth in section § 14-9-210, mandating the only process allowed for impaneling a lawful Grand Jury and after consideration of the facts and evidence presented. attached it becomes apparent that the plaintiff was indicted outside the jurisdiction of the Court of General Sessions for Richland County and by a mode of procedure that state (Defendants) had no lawful authority to adopt.

When a legislative enactment limits the manner

B. Plaintiff Request the Court to take judicial notice of its own records that the presiding judge Joe A. Wilson (of the 5th Judicial Circuit) signature is forged on the 1995 (Order) Grand Jury Meet. for Richland County.

In which something may be done; the enactment also evidences the intent that it should not be done another way. Thus, since the court utilized an unlawful mode of procedure not allowed under Section 14-9-210; STATE Lacked the requisite jurisdiction to complete return of its true-billed indictments.

As established above; Section 14-9-210, is clearly a jurisdictional statute and sets forth mandatory procedure to be utilized by state for lawful return of a true-billed indictment. A substantial body of South Carolina law holds that a failure to comply with statutory law jurisdictional in nature deprives the court of subject matter jurisdiction. SEE: STATE V. LEE, 564 S.E.2d 392 (S.C. App 2002), STATE V. BROWN, 570 S.E.2d 559 (Ct. App. 2002), STATE V. FELDER, 437 S.E.2d 43 (S.C. 1993), STATE V. RICHBURG, 403 S.E.2d 315 (1991), STATE V. LORTON, 275 S.E.2d 575 (S.C. 1982), GRAY V. STATE, 281 S.E.2d 226 (S.C. 1981), STATE V. BRUNSON, 262 S.E.2d 52, ad 74 (1980), STATE V. CASTLEMAN, 64 S.E.2d 250 (1951), and many more.

"Rule 60(b)(4) S.C.R.Civ.P. provides the court may relieve a party... from a final judgment, order or proceeding if such judgment is void." The definition of void under the rule encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction. SANDERS V. SMITH, 431 S.C. 605, 848 S.E.2d 604 (2020) SEE: plaintiffs exhibits attached

9. Defendant's argument for summary dismissal of this case by equitable doctrine of laches. Is baseless order dismissal ppg. of 19. SEE: SLAN V. DEPT. OF TRANSP 365 S.C. 299 (2005) ("Laches did not prevent Supreme Court from reviewing issue of whether D.O.T. violated statutory bidding requirements"); ~~...~~

There fore; since no Court of General Sessions for Richland County was convened on the date of June 14, 1995. STATES Indictments nos 95-45-40-3704, -3705, -3706; 3707, 3708; -4282 WERE TRUE-BILLED; The Grand Jury Proceedings would therefore by NECESSITY BE HELD INVALID. SEE: Exhibit H (1995 Grand Jury MEET TERM of Court Order) ATTACHED

ISSUE .5 DEFENDANTS SUBMISSION OF FALSE, MISLEADING, INCOMPLETE INFORMATION - [FRAUD - MISCONDUCT]

SUPPORTING FACTS - CASE LAW - STATE ARREST WARRANTS - SENTENCE SHEETS
 THE DEFENDANTS HAVE SUBMITTED FALSE, MISLEADING, INCOMPLETE INFORMATION IN THE STATES ARREST WARRANTS NO^s D-881410 (TAKING OF HOSTAGES) - D-881411 (TAKING OF HOSTAGES) - D-881412 (TAKING OF HOSTAGES) WHICH IS NOT SIGNED BY A JUDGE; NOT ON FILE (CLOCK-STAMPED) WITH THE COURT OF GENERAL SESSIONS; RICHLAND COUNTY CLERK'S OFFICE, AND DOES NOT IDENTIFY THE PLAINTIFF, BUT IDENTIFY INMATE NO# 132987 - P.O.B. 11/21/90 WHICH IS NOT THE PLAINTIFF (DEFENDANT).
 D-881421 (ABWIK) - D-881422 (ABHAN); D-881509 (ABWIK) WHICH IS NOT SIGNED BY A JUDGE, NOT ON FILE (CLOCK-STAMPED) WITH THE COURT OF GENERAL SESSIONS, RICHLAND COUNTY CLERK'S OFFICE, STATES INACCURATE, FALSE, MISLEADING INFORMATION. P.O.B. 11/22/90. WHICH IS ANOTHER INMATE. SEE: EXHIBIT - I - ATTACHED

THE DEFENDANTS HAVE SUBMITTED INCOMPLETE INFORMATION IN THE STATES SENTENCE SHEETS CASE NO^s 95-GS-40-3705 [TAKING OF HOSTAGES]; 3706 [AB- W±K]; 3707 [ABHAN]; 3708 [TAKING OF HOSTAGES]; 4282 [TAKING OF HOSTAGES]; - 96-GS-40-11556 [ABHAN]. EACH SENTENCE BEARS DATE OF BIRTH, SOCIAL-SEC- URITY NO & NO DATE OF FILING [CLOCK-STAMPED] WITH THE RICHLAND COUNTY CLERK'S OFFICE. SEE: PLAINTIFFS EXHIBIT - J - ATTACHED.

THE DEFENDANTS HAVE SUBMITTED FALSE, MISLEADING, INCOMPLETE INFORMATION IN THE STATES INDICTMENT NO^s 95-GS-40-3705; 3706; 3707; 3708; 4282; 96-GS-40-11556 EACH INDICTMENT BEARS NO DATE OF TRUE BILL, NO DATE OF FILING (CLOCK-STAMPED) WITH THE RICHLAND COUNTY CLERK'S OFFICE. SEE: PLAINTIFFS EXHIBIT - G - ATTACHED

THE RICHLAND COUNTY GRAND JURY (ORDER) MEET FOR 1995 TERM CONTAINS FORGED SIGNATURE OF PRESIDING JUDGE: JOE A. WILSON. AND BEARS NO CONVENING OF A GRAND JURY ON JUNE 14, 1995 IN THE RICHLAND COUNTY COURT OF GENERAL SESSIONS. SEE: PLAINTIFFS EXHIBIT - H - ATTACHED

RULE 60(b)(3) PROVIDES RELIEF FROM JUDGMENT BASED ON FRAUD, MISREPRESENTATION, OR OTHER MISCONDUCT OF AN ADVERSE PARTY. . . . S.C.A. CIV. P.

THE MOVANT IN A RULE 60(b). S.C.R.C.P. MOTION HAS THE BURDEN OF PRESENTING EVIDENCE, VIZ A AFFIDAVITS, EXHIBITS, PROVING THE FACTS ESSENTIAL TO ENTITLE HIM TO RELIEF. BOWENS V. BOWENS: 304 S.C. 65, 903 S.E.2d 227 (CT. APP. 1992).

THE PLAINTIFF HAS MET THIS BURDEN. SEE: PLAINTIFFS AFFIDAVIT OF EVIDENCE ATTACHED

Fraud upon the Court is a narrow and invidious species of fraud that subverts the integrity of the Court itself, or is a fraud perpetrated by officers of the Court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication. PERRY v. HEIRS AT LAW OF GANSEW, 359 SC 12, 590, S.E.2d 502 (S.C. App. 2005), and an act of perjury or concealment of a document coupled with an intentional scheme to defraud the Court justifies the setting aside of a judgment due to extrinsic fraud. RAY v. RAY, 374 S.C. 97, 642 S.E.2d 237 (S.C. 2007)

Thus, the trial court lacked subject matter jurisdiction to try and convict the defendant (plaintiff). Based upon the states false, misleading, incomplete information in states arrest warrants - indictments - grand jury meet etc etc etc see; plaintiff's exhibits - g- H-I, J. Attached.

Therefore, the judgment of the trial court in the plaintiff's case is void! SEE: STANBANK NATASSIN v. GLENWOOD CALLS, pp. 373 S.C. 331, 644 S.E.2d 793 (S.C. App. 2007) ("A judgment is void if a court acts without personal jurisdiction"), LINDA M^c COMPANY, INC. v. SHORE, 375 S.C. 432, 653 S.E.2d 279 (S.C. App. 2007); UNIVERSAL BENEFITS, INC. v. MCKINNEY, 349 S.C. 179, 562 S.E.2d 659 (S.C. App. 2002); MC DANIEL v. US FIDELITY AND GUARANTEE, 324 S.C. 639, 478 S.E.2d 868 (S.C. App. 1996) ("explaining the definition of 'void' under voidness provision of relief-from-judgment rule only encompasses judgments from courts which failed to provide proper due process; or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction.")

1
South Carolina Code of Law ANN. § 17-25-10; provides that:

" No person shall be punished for an offense unless duly and legally convicted thereof in a court having competent jurisdiction of the case and the person."

ISSUE 6 SOUTH CAROLINA LAW - DUE PROCESS REQUIREMENT

SUPPORTING FACTS - CASE LAW

South Carolina Law holds that words of a statute must be given their plain and ordinary meaning without resort to subtle or forced construction. SEE STATE V. SWATE, 386 S.C. 334, 688 S.E.2d 569 (2010), and statutory prescriptions couched in language such as "shall" and "must" are mandatory in application and effect. SEE e.g. South Carolina police officers RET. Sys. v. CITY OF SPARTANBURG, 391 S.E.2d 239, 141 (1970), STARVES v. SOUTH CAROLINA DEPT. OF PUBLIC SAFETY, 535 S.E.2d 655, 661 (CT. App. 2000)

A plain reading of section § 17-25-10 requires that a criminal defendant cannot be punished for an offense until after the state has duly and legally convicted the individual. This did not happen in this plaintiff's case. In the state's criminal case against the (defendant) plaintiff (KEVIN MITCH) the state violated nearly every process component of the procedural due process - and due process notice requirements that's owed to the plaintiff. SEE: exhibits g-h-i-j attached

OUR STATES SUPREME COURT IN STATE V. COTTINGHAM, 437 S.C. 181; 77 S.E.2d 899 (S.C. 1953) HELD:

"No Local Rule of Court, Administrative order, Policy or other procedure can take precedent over STATUTORY LAW which is always Controlling."

RULE 60(b) S.C.R.Civ.P. STATES IN pertinent part:

"This Rule DOES NOT limit the power of a Court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the Court". S.C.R. Court Rules @ pp 678-2020 Edition

OUR STATES SUPREME COURT IN STATE V. MURPHY, 255 S.E.2d 448; 449 (S.C. 1974) HELD:

"A judgment by a Court in a criminal case" must conform strictly to the statute, and "any" variation from its provisions renders the judgment void."

ISSUE 7 THE PLAINTIFF CASE IS NOT BARRED BY THE EQUITABLE DOCTRINE OF LACHES - OR STATUTE OF LIMITATIONS

SUPPORTING FACTS - CASE LAW

BECAUSE THE PLAINTIFF CHALLENGES THE STATES VIOLATION OF STATUTORY LAW SECTIONS § 14-9-210; § 17-25-10 summary dismissal of this case by laches is non-applicable. SEE: SLAN V. DEPT. OF TRANSPORTATION, 365 S.C. 299 (2005) ("Laches did not prevent Supreme Court from reviewing issue of whether DOT violated statutory bidding requirements"), ALSO: SEE: CHEWNING V. FORD,

MOTOR Co., 354 S.C. 72; 579 S.E.2d 605 (S.C. 2003) ("THERE IS NO STATUTE OF LIMITATIONS WHEN A PARTY SEEKS TO SET ASIDE A JUDGMENT DUE TO FRAUD UPON THE COURT")

ISSUE B. PERJURY UNDER SOUTH CAROLINA LAW BY THE PROSECUTION

SUPPORTING FACTS- CASE LAW

THE ATTORNEY GENERAL OF SOUTH CAROLINA IS THE STATE'S CHIEF PROSECUTOR, AND AS AN ELECTED OFFICIAL, IS ACCOUNTABLE TO THE PEOPLE OF THE STATE. STATE V. HARRISON, 432 S.C. 418; 854 S.E.2d 466 (2021); SOUTH CAROLINA CONST.

- ART. 5, § 24 S.C. CONST. ART. 6 § 7; PERJURY UNDER SOUTH CAROLINA LAW IS DIRECTED NOT SO MUCH AT THE EFFECTS OF THE PERJURIOUS STATEMENT, BUT RATHER AT ITS PERPETRATION AND THE PROBABLE WRONG DONE THE ADMINISTRATION OF JUSTICE BY FALSE TESTIMONY.

THE DEFENDANT IN THIS CASE HAS COMMITTED OUTRIGHT PERJURED TESTIMONY; THAT THE PLAINTIFF (KEVIN SMITH) COMMENCED- FILED A APPLICATION FOR POST CONVICTION RELIEF (PCR) ON JULY 30, 2019. IN DEFENDANT'S ATTEMPT TO DECEIVE THE COURT; AND UNDERMINE THESE PROCEEDINGS UNDER THE GUISE OF AN APPLICATION FOR POST CONVICTION RELIEF FOR DISMISSAL FOR SUCCESSIVE LACHES; STATUTE OF LIMITATIONS OF WHICH THE COURT IS VERY MUCH AWARE OF V. I.A THE PLAINTIFF'S EVIDENCE SUBMITTED THROUGHOUT THE COURSE OF THIS LITIGATION.

PAGE 18 OF 23

10. SEE: Conditional order of Dismissal epage 1 of 19. CASE NO. 2019-CP-40-04208 OF WHICH THE PRESIDING JUDGE OVER THIS CASE CAN CLEARLY SEE THAT THE PLAINTIFF'S RULE 60(b) MOTION IS "NOT" A PCR APPLICATION.

AS OUR STATES SUPREME COURT CITED IN RIDDLE V. OZMENT, 369 S.C. 39, 49, 78, 632 S.E.2d 70 (2006):

" A PROSECUTOR'S DELIBERATE DECEPTION OF A COURT AND JURORS BY THE PRESENTATION OF KNOWN FALSE EVIDENCE IS INCOMPATIBLE WITH THE RUDIMENTARY DEMANDS OF JUSTICE." 11

(CITING GIGLIO V. U.S., 405 U.S. 150, 153, 92 S.Ct. 763, 21 L.Ed.2d 164 (1971))

~~AS OUR STATES SUPREME COURT CITED IN RIDDLE V. OZMENT~~

HENCE, THE SOUTH CAROLINA ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS THE CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE "ALL" LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATES SOL.

- CITOR'S STATE V. HARRISON, 402 S.C. 440, 454, S.E.2d 460 (S.C. 2001)

ISSUE-9 IN VALID PROCEEDINGS- CONVICTION- SENTENCE- AGGRAVATED KIDNAPPING

SUPPORTING FACTS - CASE LAW

BECAUSE THE PLAINTIFFS CONVICTION, SENTENCE IS BASED UPON THE DEFENDANT'S SUBMISSION OF STATES FALSE, MISLEADING, INCOMPLETE INFORMATION IN STATES ARREST WARRANTS- INDICTMENTS, GRAND JURY MEET- SENTENCE SHEETS, AS EVIDENT HERE BY THE DEFENDANT, PLAINTIFFS

PAGE 19 OF 23

12 THUS, THE DEFENDANTS HAVE COMMITTED PERJURY AND SUBORDINATION OF PERJURY UNDER OATH IN VIOLATION OF S.CAR. CODE LAW § 16-9-10(a)(2). PERJURY AND

SUBORDINATION OF PERJURY

IN CARCERATION IS ILLEGAL AND IS TANTAMOUNT TO AGGRAVATED KIDNAPPING;
 AND IS A BAR TO ALL PROSECUTION IN ACCORDANCE TO OUR SOUTH CAROLINA
CONSTITUTION ARTICLE I SECTION 11, SOUTH CAROLINA CODE OF LAWS ANN. § 17-25-10,
SOUTH CAROLINA RULES OF CRIMINAL PROCEDURES 3(C), AND OUR UNITED STATES CON-
 STITUTION AMENDMENTS 5TH 6TH 8TH 14TH SEE: HAMILTON V MCCOTTER, 172 F.2d 191,
 183 (5TH Cir) (Holding "A SENTENCE NOT BASED ON A LAWFULLY SWORN TO INDICT-
 -MENT IS TANTAMOUNT TO AGGRAVATED KIDNAPPING, AND IS A BAR TO ALL PRO-
 -SECUTION IN ACCORDANCE TO THE CONSTITUTION OF OUR UNITED STATES.")

ISSUE 10. DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S MOTION FOR A WRIT OF P
 MANDAMUS GRANTING A JUDGMENT OF DEFAULT AGAINST THE DEFE-
 -ENDANTS FOR THE VACATION OF THE PLAINTIFF'S SENTENCE AND
 EXPUNCEMENT FROM THE RECORD. MUST BE DENIED. BY THIS COURT.

SUPPORTING FACTS - CASE LAW

THE DEFENDANTS APPEAR TO BE UNDER AND OFFER TO THIS COURT THE FALSE
 PRETENCE THAT THE PLAINTIFF'S CASE NO# 2019-CP-400-4208, IS AN APPLI-
 -CATION FOR POST-CONVICTION RELIEF, ASKING THE COURT'S DISMISSAL
 OF PLAINTIFF'S MOTION FOR A WRIT OF MANDAMUS TO BE DISMISSED UNDER
 THE P.C.R ACT GUIDELINES THE DEFENDANTS ARGUMENT ON THIS MATTER IS
 BASELESS, WITHOUT TEETH, AND NON-APPLICABLE. SEE: THE PLAINTIFF'S - A - EXHIBIT
 AND INMATE TRUST FUND ACCOUNT REPORT FOR SOUTH CAROLINA COURT FILING
 FEES. [FOR FILING OF PLAINTIFF'S RULE 60.(b)(3)(4)(5) COMPLAINT & SUMMONS]
 FILED IN THE RICHLAND COUNTY COURT OF COMMON PLEAS ON JULY 30TH 2019
 AT APPROXIMATELY 10:21 AM '19.

PAGE 20 OF 23

12. ONCE AGAIN THE DEFENDANTS HAVE PERJURED THEMSELVES THROUGHOUT THE LITIGATION OF
 THESE PROCEEDINGS IN THEIR ATTEMPT TO UNDERMINE THE PLAINTIFF'S MERITORIOUS
 CLAIMS IN THIS CASE. . . .

For the sake of the Defendant's baseless argument, a Motion to Dismiss should not be granted if facts alleged and inferences reasonably deducible therefrom entitle the plaintiff to relief under any theory.

BERGSTROM V. PALMETTO HEALTH ALLIANCE, 358 S.C. 388 (2000), and at pre-trial stage, only a prima facie showing is required to support jurisdiction in order to survive a Motion to Dismiss. M.B. KAHN CONCRETE CO. INC. V. THREE RIVERS BANK & TRUST COMPANY, 354 S.C. 417, 581 S.E.2d 481 (2003)

Thus, the Defendant's Motion to Dismiss should be denied.

ISSUE 1 CRIMINAL CONSPIRACY

SUPPORTING FACTS - CASE LAW

The plaintiff's supporting affidavits - documentation - exhibits and the court's own records clearly show circumstantial evidence and the conduct of the parties involved in this case, in each defendant's commission in the unlawful act to secure its illegal conviction against the plaintiff, and the defendant's attempts to cover up such illegal acts through out the course of the litigations of this case.

In Criminal Conspiracy it is not necessary to prove an overt act, as gist of the crime is unlawful combination, and crime is complete even though nothing further is done.

STATE V. FERGUSON, 70 S.E.2d 355 (S.C. 1952) and "Formal express agreement is not necessary to establish a conspiracy and it may be shown by circumstantial evidence and conduct of parties." STATE V. O'LEARY, 267 S.E.2d 529-530 (S.C. 1980) where several persons;

pursuant to Common Design to Commit an Unlawful Act participate in some way in Commission of the unlawful act, the act of one is the act of all, and all are presumed to be present and guilty. STATE V. BLACKWELL, 67 S.E.2d 684 (S.C. 1953)²³.

wherefore the Court should enter a judgment finding the Defendants guilty of Criminal Conspiracy in the States prosecution of the Plaintiff, and its (Defendants) perjured testimony throughout the litigation of this present case no. #2019-CP-400-4208. Respectively . . .

ISSUE 12 DILIGENCE OF LITIGANTS - TAMPERING WITH THE ADMINISTRATION OF JUSTICE

SUPPORTING FACTS - CASE LAW

DEFENDANTS TAMPERING WITH THE ADMINISTRATION OF JUSTICE IN THE MANNER UNDISPUTEDLY SHOWN HERE INVOLVES FAR MORE THAN INJURY TO THE PLAINTIFF (KEVIN SMITH). IT IS A WRONG AGAINST THE INSTITUTION SET UP TO PROTECT AND SAFEGUARD THE PUBLIC INSTITUTION IN WHICH FRAUD CANNOT COMPLACENTLY BE TOLERATED CONSISTENTLY WITH

PAGE 22 OF 23

²³ THE RICHLAND COUNTY CLERKS OFFICE IS ALSO A CO-CONSPIRATOR IN THE PLAINTIFFS CASE AS EVIDENT BY THE CLERKS SILENCE. IE ALLOWING THE DEFENDANTS TO ASSERT FALSE STATEMENTS; PERJURED TESTIMONY IN PLAINTIFFS FILING OF P.C.R APPLICATIONS WITH THE CLERKS OFFICE ON DATES 7.30.2019, - AND 3.8.2024, TO INCLUDE THE CLERKS OFFICE ALTERING OF STATES INDICTMENTS; SENTENCE SHEET, ARREST WARRANTS, AND REFUSING TO ENTER THE PLAINTIFFS DEFAULT MOTION INTO THE RECORDS CALENDAR PURSUANT TO RULE 55(a) S.C.R. CIV. PROCEDURES . . .

The Good order of society. surely it cannot be that the preservation of the integrity of the judicial process must always wait upon the Diligence of Litigants, The public welfare Demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of Deception and Fraud, HAZEL-ATLAS GLASS CO. V. HART FORD EMPIRE CO. 6 F. 2d 997-1001 (1949). accordingly, fraud upon the Court is Misconduct by an officer of the Court that is directed at the judicial Machinery ITSELF. SEE: The plaintiff's affidavit of evidence with supporting exhibits attached.

Thus, fraud upon the Court by the Defendant's is very Evident HERE!

ISSUE-13. RELIEF FROM JUDGMENT

SUPPORTING FACTS - CASE LAW

The plaintiff's sentence should be vacated & expunged from the record based upon the above supporting case law, statutory requirements, and evidence. By this Court respectively...

DATE: 6.3.2024.A.D

Respectfully Submitted
 s/ Kevin Smith
 KEVIN SMITH #164920
 PLAINTIFF PRO-SE
 # 610 HWY #9 WEST
 BENNETTSVILLE SC #29512
 s/ Kevin Smith

I SWEAR UNDER PENALTY OF PERJURY THAT EACH STATEMENT (above) AND SUPPORTING EXHIBIT ATTACHED TO THIS RESPONSE IS TRUE-ACCURATE-CORRECT-GENUINE & AUTHENTIC!

SWORN AND SUBSCRIBED BEFORE ME THIS 3rd DAY of June 2024 A.D
 NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA: Sabrina Cuthan
 MY COMMISSION EXPIRES: 2/28/34

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KEVIN SMITH #164920

vs.

STATE OF SOUTH CAROLINA

PLAINTIFF,

DEFENDANT,

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO# 2019-CP-400-9208

PLAINTIFF (KEVIN SMITH)

AFFIDAVIT OF EVIDENCE

COME NOW THE PLAINTIFF KEVIN SMITH #164920 UNDER OATH STATES THE FOLLOWING THAT EACH BELOW LISTED EXHIBIT (DOCUMENT) IS GENUINE - AUTHENTIC - CORRECT:

1

PLAINTIFF'S EXHIBIT-A AFFIDAVIT OF SERVICE & CERTIFICATE OF PROOF OF SERVICE OF FILING OF SUMMONS AND COMPLAINT (MOTION) WITH THE CLERK OF COURT (FILED 2019-JULY-30 2:10:44 AM)
FINANCIAL STATEMENT OF FILING FEES; CIVIL ACTION COVER SHEET -
- NOTICE OF Motion - Motion for Vacation & Expungement of SENTENCE PURSUANT TO RULE 60(b)(3)(F)(5); SUMMONS.

2

PLAINTIFF'S EXHIBIT-B Richland County Common Pleas CASE HISTORY FOR CASE 2019-CP-400-9208.

3

PLAINTIFF'S EXHIBIT-C AFFIDAVIT OF SERVICE OF SUMMON & COMPLAINT UPON ALAN WILSON ATT-GEN. V. I.A. RICHLAND COUNTY SHERIFF'S DEPT ON 08/22/19. ALSO CERT. FILED MAIL RECEIPT V.I.A PERRY-CORV-INST. MAIL ROOM 8.8.2019.

4.

PLAINTIFFS EXHIBIT D - CERTIFIED MAIL RECEIPT - 8.8.2019

AFTER SERVICE OF SUMMONS/COMPLAINT UPON ALAN WILSON - ATTORNEY GENERAL

5

PLAINTIFFS EXHIBIT E - Motion & Affidavit for DE Fault Judgment
filed April 6.2020, & May 16.2020 Affidavit of Default.

6.

PLAINTIFFS EXHIBIT F - LETTER TO JUDGE NEWMAN RE and
notice of Motion - Motion for a default judgment and affidavit
of KEVIN SMITH (SEE EXHIBIT E)

7

PLAINTIFFS EXHIBIT G - INDICTMENT NOS 95-65-40-3705 (TAKING OF
HOSTAGES); 3706 (ABWIK); 3707 (ABHAN) - 4282 (TAKING OF HOSTAGES)
96-65-40-11556 (AWIK) (NO DATES OF TRUE BILL ALSO NO FILE
DATE)

8

PLAINTIFFS EXHIBIT H - ORDER 1995 RICHLAND COURT Grand
JURY MEET. (Forged signature of Judge Joe A. Wilson)

9

PLAINTIFFS EXHIBIT I - ARREST WARRANT NOS 881410 - 881411
881412 - 881421 - 881422 - 881507 (Not signed by Judge, not on
file (clock-stamped), contains false misleading information;
Ident. by another inmate DOB and SCDC no.)

PLAINTIFF'S EXHIBIT - J - SENTENCE SHEETS (NOT ON FILE
NO CLOCK-STAMPED - INCOMPLETE INFORMATION NO DOB - NO SS NO

[Signature]

SWORN AND SUBSCRIBED BEFORE ME
THIS 3rd DAY OF June 2021 AD

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA [Signature]

MY COMMISSION EXPIRES: 2/28/24

2

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KEVIN SMITH #164920,

PLAINTIFF,

v.s.

STATE OF SOUTH CAROLINA,

DEFENDANT.

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE No #2019-CP-100-9208


NOTARIZED CERTIFICATE
OF PROOF OF SERVICE

I KEVIN SMITH (Plaintiff) #164920, IN THE ABOVE-CAPTIONED CASE:
HEREBY CERTIFY THAT I SERVED UPON DEFENDANT AN ORIGINAL COPY
OF THE PLAINTIFF'S RESPONSE & SUPPORTING AFFIDAVIT TO THE
CONDITIONAL ORDER OF DISMISSAL & PLAINTIFF'S AFFIDAVIT OF EVIDENCE
EXHIBITS IN SUPPORT OF PLAINTIFF'S RESPONSE TO THE CONDITIONAL
ORDER OF DISMISSAL THIS 3rd DAY OF JUNE 2024 A.D. V.I.A. "CERTIFIED"
MAIL ADDRESSED TO;

OFFICE OF ATTORNEY GENERAL
P.C.R. DIVISION 5TH CIRCUIT
P.O. BOX #11549
COLUMBIA, SOUTH CAROLINA
#29211

31 

C.C.
HONORABLE
JOCelyn N. NEWMAN

SWORN & SUBSCRIBED BEFORE ME
THIS 3rd DAY OF June 2024 A.D.
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA 
MY COMMISSION EXPIRES: 2/28/34

4

CASE NO:

#2019-Cp-700-4208

4499 0840 1000 0560 7021

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5

JEANETTE W. McBRIDE
Clerk of Court

VIRGINIA F. BELCHER
Chief Deputy Clerk of Court

MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, S.C. 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD (803) 748-4999

RICHLAND COUNTY CLERK OF COURT
Richland County Judicial Center
1701 Main Street, Room 205
Columbia, S. C. 29201

June 10, 2024

Kevin Smith, #164920
610 Highway West
Bennettsville, SC 29512

We have received your inquiry and respond as follows:

We were unable to find a case with the name(s) and/or case number that you provided. If the case is a Richland County Case, please provide us with as much information as possible. (For example: a list of the full names of ALL parties in the case number and approximate filing date).

The document you requested was not in the referenced case file. If the document was a proposed Order, you may want to contact the Chief Administrative Judge or the Judge to whom you proposed this Order.

The record you requested is sealed by Court Order. A Court Order will be required to open the file. Please contact an attorney.

In order to obtain a transcript, send a written request to South Carolina Court Administration at 1015 Sumter Street, Suite 200, Columbia, S.C. 29201. You need to provide the case number, the Judge's name, and the date of the trial. If you have any questions, call 803.734.1800.

A \$5.00 money order or law firm check and a self-addressed stamped envelope are required for copies of all documents that are less than 20 pages. For documents over 20 pages, please contact this office for an exact amount.

This office is not permitted to provide legal advice or legal forms. Please contact an attorney to assist you.

This office cannot assist you with your request. For assistance, please contact:

Other: ~~I am returning your paperwork because it appears these are copies. If you are trying to file a NEW filing please resubmit ORIGINAL paperwork and case number. Thanks!~~

Sincerely,

Richland County Clerk of Court

6

KEVIN SMITH #164920

PLAINTIFF PRO-SE

#610 HWY #7 WEST.

BENNETTSVILLE, S.C. #29512, 6. JB. 24. AD.

AFFIDAVIT OF PLAINTIFF

KEVIN SMITH UNDER

OATH

CASE NO #2024 CP-400-4208

THE HONORABLE JOCELYN NEWMAN

FIFTH CIRCUIT CHIEF ADMINISTRATIVE JUDGE - COMMON PLEAS

P.O. BOX #192,

COLUMBIA, S.C. #29202, #192.

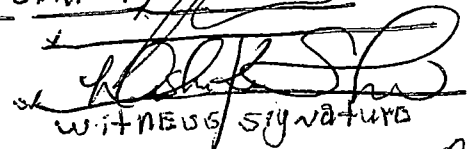
RE: KEVIN SMITH #164920 V. STATE OF SOUTH CAROLINA

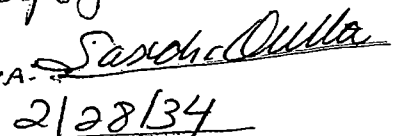
CASE NO. #2024 CP-400-4208

DEAR JUDGE NEWMAN, PER Conditional order of Dismissal signed by your Honor 17th Day of May, 2024, - filed with the Richland County Clerk of Court 2024 MAY 20 AM 9:04 IN THE ABOVE CASE NO. 2024 CP-400-4208. THE PLAINTIFF SUBMITTED HIS RESPONSE TO THE Conditional order of Dismissal TO THE CLERK OF COURT JEANETTE W. McBRIDE V. I.A. CERTIFIED MAIL ON 6.3.24 AD FOR FILING & THE PLAINTIFF ALSO SERVED A COPY OF SAME UPON OPPOSING COUNSEL V. I.A. CERTIFIED MAIL ON 6.3.24 AD. [SEE: NOTARIZED CERTIFICATE OF PROOF OF SERVICE ATTACHED TO THIS LETTER AS EXHIBIT-A AND CERTIFIED MAIL RECEIPT 66.24 AD] THE CLERK OF COURT JEANETTE W. McBRIDE, IS NOW REFUSING TO FILE THE PLAINTIFF'S RESPONSE BRIEF & SUPPORTING DOCUMENTS UNDER THE FALSE PRETENSE OF COPIES & FOR THE FILING OF A NEW CLAIM. IN HER (MFR) VIOLENCE ATTEMPT TO HAVE THIS CASE DISMISSED. SEE: EXHIBIT-B ATTACHED

SWORN & SUBSCRIBED BEFORE ME
THIS 18 DAY OF June 2024 AD.

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA.


WITNESS SIGNATURE


2/28/24

①

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KEVIN SMITH #164920,
PLAINTIFF,

✓
VS.

STATE OF SOUTH CAROLINA,
DEFENDANT,

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO. #2024 CP 400-9208

RE: FILING OF AFFIDAVIT

2.15.2024.A.D

Dear Ms. McBride, please find enclosed the plaintiff's ~~affidavit~~
affidavit for filing with you office, to include notarized
certificates ^{of proof of service} verifying service of same upon defense counsel
on the above date, to include plaintiff's copy for filing
& return.

Thank you.

I Am Cordially



C.C
HONORABLE
JOCELYN NEWMAN

①

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KEVIN SMITH #164920,
PLAINTIFF;

vs

STATE OF SOUTH CAROLINA
DEFENDANT;

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO. #2019 CP 400-4208

AFFIDAVIT OF PLAINTIFF
KEVIN SMITH

I KEVIN SMITH #164920, STATE UNDER OATH THE FOLLOWING:

¹
PER Conditional order of Dismissal signed by the Honorable JOCELYN
NEWMAN - FIFTH CIRCUIT CHIEF ADMINISTRATIVE JUDGE - COMMON
PLEAS on the 17TH DAY of May, 2024, - Filed with the Richland County
Clerk of Court 2024 - MAY 20 - 9:04 AM IN THE ABOVE CASE NO. #2019-
CP-400-4208; THE PLAINT. PF [KEVIN SMITH] submitted his response
to the Conditional order of Dismissal to the Clerk of Court -
JEANETTE W. McBRIDE (Richland County) v.i.a. Certified Mail
on JUNE 3, 2024 for filing. THE PLAINT. PF ALSO SERVED A COPY OF
SAME upon opposing Counsel v.i.a. Certified Mail on JUNE 3,
2024; THE PLAINT. PF ALSO SERVED A COPY OF SAME upon the Honorable
JUDGE JOCELYN NEWMAN on JUNE 3, 2024 v.i.a. Certified Mail. For
Her Honors Review. SEE: PLAINTIFFS Exhibit A - (NOTARIZED CERT. ficati
of proof of SERVICE - and U.S. postal CERT. fied Mail RECEIPTS) ATTACHED

The Richland County Clerk of Court JEANETTE W. McBRIDE IS REFUSING TO FILE THE PLAINTIFF'S RESPONSE BRIEF & SUPPORTING DOCUMENTS TO THE Conditional order of Dismissal. under the guise of paper work appearing to be copied, and/or the filing of a new claim, IN HER (McBRIDE) attempt to have the plaintiff's case dismissed. SEE: Plaintiff's Exhibit - B - (JUNE 20 2024 Correspondence - Letter from JEANETTE W. McBride - Clerk of Court) ATTACHED

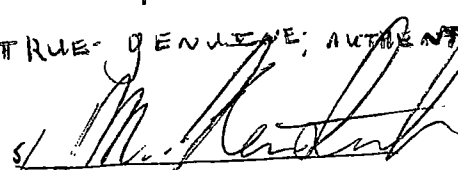
3.

That IF THE CLERK OF COURT JEANETTE McBRIDE DOES NOT FILE THE PLAINTIFF'S RESPONSE TO THE Conditional order of Dismissal. IN THIS CASE NO# 2019-CP-400-7208 Signed by HER HONOR JUDGE NEWMAN, THE PLAINTIFF CASE WILL BE DISMISSED CAUSING THE PLAINTIFF IRREPARABLE INJURY

4.

That the plaintiff provided the Honorable JOCELYN NEWMAN regarding THIS matter in this affidavit via the plaintiff's 6.18.24 AM affidavit. SEE: Plaintiff's Exhibit - C - ATTACHED

I SWEAR UNDER PENALTY OF PERJURY THAT EACH DOCUMENT ATTACHED TO THIS AFFIDAVIT AS AN EXHIBIT IS TRUE - GENUINE; AUTHENTIC & ACCURATE - CORRECT!



SWORN & SUBSCRIBED BEFORE ME THIS 16 DAY of July 2024 AND NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA Sandra Outlaw
MY COMMISSION EXPIRES: 2/28/34

①

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

KEVIN SMITH #16492D;

PLAINTIFF,

vs.

STATE OF SOUTH CAROLINA.

DEFENDANT.

IN THE COURT OF COMMON PLEAS
OF THE FIFTH JUDICIAL CIRCUIT

CASE NO# 2019-CP-400-#208

NOTARIZED CERTIFICATE OF
PROOF OF SERVICE

NOTARIZED
2024 JUL 16 10 53 AM
COLUMBIA, SC

I KEVIN SMITH #16492D (PLAINTIFF) HEREBY CERTIFY THAT ON

7.15.24.A.M. I SERVED A TRUE & CORRECT COPY OF THE AFFIDAVIT
OF PLAINTIFF KEVIN SMITH FOR FILING WITH THE CLERK OF
COURT IN THE ABOVE CASE NO. 2019-CP-400-#208, UPON THE
RICHLAND COUNTY CLERK JEANETTE W. MCBRIDE, VIA "CERT-
IFIED" MAIL ADDRESSED TO:

JEANETTE W. MCBRIDE, Richland County
CLERK OF COURT - P.O. Box 2766
Columbia, South Carolina; #29202-#2766

C.C
HONORABLE
JOCELYN NEWMAN
ALAN WILSON

SI [Signature]
PRO-SE PLAINTIFF
SI Sascha Ouellet
WITNESS SIGNATURE

SWORN & SUBSCRIBED BEFORE ME THIS 16 DAY OF July 2024.A.D

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

Department of Corrections in another case involving allegations of abuse by a correctional officer.

2. Trial counsel was ineffective for failing to request that a sleeping juror be individually voir dired to determine whether she was, in fact, sleeping during the Applicant's trial.
3. Trial counsel was ineffective for failing to request a jury charge wherein the jury would have been instructed that they could only find the Applicant guilty of the crimes that were a natural or probable consequence of the acts actually agreed on by the Applicant and his co-defendants.
4. Trial counsel was ineffective for failing to adequately explain the elements of assault and battery with intent to kill.
5. Trial counsel was ineffective for failing to object to the evidence presented at trial.
6. Trial counsel was ineffective for failing to adequately prepare for trial.
7. Trial counsel was ineffective for failing to object to a witness' testimony.
8. Trial counsel was ineffective for failing to object to the introduction of photographs depicting damage to the victim's body.
9. Trial counsel failed to object to the non-disclosure of pretrial of certain exculpatory evidence that would have been beneficial to Appellant.
10. Attorney-Client privilege violated by prison security cameras taping conversation between Applicant and attorney.

Respondent made its return on July 17, 2002. An evidentiary hearing into the matter was convened on December 3, 2003, at the Richland County Courthouse. Applicant was present and represented by Tara Dawn Shurling, Esquire. By Order dated June 18, 2004, the Honorable Alison Renee Lee denied and dismissed the application with prejudice.

Applicant filed a timely notice of appeal to the South Carolina Supreme Court by and through Ms. Shurling on July 14, 2004. The appeal was perfected by the filing of a Johnson³ petition for writ of certiorari by Robert M. Pachak, Esquire, of the South Carolina Office of

³ Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988).

the Honorable Jocelyn Newman issued a Form 4 Order denying Applicant's pursuant to Rule 41(a), SCRCP.

On April 6, 2020, Applicant filed his "2nd Notice of Motion - Motion for a Default Judgment Pursuant to Rule 55(e), South Carolina Rules of Civil Procedures."

On September 25, 2023, Applicant filed his "Notice of Motion – Motion for a Writ of Mandamus Pursuant to Rule 65(f)(1), South Carolina Rules of Civil Procedures."

On February 29, 2024, Applicant filed his third "Plaintiff's Request for Entry of Default Judgment Against the Defendant to be Entered in the Record by the Clerk of Court."

Before this Court are the Richland County Clerk of Court records pertaining to Applicant's convictions and sentences, the records of the 2001 and 2014 PCR actions and appeals, the trial transcript, and the records of this action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons:

SUMMARY DISMISSAL BASED ON STATUTE OF LIMITATIONS

Respondent moved this Court to summarily dismiss this application for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act.⁴ Specifically, the Act requires as follows:

- (A). An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the Remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

⁴ S.C. Code Ann. § 17-27-10 to -160.

on or before September 8, 2001. Applicant did not file this PCR application until July 30, 2019, *seventeen years, ten months, and twenty-two days* beyond the statute of limitations.

Accordingly, this application is *untimely* pursuant to S.C. Code Ann. § 17-27-45 and shall be dismissed for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

SUMMARY DISMISSAL BASED ON SUCCESSIVENESS

Respondent moved this Court to summarily dismiss the application because it is successive to Applicant's previous *two* PCR applications. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can indicate a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised ... in the previous application." Id. at 450, 409 S.E.2d at 394. If Applicant could have raised these allegations in a previous application, then Applicant may not raise those grounds in successive applications. Id. Applicant bears the burden of showing the allegations could not have

SUMMARY DISMISSAL BASED ON THE EQUITABLE DOCTRINE OF LACHES

Respondent moved this Court to summarily dismiss the application because it is barred by the equitable doctrine of *laches*. To ensure the finality of litigation, our courts require reasonable diligence in pursuing collateral relief. McElrath v. State, 276 S.C. 282, 283, 277 S.E.2d 890 (1981). Requiring reasonable diligence "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." Id. (quoting Honeycutt v. Ward, 612 F.2d 36, 42 (2nd Cir. 1979)). Where an applicant for post-conviction relief fails to exercise reasonable diligence, the State may seek the summary dismissal through the equitable doctrine of *laches*, which is defined as "neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done." Bray v. State, 366 S.C. 137, 140, 620 S.E.2d 743, 745 (2005) (quoting Whitehead v. State, 352 S.C. 215, 219, 574 S.E.2d 200, 202 (2002)). "Whether a claim is barred by *laches* is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of right does not constitute *laches*." Id.

Applicant seeks post-conviction relief nearly two decades after his conviction. Absent some explanation or justification for the delay in seeking post-conviction relief, *laches* will prevent an applicant from seeking collateral review of his conviction, significantly where the delay affects the availability of evidence to review the applicant's claims. McElrath, 276 S.C. at 283, 277 S.E.2d at 890. Applicant has offered no justification for the delay. Because of the delay, witness memories and physical evidence will have naturally faded and degraded. See, e.g., Bray, 366 S.C. at 140, 620 S.E.2d at 745 (affirming PCR judge's ruling that *laches* barred belated review of denial

and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken." The order upon which the current motion is made was executed on June 7, 1996, by Judge Dennis. This Court finds Applicant's motion was not filed within a reasonable time as mandated by Rule 60(b), SCRPC, nor was it filed within one year of entry of judgment. Applicant's motion was filed *twenty-three years, one month, and twenty-three days beyond* the entry of the order that is the subject of this motion. Therefore, this Court finds Applicant's motion under 60(b)(3)(5) is untimely and shall be denied and dismissed.

Applicant also lists Rule 60(b)(4), SCRPC, in that the judgment is void. Rule 60(b)(4), SCRPC, is not subject to the same time limits as Rule 60(b)(3)(5), SCRPC. However, Respondent submits Applicant has failed to meet his burden of presenting evidence that proves the facts essential to entitle him to relief.

The movant in a Rule 60(b), SCRPC, motion has the burden of presenting evidence, usually provided by affidavits, proving the facts essential to entitle him to relief. Bowers v. Bowers, 304 S.C. 65, 403 S.E.2d 127 (Ct. App. 1991). Applicant alleges that he should be relieved from this judgment because his indictments are invalid pursuant to S.C. Code Ann. § 14-9-210, the trial court lacked subject matter jurisdiction, and extrinsic fraud upon the court. However, Applicant fails to offer any evidence providing the facts essential to entitle him to relief. Bowers v. Bowers, 304 S.C. 65, 403 S.E.2d 127 (Ct. App. 1991).

In addition, Applicant cannot use Rule 60(b) to re-litigate issues that have already been adjudicated in prior civil actions. All of Applicant's allegations either have been or could have been addressed in his prior PCR actions challenging his conviction. All arguments were raised or could have been raised to the PCR judge and ruled on in the order dismissing Applicant's previous two PCR applications. See Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct.

is merely a notice document." State v. Baker, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing State v. Gentry, 363 S.C. 93, 102-103, 610 S.E.2d 494, 500 (2005)). A presumption of regularity attaches to all proceedings in the courts of this State, and it is incumbent upon one who challenges a proceeding to prove his claims. See, e.g., Tate v. State, 345 S.C. 577, 549 S.E.2d 601 (2001); Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986). Here, Applicant cannot show any irregularity because the indictments in question are sufficient on their face.

Moreover, "an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood." Id. at 63, 700 S.E.2d at 443 (citing State v. Tumbleston, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (Ct. App. 2007.)) Significantly, in order to challenge the sufficiency of an indictment, an objection must be made before the jury is sworn in. S.C. Code Ann. §17-19-90 (2003).

Next, an Applicant may challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. 93; See also S.C. Const. Art. V, § 7. Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant's conviction involved a criminal charge in General Sessions Court. Thus, this Court finds the circuit court had subject matter jurisdiction.

Additionally, A grand jury may meet at any time ordered by a circuit judge. See S.C. Code Ann. §§ 14-5-910 to -940 (allowing for terms of court not provided for by law). Accordingly, a grand jury is not unlawfully impaneled simply because it does not meet in a term of court as



Applicant's allegations of "fraud" all involve claims that were litigated at trial and in his initial PCR hearing. For example, his allegations of Brady violations were raised at trial and again at his PCR hearing. Applicant has had an opportunity to present a case and be heard on these issues; thus, they are claims of intrinsic rather than extrinsic fraud. Likewise, Applicant's claims of perjury are claims of intrinsic fraud. See id. ("[P]erjury is intrinsic fraud and will not support an action to set aside the judgment."). This Court finds Applicant has not made a *prima facie* showing of extrinsic fraud. Therefore, this Court shall deny this motion without a hearing.

SUMMARY DISMISSAL BASED ON APPLICANT'S MOTION FOR WRIT OF MANDAMUS

Respondent moved this Court to deny and dismiss the "Notice of Motion - Motion for a Writ of Mandamus Pursuant to Rule 65(f)(1) South Carolina Rules of Civil Procedure." Applicant's motion must be denied because mandamus is not appropriate.

"Mandamus is the highest judicial writ and is issued only when there is a specific right to be enforced, a positive duty to be performed, and no other specific remedy." Ex Parte Littlefield, 343 S.C. 212, 5222, 40 S.E.2d 81, 86 (2000). "The primary purpose of a writ of mandamus is to enforce an established right and a corresponding imperative duty created or imposed by law." Id. at 223, 40 S.E.2d at 86. The writ of mandamus lies solely within the discretion of the court of which it is requested. In the Interest of Lyde, 284 S.C. 419, 421, 327 S.E.2d 70, 71 (1985). Moreover, mandamus is unavailable where the legal right is doubtful. Id.

An applicant seeking a writ of mandamus to require the performance of an act "must show (1) a duty of respondent to perform the act, (2) the ministerial nature of the act, (3) the Applicant's specific legal right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy." Porter v. Jedziniak, 334 S.C. 16, 18, 512 S.E.2d 497, 498 (1999). Respondent submits that Applicant has failed to show the required elements necessary to consider the issuance of a

challenging the validity of the conviction or sentence. It shall be used exclusively in place of them."). Applicant has had an opportunity to raise his allegations in previous collateral actions. Accordingly, the Motion for Writ of Mandamus shall be denied and summarily dismissed pursuant to Rule 12(b)(6), SCRCR, because it fails to state facts sufficient to constitute a cause of action or to support the requested relief.

FRUSTRATION OF FINALITY OF CONVICTIONS

As a final matter, both the United States Supreme Court and the South Carolina Supreme Court have emphasized the necessity for finality of litigation in criminal cases. The Court in Aice explained that:

Finality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice. At some juncture judicial review must stop, with only the very rarest of exceptions, when the system has simply failed a defendant and where to continue the defendant's imprisonment without review would amount to a gross miscarriage of justice. . . . [Here], Aice seeks to have more than one procedural "bite" at the apple. Aice has filed an original PCR application, and has been allowed to seek review of the ruling against him. We refuse to grant his request for a second chance, and again we do so in order to effectuate the purposes of the Act and rules.

305 S.C. at 451–52, 409 S.E.2d at 394–95 (citations omitted).

The United States Supreme Court has explained that "the principle of finality . . . is essential to the operation of our criminal justice system. Without finality, the criminal law is deprived of much of its deterrent effect." Teague v. Lane, 489 U.S. 288, 309 (1989). "Relitigation of a conviction is a rear-view mirror, while a respect for finality encourages those in custody to contemplate the future prospect of 'becoming a constructive citizen.'" United States v. Fugit, 703 F.3d 248, 252 (4th Cir. 2012) (quoting Schneckloth v. Bustamonte, 412 U.S. 218, 262 (1973) (Powell, J., concurring)). In his concurring and dissenting opinion in Mackey v. United

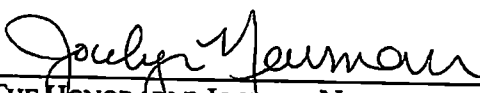
CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
PCR Division – 5th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Richland County Clerk of Court and opposing counsel within twenty days, and the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 17th day of May, 2024.



THE HONORABLE JOCELYN NEWMAN
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina