

Notice of Appeal In Post Conviction Relief Action
The State of South Carolina
In The Supreme Court

RECEIVED

JAN 28 2013

S.C. SUPREME COURT

Appeal From Sumter County
Court of Common Pleas

R. Ferrell Cochran Jr.

Case No. . . . 2012-CP-43-181

Cedric Wise #312547

Appellant

Vs.

State of South Carolina

Respondent

Notice of Appeal

Cedric Wise appeals the order of the Honorable R. Ferrell Cochran Jr dated
January 10th 2013. Appellant received written notice of entry of this order
"Order Denying Applicant's Motion to Alter or Amend Pursuant to Rule 59(e)
SCRCP on January 11th 2013.

January 21st 2013

other counsel for record:
Office of Attorney General
Meagan E. Harrison
P.O. Box 115479
Columbia S.C. 29211

Cedric Wise #312547
Perry Corp. Trust Co
430 Oaklawn Rd
Peter, S.C. 29469

Proof of Service of Notice of Appeal
The State of South Carolina
In The Supreme Court

Appeal From Sumter County
Court of Common Pleas

B. Ferrell Cothran Jr
Chief Administrative Judge
3rd Judicial Circuit Court

RECEIVED

JAN 28 2013

S.C. SUPREME COURT

Case No: 2012-CP-43-1461

Ledric White ³¹²⁵⁴⁷

State of South Carolina

VS.

Appellant
Respondent

Proof of Service

I swear on this date of 1/21/2013 that I filed one copy of the same to the below two addresses by putting a copy of one and the same 7 page Notice of Appeal in a brown Vesp envelope at the Perry C. I. mailroom

1.) Office of Attorney General
Meagan E. Harrison
P.O. Box 11549
Columbia, S.C. 29211

2.) The South Carolina Supreme Court
P.O. Box 11330
Columbia S.C. 29211

Date 1/21/2013

Ledric White ³¹²⁵⁴⁷
Perry C.I. CX3
430 Oaklawn Road
Pebler S.C. 29665

Conditional Order of Dismissal

For Clerk of Court Office Use Only

This judgment was entered on _____, and a copy mailed first class or placed in the appropriate attorney's box on _____, to attorneys of record or to parties (when appearing pro se) as follows:

Cedric #312547 Wise Perry Correctional Inst/Q4A 122 430
Oaklawn Road Pelzer, SC 29669

Alan McCrory Wilson PO Box 11549 Columbia, SC
292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

James C. Campbell

James C. Campbell - Clerk of Court

Court Reporter

Copy both front & back side

November 14, 2005, Applicant pled guilty before the Honorable Derham Cole and was sentenced as follows:

- On indictment 2004-GS-43-0551, Count 1, for Strong Arm Robbery Applicant was sentenced to 15 years' confinement;
- On indictment 2004-GS-43-0551, Count 2, for Kidnapping Applicant was sentenced to 30 years' confinement provided that upon the service of 21 years the balance will be suspended;
- On indictment 2004-GS-43-0552, Count 3, for Kidnapping Applicant was sentenced to 30 years' confinement provided that upon the service of 21 years the balance will be suspended; and
- On indictment 2004-GS-43-0552, Count 4, for Grand Larceny over \$5,000 Applicant was sentenced to 10 years' confinement.

All sentences were to be served concurrently. Applicant did not appeal his conviction and sentence.

The Applicant subsequently filed an application for post-conviction relief (PCR) on January 6, 2006 (2006-CP-43-0014). The State made its Return on or about August 31, 2006. The Applicant raised the following issues in his first PCR:

1. Ineffective assistance of counsel.
2. Due process violation.

An evidentiary hearing was convened on January 6, 2006, at the Sumter County Courthouse, at which the Applicant was present and represented by Charles T. Brooks, Esquire. At hearing, Applicant also presented the following allegations:

1. Ineffective assistance of counsel.
 - a. Clark was ineffective in that Applicant told him he was innocent and Clark withheld information and statements from him.
 - b. Stevens was ineffective in that Applicant did not have adequate time to meet with her and there was a conflict because Stevens wanted to represent the State.
2. Involuntary plea.
 - a. Clark withheld information. But for this, Applicant would not have pled guilty.
 - b. Had Applicant known that officers did not have probable cause to search his home he would not have pled guilty.
 - c. Stevens wanted to work with the State.
 - d. Attorneys forced Applicant to make a statement admitting his guilt to the court.

D-7C/

In a written order dated November 8, 2006, and filed December 12, 2006, the Honorable Paula H. Thomas, denied and dismissed the application with prejudice.

The Applicant appealed the denial of his first PCR application by petition pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988). Applicant's petition was denied by Order of the South Carolina Supreme Court on January 23, 2008. The Remittitur was sent on February 8, 2008.

Applicant filed a second PCR application on April 30, 2008 (2008-CP-43-1104). In this application, Applicant set forth the following grounds for relief:

1. Ineffective assistance of counsel.
 - a. Clark committed errors at preliminary hearing. (e.g. The phone number that Officer Turner said was traced to 44 Iris Winds was not the home phone number. Clark knew this and should have informed the court. Clark could have argued that the search was illegal.)
 - b. Clark deceived Applicant to plead guilty.
 - c. Solicitor was allowed to state that the phone number was traced to Applicant's residence.
 - d. Clark should have advised not to plead guilty due to lack of probable cause.
 - e. Stevens failed to argue in pre-trial motion lack of probable cause, constitutional violations, defective arrest warrant.
 - f. Stevens deceived Applicant to plead guilty.
2. "Lack of probable cause to support the arrest and defective issue of arrest warrants."

A Conditional Order of Dismissal was dated September 7, 2008, provisionally denying and dismissing the application as successive and barred by the one-year statute of limitations. Applicant made several responses to the Conditional Order. Applicant argued, *inter alia*, newly discovered evidence in the form of a 2003 newspaper article stated that a cell phone number was found to be linked to a residence. After reviewing the responses, the Honorable George C. James, Jr., denied and dismissed the application with prejudice in a Final Order dated April 12, 2010, and filed April 23, 2010. Applicant appealed, and the appeal was dismissed. The Remittitur was sent on June 9, 2010.

Applicant filed a third PCR application on July 20, 2010 (2010-CP-43-1519). In this

application, Applicant set forth the following grounds for relief:

1. Newly discovered evidence.
 - a. Newly discovered evidence of a 2003 newspaper article stated that a cell phone number was found to be linked to a residence. From this article, Applicant discovered that Clark was ineffective in failing to make a Brady motion and failure to specifically request a printout sheet from the cell phone account, the pizza box receipt found in Applicant's home, or the Domino's computer phone system. These things could show unreasonable search and seizure, defective arrest warrants, and constitutional violations.
 - b. New evidence from transcript prior PCR and plea transcript regarding Applicant's cooperation. Applicant relied on promises of a plea deal in providing information prior to plea. Applicant asserts that he did not know about plea deal until PCR hearing.
 - c. Subject matter jurisdiction
 - i. Was not informed of two years Community Supervision upon parole or release.
 - ii. "...having to register in the future as a sex offender due to my kidnapping charge is unlawful period."

On November 17, 2010, the Respondent made its Return and Motion to Dismiss based on the statute of limitations and successiveness. The Honorable George C. James, Jr., signed a Conditional Order of Dismissal on November 18, 2010, provisionally denying and dismissing the application as successive and barred by the one-year statute of limitations. Applicant made several responses to the Conditional Order. After reviewing the responses, the Honorable W. Jeffrey Young, denied and dismissed the application with prejudice in a Final Order dated September 18, 2011, and filed September 27, 2011. No appeal was filed.

In his current application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Newly Discovered Evidence."
 - a. "The first newly discovered evidences obtained December 2011. My sentencing hearing transcript page 21 threw (sic) page 23 reveal the state used the October 27th 2003 Dominoe's (sic) pizza computer phone system sheet and the receipt attached to the Dominoe's (sic) pizza box seized out my residents (sic). As the case in chief evidences to arrest, indict, and

QJC/

- convict me yet never disclosed evidences in my motion of discovery that they had these items.”
- b. “The second newly discovered evidences is the October 2003 newspaper article of Sumter County. Revealing the state had in their possession the account sheet of the cell phone seized out of my residents (sic). Which also was used as the case in chief evidences to arrest, indict, and convict me yet never showed evidences in my motion of discovery that they had these items.”
 - c. “The third newly discovered evidences obtained in December 2011 at the same time as the above two mention evidences. Is my H-536834 strong arm robbery arrest warrants showing on October 28th 2003 the state printed a day after this incident ocured (sic). That 418-0189 is 44 Iris Winds home phone number. Revealing proof officer Turner never showed evidences that 436-7815 was my 44 Iris Winds home phone number.”
 - d. “I was then was able to discover ineffectively Mr. Clark failed to object to the Court at my plea hearing and move to withdraw my guilty plea on the grounds of a Brady violation and fail to file a Brady disclosure motion for disclosure of the material evidences such as the cell phone sheet, the receipt attached to the Dominoe’s (sic) pizza box and the October 27th 2003 Dominoe’s (sic) computer phone system sheet and because of Mr. Clark’s error the prosecutor asserted to the Court at my plea and sentencing hearing.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court finds that the Applicant’s allegations are without merit. The Applicant’s claim is an allegation that newly discovered or after discovered evidence exists. The Applicant waived his right to a jury trial. If the Court determines that the Applicant knowingly and voluntarily pled guilty, the plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. See Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975).

Furthermore, this contention is vague and general in its terms. There are no specific allegations of the nature of the evidence. A defendant requesting a new trial based on after discovered evidence must show that the evidence:

(1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and (5) Is not merely cumulative or impeaching. Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983).

The Applicant has not shown that the alleged evidence meets *any* of the requirements for after-discovered evidence. Most importantly, the "new evidence" offered by the Applicant is not "material to the issue of guilt or innocence," and probably would not "change the result if a new trial was had." Hayden, Id. Accordingly, the Application is denied and dismissed.

This Court finds that the current application for post-conviction relief must also be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, 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.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish

sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice, 305 S.C. 448, 409 S.E.2d 392; Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834.

This Court finds, further, that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

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.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on November 14, 2005. This Application was filed on January 30, 2012, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute and for being successive.

2301
Additionally, this Court finds this application is barred under the doctrine of *laches*. The

Applicant has filed this application over seven (7) years after he was convicted. The doctrine of *laches* bars the Applicant from raising these allegations in a post-conviction relief application. 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, especially where the delay affects the availability of evidence to refute the applicant's claims. McElrath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981); Honeycutt v. Ward, 612 F.2d 36 (2nd Cir. 1979). Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral relief. This requirement "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." McElrath, 276 S.C. at 283. Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of *laches*. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

Furthermore the South Carolina legislature has recognized this problem and instituted a one-year statute of limitations. See S.C. Code Ann. §17-27-45(a).

The Applicant's delay has greatly prejudiced the Respondent. It is questionable whether the attorneys will remember the case and whether their files will be available. If the Applicant had sought post-conviction relief within a reasonable time after his plea, neither of these problems would exist. Therefore, the Court intends to summarily dismiss the Application based on the Applicant's lack of diligence in processing his claim for relief.

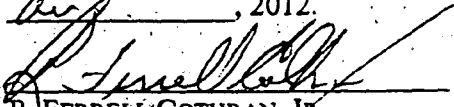
Further, this Court finds this application is barred under the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.

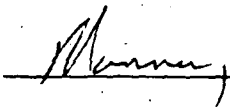
The Applicant had a full opportunity to litigate all allegations regarding ineffective assistance of counsel in prior post-conviction relief proceedings. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRCR, the Court intends to summarily dismiss these claims as barred by *res judicata*.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have, factual or legal, with the Sumter County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: Megan E. Harrigan, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 21 day of Aug, 2012.


R. FERRELL COTHAN, JR.
Chief Judge for Administrative Purposes
Third Judicial Circuit

, South Carolina.

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER

2012 NOV 03 PM 2:33

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Cedric (aka Cederick) Wise, #312547,

Case No.: 2012-CP-43-0181

Applicant,

v.

FINAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court pursuant to an application for post-conviction relief filed January 30, 2012. The State made its Return and Motion to Dismiss on July 27, 2012, requesting that the application be summarily dismissed as successive, barred by the one-year statute of limitations, and barred by the doctrines of *laches* and *res judicata*. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed August 21, 2012 and filed August 29, 2012, provisionally denying and dismissing this action. This Court gave Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated September 17, 2012, serving the aforementioned Conditional Order of Dismissal on the Applicant.

RJC

Applicant responded to the Conditional Order of Dismissal in a document captioned "Applicants Objection to Respondents Conditional Order of Dismissal" dated September 13, 2011¹. First, Applicant alleges that Respondent did not address all of his current claims and allegations for post-conviction relief in its Return and Motion to Dismiss and only addressed his

¹ This date appears be the result of a scrivener's error and should read 2012, as this action was not commenced until 2012.

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro-se) as follows:

Cedric #312547 Wise Perry Correctional Inst/Q4A 122 430
Oaklawn Road Pelzer, SC 29669

Alan McCrory Wilson PO Box 11549 Columbia, SC
292111549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

James C. Campbell

James C. Campbell - Clerk of Court

Court Reporter

"6th Amendment violation claim against Mr. Clark", and that "Applicant is prejudice by respondent failure to fail a return on the rest of his PCR claims against Mr. Clark and Mrs. Stevens." However, this claim is without merit. Respondent's Return and Motion to Dismiss fully addresses the claims raised in Applicant's current and fourth application for post-conviction relief and sets forth reasons why the application should be dismissed.

Second, Applicant asserts that he could not have raised these grounds of newly discovered evidence at an earlier date, as the evidence in question did not come into his possession until recently. However, Applicant has failed to sufficiently show why the sentencing transcript, October 2003 newspaper article, or strong armed robbery arrest warrant meet any of the requirements for newly discovered evidence as outlined in Hayden v. State, 278 S.C. 610, 611-12, 299 S.E.2d 854, 855 (1983). Applicant also asserts that his recent discovery of these items overcomes a statue of limitations or successive challenge from the Respondent. However, this claim is also without merit; Applicant has not sufficiently set forth why these claims could not have been raised in any of his previous *three* post-conviction relief actions over the past seven years.

Third, Applicant alleges that various arguments regarding a federal habeas claim. These are not responsive to the Conditional Order of Dismissal on this state post-conviction relief action.

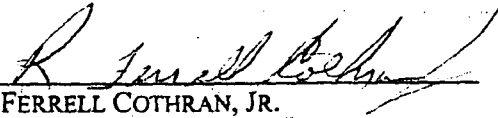
Fourth, Applicant asserts that this claim is not barred by the doctrine of *laches*, as his current and fourth application is within seven years of his conviction and plea counsel is still available to testify. This contention does not address the prejudice to the Respondent from a significant lapse of time or why Applicant could not have sought post-conviction relief on these claims in more reasonable time.

This Court has reviewed the Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds that sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. Accordingly, this Court finds no reason why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Court's Conditional Order of Dismissal and the reason set forth in this order, the application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant that he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 1 day of Nov, 2012.


R. FERRELL COTHRAN, JR.
Chief Administrative Judge
Third Judicial Circuit Court

Mann, South Carolina.

Notice of Appeal Index

Question Presented

Page

1.) Did the PCR Court violate statute and precluding appellate review. Code Ann § 17-27-80; U.S.C.A. Const. Amend 6 by filing a Final order of Dismissal upon appellant 2012 CP-43-161 PCR application. Which said order fail to make specific findings of fact and state expressly its conclusions of law relating to each and every ineffective assistance of counsel claim properly presented and applied statutory law S.C. Code Ann § 17-27-45 (<) incorrectly.

2.) Argument

Page

3.) Conclusions of law

Page

Question Presented

1) Did the PCR Court violate statute and precluding appellate review. Code 1976's 17-27-40; U.S.C.A. Const. Amend 6 by filing a Final Order of Dismissal upon appellant 2012-CP-43-1461 PCR application. Which said order fail to make specific findings of fact and state expressly its conclusions of law relating to each and every ineffective assistance of counsel claim properly presented and applied statutory law S.C. Code Ann. § 17-27-45(c) incorrectly.

Argument

Evidences title Exhibit 1 reveal appellant filed the 2012-CP-43-1461 PCR application on January 30th 2012. The cover sheet of said application prove that the Attorney General Office stamp the date of receiving said PCR application on the date of February 6th 2012. Attached to the 2012-CP-43-1461 PCR application was my 22 page motion title "Motion of Newly Discovered Evidences under S.C. Code Ann. § 17-27-45 (c). Within this motion page 1 shows in the 2004-GS-43-0551 indictment. I asserted ineffectively Mr. Clark failed to object to the Court at my plea hearing and more to withdraw my guilty plea on the grounds of a Brady violation and fail to file a Brady disclosure motion for disclosure of the material evidences such as the cell phone account sheet, the receipt attached to the Domino's pizza box and the October 21st 2003 Domino's Computer Phone System.

Page 171 of same said motion reveals in the 2004-GS-43-0552 indictment I asserted ineffectively Mrs. Stevens failed to seek specific performance of the original plea deal under the detrimental reliance exception.

Now attached to the said 22 page motion was a two page motion for disclosure under SCRCP Rule 26 (b) of evidences in the 2004-GS-43-0551 indictment.

As the certificate of service page 22 of the said 22 page motion reveals all Exhibit documents attached to the motion. Supporting my 6th Amend violation PCR claim against counsels who was previously mentioned. Evidences title Exhibit 2 is my 16 page motion title "Newly Discovered

Question Presented

Page
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Did the PCR Court violate statute and precluding appellate review Code 19-27-80; U.S. C.A. Const. Amend 6 by filing a Final Order of Dismissal upon appellant 2012-CP-43-161 PCR application. Which said order fail to make specific findings of fact and state expressly its conclusions of law relating to each and every ineffective assistance of counsel claim properly presented and applied statutory law S.C. Code Ann § 17-27-45 (c) incorrectly.

Argument

Evidences to the Exhibit 1 reveal appellant filed the 2012-CP-43-161 PCR application on January 30th 2012. The cover sheet of said application prove that the Attorney General Office stamp the date of receiving said PCR application on the date of February 8th 2012. Attached to the 2012 PCR application was my 22 page motion to the "Motion of Newly Discovered Evidence under S.C. Code Ann § 17-27-45 (c). Within this motion page 1 shows in the 2007-05-43-0551 indictment. I asserted ineffectively Mr. Clark failed to object to the Court at my plea hearing and move to withdraw my guilty plea on the grounds of a Brady violation and fail to file a Brady disclosure motion for disclosure of the material evidences such as the cell phone account

Evidences of a 6th Amend. Federal Constitutional violation claim raised under S.C. Code Ann 17-27-45 (c). Motion to Amend the 2012-CP-43-1501 PCR application.

Page 2/17

Page 1 and page 2 of said motion reveal & asserted in the 2004 GS-43-0551 and 0552 indictment, & effectively Mr. Clark and Mrs. Stevens failed to object to the states unlawfully impaneling of its grand jury outside the attendance of the court of General Session for the process of the return of the 2004 GS-43-0551 and 0552 indictment

Attached to that previously said motion, I filed a 16 page motion titled "Motion Amending Material Issue of a 6th Amendment violation claim under S.C. Code Ann 3 17-27-45 (c). Page one of said motion reveals in the 2004 GS-43-0551 indictment, I asserted & effectively Mr. Clark fail to tell the Court that officer Turner alleged in his Incident Report on the night of 10/21/2003. He conducted a cross check on the home phone number provided to Danices for the delivery order which Mr. Black was robbed of a pizza and assault on ~~a check~~ a check reveal the number 436-71515 came back to 44 Mrs Winks yet the next morning on October 28th 2003 the arrest warrant H-530634 Strong Arm Robbery reveal officer Turner provided that 418-089 contain to 44 Mrs Winks requesting this case be dismissed on grounds of entrapment. The 10th page of the 16 page motion titled Newly Discovered Evidences of a 6th Amendment Federal Constitutional violation claim is the attachment and certificate of service sheet. Revealing attached to the 16 page motion was. (1) 2004 GS-43-0551 and 0552 indictment. (2) S.C. Court Administration Jan 6th 2012 letter; (3) Sumter County Court ~~and~~ proceedings May 2004 Calendar; (4) Motion Amending Newly Material facts not heard and rule upon 6 pages. This same 16 page motion certificate of service sheet reveals a copy of said motion was sent to the following address: (1) James C. Campbell Clerk of Court, Rm 306, 1411 N. Main Street, Sumter, S.C. 29150; (2) Chief Judge for Administrative Purpose 1411 N. Main Street, Sumter S.C. 29150; (3) Attorney General Office P.O. Box 11579 Columbia S.C. 29211

Not only was this motion notarized on the 22nd of May 2012 by a Perry prison notary of public yet the certificate of service reveal evidence on May 29th 2012 Perry prison mailroom stamped it confirming they received it and sent it out.

Florida Correctional Department of Corrections

Request To Staff Member

IAN 02 2013

Handwritten initials

To: Name: Cashwell Title: Lieutenant of SMOU

Date: Jan 2nd 2013

Inmate's Name: ~~Cashwell~~

SLDC# 312544

Institution: Perry

Living Quarters: CX 3

I hope this finds you having a bless day. However my serial number is 149656 and I need my property to get my legal material out that's for my pending law suit

Referred to Lt. Cashwell

Evidences to the Exhibit 3 reveals on August 29th 2012 the state filed the Conditional Order of Dismissal motion upon my 2012 PCR application. Pages 4 and 5 of said motion shows the state misapplied the law of S.C. Code Ann § 17-27-45 (c) and incorrectly addressed my 6th Amend. Violation claim against Mr. Clark of what I asserted on page 4 in evidences to the Exhibit 1 ~~and~~ their findings of facts and conclusions of law was not properly applied. I was not requesting a new trial based on the after discovered evidences yet based on ineffective assistance of counsel see S.C. Code Ann § 17-27-45 (c).

Evidences to the Exhibit 4 is my 10 page motion to the "Applicants' Objection To respondents Conditional Order of Dismissal". Page one through three of said motion reveal I was pointing to the specific title of motions and page number as to what 6th Amend violation claim was filed to the lower PCR Court and Attorney General Office. Which the respondent fail to file a return address in the Conditional Order of Dismissal motion and explained that I was prejudiced by respondents failure to file a return on the rest of my PCR claims against Mr. Clark and Mrs. Stevens.

Evidences to the Exhibit 5 is my letter to PCR Judge over my case 9a Honor Cochran Jr stamp date received by Perry prison mailroom on October 27th 2012. A certified copy was sent to the Attorney General Office. This letter reveal again I was stressing the prejudicial issue of the respondent failure to address each one of my raised ineffective assistance of counsels claims and informing the said judge that respondent is my open adversary in this cause of action and he should review and personally address this situation and don't sign the respondents fraudulent made Final Order of Dismissal motion and applicant only request that the Court remain impartial.

Evidences to the Exhibit 6 is the lower Courts Final Order of Dismissal upon my 2012 PCR application filed November 8th 2012. Reveals the lower Court still denied the fact that the respondent did not address all of my claims of ineffective assistance of counsel. Even when I pointed

and don't sign the respondents fraudulent made Final Order of Dismissal motion and applicant only request that ya Honor remain impartial

Evidences title Exhibit 6 is the lower Courts Final Order of Dismissal upon my 2012-CP-43181 PCR application filed November 8th 2012. Reveals the lower Court still denied the fact that the respondent did not address all of my claims of ineffective assistances of counsel. Even when I pointed out in my 10 page title Applicants objection to respondents conditional order of dismissal motion page one through three and the certificate of service with attachment sheet of said motion reveals I sent again my 6 page motion of newly discovered evidences which had attached to it the 6 page motion of amending material issues of facts yet evidences title Exhibit 6 reveals the lower Courts held on page 2 of 3 of the Final Order of Dismissal motion upon my 2012 PCR application. Respondents return and motion to dismiss fully addresses the claims raised in applicants current and fourth PCR application and sets forth reasons why the application should be dismissed.

Evidences title Exhibit 7 is my Rule 59(e) Motion to Alter and Amend Judgment motion. Which said motion certificate of service prove was filed to the office of Attorney General and R. Ferrell Cochran Jr, the Judge over my PCR application Perry Court. First mailroom stamped on the said motion. Received on November 14th 2012. Within said motion I requested for the lower PCR Court "Cochran Jr" in accordance to S.C. Code Ann § 17-27-60 make specific findings of facts and state expressly its conclusions of law relating to each issue presented. As there also exist erroneous of facts and misapplication of law as to the S.C. Code Ann § 17-27-45(c) and laches doctrine.

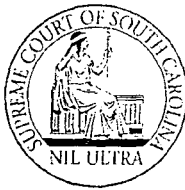
In this said motion again I specifically point out to the lower courts the title of the motion that was filed in the lower courts and page number of raised ineffective assistances of counsel claims properly raised to the lower Court and Attorney General Office page four out of five of said motion again shows I requested for the lower Courts under S.C. Code Ann 17-27-60 to specially rule on all issues properly brought before the Court

out in my 10 page motion title Applicant's objection to respondent's conditional order of dismissal motion page one through three and the cert. f. cate of service with attachment sheet of said motion reveals I sent again my 16 page motion of newly discovered evidences which has attached to the 6 page motion of amending material issues of facts yet evidences to the Exhibit 6 reveals the lower courts held on page 2 of 3 of the Final Order of Dismissal motion upon my 2012 PCR application. Respondent's Return and motion to dismiss fully addresses the claims raised in applicant's current and fourth PCR application and set forth reasons why the application should be dismissed.

Evidences to the Exhibit 7 is my Rule 59(e) motion to alter and amend judgment motion. Which said motion cert. f. cate of service ~~proof~~ ~~was~~ ~~filed~~ ~~to~~ ~~the~~ ~~office~~ ~~of~~ ~~Attorney~~ ~~General~~ ~~and~~ ~~R. Terrell Cochran Jr.~~, the Judge over my PCR application Perry person mailroom stamped on the said motion received on November 16th 2012. Within said motion I requested for the lower PCR Court in accordance to S.C. Code Ann § 17-27-80 make specific findings of facts and state expressly its conclusions of law relating to each issue presented as there also exist erroneous of facts and misapplication of law as to the S.C. Code Ann § 17-27-45(c) and laches doctrine

In this said motion I again I specifically point out to the lower courts the title of the motion that was filed in the lower courts and page number of raised 6th Amend. violation PCR claims properly raised to the lower court and Attorney General Office page four out of five of said motion again shows I requested for the lower courts under S.C. Code § 17-27-80 to specifically rule on all issues properly brought before the court.

Evidences to the Exhibit 8 is my second Rule 59(e) motion to alter and amend judgment motion. As said motion cert. f. cate of service sheet ~~prae~~ was filed to the Office of Attorney General and ya Honor Cochran Jr over my PCR application as Perry person mailroom stamp received November 20th 2012 P.C.I., Within said motion I requested in order to preserve for appellate review the issues of my ineffective assistance of counsel violation PCR claim. Applicant request that ya Honor in



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMNER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
E/MAIL: mtalley@sccourts.org

December 18, 2012

Cedric Wise #312547
PCI
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Wise:

Your inquiry has been received by this office. Enclosed you will find the information you requested. The schedule is for that entire week (Monday-Friday) of the date shown at the top of the schedule.

Sincerely,

South Carolina Court Administration

accordance with S.C. Code Ann § 17-27-60 make specific findings of facts and state expressly its conclusions of law relating to each issue presented and apply correct law to the S.C. Code Ann § 17-27-45(c) I again brought to the lower courts attention all the title of motions that was filed to the lower courts and Attorney General's office and cited the page number of which I raised my 6th Amend violation claim extra against Mr. Clark or Mrs. Stevens (see pages one through three of said motion), on page 4 of 5 of said motion. I showed the courts that was incorrectly addressed on page 4 through 6 in the conditional order of Dismissal (see evidences title Exhibit 3) I explained that the Courts applied the standard of Hayden Vs. State 299 S.E.2d 854 to my ineffective assistance of counsel claim raised on page one of the 22 page motion the newly discovered evidences under S.C. Code Ann 17-27-45(c) (see evidences title Exhibit 1) then I asserted the definition of the statutory law S.C. Code Ann § 17-27-45(c). Revealing what the lower Courts ruled upon their conclusions of law on page four through six of the conditional order of dismissal (evidences title Exhibit 3) was misapplied law. In the case of Hayden 299 S.E.2d 854 his contention was not based on ineffective assistance of counsel yet page 5 of the Courts (state) Conditional Order of Dismissal (evidences title Exhibit 3) reveals on page 5 column D my litigation of the contention of why I feel I'm being ~~held~~ held unlawfully is because of ineffective assistances of counsel manifesting material issue of facts that Mr. Clark fail to inform me about my case which a probability exist instead of entering a ~~plea~~ plea had it not been for counsels error (I would have insist on going to trial, which is why I filed all of my motions under S.C. Code Ann § 17-27-45(c) (see evidences page 4 of evidence title Exhibit 6))

Also for the record Evidences title Exhibit 7 and Exhibit 8 reveals I informed the lower Courts in my two

North Carolina Department of Corrections

Request To Staff Member

LIAN 02 0000

ADJUTANT

To: Name: Cashwell Title: Lieutenant of SMU

Date: Jan 2nd 2013

Inmate's Name: ~~Edward Jose~~

SLDC# 312544

Institution: Perry

Living Quarters: CX 3

I hope this finds you having a bless day. However my cell number is 149656 and I need my property to get my legal material out thats for my pending law suit

Referred to Lt. Cashwell

filed Rule 59 (e) motion that my motion of discovery motion made in the 2004 65-43-0551 indictment (see evidences title Exhibit 1) was not addressed by the Court in the Final order of dismissal (see evidences title Exhibit 6)

Evidences title Exhibit 9 is the lower Courts order denying applicants motion to Alter or Amend Pursuant to Rule 59(e) SCRCP, The lower PCR Courts held "Having carefully reviewed the entire record in this matter, this Court finds that no basis for altering or amending its prior ruling. The Court in its discretion has considered this matter based upon the motions submitted by the parties and post conviction relief file. Therefore this Court hereby denies the applicants motion in its entirety and affirms the previous order of dismissal.

Here the South Carolina Supreme Court has been forward overwhelming evidences that appellant 6th Amend violation claims raised against Mr. Clark counsel of the 2004 65-43-0551 indictment including motion of discovery filed in that case) and Mrs. Stevens counsel of the 0552 indictment was not ruled upon within the lower Courts final order dismissal (see evidences title Exhibit 6) in accordance to S.C. Code Ann 17-27-80, SCRCP Rule 52(a)

Conclusions of law

The PCR Act requires the Court's order to make specific findings of fact and state expressly its conclusions of law relating to each issue presented, S.C. Code Ann 3 17-27-80. In order to preserve all issues for appellate review. I have carefully review the Final Order and addressed the insufficiency within two filed Rule 59(e) motions, requesting for the PCR Court to specifically address each and every issued raised, Marlar v. State 653 S.E.2d 266. In several past cases where the Final order lacked specific findings of fact and conclusions of law, the South Carolina Supreme Court has overruled failures to file a Rule 59 (e) motion and remanded

Request To Staff Member

IAN 02 1100

1/15/13

To: Name: Cashwell Title: Lieutenant of SMOU

Date: Jan 2nd 2013

Inmate's Name: ~~Ed. L. Wise~~

SLDC# 312544

Institution: Perry

Living Quarters: C X 3

I hope this finds you having a bliss day. However my seal number is 149656 and I need my property to get my legal material out thats for my pending law suit

Referred to Lt. Cashwell

for specific findings in order to address the pervasive problems of inadequate orders. See McCullough v. State 464 S.E.2d 340 (remanding matter to PCR Court, despite the fact that no Rule 59(e) motion had been filed and admonishing all parties to carefully prepare and review PCR orders to ensure that they specifically address the issues raised and make correct conclusions of law; Pruitt v. State 423 S.E.2d 127 (vacating and remanding the PCR Courts order despite the lack of Rule 59(e) motion to address the failure to many PCR orders and to address all the issues raised.

Here appellant request for the Court to vacate PCR Courts Final Order of Dismissal order for violating statute and precluding appellate review. Code 1976 S.C. Code Ann § 17-27-60; U.S.C.A. Const. Amend 6 and remand this matter to the PCR Court just as they did in all of the previously said cases who did not file a Rule 59(e) motion and order the PCR Courts to make specific findings of fact and state its conclusions of law relating to each and every 6th Amend violation PCR claim presented and the discovery motion file in the 2004-05-43-0551 indictment and apply correct statutory law. S.C. Code Ann § 17-27-45(c)

January 21st 2013

Cedric Wise 312544
Perry Corr. Inst
4730 Oakblawn Rd.
Petzer, S.C. 29669

North Carolina Department of Corrections

Request To Staff Member

PLAN 02 2013

To: Name: Cashwell Title: Lieutenant of SMU

Date: Jan 2nd 2013

Inmate's Name: ~~Cedric Wise~~

SCDC # 312544

Institution: Perry

Living Quarters: C X 3

I hope this finds you having a bless day. However my cell number is 149656 and I need my property to get my legal material out thats for my pending law suit

Referred to Lt. Cashwell

Appendix In Notice of Appeal
The State of South Carolina
In The Supreme Court

Appeal From Sumter County
Court of Common Pleas

R. Ferrell Cochran Jr.
2012-CP-43-181

Cedric W. ~~see~~ #312547 _____ Appellant
vs. _____ Respondent
State of South Carolina _____
Appendix

Cedric W. #312547
Perry Co. S. Inst
430 Salskum Rd
Pelzer, S.C. 29169

January 21st 2012

Office of Attorney General
Meghan F. Harrison
P.O. Box 11549
Columbia, S.C. 29211

sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Pcloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offense(s) he challenges in this Application on November 14, 2005. This Application was filed on April 30, 2008, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

Appendix Index

- 1.) Evidence to the Exhibit 1 is the 2012-CP-43-181 PCR application with attached 22 page motion of newly discovered evidence under S.C. Code Ann 17-27-45 (c) with motion of discovery
- 2.) Evidence to the Exhibit 2 is the 16 page motion to the Newly Discovered evidence of a 1st Amend. Fed. Const. Violation claim raised under S.C. Code Ann 17-27-45 with 6 page attached motion Amending of material issue of a 1st Amend Violation claim under S.C. Code Ann 17-27-45 (c)
- 3.) Evidence to the Exhibit 3 is the lower courts Conditional Order of Dismissal
- 4.) Evidence to the Exhibit 4 is my 10 page motion to the Applicant's Objection to Conditional Order of Dismissal
- 5.) Evidence to the Exhibit 5 is my letter to my ²⁰¹² PCR Judge R. Ferrell Cochran Jr
- 6.) Evidence to the Exhibit 6 is the lower courts Final Order of Dismissal upon my 2012 CP-43-181 PCR application
- 7.) Evidence to the Exhibit 7 is my Rule 59(e) motion filed on Nov 16th 2012
- 8.) Evidence to the Exhibit 8 is my Rule 59(e) motion filed on Nov 20th 2012
- 9.) Evidence to the Exhibit 9 is the lower courts "Order Denying applicants motion to Alter or Amend Pursuant to Rule 59(e) SCR CP

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. None
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. None
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) I was unbothered about my Constitutional rights and I most a
- (b) lawyer or went to school studying the law so it took me longer than
- (c) others. To learn how to properly argue my case in the right manner

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? no
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Jan Clark plea hearing, preliminary hearing and sentencing date
address unknown
- ii. Mrs. Stevens plea hearing, preliminary hearing and sentencing date
address unknown
- iii. Charles T. Brooks III my October 3rd 2001 PCR evidentiary hearing
address unknown

(b) the proceedings at which each such attorney represented you:

- i. Preliminary hearing, Plea hearing, sentencing hearing
- ii. Preliminary hearing, Plea hearing, sentencing hearing
- iii. PCR evidentiary hearing

18. State clearly the relief you seek in filing this application.

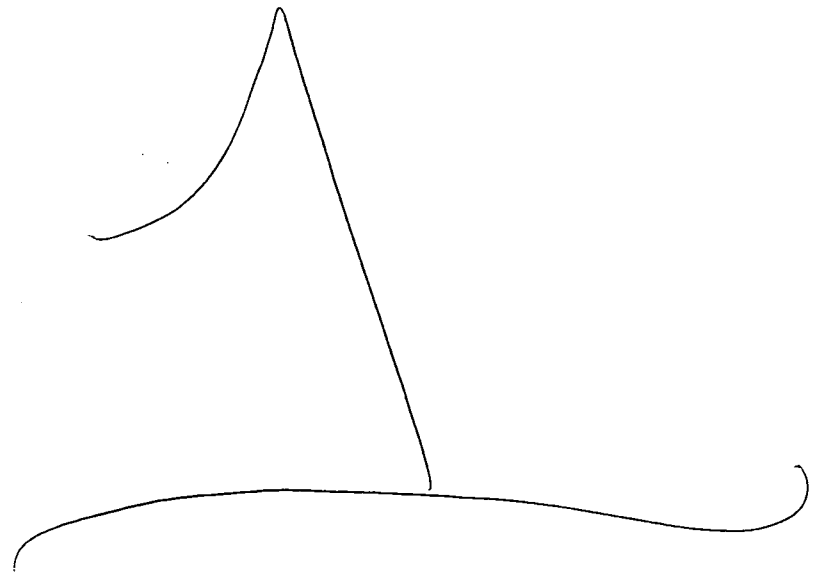
for my 2007 03-43-0551 and 2007 05-43-0552 case to be overturn
and for the state Supreme Court to later vacate both cases.

19. Are you now under sentence from any other court that you have not challenged?

No

Evidences

Title Exhibit



copy front - Backside of all sheets

RECORDED

2012 JAN 30 AM 1:10

CERTIFIED TRUE COPY

OF ORIGINAL FILE

2012-CP-43-181

JAMES JOHNSON
CLERK OF COURT
SUMTER COUNTY, S.C.
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA

County of Sumter

In the Court of Common Pleas

Cedric Wise

Full name and prison number (if any) of Applicant,

vs.

State

Name of Respondent.

APPLICATION FOR
SC Attorney General
POST-CONVICTION REVIEW

FEB - 6 2012

Referred to

M. Williams

Answered

INSTRUCTIONS -- READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

- Place of detention Perry Correctional Institution
430 Oaklawn Road, Pelzer, SC 29671
- Name and location of Court which imposed sentence Sumter County 3rd Judicial Circuit Court
141 N. Main St., Sumter, SC 29150
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - 2004-05-43-0551 Kidnapping
 - 2004-05-43-0552 Kidnapping
 -
- The date upon which sentence was imposed and the terms of the sentence:
 - November 14th 2005 2 1/2 years along with 3 years
 - probation to be served concurrent
 -

5. Check whether a finding of guilty was made

- (a) after a plea of guilty
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

no

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. _____
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

- i. _____
- ii. _____
- iii. _____

(c) the date of each such result:

- i. _____
- ii. _____
- iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) my counsel never told me
- (b) _____
- (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Newly discovered evidence
- (b) Newly discovered evidence
- (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) see motion attached to the PCB application 2/3/15
- (b) _____
- (c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no
- (d) any other petitions, motions or applications in this or any other Court? no

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. None
- ii. None
- iii. None
- iv. None

(b) the name and location of the Court in which each was filed:

- i. None
- ii. None
- iii. None
- iv. None

(c) the disposition thereof:

- i. None
- ii. None
- iii. None
- iv. None

(d) the date of each such disposition:

- i. None
- ii. None
- iii. None
- iv. None

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. None
- ii. None
- iii. None
- iv. None

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

None

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

None

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) newly discovered evidence
- (b) _____
- (c) _____

16. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? no
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Mr. Clark address unknown
- ii. Mr. Stevens address unknown
- iii. Unknown

(b) the proceedings at which each such attorney represented you:

- i. Preliminary sentencing hearing
- ii. Preliminary and sentencing hearing
- iii. _____

18. State clearly the relief you seek in filing this application.

The state to disclose material evidence both convictions overturn

19. Are you now under sentence from any other court that you have not challenged?

no

STATE OF SOUTH CAROLINA

County of Sunder

VERIFICATION

I, Cedric West, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Cedric West

SWORN to and subscribed before me this 4th

day of January, 192012

Steven T. Milantay
Notary Public

My Commission Expires: December 7, 2016

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Cedric West, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Cedric West
Applicant

SWORN or affirmed to and subscribed before me this

4th day of January, 192012

Steven T. Milantay
Notary Public

Cedric Wise
Applicant

County of Sumter
RECORDED

In the Court of Common
Pleas 3rd Judicial Circuit

vs.
State of South Carolina
Respondent

2012 JAN 30 AM 1:10
Motion of Newly Discovered
Evidences under S.C. Code
Ann § 17-27-45(c)

In indictment 2004-65-43-0551

The first newly discovered evidences obtained December 2011. My sentencing bearing transcript page 21 thru page 23. Revealing the state used the October 27th 2003 Domino's pizza Computer Phone System sheet and the receipt attached to the Domino's pizza box seized out of my residents. As the case in chief evidences to arrest, indict, and convict me yet never disclosed evidences in my motion of discovery that they had these items.

The second newly discovered evidences is the October 2003 newspaper article of Sumter County. Revealing the state had in their possession the account sheet of the cell phone seized out of my residents. Which also was used as the case in chief evidences to arrest, indict, and convict me yet never showed evidences in my motion of discovery that they had these items.

The third newly discovered evidences obtained in December 2011 at the same time as the above two mentioned evidences. Is my H-530834 Strong Arm Robbery arrest warrants. Showing on October 26th 2003 the state printed a day after this incident occurred. That 416-0184 is 44 Iris Winds home phone number. Revealing post officer Turner never showed evidences that 436-485 was my 44 Iris Winds home phone number.

I then was able to discover ineffectively Mr. Clark failed to object to the court at my plea bearing and move to withdraw my guilty plea on the grounds of a Brady violation and fail to file a Brady disclosure motion for disclosure of the material evidences such as the cell phone...

Page 2

sheet, the receipt attached to the Domine's pizza box and the October 27th 2003 Domine's Computer Phone System sheet and because of Mr. Clark's error the prosecutor asserted to the Court at my plea and sentencing hearing. "On the night of October 27th 2003 Domine's pizza received a phone call to deliver a pizza to Iris Winds Mobile Home Park. Some period of time passed. Domine's didn't send the order out. As they have a system that confirm an address to a phone number. That didn't check out so they didn't send it out. They subsequently got a phone call asking where was the pizza previously ordered. They indicated it wasn't a valid number and needed a different number. At that time they were provided a different number. Mr. Black then delivered the pizza to 32 Iris Winds yet was robbed of that pizza, \$60 and brutally assault. He was taken to the hospital. During the course of the investigation. The number provided to the Domine's matched an address nearby 32 Iris Winds. Officers went to that scene arrested Mr. Simon, Johnson, and Wise. Seized a Domine's pizza box that had the receipt attached that was the same pizza box Mr. Black had at the time he was assault and a cell phone that had one of the numbers found in it recently called Domine's.

Now due to Mr. Clark's error the prosecutor was allow to hide the fact from the Court that Officer Turner stated in his Incident Report after a cross check with Domine's a check revealed the number 436-4585 came back to 44 Iris Winds yet on my H-536834 Strong Arm Robbery arrest warrants the state printed evidences that 418-089 is my 44 Iris Winds home phone number. The prosecutor was then allow to provide the Courts the statement that Domine's pizza have a type of system that confirm a phone number to an address and during the course of the investigation the number provided to Domine's matched my residents yet the prosecutor never told the Courts what was the

specific phone number yet at the same time falsely made it seem to the Courts. That it was my home phone number that was traced from Domino's leading officers to my 44 Iris Winds. Revealing the Brady violation as the prosecutor had in their possession the October 27th 2003 Domino's Computer Phone System sheet yet suppressed this evidence by failing to disclose evidence in my Rule 5 motion of discovery that according to Domino's the 418-2884 phone number never checked out to my 44 Iris Winds yet 430-4885 did and as can be seen the October 27th 2003 Domino's Computer Phone System sheet was favorable evidence to me, material to innocence. As a probability exist had the state disclose the October 27th 2003 Domino's Computer Phone System sheet. It could've been shown that the 430-4885 phone number never confirmed to my 44 Iris Winds yet had confirmed to someone else's residents and that person who live there committed this crime. The state then was allow to mislead the Courts into believing the Domino's pizza box seized out of my residents was fruits of a crime because when officers came to my residents. They seized a Domino's which had the receipt attached that was the same pizza box stolen from Mrs. Black at the time he was assault yet the prosecutor was allow to never say to the Court. What was the phone number found on the receipt attached to the pizza box seized out of my residents yet at the same time falsely make it seem to the Court. That it was the same phone number that placed in the delivery call to Domino's. Which officers was able to go to Domino's pizza and trace back to my 44 Iris Winds. That was found on the receipt attached to the Domino's pizza box seized out of my residents. Revealing the Brady violation as the prosecutor had in their possession the receipt attached to the

Domino's pizza box yet suppressed this evidence by failing to disclose evidence in my Rule 5 motion of discovery that according to the receipt the phone number 436-4815 placed in that delivery order and as can be seen the receipt attached to the Domino's pizza box seized out of my residents was favorable evidence to me, material to innocence. As the state alleged 436-4815 is the phone number that placed in the delivery order for the Domino's pizza stolen from Mr. Black at the time he was assaulted so 436-4815 is the phone number on the receipt attached to the Domino's pizza box stolen from Mr. Black at the time he was assaulted. As a probability exist had the prosecutor disclosed the receipt attached to the Domino's pizza box seized out of my residents. It could've been shown the phone number 436-4815 did not place in the order. Which would've revealed evidence that it's not fruits of a crime because the phone number of 418-0881 which is 418-0881 winds only phone number. Placed in that pizza delivery order and it's not the same Domino's pizza box stolen from Mr. Black at the time he was assaulted and must be suppressed from this case and the state then wouldn't be able to use it as chief in case evidence to arrest, indict and convict me of this case. As the undisclosed receipt attached to the Domino's pizza box and paper work of the October 21st 2003 Domino's Computer Phone System sheet from the place I was convicted of stealing pizza from where material. Where they could've linked different perpetrator to this crime. The courts held in Trammell Vs McKune 485 F.3d 546, 511-52 10th Cir. undisclosed receipt and paper work from the place where defendant was convicted of stealing cars were material. Where they could've linked different perpetrator to crime.

The state then was allow to mislead the court into believing that

cell phone seized out of my residents was fruits of a crime because it had the Domino's number in it as being recently called yet the state was allow to hide the fact from the court that in the October 2nd 2003 Sumner County Items Newspaper. Chief Deputy Anthony Dennis stated " Law enforcement was able to identify the number that placed in the delivery call to the Domino's. The call was traced back to a cell phone but officers was able to find the home phone number associated with the cell phone account. Revealing the Brady violation as the prosecutor had in their possession the account sheet of the cell phone seized out of my residents yet suppressed this evidences by failing to disclose evidences in my Rule 5 motion of discovery that according to the account sheet of the cell phone. On the night of October 2nd 2003 the cell phone was activated and called Domino's and the 418-0189 phone number was found associated with the cell phone account and 436-4805 confirmed to MH Yris Winds and as can be seen here the cell phone account sheet is favorable evidences material to my innocences. As a probability exist had the state disclosed the cell phone account sheet. It could've been shown that on the night of October 2nd 2003. The cell phone wasn't activated and couldn't callout to Domino's and my 418-0189 phone number was never found associated with the cell phone account and 436-4805 doesn't confirm to my MH Yris Winds. Revealing evidences that the cell phone isn't fruits of a crime and must be suppressed from this case. The state then wouldn't be able to use it as chief evidences to support their arrest, indictment and conviction of me. Since the prosecutor was allow to never disclose the cell phone account sheet. I couldn't develop a defense or diminish the

States credibility of saying that the cell phone is fruits of a crime because the Dominice's number was found in it as being recently called. In U.S. Vs. Garner 507 F.3d 349, 405 undisclosed cell phone records were material because defendant couldn't develop a defense or diminish credibility of witness without them. As Criminal law Key 700(1) Brady disclosure rule extends to evidences that's not in the possession of the prosecutor but known to others acting on government behalf including police. Revealing because of Mr. Clark's error the state was allow to elicit my guilty plea by withholding the previously described evidences violating my 5th and 14th Amendment Constitutional rights. As Criminal law Key 700(2.1) Brady disclosure rule is grounded in the defendant's fundamental right to a fair trial mandated by the Due process clause of the 5th and 14th Amendment and requires the prosecution to disclose evidences that's in its possession; favorable to the accused; and material to guilt or punishment. Under Brady disclosure ~~materiality~~ rule, the prosecution has the duty to disclose material evidence favorable to accused, regardless of whether the accused makes a specific request.

Even in U.S. Vs. Bagley 473 U.S. at 662 the courts held. when assessing evidence materiality. The courts must take into account the cumulative effect of the suppressed evidence in light of other evidences not merely the probative value of the suppressed evidences standing alone. By doing so here the courts will note that the prosecutor withheld the October 27th 2003 Dominice's Computer Phone System sheet, the receipt attached to the Dominice's pizza box and the cell phone account sheet. Which is the chief evidences to support the states probable cause insurance issue of the warrantless search ...

seizure and arrest warrants that I was convicted on. There was no type of direct evidences placing me at the crime scene. At the time of my warrantless arrest. Revealing disclosure of the (3) previously described evidences was extremely favorable to me, material to innocence because that's what brought this case into existence. There's no right to shine on any other evidences at the time of my warrantless search and seizure by the state yet do to Mr. Clark's error the prosecutor was allow to conduct the Brady violation and I was sentence by the court to 2 years 5 years probation upon this case which the state was allow to never show evidences of their probable cause insurance issue of the arrest warrants.

Revealing my guilty plea wasn't knowingly made because I would've told the sentencing Judge that I do not want to plea guilty. If Mr. Clark had told me that the state alleged 436-7885 is the phone number that they said they was able to trace back to my 44 Iris Winds residents get in my H 536834 Strong Arm Robbery arrest warrants. The state presented evidences that 418-0189 is 44 Iris Winds home phone number. Which probable cause is fact and sufficient information in itself to believe that a crime is being or has been committed. Whereas the state is using the cell phone and Domino's pizza box along with the allegation of 436-7885 confirmed to your 44 Iris Winds. As the case in which evidences of the probable cause insurance issue of the arrest warrants yet when I filed the Rule 5 motion of discovery the state never made mention. That they had in their possession the October 2nd 2003 Domino's

Computer Phone system sheet, the receipt attached to the Domino's pizza box and the cell phone account sheet. Which is material evidences. Whereas from filing a Brady motion for disclosure of these three items. It can possibly be shown that according to Domino's on the night of October 27th 2003 the 436-1985 phone number never confirmed to HHS Wind and according to the cell phone account sheet, the cell phone wasn't activated making it impossible to be called out to Domino's and according to the receipt attached to the Domino's pizza box. The 436-1985 phone number that placed in the delivery order for the Domino's pizza taken from Mr. Clark at the time of his assault. Did not place in that specific Domino's pizza box. Which would then be evidences to suppress the cell phone and Domino's pizza box from this case and then I would be able to file a motion for this case to be vacated on the grounds of unreasonable searches and seizure and defective issue of arrest warrants, 4th and 14th Amendment violation claim. Therefore it will be in your best interest to tell the Judge you do not agree with the testimony of the prosecutor at the plea hearing and request to exercise your 14th Amendment right to Trial because the state failed to show probable cause to issue the arrest warrant and conducted a Brady violation with holding favorable evidences material to innocence.

If Mr. Clark had told me this legal information I would've told the sentencing Judge that I do not want to plea guilty but go to trial, as I would've learnt that the state never showed

probable cause to support the insurance issue of the arrest warrants against me. Which there was no direct evidences at the time of my arrest placing me at the crime scene. Then the call to Domino's came from my 44 yrs W. inds. Mrs. Black wouldn't been sent to deliver the pizza to 32 Iris W. inds, he would've been sent to my 44 yrs W. inds. The only evidences the state used against me was the cell phone and domino's pizza box which they never showed was fruits of a crime!

Under H. 11 U.S. Code that 474 U.S. 52, the alternative I had open to me instead of pleading guilty. If Mr. Clark had been effective. After the state had addressed the Court Mr. Clark would've objected to the Court and moved to withdraw my guilty plea on the grounds of a Brady violation. He would've asserted to the Court. Officer Turner alleged in his Incident Report after he conducted a cross check with Domino's a check revealed the number 430-7555 came back to 44 yrs W. inds. However newly discovered evidences of the H-5366534 Arrest Warrant reveal the state printed 475-0189 is 44 yrs W. inds home phone number and newly discovered evidences of the Sumter County Newspaper reveal Chief Deputy Anthony Dennis of the Sumter County Sheriff's office said "Once notified law enforcement was able to identify the phone number that placed the delivery call to Domino's. The call was traced back to a cell phone but investigators were able to find the home phone number associated with the cell phone account. Deputies were led to a mobile home at 44 Iris W. inds. Then you your Honor heard the

testimony today provided by the prosecutor. (Page 21 thru 23 of the sentencing hearing transcript.) Revealing the state is using the October 27th 2003 Dominoe's Computer Phone System sheet, the cell phone account sheet, and the receipt attached to the Dominoe's pizza box as chief evidences to support the probable cause insurance issue of this case arrest warrant. Which the prosecutor never made mention before Mr. Wise pled guilty that they had in their possession the cell phone account sheet, the October 27th 2003 Dominoe's Computer Phone System sheet and the receipt attached to the Dominoe's pizza box yet the prosecutor suppressed those three items. Which was favorable evidences to Mr. Wise from this case by failing to disclose in the Rule 5 Motion of discovery that they had those items in their possession. Which is material to innocence because disclosure of the cell phone account sheet, could possibly reveal that on the night of October 27th 2003. The cell phone wasn't activated in order to call out anywhere. Which would then reveal it wasn't fruits of a crime and would then reveal the state can't use it as ~~primary~~ chief evidence to convict Mr. Wise of this case. Disclosure of the October 27th 2003 Dominoe's Computer Phone System sheet could possibly reveal according to Dominoe's. The 436-4815 number never confirmed to Mr. Wise's 44 Iris Winds yet confirmed to someone's else residents and that that person did this crime. Which would then be evidences to impeach the states testimony that after a cross check with Dominoe's, a check revealed the number 436-4815 came back to 44 Iris Winds. Disclosure of the receipt attached to the Dominoe's pizza box could possibly reveal that the 436-4815 phone number never placed in the delivery call for the Dominoe's pizza box seized out of

Mr. Wise's residents, which would then reveal that the Dominice's pizza box is in + fruits of a crime and the state can't use it as direct evidence to convict Mr. Wise of this case because the state alleged 436-4585 is the number that placed in the delivery call for the Dominice's pizza box stolen from Mr. Black. So 436-4585 is the number on the receipt attached to the Dominice's pizza box stolen from Mr. Black at the time of his assault. Which would then reveal the state lacked probable cause at the time of the warrantless search and seizure and issued defective arrest warrants. So instead of me advising Mr. Wise to plea guilty, I would've advised him to go to trial. As the Brady disclosure rule requires the prosecution to provide defendant any evidence in their possession that maybe favorable to accused and material to guilt or punishment. The Brady disclosure rule extends to evidence that's not in the possession of the prosecutor yet known by others acting on the government behalf including the police. As a Brady violation can also render a guilty plea involuntary made. The prosecutor was withholding favorable evidence to elicit Mr. Wise guilty plea and to deceive me his counsel to provide unprofessional advice to him to enter a guilty plea. Which only came about because of the Brady violation by the prosecutor. Showing Mr. Wise's guilty plea was tainted but not enter knowingly. As the Courts held in U.S. Vs. Hanson 339 F.3d 983, 986 Factors include for withdrawal of guilty plea is consideration of whether guilty plea was somehow tainted. U.S. Vs. Davis 428 F.3d 802, 805 9th Cir 2005 Factors include substance of plea colloquy, additional evidence, intervening circumstances and reasons for withdrawing plea that didn't exist when plea was entered.

The trial Judge then would've read the Sumter County October 27th

2003 Newspaper article, Officer Turners Incident Report, my sentencing hearing transcript page 21 through page 23 and even what Mr. Clark stated was true and since my guilty plea was tainted and additional evidence material to my innocence came into existence. Which didn't exist at the time of my guilty plea. The Court would've withdrawn my guilty plea on the grounds of the Brady violation. Violating my due process rights and since then the motion to withdraw my guilty plea would've been granted. The defendant must live with the consequences of the request. U.S. vs. Vazquez Garcia 340 F.3d 632, 634-40 8th Cir. 2003; U.S. vs. Lineback 330 F.3d 441, 443.

However I would've been happy that my guilty plea was withdrawn on the grounds of Brady violation because the state never showed evidence that the cell phone and Dominice's pizza box seized out of my residence was fruits of a crime. Plus as I said previously. When this incident occurred my only home phone number was 436-0184.

Mr. Clark would've then filed a Brady violation motion for disclosure of the October 27th 2003 Dominice's Computer Phone System sheet, the cell phone account sheet, and the receipt attached to the Dominice's pizza box.

Disclosure of the cell phone account sheet. Could've reveal that on the night of October 27th 2003. The cell phone wasn't activated and couldn't call to Dominice's pizza. Revealing that it's not fruits of a crime and must be suppressed from this case. Disclosure of the October 27th 2003 Dominice's Computer Phone System sheet. Could reveal that according to Dominice's on the night of October 27th 2003 the 436-4615 phone number never confirmed to my 44 Iris Winds. Which would then be evidence that the state provide false information alleging after a cross check with Dominice's. A check revealed

The number 436-7515 came back to 44 Iris Winds. Disclosure of the receipt attached to the Domino's pizza box. Could reveal the number 436-7515 didn't provide the delivery call for the Domino's pizza box seized out of my residents. Which could reveal that it's not fruits of a crime and must be suppressed from this case because according to the state 436-7515 is the phone number that made the delivery call for the Domino's pizza box stolen from Mr. Black. So 436-7515 is the number that will be on the receipt attached to the Domino's pizza box stolen from Mr. Black at the time he was assaulted.

Mr. Clark would've then been in a position to file a motion for this case to be vacated on the grounds of unreasonable searches and seizure and defective issue of arrest warrants, and argue to the courts in that motion. The states probable cause of the insurance issue of this case arrest warrants was! "On the night of October 21st 2003 Domino's Pizza received a phone call to deliver a pizza to Iris Winds Mobile Home Park. As time went by Domino's didn't send the order out because they have a system that confirm an address to a phone number. That didn't check out so they didn't send it out. They subsequently received a second phone call asking where was that pizza that had been ordered. They indicated that it wasn't a valid number and they needed a different one. After being provided a different number, Domino's sent Mr. Black to deliver the pizza to 32 Iris Winds, where he was robbed of that pizza along with \$60 and brutally assaulted. Once notified law enforcement was able to trace the home phone number that placed in the delivery call to Domino's. The call was traced back to a cell phone but

investigators were able to find the home phone number associated with the cell phone account. A check revealed the number 430-7585 came back to 44 Kris Winds. Officers went to that scene seized a Dominoe's pizza box. Which had the receipt attached that was the same pizza box Mr. Black had at the time he was assaulted. Also found at ~~the~~ that scene was a cell phone. One of the numbers found in that cell phone ~~showed~~ showed the Dominoe's was recently called. However disclosure of the October 27th 2003 Dominoe's Computer Phone System sheet reveal according to Dominoe's. The 430-7585 phone number never confirmed to Mr. Wise. 44 Kris Winds and the state provided false testimony alleging that after a cross-check with Dominoe's, a check revealed the number 430-7585 came back to 44 Kris Winds. Disclosure of the cell phone account sheet reveal. The cell phone wasn't activated when this incident occurred and couldn't call anywhere. Revealing it is not fruits of a crime and must be suppressed from this case. The state alleged 430-7585 is the phone number that placed in the delivery call to Dominoe's pizza. For that Dominoe's pizza order stolen from Mr. Black at the time of his assault. So 430-7585 is the phone number that will be on the receipt attached to the Dominoe's pizza box stolen from Mr. Black at the time of his assault. However disclosure of the receipt attached to the Dominoe's pizza box seized out of Mr. Wise. 44 Kris Winds reveal the number 430-7585 didn't place in the delivery order. Showing that the Dominoe's pizza box isn't fruits of a crime and must be suppressed from this case. Revealing this case must be vacated on the grounds

of unreasonable searches and seizure and defective issue of arrest warrants because it has been proven that the state lacked probable cause at the time of the warrantless search and seizure upon Mr. Wise ~~at~~ violating his 4th and 14th Amendment Constitutional rights.

This reveal if it wasn't for Mr. Clark's ineffective assistance of counsel this case could've been vacated. It has been shown under the two prong test of Strickland vs. Washington 466 U.S. 668 and Hill vs. Lockhart 474 U.S. 52. That if it wasn't for Mr. Clark's error I would've never plead guilty and chosen to stand trial and won. Whereas under S.C. Code Ann § 14-27-45(c). As I've raised this claim within one year of obtaining evidence to raise this 14th Amendment violation claim against Mr. Clark. Which couldn't be raised in the prior PCR proceedings because evidence didn't exist at that time in order for me to do so.

Whereas the previously shown argument of the newly discovered evidence under the 14th Amendment violation claim against Mr. Clark reveal. Is such evidence that would probably change the result if a new trial was had; has been discovered since trial; couldn't by the exercise of due diligence have been discovered before the trial; Is material to the issue of guilt or innocence; Isn't merely cumulative or impeaching!

Now in indictment 2024-CR-43-0552

Newly discovered evidence obtained December 2011. of my 2000

PCR hearing transcript page 44 at line one through four reveal Mrs. Stevens stated "He had been very helpful and that he wouldn't seek those other two warrants and that he would be willing to stand at the plea and tell the Judge how cooperative he had been. Where Mrs. Stevens stated he had been very helpful. She was referring to the statement I made to the state. Where Mrs. Stevens stated he wouldn't seek those other two warrants and he would be willing to stand at the plea and tell the Judge how cooperative he had been. Mrs. Stevens is referring to the oral plea the prosecutor told her he promise to do for me in exchange of my beneficial information in a statement to the police of the names of my two unknown codefendants. Whereas I never knew what my promise oral plea deal in exchange of my statement to the prosecutor was until obtaining this PCR hearing transcript was! Then page 46 at line 1 through 14 reveal Mrs. Stevens stated "And he said I'm just letting you know that this offer exists, if you're interested, I'll let Mrs. Stevens know and she'll come back out and discuss it in more detail with you but I'm just trying to give you a heads up about this so that you know you can let me know. It's my understanding he said, no he didn't want to take that plea offer. And I ~~didn't~~ didn't talk to him about his case again until after October. Mr. Brooks III my PCR counsel then asked Mrs. Stevens. So obviously there was discussions that were between Mr. Wise and Mr. Davis? Mrs. Stevens stated yes Which Mr. Davis never came to me and told me anything about the state 15 years plea deal offer. He came to me seeking information about the locations of the missing stolen guns pertaining to this criminal case. Which Mrs. Stevens was my counsel. It was her duty to provide me with the information of the 15 years plea deal. Which I never knew the state had offer me a 15 years plea deal until obtaining this PCR transcript.

Ineffectively Mrs. Stevens failed to seek specific performance of the original plea deal under the detrimental reliance exception and because of Mrs. Stevens error on December 12th 2003. The state was allow to issue me the following arrest warrants. Burglary 1st Degree, Strong Arm Robbery, Safe Cracking, Kidnapping, Aggravated Assault, Grand Larceny and Assault with Intent to Kill. Several months later Officer Turner stated in front of Mrs. Stevens. That the prosecutor over this case. Is willing to work out a plea deal if I provide the names of my two unknown codefendants in a statement. Which I relied to my detriment by providing beneficial information to law enforcement. Do to Mrs. Stevens error around October of 2005 the prosecutor had offer me a 15 years plea deal offer yet instead of Mrs. Stevens delivering the information to me. She sent Mr. Davis who never told me anything about the state offering me a 15 years plea deal. Mr. Davis was trying to obtain information of the location of the stolen firearms in this case. Whereas Mr. Simon was sentence as a juvenile in Juvenile Court yet when my adult codefendant Johnson went to Court. He plead guilty to one count of Grand Larceny and Kidnapping and received 12 years yet when I was called to Court. I plead guilty to those same offenses and received 21 years 5 years probation. The prosecutor was allow to renege on part of the promise plea deal in exchange of my statement and was allow to provide prejudgy testimony to the Court alleging I dont need credit for my statement because I changed it. Which Mrs. Stevens never objected to the states prejudgy testimony. Knowing that the state lied about me changing my statement.

To reveal evidences that I didn't alter my statement and was entitle to the specific performance of the oral plea deal offer by the state and relied to my detriment. Page 43 line 24 threw

page 44 at line (1) thru (4) of my sentencing hearing transcript reveal Mrs. Stevens stated to the Court. He did give a statement and was very cooperative and its my understanding that this statement did lead to their ability to get the codefendant Mrs. Johnson to plead guilty that without Mrs. Wises statement they didn't have a case against Mrs. Johnson because he was wearing a mask and was not able to be identified by Mrs. Ludon. Now if I had alter my statement then the state wouldn't have a case at all against Johnson. Mrs. Ludon picked me out of a 6 man line up. Which is the only evidence that brought probable cause to charge me with this crime. My statement is the only evidence the state had to arrest, indict, and convict Mrs. Simon and Johnson of this crime. Proving without my statement they didn't have a case at all against Mrs. Johnson and Simon because the promise pleaded was for me to provide the names of my two unknown codefendants that was unknown to the state!

Secondly page 44 at line one thru four of my 2006 PCR transcript reveal from Mrs. Stevens testimony. Which is evidence of the oral plea deal. The prosecutor alleged to her that if I cooperate he wouldn't seek two extra arrest warrants against me. Well I was only charged for the following (7) arrest warrants. 1st Degree Burglary, Kidnapping, Strong Arm Robbery, Grand Larceny, Aggravated Assault, Sabotaging, and Assault with Intent to Kill. If I had alter my statement then the state would've seeked to charge me with the two extra warrants which one was a sexual misconduct and one unknown. I never was charged with the two extra previously said arrest warrants because I didn't alter my statement. Then

when I wrote my statement. Officer Turner, Mrs. Stevens, a eye witness and me all signed it. The state never produced a different statement that I gave with the previously said individuals signatures on it. I only spoke to Officer Turner once about this case. Regarding the unprofessional error by Mrs. Stevens prejudice me. As my guilty plea wasn't knowingly made because I didn't know nor did Mrs. Stevens advised me that I was entitled to have the plea agreement enforced and at that time of the plea Mrs. Stevens didn't advise me the plea agreement was binding on the state. So I felt that if I didn't plea guilty I was going to get a life sentence at trial because of the state promise plea deal. I had self incriminate myself 100 percent. However I wouldn't have plead had Mrs. Stevens told me I had a binding plea agreement. Which I wanted the deal the state promise me.

Whereas if Mrs. Stevens had been effective she would've sought specific performance of the original plea deal under the detrimental reliance exception and based her argument on the Reed vs. Becka 511 S.E. 2d 396 Ct. App 1999 case and assert that on December 12th 2003. Officer Turner issued Mr. Wise this case (1) arrest warrants. 1st Degree Burglary, Kidnapping, Strong Arm Robbery, Assault with Intent to Kill, Grand Larceny, Sabotaging, Aggravated Assault. Several months later Officer Turner alleged that the prosecutor confirmed that he'll be willing to work out a plea deal. If Mr. Wise provide beneficial information in a statement of the names of his two unknown codefendants. Mr. Wise accepted that deal which lead to the states only ability to arrest, indict, and convict Mr. Simon and Johnson. Mr. Wise never altered his statement in any fashion and the promise plea deal provided from Mr. Corbett the prosecutor to me was that he'll be willing to not seek two extra arrest warrants against Mr. Wise and be willing to stand at

Mr. Wise's plea and tell the Judge how cooperative Mr. Wise was upon this case, and Based on the Court of Appeals decision in Reed v. S. Beetha 511 S.E. 2d 316 Ct. App 1999. The Reed Court found the general rule is subject to a detrimental reliance exception. This exception is stated as: absent an actual plea of guilty a defendant may enforce an oral plea agreement only upon a showing of detrimental reliance on a prosecutorial promise in plea bargaining. Reed 511 S.E. 2d at 1102. Enforcement of an agreement not to prosecute is subject to two conditions (1) the agent must be authorized to make the promise and (2) the defendant must rely to his detriment on the promise even if the agreement hasn't been finalized by the Court a defendant's detrimental reliance on a prosecutorial promise in plea bargaining may make a plea agreement binding. For example a defendant who provides beneficial information to law enforcement can be said to have relied to his detriment. The Court properly adopted the detrimental reliance exception (is what South Carolina Supreme Court held on the ruling of the Courts of Appeals. South Carolina Supreme Court held the State may withdraw from a plea bargain arrangement at anytime prior to but not after the actual entry of the guilty plea by defendant or any other change of position by him constituting detrimental reliance upon the arrangement at anytime prior to but not after the actual entry of the guilty plea by defendant or any other change of position by him constituting detrimental reliance upon the arrangement. Detrimental reliance may be demonstrated where the defendant performed some part of the bargain for example where the defendant provides beneficial information to law enforcement Mr. Wise showed he relied to the detriment of the prosecutor promise plea deal by providing the names of his two

codefendants in a statement to the state. which was unknown to the state yet the prosecutor committed perjury to the court. Alleging Mr. Wise changed his statement because Mr. Wise, Officer Turner, a eye witness and I only talked about this case one time and Mr. Wise only wrote one statement about this case. The prosecutor must carry out there part of the bargain as Mr. Wise clearly relied to his detriment as the prosecutor did carried out half of the pleaded bargain by not ~~seeking~~ seeking two extra arrest warrants against Mr. Wise yet failed to carry out the other half. As the prosecutor must tell the court how cooperative Mr. Wise had been upon this case.

If Mrs. Stevens had been effective and made this type of arguement to the court. A probability exist I would've been equally sentence to 12 years as my adult codefendant as received the 15 years sentence.

This reveal if it wasn't for Mrs. Stevens ineffective assistances of counsel. The punishment I received upon my guilt would've been different. It has been shown under the two prong test of Strickland U.S. Washington v. Glueck U.S. 4605 and Hill U.S. Hochstet 474 U.S. 52. That if it wasn't for counsels error the outcome could've been different. Also under S.C. Code Ann § 17-27-15(c). I raised this claim within one year after discovery of the evidences of obtaining my PCR transcript. As that evidences would probably change the result of my sentence; has been discovered since trial; couldn't by exercise of due diligence been discovered before the trial; Is material to the issue of guilt; Isn't merely cumulative or impeaching!

Certificate of Service and Attachment
to Mot. of Newly Discovered Evidence
under S.C. Code Ann § 17-29-45(c)

Page 22
26

- 1.) pages 21, 22, 23, 44, 45 of 11/14/05 sentencing transcript
- 2.) Officer Turner's Incident Report, Newspaper 2003 clippings
- 3.) Mot. for disclosure under SCRCP Rule 26(b)
- 4.) ~~PCR~~ PCR hearing transcript page 44 + 46
- 5.) H-536634 Strong Arm Robbery, arrest warrant

I Certify that on the date stamped on this
Certificate of Service, I forward one and the same
in a Brown Clasp Envelope to Perry Corp. Inst
mailroom and address to:

James Campbell Sumter County Clerk of Court
3rd Judicial Circuit Court, ~~PO Box~~
141 N. Main Street, Room 308
Sumter, S.C. 29150

RECORDED
2012 JAN 30 AM 3:54
JAMES CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

In the County of Sumter
Ledric Wise 3125-47

In the Court of Common Pleas

Application for Disclosure
JAN 30 AM 3:54
JAMES CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

Motion for Disclosure

vs. State of South Carolina
Respondent } indictment in the 2004-65-43-0551

To the Honorable Courts and Attorney General upon this case: I request disclosure of the specific items:

A.) Specific disclosure of the cellphone account printout sheet of the cell phone seized out of my 441815 winds residents on the night of October 29th 2003

B.) Specific disclosure of the receipt attached to the Dominos pizza box seized out of my 441815 winds residents on the night of October 29th 2003.

C.) Specific disclosure of the October 29th 2003 Dominos's Pizza Computer Phone System printout sheet.

Now receiving my motion attached to this PCR application reveal exhibited (A) (B) and (C) is material evidences to me

Pg 2-

inexcess which is in the possession of the state
which they failed to disclose in my motion of
discovery yet such disclosure could have
changed the outcome of my case. As I
can not fully address my 6th Amendment
violation claim upon Mr. Clark until this
motion is granted.

02-15-2002

17 NO. 07-07-2002

Crime Justice

3

CR 16:54-243-BB-H-10110

COMPLAINANT	NAME (LAST, FIRST, MIDDLE) Johnson, Percy Kendall		RESIDENT	MASS	SEX	AGE	DOB
VICTIM #	2	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.	
UNEMPLOYED	160	160	BLK	BRN			
WANTED	ADDRESS 44 Iriswind		CITY Sumter	STATE SC	ZIP CODE 29150	LOCATION NO	DAY PHONE
ARREST	<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VEHICLE INMATE <input type="checkbox"/> NO <input type="checkbox"/> YES		COMPLAINT OF NON-VISIBLE INMATE <input type="checkbox"/> NO <input type="checkbox"/> YES		VICTIM USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK		<input type="checkbox"/> TWO-MAN VEHICLE <input type="checkbox"/> DETECTIVE/PLASMIT <input type="checkbox"/> ALL
EXPLAIN	SUBJECT NO. 2 USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES		USING DRUGS <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> TYPE		VICTIM RELATIONSHIP TO SUBJECT <input type="checkbox"/> UNK		<input type="checkbox"/> ONE-MAN VEHICLE <input type="checkbox"/> OTHER <input type="checkbox"/> ALL
COMPLAINANT	NAME (LAST, FIRST, MIDDLE) Simon, Jarvis Anthony		RESIDENT	MASS	SEX	AGE	DOB
VICTIM #	3	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.	
UNEMPLOYED	6'00	160	BLK	BRN			
WANTED	ADDRESS 444 Rodney Dr		CITY Sumter	STATE SC	ZIP CODE 29150	LOCATION NO	DAY PHONE
ARREST	<input type="checkbox"/> VICTIM NO. <input type="checkbox"/> VEHICLE INMATE <input type="checkbox"/> NO <input type="checkbox"/> YES		COMPLAINT OF NON-VISIBLE INMATE <input type="checkbox"/> NO <input type="checkbox"/> YES		VICTIM USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> UNK		<input type="checkbox"/> TWO-MAN VEHICLE <input type="checkbox"/> DETECTIVE/PLASMIT <input type="checkbox"/> ALL
EXPLAIN	SUBJECT NO. 3 USING ALCOHOL <input type="checkbox"/> NO <input type="checkbox"/> YES		USING DRUGS <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> TYPE		VICTIM RELATIONSHIP TO SUBJECT <input type="checkbox"/> UNK		<input type="checkbox"/> ONE-MAN VEHICLE <input type="checkbox"/> OTHER <input type="checkbox"/> ALL

one tried to run but one or two of the subjects jumped out & attempted to beat him
 Subjects then fled. EMS transported there to Tommy ER. Upon a search of the
 premises at 32 Iris Winds, Black dominos hat & vehicle sign were found in the yard, along
 with a broken glass bottle. Sgt. Turner was notified at this point. After a cross-check
 the dominos cell phone number was given as the number for the delivery. A home
 phone number was requested & a check revealed the number **456-7812** came back to
 Iris Winds. Two b/m was located at 44 Iris Winds / Wisn Simon, along with
 Dominos pizza box. Both subjects were detained. A cell phone was located on Simon &
 when asked, he said he found it
 the ground. After looking at

STATUS	TYPE	VIN	MOOR LICENSE NO.	CONT. FILE NO.	AND QUANT. NO.
<input type="checkbox"/> STOLEN	<input type="checkbox"/> VEHICLE	SERIAL AND/OR OWNER APPLIED TO	STATE		
<input type="checkbox"/> RECOVERED	<input type="checkbox"/> SUV	YEAR OF REGISTRATION	YEAR OF EXPIRATION	CAR	MAKE
<input type="checkbox"/> FOUND	<input type="checkbox"/> BOAT	MODEL	STYLE	COLOR	BRAND NAME
<input type="checkbox"/> POWED	<input type="checkbox"/> LICENSE PLATE	SEC. NO.	DESCRIPTION	SEWER	REGISTRATION DATE
<input type="checkbox"/> SUSPECT	<input type="checkbox"/> SECURITIES/BONDS, STOCKS	MISCELLANEOUS			
<input type="checkbox"/> VICTIM	<input type="checkbox"/> ARTICLE				
GROUP					TOTAL VALUE
1	Subjects in the				
2					
3					
4					
SUBJECT IDENTIFIED	SUBJECT LOCATED	<input type="checkbox"/> ACTIVE <input type="checkbox"/> NOW CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18	
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> UNFOUNDED	<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER	
INFORMAL CLEARANCE	OFFENDER DEATH	NO PROSECUTION	EXTRACTION DENIED	VICTIM DENIES COOPERATION	JUVENILE NO CUSTODY
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
DATE	TIME	APPROVING OFFICER			
02/28/02	13:14				

3 Oct 1977

SUSPECTS

12:14 P.M. 11
All five men were found in an abandoned traveling coach on 195 1/2 south of the Clarence Cross in line shortly after the Knight's line incident.

Wenno said local law enforcement officers are continuing to work with state troopers to see if the men could have been involved in any of several other interstate and non-interstate in South Carolina.

After their arrest, Wenno said authorities are looking into the possibility of the men being involved in robberies in both Illinois and Sanier.

The five have also been named as possible suspects in a Colleton County slaying.

No charges have been filed on the killing, but Wenno said the gun recovered from the suspects is undergoing testing to see there is a connection to the crime. The gun was originally reported stolen from Colleton County.

The suspects were charged with possession of a stolen weapon shortly after their arrest, and the first man - all under 21 - also faces charges of being in possession of a firearm.

Based on the first armed robbery charge was set at \$100,000 for each of the five suspects. Another bond hearing on the second armed robbery charge is pending.

Contact Staff Writer Braden Hunch at braden@tribune.com or 912 774 1222.

PIZZA

FROM PAGE 1A

Black briefly lost consciousness in the small and cluttered trunk and when he came to, he was able to pop the latch from the inside and tumble from the moving vehicle.

Escaping from the car at South Purdy and West Liberty streets, he tried to flee, but one of the subjects jumped from the Thunderbird and attempted to beat Black again.

Police say the subjects then fled in the vehicle. Black was transported to Tuomey Regional Medical Center, where he remained Tuesday.

"His injuries are more severe than we had thought," Chief Deputy Anthony Dennis of the Sumter County Sheriff's Office said.

Once notified, law enforcement was able to identify the phone number that placed the delivery call to the Domino's Pizza on Miller Road.

The call was traced back to a cell phone, and investigators were able to find the home phone number and associated with the cell phone, account 1-813-774-1222.

Investigators also led to a mobile home at 44 Iris Woods, where they found 19-year-old Cedric Wain, a 14-year-old boy whose name is being withheld because of his age, a Domino's pizza box and a cell phone.

A check of the phone showed the pizzeria was the last number dialed. Investigators then found 17-year-old Perry Kendall Johnson hiding in

"His injuries are more severe than we had thought."

ANTHONY DENNIS
Sumter County chief deputy

the bathroom.

Black's abandoned vehicle was later located at the intersection of Purdy and Jane streets. His black Domino's hat and a sign for his car were found by police at the scene of the assault.

Charged with strong-armed robbery, kidnaping, assault and battery with intent to kill and grand larceny, Wain and Johnson were transported to the Sumter-Leo Regional Detention Center.

The juvenile was transported to a Department of Juvenile Justice facility in Columbia.

Standing in front of the Domino's Pizza on Miller Road, the franchisee James John Erath, and supervisor John Ulrich stood on a crowded sidewalk out of the rain.

"Right now our main concern is that they apprehended the individuals," Erath said.

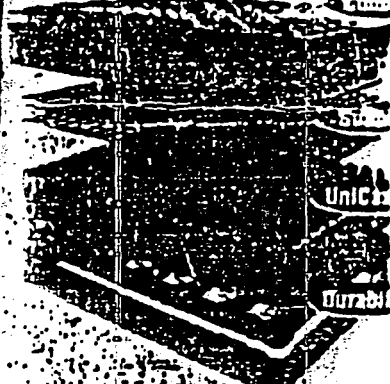
Ulrich, who said Black had been a deliveryman with the restaurant for about six months, stood with his arms crossed, a soda bottle held against his side.

He had spent the night in the hospital sitting up with his 19-year-old employee.

2003



New Sealy Posturepedic



Queen	\$499
Full	\$399
Twin	\$299

We also c
EXTRA BOND

Best

(next to C.W. Ard's Appl. & TV
and across from Simpson's
Hardware) 774-

~~John Corbett~~

1 THE DEFENDANT: NO, SIR.

2 THE COURT: ALL RIGHT. I'M GOING TO ASK THE
3 SOLICITOR TO TELL ME ABOUT THE FACTS AS THEY RELATE
4 TO THE CASES. LISTEN TO WHAT HE TELLS ME BECAUSE
5 WHEN HE'S THROUGH I'M GOING TO ASK YOU IF YOU AGREE
6 OR DISAGREE WITH HIS VERSION OF THOSE FACTS.

7 THE DEFENDANT: YES, SIR.

8 THE COURT: GO AHEAD.

9 MR. CORBETT: THANK YOU, YOUR HONOR. YOUR
10 HONOR, I WILL FIRST ADDRESS INDICTMENT
11 2004-GS-43-551. JUDGE, I COMMONLY REFER TO THIS CASE
12 AS THE PIZZA DELIVERY CASE.

13 JUDGE, ALSO PRESENT IN THE COURTROOM AT THIS ^{PIZZA}
14 TIME IS INVESTIGATOR JAMES TURNER WITH THE SUMTER
15 COUNTY SHERIFF'S DEPARTMENT. AND YOUR HONOR, WITH
16 THE COURT'S PERMISSION, IF I MISSTATE ANYTHING OR
17 LEAVE SOMETHING OUT, I BELIEVE INVESTIGATOR TURNER
18 COULD FILL IT IN FOR US.

19 THE COURT: OKAY.

20 MR. CORBETT: YOUR HONOR, THIS INCIDENT TOOK
21 PLACE ON OCTOBER 27TH OF 2003. AT THAT PARTICULAR
22 TIME JOHNNY BLACK, THE VICTIM IN THIS CASE, WAS A
23 DELIVERY DRIVER FOR DOMINOES PIZZA.

24 ^{changed name} ON THE NIGHT IN QUESTION DOMINOES RECEIVED A
25 TELEPHONE CALL TO DELIVER A PIZZA TO IRIS WINDS

1 MOBILE HOME PARK. SOME PERIOD OF TIME PASSED,
2 DOMINOES DID NOT SEND THE ORDER OUT BECAUSE THEY HAVE
3 SOME TYPE OF SYSTEM WHERE THEY CONFIRM AN ADDRESS TO
4 A PHONE NUMBER. THAT DID NOT CHECK OUT, SO THEY DID
5 NOT SEND IT OUT.

6 THEY SUBSEQUENTLY RECEIVED A SECOND PHONECALL
7 ASKING WHERE THAT PIZZA WAS THAT HAD PREVIOUSLY BEEN
8 ORDERED. THEY INDICATED THAT IT WAS NOT A VALID
9 NUMBER AND THEY NEEDED A DIFFERENT NUMBER. AT THAT
10 TIME THEY WERE PROVIDED AN ADDITIONAL PHONE NUMBER.

11 JOHNNY BLACK THEN DELIVERED THE PIZZA TO THE ^{VAC}
12 PREMISES KNOWN AS 32 IRIS WINDS MOBILE HOME PARK. ²⁵⁻²¹
13 ^{STIP-} UPON ARRIVAL, ONE INDIVIDUAL DIRECTED HIM TO THE BACK ^{ES 23/10/2}
14 OF WHAT WE NOW KNOW TO BE AN ABANDONED MOBILE HOME. ^{VF 25}

15 AS HE ROUNDED THE CORNER OF THE MOBILE HOME HE
16 WAS STRUCK IN THE FACE WITH WHAT HE BELIEVES WAS SOME
17 TYPE OF GLASS LIQUOR BOTTLE. HE WAS RENDERED
18 STAGGERED AND TO AN EXTENT MOMENTARILY UNCONSCIOUS AS
19 A RESULT OF THAT.

20 HE WAS ROBBED OF THE MONEY THAT HE HAD ON HIS
21 PERSON, APPROXIMATELY \$60. HE WAS THEN DRAGGED AND
22 PLACED INTO THE TRUNK OF HIS OWN AUTOMOBILE. HE WAS
23 DRIVEN AROUND IN SUMTER.

24 HIS STATEMENT INDICATES THAT HE WAS BRIEFLY
25 UNCONSCIOUS, HE REGAINED CONSCIOUSNESS AND WAS

1 UNABLE -- AND WAS ABLE TO FIND THE EMERGENCY RELEASE
2 TO THE TRUNK.

3 WHEN THE VEHICLE WAS IN THE VICINITY OF LIBERTY
4 STREET AND PURDY STREET HERE IN SUMTER, HE WAS ABLE
5 TO OPEN THE TRUNK AND BASICALLY JUMP OR ROLL OUT OF
6 THE TRUNK OF THE CAR AT THAT TIME.

7 HIS REPORT INDICATES THAT THE DEFENDANT STOPPED,
8 BEAT HIM MOMENTARILY, AND THEN JUMPED BACK IN THE CAR
9 AND FLED. OBVIOUSLY POLICE WERE CONTACTED, HE WAS
10 TRANSPORTED TO THE HOSPITAL AND TREATED.

11 ~~fact-~~ DURING THE COURSE OF THE INVESTIGATION, THE ^{pg 21}
12 NUMBER THAT WAS PROVIDED TO DOMINOES MATCHED AN ^{line 15-17}
13 ADDRESS NEARBY TO THE 32 IRIS WINDS MOBILE HOME PARK.
14 OFFICERS WENT TO THAT SCENE AND AT THE -- UPON
15 ARRIVAL AT THAT SCENE THEY FOUND THREE CO-DEFENDANTS
16 AT THAT LOCATION, ONE OF WHOM WAS HIDING IN THE
17 BATHROOM -- EXCUSE ME -- TWO CO-DEFENDANTS AT THAT
18 SCENE, ONE OF WHOM WAS HIDING IN THE BATHROOM.

19 THEY ALSO DISCOVERED AT THAT SCENE THE DOMINOES
20 PIZZA BOX AND IT HAD THE RECEIPT ATTACHED THAT WAS
21 THE SAME BOX THAT JOHNNY BLACK HAD IN HIS HAND AT THE
22 TIME HE WAS ASSAULTED. ALSO FOUND AT THAT LOCATION
23 WAS A CELL PHONE. ONE OF THE NUMBERS IN THAT CELL
24 PHONE THAT HAD RECENTLY BEEN CALLED WAS THE DOMINOES.

25 THE SUSPECTS ALSO HAD -- AND THE BOTTOM OF THEIR

copy this side
3

my copy

43

1 ASK YOU TO CONSIDER HIS YOUTH, CONSIDER HIS
2 CIRCUMSTANCES; AND ALSO CONSIDER THE SENTENCE THAT
3 HIS CO-DEFENDANT HAD IN SENTENCING HIM, YOUR HONOR.
4 THAT'S ALL WE HAVE.

5 THE COURT: ALL RIGHT. MRS. STEVENS, DO YOU
6 HAVE ANYTHING YOU WANT TO ADD?

7 MRS. STEVENS: YOUR HONOR, I -- JUST BRIEFLY.
8 YOUR HONOR, HE DID GIVE A STATEMENT ON THE HOME
9 INVASION CASE, AND IT'S MY UNDERSTANDING -- I WAS
10 THERE WHEN HE GAVE THE STATEMENT.

11 IT'S MY UNDERSTANDING THAT THEY WERE NOT
12 EXPECTING THE -- MRS. LADSON TO BE HOME. AND I JUST
13 WANTED YOUR HONOR TO KNOW THAT THEY DID NOT KNOWINGLY
14 GO INTO THE HOUSE KNOWING THAT SHE WAS GOING TO BE
15 THERE.

16 AND I DON'T THINK THAT'S UNDISPUTED AS FAR AS
17 THE STATE IS CONCERNED FROM THE STATEMENTS THAT THEY
18 GOT FROM THE CO-DEFENDANTS, THAT THE JUVENILE IN THIS
19 CASE KNOWS THEIR SON AND HAD CALLED THE NIGHT BEFORE
20 TO FIND OUT THE FAMILY MEMBERS' SCHEDULES FOR THE
21 NEXT DAY, AND SO I JUST WANTED YOU TO KNOW THAT
22 THEY -- THEY THOUGHT SHE WASN'T HOME.

23 THEY DIDN'T KNOWINGLY GO IN KNOWING SHE WAS
24 GOING TO BE THERE TO DO THIS TO HER. AND HE DID GIVE
25 A STATEMENT AND WAS VERY COOPERATIVE. AND IT'S MY

3

copy this out
my way

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UNDERSTANDING THAT THIS STATEMENT DID LEAD TO THEIR ABILITY TO GET THE CO-DEFENDANT, MR. JOHNSON, TO PLEAD GUILTY, THAT WITHOUT MR. WISE'S STATEMENT THEY DID NOT HAVE A VERY STRONG CASE AGAINST MR. JOHNSON BECAUSE HE WAS WEARING A MASK AND WAS NOT ABLE TO BE IDENTIFIED BY MRS. LADSON.

I KNOW THIS IS A HORRIFIC CRIME AND IT'S HARD FOR ME TO STAND HERE, YOUR HONOR. I FEEL SO BAD FOR MRS. LADSON. I CANNOT EVEN IMAGINE WHAT IT WAS LIKE FOR HER.

BUT CEDRICK WISE WAS YOUNG AND STUPID AND HE DID SOMETHING VERY, VERY DUMB. I DON'T BELIEVE HE'S A BAD PERSON. I THINK HE JUST MADE A REALLY, REALLY BAD CHOICE, AND HE TRIED TO DO THE RIGHT THING BY COOPERATING AND GIVING THIS STATEMENT.

HE DID CHANGE HIS STATEMENT SEVERAL TIMES, BUT IT'S MY UNDERSTANDING THAT HE REALIZED THE SEVERITY OF HIS ACTIONS AFTER HE DID THE RIGHT THING AND THOUGHT THAT MAYBE HE WOULD GET A BETTER DEAL, AND THAT WASN'T VERY SMART EITHER.

BUT HIS MOM HAS BEEN IN TOUCH WITH ME. AND I THINK THAT HE'S VERY SORRY FOR WHAT HE'S DONE, YOUR HONOR. AND I WOULD SIMPLY ASK THAT YOU CONSIDER GIVING HIM THE SAME SENTENCE AS THE CO-DEFENDANT.

AND WE WERE NOT ABLE TO PLEAD AT THE SAME TIME

1 HE HAD BEEN VERY HELPFUL, AND THAT HE WOULD NOT SEEK THOSE
2 OTHER TWO WARRANTS, AND THAT HE WOULD BE WILLING TO STAND
3 AT THE PLEA AND TELL THE JUDGE HOW COOPERATIVE HE HAD
4 BEEN.

5 Q. OKAY. DID SOMEWHERE DURING THE COURSE OF
6 REPRESENTATION, DID MR. WISE EVER SEEK TO RELIEVE YOU AS
7 HIS ATTORNEY?

8 A. THERE WAS A LETTER THAT HE SENT TO THE CLERK OF
9 COURT'S OFFICE. I THINK IT WAS DATED SEPTEMBER 8TH. I
10 WAS STILL ON MATERNITY LEAVE AND DID NOT RETURN FROM
11 MATERNITY LEAVE UNTIL OCTOBER 1ST OF 2005, AND I DON'T
12 NORMALLY CHECK MY BOX IN THE CLERK OF COURT'S OFFICE
13 UNLESS THERE'S A TERM OF COURT, SO I DIDN'T RECEIVE THE
14 LETTER TILL AFTER HE HAD PLED ACTUALLY.

15 Q. DID HE -- DURING THE PLEA PROCESS, AS I SAY PROCESS,
16 DISCUSSIONS WITH HIM HERE, THERE, RENDERING A PLEA, DID HE
17 EVER INDICATE TO YOU THAT HE NO LONGER WANTED YOU AS HIS
18 LAWYER?

19 A. NEVER.

20 Q. DID YOU EXPLAIN TO HIM WHAT PENALTIES HE WAS FACING
21 IF HE PLED?

22 A. BOTH CASES WERE PUT ON THE TRIAL DOCKET FOR THAT
23 MONDAY. HOWEVER, HE ALWAYS TOLD ME HE WANTED TO PLEAD
24 GUILTY ON MY CASE. BUT BECAUSE HE WAS NOT WILLING TO
25 PLEAD GUILTY ON MR. CLARK'S CASE, MR. CORBETT WAS GOING TO

1 EACH ONE, JUST -- AND HE SAID, I'M JUST LETTING YOU KNOW
2 THAT THIS OFFER EXISTS, IF YOU'RE INTERESTED, I WILL LET
3 MRS. STEVENS KNOW AND SHE WILL COME BACK OUT AND DISCUSS
4 IT IN MORE DETAIL WITH YOU, BUT I'M JUST TRYING TO GIVE
5 YOU A HEADS-UP ABOUT THIS SO THAT, YOU KNOW, YOU CAN LET
6 ME KNOW.

7 IT'S MY UNDERSTANDING HE SAID, NO, HE DID NOT WANT TO
8 TAKE THAT PLEA OFFER. AND I DID NOT TALK TO HIM ABOUT HIS
9 CASE AGAIN UNTIL AFTER OCTOBER.

10 Q. AFTER YOU CAME BACK FROM MATERNITY LEAVE?

11 A. YES.

12 Q. SO OBVIOUSLY THERE WAS DISCUSSIONS THAT WERE BETWEEN
13 HIM AND MR. DAVIS?

14 A. YES.

15 Q. WAS THERE -- IN YOUR INVESTIGATION OF THIS MATTER,
16 DID YOU EVER EXPLORE ANY ISSUES ABOUT ANY PHOTO LINE-UP OR
17 ANYTHING OF THAT NATURE?

18 A. AS I SAID, HE NEVER INDICATED TO ME THAT HE WANTED TO
19 GO TO TRIAL ON THAT CASE. HE JUST SAID HE DIDN'T WANT TO
20 TAKE THE 15 YEAR PLEA. AT NO POINT DID HE SAY I WANT A
21 TRIAL, I CAN BEAT THESE CHARGES, I'M NOT GUILTY.

22 Q. DID YOU TELL HIM WHAT THE -- WHAT MAGIC WORDS WERE
23 WHEN HE WAS QUESTIONED IN THAT PLEA PROCESS?

24 A. I -- YOU MEAN WHEN HE WAS PLEADING WITH
25 JUDGE

ARREST WARRANT

H-536834

STATE OF SOUTH CAROLINA

County/ Municipality of

RECORDED

NOV 5 AM 11:09

THE STATE against

CLERK OF COURT SUMTER COUNTY, SC

CEDERICK WISE

Address: PO BOX 2736/44 IRIS WINDS HRP

SUMTER, SC 29150

Phone: 803-2189 SSN: 298-57-5743

Sex: Race: Height: 510 Weight: 170

DL State: DL#: DOB: 01/16/85 Agency ORI#: SC0430000

Prosecuting Agency: 00

Prosecuting Officer: 0259-TURNER

Offense: STRONG ARM ROBBERY

Offense Code: 0137

Code/Ordinance Sec. 16-11-0325

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Cedrick Wise on 10/28/03

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Sol 11-7-2003 Denied

STATE OF SOUTH CAROLINA

County/ Municipality of

AFFIDAVIT

Form Approved by S.C. Attorney General July 28, 1990 SCCA 518

4 copy Pending Johnson

SUMTER

Personally appeared before me the affiant SGT JAMES TURNER being duly sworn deposes and says that defendant CEDERICK WISE did within this county and state on State of South Carolina (or ordinance of County/ Municipality of) in the following particulars:

DESCRIPTION OF OFFENSE:

INCIDENT # 03104458

STRONG ARM ROBBERY (16-11-0325) I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THAT THE DEFENDANT DID ROB ONE JOHNNY BLACK WHILE AT 32 IRIS WINDS HRP, IN THE COUNTY OF SUMTER, STATE OF S. C.; BY KICKING AND BEATING HIM, AND DID STEAL, TAKE AND CARRY AWAY PIZZA'S TOTALING \$61.33 AND AN UNKNOWN AMOUNT OF CASH BELONGING TO DOMINO'S PIZZA ALL WITH THE INTENT TO CONVERT SAME TO HIS USE AND TO PERMANENTLY DEPRIVE VICTIM OF HIS PROPERTY. PROBABLE CAUSE: LAW ENFORCEMENT WILL ATTEST TO THE SAME.

Sworn to and subscribed before me on 10-28-03

Signature of Issuing Judge (L.S.)

Signature of Affiant

Affiant's Address SGT JAMES TURNER/107 E HANFORD ST

SUMTER, SC 29150

Affiant's Telephone 436-2798

STATE OF SOUTH CAROLINA

County/ Municipality of

ARREST WARRANT

SUMTER

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

It appearing from the above affidavit that there are reasonable grounds to believe that on defendant CEDERICK WISE did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of SUMTER) as set forth below:

DESCRIPTION OF OFFENSE:

STRONG ARM ROBBERY (16-11-0325)

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

Signature of Issuing Judge (L.S.) Judge Code: 5044

Judge's Address 115 N HANFORD ST/PO BOX 1428

SUMTER, SC 29150

Judge's Telephone 803-436-2290

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

However without the sentencing hearing transcript and my H-536634 Strong Arm Robbery arrest warrant that was obtained in December 2011. It's noway possible

I would've discovered how and why Mr. Clark was ineffective for failing to object to the Court at my plea hearing and move to withdraw my guilty plea on the grounds of a Brady violation. Which I never raised this claim in any prior State or Federal

PCR application because evidence never existed to do so and since I never raised this claim before do to lack of evidence to support the claim. That clearly reveals this PCR 6th Amendment violation claim against Mr. Clark is not successive nor res judicata because this 6th Amendment PCR claim against Mr. Clark was never ruled on

Evidences

Little Faith

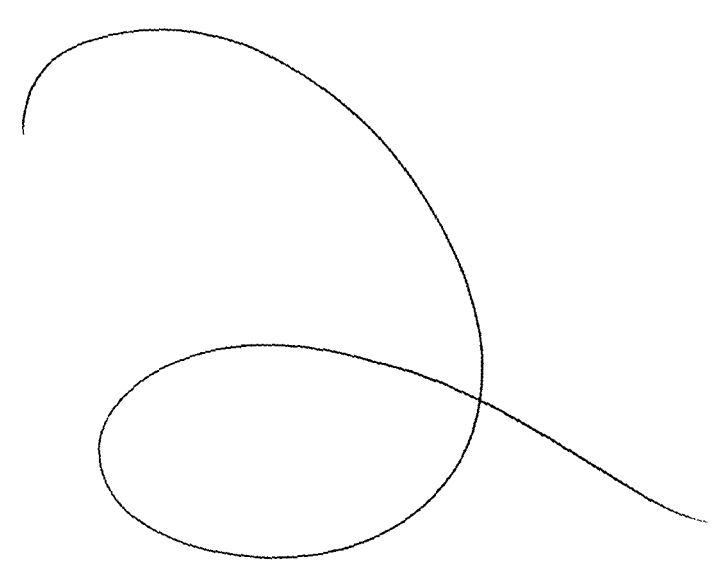


Exhibit B
A



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0269
E-MAIL: mtalley@sccourts.org

January 6, 2012

Cedric Wise #312547
FCI Q-4-A-122
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Wise:

Your inquiry has been received by this office. Enclosed you will find the information you requested. The schedule is for that entire week (Monday-Friday) of the date shown at the top of the schedule.

Sincerely,

South Carolina Court Administration

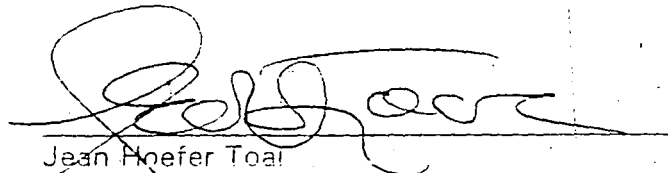
Exhibit
A

The Supreme Court of South Carolina

ORDER

Pursuant to the provisions of S. C. CONST. Art. V, §4, the statutory terms of circuit court set forth in §14-5-620 through §14-5-820, 1976 Code of Laws of South Carolina, as amended, for the period commencing January 4, 2004 and ending July 3, 2004, are hereby canceled.

IT IS ORDERED that the terms of circuit court for the period commencing January 4, 2004 and ending July 3, 2004, shall be as set forth on the South Carolina Judicial Department's WEB site at www.judicial.state.sc.us/calendar which schedule is incorporated herein and made a part hereof by reference. Additional terms of court may be scheduled during this period by subsequent orders. Where a circuit-wide nonjury term is indicated, the Chief Circuit Judge for Administrative Purposes for the circuit shall designate the time and location of the term among the counties within the circuit. A term designated as a circuit wide administrative week shall also be held at such times and locations within the circuit as designated by the Chief Circuit Judge for Administrative Purposes assigned to that term.


Jean Hofer Tol
Chief Justice

July 16, 2003
Columbia, South Carolina

Enh: b: +
A

**Terms of Circuit and Family Court
May 2004**

**Holidays:
Mon May 10 - Confederate Memorial Day
Mon May 31 - National Memorial Day**

Circuit Number	5/3/2004	5/10/2004	5/17/2004	5/24/2004	5/31/2004
3	Common Pleas Non-Jury 3 King, Howard SINGLETARY 3 Common Pleas 3, 4, 5 Lee Cooper, Thomas W. RICHARDSON 3, 4, 5	General Sessions Clarendon Cooper, Thomas W. RICHARDSON General Sessions Williamsburg King, Howard SINGLETARY	General Sessions Clarendon Cooper, Thomas W. Sitting With: Early, Doyet RICHARDSON 17 ROLAND 18, 19, 20 NO CR NEEDED 21 Common Pleas Sumter King, Howard SINGLETARY General Sessions Williamsburg Newman, Clifton SULLIVAN 17, 18, 19, 20 NO CR NEEDED 21	Common Pleas Lee Cooper, Thomas W. RICHARDSON Common Pleas Sumter King, Howard SINGLETARY	Common Pleas Clarendon Cooper, Thomas W. RICHARDSON General Sessions Sumter King, Howard SINGLETARY Common Pleas Lee Newman, Clifton SULLIVAN 31, 1, 2, 3 NO CR NEEDED 4

[Signature]
CERTIFIED TRUE COPY.

WITNESSES

SHERIFF'S OFFICE

Turne:

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JUNE TERM 2004

THE STATE

vs.

PERRY KENDELL JOHNSON

CEDERICK WISE

ARREST WARRANT NUMBER

H536838, H536834 (1); H536839

H536835 (2); H536841, H536837 (3)

H536840, H536836 (4)

ACTION OF GRAND JURY

Det. H. McArthur
June Bell

Foreperson of Grand Jury

Date: *5/27/04*

VERDICT

Indictment for

STRONG ARM ROBBERY,
KIDNAPPING, GRAND LARCENY,
ASSAULT AND BATTERY WITH
INTENT TO KILL

C. KELLY JACKSON, SOLICITOR

Foreperson of Petit Jury

Date:

Exhibit B

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR STRONG ARM ROBBERY, KIDNAPPING, GRAND LARCENY AND ASSAULT AND BATTERY WITH INTENT TO KILL WITH THE AFORESAID NAMES OF PERRY KENDELL JOHNSON AND CEDERICK WISE SHOWN THEREON:

COUNT FOUR – ASSAULT AND BATTERY WITH INTENT TO KILL

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 27, 2003, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as amended, in that they with malice aforethought, committed an assault and battery upon one Johnny Black by deliberately beating and assaulting him and throwing him into the trunk of car, with intent to kill the said Johnny Black.

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



SOLICITOR

The Supreme Court of South Carolina
Daniel E. Shearator, Clerk of Court
P.O. Box 11330
Columbia, S.C. 29211

Edward R. Hummel for Postmaster Company
P.O. Box 15 - Falls Church, VA 22031-0015

Exhibit B

Indictment
2004-65-43-0552

STATE OF SOUTH CAROLINA)	INDICTMENT FOR
)	BURGLARY (1 st Degree), STRONG ARM ROBBERY,
COUNTY OF SUMTER)	KIDNAPPING, GRAND LARCENY, SAFECRACKING,
		AGGRAVATED ASSAULT AND BATTERY AND
		ASSAULT WITH INTENT TO KILL

CERTIFIED TRUE COPY

At a Court of General Sessions, convened on May 27, 2004, the Grand Jurors of

SUMTER County present upon their oath:

Barbara Shaper
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

COUNT ONE – BURGLARY (1st Degree)

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, enter the dwelling of Kyong Mi Ladson located at 1660 Hartwell Road without consent and with the intent to commit a crime therein and said defendants were armed or became armed with a deadly weapon; caused physical injury to Kyong Mi Ladson, who was not a participant in said burglary, used or threatened the use of a dangerous instrument and displayed what appeared to be a knife, in violation of Section 16-11-311, South Carolina Code of Laws (1976), as amended.

COUNT TWO – STRONG ARM ROBBERY

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, feloniously or unlawfully take from the person in the presence of Kyong Mi Ladson by means of force or intimidation goods or monies of the said Kyong Mi Ladson, such goods or monies being described: multiple items of personal property including firearms, jewelry and other person property.

COUNT THREE – KIDNAPPING

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, violate Section 16-3-910 of the Code of Laws of South Carolina (1976), as amended, in that they did unlawfully seize and confine, without the authority of law, and by the use of force Kyong Mi Ladson.

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

C. Kelly Jackson
 SOLICITOR

WITNESSES

SHERIFF'S OFFICE

Turner

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

JUNE TERM 2004

THE STATE

vs.

PERRY KENDELL JOHNSON

CEDERICK WISE

ARREST WARRANT NUMBER

H538839 (1,2,6,7); H538106 (1,2,7)

H538840, H538107 (3); H538841

H538108 (4); H538843, H538110 (5); H538109 (6)

ACTION OF GRAND JURY

Did A. McArthur
Five Bees

Foreperson of Grand Jury

Date: *5/27/04*

VERDICT

Indictment for

**BURGLARY (1st Degree), STRONG ARM
ROBBERY, KIDNAPPING, GRAND
LARCENY, SAFECRACKING,
AGGRAVATED ASSAULT AND BATTERY
AND ASSAULT WITH INTENT TO KILL**

C. KELLY JACKSON, SOLICITOR

Foreperson of Petit Jury

Date:

Exhibit B

ATTACHED TO AND BECOMING PART OF THE ORIGINAL INDICTMENT FOR BURGLARY (1st Degree), STRONG ARM ROBBERY, KIDNAPPING, GRAND LARCENY, SAFECRACKING, AGGRAVATED ASSAULT AND BATTERY AND ASSAULT WITH INTENT TO KILL WITH THE AFORESAID NAMES OF PERRY KENDELL JOHNSON AND CEDERICK WISE SHOWN THEREON:

COUNT FOUR – GRAND LARCENY

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, violate Section 16-13-30 of the Code of Laws of South Carolina (1976), as amended, in that they did feloniously take and carry away the personal goods of Randy Ladson, of the value of more than five thousand dollars, described as follows: a 2003 Toyota Corolla, with intent to deprive the owner thereof permanently of such goods.

COUNT FIVE – SAFECRACKING

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, violate Section 16-11-390 of the Code of Laws of South Carolina (1976), as amended, in that they did use tools, explosives and other implements in and about the safe of Randy Ladson, such safe being used to keep money and other valuables, with intent to commit larceny.

COUNT SIX – AGGRAVATED ASSAULT AND BATTERY

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, commit an assault and battery upon one Kyong Mi Ladson constituting an unlawful act of violent injury to the person of the said Kyong Mi Ladson, accompanied by circumstances of aggravation, to-wit: in that the said PERRY KENDELL JOHNSON AND CEDERICK WISE did strike her repeatedly, using threats and humiliation, thereby inflicting serious bodily injury to the said Kyong Mi Ladson.

COUNT SEVEN – ASSAULT WITH INTENT TO KILL

That PERRY KENDELL JOHNSON AND CEDERICK WISE did in Sumter County on or about October 20, 2003, unlawfully attempt or offer to commit a violent injury upon Kyong Mi Ladson, coupled with the present ability to complete the attempt or offer by a battery, all with malice aforethought, either express or implied, in that they did threaten her by holding a sword to her throat and threatening to cut off her head.

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


SOLICITOR

Exh: b. + B

STATE OF SOUTH CAROLINA)
THIRD JUDICIAL CIRCUIT)

IN THE COURT OF GENERAL SESSIONS

RECORDED

2003 OCT 10 1PM 12:13

D.V. FLAYER, JR.
CLERK OF COURT
SUMTER COUNTY, S.C.

IN RE:)
Grand Jury Meetings for 2004)
_____)

ORDER

Pursuant to the Order of Chief Justice Jean Hoefer Toal designating the undersigned as Chief Administrative Judge for the Third Judicial Circuit commencing January 4, 2004 and ending July 3, 2004, and empowering the chief judge for administrative purposes to schedule the dates for convening of Grand Juries, and in accordance with such authority, it is

ORDERED that Grand Juries convene as follows:

- | | |
|------------------|--|
| Clarendon County | Thursday, January 22, 2004
Thursday, March 11, 2004
Thursday, May 6, 2004
Thursday, July 1, 2004
Thursday, August 19, 2004
Thursday, October 7, 2004
Thursday, December 1, 2004 |
| Lee County | Thursday, February 5, 2004
Thursday, April 1, 2004
Thursday, June 17, 2004
Thursday, August 5, 2004
Thursday, September 30, 2004
Wednesday, November 24, 2004 |
| Sumter County | Tuesday, December 30, 2003
Thursday, February 19, 2004
Thursday, April 8, 2004
Thursday, May 27, 2004
Thursday, July 22, 2004
Thursday, September 2, 2004
Thursday, October 28, 2004 |

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JFK

Exhibit B

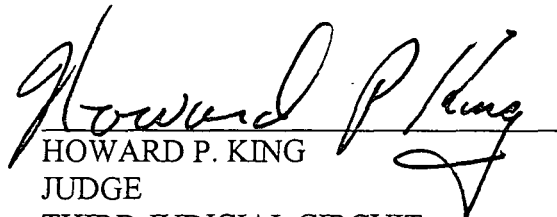
Williamsburg County

Thursday, January 22, 2004
Thursday, March 11, 2004
Thursday, May 6, 2004
Thursday, July 1, 2004
Thursday, August 19, 2004
Thursday, October 7, 2004
Thursday, December 1, 2004

IT IS FURTHER ORDERED that unless a circuit judge is present to receive the report of the Grand Jury in open court when the Grand Jury completes its work, the Grand Jury or a representative from the Grand Jury shall return on Monday morning at the beginning of General Sessions Court to make its formal report;

IT IS FURTHER ORDERED that the Grand Juries may meet at such additional times as deemed necessary upon call by the Foreman or the Court.

AND IT IS SO ORDERED.


HOWARD P. KING
JUDGE
THIRD JUDICIAL CIRCUIT

Sumter, South Carolina

October 10, 2003

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Exhibit B

RECORDED

GRAND JURY REPORT ON INDICTMENTS SUMTER COUNTY

CLERK OF COURT
SUMTER COUNTY, FLORIDA

I. The Grand Jury of Sumter County met on the 27th day of May, 2004, and the following indictments are reported as True Bills:

1.	2004-GS-43- <u>420</u>	26.	2004-GS-43- <u>478</u>	51.	2004-GS-43- <u>503</u>	76.	2004-GS-43- <u>528</u>
2.	2004-GS-43- <u>701</u>	27.	2004-GS-43- <u>479</u>	52.	2004-GS-43- <u>504</u>	77.	2004-GS-43- <u>529</u>
3.	2004-GS-43- <u>151</u>	28.	2004-GS-43- <u>480</u>	53.	2004-GS-43- <u>505</u>	78.	2004-GS-43- <u>530</u>
4.	2004-GS-43- <u>211</u>	29.	2004-GS-43- <u>481</u>	54.	2004-GS-43- <u>506</u>	79.	2004-GS-43- <u>531</u>
5.	2004-GS-43- <u>340</u>	30.	2004-GS-43- <u>482</u>	55.	2004-GS-43- <u>507</u>	80.	2004-GS-43- <u>532</u>
6.	2004-GS-43- <u>458</u>	31.	2004-GS-43- <u>483</u>	56.	2004-GS-43- <u>508</u>	81.	2004-GS-43- <u>533</u>
7.	2004-GS-43- <u>459</u>	32.	2004-GS-43- <u>484</u>	57.	2004-GS-43- <u>509</u>	82.	2004-GS-43- <u>534</u>
8.	2004-GS-43- <u>460</u>	33.	2004-GS-43- <u>485</u>	58.	2004-GS-43- <u>510</u>	83.	2004-GS-43- <u>535</u>
9.	2004-GS-43- <u>461</u>	34.	2004-GS-43- <u>486</u>	59.	2004-GS-43- <u>511</u>	84.	2004-GS-43- <u>536</u>
10.	2004-GS-43- <u>462</u>	35.	2004-GS-43- <u>487</u>	60.	2004-GS-43- <u>512</u>	85.	2004-GS-43- <u>537</u>
11.	2004-GS-43- <u>463</u>	36.	2004-GS-43- <u>488</u>	61.	2004-GS-43- <u>513</u>	86.	2004-GS-43- <u>538</u>
12.	2004-GS-43- <u>464</u>	37.	2004-GS-43- <u>489</u>	62.	2004-GS-43- <u>514</u>	87.	2004-GS-43- <u>539</u>
13.	2004-GS-43- <u>465</u>	38.	2004-GS-43- <u>490</u>	63.	2004-GS-43- <u>515</u>	88.	2004-GS-43- <u>540</u>
14.	2004-GS-43- <u>466</u>	39.	2004-GS-43- <u>491</u>	64.	2004-GS-43- <u>516</u>	89.	2004-GS-43- <u>541</u>
15.	2004-GS-43- <u>467</u>	40.	2004-GS-43- <u>492</u>	65.	2004-GS-43- <u>517</u>	90.	2004-GS-43- <u>542</u>
16.	2004-GS-43- <u>468</u>	41.	2004-GS-43- <u>493</u>	66.	2004-GS-43- <u>518</u>	91.	2004-GS-43- <u>543</u>
17.	2004-GS-43- <u>469</u>	42.	2004-GS-43- <u>494</u>	67.	2004-GS-43- <u>519</u>	92.	2004-GS-43- <u>544</u>
18.	2004-GS-43- <u>470</u>	43.	2004-GS-43- <u>495</u>	68.	2004-GS-43- <u>520</u>	93.	2004-GS-43- <u>545</u>
19.	2004-GS-43- <u>471</u>	44.	2004-GS-43- <u>496</u>	69.	2004-GS-43- <u>521</u>	94.	2004-GS-43- <u>546</u>
20.	2004-GS-43- <u>472</u>	45.	2004-GS-43- <u>497</u>	70.	2004-GS-43- <u>522</u>	95.	2004-GS-43- <u>547</u>
21.	2004-GS-43- <u>473</u>	46.	2004-GS-43- <u>498</u>	71.	2004-GS-43- <u>523</u>	96.	2004-GS-43- <u>548</u>
22.	2004-GS-43- <u>474</u>	47.	2004-GS-43- <u>499</u>	72.	2004-GS-43- <u>524</u>	97.	2004-GS-43- <u>549</u>
23.	2004-GS-43- <u>475</u>	48.	2004-GS-43- <u>500</u>	73.	2004-GS-43- <u>525</u>	98.	2004-GS-43- <u>550</u>
24.	2004-GS-43- <u>476</u>	49.	2004-GS-43- <u>501</u>	74.	2004-GS-43- <u>526</u>	99.	2004-GS-43- <u>551</u>
25.	2004-GS-43- <u>477</u>	50.	2004-GS-43- <u>502</u>	75.	2004-GS-43- <u>527</u>	100.	2004-GS-43- <u>552</u>

101.	2004-GS-43- <u>553</u>	126.	2004-GS-43- <u>578</u>	151.	2004-GS-43- <u>603</u>	176.	2004-GS-43-_____
102.	2004-GS-43- <u>554</u>	127.	2004-GS-43- <u>579</u>	152.	2004-GS-43- <u>604</u>	177.	2004-GS-43-_____
103.	2004-GS-43- <u>555</u>	128.	2004-GS-43- <u>580</u>	153.	2004-GS-43- <u>605</u>	178.	2004-GS-43-_____
104.	2004-GS-43- <u>556</u>	129.	2004-GS-43- <u>581</u>	154.	2004-GS-43- <u>606</u>	179.	2004-GS-43-_____
105.	2004-GS-43- <u>557</u>	130.	2004-GS-43- <u>582</u>	155.	2004-GS-43- <u>607</u>	180.	2004-GS-43-_____
106.	2004-GS-43- <u>558</u>	131.	2004-GS-43- <u>583</u>	156.	2004-GS-43- <u>608</u>	181.	2004-GS-43-_____
107.	2004-GS-43- <u>559</u>	132.	2004-GS-43- <u>584</u>	157.	2004-GS-43- <u>609</u>	182.	2004-GS-43-_____
108.	2004-GS-43- <u>560</u>	133.	2004-GS-43- <u>585</u>	158.	2004-GS-43- <u>610</u>	183.	2004-GS-43-_____
109.	2004-GS-43- <u>561</u>	134.	2004-GS-43- <u>586</u>	159.	2004-GS-43- <u>611</u>	184.	2004-GS-43-_____
110.	2004-GS-43- <u>562</u>	135.	2004-GS-43- <u>587</u>	160.	2004-GS-43- <u>612</u>	185.	2004-GS-43-_____
111.	2004-GS-43- <u>563</u>	136.	2004-GS-43- <u>588</u>	161.	2004-GS-43- <u>613</u>	186.	2004-GS-43-_____
112.	2004-GS-43- <u>564</u>	137.	2004-GS-43- <u>589</u>	162.	2004-GS-43- <u>614</u>	187.	2004-GS-43-_____
113.	2004-GS-43- <u>565</u>	138.	2004-GS-43- <u>590</u>	163.	2004-GS-43- <u>615</u>	188.	2004-GS-43-_____
114.	2004-GS-43- <u>566</u>	139.	2004-GS-43- <u>591</u>	164.	2004-GS-43- <u>616</u>	189.	2004-GS-43-_____
115.	2004-GS-43- <u>567</u>	140.	2004-GS-43- <u>592</u>	165.	2004-GS-43- <u>617</u>	190.	2004-GS-43-_____
116.	2004-GS-43- <u>568</u>	141.	2004-GS-43- <u>593</u>	166.	2004-GS-43- <u>618</u>	191.	2004-GS-43-_____
117.	2004-GS-43- <u>569</u>	142.	2004-GS-43- <u>594</u>	167.	2004-GS-43- <u>619</u>	192.	2004-GS-43-_____
118.	2004-GS-43- <u>570</u>	143.	2004-GS-43- <u>595</u>	168.	2004-GS-43- <u>620</u>	193.	2004-GS-43-_____
119.	2004-GS-43- <u>571</u>	144.	2004-GS-43- <u>596</u>	169.	2004-GS-43- <u>621</u>	194.	2004-GS-43-_____
120.	2004-GS-43- <u>572</u>	145.	2004-GS-43- <u>597</u>	170.	2004-GS-43- <u>622</u>	195.	2004-GS-43-_____
121.	2004-GS-43- <u>573</u>	146.	2004-GS-43- <u>598</u>	171.	2004-GS-43-_____	196.	2004-GS-43-_____
122.	2004-GS-43- <u>574</u>	147.	2004-GS-43- <u>599</u>	172.	2004-GS-43-_____	197.	2004-GS-43-_____
123.	2004-GS-43- <u>575</u>	148.	2004-GS-43- <u>600</u>	173.	2004-GS-43-_____	198.	2004-GS-43-_____
124.	2004-GS-43- <u>576</u>	149.	2004-GS-43- <u>601</u>	174.	2004-GS-43-_____	199.	2004-GS-43-_____
125.	2004-GS-43- <u>577</u>	150.	2004-GS-43- <u>602</u>	175.	2004-GS-43-_____	200.	2004-GS-43-_____

II. The following indictments were found to be No Bills:

1. State v. _____, Indictment # 2004-GS-43-_____.
2. State v. _____, Indictment # 2004-GS-43-_____.
3. State v. _____, Indictment # 2004-GS-43-_____.
4. State v. _____, Indictment # 2004-GS-43-_____.
5. State v. _____, Indictment # 2004-GS-43-_____.

Exhibit B

III. The Grand Jurors whose signatures appear below did not participate in or vote on the indictments indicated.

- 1. Indictment # 2004-GS-43-____; Signature: _____
- 2. Indictment # 2004-GS-43-____; Signature: _____
- 3. Indictment # 2004-GS-43-____; Signature: _____
- 4. Indictment # 2004-GS-43-____; Signature: _____
- 5. Indictment # 2004-GS-43-____; Signature: _____

By our signature hereto, at least twelve (12) of the eighteen (18) Grand Jurors concurred in the findings of True Bills in this report.

- | | |
|---|--|
| <ul style="list-style-type: none"> 1. <u>Sgt. G. McArthur</u>, Foreperson 2. <u>Susan M Carlton</u> 3. <u>[Signature]</u> 4. <u>Carrie Bell Savery</u> 5. <u>Darius Nelson</u> 6. <u>Marie J Otrule</u> 7. <u>Katherine J. Dymore</u> 8. <u>Barrion T. Ford</u> 9. <u>John Anderson Jr</u> | <ul style="list-style-type: none"> 10. <u>Margaret Johnson</u> 11. <u>Jeff Weaver</u> 12. <u>Sheila R. Davis</u> 13. <u>Margaret Becker</u> 14. _____ 15. _____ 16. _____ 17. _____ 18. _____ |
|---|--|

DATE: 05/27/04

In the Court of Common Pleas

In the County of Sumter

Cedric Wise

Applicant

Vs.

State of South Carolina

Respondent

Newly Discovered Evidences of a 6th Amendment Federal Constitutional Violation claim raised under S.C. Code Ann § 17-27-45 (c). Motion To Amend the 2012-LP-43-181 PCR Application

On January 6th 2012, South Carolina Court Administration sent me a copy of the South Carolina Judicial Court proceeding calendar. (Exhibit A). Pertaining to the May 2004 Court proceeding of Sumter County General Session Courthouse. which revealed that from Monday May 24th 2004 thru Friday May 28th 2004. Sumter County General Session Courthouse was closed. Only was the Court of Common Pleas convened from Monday May 24th 2004 thru Friday May 28th 2004. As no special term of General Session Court was held! However the chief solicitor C. Kelly Jackson of Sumter County General Session Courthouse stated in both of my 2004-OS-43-0551 and 2004-OS-43-0552 indictments that "At a Court of General Sessions convened on May 27th 2004, the Grand Jurors of Sumter County present upon their oath: the true bill indictment and named the offense stated in indictment 2004-OS-43-0551 and 2004-OS-43-0552 (exhibit B). which violates S.C. Code Ann § 14-9-210. Revealing ineffective

Page 2/11

Mrs. Clark and Mrs. Stevens failed to object to the state's unlawful impaneling of its grand jury outside the attendance of the Court of General Session for the process of the return of the 2004-05-43-0551 and 0552 indictment because of Mrs. Clark and Mrs. Stevens unprofessional errors. The state was allow to allege in the indictment 2004-05-43-0551 that I was indicted for Strong Arm Robbery, Kidnapping, Grand Larceny, and Assault and Battery with Intent to Kill at a Court of General Sessions convened on May 27th 2004, the Grand Jurors of Sumter County present upon their oath. Then in the indictment 2004-05-43-0552 that I was indicted for Burglary (1st Degree), Strong Arm Robbery, Kidnapping, Grand Larceny, Safe Cracking, Aggravated Assault and Battery and Assault with Intent to Kill, at a Court of General Sessions, convened on May 27th 2004, the Grand Jurors of Sumter County present upon their oath. However the newly discovered evidences of the Sumter County General Session Court proceedings calendar of the May 2004. Reveal that Sumter County General Session courthouse was closed Monday May 24th 2004 threw that Friday May 28th 2004 and no special General Session courthouse term was convened Thursday May 27th 2004. Revealing the state was allow to indict me outside the attendance of the Court of General Session, violating my 5th and 14th Amendment Federal Constitutional rights by violation

S.C. Code Ann § 14-9-210 which states "The county solicitor 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 indictments in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for 30 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 Court of General Sessions to report the same to the presiding judge of the county at its next ensuing term."

As the statutory terms above are clear and require the county solicitor to prepare and submit bills of indictment through the presiding judge of the Court of General Sessions to a grand jury impaneled under the authority of the Court of General Sessions. No exceptions!

However the state was able to impanel its grand jury outside the attendance of the Court of General Sessions and then willfully pervert and published false and misleading information in its indictment in order to keep secret its violations!

As the solicitor was allow to violate S.C. Code Ann § 16-9-10 Offense Against Public Justice and S.C. Code Ann § 16-17-410. [Offense Against Public Justice] S.C. Code Ann § 16-9-10 "perjury and subornation of perjury" states in pertinent part: A(a) it is unlawful for a person to willfully give false, misleading or incomplete information on a document, record, or report or form required by the law of this state. B(a) A person who violates the provisions of subsection A(a) is guilty of a misdemeanor and upon conviction must be imprisoned not more than six ~~months~~ months or fined not less than one hundred dollars or both. C(A) person maybe convicted under this section... if he commits perjury by his own act, consent, or agreement.

As previously shown S.C. Code Ann § 14-9-210 mandates that the County solicitor shall prepare and process bills of indictment through the attendance of the Court of General Session. However the solicitor was allow to provide false information in the 2004-05-43-0551 and 2004-05-43-0552 indictment alleging that "At a Court of General Session convened on May 2nd 2004" it was processed by a Grand Juror of the Sumter County. When the South Carolina Judicial Court proceedings of Sumter County Courthouse calendar reveal no General Session Court was convened on May 2nd 2004.

Whereas the state was allow to commit perjury. As the

2004-65-43-0551 and 2004-65-43-0552 true bill indictment satisfies the provisions of section 14-9-10 (A)(a) perjury that specify the false information must be included in a document required by the law of this state. As the solicitor was allow to break his oath of office and intentionally violate the provisions of section 14-9-210 by unlawfully processing the 2004-65-43-0551 and 2004-65-43-0552 indictment outside the attendance of the Court of General Sessions.

The state then was allow to commit Conspiracy against public policy. S.C. Code Ann §16-17-410 provides in pertinent part: The common law crime known as "conspiracy" is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means. A person who commits the crime of conspiracy is guilty of a felony and upon conviction must be fined not more than five thousand dollars or ~~or~~ imprisoned not more than five years. From the evidence shown above it was determined that the solicitor C. Kelly Jackson and Mrs. Corbett the assistant solicitor committed an offense of Perjury Against Public Justice by willfully printing false information in petitioner's state indictment.

As the solicitor was allow to conspire with several other state officials in order to impound the grand jury outside the

attendance of the Court of General Sessions to complete return of an indictment and to print and publish false information in the indictment.

As a conspiracy is a combination or agreement between two or more persons for the purpose of accomplishing a criminal or unlawful object or achieving by criminal or unlawful means an object that is neither criminal nor unlawful. State vs. Butcher 555 S.E.2d 402. If there's one overall agreement among the various parties to perform different functions in order to carry out the objective of the conspiracy, the agreement among all the parties constitutes a single conspiracy. State vs. Dasher 396 S.E.2d 215

First the Circuit Court Administrator Judge of Sumter County who was seated in office at the times relevant to the indictment return date May 21st 2004 was allowed to schedule and order the grand jury impaneled outside the bounds of the Court of General Sessions. This judge would've been in possession of knowledge concerning the mandatory provisions of section 14-9-210 and still chose to impanel an unlawful grand jury and assist in printing and publishing false information contained in the 2004-05-43-0551 and 2004-05-43-0552 indictment and was allowed to violate Code of Judicial Conduct, Canon 2(A). A Judge shall respect and comply with the

law and shall act at all times in a manner that promote public confidence in the integrity and impartiality of the judiciary."

Whereas the state grand jury foreman was allow to sign the true bill stamp affixed to the 2004-05-43-0551 and 2004-05-43-0552 indictment thus completing and giving validity to the unlawful grand jury process. By signing the false and incorrect true bill stamp. Then the clerk of Court was allow to report the 2004-05-43-0551 and 2004-05-43-0552 state indictment with its false information to the presiding Judge at the Court's next term.

Which the presiding Judge at the Sumter County term of General Session Court allowed the 2004-05-43-0551 and 2004-05-43-0552 indictment, which contained the false information to be reported and published at his Court. The Judge allowed the illegal indictment to enter into the official Court record unchallenged ever through he would be know that no county grand juries were being impaneled under the Jurisdiction of the Court of General Session on May 29th 2004.

Whereas on November 4th 2005 my counsel Mr. Clark and Mrs. Stevens told me it will be in my best interest to plea guilty to the indictments previously described and I received a 2 year 5 months probation concurrent sentence from the Court.

However I would've never plead guilty if Mr. Clark and Mrs. Stever had told me, that the 2004-05-43-0551 and 2004-05-43-0552 indictment was returned true bill outside the attendance of General Session Court and violates my 5th and 14th Federal "Due Process" Constitutional rights by violating S.C. Code Ann § 14-9-210 which states "The county solicitor 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 indictments in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for 30 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 Court of General Sessions to report the same to the presiding judge of the County at its next ensuing term." Yet the state indicted you in the Court of Common Pleas because the South Carolina Court Administration, Judicial Court proceeding calendar of the May 2004 Sumter County General Session Courthouse reveal on Thursday May 27th 2004, no General Session Court was convened only was Court of Common Pleas used and

You can't be charged with General Sessions offense and be indicted in the Court of Common Pleas, because the Court of Common Pleas only deal with civil suit matters! As section 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 cause and of the person. Whereas both of the indictments are null and void do to the fact of the unlawful impounding of the grand jurors outside the attendance of the General Sessions Court and you can't be convicted on such indictments. Therefore it will be in your best interest to stand trial.

If Mr. Clark and Mrs. Stevens had provided me with this legal information about my case, I wouldn't have plead guilty I would've went to trial.

Whereas the alternative I had open to me instead of pleading guilty was Mr. Clark counsel over the 2004-05-43-0551 indictment and Mrs. Stevens counsel over the 2004-05-43-0552 indictment both could have filed a motion to squash the indictments by objection to the state's illegal impounding of its grand jury outside the attendance of the Court of General Sessions

and argue that, the state alleged in both of Mrs. Wises' 2004-65-43-0551 and 2004-65-43-0552 indictments. That " At a Court of General Sessions convened on May 21st 2004, the Grand Jurors of Sumter County present upon their oath: the true bill indictment and named the offense stated in the 2004-65-43-0551 and 2004-65-43-0552 indictment. However a copy of the South Carolina Judicial Court proceeding calendar from the South Carolina Court Administration pertaining to the May 2004 Court proceedings of Sumter County General Sessions Courthouse, reveal that from Monday May 24th 2004 through Friday May 28th 2004. The Sumter County General Session Courthouse was closed. Only was the Court of Common Pleas convened from that Monday May 24th 2004 through Friday May 28th 2004. As no special term of General Session Court was held! Revealing the state violated Mrs. Wises' 5th and 14th Amendment Federal Constitutional rights of Due process by violating S.C. Code Ann. § 14-9-210 which states " The county solicitor 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 indictments in all cases pending in the county court in which the punishment may exceed a fine of one hundred dollars or imprisonment for a term of more than six months."

for 30 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 Court of General Sessions to report the same to the presiding judge of the county at its next ensuing term. However the State willfully and unlawfully impeded its grand jury outside the attendance of the Court of General Sessions and then willfully print and published false and misleading information in its indictment. Thus section 14-9-210 is clearly a jurisdictional statute and sets forth the only process allowed for lawful return of indictments. No local rule of court, administrative order, policy or other procedure can take precedent over statutory law, which is always controlling. S.C. Constitution Art. de §§ 1, 4 and State vs. Cottingham 44 S.E. 2d 897 statutes override rules of court if in conflict. State vs. Duncan 204 S.E. 2d 421 Circuit Court rule promulgated by individual judicial circuit was unconstitutional and void.

However since the 2004-05-43-0551 and 2004-05-43-0552 indictment was process and return true bill out side the compliance of S.C. Code Ann § 14-9-210 was unconstitutional and null, being without binding legal

Page 12/1

effect. As Mr. Wise was indicted by a grand jury impanelled upon the attendance of the Court of Common Pleas. As the Court of Common Pleas is vested with no authority to take any action on matters pertaining to return of true bill criminal indictments. As the Courts is made up of the Court of Common Pleas which hear civil actions and the Court of General Sessions which hear criminal cases, see *Dave vs. Gold Kist Inc* 442 S.E.2d 598 see also S.C. Constitution Article V § 1. Thus there is no grant of concurrent jurisdiction and therefore no true bill criminal indictments can be lawfully issued through grand jury proceedings held before a Court of Common Pleas. Whereas under our jurisdiction the presiding judge in the Circuit Court loses jurisdiction with the adjournment of the term. *State vs. Best* 180 S.E.2d 272; *State vs. Thompson* 115 S.E.2d 326; *State vs. Rinehart* 430 S.E.2d 536. Therefore if raised by state, there would be no merit to the contention that a judge on his own standing retains authority to impanel a grand jury after the close of court, because in this case the record shows that no lawful term of General Sessions Court was in progress on May 27th 2004 and as established a judge loses jurisdiction with the adjournment of court. Thus no term of court, no lawful

Judicial authority. Accordingly and in this case, no court rules, orders or other procedures can be invoked or cited by the state to save its unlawful grand jury process and resulting null indictments. Therefore the 2004-05-43-0551 and 2004-05-43-0552 indictments must be vacated!

If Mr. Clark and Mrs. Stevens had made this type of argument. The 2004-05-43-0551 and 2004-05-43-0552 indictments could've been vacated.

Whereas this claim wasn't knowingly waived in the prior PCR application. Applicability of the *Loftis vs. State* 575 S.E.2d 507 case to my PCR case is. Petitioner was allegedly informed by his counsel and was informed by the Department of Corrections that he was eligible for parole. The Department even conducted a parole hearing for petitioner in 1999. A few months later, the Department informed him he was not parole eligible. When he finally received the correct information, he learned he had a claim of ineffective assistance of counsel based on counsel's allegedly erroneous parole eligibility advice. Petitioner filed his PCR application raising that claim within one year after the date of actual discovery of the fact he was parole ineligible. Accordingly the courts reversed the PCR court ruling and remand this matter for an evidentiary hearing on

The merits of petitioner's claim regarding counsel's mistaken advice that petitioner would be eligible for parole.

In my case Mr. Clark and Mrs. Stevens told and sent me a copy of my May 2nd 2004 indictments. Stating that the grand jurors came was a true bill indictment. However on January 6th 2012 South Carolina Court Administration sent me a copy of the Sumter County General Session May 2004 Court proceedings calendar. Which showed on May 2nd 2004 that Thursday, Sumter County General Session was closed, violating my 5th and 14th Amendment Due process constitutional rights by violating S.C. Code Ann. § 14-9-210 after discovering this ineffective assistance of counsel claim of counsel unprofessional error of failing to object to the states illegal impeding the grand jury outside the attendance of the Court of General Session for the process of the return of indictments. I filed this PCR application raising the claim within one year after the date of actual discovery of the fact I was indeed threw a illegal process! Accordingly a PCR evidentiary hearing must be held on this ~~claim~~ claim! As this newly discovered 6th Amendment violation claim meets the 5 prong test of

Hayden Vs. State S.C. 299 S.E. 2d 854. As the evidences that the state unlawful: impaneling the grand jurors of Sumter County outside the attendance of General Session Court. Is such as would change the result if a new trial was had. Has been discovered since trial.

Couldn't by the exercise of due diligence ~~to~~ have been discovered before the trial. Is material to the issue of guilt or innocence. Isn't merely cumulative or impeaching! Therefore a PCR evidentiary hearing is needed.

Sincerely

Cedric White

State of South Carolina
County of Sumter

Ced. r. c. w. se # 312547

Applicant
vs.

State of South Carolina
Respondent

Court of Common Pleas
3rd Judicial Circuit
Court of Common Pleas

Motion Amending Material Issue
of a 6th Amendment violation
claim under S.C. Code Ann §
17-27-45 (c)

The 2004-GS-43-0551 indictment reveal: On December 2011, I obtained from Sumter County Clerk of Court James C. Campbell. A copy of the H-536834 Strong Arm Robbery arrest warrant of this 2004-GS-43-0551 indictment. Revealing Officer Turner asserted on October 26th 2003 a day after this incident occurred that 416-0181 is the home phone number of 44 Yris Winds. Now officer Turner alleged in his incident report on October 27th 2003 he conducted a cross check on the home phone number provided to Dominoe's for the delivery order which Mr. Black was robbed of a pizza and assault on. A check reveal the number 436-7405 came back to 44 Yris Winds! Its its impossible for my 44 Yris Winds home phone number on the night of October 27th 2003 to be 436-7405 yet on the next morning of October 28th 2003 change to 416-0181.

Only then was I able to discover Mr. Clark ineffectively fail to tell the Court. That officer Turner alleged in his Incident Report, on the night of October 27th 2003 he conducted a cross check on the home phone number provided to Dominoe's for the delivery order which Mr. Black was robbed of a pizza and assault. a check reveal the number 436-7405 came back to 44 Yris Winds yet the next morning on October 28th 2003, the arrest warrant H-536834 Strong Arm Robbery reveal Officer Turner printed that 416-0181 confirm to 44 Yris Winds, requesting this case be dismissed on grounds of entrapment and because of Mr. Clark's error the state was allow

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to hide the material fact from the Court that officer Turner alleged in his October 21st 2003 Incident Report, he conducted a cross check on the home phone number provided to Dominoe's. For the phone number which Mr. Black was assaulted on and a check revealed the number 436-7485 came back to 4440's winds yet the very next day of October 24th 2003 Officer Turner alleged in this H-536434 Strong Arm Robbery arrest warrant that 416-0769 is my 4440's winds home phone number. Which the state was allow to use a Dominoe's pizza box and cell phone seized out of my residents alleging the cell phone was used to provide the 436-7485 phone number to Dominoe's for the Dominoe's pizza box seized out of my residents, without disclosing evidence that the 416-0769 home phone number which Officer Turner stated confirm to my 4440's winds residents that that 416-0769 phone number did not place in the delivery call for that specific Dominoe's pizza box seized out of my residents because a probability exist that the 416-0769 home phone number did place in the delivery call for that specific Dominoe's pizza box seized out of my residents. Which the 416-0769 home phone number had nothing to do with the ~~assault~~ 436-7485 robbery assault incident of Mr. Black. Showing the probability exist that the Dominoe's pizza box is not fruits of a crime because officer Turner alleged the home phone number of 436-7485 placed in the specific Dominoe's pizza box stolen from Mr. Black at the time of his assault. Whereas just because the cell phone seized out of my resident had the Dominoe's number found dated in it. Does not mean the cell phone was used to call Dominoe's and provided the 436-7485 phone number for the delivery call which Mr. Black was assaulted on. As a probability exist that the cell phone ~~did~~ did call Dominoe's but provided the 416-0769 home phone number.

Revealing the probability that the cell phone was not fruits of a crime. Which the state was allow to use the cell phone and Dominoe's pizza box as their case in chief evidences to arrest, and convict me without showing that those items was not fabricated evidences. As Mr. Clark then told me on November 14th 2005 to plea guilty to this case, as I was sentence to 21 years 5 years probation.

Revealing my guilty plea was involuntarily and unintelligently made because Mr. Clark did not tell me that Officer Turner alleged in his Incident Report on the night of October 27th 2003 after conducting a check on the home phone number requested from Dominoe's pizza, it showed the phone number 436-7615 came back to 44 Iris Winds yet the next day morning of October 28th 2003 my H. 536634 Strong Arm Robbery Warrant reveal Officer Turner provided the home phone number of 418-0189 confirming to 44 Iris Winds. As it's impossible for on the night of October 27th 2003, 436-7615 was 44 Iris Winds home phone number yet on the next day of October 28th 2003 418-0189 is 44 Iris Winds home phone number. Revealing just because the cell phone seized out of your residents had Dominoe's pizza number dialed in it does not mean that it was used to call Dominoe's and provided the 436-7615 phone call which Mr. Black was assault on because if the call to Dominoe's came from your 44 Iris Winds residents, Dominoe's would not have sent Mr. Black to deliver the pizza to the 32 Iris Winds residents, revealing a probability exist that the cell phone seized out of your residents did call Dominoe's but provided the 418-0189 home phone number for the Dominoe's pizza box seized out of your residents and that Dominoe's pizza box was a 418-0189 home phone number order. As the 418-0189 home phone number had nothing to do with

The 430-4515 phone number robbery assault incident of Mr. Black. Which would then reveal the cell phone and Domino's pizza box seized out of your residents is fabricated evidences and can't be used by the state against you. As the victim did not identify you or the other people arrest with you. Your fingerprints nor the other people arrest with you. Was found on Mr. Black's vehicle. Which it'll be in your best interest to go to trial, because the state did not show that the cell phone was even activated to call out on the night of October 21st 2003 when this incident occurred nor showed that the 430-4515 phone number order that Domino's pizza box seized out of your residents.

If Mr. Clark had provided me this legal information of my case. I would have insisted on going to trial. Under Hill vs. Lockhart 474 U.S. 52, 100 S.Ct. 366, 88 L.Ed.2d 203 as the alternative I had open to me instead of pleading guilty. At trial Mr. Clark could have raised the defensive strategy of asserting to the Court that Officer Turner alleged in his Incident Report on the night of October 21st 2003 he conducted a cross check on the home phone number that placed in the pizza delivery order which Mr. Black was assaulted on and a check revealed the number 430-4515 came back to 44 Kris Winds yet the H-530634 Strong Arm Robbery of this case reveal the next day of October 28th 2003 Officer Turner printed the number 418-0789 confirm to 44 Kris Winds. Whereas, just because the cell phone seized out of Mr. Wise's residents had the Domino's number found dialed in it. Does not mean the cell phone was used to call Domino's and provided the 430-4515 phone number for the delivery call which Mr. Black was assaulted on, because if the call to Domino's pizza came from Mr. Wise's 44 Kris Winds residents. Then Domino's pizza would have not sent Mr. Black to deliver the pizza to 32

So's winds. As the state can not use the cell phone and Domino's pizza box seized out of Mr. Wises' residents as fruits of a crime until they first show evidences that the 415-0189 home phone number, which Officer Turner alleged in the H-5364534 Strong Arm Robbery arrest warrant of this case confirm to Mr. Wises' 44 yrs winds that that 415-0189 home phone number was not provided from the cell phone seized out of Mr. Wises' residents and that the Domino's pizza box seized out of Mr. Wises' residents and that the Domino's pizza box was not a 415-0189 home phone number order because the 415-0189 home phone number had nothing to do with the 436-7815 phone number robbery assault incident of Mr. Black which will show and prove if the cell phone provided the 415-0189 phone number to Domino's for that Domino's pizza box seized out of my residents, making that Domino's pizza box a 415-0189 home phone number delivery order. Then the cell phone and domino's pizza box is not fruits of a crime.

Which a probability exist at trial, the state would not have been able to show evidences that the 415-0189 home phone number was not provided to Domino's from the cell phone seized out of my residents for that specific Domino's pizza box seized out of my residents. As a probability exist the state would have disclosed evidences showing that the cell phone did provide the 415-0189 home phone number to Domino's pizza and the Domino's pizza box was a 415-0189 delivery order.

Which Mr. Clark would have been in a position to argue for this case to be dismissed on grounds of entrapment and argue. On the night of October 27th 2003 officer Turner alleged in his Incident Report he conducted a cross-check ~~on~~ on the home phone number requested from Domino's which placed in the delivery order for the pizza which Mr. Black was robbed of and assault on. A check revealed the number 436-7815 came back to 44 yrs winds. As a cell phone and Domino's pizza box was seized out of Mr. Wises' residents.

Alleging the cell phone provided Domino's pizza a 430-4915 phone number for the Domino's pizza box seized out of the 44 yrs winds residents, however the very next day Officer Turner alleged on October 26th 2003 in the H-536834 Strong Arm Robbery warrant that 44 yrs winds home phone number is 418-0189. As the state alleged 418-0189 home phone is 44 yrs winds home phone number. However the state has now disclosed evidences showing that the cell phone was used to call Domino's pizza and provided the 418-0184 home phone number for the Domino's pizza box seized out of Mr. Wises 44 yrs winds residents which that Domino's pizza box was a 418-0189 home phone number delivery order. Which the 418-0189 home phone number had nothing to do with the 430-4915 phone number robbery assault incident of Mr. Black. Revealing the Domino's ~~pizza~~ pizza box and cell phone seized out of Mr. Wises 44 yrs winds residents was not fruits of a crime yet the state used those two items as fabricated evidences. Entrapping Mr. Wises to this crime, according this case must be dismissed on grounds of Entrapment, Fruit of the Poisonous Tree.

Whereas if Mr. Clark had made this type of argument my case could have been vacated.

As this 4th Amendment violation claim was not heard nor ruled upon by the courts. Revealing its not successive because I did not know until December 2011 that Officer Turner also stated the phone number of 418-0189 confirmed to my 44 yrs winds residents on October 26th 2003 until receiving my H-536834 Strong Arm Robbery arrest warrant, which I did not have at any prior state or Federal proceedings and could not obtain under the exercise of due diligence until the state turned over this information.

Attachment to Newly Discovered Evidences 16 page
motion and Certificate of Service

Page 10 of 110

, 2004-03-43-0551 and 2004-03-43-0552 indictment
) Jan 6th 2012 South Carolina Court Administration letter
) Sumter County Court proceedings May 2004 calendar.
) Motion Amending newly material facts not heard and rule upon 6 pages
I swear under penalty of perjury, that everything
in this 16 page motion is true to the best of my knowledge. As
a copy of the same was placed in a Brown Clasp Envelope
Perry Co. Inst mail room addressed as follow:

1) James Campbell
Clerk of Court
Courthouse, Room 308
141 N. Main Street
Sumter, S.C. 29150

2) Chief Judge for Administrative
Purpose
141 North Main Street
Sumter, S.C. 29150

3) Attorney General Office
P.O. Box 11549
Columbia, S.C. 29211

RECEIVED

MAY 29 2012

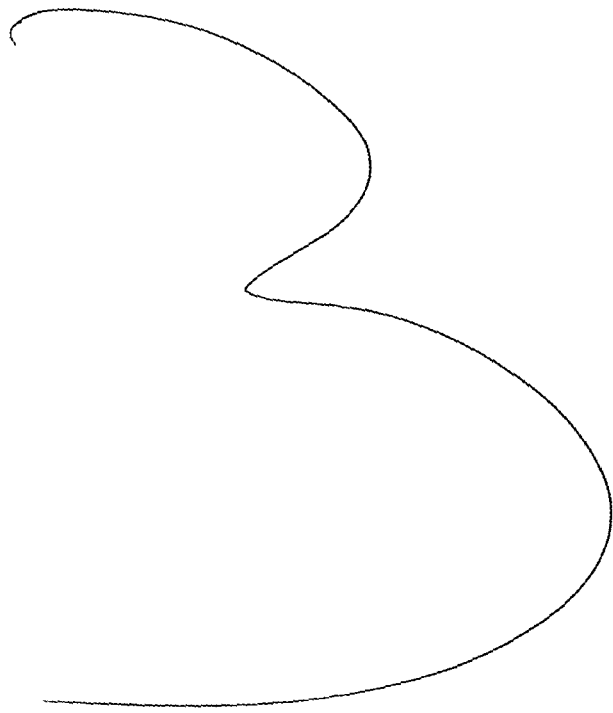
P.C.I. MAILROOM

Cedric Wise
May 22nd 2012

attested before me on the
2nd of May 2012
J. M. Mearns
Commission Expires
November 7 2016

Evidence S

Little Fish Antib



Evidences

Little Exhibits

JH

~~Evidences~~

~~Little Kumbhoj~~

Court of Common Pleas
3rd Judicial Circuit
2012-CP-43-181

State of South Carolina
County of Sumter
Cedric Wise # 312547
Applicant
vs.
State of South Carolina
Respondent

Applicant's Objection To Respondent's
Conditional Order of Dismissal

Applicant shall show the Courts, on February 8th 2012. The Attorney General office received a copy of my 2012-CP-43-181 P(R) application with the 22 page motion of newly discovered evidence attached. Showing I raised in the 2004-65-43-0551 indictment: ineffectively Mr. Clark failed to object to the Courts at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to the Domino's pizza box, and the October 21st 2003 Domino's Computer Phone System sheet. Which I also filed a disclosure motion for those three items, and in the 2004-65-43-0552 indictment, ineffectively Mrs. Stevens failed to seek specific performance of the original plea deal under the detrimental reliance exception. Then on May 29th 2012 I filed a 16 page motion Amending newly discovered evidences of a 4th Amendment Federal Constitutional violation claim under S.C. Code Ann § 17-27-115 (c) which had attached to it a 6 page motion title "Amending Material Issue of a 4th Amendment violation claim. Which I asserted in the motion Amending Newly Discovered Evidences of a 4th Amendment Federal Constitutional violation claim. That ineffectively Mr. Clark and Mrs. Stevens failed to object to the states unlawful impounding of its grand jury outside of the attendance of the Court of General Session for the process of the return

of the 2004-05-43-0551 and 0552 indictment. Then I asserted in the motion the Amending Material Issue of 6th Amendment violation. That Mr. Clark ineffectively never told the Court that Officer Turner alleged in his incident report on the night of October 27th 2003, he conducted a cross check on the home phone number provided to Domino's for the delivery order which Mr. Black was robbed of a pizza and assault on, a check revealed the number 436-1485 came back to 44 yrs winds yet the next morning on October 28th 2003 the H-5361834 Strong Arm Robbery Warrant reveal Officer Turner provided that 416-089 confirm to 44 yrs winds and fail to request this case be dismissed on grounds of entrapment. As both May 2012 motion's certificate of Service was signed by a Perry Correctional Institution notary of public and stamped by Perry Corr. Inst mail room. Providing a copy of one and the same was sent to the Attorney General's office, the Sumter County Clerk of Court and the Sumter County Courthouse Chief Judge for Administrative Purpose.

However in the respondent August 7th 2012 Conditional Order of Dismissal Motion. The state only addressed the 6th Amendment violation claim raised against Mr. Clark, of which I asserted ineffectively Mr. Clark failed to object to the Court at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to the Domino's pizza box, and the October 27th 2003 Domino's Computer Phone System sheet. The respondent alleged that that claim was successive, res judicata, laches, and bar by statute of limitation. As applicant is prejudiced by respondents failure to fail a return on the rest

of his PCR claims against Mr. Clark and Mrs. Stevens. However it's my 5. C constitutional & section 17 right to be fully heard on all issues amend to my PCR application. From February 8th 2012 through August 9th 2012. The respondent obtained, reviewed, and filed the Conditional Order of Dismissal. It's no excuse as to why the respondent failed to file a answer to the rest of my PCR claims against Mr. Clark and Mrs. Stevens. Applicant request that the Courts order the respondent to either file a motion addressing the rest of my PCR claims against Mr. Clark and Mrs. Stevens or appoint a PCR counsel and schedule a new PCR hearing upon those claims. Applicant can not reargue those claims in this present motion simply do to the fact that the respondent is not challenging to dismiss those claims against Mr. Clark and Mrs. Stevens. Therefore what is there for me to assert!

However respondent only addressed in their August 9th 2012 Conditional Order of Dismissal. The 6th Amendment violation claim asserted upon counsel Mr. Clark of ineffectively failing to object to the Court at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to the Dominoe's pizza box and the October 27th 2003 Dominoe's computer Phone System sheet. As being successive, res judicata, laches, but by statute of limitation!

Applicant first shall reveal to the Courts this 2012-CP-43-1461 6th Amendment violation claim against Mr. Clark could not have been raised in the previous 2006, 2006, 2010 State PCR actions nor in the 2007 Federal application, because I did not have my sentencing transcript

nor the H-536534 Strong Arm Robbery warrant in my possession and did not know Mr. Clark allowed the state to conduct the Brady violation of without holding out of my Rule 5 motion of discovery. The exculpatory evidences of the cell phone account sheet, the receipt attached to the Domino's pizza box, and the October 27th 2003 Domino's Computer Phone System sheet yet was allow to use those items as chief in case evidences to arrest and convict me. Revealing I can not raise a claim when evidences of material facts did not exist for me at the time of those proceedings, revealing this 202-CP-43-K8 PCR claim of ineffective assistance of counsel against Mr. Clark is not successive nor res judicata because a judgment of my prior state and federal PCR proceedings judgment as to rights which were not in existence at the time of the judgment is not res judicata. *Moseley Vs. Welch* 62 S.E.2d 313, ~~was over this claim~~

Furthermore the courts has erected, unprecedented and unwarranted barriers to the federal judiciary's review of the merits of claims that state prisoners failed ~~properly~~ properly to present to the state courts or failed to raise in their first federal habeas petitions or previously presented to the federal courts for resolution, it consistently has acknowledged that exceptions - 2 - these rules of unreviewability must exist to prevent violations of fundamental fairness. See *Engle* 456 U.S. at 135, 102 S.Ct at 1576 (principles of finality and comity" must yield to the imperative of correcting a fundamentally unjust incarceration") Thus the courts

has even held federal courts may review procedurally defaulted, abusive, or successive claims absent a showing of cause and prejudice if the failure to do so would thwart the "ends of justice" see *Kuhlmann v. Wilson* 477 U.S. 436, 455, 106 S. Ct. 2616, 2667, 91 L. Ed. 2d 304 or work a fundamental miscarriage of justice, ~~see~~ *Murray v. Carrier* 477 U.S. 478, 495-496, 106 S. Ct. 2639, 2649, 91 L. Ed. 2d 397 *Smith v. Murray* 477 U.S. 527, 537-538, 106 S. Ct. 2661, 2668, 91 L. Ed. 2d 434, *Dugger v. Adams* 109 S. Ct. 1211, *McCleskey v. Zant* 111 S. Ct. 1454 by the traditional understanding of habeas corpus a fundamental miscarriage of justice occurs whenever a conviction or sentence is secured in violation of federal constitutional rights. see 28 U.S.C. § 2254(a) federal courts shall entertain habeas petitions from state prisoners who allege that they are in custody in violation of the constitution or laws or treaties of the United States, *Smith* 477 U.S. at 543-544, 106 S. Ct. It's never too late for courts in habeas corpus proceedings to look straight through procedural screens in order to prevent forfeiture of life or liberty in flagrant defiance of the constitution.

Revealing the courts need to hear my claim because the ends of justice require the courts to bring a finality to my unjust incarceration. A incarceration that the state was able to achieve do to Mr. Carbs' ineffective assistance of counsel.

Which in the case of *Watts v. State* 515 S.E. 2d 557

Petitioner was allegedly informed by his counsel and was informed by the Department of Corrections that he was eligible for parole. The ~~Department~~ even conducted a parole hearing for petitioner in 1999. A few months later the department informed him he was not parole eligible, when he finally received the correct information, he learned he had a claim of ineffective assistance of counsel based on counsel's allegedly erroneous parole advice. Petitioner then filed his PCR application raising this claim within one year after the date of discovery of the fact he was parole ineligible. Accordingly, the Courts reversed the PCR Court and remand the matter for an evidentiary hearing on the merits of petitioner's claim regarding counsel's mistaken advice that petitioner would be eligible for parole. Which affected the validity of the underlying plea. *Tilley vs. State* 511 S.E.2d 608 (Ga) PCR application challenging guilty plea as involuntary on ground applicant did not know he was parole ineligible, not successive where applicant could not have raised claim in previous application because he previously did not know he was parole ineligible.

Applicability to my case, I was informed by counsel Mr. Clark to plea guilty because the states case was overwhelming with evidence because officers came to my residents and obtained in plain view a cell phone and dan-roe's pizza box linking me to a crime, however in December 2011 disclosure of my H-536434 Strong Arm Robbery with my sentencing transcript. Reveal the state

Case was not overwhelming with evidences. Do to Mr. Clark's error, the state was allow to introduce evidences of a cell phone account sheet, October 21st 2003 Domino's Computer Phone System sheet, and receipt attached to Domino's pizza box without disclosing those exculpatory evidences in my Rule 5 motion of discovery yet used those items at my plea and sentencing hearing. To justify the warrantless arrest and search and conviction upon me, yet when I learned about this 6th Amendment violation claim against Mr. Clark, I filed this PCR application within one year from actual discovery of this material fact and accordingly I should by law receive a new PCR evidentiary hearing because Mr. Clark's ineffective advice to me to plea guilty to this Brady violation case affected the validity of my decision to enter a guilty plea. Revealing this claim is not barred by statute of limitation.

Furthermore this claim is not laches. In the case of Brazell Vs. State 294 S.E. 2d 313. The courts held the state must be able to demonstrate the unavailability of material witnesses or that other critical evidence has been lost or destroyed as a result of the delay. In this situation the state has failed to demonstrate the unavailability of material witness or that critical evidences has been lost as a result of delay. The respondent alleging its questionable whether ~~these~~ Mr. Clark's files will be available does not meet the requirement doctrine of laches because nobody but

God and Mr. Clark can state whether he has the files. Secondly what was in Mr. Clark's files and the course of actions taking from such files. Are mentioned in my 2000 CP-43-14 PCR hearing transcript. As page 4 of the 2000-PCR order of Dismissal with prejudice by the Court reveal "Mr. Clark testified that applicant had problems defending his involvement in the crime. Mr. Clark further testified that the police investigation uncovered a lot of evidence at the applicant's home linking him to the crime. Furthermore Mr. Clark stated there was very strong circumstantial evidence in the case linking the applicant to the crimes. Mr. Clark also testified that because of the strength of the states evidence he thought a guilty plea was the best option for applicant. He also stated had applicant proceed to trial he would've been found guilty. This reveals the state can call Mr. Clark to testify at a new PCR hearing because his files and actions proceeded from such files are stored on record. Furthermore in *McElrath v. State* the Courts held laches bar appellants claim for collateral relief from a conviction and sentence now more than twenty years old. The Federal Courts held laches to cases delay of seventeen years. *Johnson v. Riddle* 562 F.2d 312 4th Cir 1977 and fifteen years

Honeycutt vs. Ward 612 F.2d 36. In Whitehead vs. State 574 S.E.2d 200, the laches doctrine was applied to a Austin claim in a PCR proceeding do to the fact that no court reporter was present at the Applicant's PCR evidentiary hearing and the Court held the matter is remanded to the Circuit Court with instructions to hold a reconstruction PCR hearing, as delay alone in assertion of a right does not constitute laches. This reveals the doctrine of laches does not apply to this 2012 6th Amendment violation claim against Mr. Clark just because it was filed 7 years after my conviction because it has been shown that the only reason for the delay in me filing this PCR claim is based only on material issue of facts under the exercise of due diligence, which could not have previously been filed early in any state or Federal application, and no lost evidence or witness has been shown and proven by the state! All documents pertaining to this 2004 (05-173-055) indictment has been stored including Mr. Clark's files.

Accordingly for the said reasons mentioned in this objection motion Applicant should by law be granted a ~~new~~ new PCR hearing!

Certificate of Service
With Attachment to objection
Motion to Conditional Order of Dismissal

1.) The 16 page Motion of Newly Discovered Evidence which was attached to the 6 page Motion of Amending Material Issue of facts

↳ swear under penalty of perjury, that everything in this 10 page Motion of objection is true to the best of my knowledge. As one copy of the same was placed in a legal size only envelope and placed in the Perry Corp. Inst. mail room addressed as follow: on the day of September 13th 2012

1.) James C. Campbell
Clerk of Court
Couthouse Room 306
141 N. Main Street
Sumter, S.C. 29150

~~Chief Judge of Administrative~~

2.) Office of Attorney General
Megan E. Harrigan
P.O. Box 11549
Columbia, S.C. 29211

Cedric Miles 312547
Perry Corp. Inst
1130 Outblain Road
Pelzer, S.C. 29169

Evidences

Little Faith

3

To: Honorable R. Ferrell Cochran Jr.
Administrative Judge, 3rd Judicial Circuit
10 North Brooks, Street
Manning, S.C. 29102

Evidences to the
Exhibit C VgI

If ya Honor would please review all documents that applicant Cedric Wise had forward to the court all motions of 6th Amendment violation claims against both counsels Mr. Clark and Mrs. Stevens. As he asserted ~~his~~ objection to respondents conditional order of dismissal motion. The Honorable Swift will clearly see respondents did not address all of applicants 6th Amendment violation claims. Which prejudice applicant because he has validly given the state the first chance and option to correct their unconstitutional conviction and the merits of his claims of 6th Amendment violation, is meritorious by conclusion of evidences, overwhelmingly to overcome his burden of proof. To reveal his unlawful conviction, however respondent intentionally, malidly and with gross negligence to disregard my rights of Due process by failing to address in their return and conditional order of dismissal motion. My entire 6th Amend. violation claims in the 2012 PCR case. I request that ya Honor review and personally address this situation and don't sign the respondents fraudulent made Final Order of Dismissal motion. As respondent is applicant open adversary in this cause of action and applicant only request that ya Honor remain impartial as applicant has faith be ya Honor will and look at this situation with an eagle eye and see through respondents unlawful doings.

C. Attorney General Office
Meagan E. Harrigan
P.O. Box 11549
Columbia, S.C. 29211-1549

Sincerely
Cedric Wise

RECEIVED

OCT 24 2012

REC'D MAILROOM

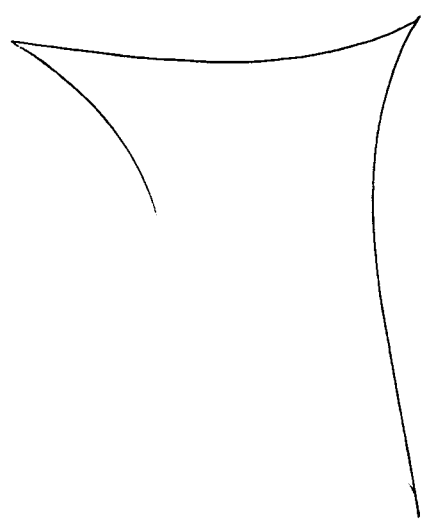
Evidence

Little Fink

6

Evidences

Little Exhibi²t



State of South Carolina
County of Sumter
Cedric W. Wise # 512547
Applicant
Vs.
State of South Carolina
Respondent

Rule 59(e) Motion
To Alter and Amend
Judgment

Court of Common Pleas
3rd Judicial Circuit
2012-CP-43-161

This matter comes before the Honorable R. Ferrell Cochran Jr, Chief Administrative Judge, 3rd Judicial Circuit Court. Who signed the respondent's granted Final Order of Dismissal upon my 2012-CP-43-161 PCR application. Applicant "Cedric W. Wise" received the order on November 13th 2012 and file this motion on November 15th 2012 within the ten days deadline. Requesting that via Honor Cochran Jr, in accordance to S.C. Code Ann § 17-27-40 make specific findings of facts and state expressly its conclusions of law relating to each issue presented. As there also exist erroneous of facts and misapplication of law as to the S.C. Code Ann § 17-27-45 (c) and laches doctrine.

All of my 6th Amendment violation claims raised against Mr. Clark counsel of the 2004 GS 43-0551 indictment and Mrs. Stevens counsel of the 2004 GS 43-0552 indictment. Were not addressed in Respondent's return and motion to dismiss my 2012-CP-43-161 PCR application. I had previously stated, shown, and proven this issue previously in my September 13th 2011 motion objection to respondent conditional order of dismissal!

The cover front page of applicant Cedric W. Wise 2012-CP-43-161 PCR application reveals the Attorney General office stamped in Big black bold letters. My 2012 PCR application along with attached 22 page Motion of Newly Discovered evidences under S.C. Code Ann 17-27-45 (c) was received by them on February 8th 2012. Now within that 22 page motion; pages one through fifteen reveals I raised

the 6th Amendment violation PCR claim, that ineffectively Mrs. Clark failed to object to the courts at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to the Dominoe's pizza box and the October 29th 2003 Dominoe's Computer Phone System sheet, I also filed a disclosure motion for those items pertaining to the 2004-GS 43-0551 indictment. On the other half, mid-section lower part of page fifteen through twenty-two within the same twenty-two page motion. I raised the 6th Amendment violation PCR claim, that ineffectively Mrs. Stevens fail to seek specific performance of the original plea deal under the detrimental reliance exception.

Then on May 29th 2012 I filed a 16 page motion Amend Newly discovered evidences of a 6th Amend. Federal Constitutional violations claim under S.C. Code Ann. § 17-27-45 (c). which had attached to it a 6 page motion title: Amending material issue of a 6th Amend violation claim. which I asserted in the motion title: Amending newly discovered evidences of a 6th Amendment Federal Constitutional violation claim, that ineffectively Mr. Clark and Mrs. Stevens failed to object to the states unlawfully impaneling of its grand jury outside of the attendance of the courts of General Session for the process of the return of the 2004-GS 43-0551 and 0552 indictment.

Then I asserted in the 6 page motion title: Amending material issue of 6th Amendment violation. That Mr. Clark ineffectively never told the court that Officer Turner alleged in his incident report on the night of October 29th 2003. He conducted a cross check on the home phone number provided to Dominoe's for the delivery order.

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF SUMTER)

Cedric (aka Cederick) Wise, 312547,)

CASE NO.)

Plaintiff)

2012-CP-43-0181)

v.)

MOTION AND ORDER INFORMATION)
FORM AND COVER SHEET)

State Of South Carolina)

Defendant)

Plaintiff's Attorney: Cedric Wise, Bar No. Address: PCI 430 Oaklawn Road Pelzer, SC 29669 phone: fax: e-mail: other:	Defendant's Attorney: Megan E. Harrigan, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
---	--

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

 Signature of Attorney for Plaintiff / Defendant

 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: _____
 EXEMPT:

(check reason)

Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE: _____

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

While Mr. Clark was robbed of a pizza and assault on, a check revealed the number 430-7985 came back to 44 Yris Winds yet the next morning on October 25th 2003 the H-536834 Strong Arm Robbery warrant reveal Officer Turner ~~provided~~ printed that 416-0189 confirm to 44 Yris Winds and fail to request this case be dismissed on grounds of entrapment. As both of the May 29th 2012 motions Certificate of Service was addressed to the following addresses.

- | | | |
|---|---|---|
| 1) James C. Campbell
Clerk of Court
Courthouse Room 306
141 N. Main Street
Sumter, S.C. 29150 | 2) Chief Judge for Administrative Purpose
141 N. Main Street
Sumter, S.C. 29150 | 3) Attorney General
Office
P.O. Box 11579
Columbia, S.C. 29111 |
|---|---|---|

As the said motion was signed by a Perry Correctional Institution notary of public "Mr. McCarthy" and even stamped by Perry Corr. Inst mail room proving these 6th Amendment violation claims in applicants PCR application 2012-CP-43-101 has been fairly and precisely in clear terms presented to the respondent and Courts!

However just as I asserted to a honor in my September 13th 2011 motion objection to respondents conditional order of dismissal and I shall point out again. Reviewing the respondents August 29th 2012 Conditional Order of Dismissal page 4 of 9 and 5 of 9 reveals the respondent only addressed the 6th Amendment violation claim raised against Mr. Clark of which I asserted: effectively Mr. Clark failed to object to the Court at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to

the Dominice's pizza box and October 27th 2003 Dominice's Computer Phone System sheet.

However the following issues are the 6th Amendment violation PCR claims that applicant request for your Honor to address in accordance to S.C. Code 17-27-80

1.) The motion of disclosure for the cell phone account sheet, the receipt attached to the Dominice's pizza box and the October 27th 2003 Dominice's Computer Phone System sheet pertaining to the 2001 GS-43-0551 indictment. Note for record see page 22 of the 22 page motion of newly discovered evidence attached to the 2012-CP-43-181 PCR application.

2.) Ineffectively Mr. Clark never told the Court that Officer Turner alleged in his incident report on the night of October 27th 2003, he conducted a cross check on the home phone number provided to Dominice's for the delivery order which Mr. Black was ordered of a pizza and assault on, a check revealed the number 436-7485 came back to 44 Iris Woods yet the next morning on October 28th 2003 the H-536634 Strong Arm Robbery warrant reveal Officer Turner provided that 446-0489 confirm to 44 Iris Woods and fail to request this case be dismissed on grounds of entrapment.

3.) Ineffectively Mr. Clark and Mrs. Stevens failed to object to the states unlawfully impaneling of its grand jury outside of the attendance of the Courts of General Session for the process of the return of the 2001-GS-43-0551 and 0552 indictment

4.) Ineffectively Mrs. Stevens failed to seek specific performance of the original plea deal under the detrimental reliance exception.

All of these 6th Amend violations claims and PCR issues has been forward through motions to the respondent, the clerk of Court Mr. Campbell and to your Honor either attached to the 2012-CP-43-181 PCR application attached to my September 13th 2011 motion objection to respondents dismissal



ALAN WILSON
ATTORNEY GENERAL

December 3, 2012

The Honorable R. Ferrell Cothran, Jr.
Administrative Judge, 3rd Judicial Circuit
16 North Brooks Street
Manning SC 29102

Re: Cedric (aka Cederick) Wise, 312547 v. State of South Carolina
2012CP-43-0181

Dear Judge Cothran:

Enclosed please find a proposed original **Order Denying Applicant's Motion to Alter or Amend Pursuant to Rule 59(e), SCRCF** in the above-captioned case. If this Order meets with your approval, please sign same and return to me in the enclosed envelope and I will forward to the Sumter County Clerk of Court to be filed and served.

Sincerely,

Megan E. Harrigan
Assistant Attorney General

MEH/lm
Enclosure(s)

cc: ~~Cedric Wise #312547~~

Whereas I requested for ye Honor through a letter stamped and date October 24th 2012 by Perry Correctional Institution mail room. That this was going to happen before it occurred, that your signature upon the Final Order of Dismissal granted by respondent was going to never mention majority of my PCR ~~com~~ Amend. Violation claims.

Since respondent was given fair opportunity to address the merits of my claim and file a motion of dismissal upon these claims in their return and motion of dismissal yet did not. It is highly prejudice for ye Honor to formulate any type of argument against me to dismiss the claims of ~~com~~ Amendment violation. of which the state "respondent" had a chance to argue against yet chose not to, yet at the same time it also prejudice me for the courts not to address the merits of my claim because in order to preserve all issues for appellate review, through a Rule 59(e) motion, I request ye Honor to specifically address each issue raised in the application and all motions amending PCR application. see Merlino 653 S.E.2d 2012

Certificate of Service

I swear under the penalty of perjury a copy of one and the same Rule 59(e) motion 5 pages long was placed in the Perry Corr. Inst mail room and address to the following address: on Nov 15th 2012

- 1.) Office of Attorney General, Meghan E. Hargan, P.O. Box 11544, Columbia S.C. 29211
- 2.) James C. Campbell, Clerk of Court, Courthouse Room 306, 141 N. Main Street, Sumter S.C. 29156
- 3.) R. Forrest Cotton Jr
Administrative Judge
3rd Judicial Circuit Court
16 N. ~~Main~~ Brooks Street
Manning, S.C. 29102

Sincerely Cedric Weede 312344
OHA 221
Perry Corr. Inst
P.O. Box, S.C. 29104

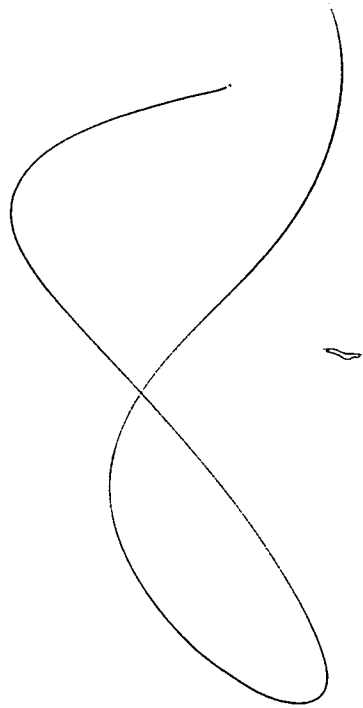
RECEIVED

NOV 16 2012

P.C.I. MAILROOM

Evidence

The Exhibit



State of South Carolina
County of Sumter
Cedric Wise # 312544
Applicant
vs.
State of South Carolina
Respondent

Rule 59(e) Motion
To Alter or Amend
Judgment

Court of Common Pleas
3rd Judicial Circuit
2012-CP-43-181

This matter comes before you Honor B. Ferrell Cochran Jr, Chief Administrative Judge, 3rd Judicial Circuit, who signed the Final Order of Dismissal upon the 2012-CP-43-181 PCR application. That was received on November 15th 2012 and applicant filed this Rule 59(e) motion on November 17th 2012 within the ten days deadline from date of service of said order. In order to preserve for appellate review the issues of 6th Amendment violation PCR claim. Applicant request that you Honor in accordance with S.C. Code Ann § 17-27-80 make specific findings of facts and state expressly its conclusions of law relating to each issue presented and apply correct law to the S.C. Code Ann § 17-27-45(c). Applicant shall reveal each title of the motions and page number that contains each 6th Amendment violation PCR claims presented to respondent and the Court yet you Honor B. Ferrell Cochran Jr, fail to rule upon in the Final Order of Dismissal.

Filed attached to applicant's 2012-CP-43-181 PCR application. It was received and clock date stamped on January 30th 2012 by James C. Campbell Sumter County Clerk of Court. Is the 22 page motion titled "Newly Discovered Evidence under S.C. Code Ann § 17-27-45(c)

Page one of said motion reveals applicant raised the 6th Amendment violation PCR claims of:

Ineffectively Mr. Clark fail to object to the Courts at my plea hearing and move to withdraw my guilty plea on grounds of a Brady violation and fail to file a disclosure motion for the cell phone account sheet, the receipt attached to the Dominoe's pizza box and the October 27th 2003 Dominoe's Computer Phone System sheet; Applicant also filed a Discovery motion for said (3) items, see page 22 of the said motion.

Page 15 of said motion title "Newly Discovered Evidences under S.C. Code Ann § 17-27-45(c) reveals applicant raised the 6th Amendment violation PCR claim of:

Ineffectively Mrs. Stevens failed to seek specific performance of the original plea deal under the detrimental reliance exception.

Then on May 29th 2002 I said applicant Cedric Wise filed a 16 page motion title "Amending Newly Discovered Evidences of a 6th Amendment Federal Constitutional violation claim under S.C. code Ann § 17-27-45(c) which had attached to it the 6 page motion title "Amending Material Issue of a 6th Amendment violation.

Now with the 16 page motion title "Amending Newly Discovered Evidences of a 6th Amendment Federal Constitutional violation claim under S.C. code Ann § 17-27-45(c). At page 2 reveals applicant raised the 6th Amendment violation PCR claim of:

Ineffectively Mr. Clark and Mrs. Stevens failed to object to the states unlawfully impairing of its grand jury outside of the attendance of the Court of General Session for the process of the return of the 2004 GS 43-0551 and 0552 indictment.

In the 6 page motion title "Amending Material Issue of 6th Amendment violation. Page one reveals I raised the 6th Amendment violation PCR claim of:

I reflectively Mr. Clark never told the Court that Officer Turner alleged in his Incident Report on the night of October 21st 2003. He conducted a cross check on the home phone number provided to Dominic for the delivery order. Which Mr. Black was robbed of a pizza and assault on, a check revealed the number 436-4885 came back to 44 Iris Winds yet the next morning on October 25th 2003 the H-536634 Strong Arm Robbery Warrant reveal Officer Turner printed that 418-0189 confirm to 44 Iris Winds and fail to request dismissal of this case on grounds of entrapment.

As both of the May 21st 2012 motions previously described Cert. of Service was signed by a Perry Correctional Institution notary of public "McCarthy" and stamped by Perry Correctional Institution mailroom. Providing a copy of one and the same was sent to the Attorney General Office, the Sumter County Clerk of Court and Chief Judge for Administrative Purpose. Then at page one through three of my motion title "Objection to respondents conditional order of Dismissal. I informed ya Honor of this problem before ya Honor signed the respondents grafted Final Order of Dismissal motion and attached the 16 page motion title "Federal Constitutional violation claim under S.C. Code Ann § 17-24-415 (c) with attached to it the 6 page motion title Amending Material Issue of Facts"

Applicant also request ya Honor Cottman Jr to apply correct law to the issue of Newly Discovered Evidences under S.C. Code Ann § 17-27-45(c)

The Courts apply the standard of Hayden Vs. State 299 S.E. 2d 654 to 6th Amendment violation claim of the 22 page motion titled "Newly Discovered Evidences under S.C. Code Ann § 17-27-45(c)" at page one. Which I asserted this claim is under S.C. Code Ann § 17-27-45(c) which states "If the applicant contends there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by exercise of reasonable diligence. which all of applicants said 6th Amendment violation PCR claims previously described in all of the said motions, were filed under this S.C. Code Ann § 17-27-45(c) Applicant motion and claims were never based on new trial issue solely of Newly Discovered Evidences yet were clearly requesting new trial due to Newly Discovered Evidences of ineffective assistance of counsel.

Conclusions of Rule 59(e) motions.

I request ya Honor in conclusions to S.C. Code Ann § 17-27-80 to correct the facts of applicants previously described 6th Amendment violation PCR claims in all of the said motions and rule upon, make specific findings of facts and state expressly its conclusions of law relating to each issue presented and apply correct law to all 6th Amendment violation PCR claims under S.C. Code Ann § 17-27-45(c)

Cedric White

November 1st 2012

Certificate of Service

Page 5/5

I swear under penalty of perjury a copy of one and the same Rule 59(e) motion was placed in Perry Correctional Institution mailroom and address as follow:

1) Office of Attorney General
Meagan E. Harrigan
P.O. Box 11549
Columbia, S.C. 29211

2) R. Ferrell Cottman Jr,
Chief Administrative Judge
3rd Judicial Circuit Court
16 North Brooks Street
Manning S.C. 29102

Sincerely, Leslie Uebe
Perry Correctional Institution
Q2B 221
Pelzer, S.C. 29169

November 19th 2012

RECEIVED

NOV 20 2012

P.C.I. MAILROOM

Evidences

The Exhibit

9

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

RECORDED

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2013 JAN 10 PM 1:53

Cedric (aka Cederick) Wise, #312547,) Case No. 2012-CP-43-0181

Applicant,)
JAMES C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

v.) **ORDER DENYING APPLICANT'S MOTION**
) **MOTION TO ALTER OR AMEND**
) **PURSUANT TO RULE 59(e), SCRPC**

State of South Carolina,)
Respondent.)

CERTIFIED TRUE COPY
OF ORIGINAL FILED

James C. Campbell
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

This matter comes before this Court by way of an application for post-conviction relief filed January 30, 2012. In its Return, Respondent requested that the action be summarily dismissed. A Conditional Order of Dismissal was signed on August 21, 2012, and filed on August 29, 2012. Applicant was served with the Conditional Order of Dismissal on September 17, 2012. Applicant responded to the Conditional Order of Dismissal, and this Court, after reviewing this response in conjunction with the pleadings, found no reason why the Conditional Order of Dismissal should not become final. A Final Order of Dismissal was issued on November 1, 2012 and filed on November 8, 2012. Thereafter, Applicant filed a "Rule 59(e) Motion to Alter or Amend Judgment."

In his Motion, Applicant raises similar arguments to those posed in his response to the Conditional Order of Dismissal. Having carefully reviewed the entire record in this matter, this Court finds that no basis for altering or amending is prior ruling.¹ Therefore, this Court hereby denies the Applicant's Motion in its entirety, and affirms the previous Order of Dismissal.

This Court advises that if the Applicant desires to secure appellate review of this Order and the Order of Dismissal, a notice of appeal must be filed and served **within thirty days** of the service of this Rule 59 Order. Applicant and counsel are directed to Rules 203, 206, and 243 of the South Carolina

¹ The Court, in its discretion, has considered this matter based upon the motions submitted by the parties and the post-conviction

Leds' & W'se
Perry Corp. Inst. 673
4300 Ashdown Rd
Pebble S.C. 29669

RECEIVED

JAN 23 2015

P.C.I. MAILROOM

South Carolina Supreme Court
P.O. Box 11330
Columbia SC 29211