RECEIVED
May 30 2025
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Honorable Bentley Price, Circuit Court Judge

Appellate Case No. 2024-001061

RONALD L. LEGG,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPENDIX
Volume 1

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INDEX

VOLUME ONE

Application for Post-Conviction Relief 1

Return to Application for PCR 222

Order of Dismissal 240

Order of Dismissal (continued) 251

Order to Amend Order of Dismissal 270

Motion to Alter/Amend Pursuant to Rule 59(e), SCRCP 275

Return to Applicant's. Motion Pursuant to Rule 59(e), SCRCP 280

Motion to Alter/Amend Pursuant to Rule 59(e), SCRCP 293

Order Denying Applicant's Motion Pursuant to Rule 59(e), SCRCP 298

Motion for Extension of Time to File 308

Transcript of Record (PCR hearing, March 28, 2019) 316

- Witness Testimony, Scott Joye 323
  - Direct Examination of Witness 324
  - Cross Examination of Witness 326
  - Redirect Examination of Witness 337
- Witness Testimony, William Isaac Diggs 351
  - Direct Examination of Witness 351
  - Cross Examination of Witness 441
  - Redirect Examination of Witness 455
- Witness Testimony, Martin Spratlin 470
  - Direct Examination of Witness 471
  - Cross Examination of Witness 472
  - Redirect Examination of Witness 479

VOLUME 2

Transcript of Record (Trial, March 10-13, 2014)..... 498

Opening Statement by State..... 499

Opening Statement by Defense Counsel..... 505

Witness Testimony, Dinita Whipple..... 512
Direct Examination by State..... 512
Cross Examination by Defense Counsel..... 528
Redirect Examination by State..... 542

Witness Testimony, Minor..... 545
Direct Examination by State..... 545
Cross Examination by Defense Counsel..... 577
Redirect Examination by State..... 609

Witness Testimony, Natalia Achury Demaio..... 616
Direct Examination by State..... 616
Cross Examination by Defense Counsel..... 621

Witness Testimony, Shannon Lawrimore..... 632
Direct Examination by State..... 632
Cross Examination by Defense Counsel..... 636
Redirect Examination by State..... 640

Witness Testimony, Officer Gregory Lent..... 641
Direct Examination by State..... 641
Cross Examination by Defense Counsel..... 646
Redirect Examination by State..... 651

Witness Testimony, Detective Neil Frebowitz..... 652
Direct Examination by State..... 652
Cross Examination by Defense Counsel..... 667
Redirect Examination by State..... 680

Jury Charges..... 686

Closing Arguments by State..... 695

Closing Arguments by Defense Counsel..... 707

Juror Question..... 727

Verdict and Sentencing..... 751

Post-Trial Motions 755
Motion for Directed Verdict by Defense 755

FORM 5

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

Ronald L. Legg #359236
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

16 6592

APPLICATION FOR POST-CONVICTION RELIEF

2016 JAN 13 PM 1:56

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 clear to which question any such continued answer refers.

Since every application must be sworn 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 the applicant was convicted.

1. Place of detention Evans Correctional Institution
2. Name and location of Court which imposed sentence Horry County 15th Circuit
3. Name(s) of co-defendant(s) (if any) NA
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
   (a) 2011-GS-26-03553
   (b) _____
   (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
   (a) March 13, 2014 / 12 years
   (b) _____

Revised 3/2003

(c) _____

6. 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 _____

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

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

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

i. Court of Appeals

ii. _____

iii. _____

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

i. Affirmed

ii. _____

iii. _____

(c) the date of each such result:

i. April 20, 2016

ii. _____

iii. _____

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

i. Affirmed

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) NA

(b) _____

(c) _____

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

(a) See Supplement

(b) _____

(c) _____

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

(a) See Supplement

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? ~~No~~ Court of Appeals

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

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

(a) the specific nature thereof:

i. Direct Appeal

ii. _____

iii. _____

iv. _____

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

i. Court of Appeals, Columbia, S.C.

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Affirmed

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. April 20, 2016

ii. _____

iii. _____

iv. _____

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

i. Affirmed

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

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

(a) which grounds have been presented:

i. NA

ii. _____

iii. _____

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

i. NA

ii. _____

iii. _____

16. If any ground set forth in (10) 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) ~~NA~~ Ineffective Assistance of counsel

(b) _____

(c) _____

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

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

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

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

i. William Isaac Diggs

ii. 1700 Oak Street, Suite D

iii. Myrtle Bch., S.C. 29577

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

i. Trial

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application:

Vacation of Sentence and Conviction

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

No

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF 16

6592

I, Ronald L. Legg, 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 thereof.

Ronald L. Legg
Applicant

SWORN or affirmed to and subscribed before me this
10 day of October, 2016

S Dull
Notary Public

My Commission Expires: 2/17/24

2016 OCT 13 PM 1:40

Revised 3/2003

STATE OF SOUTH CAROLINA)
)
County of Marlboro)

VERIFICATION

16 6542

I, Ronald L. Legg 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.

SWORN to and subscribed before me this 10 day of October, 2016

SJD (L.S.)
Notary Public

My Commission Expires: 2/17/14

2016 OCT 13 PM 1:40

Revised 3/2003

Cover Letter

10 6592

Melanie Huggins-Ward
Clerk of Court Horry County
P.C. Box 677
Conway, S.C. 29528-0677

Oct. 6, 2016

2016 OCT 13 PM 1:40

Honorable Melanie Huggins-Ward,

Please find enclosed Post Conviction Relief Application and *Supplement* with attached exhibits.

Could you please file and return to me the 'in-clock-stamped copies? And could you please notify the executive agents of the State that the complexity of the case requires a State appointed counsel subject to a fiduciary relationship with his client. Thereby, I would appreciate appointed counsel.

With continuing, warm, personal regards, and I thank you.

Ronald L. Legg #359236
Evans Corr. Inst. 3A-188
610 Hwy. 9, West
Bennettsville, S.C. 29512

Pg. A

Contents

Amendment / Addendum June 2016

Introduction To Complaint 1
Allegations And Statements Of Fact 3
Summary Of Facts And Citations From Trial Transcript . . 46
Summarization Of Complaint And Law 65
Issue of Conspiracy 80
Extrinsic Fraud 85
Ineffective Assistance Of Counsel 86
Brief Overview Of Conspiracy 89
Trial Transcript In Quotation In Conspiracy 90
Secret Interrogation Interview / Jackson V. Denno . . . 93
Forensic Interview 97
Suppression / Extrinsic Fraud 103
Abuse of Discretion 104
Privation 105
Voir Dire 106
Animus domini 108
Court's Charge To Jury 114
Unconstitutional Statute 120
Brief Synopsis of Allegations 127
Recap 142A
Amendment/Addendum 143

This complaint as a *Supplement* to the Post Conviction Relief Application contains a total of (571) numbered paragraphs.

The actual pages are numbered from 1 through 142, and 142A through 1422 ZA and ZB, and extra pages 3A and 142½, and Amendment / Addendum pages 143 to **149**, with contents pages A, B, and C. Total number of pages 183.

Additional excerpt pages 'x 50a - 52a are not included herein.

Transcript *Exhibits*, and additional *Exhibits* are dependant upon furnishing by appointed counsel.

Exhibits · Contents

Amendment / Adderdum

Arraignment Findings - 'G'	(TG)
Mental Health Evaluation - '20'	(TG)
Diggs's Letter - 'Z and 'WD'	(TG)
Exparte Motion - 'EX'	(TG)
Search Warrants - 'A' and 'B'	(TG)
Police Report - #4	(TG)
Federal Transcript - '3'	(TG)
Filings With Clerk of Court - '9' and 'CL'	(TG)
Photo - 'P'	(TG)
Federal Transcript -	(TG)
State's Exhibits - Exhibit '2' and '5'	(TG)
Police Report - #	(TG)
Conklin Letter - 'RC'	(TG)
Motion To Dismiss -	(TG)
Whipple's Police Record - 'U'	(TG)
Motion To Dismiss Counsel Floyd - 'TF,' 'FG'	(TG)
Motion To Dismiss Counsel Joye - 'LB'	(TG)
Motion To Dismiss Counsel Diggs - 'RL'	(TG)
Motion To Make A Police Report - 'V'	(TG)
Motion To Reconsider Motion To Dismiss - 'S.J.'	(TG)
Letter To Lt. Gov. - 'LG'	(TG)
Preliminary Hearing Denial - 'LK'	(TG)
Mental Health Evaluation Order - 'MH'	(TG)
Clerk Of Court True Bill Letter - 'TB'	(TG)
Clerk of Court Event Description - 'ED'	(TG)
Communication Attempt To Counsel Floyd - 'FT'	(TG)
Letter From Senator Graham Re: Police Report - 'E'	(TG)
Motion For Police Report - 'La' / 'M'	(TG)
Motion To Reconsider - '15'	(TG)
Motion For Relief Of Public Defender - 'SC'	(TG)
Mental Health Evaluation Order - 'DM'	(TG)
Motion To Dismiss Appeal - '80'	(TG)
Clerk of Court True Bill Date - 'HM'	(TG)
Motion To Dismiss - '9'	(TG)

These Exhibits are to get (TG) by appointed counsel

Pg. C/6

Exhibits - Contents

Amendment / Addendum

Legg V. Joye Federal Suit # 413-CV-01615 - '7M' pg. (1-13) (1G)
Legg V. Frebowitz Fed Interrogatories # 4:12-CV-811 '7K' (1-4) (1G)
Plea Offer '7H' (1G)
Fax To Floyd '7G' (1G)
Legg V. Joye R&R '7F' (1G)
Frebowitz Affidavit '00' (1-2) (1G)
Legg V. Frebowitz Answer To Inter. 'SJ13' (1-2) (1G)
Search Warrant 'Return' '7E' (1G)
Search Warrant Affidavit '7B' (1G)
Bradley D. Mayers Affidavit 'PP' (1G)
Trial Transcript 'MDI' Pg. 49
J. Reuben Long Det. Ctr. 'TL'
Trial Transcript 'DA' Pg. 101
Police Report '4T'
Trial Transcript 'PSW' Pg. 50
Trial Transcript 'TT' Pg. 328
Personal Property 'Stored' '3D'
Trial Transcript 'PMe' Pg. 463
Trial Transcript 'PTM' Pg. 464
H.C.P.D. 'Termination Letter' 'TM'
Conklin Letter 'RC'
Kiosk Entry 'Evidence' 'CR'
Personal Property 'Transferred' '1R'
S.C.D.C and Staff Request 'FGCL' 1 thru 6'
Exparte Motion 'Ex'
Appellate Brief 'BAD' (1G)
Trial Transcript 'PMb' Pg. 460 (1G)
Trial Transcript 'Pmd' Pg. 402 (1G)

PCRS

Part 1

#

Introduction To The Complaint

1. Ronald L. Legg, hereinafter (Applicant), would like to address the Court with all due respect.

Applicant recently came to the knowledge that a Post Conviction Relief can correct the wrongs that were done to Applicant as he realized constitutional violations had this avenue for redress.

A). The uniqueness of this complaint has stemmed from a subtile animus towards Applicant's defense; a factual non-theoried one, with genuine issues of materiality, yet, perceived prejudicially because of a varient ideological, invidious and an interia alia character because of a nature of a defense requiring assertation by law, being susceptible to discriminating factors, such as religious expression alienated by torturing of law. This Kind of prejudice begins to defy the U.S. Constitutional Bill of Rights through circumvention, to avoid due process as an obstacle, and breeds confusion, but only by the subtle nature of that method. Such a judicial artifice has challenged and violated Applicant's due process rights.

B). As prejudice is a blinding human force, Applicant has found himself in a clash between emotions and the law as Applicant has battled the former to exercise the later, finding himself in the 'mote juste' of jurisprudence for now explaining the injury in this complaint, for the purpose of the Court's concise understanding.

C). Being an indigent detainee, and depending on the good graces of the state for court appointed representation, Applicant found himself in a struggle against a due process 'contaminare', as Applicant wishes to explain as a legal ethics violation through a plea deal coercion strategy. A coercion method utilized to obtain a

collateral advantage not complicated by process, proffered by court appointed attorney in joinder with the state (solicitor). The process negated would be due process. And because of a 'preoccupation' these actors have with this commonly practiced and accepted tradition, as a 'Leit Motif' (an expedient theme), for indigent defendant's. Applicant has experienced its corrupt twin, which Applicant introduces herein this voluminous complaint, through illustrating the primary 'mission attempt,' as he endeavours to explain a coercive stratagem, documented in a four part method, showing, (A) coercion, (B) censorship, (C) privation, and (D) conjectura pietatis, in a psychological formulary that takes advantage of a preconceived subjective mental state with the intentions of 'running out the clock'.

D). This 'mission attempt,' operates at the expense of trial preparation. And once the 'Leit Motif' fails, the defendant is left with a trial based on his court appointed attorney's conjectura pietatis, which means: the attorney plays a role loyal to the state, assumed by a more neutral defense preparation, as, the defense is limited to conjecture, because, of the absence of trial preparedness at the expense of the time spent on the 'mission-attempt', because, the defendant was refusing the plea deal.

E). In furtherance of Applicant's expressive complaint, Applicant found himself inundated with consistent scheme against his rights more easily understood through the definative term of 'extrinsic fraud', where, a person is inhibited from bringing his case to trial. And, where, there is a creation for deception of that which prevents a person from knowing about or asserting rights, according to law definition, where as, in Applicant's complaint here, he is asserting counsel of record failed to recognize the finality in the completeness of a conspiracy by his involvement with several factors which served to invalidate his effective assistance of counsel duty by law.

F). Applicant tenures to explain the foreground of the lengthy judicial itenerary Applicant has experienced, which, has lead to the 'overt act' which has invited these injuries as errant acts Applicant now seeks accountability for, by a more highly addressed question of legal ethics and judicial political question regarding the wrongs committed against this Applicant.

Central Issue

Ineffective Assistance of Counsel by 'nefarious default,' in also conspiracy with State agents of the Horry County Police and 15th Judicial Circuit Court, Judges, Solicitor, and court appointed attorneys, in their professional and individual capacities so named herein, for the purposes of a coerced plea deal, by way of taking advantage of the despondent psychological detainment state, with inflictions of terror scare tactics, running out the clock, depriving of due process, discrimination against equality, to deprive of civil rights in general, and so did conspire in the abuse of legal process through lawful means to an unlawful end, in complicity of perjury and throwing of a mock trial for state advantage and for infliction of consequences for not accepting a proffered plea deal in the violation of the law of the right to the presumption of innocence and in violation of the laws of the State of South Carolina and the United States Constitution and in the Full Faith and Credit Clause in the laws of the land.

From all aspects of the trial transcript, it is clearly revealed that a presumption of innocence failed to exist in the darkened cloud of unfair prejudice which did exist as a result of the central issue. ✓ 'Kirby v. U.S.' 174 U.S. 47, 19 S.Ct. 574 U.S. 1899 "The presumption of innocence of an accused attends him throughout the trial, and has relation to every fact that must be established in order to prove his guilt beyond reasonable doubt. 'This presumption', this court has said, is an instrument of proof created by law in favor of one accused, whereby his innocence is established, until sufficient evidence is introduced to overcome the proof which the law has created.' 'Coffin v. U.S.', 156 U.S. 432, 459, 15 Supp. Ct. 394.

Applicant was held in the J. Reuben Long Detention Center for 34 months, threatened with life imprisonment unless he took a plea deal for 16 years. For 34 months Applicant was terrorized without due process, as a result of a determination without a fair trial. And on March 10, 2014 Applicant was tried with a censored defense through extrinsic fraud, in further conspiracy.

Allegations And Statements of Facts

(1). Trial counsel William Diggs (counsel of record), initially presudiced Applicant Legg through ineffective assistance of counsel based upon a preconceived strategy to coerce a plea deal for expedient purposes before investigating Applicant's defense. This also excluded Applicant's partisipatory statements of defense facts as a defense objective counsel chose to ignore along with other relevant issues of materiality.

'A.' As counsel William Diggs continued to follow through in what Applicant asserts is a standing procedural protocol, as a 'coercive mission attempt,' commonly exercised against indigent defendants', of pre-trial detainment, designed to limit a defendants exaggeratedly composed defense posturing, at the discretion of appointed counsel, yet, can also conceivably be construed as a contrived act of due process legerdemain, reasoned to have fallen under a corrupted practice on ignorant indigents to coerce a plea deal. Applicant became that practice's victim.

'B.' Under such a cover, likewise, yet, in a mens rea analysis, it will be shown how counsel Diggs proceeded to unjustly, psychologically manipulate the counsel-client legal process against due process will of Applicant Legg. And because Applicant Legg's case involved a varient ideological, invidious, and an inter-alia character (susceptible to discrimination), and the fact Applicant challenged state actors in malfeasance, (later explained), and as Applicant brought about a reputation for suing in federal court for his hindered due process rights, and as a resultant, posing as a threat to the status quo, counsel Diggs displayed in his professional demeaner an adversarial manifestation. Diggs maintained a contempt before investigation as he failed to remain professionally objective.

2). In so doing as stated, counsel of trial record failed to entertain the merits of Applicant's defense facts, failed to discuss and file a timely motion, failed to investigate state witnesses and test for veracity, and test against protypical bias, failed to consider expert testimony adequately, failed to discuss and file subpoenas, failed to interview defense witnesses, failed to address any legal questions for remedy or give legal advise when asked, failed to make trial preparations at Applicant's request and with his partisipation, thereby,

counsel Diggs strategically deflected all of Applicant's due process concerns through effectively 'running out the clock', as a coercion strategy for a plea deal at the last minute, as, counsel depended on a preconceived 'Stockholm type syndrome,' for Applicant to break, and when this failed, counsel subjected the trial to his own minimal standard, presupposed to a fall back on the aloneness of theory, if Applicant did not take the plea deal at the last minute, and thereby, the trial defense is thrown to conjecture - theory alone.

'A'. Applicant to this point has demonstrated the procedural ineffective assistance through counsel's (A) coercion, (B) censorship, (C) privation, and (D) conjectura pietatis-(loyalty to the state).

(3). Through counsel Diggs's prejudicial nature, biased against the equality clause, as it will be shown herein to be an act of partisipatory *Extrinsic Fraud* also, because of Applicant's judicial political threat to the status quo, as such actions will show to be the response of censoring that question, of condoning the manner of unprofessional conduct, as legal ethics violations, in a conspiracy to hinder fundamental rights, through means of a willful effort to injure, oppress, threaten and intimidate the free exercise of constututional rights through a symbiotic relationship with the State in an 'overt act-conspiracy'.

'A'. Counsel Diggs used smartly contrived deflections, causing Applicant to experience unnecessary added psychological anxiety, taking advantage of Applicant's circumstantial state and medical state, with the proximety of the mental state of despondency prone to manipulation, with the contrived factors of 'running out the clock', and as the coercion strategy failed, counsel further subjected Applicant's defense to the collateral advantage of the State, 'not complicated by due process, by depriving Applicant of the fair due process, and harming future defense in a continuing 'extrinsic fraud', in a 'conspiracy to deprive of equality'.

4). Counsel Diggs contrived of a showing in the trial defense designed to reflect a 'minimal pragmatic defense' for a competency qualification for his protection, yet, it was totally contradictary of the complex nature of the case counsel Diggs already acknowledged on court record on Feb. 25, 2014 in front of Judge John 15th circuit court. Counsel's trial performance was seriously flawed. Applicant never agreed to a minimal defense, as that would be a direct contradiction and an insult to Applicant's genuine issues of

materiality, and plight already established on court record and filed in federal court, voluminously established as in the same pattern as this complaint.

(5) As the court records, transcripts, will factually show, the very existence of a negligent, deficient, reckless and ill conceived last minute defense, as an impious defense, with absolutely no sedulous observance of Applicant's facts, will show in counsel's actions the outcome of the trial was grossly affected by a prostrated defense, of convention, in a partisipatory role of *extrinsic fraud*, through a vicegenerate symbiotic relationship with the 15th Circuit Court that has prejudiced with bias Applicant, causing unrepairable harm that egregiously affected the outcome of the trial, factually deflecting a thorough and proper defense, and harming future defense.

'A'. 'Vicegenerate' used here means to carry on. This term is used here for the purpose of infering the independent roles in a conspiracy, whereas, the actors do not need to sit down and discuss the conspiracy, they need only play a part that contributes in part to the end result as an overt act. The vicegenerate refers to the individuals role as he carries on his part that leads to the end result.

(6). Because of the seriousness of the assertions regarding, in title, *Ineffective Assistance* of counsel - as a violation of the sixth Amendment assistance of counsel clause, secured by the Constitution; and prejudicial biasness in underlying deficiency, negligence, reckless disregard, indifference by unequal treatment, and in conspiracy which became subjective to the 'mission attempt,' more clarified in a *mens rea* analysis of the vicegenerate role leading to the overt act in *extrinsic fraud*, a Fourteenth Amend. violation of the due process and equal protection clause, given ascendency through a judicial political censorship, in legal ethics violations. Applicant can clearly state his factual experience is the structural evidence proving the existence of documentive - illustrative evidence, substantially, however, the court must be willing to investigate the seriousness through a lengthy dissertation of the prevailing foreground facts as a procedural thread that weaves its way in partisipatory factors, in a persistent scheme, understood by the pattern which must be revealed jurisprudently.

(7). The following facts in a collocation of circumstances, which display a 'gist of a theme' of an offense, with an underlying scheme as a 'mission attempt', in supportive role to hinder, oppress,

threaten, and intimidate against due process, lead by extrinsic fraud, in conspiracy, both by private and official actors showing reasonable inference will serve as proof established by court record in state and federal court with clock stamped copies, through clerk of court validating Applicant's assertions, as records will show the prejudicial acts of intimidation by judges, solicitors, jailers, court appointed attorneys and staff in an agglomeration of continual events that imposed upon Applicant for the purpose of such circumvention.

*(8). At the head of such events have been the open antagonisms against Applicant for the dismissal of court appointed attorneys, (motions preserved on court record), stating just cause, and in Applicant's federal lawsuits for due process violations as just cause, whereas, judges, solicitors and attorneys blasly excoriated Applicant on court record without just substantiation, but, did so, in admonition against Applicant's right for redress.

'A'. Applicant's plight to have legal motions filed for exigent causes by three partisipatory court appointed attorneys to address legal remedy were usurpted by their aberrant natures, whereas, at least one attorney admitted on court record the unprofessional norms defined by Applicant. And also, a blantant attempt by the court to abuse the mental health competency law in an attempt by the court to prostrate Applicant's defense and thereby unjustly extenuating Applicant's circumstances, as will be later, further displayed, as an act of extrinsic fraud, and thereby violating Applicant's right to personal competency, in injury against the U.S. Constitutions security.

(9). The rights of Applicant during pre-trial, and the trial were continually warred against which compounded matters, as Applicant persistently sought due process, and this is why at least three court appointed attorneys continued in the same theme of defending the status quo as previously mentioned.

'A'. The continuous prejudicial nature of three attorneys, albeit, appears unordinary, yet, the coincidence sheds light on a pattern of the relevance as a 'motus operendi' vicegenerate, carrying on an accepted belief that no one is innocent because of the general statistics accomplished through the 'mission attempt', 98 percent conviction rate due to the success of coerced plea deals. This in turn causes an unlikely belief in innocence, and fosters the 'Left Alone' in the status quo these attorneys habitualized in their

personal justifications as the [sic] means justifys the end result, although, the irony of their blind coercion strategy as revealed in this complaint proves *unethical means* equals scurilous statistics. And this conspiratorial root reveals a common theme in *extrinsic fraud*, which, served to prevent Applicant from bringing his unadulterated case to trial. Naturally, if such a claim involved just one attorney, it would be more difficult to illuminate the analysis of his *mens rea*, however, Applicant's primary plight has been to receive an investment of counsel's attention and time regarding all legal matters Applicant has been entitled to address for legal advise. For instance, there were origionally three indictments against Applicant, and he was threatened with life imprisonment and could not get an attorney to explain them. Obviously this was part of the vicegenerate coercion strategy. There were constitutional violations and the need to address many serious legal issues. And instead of an open forum for formulaic agreement, Applicant was met with an adversarial agenda, with an agressive censorship in a supplanted strategem from the attorney's devises for coercion, with the consistency in three attorneys. And in going before a judge, Applicant was also consistently ushered into censorship with the inured slickness to dominate all proceedings as court records will also reveal.

(16). For the pervasive reasons set forth in this 'Allegations And Statements Of Fact,' and '*Memorandum of Law*,' Applicant is bringing to light these acts as sinister unprofessional norms, skirting justice and the law, by acts appearing as normal orders of business in the judicial system of which is excused as the wisdom and experience of those who practice law, however, Applicant is bringing those notions into a more cognizant crossroads of notable unlawful actions perspicaciously advanced by this entirety, showing that, while Applicant set out with his hat in his hand for his day in court, for the interest of intervening by law, for preserving his property and exculpatory evidences under equal protection and due process, Applicant was met at every turn with unsurmountable odds by the full weight of the state and its power, as the police became unduly entangled in their unprofessional norms of bad acts and criminal malfeasance, while the interest of protecting the state against this Applicant outweighed Applicant's rights. And, as the attorneys failed in their duties, a series of significant cause

and effects brooded these series of events as antecedent facts, shown by the following illustrated foreground which accentuates counsel Digg ineffective of counsel and other manifested post facts, showing the inherrent attributes of the developed conspiracy up to its aspired overt act, a circumvented trial defense'.

(11). The first court appointed attorney was W. Thomas Floyd who first informed Applicant that an indigent pre-trial detainee was subject to a 'role dispossession' (Applicant's terminology), by the state which allowed the system to take advantage of the indigent status, and in revealing the state's 98 percent conviction rate, such a high statistic, was due to corecive plea deal technique which counsel Floyd professed by insinuation and behavior, and did acknowledge that due process was more lucid for those who made bond and could hire a private attorney, a fact Applicant languished in. Applicant personally witnessed such facts to be true for the disadvantaged from his thirty four month experience as a pre-trial detainee through interviewing the subjects of coercion and method.

'A'. Counsel Thomas Floyd also had an extraordinary high number of complaints filed against him with the Lawyer Conduct Disciplinary Council, but has been highly acclaimed by the state.

(12). Thomas Floyd's incompetence and ineptness towards Applicant's defense, and his coercive strategy caused Applicant to file a motion for dismissal of Thomas Floyd, filed on record with the Horry County Clerk of Court Dec. 7, 2011 and transfered to the solicitor's office Dec. 16, 2011. This motion attest to counsel Floyd's coercive strategy as methods of the 'mission attempt', especially in the fostering of disparagement and despondency.

'A'. In a court appearance in front of Judge Culberson to hear the motion on Feb. 8, 2012 Culberson was irate over the motion and refused to hear it, thereby prejudicially denied it. Applicant inadvertantly filed a federal lawsuit against Thomas Floyd in the district of South Carolina, because, of the denial of due process, and the need for redress on the level of Applicant's limited law knowledge. Floyd was sued for having a symbiotic relationship with the state against Applicant and interpretated as an imposed coercion strategy filed March 7, 2012 and again on Jan. 15, 2013 'Legg v. State of South Carolina et. al. # 4:13-cv-00172, under a different description of exercise fraud and conspiracy.

Of all such filings recorded, Applicant's documentations are consist

ent notifications of a neglected medical issue ignored by all, the need to file a police report for investigation, due process violations, and all such issues bearing the weight as facts are recorded, and the solicitor's office have received copies.

(13). On April 5, 2012 Applicant was arraigned with Floyd as counsel who managed to orchestrate Applicant's censorship during this hearing. Applicant received a copy of the arraignment findings Exhibit 'G' 4-5-1 which were not obtained from Applicant's consent, as the inquiries and findings completely contradict the Motion to Dismiss and the timely filed federal lawsuit, as the forged findings assert that Applicant had no issues with counsel or trial preparedness. This is the direct implication of the resultant hand of the 'censorship strategy' as method (B) of the 'mission attempt,' by counsel in clear joinder with the state. (1) The Arraignment Finding sheet was filled out as if Applicant was asked to respond to some seven questions during the hearing. (2) Court transcript will show the colloquy over the findings did not take place in the court room. April 5, 2012.

(14). Applicant filed a Motion For Reconsideration to Dismiss Floyd on Aug. 29, 2012 only after learning that secondary process. On Sept. 6, 2012 Applicant was taken to court, and during pre-court conference, Floyd informed Applicant that he was to be tried on this day, and if he did not take a plea, he would be tried even without a prepared defense. Applicant refused the plea deal, and as an end result of Floyd's 'privation strategy' (C), leaving Applicant in jail for 15 months and having only spent less than two hours with him, suffering the 'mission attempt, as Floyd ignored all Applicant's attempt at correspondence, Floyd's 'overt act' shows in a trial without preparation as method (D) conjectura pretatis, finds its place in the throwing of the trial to the aloneness of conjecture as court transcript will show in the recorded colloquy, as also on this day, Floyd's admission. And if the trial would have been successful in a verdict of guilty, the state would have been justified, but in a verdict of innocence then the whole gamit of the coercion strategy of time consuming annulments of due process, like a fast and speedy trial Applicant requested, 8 months to get an unreasonable bond, preliminary hearing denial, and etc., that if Applicant were to be found innocent, it would shed light on the wasted mission attempt resources, and lend credit to the accusation of such bad acts and intent whereby, extrinsic fraud reveals itself through such a conspiracy.

The solicitor's office was aware of all of Applicant's filings including the complaint of the state's witnesses stealing Applicant's property, and his request for a court ordered police report and investigation.

(15). A trial in cooperation with Applicant would throw light upon all of the hostile elements the actors sought to censor as the foundation which builds *extrinsic fraud*. On Sept. 6, 2012 Floyd showed up for trial with absolutely no trial preparedness, no defense witnesses and etc., nothing but conjecture theory if need be. And counsel Floyd never had any kind of a defense consultation with Applicant, refusing to view his documents and etc. Applicant has certified copies of unanswered faxes and letters revolving around Floyd's deliberate efforts to leave Applicant in a contrived despondent state for a period of over 14 months, left to be subjected to a psychological type of Stockholm syndrome left to be 'subjugated' to plea coercion as the Sept. 6, 2012 court room showing proves, way beyond a shadow of doubt.

(16). On this Sept. 6, 2012 Applicant was suited up to go before Judge Culberson to stand trial as a total surprise to Applicant, because of, no trial preparation from Floyd. Applicant again raised the issue in court of ineffective assistance of counsel and stated that the state was forcing him to represent himself. And as Applicant was allowed to voice his matter, he more briefly stated his complaint against Floyd as it is recorded, 'sharing lawyer client confidentiality with the state', and etc., and Floyd developed a conscientious moment, and stated on court record, "there is truth in what he is saying". Floyd confessed to the claims against him including his conspiratorial joinder with the state, as it lead up to the moment, acknowledging the Federal complaint brought up to this day.

'A.' Floyd had acknowledged a legal system he had been involved with as the status quo which has operated against Applicant and others, as an authoritarian system more easily related to a 'Socialistic / Communistic system' contrary to a U.S. Constitutional Bill of Rights guarantee, and can only function through inured socialistic sickness, in legal ethics violations for suppression of rights, which calls in the judicial political question. This just happened to be this Applicant's forte', as his involvement in political and social science dissertations which enabled Applicant to be aware of the primary factors. And this in turn made apparent enemies.

'B.' On this day also, Floyd was dismissed by Judge Culberson

but, not because of the federal lawsuit because Judge Culberson was aware on this day, that, that suit was dismissed in federal court. Floyd was simply dismissed because he stood up in the court room on Sept. 6, 2012 and confessed regarding the assertions. This fact was later lied about by the trial solicitor Spratlin, regarding the reason for suing Floyd, claiming one fact and suppressing the other. The fact remains also that on Sept. 6, 2012 the mock for Floyd's conjectura pretatis was averted.

(17). When Applicant first met Floyd, and as with all three attorneys, Applicant informed Floyd of the religious and political elements of prejudice which attended the case. And Applicant began informing counsel Floyd of his concerns about retrieving from his home his exculpatory evidences, and for protecting his home and a mentally challenged adult he was taking care of from invasion of the state's witnesses. Applicant pointed out that a Horry County Police Detective was aware of a state's witness compromising Applicant's property even after the witness was given a verbal restraining order by the investigating officer Kent. And as Applicant's brother and two friends traveled from out of state to rescue Applicant's property, they were turned away by the Horry County Police at the behest of the state's witness who claimed that even though she was only a neighbor, Applicant's property now belonged to her.

(18). In regards of making a police report over this matter, H.C.P. Detective Neil Frebowitz came to visit Applicant at the J.R.L.D.C. for this purpose but, he did not know this reason he was invited by Applicant. Frebowitz acknowledged the state's witness was looking after Applicant's property from which Applicant never approved, and the state's witness later stated on court record that she helped the mentally challenged man get rid of Applicant's property. Yet, Frebowitz did not procure a police report, and Applicant was unsuccessful in making a police report from jail because he was prejudiced by the County Police, being a pre-trial detainee and the manifest prejudice and bias by the police began to show over the police report.

'A'. Further, Applicant explained to counsel Floyd that he entered his home once about June 17, 2011 after finding the front door busted and left unsecured, and upon entering the house he noted destruction and disarray of his property amounting to vandalism. While inside, he noted a search warrant tacked to his wall which was not signed by a judge, was not dated and contained an obscure

reason to search the premises, hand written. Applicant noted that several documents and exculpatory evidences were removed from the property which did not show up in the discovery of the state's evidence, which was actually all of Applicant's defense evidence. The information regarding these material evidences were necessary for follow up, vital to Applicant's case for defense which the state had control over.

'B.' Applicant showed the illegal search warrant to Floyd, and Floyd just pushed it back away from himself, back to Applicant, showing the intent to ignore Applicant's concerns. However, Applicant then stated that because of the behavior he experienced over being arrested and harrased, false documents, and constitutional violations Applicant asked Floyd to contact State Law Enforcement (SLED), and told Floyd he wanted to pursue all legal avenues of entitlement regarding malfeasance from both official and private actors to track down Applicant's property. Floyd agreed to consumate the objective but nothing ever happened.

(19). About two or three weeks after Floyd's initial consultation, Applicant received a revived discovery from Detective Frebowitz, who initially executed the illegal search warrant. The discovery contained a forged 'marked original' search warrant, in an attempt to cover up the unlawful one. Included in the revived discovery from Frebowitz was a narrative explaining that during an administrative review of the files, it was discovered that there was a clerical error in the executed search warrant, with a mistaken probable cause, although Frebowitz added this quote, "However, the search warrant was signed by the judge." Detective Frebowitz broached the subject of an unsigned search warrant without being asked. And the obvious question remained as to who would have brought it up. As it turned out, Floyd shared this information which resulted in a codified discovery.

'A.' Floyd revealed himself in this act as a state agent showing by the nature of being caught, a symbiotic relationship with the state in a conspiracy which continued and obstructed due process whereas, the two following attorneys sought to suppress such elements along with the state. This is one reason why this foreground is necessary.

(21) After waiting eight months for a bond hearing, then appearing before Judge Colbert for bond, solicitor Candice Lively let the prejudicial 'cat out of the bag' by saying, "Mr. Boggs is a faith based

therapist, and if he is out on bond, he will do it again." This was an opprobrious public statement insinuating the recent culturally attached negative stigma to Catholic Priests of which Applicant is not. This kind of information for slander was gathered by Frebowitz's prejudicial meandering as he read Applicant's writings, in his residence, where Applicant was making a reference about his research on emotions when Applicant stated, that, "emotions are a phenomenon of belief," and the science related to religion for the resolve of such issues were central to Applicant's research. However, this was the beginning of the prejudical vitiated use of the 'Fruit of A Poisonous Tree', which permeated in the attorneys, judges, solicitors, and et. al. The fact that Applicant is a Christian researcher involved in social and political science, which became ideologically incendiary, according to bi-polar beliefs. And this played an integral part in the prejudicial animous Applicant experienced which to some degree entered previous to, or, at the onset of Frebowitz's investigation.

(22). Such events set the stage for a continuing agglomeration of events which followed in the equal scheme from the second appointed counsel Scott R. Joye, to William Issac Diggs, whereas, the following attorneys refused to acknowledge the preceeding as it would imply knowledge of the Formulative *extrinsic fraud*, yet, by doing so, 'they still rode the same vicegenerate horse'. To deny Floyd's scheme was to deny the same process Floyd sought to deny Applicant, and that was Applicant's due process rights the following attorneys found themselves partaking in through the continuing 'mission attempt,' in violation of the equality clause of the Fourteenth Amendment.

(23). Because of the coercion tactics Applicant experienced from Floyd, Applicant filed a federal law suit # 4:13-cv-00172 Diggs V. State of South Carolina and Floyd. The complaint essentially interprets the injury by *extrinsic fraud* as Applicant assails it in a term of 'Social Control and Role-Dispossession' given the acronym of 'SCARD' Applicant describes his representative experience as "the willing engaging in compliant underhanded state psychological plea coercion process manifested in actions of conflict of interest designed to seperate clear distinctions from descriptive harm, through a manipulative system that is designed to elude U.S. Constitutional safe guard's perceptions by psychological legerdemain to conquest through onerous convention."

(24). Rumors circulated throughout the Horry County 15th circuit

regarding Applicant's filed lawsuits, and two attorneys were appointed to represent Applicant following Floyd, but, they asked the court to relieve them. Pro bono Scott Joye surreptiticously volunteered to represent Applicant before any legal process appointed him. Upon a first meeting with counsel Joye Dec. 5, 2012 and at this point, Applicant was more given to the observation of a standard coercion strategy, and because of Applicant's so called psychological background, or, more appropriatly the study of behavior pattern, as Applicant was more readily astute regarding the forthcoming proceedings from counsel Joye.

'A'. Upon that first meeting with counsel Joye, Applicant as usual brought with him his stack of legal documents, in which, not one appointed attorney involved himself with, and Joye was adamant about not perviewing Applicant's defense facts. After a brief conversation, Applicant noted the notoriety of an arrogant prejudicial nature coming from Joye, whereas, counsel Joye began disparaging Applicant's statements and began a contemptuous censoring strategy. Counsel Joye preempted all concerns of Applicant by waving them or deflecting them as irrelevant. This included Applicant's medical concerns, police report, malfeasance by the police and etc., as, recorded about Joye, made declarative in the specifically outlined Motion to Dismiss, filed with the Clerk of Court May 1, 2013 and recorded in federal lawsuit Legg V. Joye # 4:13-cv-01615. In the filed claims, Applicant also noted that counsel Joye confessed to having a personal relationship with the named defendants in Legg V. Rhodes et, al. in federal and state claims, Federal # 4:12-cv-0611. This was a conflict, and counsel Joye maintained a suspicious ulterior prejudicial motive in representing Applicant which proved itself in the furtherance of the continuing facts. Applicant named magistrate Judge Nlayers as a defendant in Legg v. Rhodes et. al. over the search warrant issue and Joye claimed he had a personal relationship with him.

25). As Applicant became further aware of counsel Joye's initial bias in the first meeting, counsel Joye made an obvious attempt to prostrate Applicant's defense 'by not entertaining it', and made every effort to subjugate Applicant to the complete authority of Joye by his repressive overbearing psychological tactics for laying the groundwork for a helpless defense. Applicant notified Joye that he was going to file a motion to dismiss for obvious conflict of interest, and informed Joye that he was aware of

his subversive measures. Counsel Joye then took the offensive by more agressively warring against Applicant, playing the role of a solicitor, and by saying if it were up to him, there would be more indictments. And said, "If this happened 15 years ago, it would not be such a deal." These were snippets of the biased nature Joye would validate by further actions on court record.

'A.' During the hearing on the Motion To Dissmiss, heard before Judge Hyman, Applicant stated that Joye was not officially appointed to represent Applicant and it was Applicant's right to ask him to recuse himself. However, Judge Hyman prejudicially made the statement that he would sign the order that day to make it official, 1/23/13.

a'. Applicant read the Motion To Dismiss Counsel, and Joye responded by insinuating to the court that Applicant's requests were not rational, such as Applicant's request for addressing the denial of the preliminary hearing. Joye made a twisted representation of the issue for a scheme Joye was to follow by, suggesting to the judge that 'Applicant was mentally retarded,' as Joye communicated a common objective to the court, against the defense interest of Applicant by laying the groundwork for a conspiracy Joye was soon to follow. Judge Hyman did 'abuse discretion,' by responding to the preliminary supposition in stating that, "since Applicant was indicted, the preliminary was thereby nullified." Applicant responded that the indictment was post facto, near 4 months after the fact, and a violation did occur, but, there was no response. What was to follow, as this just added to the cargo on a 'train with no breaks,' was a more sinister cogitation of dissent.

b'. Judge Hyman asked Applicant if he would try to work things out with Joye and stated on record that since Applicant had a vocational interest with Attention Deficit Disorder, and it ran in Joye's family, then perhaps Applicant could teach Joye a few things. Applicant agreed to try and work things out with Joye.

c'. Upon leaving the court room and entering into a conference room with Joye, Applicant as usual placed his documents on the table in front of Joye who then pushed them back and refused them. After a few exchanges over the necessity of the attorney for reviewing them, and the need for legal advise over the documents leading to, and of, excalpatory evidence, Applicant went to great length to explain the relativeness associated with the unaccountability of Applicant's property as Joye remained disinterested. Applicant

displayed a set of documents which were mysteriously turned over to him on Sept. 6, 2012 and of themselves contained possible forensic evidence necessary to be preserved for an evidentiary hearing, for follow up on missing evidences which were central to the case. Applicant asked Joge to preserve the documents and to give legal advise on them because they were relative to state wrong doing. Joge then, just grabbed a partial stack of the documents and stormed out of the room. A few minutes later, Applicant was brought again before Hyman. Counsel Joge then stated before the court, "Your Honor, I would like to have the court order a mental health evaluation for my client." Applicant stated to the court in response, "Your Honor, I do not have any secondary issues." Judge Hyman then stated, "Well I'll just order one anyway." May 1, 2013.

(26). On the same day, 'noting here that' a mental retardation showing did not exist for Hyman's discretion. And Applicant stated to the court that at issue was the fact that Joge refused to entertain Applicant's defense and refused to read the documents which were now in Joge's possession, partially. Judge Hyman had to suggest for Joge to read the documents, saying, "obviously they are important to him."

'A' Applicant was ordered by the court to undergo a mental health evaluation against his will, violating Applicant's Sixth, Ninth, and Fourteenth Amendments against his private and personal right to competency, and an unlawful search and seizure, Fourth. Court ordered under threat of contempt of court.

(27). As Applicant made it known that is was not his will to undergo a mental health evaluation by the state to Joge, Joge suredly reinforced the 'contempt of court threat' in noncompliance. This was an obvious attempt to subjugate Applicant's rights to the authority of the state through psychology-psychiatry. If Joge's true interest was to represent Applicant's mental competency, he could have relied upon Applicant's established hand written documents which actually expound competency, as documents Applicant tried to share with Joge. Such writings clearly attest to the ability to articulate decision, the substantive fairness of a decision with known long term commitment and values, and etc., as in the established consistency of a decision and an ability to appreciate consequences.

'A' Counsel Joge actually submitted what he hand selected in Applicants writings, to the evaluators, religious and theological dissertations anticipated as a means to negatively influence the outcome.

As in the example of the stated facts in Applicant's recorded complaint # 4:13-cv-01615 in federal court, Applicant writes, "Plaintiff has in fact been in the custodial care at the J. Reuben Long Detention Center for two years without any pronounced indicator of mental derangement for lack of emotional impulse control, combativeness or behavioral personality disorder problems. In fact, this Applicant's personal vocation involves the behavioral disorder resolve, as he actually lectures on emotional disorder associated with attention deficit disorder." And in such contrast, Applicant has indeed suffered from associated problems with a prostate condition which actually rendered Applicant more cooperative and docile.

(28). In another fact, A.D.D. happens to be a personal conflict of interest for Joye because he admitted to having a son who was diagnosed with it and opposed Applicant on the resolve as this was demonstrated in Applicant's Motion To Dismiss counsel, on court record.

'A'. Clearly the mental health evaluation law has been egregiously abused as will be further revealed, and rather than any supportive showing against Applicant, giving some recognizable factor as is called for by the law, there was none. But there was a showing of extrinsic fraud. The mental health evaluation law is designed to be an impartial advocate for the basically mentally retarded or the insane.

'B' What has taken place to this point, has been a showing in the actions of Joye in the method strategy of the 'mission attempt,' (A) in 'coercion' and then (B) leading to 'censorship,' and showing in actions a different but much more brazen attempt at (C) 'privation,' through the mental competency scheme. This not only reflects upon the 'motus operandi' of errant appointed attorneys in contaminare, but shows the foreground in the 'vicegenerate' of Joye's joinder in conspiracy with Diggs in the final 'overt act.'

* a'. With method strategy (C) 'privation,' counsel Joye made several extenuating attempts to influence the outcome, as the major objective was to subject Applicant to a deprecated mental evaluation that Joye could influence, and the 'vicegenerate' conspiracy could accept, and manipulate. But Applicant was not submissive to Joye's subtle authoritarian take over in an attempt to subjugate him to a lesser class representation in violation of the equal protection clause of the 14th Amendment, therefore, the overact in legal ethics violations supporting this joinder with the state is performed through such legerdemain in the ways and means of Joye's stratagem

through their personal justifiable prejudices. And under these very circumstances of Applicant's appeals for equal protection and due process, Applicant was treated as a mental retard. This has been the same as a belligerent fascist/communist regime assailing civil rights, when all constituent parts of the scheme are laid out. If Joye would have been successful in (D)'privation', through contrived psychiatric demerits, Applicant would have been further deprived of meaningful participation in his own defense as that plan.

(29) On April 18, 2013 Applicant was transported to Columbia to attend the mental health evaluation by court order as Joye sat in attendance. During the evaluation, Joye was chastised by the evaluators for causing distractions that were obvious attempts. At the end of the evaluation, a folder was opened by one evaluator who revealed some documents of which the evaluators asked Applicant if he recognized, and he acknowledged that they were his personal writings. Applicant responded by saying that the particular writings as documents were given to counsel Joye for preserving because of forensic evidence, and that they were lawyer client privileged information and materials. These documents Joye selected which represented religious, social and political ideologies which Joye most notably assumed to be incendiary, and selected them out of less controversial ones which could clearly reveal Applicant's lucid, cogent comprehensiveness. See exhibit "20". And there were other pointed notations Joye made in attempts to implant in Applicant's documents for derisive reason, such as suggesting Applicant was confused over the definitions of exculpatory and inculpatory evidences in relationship to his own writings. Rather than an advocate for assistance of counsel, Joye displayed in his manner 'an amicus curiae' (friend of the state).

(30) So that the reader understands the picture being painted, in a showing of extrinsic fraud, the underlying scheme is the circumvention of due process by denying Applicant the equality as provided by the highest respect of the Bill of Rights, and in such intimidation and oppression, thereby subjecting Applicant to a class based bias by injury of certain discrimination against applicable rights as in 'Ake v. Oklahoma' clearly illustrates for here, "the court said," "Where the State brings its judicial power to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his

defense... justice cannot be equal when, simply as a result of his poverty a defendant is denied the opportunity to partisipate meaningfully in a judicial proceeding which his liberty is at stake.

'A.' Because of counsel' Joge's 'mission attempt' and 'extrinsic fraud,' Applicant filed the federal lawsuit against Joge #4:12 cv-01615 which records the specifics. Joge retaliated by urging the court to order another evaluation without legal proceeding because of the civil suit.

'B.' Applicant was returned again to Columbia to undergo a second mental evaluation. On this day, Applicant informed the evaluators that because of the existing federal lawsuit against Joge and the proceedings, and the fact that he was representing himself as a pro se litigant, he was therefore advising himself not to partisipate in the ongoing proceedings. Moreover, Applicant was threatened by Joge and an evaluator with contempt of court for not complying. Applicant refused again and another evaluation was ordered by the court according to Joge but without a legal proceeding also.

(31). Because of the federal lawsuit awareness, the evaluators apparently concluded the evaluation from the initial one. Solicitor Spratlin urged the court to enforce another evaluation on Aug. 8, 2013 before Judge Hyman, showing a joinder between the state and Joge on the issue to 'harry' Applicant. However, in the evaluator's conclusion, they could find no issues for incompetency, and this sanitizing was most likely accredited to the facts of exposure to the threat of federal adjudication for the abuse. And because of Joge's 'mission attempt' method strategy (B) censorship, this cost Applicant almost one year in jail, in pre-trial detention without justification, other than to continue on in (C) privation, while 'running out the clock;' and as it will be revealed herein further how Joge could not resist in a finalized partisipation of (D) conjectura pietatis, as he played a role in negatively influencing Applicant's trial on March 10, 2014 with his 'malicious contaminare.'

(32). As a reminder, the necessity for laying down this foregound is proved viable by Joge's pattern of behavior, and the irony that Applicant's defense is based on his ability to study pattern behavior and show a relevant conclusion. The prevention of Applicant's defense through 'extrinsic fraud,' is the aberraction of a 'catch 22', because, at this point, in its due process violation it reveals the fated coerced 'mission attempt,' jeopardized Applicant's defense, which proves the aberrant actors feared Applicant's defense vindication. And a

Verdict of innocence would certainly cast aspersions on the absurd fact that Applicant was held in jail through not fault of his own for thirty four months without a reasonable bond.

'A'. The wrong here, which is found in conclusionary evidence, is realized in Applicant's complaint toward the attorney's refusals to involve themselves in Applicant's defense by refusing to entertain his defense facts, thereby, refusing to interview and intercourse with Applicant. And by refusing to review Applicants documents, each attorney failed to realize the full extent of Applicant's intentions for exercising his due process rights, There has never been an issue regarding any kind of a 'prima donna' type of wishful defense posturing, as in some unreasonable exaggerated defense expectations, because, there was never a discussion with an attorney on a defense prospectus. Applicant never had an opportunity to exhibit unreasonableness.

'B'. If any attorney would have taken stock in Applicant's plight, they would have been fully aware early on, that, Applicant was fully at odds with the 'mission attempt', and they would have realized Applicant's innocense and his earnest awareness of the pattern which existed in the expedient (A), (B), (C), and (D), and would not have ignored Applicant when he stated that he wanted the equal protection and due process he was entitled to and not a plea deal. The attorney's have apparently been so entrained by that system, their aberrant natures' behooved them to fail in recognizing the slippery slope of legal ethics on a downslide.

'C'. As an example, Joye had the opportunity as well as Diggs to read the following excerpt, but, they refused. The following excerpt is taken from federal complaint # 4:13-cv-0017, pg. 7 of 25. "Records will show that it is noted that a pre-trial detainee who fails to make bond is subjected to many deprivations of due process privileges, as taking advantage of ignorance of the law of detainees who in the same manner do not have resources to bond out and afford a private attorney, therefore are dregs of society and the system, disenfranchised by detainment from legal knowledge, thereby easy targets of exploitation.

(33). In understanding this process, such a mental state lends itself to psychological misappropriation, applied in misconstruction, of due process and constitutional rights, and has actually evolved in such a manner through judicial opportunists, to take advantage of skirting fundamental entitlements that would hinder state advantage, depriving the disenfranchised through an underhanded

scheme, and to disparage and create submission by psychological meandering of mental anxiety, to gain guilty pleas, substituting for what would normally be expended resources, by the reasoned.

(34). Such rights as procedural due process, as preliminary hearing, previous assertion by law, presentment by grand jury, and speedy trial are primary yet secondary to communications by counsel and advise about privileges, effective assistance through counsel in regard of defense strategy, securing of exculpatory evidences, witnesses and etc. Instead, there is ignoring of provisions, tampering with time lines and dates, failure to authenticate legal documents, as search and arrest warrants, concerns over constitutional violations and etc., whereas, such failures demonstrate giving the state an unfair advantage.

(35). When the public defender, the solicitor, and the judge are seemingly indiscriminate individuals whom traditionally play seperate roles of objective discourse, whereas, on the other hand these individuals participate in a paradox, with participatory roles in substantive transactions, to prejudice the defendant in a symbiotic relationship for state gain through an equally condoned psychological protocol, where, pretrial detainees are held in the Horry County Detention Center subject to a long term deprivation and anxiety produced program, to enforce compliance to guilty pleas."

'A'. Rather than heeding such information as made, both Joye and Diggs continued in their 'mission attempts', in not realizing that Applicant was more than fully aware of his own means to invigle reason from their cognitive dissonance.

(36). Applicant appeared again before Judge Hyman for the purpose of hearing Applicant's Motion For Reconsideration To Dismiss Conflict of Interest Attorney Joye on Aug. 3, 2013. Judge Hyman made an issue of Applicant's federal lawsuits, obviously aware of the complaints. Applicant stated that because of his personal vocation, he was an experienced peace maker, throwing the weight of the problem onto Joye. Judge Hyman retaliated against Applicant by prejudicially threatening him by saying, "Mr. Beggs, do you realize that by doing that, you are breaking South Carolina Law?" And because Applicant did not have a Phd. or a license to do so, he responded by saying, "Show me the law and I will determine if I have broken it!" And Applicant added, "I am a Christian, and to practice that does not require me to have a Phd., a license, or

to put up a sign." Applicant determined that because of a paragraph in the federal lawsuit filed against Joye, Judge Hyman became incensed over this statement, "Mr. Joye's contention is based upon his belief that this Plaintiff's religious and political views which entitle him to constitutional rights, and a right to file grievance for abridgement of these rights are an indication of mental derangement."

(37). Judge Hyman continued to openly chastise Applicant for suing in federal court for due process as Judge Hyman warned any lawyers in the court room to walk out of the court room if they did not want to be ordered to represent defendant Legg. And about twelve attending lawyers got up and walked out of the court room. Assuming here that because of the prejudicial exchanges from the bench, against Applicant being a Christan, and because of suing in federal court for due process, prejudice as conflict of interest from the bench continued to prevail. On this day of Aug. 8, 2013 counsel Joye was dismissed according to the Motion For Conflict of Interest, not because of the federal lawsuit. It was Applicant's motion which was the legal proceeding. Dismissal reasons are established on record.

(38). Of the mental evaluation which was finally concluded, Judge Hyman also on Aug. 8, 2013 read the findings which were vague and of an erroneous character assessment, Hyman did use the stated findings to belittle Applicant and accuse him of being a liar in open court before a public venue. Such mental evaluations are supposed to be shielded from being biasely bantered about under such aims. Such acts as Hyman's reading of the findings and using the information to excoriate and defame Applicant as he did is exactly what causes the general public to loose confidence in government. *See exhibit court transcript, Aug. 8, 2013. 'General Sessions'*

(39). Up to this point, the illustrated process has shown a primary basis behind a prejudicial nature, below the surface which has evolved an anti-religious-psychosocial, and an antagonist justiciable political question errupting into a free course *extrinsic fraud*, more definately revealed through the actions of the third court appointed attorney William Issac Diggs, appointed also in a further questioning appointment process. Judge Hyman, who on record already established a prejudicial nature, went out of his way as with Joye, bypassing the public defender official appointment process and ordered another attorney to represent Applicant.

There was a conflict between the public defenders office appointment and Judge Hyman's. Judge Hyman chose Diggs apparently because of the open conflict from the public defender's office. (40). William Diggs became the final partisipating principle in the 'overt act;' as the evidence will support all the criteria necessary for fact finding of a conspiracy to deprive of rights.

A. Upon first meeting counsel William Diggs, Diggs made a standard introductory statement that since he was a pro bono attorney, he was not like the typical public defenders. This turned out not to be true as counsel Diggs prioritized the same coercive strategy from the very beginning.

a. Counsel Diggs was made fully aware of the same opening defense merits from Applicant just as Floyd and Joye were regarding the primary concerns as the medical state, now more pressing, the due process violations previously disclosed regarding suppression of evidence necessary to investigate for unearthing exculpatory evidences and etc. And at the beginning, counsel Diggs, just as Joye and Floyd made efforts to sweep under the rug Applicant's plight to indict the wrongdoers for an official investigation, just as Applicant's partisipation in a defense prospectus was abandoned, as the focus of the attention was on the plea coercion strategy. Diggs was adamant about always leaving the impression that he had everything under control. This included Diggs making short drop by visits, leaving Applicant feeling despondent, leaving with premises to return and more fully invest later in the necessary time for serious conference at a future visit, but, this never happened. Diggs managed only to whither away the trust that was placed in him, as Applicant continued to bring his stack of documents at every visit. Diggs continually pushed them back to Applicant. Applicant found himself imposing on Diggs to possess some documents by leaving them as he exited the brief conferences. It was always obvious to Applicant that Diggs did not plan for a defense strategy.

b. Applicant was fully aware of Diggs's dominating coercion strategy, and just as Joye was before him, as both early on, refused to review Applicant's defense brief, and through their efforts to dominate, they did not allow themselves to acknowledge Applicant's more thorough involved awareness, driven by the passion of innocense for taking offense at the coercion strategy, as they dismissed any idea of reverberant consequences to such an errant tradition.

(41) In Diggs's coercion strategy, he would typically plan a limited visit as smartly contrived 'touch and go', meaning: The visit was planned to be brief and cordial with the mutual slickness for avoiding all subject matter regarding defense preparation, leaving the subject of a plea deal at the fore front. Diggs would say things like, "Juries typically believe state's witnesses like this." And, "Juries do not think", and etc., as Diggs's strategy was to plant negative disparagement. 'A' Applicant realized that by such statements as "Juries do not think," Applicant concluded that Diggs made a distinction on the value of a defense, indicating the necessary effort to educate a jury on defen would not be a reasonable expendable resource on an indigent defendant, as Diggs inevitably proved this hypothesis on court record Diggs made a statement saying that he had never represented an innocent person, indicating here, advocational disillusionment.

(42). Applicant went out of his way to explain an untreated enlarged prostate issue he had been experiencing with increasing symptoms for over two years with issues of a severe dry throat which made it difficult at times to communicate, and with experiences from internal toxicity causing anxiety, emotional sensitivity, short term memory loss and etc., which were important to be rectified for Applicant to stand trial and represent himself. But, Diggs completely ignored the issue, just as his predecessers.

'A'. Medical records at the J.R.L.D.C., which have recorded Applicant's various complaints, substantiate the issue, just as a federal lawsuit against the medical facility, 'Legg Vs. Southern Health Partners' # 1:12-cv-00481 shows the neglected medical state. However, medication was eventually given to Applicant only from being threatened by another lawsuit, only primarily too late, but proved the condition.

(43). During counsel Diggs's brief spontaneous visits, Diggs had a routine which Applicant heard about from other defendants, whereas, counsel Diggs's paralegal was in attendence, they both played a role of 'good lawyer, bad lawyer,' where Diggs routinely apologizes for the paralegal's insensitivity over her harsh reality assessment, and being candid, and states that he will not bring her again. The paralegal comes along with more hard core disparagement, making it look like the defense is hopeless, and Diggs apologizes for the paralegal's insensitivity over harsh reality. Bearing in mind here, an investigation into the defense has never taken place. However, by this practice of double teaming against the defendant, this

was an effort for the affront of making it look like two professionals in law agree on a hopeless defense that needs to 'opt out' for a plea deal. This 'con job' coercion strategy is at the expense of the trust by the defendant and society for that matter, placed upon the attorney's expected norms of the professional standards of living integrity of a person in trust and not subsided by private interest. And the egregiousness of the ethics injury against Applicant in lieu of protecting the status quo of a private ideology fostered in the community in political bond as some expedient tradition in vigilanteism with such readily willingness to exploit that trust is more than despicable.

(44). Diggs made several brief coercion attempts that were short and concise visits which served to 'run out the clock'. Applicant made several attempts to interject in conversation his defense brief by trying to engage Diggs with the genuine issues of materiality. Diggs continually deflected the issue by saying things like, "you are an intelligent person but you talk too high like a professor." And, "the Judge would not entertain such a lengthy motion, and certain facts take too much time to demonstrate." Diggs implied by his own personal standards he seemed to convey, that, Applicant's defense was too complex for him to digest for a reasonable defense representation by him, as it would take too long and would require an effort on behalf of his ability to educate the jury, as the trial trascript of record verifies.

(45). The truth of the matter revolves around the academic aspects of Applicant's vocation, for the foundation of his defense. The corporate structure in Applicant's defense, in the full context of its character, proves everything for the fact finder. For instance, the topic for full accountability for the forensic interview of the accuser for credibility, would be based on the fact that Applicant's assertion of a variable state of mind of the accuser was suppressed by the state, thereby depriving the forensic analysis of a conclusive result, as Applicant's documentations which the state's witnesses have acknowledged, indicating that a 'state' of mind existed for Applicant's vocational interest, which accomodated a lengthy association involving voluminous documents regarding behavior in question, as, Applicant was accused of being a behavioral therapist. And Diggs did in fact, play an integral part in the suppression and prevention of such information from Applicant's

defense in extrinsic fraud.

(46). These facts, backed by the documentations in question, would undoubtably change the whole equasion for the forensic interviewers' credentials which would necessarily be taken into account and give place in respect for regarding preexisting psychiatric foreknowledge or, (variable state of mind), without, would question such proper positioning of protocol, considering such obvious psychiatric circumstantial probabilities, showing the forensic interviewer might need to wear a different helmet, as there are limited scope psychologists, and there are broad based psychiatrists

(47). Eric Harris of Columbine fame in 1996, had several interviews with state psychologists/psychiatrists, before he became famous. And Eric Harris passed the interviews with flying colors. In less than one year later, Eric Harris and Dylon Kliebold murdered several of their high school students and commited suicide. Eric Harris journaled his plans vividly for massacre at the same time of the psycho/psychiatric interviews. Eric Harris had a very high IQ and got A's in school. There is a state of mind which can be very masterful with such interviews. There was knowledge that a variable state of mind did exist with Eric Harris, but the information was not connected to the concerned agency. Would it serve the profession if such knowledge was in the foreground?

✓ See 'State V. Kromah,' 401 S.C. 340, 737 S.Ed. 490. See e.g. Douglas 380 S.C. at 504, 671 S.E. 2d at 609 (concluding it was unnecessary for the forensic interviewer to be qualified as an expert because no specialized knowledge was required there). In this case, specialized knowledge would have been required for the purpose of suspicious susceptibilities which have been shown to exist.

(48). In this case, the state agents and all else had the knowledge that a variable state of mind was a probability, except for the forensic interviewer. Such accumulated information would serve to invalidate the forensic interview after the fact, because, if the forensic services would have reason for specialized knowledge, the outcome would have been different. On the other hand, the interviewer displayed her limited subjective views of the accuser by saying to her during the interview, "thank you for being truthful." Thereby, showing no caution towards bolstering false statements, having no reason to guard against a susceptibile subjectivity.

(49). In this showing, from Applicant's perspective, there has been a

string of associated events which have caused a suppression of evidence by state errors and malicious intent on par with Diggs. This whole arena by example for an investigated defense has been voided, which implies a more wide scope exists. A fact finder who discerns cause and effect would easily conclude missing imperatives here.

(50). By Diggs's bypassing on the indictment of the 'Fruit of A Poisonous Tree', and the state protecting itself against wrongdoing accountability, by, not examining the events which partook of the suppression of evidence and misconduct, and such doors to such evidences have remained closed as Diggs remained a principle in that conspiracy, with the state in allowing state witness deceptions, *extrinsic fraud* begins to show, more vividly.

(51). Applicant showed Diggs the two search warrants in question for comparison. And as Diggs noted the disparity between the actual executed search warrant and the later codified one, Diggs feigned concern. But Diggs acquiesced over the issue at trial and covered for the state.

(52). On Nov. 7, 2013 Applicant received a letter from Diggs saying that he was preparing for trial, but, this never happened. During the time of waiting for Diggs to spend trial preparedness time with Applicant, Diggs was made aware that Applicant would not take any plea unless it was consistent with verbal assault. Yet after waiting and receiving nothing but brief coercion visits from Diggs, Applicant wrote a letter to Diggs informing him that in Applicant's opinion, Diggs was not qualified to represent Applicant's case and added a note that Applicant was aware that Diggs was running out the clock. And so, Applicant asked Diggs to have himself removed from the case. Diggs served only to continue on a coercion and *extrinsic fraud* course. *See exhibit* (Z)

(53). Diggs immediately responded to Applicant's letter as if staying on the case was of a grave concern for Diggs. Diggs made a brief visit for appeasment and Applicant asked Diggs if it was written somewhere that an indigent defendant was only entitled to a limited defense. Diggs answered by saying that an indigent was entitled to the same kind of a defense as a paid client. Applicant then responded that he would like to have that kind of a defense. Diggs agreed but never reciprocated 'that kind', as is proved on court record.

(54). Sometime during midway of Diggs's representation, Diggs was representing another pre-trial detainee by the name of Bradley

Mullins in a murder trial. During the trial there was a South Carolina Department of Corrections inmate by the name of Anthony Ray who transfered to the Horry County 15th Circuit Court to testify as a state's witness against Mullins. Because of Applicant's vocation with the accepted psychological term of Attention Deficit Disorder, Applicant spent one-on-one time with Anthony Ray while he was a pre-trial detainee with Applicant at the S.R.L.D.C. before he plead guilty to murder, and became a state's witness against Mullins at Mullins's murder trial.

'A'. Anthony Ray was diagnosed as a child to have attention deficit hyperactive disorder. Applicant spent a great deal of time with Ray's co-defendant Mullins also. The information regarding Applicant's psycho interview of Ray, as Mullins called it, was given to Diggs by Mullins, suggesting that Applicant's fact finding contained impeachment materiality. And during Mullins trial, when Ray took the stand, Diggs asked Anthony Ray if he knew Applicant Ronald L. Legg, implying that Diggs was aware of, and, that Applicant exposed the privileged information to Diggs. Ray responded with disparaging remark in his threatening way. The implication was clearly established through Diggs's inured slickness.

(55). Applicant did not give his consent or make any agreement with Diggs in allowing that Applicant would appear in this trial or, agree, that any privileged information would be shared, or, made any agreement in any manner that could serve to incite Ray at Applicant's expense. Ray is a very violent and vindictive person who confessed to murder. Diggs's actions here have shown and proved to be egregiously reprehensible, reckless and calous endangerment.

(56). As a consequence to all of this to Applicant, Ray was, or, is a well known gang member acknowledged at the S.R.L.D.C. where he was detained, and of a gang which has broad reaches and connections in the penal system and southern states. When Applicant was sentenced to the S.C.D.C., he was transfered to Kirkland. The following day Applicant was confronted by a gang (name not mentioned here), and the following day was brutally attacked by them, suffering a severe head wound as Applicant was struck with a deadly weapon for an intent to kill. The scalp was peeled down, exposing a three by six inch area of bare skull, leaving permanent disfigurement and some mental, motor skill issues. This gang was associated with Anthony Ray. Traditionally, the S.C.D.C.

would be notified concerning these circumstances and efforts would be made for the inmate's safety. But, apparently Diggs is used to doing things in his own unchallenged ways, showing his client's best interest has not been a primary concern of his.

(57). Within 5 days of a state planned trial for Applicant, counsel Diggs continued to fail in any form of a defense preparation with Applicant. Diggs moreover did plan on an intended, less than minimal defense, obviously, based on an experienced disengenuous template as the conjectura pietatis for the last minute as Diggs exhausted all of his staffed ducks for running out the clock, because, he depended so firmly on his coercion strategy, he did not think he would need to prepare.

'A'. While Applicant was in a holding cell waiting to appear for a surprise deal for a plea offer in front of Judge Cottingham, another pre-trial detainee represented by Diggs, heard from Diggs on this day that if Applicant did not take the plea deal offered to him on this day, it would mess up an upcoming trial Diggs was involved with. And this trial Diggs mentions as being subject to Applicant's decision should also give cause to pause. The other detainee in the holding cell represented by Diggs was told a surprise trial was waiting for him as well. On this day March 5, 2014 Applicant turned down the plea deal.

(58). On Feb. 25, 2014 Applicant was again surprised by an unannounced court appearance in front of Judge John. On court record Diggs admitted that he did not have time to give attention to a trial preparation for Applicant, and that he had another pending trial, and there were other reasons which would be consuming Diggs's time. It was clear that Diggs was not even prepared to present the <u>Ex parte Motion</u> this hearing was called for, as Diggs fumbled along and did not object to the solicitor's presence. Diggs for some reason was having expression difficulties and stated on court record, "my client would plead guilty to the charge," which was absolutely absurd. Diggs on this day was not very cognizant, in his presentation, as he caused Judge John to register a puzzled look. Judge John in return cited some very concise instructions Diggs would need to follow for the approval of the motion. After the hearing, Diggs stated that Judge John was speaking in code and thereby, Diggs was trying to leave the impression that he was going to get a continuance on the trial date. Judge John ordered to start on March 10, 2014 some 13 days from this date. However, Diggs did not make any kind of an advance -

ment for following the procedures John outlined for having the motion approved, or to get a continuance on the trial date. Diggs did not visit Applicant 30 days previous to the trial date for the purpose of trial preparation as ordained by law. Diggs just showed up without excuse, as if nothing was out of the ordinary. On March 10, 2014 Judge Cottingham determined that Applicant had no legitimate complaint. On Feb. 25, 2014 Diggs stated before Judge John that Applicant's case was very complex. Diggs's defense preparation as nakedly minimal was a direct contradiction and was in no way shape or form agreed upon by Applicant as it did intentionally exclude any participation from Applicant.

(59). One direct link to the fact that all three attorneys were disengenuous about Applicant's defense lies in the fact that Applicant informed all three attorneys that he had a cell phone in his personal property at the S.R.L.D.C. which contained messages (text), from the accuser, which is material evidence. No attorney bother to secure this piece of primary evidence.

(60). During the trial of March 10, 2014 a showing realized as deficient by an objectional standard of reasonableness is realized more fully by counsel Diggs's conflict of interest called errors in trial preparedness and performance shown on trial transcript. Diggs did not show up at trial with a defense strategy, absolutely no defense witnesses, did no outside investigation, was not rehearsed on the facts, Diggs remembered only some non-essential facts which Applicant tried to share with Diggs that should have lead to more telling facts but did not. Diggs lacked any evidentiary structured facts for flushing out storyline, rather, Diggs used some minute tid-bits to make it look as if he had a strategic theory, only for his protection, as this showing revealed only disengenuousness. And Diggs relied only on his familiarity with the state's expert witnesses for Diggs's passed experiences, for a sort of substance showing no matter how weak and incompleat his performance. Diggs had no adversarial contest or pretypical bias challenge against the state's witnesses.

'A'. Counsel Diggs presented less than a minimal defense, without any consent from Applicant, for any kind of a constructive outline for an invitation to discover mitigated facts, ... there was none. The trial record showing unequivocably contradicts the continuous record of Applicant's pursuit of full due process meaning, which is translated as Applicant's meaningful participation with witnesses

and etc., considered fully exhibiting his defense. Diggs made a very obvious artificial showing for fraudlent purpose, only enough of a symbolic showing for a competency investment for his own protection, just enough as he believed to skirt a blantant charge of discrimination, against an indigent defendant, by, a routine limited defense. But, here, there is an exceptional view to such a claim by Applicant's more conclusively prevailing facts with a microscopic view. Diggs's fantasy defense is overshadowed by a compelling combination of factors, which lead to a more clear demonstration through *extrinsic fraud*, illustrated by the exhausted procedures which lead up to the 'overt act'. Through the extenuating vices which contribute to the discrimination of an indigent status, giving cause for unfair and unequal treatment, combined with the prejudicial vices that continue to blind one from seeing the part they play, can cause the actors to be continually silent against their own actions in silent but effectual conspiracy as in Diggs's actions.

(61) Applicant's indigent status which has been used to neutralize him by the conspirators as '*Bullies*,' against a preconceived weakness, and the reluctance of Diggs by example for indicting state agent's wrongdoing, are along with the many combined factors here, making the case for *extrinsic fraud*, (or,) *civil rights conspiracy*; easier to read as the combined elements of Constitutional violations, civil and criminal, are the harbingers here for overshadowing the lawyer defense propped up by their rudiments of the faintly defined role of effective assistance, hoping to cloak such wrongdoing by it, in some fashion of arguable limits and theory judgments, but not validated through true due process circumscription.

(62). Counsel Diggs was fully aware of the necessary elements of the full exhibition of Applicant's defense for material witnesses, evidence, suppression of evidence, indicting state actors in wrongdoing, the variable state of mind of the accuser, inconclusive motions, objection failures during trial and etc. But Diggs adhered to the ill-fated '*mission attempt*,' that followed itself through to its final definative nature which had a beginning and an ending in conspiracy.

(63). Conspiracy need not be a tacit membership by agreement under these circumstances, whereas, a tradition can have its immediate recognition relaxed by habit and acceptance, and in allowing for individual participation to be principle actor, operating in second nature even though misguided, it still is an engagment that intent

shows itself to be guided by the end result of an overt act. And, in conspiracy with other principle actors following tradition would of course be a traditional conspiracy in tacit understanding. It is the individuals responsibility to recognize the gathering fault in wrongdoing in their own behavior, even if it is only a partial contribution. Just as in the showing in this complaint, in how Diggs's performance at trial actually flowed with the state, as the state's weak case was made strong by Diggs's role as a principle vicegenerate 'amicus curiae', more loyal to the state, as seen in his acquiescent non-adversarial, tranquil role for the state's more firm and agressive offense, taking advantage without the complications of adversarial due process which is well established on court transcript.

(64). On the cross examinations of witnesses, there are at least two clear areas of the confrontation clause violations which cannot be found to be harmless beyond a reasonable doubt. One area is where Judge Cottingham warns against undisclosed perimeters for the examining of the state's key witness which was uncalled for. Judge Cottingham said, "I warn you, because of her tender age." This interruption from on high command clearly served to bolster the confidence of the witness by indicating that the witness could be relieved of any pressure on a test of veracity, or from the anxiety caused by a protypical bias challenge, as the witness thereby finds a shield because the Judge's profound altruism without a showing for cause, gives the witness the feeling that the court is a confederate against her opposition. And as it would be presumed in the mind of the witness (as a false accuser), the defense attorney would have a ravenous nature, probbing, as a truth prospector, and since she would have things to hide, the attorney would appear as an insensitive prying bully, while the court would serve as refuge when exploring certain areas the witness could now feign stress over for escaping the likely hysterias of denial. The bolstering confederacy from the Judge which happened on other occassions serves only to encourage the nerve of deception, and factiously controlled by the court deprives of a controlled test for veracity or bias, considering the need for depth inquiry, as probbing and the snares for truth trapping causes necessary anxiety. Such tools were essential for Applicant's defense because the actual facts of the case go beyond, "He did this," and "She is lying." If the "She is Lying," is allowed to be examined by the age old

tried and true skills by the craft of a real criminal trial lawyer, and the responsibility of the state's true duty when judicial ethics are not violated, to seek the truth rather than personally and pretentiously assuming to know it, a more fair and reasonable outcome would not be in doubt.

'A'. Judge Cottingham contradicted himself by doubting the professional maturity of Diggs here, when, he said at the beginning of the trial that he graded Diggs from years of experience with him. But in all reality, Judge Cottingham simply gave orders to Diggs and Diggs obeyed, without objection, to limit cross-examination.

(65) Diggs failed to challenge the Judge's warning for cross examination, or object for preserving for appeal. The Judge also told Diggs to wrap up his cross-examination of another witness and Diggs also failed to object to limiting that right. The second area Diggs was in yonder with the state on a confrontation violation clause was over the social history of the accuser where the material facts of this area remained dormant throughout the trial. Diggs took it upon himself to prohibit from engaging in otherwise appropriate cross-examination designed to show protypical bias from a social history, when, there was such a requisite area. Diggs always acquiesced by withdrawing, backing away, from any inquiry into the necessary background, inner connectedness that would serve to show relative-
✓ ness brought forward and preserved through investigation.

(66) On Feb. 25, 2014 before Judge John, Diggs made a showing with an *Exparte Motion* requesting for the state to provide funds for a psychiatric expert, apparently for digesting the social history of the accuser. A relevant fact was revealed as Diggs sought to validate the expert witness by implying to the court that a psychiatrist could show that a genuine issue of biasness existed in the state's Key witness which called for a psychiatric expert to make an analysis of the social history for that assumption. Or, perhaps Diggs may have merely filed the motion for his own competency showing. It was actually odd in Diggs ineptness before John, as if Diggs some how staged the motion for hearing, given his years of experience, as the motion was denied, and John gave correction as if to an amateur.

67). During the first day of trial, Applicant asked the court to hear a motion to dismiss ineffective assistance of counsel Diggs, based partly upon Diggs own testimony on Feb. 25, 2014 in front of Judge John, stating that he did not have time to prepare a

defense for Applicant. Again, perhaps for Diggs's own protection because he did not ask to be removed from the case. Diggs explained the extenuating circumstances which consumed him, whereas, nothing had prevailed to change them and the fact remained that Diggs stated he did not have time to prepare for Applicant's defease.

¶(68). Trial Judge Cottingham refused to fully entertain Applicant's motion for dismissal of counsel as the solicitor presudiced Applicant by making a false arguement, which implied Applicant was suing the appointed attorneys for a ruse without any substantial facts. The solicitor relied upon defamation of character to achieve the hijacking of Applicant's motion in a practice of deception which continued during the trial.

¶(69). The trial Judge presudicially accused Applicant of suing for the purpose of trying to delay the trial, putting it off by suing each attorney as a charlatan ruse, and the accusation was without factual substantiation, as the factual reasons for Applicant's filings for redress of grievances were all available to the solicitor. The solicitor in fact perpetuated demagoguery over the issue as Judge Cottingham made a passing inference taking place in an out of court conference and a seperate hearing, in question of recorded transcript. Cottingham brazenly accused Applicant of this behavior according to Solicitor Spratlin's incite, as well as, seeding an established bias against indicting state actors for wrongdoing. Moreover, Applicant was openly accused of fabricating trial delays when the opposite can be proved, as, Applicant actually began filing grievances for due process violation for ignoring his request for a speedy trial. It was two and a half years prior when Applicant asked for a speedy trial. It has in fact been the state that has been the charlatan.

¶(70). At trial, all of the actors involved in the *extrinsic fraud*, as the purveyors' in technique for civil rights violations against Applicant, come together now as Scott Joye who Applicant sued in federal court, and was dismissed by Judge Hyman because of the legitimate complaints in conflict of interest, moreover appeared at Applicant's trial, at its opening, representing the state on behalf of the state's complaint in perpetuation that Applicant sues court appointed attorneys as a charlatan ruse. Joye shows up as a witness against Applicant's Motion to Dismiss Diggs for lack of trial preparation as stated in the motion, Joye is in joinder with the solicitor, the judge, and Diggs in a legal proceeding against Applicant.

in a deception of purposeful distortion of facts in conspiracy. Apparently Joye had a vested interest in seeing that Applicant proceeded at trial without a defense preparation which would be the 'conjecturae prelatis.' Spratlin was well aware of Applicant's motions.

(71). With conflict attorney Scott Joye's appearance at Applicant's trial, Joye freely sat in attendance, conferred with the judge, the solicitor, and counsel of record Diggs for the three day period of the trial. Joye at one time advised Diggs not to call a key witness and Diggs complied. Within days after the trial, Applicant wrote to the Attorney General of S.C. and the Lieutenant Governor to inform them of this wrongdoing, and advised them of the necessity to secure Scott Joye's presence and behavior on court room camera in a timely manner for preserving evidence. Counsel Diggs's behavior was conspiratorial by the very nature of his stating on court record that he was 'effective assistance,' ready for trial, therefore in joinder with the other state actors against this Applicant.

(72). The judge's presudicial tone throughout the trial leveling several remarks of judgement such as, "Well, he told her to shut up," without the opportunity from the defense to challenge the statement for truth. And Diggs again failed to object to the bench for making such validation statements from the court, especially while the state's witnesses were present, thereby bolstering of false testimony.

(73). The court room presudicial aura was extended by several viable unconscious factors? The state's witnesses as directed by solicitor Spratlin (consciously) were directed to sit together on the same up front bench next to the jury, as the police (two detectives), two state expert witnesses, a victims advocate and other state's witnesses sat in solidarity. This would particularly be a form of bias suggestion as many of these partisipants were not witness to a crime Applicant was charged with, and the others as statements of inference still managed to represent by body an image of unification of their representation of guilt, sending a message that there was no bypartisanship for truth, it was judgment by the majority. Applicant has a letter from a friend who is a Key witness who says he was never contacted about the trial. Applicant was the only other person on the 'other side of the court room next to the bathroom, as Cottingham pointed out.

(74) Applicant asked for a customary suit and tie. But the Judge ordered Diggs to provide court room dress. Instead of allowing the standard suit, tie and shoes provided by the General Sessions Court House staff which Applicant wore on Sept. 6, 2012 was quite sufficient. Instead, Applicant was treated as a vagrant, and Diggs provided only a shirt and tie. In adding insult to injury, Diggs brought a bright day-glo-yellow long sleeve shirt which stood out like a stop sign that signals danger. The psychologically inbued conclusion on the brightly hued yellow shirt would be left to an interesting academia for psychologist and psychiatrist to make hay over, but, it would not take a genious to note that on one side of the court room is the jury right along side of the state's witnesses in majority against the other side of the court room, where, sits alone, the suspect bad guy, who the solicitor jabs an accusing finger at, 'the one I arranged to sit over there, by himself, wearing the bright yellow shirt - the color of caution, the same color you were taught as a child, and you teach your children to observe as a cautious sign', as the solicitor would not need to say any of these things, because, there is established sound reason why society accepts the color of yellow as a warning sign, because, it simply signals danger approaching. Applicant was made even more subjective by counsel Diggs's lack of adversarial demeanor which demoralized Applicant's image further by suggesting counsel was not really in Applicant's corner.

'A'. Diggs did not allow Applicant to ask jury members questions during the selection process. Diggs selected all liberal jurrors more by their dress and demeanors. It was suggested during trial that Applicant was a republican conservative by the inventory of his property. Diggs was aware of this fact and aware of the bi-polar prejudices, such as exist in this analysis.

(75) The suppression of evidence was a well Known issue for Applicant's claims against due process, which actually evolved into the suppression of the suppression of evidence. In one area, it was Known that a state's witness, the mother of the alleged victim, was given a verbal restraining order against entering onto Applicant property by investigating Horry County Police Officer Lent. The state's witness compromised Applicant's property, and prevented family members from securing the property. The state's witness also tampered with Applicant's exculpatory evidences. This way

action of compromising Applicant's property and evidences were a joinder issue for suppression and obstruction with the police, which Applicant had made well know attempts to bring to light, which included the key element of indicting the detective and a magistrate judge for obstruction of relevant facts. This is all a well documented fact which includes a letter from Senator Lindsey Graham acknowledging the complaint in 2011.

(76). The issue here is the fact that a state's witness took the stand and stated that she was involved with getting rid of Applicant's property. Any lawyer worth his salt would have challenged that fact for preserving, assuring and further extrapolating of knowledge and facts, as, that would be part of the test on prototypical bias, for the defense. The fact remains that the subject would have been the impetus which has caused all of the lying and attempts to cover up, and the ripple effect which ensnared the actors in the act of the deliberate attempt to keep Applicant from exhibiting and trying his case. Why did Diggs acquiesce here?

(77). Diggs stated before the jury, "As a matter of fact, I have not seen the father here, I think I mentioned that she was a single mother, but where is the father in all of this?" As Diggs was asking the jury. If Diggs would have ingenuously investigated the case, he would have found that the step-father and the father would have been defense witnesses as Applicant had written the father's names down along with the other defense witnesses on a list in the defense brief Diggs eventually possessed after many times refusing to review. See transcript page 403 (15-21).

(78) Is there a special limited defense strategy these attorneys like to call their privilege that contains a theory that excludes key defense witnesses, especially who offer impeachment testimony against the state's witnesses, and excludes any meaningful participation by the defendant in the defense strategy that makes obvious exceptions against indigents? The answer is found in this discriminatory act against the equality clause associated with extrinsic fraud in this case. It should be simple to follow by adding the various injuries to Applicant's defense by the example that Diggs did not even know that there was a male adult figure living in the household of the accuser. And later Diggs had to ask a state's witness if a key defense witness was going to show up at the trial. This runs far deeper than subjecting these

facts to the excuses for the lawyer's privilege in judgment call reserved in theory for dominating and prostrating his client. 'A.' "Justice Louis Brandeis reminded us that crime is contagious, especially when the government commits it. When government breaks the law and defies the Constitution, it sets the standard that makes it much easier for society to do the same. When governments and politicians show contempt for the law, it's a signal that everyone else can do it as well. The real irony is that when the individual lives within the Constitution and tries to hold government officials responsible, they become the lawbreakers."

a! Why has Diggs tried so hard not to be an effective assistence for Applicant's defense, and in such Constitutional disregard?

(79). Applicant mentioned earlier that a medical issue remained untreated for nearly three years while Applicant was detained by the state. This was one of the issues Applicant pressed upon the three attorneys to attend through legal action based upon the necessity for procuring a judicial remedy. All three attorneys chose to ignore this issue. Applicant initially sued the medical facility at the D.R.L.D.C. to get the necessary medical treatment but failed in the preliminary process because of a lack of law experience and the jail officials refused Applicant access to law library. As the condition grew worse, which turned out to be a prostate issue that affected Applicant's overall medical state regarding normal functioning features that provide a stable appearance, and the coordination of faculties, became a pressing need. Such conditions as the lack of well being, which tempers emotional anxiety, the stress of short term memory loss, nervousness and etc., caused by a body chemistry imbalance creates a definate prejudice against a person who plans on taking the stand to preserve his life. This untreated medical condition was controled by languorous subservience to state interests.

(80). After threatening to sue again the medical facility through the Federal court, Applicant was finally treated with a prescription for 'Flomax,' which in turn proved the symptoms by their progressive elimination or elviation, which, usually takes about six weeks or more for stabelization. Applicant was in the early throes of recovery before the trial. The prescription was given as a morning medication, presumably as not to interfer with the sleep cycle. Although, during Applicant's trial, he relied upon the medicational

for its obvious benefits. The prescription was given in morning hours of 'Med pass' at the jail, and if a person were to be appearing at trial, he would be transfered in the very early morning hours, thereby, missing the 'med pass'. The jail administration refused to make arrangements for Applicant to receive the medication before leaving to go to trial on March 10, 2014. The administration said the medication was trivial. The medical facility then made the arrangement for Applicant to receive the medication in the evening med pass after Applicant returned from court. This took place usually around 8:30 pm.

(81). On March 11, 2014 on the second day of trial Applicant appeared in court after not having slept the night before, Applicant assumed it was the anxiety of the trial. That evening Applicant went for med pass and after looking at the pill it looked different, but, the med tech assured him that it was what was ordered so he took the pill. During the night Applicant could not sleep at all and came to the realization that it was the medication, and at about 3 am Applicant approached the on duty correction officer and asked him to write down in the shift journal that Applicant could not sleep again for the second day in a row because of the medication. Applicant's bunk was in an open cell that directly faced the officer who had a clear view.

(82). On March 12, 2014 Applicant informed Diggs of the circumstances of two days in a row without sleep because of the preceeding fault of the medication, and stated plainly to counsel Diggs that because of the total complications, Applicant did not have a mentally sustainable probability of a competent cognizance of his own ability to articulate the necessary defense posture regarding its complex nature and of course, because, Applicant did not have a defense advocate. Applicant asked Diggs to approach the court for the notification of these facts and to ask for a delay until the issue could be resolved. See transcript page 313-314.

(83). Counsel Diggs brought up the issue as it stated on court record and Judge Cottingham accused Applicant of falsifying the circumstances for the purpose of causing an unnecessary delay and refused to entertain the motion. The Judge again excoriated Applicant in front of the state's witnesses, bolstering their confidence in the court's prejudice against Applicant. The Judge could have easily checked the facts at the D.R.L.P.E. if he would have entertained them. In the turn of events, Applicant had

no full and clear accountability of reasoning, fatigued without remedy, and so, Diggs convinced Applicant not to take the stand.

(84). All of this medical information was available on the computerized Kiosk as Applicant corresponded between the medical facility and the administration. Both facilities have been made aware of the need for preserving all documents through the Freedom of Information Law Request filed by Applicant. Diggs also acknowledged Applicant's fascial dysfiguration as a visible sign of the physical impediment of fatigue during trial.

(85). During the trial, Judge Cottingham made several statements to impugn Applicant's character by suggesting that Applicant made things up, or, was a liar, while state's witnesses were present, bolstering their confidence that the court viewed Applicant as necessarily guilty. The irony was that the court had summarily relied upon single verbal unchallenged statements from the alleged victim without any physical evidence to substantiate the state's claims, showing an open court obvious prejudice from the bench against Applicant and often in an acidic tone of demeanor.

'A'. There can be no supportive laws that could possibly validate a declorative pretentiousness of personal judgment from the bench, as some privileged knowledge about the defendant, as, the court had implied by the Judge's continued character assaunations of Applicant, especially since Applicant had not taken the stand, or, shown any malicious cause to warrant such wrath from the court. For the bench to openly suggest non-factual intent of the defendant for the sake of bolstering the rally of the state's witnesses, while at the same time, give an unchallenged pass to the accuser's intent. The court transcript clearly reveals ethical offenses Diggs failed to object to.

(86). The state tried to force an exhaustive *Mental Health Evaluation* on Applicant. A mental health evaluation for mental retardation was imposed on Applicant for the purpose of gaining control over Applicant's defense. There was no unruly showing of Applicant's presence, yet, on the contrary, there was a lack of adjudication on the showing of arbitration between Applicant and counsel. Applicant obeyed lawful procedure by filing his pro se motion, read before the court, in a showing that was clearly diplomatic and adroit. The state not only abused the statute intended for the welfare of those of mental-retardation, but, used the statute in a prejudically

assessed setting for the purpose of subjugating a due process state of mind in an effort to manipulate psychiatric language for the purpose of circumventing due process, and Judge Hyman in fact looked for such language to use against applicant when he read the evaluation in court to himself, shortly after he accused Applicant of being a liar. "When citizens obey the Constitution, they are viewed as the law breakers."

A. The state, (solicitor Spratlin, Judge Hyman, and Joye) wasted no time or expense at denigrating Applicant's mental state. Meanwhile, from June 2011 until Feb. 2014 Applicant suffered through an obvious medical health issue with dry throat, sometimes could hardly talk, weight loss of 60 lbs., short term memory loss at times, liver problems, (skin turning yellow), bathroom many times at night, skin rash, muscle atrophy, runny nose, allergies, sensitive to cold, joint aches, body odor, strained vision, hearing loss, shortness of breathe, emotional sensitivity, anxiety and etc. And these conditions the state exasperated. Rather than getting any attorney to respond in moral support for legal remedy, they simply shrugged their shoulders and said, "there is nothing I can do about that." Meanwhile, rather than treating Applicant's medical condition through judicial intervention, with a simple 'Flomax' prescription, the state prefered to spend the time and money in effort to prostrate Applicant's defense by 'harrying' Applicant's sovereign right to personal competency, by subjecting Applicant to a state assessed 'role-dispassession', coercion to obedience continuation tactics, through, tempermental psychological intrusion for the state's habitual indolent disregard of its blind prejudice. Counsel Diggs did not at all address this issue.

(87). Irreparable harm to the defense by the state ignoring the compromising of Applicant's personal property by the state's witnesses which included exculpatory evidences that the state has involved itself in the suppression of the facts. The existence of documentations the state's witnesses give testimony to, have been a key element for defense relating to the accuser's own writings, and the journaling of the association between Applicant and the accuser, by the Applicant, the state covers up the accountability for, by, going out of its way to do so. The state contended through solicitor Spratlin that the brother of Applicant removed Applicant's personal property as they were all loaded into the back of a short bed 92 Ford Ranger pick-up truck. And while Detective Frebowitz testifies that it would have taken a U-haul

truck just to remove Applicant's personal writings, and the brother will testify that he did not remove the said personal property. And there are other facts involved in this issue, where such documentations Applicant shows are genuine issues of materiality backed up by records, showing that the documents support a definate showing, that a bias did exist in the accuser, and showing a prejudicial nature involved in the suppression of said documents. Once these collective facts are laid out, and reviewed in the absence of artifice, a reasonable probability of a different result will be clearly manifested. Diggs also failed here. (88). There is a special red flag which should be alerted to regarding the forensic [sic] expert interviewer as a loosely authenticated auspiciously enthusiastic craft, enabled by the person's self-acclaimed vocation in training, agrandized for jury persuasion, who was the proponent attendant of the accuser's testimony on state's DVD, showing the past interviews, whereas, the infrastructure that supported the claimed probativeness of the interview which served as prudence, is clearly what is seen as sustained testimony bolstered by the interviewers credulity, recognized when the [sic] expert interviewer said, "thank you for being truthful", showing an apparent subjectiveness was present, illustrating an existent representation of partisanship (or prejudice), combined with 'leading intent,' by a state agent in her professional role. Yet, the presentation of the forensic arguments in legal proceeding is superceeded by the assumption of an objective science which engulfs the interview. Moreover, the failure to remain objective breeds contempt before investigation, which is a core value principle to science, yet, shown not to be in place during this interview. But, here, the forensic [sic] expert interviewer was demonstrated to the jury through a bipartisan exhibition of her skills, even so vaguely as an attempt is made to show an objective non-partisan interview, which provided the determinate theatric narratives, for a later finding of truth, according to legislative stipulations as certain criteria met, for such a determination found here to be 'egregiously counterfeited' by the necessary subjectivity, for a prudent challenge, was thereby overlooked by the court.

A. The image of the interviewer is sold to the jury as the expert here. And in stepping aside for a moment from the given, and accepted, on the premise of expertise, we must question if we are really given enough information to follow a reasonable train

of thought here, according to trial transcript. Clearly, the muster which would call for a more definative perspective on the disparity between a partisan conjecture of the interviewers role, and a non-partisan one would be found in the difference between an approach to the subject of the interview, as to whether the interviewer has the non-obstructive capacity to consider whether the circumstances of the subject might reflect on normal handeling, or, might require the necessary concern for additional handeling, in that, the interviewer herself may be subjective to the whims of the interviewed, for the purpose of the subject enlisting the interviewer, as an ally in deception. Wherefore, indicating here that the accuser can have the conceivable capacity for 'milking feigned victimization,' for attention to a preexisting questionable mental state, which would necessarily exist obviously in a variable mental state of cognitive dissonance issues. And here, the fundamental question is whether or not the state had such prior knowledge of a preexisting condition. As Applicant can prove it did, and chose to withhold that information for prejudicial gain, and whether the forensic interviewer was qualified enough to enquire as to any preexisting variable mental states, or, to look for such signs for probable consideration, especially considering the seriousness of the issue. 'A man's life at stake!' Otherwise, the red flag waves, over the '*credulous nature*' of the subjectiveness of the interviewer's partisan role, when she condemned the (defendant) through her statement about the accuser being truthful, reinforcing the false accusations without the concern for the responsibility of it, as a partisan prejudice, and not considering the aftermath. Is the state's forensic [sic] expert not committed to the partisanship of credible truth? It would only stand to reason that a non-partisan reservation would take into account the consideration factor that variable mental states are not uncommon. Such a state affects the factual outcome of probbing emotionally subjective experiences. This example is made clear with the psychiatric expose of *Eric Harris* of Columbine fame of 1996. And the fact that the accuser comes from a subjective social history environment with a sibling diagnosed with attention deficit hyperactive disorder in close age with the accuser, and should carry considerable weight here. ie. Attractive, vivacious subjects can be very characteristic

of charming normalacy, yet, can have a prevailing abberation in their storytelling and social history when they are known for a variable state of mind.

'B.' Therefore, for this argument over the forensic interview of the accuser, counsel Diggs did not acquaint himself with the facts necessary for refuting the state's assertions here. Because, he did not interview Applicant on the issues, as demonstrated here, showing that Applicant does have considerable input that matters. The court assessed the interview as reliably credible. However, A reasonable probability of truth cannot exist if there is no logical conformity to actuality. Actual means facts. When some of the facts are out, and not in, this leaves only some ideal, and not truth. And truth is not some ideal. All of the essential facts regarding the more prudent nature of an interview with the accuser were not there. And therefore a reasonable vacuousness does indeed exist with necessary facts. Reliable truthfulness cannot be established, cannot be validated based on inconclusive facts or impropriety. The Judge's determination of the foreasic interview as credible showed through his own biased credulous nature when the judge viewed the cuteness, and not the cunningness, the determinate nature as integrity, and not the vindictive bias in a form of revenge, the emotional stability, and not the cold calousness of a collective deceiver with a passion for it, and etc., as, the judge and jury were impressed by emotional manipulation, in a skill of which its background was not for their privileged information. It was wrong to be mislead that the interview was sterile, when in fact an available element left it inconclusive.

a. Applicant will revisit this issue later.

'C.' This has been just one area of the random facts which show that the state in its overzealousness in the abandonment of truth has actually served that variable state of the accuser by catering to its very sustainment by reinforcing the deceptive nature in a paradigm shift of justice, which has created unrepairable harm to a future defense.

(89). In the end scenario, extrinsic fraud all the way around has been elevated in the final showing by the trial through too many biased based incidents in subtle meandering, in expositions of 'res gestae' (bad acts) compounded by the covering up of bad acts, by, in one area, demonstrating the judge's prejudice through his imprudent deflections for confusing the facts by drowning out their

itinerate narratives in a prejudicial means of obfuscation. This idea can also be picked up on by the review of the trial transcript by observing the colloquy between the court (judge), and Diggs by following how the judge continually interfers with counsel Diggs's train of thought, whereas, Diggs does not finish..., rather, he acquiesces out of a lost train of thought. The solicitors prejudice by intentionally deceiving the court over factual records, and through state awareness of mitigating facts of materiality favorable to the defense, relative also as itinerate narratives exposing bad acts that reveal also malfeasance, criminal behavior by public officials, as none of these injuries are mere peccadillos. In the state's suppression of evidence lies the vein of the act of accomplice with those who lied on the stand or in the court room, is outside the duty and function of a solicitor.

'a'. Counsel Diggs's failure to defend against erroneous facts by having access to the records, failure to object for preserving for appeal, lack of acquaintence with the case, and his failure to recognize the lucid aspects of his role in such a conspiracy.

b. Inference of a conspiracy may be drawn from simultaneous doing of similar acts, where the actors here have contributed corporeally to hinder Applicant's rights by a prejudicially and biased obtained end result proved in the overt act, for depriving Applicant from bringing his case to trial, through a mission attempt that served oppression by subjection to the actors individual artifice in similar method from which they failed to recognize beyond its strength, that is now manifested as a modification of some peversely justified expedient end result, a conflict of interest based on their prejudicial prejudgment.

(90). Other facts remain, but, one which is emphatically material is the fact that the accuser's close in age brother with an established variable state of mind has been accredited for false accusations against his father. And there is more to such facts which revolve assertively by Applicant as to the elimination of the connective ness here in counsel Diggs's lack of resoluteness here, showing that Diggs did not seek to entertain or explore any mitigating facts that would lead to 'outcome determativeness'.

'A.' 'May be excluded if its probative value is substantially outweighed by the dangers of unfair prejudice'. 'Rules of Evid.,' Rule (403). 'State v. Cheesebro, 346 S.C. 526, 547, 552 S.E. 2d 300, 311 (2001).

Summary Of Facts And Citations From Trial Transcript

From the transcript of trial record which occured March 10-13, 2014 South Carolina Vs. Ronald L. Legg, indictment number 2011-GS 26-03553, transcribed by Dixie Cox Eubanks, Circuit Court Reporter, Fifteenth Judicial Circuit on May 21, 2014 who has sworn that the transcript is accurate and a complete transcript of record of all of the proceedings and evidence introduced relative to appeal. (91). A critical complaint here surrounds the incompleteness of the court record regarding a significant value of loss, as will be illustrated as serious injury to Applicant's due process as it interferes with the preserving of actual court testimony and evidences for the appeals process, and does unrepairable harm to future defense.

✓ 'A'. At issue illustrated here will be Fact (A), which will show there are over one thousand occurences where missing 'epochs' leave an extremely high number of incomplete sentences rendering them factually unintelligible due to loss of words and phrases unaccountable. The inconclusiveness is not, to all counts, by, interruption during mid sentence by another speaker. All speakers in the court proceedings were noted for their clear articulations. The following is a list of missing declaratives: Epoch means: 'a point in time.'

The page number is followed by the numbered lines in the transcript shown in parenthesis, where missing epochs are noted in the transcript by ---- (deletion lines).

Page 12 (13-14), 14 (10), 15 (11), 18 (12), 18 (19), 19 (3, 5, 6, 10, 13, 16, 17, 19,), 21 (5, 7, 25) 23 (5), 24 (7, 10), 25 (5, 8, 12, 17, 19, 20, 23, 24), 26 (7, 17, 24), 27 (5, 19, 21), 28 (22, 24), 29 (14), 31 (10), 33 (1), 35 (9), 48 (22), 49 (5), 51 (16), 52 (14-16), 53 (1), 55 (7, 16, 22), 56 (17), 59 (5, 7), 60 (4), 61 (6), 62 (17, 22), 63 (6), 64 (5), 66 (14, 18, 24), 67 (3, 12), 68 (10), 69 (24, 25), 70 (11, 25) 71 (11-12), 72 (12), 75 (10, 17), 76 (1, 3, 8), 81 (19), 83 (11, 15), 84 (12, 25), 85 (4, 8, 16, 21), 88 (10, 23), 90 (16, 24), 91 (3), 92 (4),

93 (5, 11), 96 (6), 97 (9, 21, 25), 98 (4), 100 (22), 102 (15), 103 (5, 7, 23), 104 (8, 25), 105 (4), 106 (7, 9, 23), 107 (5, 10), 108 (25) 109 (23), 110 (7, 12, 15, 20), 111 (5, 9, 12, 19, 20, 23, 24), 113 (8, 14, 21, 22, 25), 114 (7, 10, 13, 19), 115 (11), 117 (16, 22), 119 (2), 121 (25), 123 (12, 22), 125 (21), 127 (12, 21), 128 (13), 130 (2), 131 (7, 25), 132 (9), 133 (3, 6, 24), 134 (3, 10, 18), 135 (20), 136 (7, 15, 19), 139 (3, 11, 18, 25), 140 (5, 13), 142 (6, 23, 25), 143 (22), 147 (1, 10, 11), 149 (17, 19, 22), 150 (5, 7, 10,), 151 (11, 12, 17), 152 (2), 157 (17), 158 (11-13), 159 (10), 160 (4, 6,), 161 (18), 164 (22, 23), 166 (21), 167 (3, 4, 18), 168 (11, 21), 170 (21), 171 (4, 17), 172 (4), 174 (20), 175 (19), 176 (7, 22, 23, 24), 178 (17, 22), 179 (8, 13, 14, 18, 19, 25), 180 (16), 181 (8, 15, 22), 182 (16, 17, 21, 23), 183 (12, 22), 184 (5, 9, 11, 15, 17, 20, 23), 186 (2, 24), 187 (16, 19), 188 (3), 189 (5, 8, 18), 190 (14, 16, 20, 23), 193 (7), 195 (12, 22), 196 (18), 197 (7, 14), 199 (7, 14), 200 (10-14), 205 (12, 17, 25), 206 (1, 15, 23), 207 (23), 208 (21), 209 (9, 11, 22), 210 (10, 20), 211 (11), 212 (3, 7, 19, 22), 214 (18), 215 (6, 7), 216 (17), 217 (23), 218 (9, 18), 219 (4, 12, 15, 21, 25), 220 (4), 221 (5), 222 (15, 17), 223 (1, 9, 11, 21), 227 (22), 228 (1, 19), 229 (3, 6, 16, 22), 232 (4, 22), 233 (6, 16, 21), 234 (3, 8), 235 (8, 15, 17, 24), 236 (11, 17, 21, 25), 237 (10, 14, 18) 238 (24), 239 (7, 16, 20, 23), 241 (3, 8, 9, 22), 240 (3, 17), 242 (7, 21, 25), 243 (7, 8), 244 (1, 12, 20), 245 (1-7), 246 (5, 8), 247 (21), 249 (4, 5, 6), 250 (12, 14), 251 (1, 2, 4), 252 (6), 253 (23), 254 (21), 255 (18, 19, 21, 22), 256 (1, 17, 25), 257 (22, 25), 258 (8), 259 (6, 13, 18, 19), 260 (3, 8, 10, 19, 20), 261 (2, 4), 262 (15, 21, 22), 263 (7), 264 (22, 24), 265 (5), 268 (2), 269 (1, 11, 17, 18), 272 (5), 280 (7, 11, 19), 282 (11, 17, 19), 283 (2, 4), 284 (2, 7, 9), 285 5, 12, 15, 17, 24), 286 (3, 21), 287 (7, 12), 291 (3, 16, 22), 297 (10), 299 (18), 300 (9, 10, 14, 17, 20), 301 (11, 14, 17, 25), 302 (10, 12, 13, 14, 21, 25), 303 (31), 304 (7), 308 (9, 10, 23), 310 (3), 311 (9, 12, 20, 24), 312 (8, 9), 313 (9, 10, 23), 314 (8), 317 (2, 21, 23), 318 (2, 3, 4, 6, 10, 12, 16), 318 (23), 319 (17, 22), 320 (21, 22), 321 (1, 4, 23), 322 (8, 14), 324 (15), 329 (4), 334 (16, 17), 339 (7), 341 (1), 343 (14), 345 (4, 15, 17), 346 (4, 24, 25), 347 (9, 12), 348 (5, 9), 350 (16, 20), 352 (2, 14), 353 (3), 354 (6, 14), 355 (22), 357 (12), 359 (13, 23), 360 (2, 21), 361 (3, 7, 15), 363 (18), 365 (23), 369 (7), 369 (4), 387 (4, 7), 394 (13), 396 (7, 12), 397 (12, 13), 402 (13, 23), 403 (2, 7), 404 (5, 10), 405 (1, 7, 9, 23), 407 (1, 20, 25), 408 (7, 13, 17), 409 (9, 11, 12, 13), 410 (1, 3, 5, 11, 16), 411 (7, 15, 16), 412 (18, 19, 25), 413 (15, 18), 414 (2, 12, 15, 19, 22), 415 (2, 10), 416 (16), 417 (3, 6, 14, 18, 21, 23), 418 (5, 8, 10), 421 (22, 23), 422 (15), 424 (23), 425 (15, 25), 426 (12), 427 (3, 7), 428 (11), 429 (25) 431 (3), 433 (7, 11, 16, 20), 435 (24), 437 (14), 444 (16), 446 (6), 454 (7), 455 (3, 20, 24), 456 (3, 5), 459 (6), 460 (10, 13), 462 (3,).

(92). In Fact (B), the prejudicial nature of the bench is shown obvious in over eighty occurances specifically where Judge Cottingham interrupts counsel Diggs by not letting Diggs finish declarative statements, sentences, or continue on in a train of thought, through 'court' deflections not aimed at Diggs's person, but more so, as a prejudice against Applicant, driven by such a showing as actually directing Diggs for state advantage, where, the bench interfered in certain ways with the ability of counsel to make independent decissions Page 51 (8,11), 52 (16,19), 54 (6,13,24), 55 (6,10,17,23), 56 (3), 60 (12), 87 (5), 88 (24), 90 (5,24), 91 (12), 106 (9), 110 (25), 111 (3,8,21), 112 (6,22, 25), 113 (4,8,12,19), 131 (7), 139 (5,22), 140 (3,17), 141 (21), 142 (25), 143 (5,23), 147 (14), 150 (11,17), 152 (12), 181 (7,17), 191 (24), 226 (6,13,16), 227 (18,24), 233 (13), 249 (9), 262 (4), 295 (12), 311 (13,18), 338 (17), 343 (23), 344 (2,9), 346 (18), 358 (23), 359 (7,21), 361 (4,9,22), 362 (14,22), 364 (3,18,20), 365 (22), 368 (22), 424 (11), 433 (17), 436 (14), 454 (16).

(93). In Fact (C), in Diggs's total declaratives, there are a total of three hundred and seventyfive missing 'epoch's, which would refer to words or phrases inconclusive, thereby, leaving the sentences they would have been contained in unintelligible without an extensive scientific analysis.

Page 18 (19), 19 (3,6), 26 (17,24,25), 27 (1,4), 51 (8,11,16), 52 (12, 14,16,18,19), 54 (6,8,13,24), 55 (6,10,16,17), 55 (22,23), 60 (12), 83 (11), 87 (5), 88 (24), 90 (5,24), 91 (12), 102 (15,17), 103 (5,23), 104 (24), 105 (2,4), 106 (9), 109 (23), 110 (12,15,20,21,25), 111 (3,5,8), 111 (19,20,21), 112 (6,22), 112 (25), 113 (2,4,8,12,14,16,19,21,22,25), 114 (16), 123 (12,22), 125 (21), 126 (20), 127 (1,12,21), 129 (14,15), 130 (2), 131 (5,7), 132 (9), 133 134 (3,10,16,20), 137 (5,18,19), 140 (3,5,8,13,17), 141 (21), 142 (23,25), 143 (5,20,22,23), 144 (2), 147 (14), 150 (5,7,10,11,17), 152 (12), 164 (22, 23,25), 166 (21), 167 (3,4,18), 168 (11,21), 186 (2), 187 (19), 189 (5,8,18), 190 (14,20), 191 (24), 193 (15,17,23,25), 198 (20,22), 226 (6,8,13,16), 227 (18,22,24), 228 (1,3), 233 (13), 236 (11,17,21,25), 239 (10,20,23), 240 (3,15,17), 241 (8,9,22), 241 (21,25), 243 (4,25), 244 (1), 245 (1,7), 246 (5,8), 247 (9,21,23), 248 (9,18), 249 (4,5,6,19,21), 250 (3), 251 (4), 252 (6), 253 (7,9,23), 254 (2,4,6,8,10,17,19), 255 (6,7,9,18,19), 256 (16), 257 (16), 258 (25), 259 (4,6,13,18) 260 (3,8,10,18,19,20), 261 (18,20,22), 262 (14,21,22), 263 (7,19), 264 (22), 266 (5), 276 (16,18), 279 (3,14,16), 280 (7,11,19), 282 (11,19), 283 (2), 284 (2,9,16), 285 (12,15,17,21), 287 (7,17), 292 (2), 295 (12), 300 (9,14,17), 301 (14),

302 (12, 13, 25), 307 (15), 308 (1,2), 311 (12, 13, 18), 314 (6, 10), 320 (21, 22, 24), 321 (3), 322 (5, 7, 12, 13, 14, 17), 324 (15, 17), 340 (25), 341 (18, 23), 343 (7, 9, 23), 344 (2, 9), 345 (4, 15, 17, 20), 346 (16, 18), 347 (12, 24), 348 (5, 9) 349 (1, 17, 24), 350 (20), 352 (2, 17, 19), 353 (3), 354 (5, 14), 358 (23), 359 (7, 13, 14, 21, 23), 361 (3, 4, 9, 22), 362 (14, 22), 363 (4), 364 (3, 18, 19, 20), 365 (22), 368 (1, 3, 5, 11, 23), 411 (7, 15, 16), 412 (18, 19, 25), 413 (15, 18), 414 (2, 12, 15, 18, 19, 21, 22), 415 (2, 16), 416 (5, 16), 417 (3, 6, 14, 18, 21, 23), 418 (5, 8, 10), 422 (9), 424 (11), 425 (25), 433 (16, 17, 20), 436 (14), 451 (6, 7)), 454 (16), 455 (3, 19, 20, 24), 456 (3), 458 (23), 459 (1, 6), 460 (10, 13).

(94). In fact (1), because of the omissions of many phrases and words, the inconclusiveness for a fact finder is a serious issue here. No one can postulate with reasonable certainty the missing elements in the colloquy, or, determine with reasonable certainty some practical value of harmlessness unless of course other inferences are available. And for those reasons, made more manifest here, because, as a witness at trial, Applicant recorded several key elements of the case as particular statements that were score for the defense at a later date, and in anticipating their preservation on trial transcript, and after receiving the transcript for review, those certain expected statements were shown to be missing. Now this is cause for grave concern.

(95). Where there is an issue about missing statements, and no viable proof, with no known beginning, middle or ending interruptions to show pervasive clues, what is left is conjecture, given such as trial colloquy noted in suspicion, being an intendment, or, of a respondent clue. This would be a significant casual link by the clues of 'intendment and respondent.' Intendment means: the true meaning or intention of something. And respondent means: giving or given as an answer. And without any prior knowledge in concourse with the transcript character of colloquy, or, without some theme derivation insight, a person would not have much by way of anticipating course of the colloquy. And especially if some missing materiality such as 'intents and motives' were missing as intendments or respondents. Thereby, at some point in the transcript, some intendment could exist in phrase or statement requiring a respondent, moreover, if the respondent is missing, then the intendment alone is a clue to what is missing. And on the other hand, if there is a

respondent, but, no intendment, then, the respondent alone is the clue. Therefore, in search of an intendment to a respondent, or in search of a respondent to an intendment as suspicion of their existence would arise, but missing, can show that perhaps in a conspiracy, the epoch in question, could have contained exculpatory or friendly evidence, revealing some relevant intent or motive, bias, or, otherwise phrase necessarily omitted because of nefarious reasen.

'A'. A code breaker would need some hard facts of contention, which happen to be missing in the transcript because of the acquiescence of counsel Diggs. Or, he must be familiar with the truth of the case, to put together a factual intelligible transcript from this one. And in this case, that which is missing as Applicant's defense facts precisely mirrors his complaint in the ongoing extrinsic fraud. And as with all of the missing epochs, which are important for defense facts, only conjecture about what is missing, or, a state inference from cumulative circumstantial evidence, by, observing the respondent / intendment colloquy and vice versa, from initiatory, and response colloquy with one or the other missing, one can make a reasonable determination about the harm. By looking further for a more congruous structure more determined by some kind of an intendment initiatory phrase, that, initially would have preceded a respondence, therefore, causing the epoch to be shown to have had a required need to be addressed, in this sense, showing that the epoch had sustenance about its nature as a response, responded to something, thereby, some intent or motive its initiation, though invisible, the respondent's character would reflect the phantom initiatory.

(96). There are several instances of missing epochs 'as phantom initiatories, or responses, which originally contained sustenance of defense materiality that are evidence for the above discourse, but, because they are relevant to future defense trial strategy, they will not be included in this PER, and will be temporarily unpublished unless the state itself steps forward and calls into accountability a probe into obstruction of justice.' Cut-take X', pages 50a - 52a.

(97). The delineated areas in question here are represented by a phantom area initiatory (intendment), traced to a specific area in the transcript as the place in time (epoch), where, the

declarative should be according to its subject identity match, and is marked as "phantom area initiatory" (A), (B), (C) and etc. The respondent may appear in a different area of the transcript as a later contrived effort to cover up the initiatory as a later opportunity. The intendment is manifest, therefore, by a definate respondent. A respondent standing alone is out of place without a match. These instances reveal a clear effort to convolute evidence, by removing one part by omission and neglecting to remove its direct tracer. By viewing this discourse, the omissions which show a construction based upon a definate prejudice is what makes this discourse a realizable conspiracy determined through cumulative practical inference.

(98). There are other areas where statements are missing which did not necessarily require reciprocation unless by advancement by defense counsel. For instance, a more complete dialogue where judge Cottingham states that it is tuesday when it in fact was a monday, and said that the case was four years old when it was not quite three years old. Applicant noted several erroneous statements as they appeared as obvious signs of dementia. Nothing remains of these kind of deleterious statements by the court on trial transcript.

(99). In another area involving missing statements, in the easily identifiable subject area around page 51 of the trial transcript, solicitor Spratlin made this statement, "If it is the purple Journal you are after," as he was about to volunteer information regarding its where abouts, this subject matter is completely omitted. And again, because of Diggs's acquiescence, he did not seek to preserve the information but acted more in dismissal of it. As these are many examples, there are too many to ignore.

100). The reason Applicant was denied a preliminary was because many alleged facts were in question. Such as the unlawful search warrant and arrest, bad acts of police actions, probable cause exacerbated and eventually the indictments. Applicant was indicted through exacerbated probable cause which was used for the sole purpose of intimidating, threatening Applicant with life sentence for the purpose of plea coercion through cruel and unusual treatment, an Eight Amendment violation. And such denial at a preliminary hearing underscores the relevance here. Just think what this means! Probable cause

is tainted by bad acts of the police; it is exacerbated in joinder by the police and solicitor. And then, indictments are purposely exacerbated by the solicitor through stacking the charges with the cruel intentions of threatening through psychological legerdemarn, in joinder with the court appointed attorney in coercion tactics. The preliminary would have recorded and preserved this means, and the grand jury minutes would show the method. Applicant was held for 13 months represented by Thomas Floyd in joinder with Candice Lively for the purpose of coercing Applicant into a plea under surreptitious pretense of life in prison, or, a plea to 16 years. Candice Lively was the first solicitor.

(101). Diggs as well as the other attorneys used mured slickness to make Applicant believe many of the issues would be brought forward during trial, but, with counsel of record Diggs, this did not happen just as it wasn't going to happen with the others. In fact, Diggs stated on transcript of record that Applicant's motion to dismiss him was not an official motion, page 18, Line (12-14) where the judge reiterates Diggs's effort to down play it. The motion was filed with the clerk of court and the solicitor's office, introduced in court by Diggs and solicitor Spratlin.

'A' And on page (458) lines 13-17, Diggs state's that Applicant was not included in the ~~post~~ trial motions. Applicant was not included in any motions or the direct appeal.

(102). Forensic psychiatrist expert testifys, page (13) and (14), after having given Applicant a pre-trial evaluation for competency to stand trial. Thereby, showing such an evaluation was sufficient while Applicant was subjected to nearly one year in jail for the purpose of suffering the other evaluations for subjugating Applicant's personal right to private competency and mental sovereignty.

(103). Page (20) (5,6), Judge Cottingham (court), continues to cut off Applicant to keep him from reciting the totality of his official Motion To Dismiss Diggs, apparently the court feared the content of the entire motion.

104). Page (20) (7,9), Judge John gave Diggs specific instructions to follow for his *Exparte Motion* but Diggs did not follow up. Exhibit EX

105). Page (20) (12). Diggs says he thinks he's ready for trial.

106). Page (20) (15). Diggs says satisfyingly to the court, "yes he had investigated sufficiently and called all witnesses" There were no witnesses called. There were substantial reasons to have

witnesses called of which a real investigation would have clearly revealed. Applicant continues to shows Diggs did not perform an investigation for defense purposes.

(107). Page 22 (1-3). Spratlin stated with certainty the reason Floyd was dismissed was because of the federal lawsuit. This is not true, if Spratlin had one angle of the story he would have had the whole of it. The fact is that on Sept. 6, 2012 the federal lawsuit against him was dismissed as Judge Culberson was aware. However, Floyd was summarily dismissed because he confessed in open court before Judge Culberson that Applicant was telling the truth about his overall complaints. ✓

(108). Page 22 (7-12). The Court cuts off Applicant showing that the Judge's intent on deflecting from the issue of indicting state agents was a strong one. Also pg. 22 (24,25) 23 (1-9).

(109). Page 23 (14-17). Spratlin states: "Mr. Diggs has worked faithfully with me, we've discussed the evidence, and we've been ready to go forward with the trial." Inspite of tradition, the Solicitor's statement is in joinder with counsel Diggs against Applicant as the Feb. 25, 2014 hearing in front of Judge John indicates, that, both Diggs and Spratlin spoke a different tune about trial preparedness * just 13 days prior to trial. Clearly, the solicitor is patently reinforcing the deception of Diggs's trial preparedness proved not to be true, although, this deception works for state advantage. And neither Floyd, Joye, or Diggs discussed the evidence with this Applicant but apparently they did with the solicitor?

(110). The Judge states on page 24 (1-3), "It is obvious to me that he's prepared to go to trial," inspite of Applicant's factual motion.

(111). Page 24 (9-11). Again Judge Cottingham attempts to deflect and obfuscate the evidence for malfeasance by state agents by censoring Applicant unjustly, and through abuse of discretion, for conflict of interest.

(112). Page 25 (1-25). Joye comes before the court and gives false reasoning for his being sued, in contrast to the specific reasoning established and filed with the Clerk of Court, Horry County and federal court which are reasons Joye and others do not cite. Page 25 (8-11), In what is most obvious is how Joye implicates himself in the extrinsic fraud, through his efforts to subjugate Applicant's defense to his complete authority and control, validating here why Applicant was subjected to the mental health

competency abuse, because, Applicant was not obedient to Joye's coercion method 'censorship - deprivation strategy,' as Joye proves in his statement when he says some obscure case law gives him the legal right to dominate Applicant's defense by calling it, 'a right of theory,' which, by Joye's interpretation, 'excludes' Applicant from participating, and 'excludes' due process. Just as Diggs has shown, more meaningfully explained here, as Joye further implicates himself in the conspiracy. Page 26 (2,3): Judge Cottingham says, "No, no that had nothing to do with the defense of him in this case." Speaking of the continuing attempt to obfuscate the malfeasance of the state agents and the disposition of Applicant's exculpatory evidence and property. Joye states emphatically, "No, your Honor," page 26 (4). Yet, Joye stated earlier, page 25 (1-7), "Mr. Legg fired me because of some evidentiary issues that absolutely would have been raised at trial." "There's no question about it." So, what's going on here??? Again, Joye says, "No your Honor they had nothing to do with this case!" And in the same breathe, page 25 (18-35), Joye says, "He wanted us to indict the officer and a judge, and have someone arrested, and we can't do that." For one thing, the use of the word indict means: 'to formally accuse'. And for Applicant's use of the term, meant that an investigation, and an evidentiary hearing was called for, but not of a faked one like Diggs pulled off at trial. Diggs's evidentiary hearing proves *extrinsic fraud* over the issue, just as Joye shows to clearly song and dance over it. The outcome was what Joye referred to initially on page 25 (2-7), but was obfuscated as an issue because of the deceptions employed. Also, Applicant did not ask any of the attorneys' to arrest someone. That was absurd'. Applicant had asked every attorney to procure a professional motion to ask the court to order an official police investigation over the theft of his property which they all declined to do. This has been about all of the actors trying to distort the facts and trying to make the Applicant out to be some 'uneducated baboon,' And there is no doubt these issues involved an abuse of discretion where the judge's comments were manifestly arbitrary, unreasonable, and unfair.

(113). Page 26 (10-13): Judge continues to prejudicially pummel Applicant.

(114). Page 26 (17-22); 26 (24,25); 27 (1): Diggs makes a statement about one witness he has not even investigated or conferred

with Applicant over. The only information Diggs Knew on this witness was from what Doge told him during the trial, as Doge advised Diggs not to call on this particular witness.

(115). Page (27)(22), (28)(5-6, 15-16): Judge continues to bash Applicant with acidic distaste, page (29)(5-7), and continues to 'harry' and Fatigue mentally, through disparagement against Applicant's Meaningful participation.

(116). Page (31)(22): Diggs states before the jury that Applicant is ready for trial. This is not true.

(117). Page (42)(11-13): The Jackson V. Denno was discussed in chambers outside of Applicant's participation. (secretly)

(118). Page (50)(4-7): Hearing on Friday March 7, 2014 made part of the record? If does not exist here.....

(119). Page (51)(11,12): Diggs states he does not have witness to validate the fact of remaining documents. Applicant gave Diggs a list of witnesses and the accuser in fact testifys on the stand to the existence of said documents. See pages: (51)(11-12), (176)(23), (178)(18).

(120). Page (51)(12,13), (52)(1,2): Judge continues to assert Applicant is a liar, and does not go to evidentiary facts. Applicant made a motion which showcased the evidence on the missing documents but Diggs said it was too long and he would instead introduce his version of it but he never did, and in fact lied about it. On the real side of the Jackson V. Denno argument, which has been shielded as that part of extrensic fraud, where the issue for the state preserving the admisability of the unlawful search warrant depends on two main factors, (1) if genuine probable cause existed, and (2) the police acted in good faith. To overcome (1) and (2) For here, Applicant will show that the police played a part in influencing probable cause, tainted by the evidence of preceding and post actions from the investigation, and after the arrest of Applicant's supposed dual identity, from which these areas of the case the state has made its poignant efforts to fraud by evolved conspiracy.

(121). Page (53) through (58) is a tangled web over 'the Fruit of A Poisonous Tree', whereas, any ruling on this area is not based on substantial facts because they are not allowed. Applicant has asked to have his illegally obtained property to be returned to the rightful owner. According to the argument by the state, the removed property was so ever clarified as to have been owned by Ron Diggs or Dan Diggs because, the state has involved

= itself in the kind of selective prejudicial truth, that avoids probatory, which continues to foster the mirages of evidentiary aloofness, and the judge's rulings are based upon ad hominem conflict of interest oratory. [probatory: supplying evidence & proof.]

(122). Page 62 (17-25), page 63 (1-11); Problems with Frebowitz's testimony that contradicts established records. Frebowitz is lying. And at this, Applicant has to state how he is so personally overwhelmed by the fact that all of the actors for the state are liars. what a total irony! This is factual, proven by the records.

(123). Page 63 (13,14): The Court has only one search warrant as an exhibit. where is the other search warrant??? Diggs played a shell game with the two search warrants. Page 64 (5,6): Diggs is aware of the inconclusiveness of the other search warrant made obvious by how he handled the issue. 'extrinsic fraud'

(124). Page 65 (13,14): Frebowitz makes a defiant prejudicial statement about finding panties as if they were the only garments, whereas, they were taken from a drawer full of other clothes of the person. The statement panties was meant to incite emotional prejudice and blatantly signaled out for that reason.

(125). Page 68 (10-13, 18, 19): Photographic evidence of the door shows it was ram-jacked, and Applicant has evidence of record that what Frebowitz says about the door is a fabrication.

These examples are showing that defense evidence existed on record from which Diggs never prepared himself with for the trial, and as all of these elements were relative to the case through Applicant's participation, but, as Applicant's participation was excluded, so also were the records of fact.

(126). Page 79 (9-17) Applicant was never advised on redaction in the interview and was never allowed to preview the recordings.

(127). Page 86: Diggs, lost in his shell game with the two search warrants, makes a half hearted attempt at cross examining Frebowitz on the malfeasance involving the search warrants. And the subject is smartly hijacked by the Judge. page 88 (21, 22) and thereby deflected.

(128). Page 88 (2,3,24): Diggs attempts, Judge deflects page 88 (25), 89 (1).

(129) Page 89 (2-5): In outright conspiracy, Diggs capitulates as the Judge puts the continuance case.

(130). Page 88 (21, 22), 88 (2,3,24), 89 (2-5): Shows the distinct

relativeness of the conspiracy in its court room colloquy as Applicant will prove later the extended picture over the search warrant.

(131). At this point in the search warrant issue as it is vaguely addressed at trial, where there are two seperate search warrants competing to be one exhibit, one orginally served without the official issuance by judicial proceeding, the other a later codified one by Frebowitz which the two were supposed to have been openly demonstrated, however, Diggs is found playing a game of 'expose or not expose', the comparative differences, page 91 (19-25), 92 (1-9), Diggs walks away without 'expose', in the spirit of 'amicus curiae', (friend of the state).

(132). Page 101 (20-23): Spratlin leads non factual statements detailing the arrest of Applicant with the intent to mislead, and in knowing the facts are distorted for the purpose of the state ducking its accountability over the illegal search warrant issue. this is the state knowingly allowing perjured testimony while the state solicitor leads and manipulates the deception which is shown clearly on record. The solicitor is complicitous with Leal and Frebowitz in a shell game with their police reports, Applicant also expands on later, moreover the solicitor deceives the court over the records shown through his purpose. The police reports and records show that Applicant was arrested on the same day the search warrant was in fact executed. But, the solicitor wanted to obfuscate these facts by the talking advantage of Applicant being arrested twice on two seperate days. On one day Applicant was physically arrested as Don Legg by Leal following through on his warrant he persisted in, and the following day as Ron Legg. Spratlin used this police snafu as a means to his end, just as how they all began in bad acts, and in efforts to cover up, the bad acts just multiplied. Spratlin used the additional arrest date, and picked one of two different police reports to coincide with inured sickness by torturing the facts this way to make his case. Spratlin's spin was to cover up the state's accountability for Applicant's compromised property, as Applicant claimed the police left the property unsecured essentially, eventhough there is more, however, according to Spratlin's spin, Applicant's house was searched with exhibit A search warrant one day, and the next day Applicant was arrested. This marginally difference in the date proves according to Spratlin that Applicant was at

his home a whole day after it was searched, thereby, it was Applicant's responsibility to shore up his own house. Both search warrants have a cover date of June 17, 2011. The solicitor showed his hand in this clever manipulation. But it was an extortion for perjury. See Exhibit

(133). What continues to be relative in Applicant's showing in the complaint, proves that the solicitor is not operating from a protocol of a duty ethical duty that would normally be protected as some 'divergent theory', but, is an act of malicious prosecution through a willful act to not only allow perjured testimony but to perpetrate it. And as the police reports were available to Diggs, he did not make any attempt to object, correct the record, or entertain an adversarial challenge on the issue, as, Diggs claimed he had investigated the case and was prepared. The issue of Applicant's property plays a key role in Applicant's defense. Again, Diggs acquiesces here, because, he is in joinder with the state.

(134). Page (103)(59): Police report shows that Lent did search the vehicles.

(135). Page (105)(25): Judge based his decisions on the motions from abuse of discretion by consistently deflecting probatory bases of the defense structure. To examine this case with judicious verity, it becomes quite apparent how Applicant's defense is literally repossessed by overwhelming prejudice.

(136). Page (108): Spratlin acknowledges accuser had been in the court room. Applicant makes note of court room impropriety.

(137). Page (126)135: Diggs's argument over the DVD forensic interview lacks explorative merit on the facts from lack of defense investigation. The pathological nature of the accuser or even a base assertion that there was a substantial amount of documents that have shown there was an issue regarding the variable state of mind of the accuser, which should have been brought forward into the equation for consideration would reflect a more modern, and advanced notion for proper care and concern for justice of the accused, rather than some antiquated stiffled argument Diggs puts forward showing his complicity in restraining the issue of the variable mental state, and use of canned inquiries in cross.

(138). Diggs on pages (164)(25), (174)(1-12), (193)(19-25), (416)(1-8), shows limited knowledge on the background of the case.

(139). Page (185)(25-25), (186)(1-5): Diggs limits cross-examination on state's witness's unusually lengthy police record. Exhibit (U)

(140). Page 193 (19-21): Diggs had to ask a state's witness if a defense witness was going to testify.

(141). Page 195 (18,19): Judge limits cross examination of the state's key witness. Diggs acquiesces; does not protest or challenge the state for an adversarial test of the boundaries, and leaves an impression with the jury that the witness is credible. Diggs is friendly to the witness, does not endeavor a veracity challenge or test for protypical bias, nor conclusively on any State witness.

(142). Page 199 (6-15): Diggs did not investigate the accuser's close in age brother's allegations against his father which in fact was associated with this case in more ways than one.

√ (143). Page 206 (23-25): With all of the relativeness regarding the missing documents and journals because of their probative value for the defense, the assessment value of a detailed association between the accuser and Applicant; the accuser said on record, "He had me write things." And later stated that a sample of said writing was torn out of a journal. And amazingly nowhere does Diggs pursue and investigate this open door. Diggs also stated that he did not have a witness that could substantiate that such writings existed, by his own disarming of the motion to dismiss on the grounds of said missing documents. Page 51 (11-12) 176 (23), 178 (19).

√ (144). Page 233 (1-13): Diggs did not see the same defense value regarding the 'Face Book page', subject matter, as Spratlin apparently did. Again, Diggs was friendly to the witness for the State.

(145). Page 249 (14-16): An important aspect about the question Diggs asked the accuser about a movie was completely out of line with the scenario concerning the event. This was an important question and Diggs disengenuously wings his way by making an attempt to look as if he was doing something but he actually harmed its prospect.

(146). The Judge gives himself away here by actually warning Diggs about a possible reversal. Page 268 (16-19).

(147). Page 269 (3,4): Judge rules against favorable defense evidence. Page 332 (11,12): The intense yellow shirt has been noted by Det. Freeboart L.

(148). Page 339 (11): The court states that the defendant was aware of the redaction from the interview, and Diggs says, "yes, that is true". Page 339 (20): But, that was not true. Applicant was not aware, not having seen the interview, or discussed it with any attorney.

(149) Page 342 (2, 3): All witnesses were in the court room while the other witnesses testified.

(150). Page 343 (18-25): 344 (1-15): The judge prejudicially deflects, shields the state's witness.

(151). Page 345 (1-10): Diggs tip-toes around the issue of the federal lawsuit against Frebowitz, making it barely a whisper, as he was careful not to breach the details that would bring out the real issue regarding perjured testimony over the unlawful search warrant.

(152). Page 359 (8-10): Judge says Diggs objects, trying to put words in Diggs's mouth. Where is the objection here?

(153). Page 359 (2): Diggs uses the 'vicegenerate' correct word by saying the 'invalid' search warrant, as opposed to a more adversarial defense term of 'illegal' search warrant. Diggs is 'amicus curiae' here.

(154). Page 359 (25), 360 (1,2): Diggs says, "But I feel like my hands are improperly tied in presenting a defense because of the mistake that the state made, because - - - ?

(155). Page 357 (18-25): Spratlin further allows and perpetuates misleading facts over the relevant issue of Applicant's property. Applicant has established with the clerk of court and solicitors office several writings documenting Applicant's plight for a police report regarding the state's witnesses involvement in Applicant's property theft, and the knowledge by the police of such an involvement. Solicitors' have repeatedly commented on the matter just as Spratlin brought it to the forefront, as if to 'shoo a fly away'. And the predominate fact is that the state continues to make untruthful assertions about Applicant's property as it shows to be more important for the state to cast deflections on the facts than it was for Diggs to be familiar with. The state has not once interviewed Applicant in regards of all of his stolen property. Neither has any attorney. And a fact of the matter rest on the question of 'where is Applicants property'? And why do all of the actors remain silent about the known thieves? Where is Applicant's house trailer? A motor cycle? And a great deal of tools and a vast amount of personal valuable property, collector coins, stamps, antique valuables, music and art equiptment, rare art works and etc. The fact remains that there is a very serious matter over this issue that has been blanketed by the state in conspiracy. The state makes a redicalous attempt to leave the mere impression that Applicant had few belongings, 'a carpet bagger,' who's sole

property fit into the back of a small compact pick-up truck, in the bed of a 1992 Ford Ranger pick-up, no different than the impression of a load of trash. The fact is that Applicant is a multi-talented person who was involved in many things and accumulated many things. Applicant was involved in social and political science which Applicant had amased a voluminous amount of writings and documents of significant importance which have apparently invited some kind of especial sabotage. Such papers alone, as Det. Frebowitz stated, "It would have taken a U-Haul Truck just to haul his writings." And again, Don Legg, Applicant's brother, who the state tried to assert that Applicant stole his identity, came from Ohio to rescue Applicant's property, and was met by the state's witness Denita Whipple who told Don Legg that there was nothing there that belonged to Applicant anymore, and that all of the property of Applicant's now belonged to her. And as Whipple called the police, trying to blame it on the mentally challenged man Applicant was taking care of, that, she befriended for the property, the police came and told Don Legg, Applicant's brother, that, he could not have the property the state claimed was his, as Frebowitz said all of the Bills were in his name pertaining to the house bills. But, since the house was a literal 'Green House', there were no 'house bills.' There are two witnesses to this episode of the police being called three times and not allowing Don Legg to remove Applicant's property, or secure it, one is Don Legg and the other is John Kaminski who were willing to come and testify at trial but were never interviewed or notified. Where were the police reports? Why did the state go out of its way to bring perjured testimony over this issue? Why is it so important for the state to lie about the fact? Why did Diggs play along with the convoluted story?

(156). The state made a conceivable story line out of Applicant giving Kent a false name, but this did not happen.

(157). Page 363 (20-23)' Diggs does clarify that the state is misrepresenting the truth over the issue but Diggs did not prepare a defense to support a logical rebutal, by bringing truth against the state's willful deception for protecting itself. What's going on here?

(158) Page 365 Judge denies motion for a direct verdict based on false testimony of a state's witness. His prejudice already demonstrated to be overt, in abuse of discretion just by the overwhelming inferences of the judge's many questionable inflictions of undue character

on the process that leads such arbitration into a reasonable probability of an unfair process.

(159). Page 368 (7-12): Applicant went without sleep for two days in a row through no fault of his own. Diggs and the court were both informed of the jails error, and Diggs was specifically aware of the circumstances of possible deliberate indifference, of which the records at the jail could have easily been verified.

(160). Page 370 (5-9): Applicant was again vilified, accused and fatigued into psychological disarmament to submission. Diggs did not give the true reason why Applicant was not capable of taking the stand. Diggs lied to the jury about this reason. Applicant would not have given his consent to give the jury a false reason for not taking the stand. Diggs did not ask for a mistrial. Diggs was 'amicus curiae' here, not even asking for a delay.

(161). Page 406 (23): Diggs admits a subject area should have been investigated but was not.

(162). Page 371 (20-23) Diggs acknowledges an impeded presentation or preparation of the defense. Essentially stating that Applicant has been deprived of his right to bring his case to trial.

(163). 426 (22-25): Judge shows his prejudicial calousness.

(164). 463 There is substantial evidence to show that the missing exculpatory documents did exist, and that evidence does exist to show misconduct by arresting authorities, and that because these two areas of fact are correlated, especially through the extrinsic fraud conspiracy, they are interrelated by mens rea analysis in malicious prosecution, and abuse of process.

(165). In regarding the interview with Det. Frebowitz, digitally recorded, Applicant did not preview the recording, and thereby did not make any defense preparation statements with Diggs regarding the initial set up for the interviews.

(166). In the state's closing arguments, Spratlin mistranslates Applicant's epistemic language and introduces his own psychological assessments without a Phd.

(167) Spratlin states that the touchstone of proving intent is based on Jesica's testimony about the accuser using the bathroom as Jesica stands outside to shield her. But because of Diggs's lack of investment in defense preparation, Diggs does not have the wherewithall to ask the accuser who lives 30 feet away, why she does not go to her own house and use a friendly bathroom if she was so afraid

of Applicant, or why she did not use Jesica's bathroom who lived closer than Applicant to the accuser. A factual investigation of the accuser would have revealed that such behavior of the accuser was a typical ruse.

(168). The state could not prove intent, because, it was daft with the bias and prejudice of the actors which also played to the same tunes in the minds of the state's witnesses through innuendo's with bearings contrived in corroboration with the inveracity of the accuser's false accusations, manipulated to prey on the common prejudice of the jury, in what was psychological abhorrence in the absence of probatory. This was clever of the state but because of the already shown prejudice which has taken place, the subtle nature was an act of legerdemain, which depended on Diggs's partisipation for a ligetimate appearance in contest. But, what gives it all away is counsel Diggs's acquiescence on many deliberate fronts as a very conscious strategem, fostered by his vicegenerate breathe, that, breathed in coalescence with the other actors into the overt act, and flowed into this identifiable 'extortionate perversion of a lawfully intended process to an illegitimate end', by his failure to 'jump from an impending train wreck', which he was the conductor of, shows a conspiracy of existence when Diggs stated that he had prepared a defense and was ready for trial, when the record shows without a doubt that this was not true as he navigated through the trial leaving a trail that served the state's advantage at every angle, which literally helped to give credability to false accusations. This not only shows ineffective assistance of counsel but reveals a more sinister role of a secret state agent acting in a difficult to difuse role, in a kind of vigilante misguided justice enforcer in a vicegenerate role as described herein, which has fed off of his personal conflict of interest, in actual bias against Applicant because of his personal ideology and his own prejudgment of the charge, and when combined, formed in joinder with the other actors in the same breathe of bias fully discriminated against Applicant's right to fair due process, as is fully described in this complaint. Moreover, as it appears difficult to diffuse the role because Diggs was clever enough to use his professional experience as a cloak, knowing that lawyers have a wide margin for making their calls which can also fall under a sanctity of a magician's secrets, but, the

difference here is the fact that this Applicant is innocent of the charge against him and this gives him an incredible objectivity to what has taken place. And as the irony in Applicant's touchstone for his defense, Applicant's vocation has been the study of the pattern of human behavior and his ability to articulate it, and to document it. This subject matter and fact are likely in the duplicitous perils of a traditional practice, for continual discrimination for their threat of illumination against a dastardly practice.

(169) A final abberation in Diggs's assistance of counsel as ineffective, was, to ask for a hearing on Post trial Motions in the absence of Applicant. Diggs deliberately censored Applicant for reasons of 'deprivation and censorship' during a legal proceeding. Apparently Diggs filed the Direct Appeal for his person in an effort to censor this PCR. Diggs did not converse at all with Applicant regarding any assistance for any appeal. At the end of the trial, Applicant specifically asked Diggs to advise Applicant on the appeals process yet Diggs not only remained silent, but, requested that the court not include Applicant in the Post Trial Motion Process before the court.

(170). The county jail - J. Reuben Long Detention Center has participated in acts of obstructionism and tampering with evidence. It will be necessary to subpoena their records and statements.

'A.' An impartial investigation by an outside source, seperate from the Horry County 15th Circuit would be imperative because of the serious nature of this complaint. And a change of venue is requested by the Applicant. 'Canon 3 (c)(1) Code of Judicial conduct. Henry v. State

'B.' Intent shows itself to be guided by the end result of an overt act. It was to be a plea or a conviction.

a. Rule (60) " Extrinsic evidence that is not legitimately before the court. The State sought to find guilt upon a subjective feeling from which Diggs did not prepare a defense against. 'State v. Manning' Through extrinsic fraud, the mitigating factors as material evidence that would serve to be adverse to such subjectivity was censored through that conspiracy.

b. "A criminal defendant may introduce evidence of his good character" State v. Lee-Gregg, 65 (2016) 337 S.C. 310, 692 S.E. 2d 895 Rules of Evidence, Rule (404) (a)(1), 405, Diggs failed to allow for character witnesses, or such evidence.

'Extortionate perversion of a lawfully intended process to an illegitimate end.'

Summarization of Complaint, And Law

(1). Counsel of record Diggs, along with Joge and Floyd did act in wilful circumvention through various means for depriving Applicant of substantive and procedural due process rights.

'A.' through coercion for a psychologically advanced fatiguing plea deal, while depriving of due process for defense preparation.

a'. In joinder with the state causing cruel and unusual treatment as prejudgmental punishment and causing the extraordinary pre-trial detention of (34) months.

b'. All acters in joinder have practiced 'psychological irruption' by intrusion, using unorthodox sublimity for the purpose of subjugation without a Phd.

'B.' the complaint has illustrated the corporate structure of the coercion method in simplistic terms, verifying a psychological formulary consistent with recorded events which unfolded in direct relationship with the practicing patterns of the previous attorneys proving a motus operandi, 'actus reus.'

a'. (A) Coercion, (B) Censorship, (C) Privation, (D) Conjectura Pietatis. The Conjectura Pietatis is shown by Diggs's ineffective assistance of counsel at trial as essentially a well pretended defense designed to merely make a show of effort but inadvertently exposes a '*throwing of the defense to the advantage of the state*', and this end result serves as punishment to Applicant and serves as an advertisement to others for not accepting the plea deal.

(2). Applicant has illustrated facts of materiality, have existed for

reliable contest between Applicant's probity verses the state actors inveracity, and the state's witnesses.

(3). The Leit Motif as an expedient theme is the prejudicial drive against an indigent defendant who becomes subjective to the vice-generate loyalty of the court appointed attorney's professionally adopted thesis, which stems from believing and acting on a theory of societal justice, but, is a vigilante mindset, when they themselves become the law breakers of Constitutional process guarantees.

'A'. The expedient theme is not addressed in a proper proposition, but comes with the injury of imprisonment's hidden psychological persuaders manipulated by not being complicated by due process, but, are slickly inured departures from due process which serves to contribute to a despondent impairment. And what measures are meted out, and what psychological pressures are justificative?

(4). This complaint has shown how the attorney's allow themselves to fall victim of, the kind of prejudice that allows the self to become subjective to his own unguarded devises of a 'Leit Motif,' that, by habit becomes soporific against his Constitutional obligations, and is recognized by that which has lead him blindly into preservation of his vicegenerate tradition, through the evolved act of extrinsic fraud, that, spites the defendant, and is recognized by this transgression in his indolence, by the mote juste of the entangled conspiracy against an effective assistance of counsel.

'A'. Simply stated, if Applicant were to be found guilty, all of the actors in this complaint would be relieved, as they have been. However, if Applicant were to be found innocent at trial, then Applicant would be justified in all of his assertions here, having been detained by the state for 34 months through no fault of his own, but by the prejudicial acts of the state, and showing the plea coercions were unjust as 'bad automatic calculations', prejudicial against indigents, and for the sole reason of Applicant's religious and political ideology shown in his activism, that, 'counter insurgency,' against their extrinsic fraud for protecting the state against Applicant's rights, further incited prejudice and bias, as an act of destitution by the conspirators which has shown denial of equal treatment, and deprivation by the actors inability to play by the rules.

'B'. Applicant's listed complaints are all violations of law. It is just the matter of the mote juste for Applicant to find the right simple expression to explain the energy put forth in the

bad acts for their own acceptible terms as in the upcoming issue, where, the interpretation herein is solely fostered by the honest inquiry into the question of the justice system perpetuating a 'not do right' prosecution in order to secure a conviction at any cost. Especially when all lawyers in the court room partisipate in the same 'not do right' act. Applicant will further explain this seemingly maladroit issue which will be bedded in law.

(5) When Applicant confronted the attorneys' in regards of indicting [sic] the issue of the illegal search warrant, the term indict for them became an ambiguous term because of their lack of willing communication, by, lack of ingenuous interest, or, their amicus curiae state of mind. But the issue of the search warrant remained a relevant issue which was a connection to Applicant's defease from the very beginning, and did indeed require the respect of exigency. Applicant consistently requested the necessary legal advise, police report, evidentiary hearing and etc., in a timely manner but, this was never done and resolution in Applicant's limited law knowledge by filing a U.S. 1983 for civil rights violation in order to establish the injury for further investigation, was Applicant's only recourse.

A. What transpired as a result as counter acts by the bad actor's defenders', against Applicant's reproach, according to Applicant's mete juste, is malicious process, and extrinsic fraud by conspiracy, in violation of U.S. 18 § 241, U.S. § 1985, and the Fourteenth Amendment regarding the issue of the illegal search warrant, and 42 § 1984, herein explained.

(6). The malfeasant thread that weaved its way through the eye of the needle, in the colloquy of, how the judge (court) speaks in his demeanor code, in 'noli me tangere' (warnings against indicting the state-agents), against counsel of record Diggs, to avoid the indictment by its virtue of 'malfeasance', when Diggs cross-examined Detective Frebowitz. Diggs responds to the court's turning of the assault, and acquiesces. Diggs does not pursue any 'ramifies' (branches), on the issue of the malfeasant acts involved around the search warrant issue. Diggs walks away the issue on the search warrant is neutralized. Transcript pg. 91, Diggs had the two search warrants in his hand, s/w exhibit 'A' and s/w exhibit 'B' but he did not contest them, as Applicant will reveal herein 'this issue' of the complaint.

7). There were at least one hundred years of law experience

engaged during Applicant's trial, counting the judge, solicitor, counsel of record, and Joge who weighed in at the beginning of the trial and remained. And as all did engage in neutralizing the search warrant issue, the clue that reveals the 'not do right' conspiracy was for the purpose of shielding the bad faith pretense of bad acts. There was clearly a contemperaneous attempt to avoid facts of law by intentionally avoiding the laws preclusion to an element of its requirement, namely its exposure, as called for by the very nature of the mandate of South Carolina Statute Code 1976 17-13-141, was the intervening law to 17-13-140 as well which was at the heart of the term 'indict;' Applicant set out to use in his implication of the word, by bringing to the fore, the laws, as requesting due process. This fact was, of legal course, was alienated from interpretation of the issue for a proper lawful venue, which would normally be expected from the profession. And of such a conspicuous deviation from the issue of the state agents, by virtue of the vicegenerate natures, Applicant's plight was burdened by their preliminary determination, and he was forced to shift for himself by marshalling of layman argument in federal lawsuits, writing motions for due process and etc, as the attorney's played the role of state agent from which Applicant was chastised for being against, ridiculed as an enemy of the state as in Applicant's trial.

(8). In this issue, Detective Neil Frebowitz did, on or about June 17, 2011 execute an unlawful search warrant which he procured, and in breaking into Applicant's unoccupied residence at the time, destroyed property, removed personal documents and left the premises unsecured. And later ignored the fact that Applicant's property was pilaged.

'A'. As a result of said illegally seized documents and knowledge of the compromise of the unsecured property, Applicant suffered loss of property, exculpatory evidences for defense, denial of due process, obstruction of justice and the prejudicial and biased derivative use of illegally seized property for conviction against Applicant.

2. Applicant was also arrested on the premises through the use of the same unlawful search warrant in a second break in on the very same day, and arresting Applicant on a warrant that does not exist, and in claiming that Applicant gave a false name was a police excuse to turn the fault on Applicant. See exhibit #4

(9). A part of the conspiracy the state actors engaged in was the shielding of an 'actus reus' in a bad faith act. Frebowitz did violate the South Carolina Constitutional Statute Code § 1976 17-13-140. Very simply, as Frebowitz has stated on trial transcript of record, pg 62 and 63, Frebowitz testifys that he was fully aware of the proper procedure for procuring a search warrant, and noted the search warrant did not have the proper construction, and it contained no valid affidavit. But the 'actus reus' turned out to be 'bad act.' 'A.' According to the statute requirements, Frebowitz's actions will be shown to have met all of the necessary criteria for 'bad faith' in the execution of the search warrant, rendering the search warrant a violation of the statute. See 'State v. McKnight' 291 S.C. 110, 352 S.E. 2d 471 S.C. 1987. "The state is unable to demonstrate a good faith effort to comply with the statute, exclusion is the proper remedy." Frebowitz, being aware of problems with the construction of the search warrant, failed to make sure the final product was in order. And in knowing of defect in the procedure, executed the search warrant anyway. Thereby, violating the good faith argument.

'B.' What compounded matters against good faith argument, Frebowitz in turn, when attention was drawn to the illegality of the search warrant, as Applicant's original complaint, counsel Floyd alerted the state, sharing lawyer client confidentiality, by informing that the search warrant was not signed or issue dated by a judge. Frebowitz then counterfeited a secondary search warrant to cover up the misdeed. This was the 'mens rea' of a fictitious good faith defense by trying to provide a copy of a signed search warrant. See exhibit 'A' Frebowitz's codified search warrant, and exhibit 'B' Applicant's search warrant he retrieved from his house unsigned and with no valid affidavit. Frebowitz marked his codified copy 'orig.' meaning original, whereas, 'B' the real original is not marked 'orig.' Both warrants are cover dated June 17, 2011. Frebowitz obviously hoped to skate by with a good faith argument for shoring up the wound of an invalid affidavit as to that which he believed was the only known offense. But he would have surmised that an unsigned or non issue dated one would not pass the muster and thereby, in apparent conspiracy with the magistrate judge he managed to construct 'A' this time with the judge's signature, only he erred by marking it 'orig.' and adding a new case number.

'C.' The problem with the good faith argument for defense is reproved by the executing officer's admission of a full awareness of the lawful procedure, and having failed in that dutiful assurance invalidates the good faith argument according to the established precedents, stating that the absence of an affidavit plus bad faith renders the search warrant illegal according to 1976 § 17-13-140. See 'State v. McKnight' 291 S.C. 110, "Search warrant affidavit which is itself insufficient to establish probable cause may be supplemented before magistrate by sworn oral testimony, however, sworn testimony, standing alone, does not satisfy warrant, statute Code 1976 § 17-13 140 Const. Art. § 10; U.S.C.A. Const. Amend 4. See also 'State V. White, 275 S.C. 506 272 S.E. 2d 800 (1980). "However, sworn oral testimony standing alone, does not satisfy warrant's statute". The mandate is clear, the court cannot, under the guise of the statutory interpretation, overlook plain meaning of the statute to imply instead a wholly different meaning that was intended by the legislature." 'Davis V. Dee', 288 S.C. 538, 331 S.E. 2d 352 (1985). "We agree with the trial judge's ruling that the search warrant was defective under 17-13-140." See Groh V. Ramirez, supra at 554-555, 563, and n.6. 124 S.Ct. 1284. "Officers leading a search team must 'make sure they have a proper warrant that in fact authorizes the search and seizure they are about to conduct." See 'State V. Covert' 382 S.C. 205, 675 S.E. 2d 7400 (2009) S.C. "Absence of Magistrate's signature on search warrant invalid under State's general search warrant statute Code 1976 § 17-13-140.

D. In further exercise against bad faith, and bad acts as malice, now, when Frebowitz was confronted with the issue of an invalid search warrant, evolved as illegal, Frebowitz began a series of obfuscations in order to cover over the accountability as indicated by Applicants complaint in federal lawsuit case No. 4:12-cv-00811, and in so doing, in extended bad acts of intent, deprived Applicant of his due process rights by the following acts:

10). Frebowitz by his own admission, did codify a replacement search warrant under the handwritten case # 11055950, see exhibit '4,' and page 62 63-64, 91, court transcript, and exhibit # '3,' showing that during the Federal interrogatory process of discovery, Applicant asked Frebowitz and judge Mayers to provide an authenticated copy of the executed search warrant, affirming the defense of its legality. The only way to satisfy that request is through a copy of the 'Return' by the judge Magistrate who issued it. According to the mandate,

South Carolina Constitutional statute Code 1976 § 17-13-141: "A. Every judicial official authorized to issue search warrants in the state shall keep a record along with a copy of the returned search warrant and supporting affidavit and documents for a period of three years from the date of issuance of each warrant. The records shall be on a form prescribed by the attorney general and reflect as to each warrant." This record keeping would preserve the copy of the judge's signature, date of issuance, probable cause affidavit, seized items, date of execution, and date of return from which all of this information was relevant for Applicant's defense as will be further revealed. Applica- made the return request within one year of the three year storage period. No attorney pursued this further.

'A'. Both Frebowitz and Mayers who failed to properly authenticate the search warrant in accordance to its mandate by providing its complete compendium, claim that exhibit 'A' is the real McCoy, provided by Frebowitz and not the judge magistrate. Frebowitz's submission is not consistent with the mandates of 17-13-141 as a statute prescribed for the protection of citizens of the state by such bad acts which will be shown in this issue to be quite relevant.

(11). When Applicant tried to get a police report for an investigation, the state served to shield the 'actus reus' which blocked the door to open for the accountability for Applicant's property that was being stolen by the state's witnesses as the police were aware. The solicitor's office also had copies of Applicant's filings on the subject. See exhibit '9'C4'.

(12) When the state tried to claim during the trial that the executed search warrant (though invalid), happened on one day, and on another day, separate from the day the search warrant was executed, Applicant was arrested, thereby, claiming that Applicant was not arrested under the authority of the probable cause in the search warrant, which did not exist, and without an arrest warrant, and the argued fact that Applicant was responsible for shoring up his own house because he was present there a whole twenty four hours before he was arrested, see page 99(102). Frebowitz claimed that after he entered the house by pushing on the door and the 'cheap little lock broke', he saw to it that the other officer nailed the lock back. However, pictures of the front door clearly reveal the door was ram jacked, and there was no 'cheap little lock'. See page (68)(69). And exhibit (P') 'A'. Frebowitz actually used verbatim Applicant's description of what Applicant did, after entering his house, and shoring up the lock

by going outside to the back of his truck to get a hammer and a nail. See Original complaint, federal civil rights violation lawsuit case # 4:12-cv-00811 exhibit

a. Solicitor Spratlin was aware of this complaint as he irreverently was complicitously involved in the so called 'white washing' of the 'actus reus,' and while enabeling through clever shifting of the facts, police reports and etc., did allow false testimony to prevail by partisipating in the 'actus reus' of his own engagement in the obfuscation and shifting of facts for an extrinsic fraud benefit and deprivation of due process.

(13). Solicitor Spratlin high-lighted officer Lent's police report (State's exhibit #5), by asserting that Frebowitz's police report was not as credible as Lent's because Frebowitz's report is not manifest at trial. However, page 96 (6), Lent acknowledges it was Frebowitz's investigation. Spratlin used this deflection to place a false time-line.

* 'A.' The importance of the time line would have made a difference in the Jackson v. Denno Motion for one thing, and another difference that would accredit Applicant's complaint as the satelite of the extrinsic fraud. All of which Applicant was seeking a Motion To Dismiss for.

a. Frebowitz and Magers gooverned the authentication of the search warrant issue in an 'actus reus' from which if the 'do right' would have persisted at trial, obviously as seen more relevent now, the expesure to what has taken place should have been analysed by state statutes 17-13-141, but, the 'mens rea' is what actually enveloped these statutes in a cloud of darkness.

(14). The fox that guarded the hen house prevented this Applicant from acquiring the true record of construction of the search warrant and its execution according to statute criteria. "The purpose of the statute requiring that a warrant be issued only upon affidavit and of course oath of affirmation, is to provide the timely recording of facts represented to a judicial officer." State v. Sachs (S.C. 1975) 264 S.C. 541, 216 S.E. 2d 501. And just as well, Applicant was denied a preliminary hearing which many of these issues would have been addressed. The damage is done, the ice cream has melted.

'A.' the reason the magistrate Judge Magers would not submit the evidence of 'Return', the judicial mandate procedure, would be a 'no-brainer.' Given the fact that the judge clearly understood what the specific inquiry was for, because he signed a statement for that purpose, attesting to the fact that the search warrant was signed, yet, he did not follow through in the purpose of the mandate for the record

of the return, showing the time lines as for the reasons pointed out, for correcting the record, satisfying the right of Applicant, and in a timely manner. 'Do right.' Exhibit

* a. For the above reasons Frebowitz went to great length to cover up and omit the responsibility for which he was accused of, for missing exculpatory evidences, personal documents and questions of exacerbated probable cause. These were all relative facts of materiality as extrinsic evidences. Frebowitz and the state in fact used Applicant's Fourth Amendment violation in a 'derivative' nature for a conviction, and in fact, if it were not for Frebowitz's blunder of leaving the premises unsecured, unaccountability for failure to preserve vital documents, knowing of theft of Applicant's property and playing
✓ a role in blocking the investigation from a timely manner, Applicant would not have been found guilty because he did possess the necessary exculpatory evidences which would not only impeach the accuser, show cause for malicious process, and draw to conclusion a divergent theory for the jury. And yes, cumulative evidence does exist to show the probability beyond a reasonable doubt that such exculpatory facts did exist. The injury began as Frebowitz's overzealous invasion of Applicant's property where otherwise Applicant's defense facts would have remained unmolested by the state.

(15). The illegal search and seizure violated Applicant's person and private privilege by the state and an individual gaining access to sensitive incorperal documents involving social and political science, of an agrandized nature, involved in party politics, strategy central to formulary identity, and a Federal presidential election forum. On court record, Frebowitz made antithetical remarks, showing a character of the subject matter he gained from an illegal intrusion. Frebowitz aimed to inflict verbal injury and incite to the jury against Applicant by a sublime narrative.

'A'. Frebowitz did use the information he gained for his own personal design, as a creative cast of character through prejudicial distortion for use against Applicant for conviction. For instance, Frebowitz said Applicant had a book in his house on 'Mind Manipulation', when in fact, he had a book on 'The Manipulative Child', and
✓ Frebowitz tried to assert that the property belonged to someone else under the same breathe. See page 357, 348 (7,8) 351 (9,10).

356 (20-24).

'B'. There was no 'Fruit of the Poisonous Tree' in the traditional sense, because, there was no inculpatory evidence, but, for the purpose of character defamement, not based upon a connection to the alleged crime as an entitled divergent theory, but, through privileged knowledge, stealing of copyright souvereignty, and for the purpose of pre-staging a psychologically coerced interview for lexicological entrapment, through an intended biased legerdemain, for the purpose of jury persuasion, through false pretense of promise, and taking advantage of Applicant's instant state of arrest-duress-shock and medical state for prejudicial exhibition. See page 351 (7-10), "I took a random sampling of his thought processes." Page 83 (14,15), Detective Frebowitz attempts to say, "It is my job to get--;" (presumably this was meant to say), "It is my job to get them to talk." On page 84, incidently, the judge shows his prejudicial interruption to interfer with Digg's direct question, which by doing so, allows Frebowitz to collect himself. And then Frebowitz shifts from, "it is my job to get them to talk," to "No, we're here to listen." This changing of the story was by the opportunity provided by the court's 'unfair prejudicial influence', and in joinder with the scheme of deflection, supporting the continuous structure of *extrinsic fraud* through all connecting branches. It has been the connectiveness through *extrinsic fraud*, that has been the tool for 'actus reus against Applicant's due process, and has had a consistent prevailing occurence of circumstance as seen on court transcript as a means for subverting what motions Diggs did enter.

(16). The violation of the state statute was a crimal offense swept under the rug by an effort to bestow summation of bad faith through the lack of professional objectivity, yet the effort was to control the legal subjectivity, to conceal the lack of its judicial construction for the existent proof that a reliable probable cause existed at the time. And this being a most modest exercise of *extrinsic fraud*, by the reality that will be shown here in how relevant law was deliberately withheld from the deciding factors over the search warrant issue, and other relative issues at trial.

'A'. Frebowitz reacted through malice and unfair prejudice at the case, through telephone conversation with Applicant on the evening of June 16, 2011 and his anti-thetical ideological nature was incited in unfair prejudice and bias, and from some previous assessment of

Frebowitz's sets the tone here.
'B.' The extrinsic fraud in the primary actus reus which was kept from Applicant's defense, and by censoring, has also been an attempt to shield the Fourth Amendment violation of the United States Constitution which flowed over to the Fourteenth. Because the federal criteria to meet the challenge against the standing of the sufficiency of probable cause standing alone is enough to waive an invalid search warrant without arbitration. Yet, at this juncture, the relevant facts of evidence do exist to shore up that declarative in accordance to South Carolina Statute Code 1976 § 17-13-141, as it stands as a judicial mandate for proof of the existence of the procedural execution that would clear the way of any discrepancies, but, such a revealing legislative law at trial was purposefully avoided, and this complaint will further illustrate why.
a.' Frebowitz's defense narrative is caught up in the unreliableness of asserted facts which are only contested here by showing of bad faith and acts, in showing cause as to why the state statutes were victims of extrinsic fraud.
b.' Frebowitz's defense is literally a contention that a 'transitive' action was carried from subject to object, in the requirement that an object completes the meaning, and in showing that when an object does not complete the meaning, it is an 'intransitive' action. Therefore, the defense would be 'intransitive' and not the 'transitive' defense as implied. Applicant will explain.
c.' When Frebowitz asserted authentication of the search warrant, but, he did not show proof of 'Return', according to the mandate, in the 17-13-141 statute. He merely demonstrated an 'intransitive' defense and not a 'transitive' one. As will be shown here clearly, the actus reus is in claiming a 'transitive' defense through the art of legerdemain, when all the while it is actually an 'intransitive' act of fraud. This is explained further by the following illustration.
d.' The state statutes '17-13-140' and '17-13-141' which should have been brought forward in Applicant's trial for the purpose of indicting the circumstances over the search warrant will be shown here in, by, illustration of the necessary reliance on their inference. In statute '17-13-140,' it will be represented by (A), and '17-13-141,' will be represented by (B). Therefore (A) represents the search warrant's 'construction and issuance' as the (subject). And

thereby, (B) represents the search warrant's 'evidence of execution and propriety' called the 'Return,' as the (objective). When the procedure follows the mandates of (A) subjective, and (B) objective, the result is a transitive action.

(17). Frebowitz's defense did not follow (A) to (B), as Frebowitz and Mayers did in fact substitute, as in this illustration, they substituted a lower case (b) in place of the upper case (B), but, the law required (B). Wherefore, (b) does not give meaning to the subjective, whereas (B) would have as it being the required objective.

(18). The conspiracy which sheltered the actors from this exposure, asserted that Frebowitz's actions were proficiently administered from subject to object by virtue of Judge Mayers (b) statement plus the secondary search warrant *exhibit (A)*. However, where there was no mandate (B), a lawful procedure did not exist with the substitute package (b). Then one must infer that the supplant (b) was presented for nefarious reason not consistent with law. 'A'. And further, according to probable cause, going to the record of dates, there is a question as to a seed that was spurred, and to what time it bore the fruit of a probability.

(19). 'State V. McKnight,' 291 S.C. 110, "the rights afforded section 17-13-140 are not dependant upon showing of an exception of privacy in the searched premises. The primary purpose of the statute is to insure the timely recording of the testimony upon which the judicial relied in issuing the warrant. 'State V. Socks, supra.' However, the primary benefit of the statute 'is to the person arrested or searched.'" 216 S.E. 2d 510. Therefore, one contesting the legality of a search because of a defect under Sect. 17-13-140 need only show that the state is attempting to introduce the evidence against him."

'A'. Applicant was kept from participating in any motion hearing. Obviously, an overt act was achieved by keeping the statutes from manifesting during the trial." In unusual context of criminal trial, defendant is entitled to suppression of, not only evidence obtained through unlawful search and seizure, but also any 'derivative' use of such evidence." 'United States V. Crandra,' 414 U.S. 338, 94 S. Ct. 613 U.S. Ohio 1974. "Most efficaciously served."

'B'. Applicant's complaint has not so much relied on the exclusionary rule to identify the injury. 'The Fruit Of A Poisonous Tree' is not as relative as 'where is it'? There was no inculpatory evidence except by the

twist of imagination. However, 'a derivative use' of Frebowitz's gained Knowledge was used to vitiate Applicant's defense by the art of legerdemain, casting aspersions, to influence the jury, and his psychological rigging for entrapment during recorded interview before Applicant was even aware of the charges.

'C.' The evidence against Applicant was not overwhelming. There was no physical evidence, and the state could not prove intent. The case was hijacked by gross ineffective assistance of counsel, extrinsic fraud, various errors from unfair prejudicial abuse of discretion, conspiracy, and malicious process which caused the case to turn on credibility.

'D.' Frebowitz essentially set out to crucify Applicant for being a Christian, going out of his way to enforce a sanction against the practice of piety, in how a person views the behavior of another, as he believes, that, in relating to the personality issues of another is a violation of law, left only to those state sanctified by a Ph.d. This view of Frebowitz initially enchanted the idea with his rhetoric and it permeated with the other actors at his behest. Frebowitz did in fact, formulate in his mind, a personal invidious Christophobia against Applicant by the discovery of Applicant's ideological writings which he has revealed on court transcript insidiously.

'E'. As transcript of trial record will also show "Applicant was assailed for his freedom of religion and rights of free speech. See 'Simmons v. State' 308 S.C. 481, 484, 419 S.E. 2d 225, 226 (1992), "It is clearly established that the state cannot, through evidence or argument, comment on the accused's exercise of a constitutional right."

(20). In exhibit #4, according to statements by Frebowitz, 'Applicant partisipated ~~in~~ psychiatric treatment of the alleged victim and his search was initially for writings between the alleged victim and Applicant. The fact is that Applicant did not psychiatrically treat anyone, but, was attempting to declare his awareness of a variable state of mind which Applicant observed in the alleged victim. This awareness was documented as observations from interaction with the alleged victim, and specifically journaled. Frebowitz did not find any 'writings between the two as he imagined' to have existed. In fact, part of the excalpatory writings, evidence does lead to, were actual deviant writings of the alleged victim which would have been on the surface at trial showing the apparent nature of a variable state of mind. But not of Frebowitz's imagined context of religious mind manipulation.

'A.' Frebowitz's exacerbated contagion of incident should throw up a

red flag merely by his narratives as Frebowitz essentially trammeled Applicant's innocuous livelihood by interjecting and twisting impression from his personal unobjectivity to mean what he wants to believe are criminal acts of intent from which he espoused.

(21). Applicant's property and evidences are missing. Where are they? Was an investigation warranted? In a period of three years, not one person came to interview Applicant regarding the theft of his property as the state inofficiously detained him while the perpetrators were under their noses. And, it was Applicant's property until Applicant claimed that the state's witnesses stole it. Then, the state claimed the property was not Applicant's.

(22). Frebowitz stated in his report exhibit #4, "subject acknowledged his identity." Frebowitz did not say, "he gave a false name." Frebowitz went to great length to deceive at the onset, torturing the facts, to get them to adhere to his personal purpose. Frebowitz's actions prove that he aided Applicant's losses. State agents were aware by Applicant's 42 U.S. § 1983 complaint and filings with the clerk of court, solicitor's office and attorney general's office. This major part of Applicant's defense has been completely absent in Diggs assistance of counsel by his conscious will to avert this issue through extrinsic fraud, in joinder with the state.

"Constitutional requirements of substantial equality and fair due process can only be attained where ..... counsel acts in role of active advocate in behalf of client, as opposed to that of amicus curiae." 'Anders v. State of Cal.', 386 U.S. 738, 87 S.Ct. 1396 U.S. Cal. 1967.

(23). The Leit Motif as a justified expedient theme namely against an indigent as described in this complaint, treated with unfair prejudice against equal treatment and in due process violations, based on personal conflict of interest, shown herein, is a diversication from the commonly accepted role in conjectura pietatis as a social conscience duty of a lawyer. Applicant does not know of a mote juste that would more fluidly explain it, other than to say, Applicant's complaint stresses that ineffective assistance of counsel in its broader injury involved this complaint's narrative conspiracy in extrinsic fraud by a most abominate guise of conjectura pietatis when in reality it is an inofficious amicus curiae.

(24). Failure of the prosecutor to correct the testimony of the witness which he knew to be false denied due process of law in violation of the Fourteenth Amendment. And that court following 'Mooney v. Holohan,' 294 U.S. 103, 53 S.Ct. 340, 79 L.Ed. 791 and 'White v. Roger' 344 U.S.

760, 65 S.Ct. 978, 89 L.Ed. 1348. 'Napue V. People of the State of Ill.', 360 U.S. 264, 79 S.Ct. 1173 U.S. 152.

(25). The judge, solicitor and counsel of record's many years of experience would conclude that statutes 17-13-140 and 17-13-141 would provide the factual basis of the law requiring strict proof on the procedures and recorded dates for the execution of the search warrant. And in allowing the scheme for the bad acts to receive a pass from more lawful scrutiny, showing, that the acters were professing ignorance of the statutes, while Applicant was not is absurd, and is a clear showing of abuse of discretion, covering all motions, the allowing of perjured testimony in conspiracy through malicious process.

(26) "It is of no consequence that the falsehood bore upon the witness's credibility rather than directly upon defendant's guilt. A lie is a lie, no matter *270 what its subject, and, if it is any way relevant to the case, the district attorney has the responsibility and duty to correct what he knows to be false and elicit the truth.*** That the district attorney's silence was not the result of guile or a desire to prejudice matters little, for its impact was the same, preventing as it did, a trial that could in any way, in any real sense be termed fair." 'Niemetko v. State of Maryland,' 340 U.S. 268, 271, 71 S.Ct. 325 327 95 L.Ed. 269.

(27). "The principle that a State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness. The jury's estimate of the truthfulness and reliability of a given witness may well be determative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend." As stated by the New York Court of Appeals in a case very similar to this one, 'People v. Savvides,' 1 N.Y. 2d 554, 557, 154 N.Y. S. 2d. 885, 887, 136 N.E. 2d. 853, 854-855.

(28). In cases where there is a claim of denial of rights under the Federal Constitution, the United States Supreme Court is not bound by factual conclusions of lower courts, but will re-examine the evidentiary basis on which those conclusions are founded.

'A.' "A conviction obtained through use of false evidence known to be such by representatives of the state, must fall under the 14th." 'Pyle v. State of Kansas,' 317 U.S. 213, 63 S.Ct 177, 87 L.Ed. 214, 'Curran V. State of Delaware,' 3 cir. 259 F 2d 207, See 'State of New York ex rel. Whitman v. Wilson,' 318 U.S. 688, 63 S.Ct. 840, 87 L.Ed. 1083, 'White v. Mayer,'

Compare 'Jones V. Commonwealth Of Kentucky,' 6 Cir., 97 F. 2d 235, 338 with 'In re Sawyer's Petition,' 7 Cir., 229 F. 2d 805 809 cf, 'Mesarosh V. United States,' 352 U.S. 1, 77 S.Ct. 1, 1L. Ed 2d 1." "The same result obtains when the State, although not soliciting fake evidence, allows it to go uncorrected when it appears." Alcorta V. State of Texas, 355 U.S. 28, 78 S.Ct. 103 2 L. Ed, 2d. 9. United States ex rel. 'Thompson V. Dye,' 3 Cir., 221 F. 2d 763 United States ex rel. 'Almeida V. Bold,' 3 Cir. 195 F. 2d 815, 33 A.L.R. 2d 407 United States ex rel. 'Montgomery V. Rager,' DC. 86 F. Supp. 382.

'Issue Of Conspiracy'

(29). "Herein this section was enacted pursuant to use A Const. Amend. 14 and relates to deprivation by the State acting through State officials and not acts of private individuals, but it does follow that private individuals can be guilty as principles if they aid and abeit State officials in such violations. 'U.S. V. Lynch,' W.D. Ga., 1950 94f. Supp. 1011.

'A.' "A conspiracy is a combination of two or more persons by concerted action to accomplish criminal or unlawful purpose of, to accomplish by criminal or unlawful means some purpose not in itself criminal or unlawful." 'Sater V. State Bar of Mich.' C.A.6. (mich) 1961 293 f. 2d 756. "A "conspiracy" need not be a formal agreement, nor must it be embodied in a document, but it can be an implied agreement or a concert of action understood by parties to be for a common end." Cape Cod Foods Products V. National Cranberry Ass'n, D.C. Mass, 1954, 119F. Supp. 900.

(30). Conspiracy to deprive of rights fall within 18 U.S.C. § 241 as well. Conspiracies to injure, oppress, threaten and intimidate extends to conspiracies with respect to the rights and privileges protected by the Fourteenth Amendment and extends to conspiracies otherwise is the scope of this section participated in by officials alone or in collaboration with private persons 'U.S. V. Price,' U.S. Miss 1966, 86 S.Ct. 1152, 383 U.S. 787, 16 L. Ed.

(31). "To state cause of action under provision of § 1985 regarding denial of equal protection under the law, plaintiff must prove: conspiracy of two or more persons; who are motivated by specific class-based, invidiously discriminatory animus: to deprive plaintiff of equal enjoyments of rights secured by law to all; and which results in injury to plaintiff; as consequence of overt act committed by defendants in connection with conspiracy. U.S.C.A. Const. Amends. 5, 14; 42 U.S.C.A. § 1985 (3) 'Davis V. Hudgins,' 896 F. Supp. 561.

(32). "Inference of conspiracy may be drawn from simultaneous doing of similar acts - 'U.S. V. Outer Harbor Dock and Wharf Co.', S.D. Cal. 1952 106 F. Supp. 906."

(33). "It must appear that the right, the enjoyment of which the conspirators intended to hinder or prevent was one granted or secured by the constitution or law of the United States." 'U.S. V. Cruikshank,' U.S. La. 1875, 92 U.S. 542, 2otto 542, 23 L.Ed. 588."

'A'. The judge's 'nolime tangese' showed his intent at not entertaining the state statutes and his code colloquy. "State judges may be criminally liable for violation of civil rights even though the judge may be immune from damages under 1983 of title 42. 'Dennis V. Sparks', U.S. Tex 1980, 101 S.Ct. 183, 449 U.S. 24, 66 L. Ed. 2d 185."

(34). "Private persons, jointly engage with State officials in prohibited action, are acting "under color of law" for purposes of this section prohibiting, under color of law, willfully subjecting any inhabitant of any State to deprivation of any rights, privileges, or immunities secured or protected by constitutional laws of the United States." 'U.S. V. Price'.

(35). "The word 'conspire', as found in this section making a conspiracy against the rights of citizens a crime, is equivalent to the word 'willfully'. 'U.S. V. Barles,' S.D. W.Va. 1954, 120 F. Supp. 614."

(36). "The word 'willfully' is necessary to constitutional validity of this section pertaining to conspiracy against civil rights of citizens.

(37). "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any state, Territory, Commen Wealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the United States, or because of his having so exercised the same;" 18 U.S.C. § 241."

(38). "Conspiracy to interfer with civil rights See 42 U.S.C.A. § 1985 and for attorneys 42 U.S.C.A. § 1982, court appointed attorney - 42 § 1984.

(39). "Conspiracy is unlawful under Federal law, 'Anderson V. U.S.', U.S. W.Va. 1974, 94 S.Ct. 2253, 417 U.S. 211, 41 L.Ed 2d 20."

(40). "When a conspiracy is the gist of the offense of conspiracy to injure citizens in exercises of right, 'Cartello V. U.S.' C.C.A.8. (Mo.) 1937, 93 F.2d 412, See also 'Walker V. U.S.' C.C.A. Mo. 1938, 93 F. 2d 383, 41.

(41). "When a conspiracy is directed against a citizen in the exercise of a Federal right or privilege with the intent to prevent the exercise of 'U.S. V. Patrick,' C.C. M.D. Tenn. 1893, 54 F. 338."

(42). "Any conspiracy to deprive of is reprobated 'Bertgnn V. Davis, ED-La. 1971, 333 F. Supp 1236."

(43). "With the respect of this section, government need not establish that there existed formal agreement to conspire; circumstantial evidence and reasonable inferences drawn there from concerning the relationship of the parties, their overt act; and totality of their conduct may serve as proof. 'U.S. V. Redarme', C.A. 7 (Ind.) 1983, 715 F. 2d 315, 104 S. Ct. 2661, 467 U.S. 1216, 81 L. Ed. 2d 367."

(44). "Conspiracies to injure, oppress, threaten, or intimidate any citizen- extends to conspiracies with respect to rights and privileges protected by Fourteenth Amendment and extends to conspiracies, otherwise is scope of this section partisipated in by officials alone or in collaboration with private persons. 'U.S. Price,' U.S. Miss. 1966, 86 S. Ct. 1152 383 U.S. 787, 16 L. Ed 2d 267.

(45). "A willful effort to deprive a citizen accused of crime, of his constitutional right to a trial, or to intimidate him in its exercise, if mounted under color of law, violates section 242 of this title; a conspiracy to effect such ends, whether directed against citizens or more inhabitants of the United States, is punishable. 'U.S. V. O'dell', C.A. 6. (Tenn.) 1972, 462 F. 2d 224."

(46). "Prejudicial joinder: All rights and privileges, 'U.S. V. Price', 'U.S. V. Johnson', N.D. Ga. 1967, 269 F. Supp. 706, probable jurisdiction noted 88 S. Ct. 241, 389 U.S. 910, 19 L. Ed 2d 258, reversed on the grounds 88 S. Ct. 1231, 390 U.S. 563, 20 L. Ed 132."

(47). "Indictment charging that defendants conspired to "injure, oppress, threaten and intimidate" citizen in the free exercise and enjoyment of the right and privilege secured --- not to be deprived of life or liberty without due process of law" 'U.S. V. Purvis,' C.A. 5 (Ala.) 1978; 580 F. 2d 853."

(48). "A private citizen who conspired with a deputy was guilty of conspiracy prohibited by § 371 of this title. 'Braun V. U.S.' C.A. 6 (Tenn.) 1953, 204 F. 2d 247."

(49). "Private persons could be convicted of conspiracy to deprive victim of civil rights, on allegation of collaboration with police officers, despite private persons incapacity to act under color of law. 'U.S. V. Lester,' C.A 6 (Ky) 1966, 363 F. 2d 62."

(50). "Instances of conspiracy on part of both private individuals and public officials 'U.S. V. Ellis', W.D. S.C. 1942, 43 F. Supp. 321. 'Mission attempted conspiracy 'Cross V. U.S. C.A. 8 (Ark) 1968, 392 F. 2d 360."

(51). "An action in furtherance of a conspiracy 'U.S. V. Mirzoyan' / 'U.S. V. Peon' 'Official report': An act to effect the object of conspiracy

'Plume v. U.S.' 'overt and supportive' 'Homes v. U.S.'"

(52). "That the government would not profit from its lawless behavior, thus minimizing the risk of seriously undermining popular trust in government." 'Wayne R. Lafave and Jerald H. Israel' 'Elkins v. United States,' 364 U.S. 206, 222, 80 S.Ct. 1437, 1447, (1960) 'U.S. v. Calandra,' 414 U.S. 338, 357, 94 S.Ct. 613, 626 (1974)."

(53). "42 USCA 1985: If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due process of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to force, the right of any person, or class of persons, to the equal protection of the laws."

(54). "If two or more persons in any state or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws: or for the purpose of preventing or hindering the constitutional authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws,"

(55). "In any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation against anyone or more of the conspirators."

(56). "Appointed defense counsel could be held liable under this section 42 § 1984 'Stewart v. Peghreeny,' E.D. Mo. 1983 566 F. Supp."

(57). As in the above citations of violations of 18 § 241, 18 § 242, 18 § 371, 42 § 1984 and 42 § 1985, and moreover, with violations of the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments, both civil and criminal, Piggs failed to recognize his descendent nature conflicting with imperative duty imposed by law, not to embrace such circumventive behavior with the other actors now made more cognizable by Applicant's complaint, and because of his disengenuousness, he failed to allow himself to become informed about Applicant's case and thereby his willful unattentiveness allowed his assistance of counsel to follow in syncretist corruption by the nature which enveloped him through the joinder of the scheme of a judicially pretended ethical cloak,

in an abuse of process and justice, in discrimination, having as herein shown to have already been set in motion, Diggs did nothing in Applicant's defense to avert the course, as Diggs continued in the gist of the overt act through coercion by way of terror inducement in that conspiracy when 'plea bargaining' becomes an overt psychologically applied deprivation and cruel and unusual treatment, as, Applicant was threatened with life imprisonment for almost three years until Feb. 25, 2014 when the indictments were changed at the last minute to a lesser charge, because Applicant refused to plea deal, and the nature of the charge was changed.

'A.' As Diggs unabashedly deprived Applicant of any participation in his defense, period', or, offered any moral support, as one would think for such reasons Applicant to be difficult, demanding, a prima donna, but just the opposite as Applicant merely waited for reciprocation from the attorney but none was forthcoming. Diggs was venally subjected by his apparent vicegenerate, amicus curiae, loyalty, as, some kind of pre-assessed judgmentalism for accomplishing the end that justifys the means, but, as shown here, in a mote juste of a class based deprivation of the equality clause, in a peculiar discrimination against Applicant's person as a Christian, and by the circumstances of State invasion against an indigent status, as the pattern shows Diggs participation in the disarming of due process through his lack of advocate propitious perspectives in Applicant's case concerning his original arrest facts, illegal search and seizure, the malfeasance and misprisonous conduct of state agents, theft of Applicant's property, police report, medical non-treatment, the abuse of the mental health law as the State tried to establish that Applicant was mentally retarded for exercising constitutional rights, and the unorthodox detention of Applicant, denial of preliminary hearing, unreasonable bond and delay, state ignored speedy trial request, Diggs failed to investigate, case and witnesses, he failed to prepare a trial with Applicant, he stickly censored Applicant from participating in the trial, failed to file motions 30 days in advance of trial, lied to the court about readiness for trial, independently pick all liberal jurrors for a conservative case, failed to make objections for preserving issues for appeal, did not discuss the appeals process with Applicant, did not have an adversarial defense posture and etc, and etc, as completely outlined more so in this complaint And as stated earlier, according to court transcript, Diggs did conspire with the other actors in extrinsic fraud, which has shown the blatant effort and success at keeping facts out

of Applicant's defense and concealing documents, for the purpose of depriving Applicant of his civil rights which is also a felony as well in violation of South Carolina laws.

(58). "To establish the existence of a criminal conspiracy, proof of an express agreement is not necessary, and direct evidence is not essential, but the conspiracy may be sufficiently shown by circumstantial evidence and the conduct of the parties." Code 1976 § 16-17-410 'State V. Cope' 405 S.C. 317, S.E. 2d 194 S.C. 2013.

(59). "The South Carolina Const. has Article 1 § 12, 16-5 10, 'Conspiracy against civil rights.' § 16-17-410 (B). An agreement constituting a conspiracy may be inferred from acts of the parties."

(60). "Even an act that is lawful can be done in an unlawful fashion and a definition of conspiracy has been given as the conspiring together to do an unlawful act in an unlawful way to the detriment of another. 'Charles V. Texas Co.' 199 S.C. 156, 18 S.E. 2d 719."

(61). "Requirement of "due process" is not satisfied by mere notice and hearing if state, through prosecuting officers acting on state's behalf, has contrived conviction through pretense of trial which in truth is used as a means of depriving defendant of liberty through deliberate deception of court and jury by presentation of testimony known to be perjured, and in such case state's failure to afford corrective judicial process to remedy the wrong when discovered by reasonable diligence would constitute deprivation of liberty without due process. U.S.C.A. Const. Amend 14. 'Mooney V. Holohan' 294 U.S. 103, 55 S.Ct. 340 U.S. 1935."

(62). "Fourteenth Amendment governs any action of state whether through legislative, its courts, or its executive administration offices of the administrative. U.S.C.A. Const. Amend. 14."

Extrinsic fraud

(63). *extrinsic Fraud means:* Deception that prevents a person from knowing about or asserting certain rights, and conspiracy to deprive of rights and defense as outlined in this complaint. For instance, Diggs told Applicant he could not ask questions of the potential jurrors during the selection process (voir dire). And as outlined in the conspiracy to withhold the facts over the issue of the unlawful search warrant and of course by keeping out Applicant's defense from trial.

(64). "An act of perjury or concealment of a document coupled with an intentional scheme to defraud the court justifies the setting aside of a judgment due to extrinsic fraud. 'Kay V. Kay' (S.C. 2007) 374 S.C. 79 647 S.E. 2d 237."

(65) Extrinsic fraud, the same as deprivation of due process, and the abuse of process that results in a criminal conviction by conspiracy or individual partisipation.

'Ineffective Assistance of Counsel'

(66)." The Uniform Post Conviction Procedure Act provides a frame work for collaterally attacking convictions and sentences. 'AL-Shabazz V. State,' 338 S.C. 354, 366."

(67)." Issue unpreserved may be raised in the context of a PCR claim alleging ineffective assistance of counsel. 'McLaughlin V. State', 352 S.C. 476, 575 S.E. 2d 841 (2003). 'Foye v. State', 323 S.C. 28, 30, 448 S.E. 2d 586, 562 (1994)."

(68)." In 'Ake V. Oaklahoma', 470 U.S. 68 (1985). " The court said, "When a state brings its judicial powers to bear on an indigent defendant in a criminal proceeding, it must take steps to assure that the defendant has a fair opportunity to present his defease --- justice cannot be equal when, simply as a result of his poverty, a defendant is denied the opportunity to partisipate meaningfully, in a judicial proceeding which his liberty is at stake."

(69)." The South Carolina Const. has a Const. Art 1, § 12 16-5 10. Conspiracy against civil rights. § 16 17-410, (B) An agreement constituting a conspiracy may be infered from acts of the parties." A lawyer who commits a crime in the performance of his duty is ineffective assistance.

(70. 'Cherry v. State', 300 S.C. "A two prong test for determining effective assistance of counsel has been set forth by the U.S. Supreme Court in 'Strickland V. Washington', 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed 674 (1984). " First, a defendant must show that counsel's performance was deficient. Under this prong," [t]he second prong of the Strickland test requires a showing that the deficient performance prejudiced the defendant to the extent that there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been *different."

(71)." A convicted defendant making a claim of ineffective assistance must identify acts or omissions of counsel that are alleged not to have been result of reasonable professional judgment and, then court must determine whether, in light of all circumstances, identified acts or omissions were outside wide range of professional competent assistance: in making that determination, court should keep in mind that counsel's function is to make adversarial testing process work in

the particular case. 'Strickland v. Washington,' 466 U.S. at 690, 104 S.Ct. 2052."

✓(72). "Inquiry into counsel's conversations with defendant may be critical to proper assessment of counsel's other litigant decisions.

(73). Actual or constructive denial of assistance of counsel altogether is legally presumed to result in prejudice.

(74). As relating to the Sixth Amendment claims of ineffective assistance of counsel, actively representing conflicting interests and that an actual conflict of interest adversely affected his lawyer's performance.

(75). Actual ineffectiveness claims alleging deficiency in attorney's performance are subject to general requirement that defendant affirmatively prove prejudice.

(76). Ineffective assistance of counsel is not a question of basic, primary, or historic fact, but, rather a mixed question of law and fact.

✓(77). Government violates right to effective assistance of counsel when it interferes in certain ways with ability of counsel to make independent decisions about how to conduct defense.

✓(78). Benchmark for judging any claim of ineffectiveness of counsel must be whether counsel's conduct so undermined proper functioning of adversarial process that trial cannot be relied on as having produced a just result.

✓(79). Counsel's function in representing a criminal defendant is to assist defendant, and hence counsel owes client duty of loyalty, a duty to avoid conflicts of interests.

✓(80). From counsel's function as assistant to defendant derive the overarching duty to advocate defendant's cause and more particular duties to consult with defendant on important developments in course of prosecution.

✓(81). "Defense counsel has duty to bring such skill and knowledge as will render the trial a reliable adversarial testing process." 'Cherry' 300 S.C. "

✓(82). 'Nix v. Caton,' 372 S.C. 313, 642 S.E.2d 590 S.C. 2007. 'To prove that counsel was ineffective, applicant for post-conviction relief - PCR must show that counsel's performance was deficient, and there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different; a "reasonable probability" is a probability sufficient to undermine confidence in the outcome of the trial. U.S.C.A. Const. Amend. 6."

(83). "Moreover, while the scope of a reasonable investigation depends upon a number of issues, "at a minimum *332 counsel has the duty to interview potential witnesses and to make an independent investigation

of the facts and circumstances of the case." 'Roedel v. Wainright,' 677 F. Supp. 1456, 1461, (S.D. Fla. 1986).

(84). 'Sneed v. Smith,' 670 F. 2d 1348. "Standard of effective assistance of counsel is whether attorney acted within range of competence demanded of attorneys in criminal cases and to meet the standard, attorney must, at a minimum, conduct appropriate investigations, both factual and legal, to determine if matters of defense can be developed, and to allow enough time for reflection and preparation for trial." "quoting 'Coles v. Peyton', 389 F2d 224, 226 (4th Cir 1968).

(85). "Furthermore, a criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigating evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the state." 'McKnight v. State', 378, S.C. 33, 46, 661 S.E.2d 354, 360 (2008); See also 'Ard v. Cate', 372 S.C. 318, 642 S.E. 2d 590 (2007).

(86). "While the scope of an investigation depends on a number of issues, at a minimum counsel has the duty to interview potential witnesses and circumstances for the case." 'Lounds,' 380 S.C. at 460, 670 S.E. at 649.

(87). "Evidence would lead a reasonable attorney to investigate further." 'Wiggins v. Smith,' 539 U.S. 510, 527 123 S.Ct. 2557, 2538 (2003)

(88). 'Groseclose v. Bell,' ③ 130 F.2d 1161, 1170 (6th Cir 1997) (Ineffective assistance when, based on belief that defendant had no defense, counsel failed to interview witnesses or potential expert consultants." "A disincentive to produce evidence or witness that would prove his services are ineffective." 'U.S. v. Del Muro,' 87 F 3d 1078, 1080-81 (9th Cir (1996)). 'Cuyler v. Sullivan,' 446 U.S. 335 (1980) conflict of interest.

(89). "A single error may in some circumstances, render counsels performance ineffective." See 'Murray v. Carrier,' 477 U.S. 478, 496 (1986).

√(90). "Issue unpreserved may be raised in the context of a PCR claim alleging ineffective assistance of counsel." 'Melaughlin v. State', 352 S.C. 476, 575 S.E. 2d 841 (2003). 'Faye v. State', 335 S C 586, 518 S.E. 2d 265 (1999).

(91). Since the Fourth Amendment issue was not considered on direct appeal because it was unpreserved, an examination of the merits of the issue is appropriate in analyzing the prejudice prong in Mellam's PCR claim. See generally 'Sikes v. State', 323 S.C. 28, 30.

448 S.E. 2d 560, 562 (1994). When the defendant claims counsels failure to articulate a Fourth *476 Amendment claim was ineffective assistance, [the] defendant must show that such claim is meritorious and that the verdict would have been different."
(92). "Legal representation is not adequate and trial does not meet standard of fundamental fairness if court appointed attorney is not afforded adequate opportunity to investigate and reflect upon client's case." 'Martin V. Com. Of Va.', 356 F.2d 549 C.A. Va. 1966.
(93). "Constitutional requirements of substantial equality and fair process can only be attained where counsel acts in role of active advocate in behalf of client, as opposed to that of amicus curiae." 'Anders V. State of Cal.', 386 U.S. 738, 87 S. Ct. 1396 U.S. Cal. 1967.
(94). "Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States when such common law or statutes shall have been put in issue by the pleadings." South Carolina Code 1976 § 19-3-120.

'Brief Overview of Conspiracy'

(95). Conspiratorial fatiguing for the purposes of coercion and deprivation, whereas, deprivation has been the fundamental front, a '*privatio praesupponit habitum*' (deprivation presupposes possession) as has been the domineering aim of taking over Applicant's defense without his consent, as in one example, Diggs managed to keep Applicant from participating in the Jury voir dire. Deprivation was employed for the abuse of process in due process violation, the equality clause, in discrimination and the long list of preceding abuses from whence Diggs adjoined in the continuing scheme as '*fraus est celare fraudem*' (it is fraud to conceal fraud), from which this entire conspiracy to deprive of civil rights was dependent upon the judicial criminal process and its actors for the furtherance in the abuse of process for causing a criminal conviction.
(96). Applicant sued in federal court, the State and attorneys because of said civil rights violations. The state and her agents rebel, by further trying to disarm Applicant (deprivation), by trying to 'harry' Applicant with the Mental health evaluation abuse process by implying that Applicant was mentally retarded, causing him almost one year in detainment. Because of Applicant's Christian piety and vocation without a Ph.D, and his personal ideological patriotism, Applicant

was treated as an enemy of the State because he threatened the status quo of a system of reverence for the corrupted version of the 'conjectura pretatis' as described herein this complaint which by favor of the State, honors any such reservoir for state will, beat for a 98 percent conviction rate for the county as a statistical 'vicegenerate tert motif,' according to Applicant's herein described formulary showing a practice of traditional acceptance that by habit marries into this civil rights violation conspiracy as some blind convenience, through inured sickness.

(97). Diggs does not bring Applicant's constitutive violations to the fore of the trial, the preliminary hearing denial, police report denial, speedy trial denial, unfair bond, mental health abuse, medical abuse, arrest warrant issues and etc., as these were all factors which should have been a part of the record. In fact, with Diggs's 'amicus curiae' behavior, Diggs acted like he was an attorney general who had forgotten to change his coat.

(98). The search warrant issue, the interview of Applicant with Det. Frebowitz regarding the Jackson v. Denno Motion, and the forensic interview with the declarant, were all involved in 'extrinsic fraud' (where material facts were fraudulently kept out of court by conspiracy) for the purpose of misleading that 'the issues were sterile', when they actually contained material elements of inconclusiveness. These were all cumulative evidences of the state which did not reap the benefit of the unadulterated confrontation clause by the absense of fraud. The search warrant issue's lack of statute declarations at trial, the forensic interview without the knowledge of the variable state of mind of the declarant, and Frebowitz's derivative use of illegally seized information used to stage a psychological legerdemain interview discussed herein later in this complaint. None of these elemental issues did Diggs articulate; for nefarious reason. Transcript page: (140 (1-4).

'Trial Transcript Quotations'

— In Conspiracy —

(99). Spratlin says he and Diggs are ready for trial, pg. (23 (14-17)

(100). "It is obvious to me he's ready to go to trial," says court. pg. (24 (2 3)

(101). Court prejudicially deflects. pg. (25 (1-25)

(102). Judge adjourns in final act pg. (25 (21-23) pg (26 (2-4)

(103). Court censors Applicant. Page (22, 23, 24.

(104). Diggs tip toes around search warrant issue. Page (53 to 92, pg. 55 why is only one search warrant introduced when Diggs had two?

(105). Spratlin obfuscates the issue, intentionally trying to distort facts in pretense of divergent theory. Page (53)(20-), (54)(1).
(106). Judge obfuscates the issue. Page (54)(14), (56)(6-10).
(107). Judge contradicts prejudicial stance. Page (57)(10-19), (58)(3-5).
(108). Problems with Frebowitz's testimony. Page (62)(17-25), (63)(1-11).
(109). One search warrant. Page (63)(13-14).
(110). State enters only one search warrant, 'Exhibit 2' for Jackson v. Denno hearing. Evidence is inconclusive as Diggs is aware. Page (64), (65).
(111). Frebowitz lies about destruction of the door accountability and copies verbatim the story line from Applicant's civil rights suit. Page (63), (68).
(112). Diggs is distracted by judge regarding search warrant.
(113). Diggs attempts to make some sort of quixotic inquiry over the search warrant issue. Page (88)(23-24).
(114). Judge makes a bid to deflect. Page (88)(25), (89)(1).
*(115). Diggs obviously reacted to the judge's signaling in court code for Diggs to back off of the search warrant issue which Diggs makes an obvious acquiescent showing in obedience. Page (88)(23, 24), (89)(2-5), (88)(21-2) in showing of conspiracy.
(116). Spratlin enters to deflect Diggs from entering search warrant 'Exhibit 13' into defense exhibit. Page (91)(19-25), (92)(1-9), in showing of conspiracy.
*(117). Diggs plays along from signals from judge and solicitor. Page (92)(8-11).
(118). Spratlin works to obfuscate the dates of arrest in conjunction with the execution of the illegal search warrant. "Fact is, Applicant was arrested as Don Legg on June 17, 2011, and arrested again as Ron Legg on June 18, 2011 from which the records clearly reveal. The solicitor perpetrated this perjury from which Diggs did not challenge". Page (101)(20-23).
(119). Why was it necessary to have a Jackson v. Denno hearing in the judge's chambers? Page (49)(11-13).
(120). Where is the record of the hearing on March 7, 2014? Page (50)(4-7).
(121). Investigating officer Kent has a foggy memory and no investigation notes. Page (19-20) (102), (104)(24-25), (105)(1-3).
(122). Diggs proves no investigation of the case. Diggs lied before the court. Page (64)(25), (74)(1-12), (193)(19-25), (264)(28), (410)(1-8).
(123). Diggs limits cross-examination on Whipple's lengthy police record and social history. Page (185)(23-25), (186)(1-5).
(124). Judge warns Diggs about a reversal. Page (268)(14-19).
(125). Judge rules against favorable evidence for defense. Page (269)(3-4).
(126). Diggs uses the more state friendly term 'invalid' search warrant as opposed to a more defense correct term 'unlawful'. Page (359)(2, 25),

360 (1-2).

(127). Frebowitz lied about property being released to Don Legg. The State organized a reliance on the cofusion of otherwise, and hearsay statements to formulate a storyline in scheme to shield the malfeasance of state agents. Page 357 (18-19).

(128). The state says there is direct evidence for the charge, but, that evidence was not procedurally challenged, by the conspiracy, by, way of extrinsic fraud. Page 365 (14-16).

(129). Diggs did not give the jury the truthful reason why Applicant did not take the stand, and states that a 'negative' interrogation audio would speak for him. Page 370 (5-9).

(130). Post Trial Motion denials based on Spratlin's argument's, based on fraud. There was substantial evidence to show documents did in fact exist. The State's witness testifys to this. Page 206 (23-25) 463.

(131). Diggs states he did not have a witness to attest to the missing documents. Page 51 (11-12). The witness affirms such writings. Page 206 (23-25). Diggs refuses to explore the declarant's willingness to talk about said writings.

(132). These have been brief excerpts from the trial transcript whereas the totality of this complaint contains the more complete narrative of the violations.

(133). Diggs says, " It should have been investigated in our case, but it wasn't." Page 406 (23).

(134). Conspiracy against civil rights South Carolina Code 1976 § 16-5-10.

(135). "All conspiracies to injure others, by perverting, obstructing, or defeating the course of public justice, by fabricating or suppressing evidence, are indictable." 'State V. DeWitt,' 2 Hill (SC) 282, 1834 WL 1572 S.C. App. Ct Eq. 1834.

(136). "To establish the existence of a criminal conspiracy, proof of an express agreement is not necessary, and direct evidence is not essential, but the conspiracy may be sufficiently shown by circumstantial evidence and the conduct of the parties. South Carolina Code 1976 § 16 17-410." 'State V. Cope,' 405 S.C. 317, S.E. 2d 194 S.C. 2013.

(137). "Even an act that is lawful can be done in an unlawful fashion and a definition of conspiracy has been given as the conspiring together to do an unlawful act to the detriment of another or the doing of a lawful act in an unlawful way to the detriment of another." 'Charles V. Texas Co.' 199 S.C. 196, 18 S.E. 2d 719 S.C. 1942.

(138). "Conspiracy cases may be proven exclusively by circumstantial

evidence." 'U.S. V. Troutman,' 814 F. 2d 1428.

(139). "Defendant joins conspiracy if he agrees with conspirator to participate in project or enterprise that is object of conspiracy and Knowingly acts in furtherance of that object; whether defendant Knows, has met with, or agrees with every conspirator is immaterial, and Government need not show that defendant Knew each detail of conspiracy or played more than minor role; as long as conspiracy continues and its goal is to achieve common objective, parties may still be found guilty even though they join or terminate their relationships with core coconspirators at different times." 'U.S. V. Marquez', 636 F. Supp 1354.

(140). "Although crime of subornation of perjury is not consumated, the attempt to commit it is in itself a crime, being an act done with intention of preventing due course of justice.

'A. Subornation of perjury, tampering with witnesses or otherwise practicing deception upon courts by fraudulent devises is gross misconduct in the perverting or obstructing of justice and warrants disbarment." 'Burns V. Clayton,' 237 S.C. 316, 117 S.E. 2d 300 S.C. 1960.

(141). Diggs acknowledges state misrepresenting truth. Page 363 (20-23).

(142). On the second day of Applicant's arrest, on or about June 18, 2011 Det. Frebowitz came to the J.R.L.D.C. for an interrogation interview with Applicant, in secret.

'Interrogation Interview'
Jackson V. Denno Hearing

(143). Applicant did not request an interview for interrogation from Det. Frebowitz. And Applicant was never served with an arrest warrant and was not notified of the specific charge Applicant would be facing. Applicant was in fact led to believe that he could clear up any misunderstandings and Det. Frebowitz presented himself as someone who could help. And Applicant was led to believe that he could merely give reasons as to why the accuser was upset. In fact, Applicant was responding to subject matter that was brought about before the recording and Applicant did not realize at the time that Det. Frebowitz had psychologically manipulated the interview into an otherwise pre-staged two step process, that is, by setting one tone for interview by leading questions, then, after mirandizing, re-recording the tone changes to interrogation for getting interrogation answers from interview questions which by Frebowitz is more able to redirect a question to facilitate intended outcome. The example is the bite. Assessed implanted phrase 'partly based theorist.' However, Applicant

was not aware at the time regarding Frebowitz's depth of unfair prejudice and was not aware that the recorded interview was an interrogation directed for jury persuasion from a biased view. ✓ *(144). Because Diggs did not call Applicant to testify during the Jackson v. Denno hearing, and Diggs did not interview Applicant over the issue, obviously there was a motive not to bring about that challenge. The following facts were avoided through 'extrinsic fraud':

Fact 1. Applicant was overborne during the interrogation interview, was interviewed subsequent to a false arrest, was subjected to the shock of the circumstances, was looking for answers from Frebowitz from which he took advantage of from the beginning through his own 'particularized bias', and thereby literally held off antisipated answers as hostage to questions. Applicant had spent 10 years living without air-conditioning, and was suffering from the extreme change of environment, whereas J.R.N.D.C. has a notorious reputation for keeping the temperature below normal for a zero tolerance policy against germs, Applicant was experiencing this difficulty which is noted in the recording of his breathing difficulties combined with the circumstances of an untreated prostate condition. And it was already established that Applicant was experiencing a state of stress because just days prior Applicant lost his temper unusually, and swore at the accuser which inevitably caused the 'hey day' of the inflamed issue.

Fact 2. Frebowitz did imply during pre-recording that he would resolve the issue from Applicant's perspective as promise was levied from this presupposition.

Fact 3. Applicant was lead to believe by Frebowitz that Applicant was practicing psychology without a license by way of no Ph.D., and caused Applicant to mince his words, endeavoring him to speak in an affected manner.

Fact 4. Frebowitz did ask questions before reading the Miranda, off record and during phone conversations, he knew how to question one way, and to introduce them in ways, for his achieving of lexicological ensnarements for an exposition that would lead one to believe criminal wrongdoing by the interrogated. Frebowitz stated on trial transcript that his job was just to listen, implying that he was just allowing the defendant an opportunity to talk, give a statement. But as Frebowitz also stated, he removed and studied Applicant's writings in order 'to get into Applicant's mind, from which he illegally removed from his home. And Frebowitz also implied on court transcript that it

was his job to get them . . . to talk. And there were several ways that Frebowitz loaded the interview. Frebowitz practiced mind manipulation; 'A' On the recording Frebowitz asked a question that he fashioned from the fact that he gleaned from Applicant's writing that Applicant was writing about behavior pattern associated with emotional belief, and Applicant stated to Frebowitz 'emotions were a phenomenon of belief,' and because Applicant had religious quotations with some of his writings, Frebowitz on recording asked Applicant if he was a 'faith based therapist.' Frebowitz fashioned this question wholly for the intent of use for fodder in his cannon for his corrupt motive, which shows Frebowitz had a pre-conceived discriminatory means for contaminating Applicant's image, by taking advantage of the cultural stigma against catholic priests, by, way of using this emotionally empowered phrase for prejudicial persuasion, especially, before a jury. Applicant is not a 'faith based therapist' as Frebowitz implied with priestly connotations as a Catholic Priest.

a. Although Frebowitz's directive was very effectual as it did show up from its derivative usage from which Frebowitz spawned. Solicitor Candice Lively stated before Judge Culberson during a bond hearing for Applicant these words, "your Honor, Mr. Legg is a 'faith based therapist,' and if he makes bond, he will do it again."

b. This kind of discriminatory contamination had equal effects on the preceding judges, solicitors and lawyers, who all did develope that prejudicial germ from Frebowitz's original contaminating influence.

c. Essentially Applicant initially set out with Frebowitz an effort to explain his vocation from which Frebowitz distorted from his own devises.

Fact 5. Applicant did not go the interview for a confession or a statement but was lead to believe that Applicant's answers would elviate the circumstances of misunderstanding, under the assumption of a truth seeking, and not for a clandestine motive for debauchery by the state.

(145). Counsel of record Diggs failed to exploit these 'bad act's' from the state agent Frebowitz which played a major part in creating many civil rights violations against Applicant. In Diggs's failure to investigate the case, he did not make the necessary nexus to Applicant's mitigating circumstances, yet, his assistance actually contributed to making all of Applicants mitigating circum-

stances aggravated ones.

(146). "It is clearly established that the state cannot, through evidence or argument, comment on the accused's exercise of a constitutional right." 'Simmons V. State', 308 S.C. 481, 484 419 S.E. 2d 225, 226 (1992).

(147). "The test of voluntariness is whether suspect's will was overborne by the circumstances surrounding the given statements." 'State v. Breeze', 379 S.C. 538, 665 S.E. 2d 247 S.C. App., 2008.

(a.148). "A statement may not be extracted by any sort of threats or violence, [or] obtained by the exertion of improper influence." 'Quoting' 'State V. Rochester,' 301 S.C. 196, 200, 391 S.E. 2d 244, 246 (1990).

(b. 148). "In 1960 in 'Blackburn V. Alabama', the Court said, "Coercion can be mental as well as physical."

(149) "In usual context of criminal trial, defendant is entitled to suppression of, not only evidence obtained through unlawful search and seizure, but also any derivative use of such evidences." Fed. Rules Crim Procedure Rule 41. (e). 18 U.S.C.A., 'State V. York' (S.C. 1967) 250 S.C. 30, 156 S.E. 2d 526. Identical language as U.S. Const.

(150). "The Fourth Amendment's right of privacy has been declared enforceable against the State's through the due process clause of the 14th." 'Mapp V. Ohio,' 367 U.S. 643, 81 S. Ct. 1684, 6 L. Ed 2d 1081 (1961).

(151). "In 'Estes V. State of Texas,' 381 U.S 532, 85 S. Ct. 1628, 14 L. Ed. 2d 543 (1965) the court said that; "It is true that in most cases involving claims of due process deprivations we require a showing of identifiable prejudice to the accused. Nevertheless, at times a procedure employed by the state involves such a probability that prejudice will result it is deemed inherently lacking in due process. Id. at 542-543, 85 S.Ct. at 1632-1633.

(152). 'Bram V. United States', said that a statement must be free and voluntary not extracted by any sort of threats or violence, or promises.

(153). 'Arizona V. Fulminate,' 499 U.S. 279, 111 S. Ct. 1246, 113 L Ed 2d 302, "any direct or implied promises, however slight,

(154). ("It is certainly true that where there is gross misconduct on the part of the government, no prejudice need be shown). Citing 'Black V. United States,' 385 U.S. 26, 87 S. Ct. 190.

✓ The probative value was outweighed by its emotional manipulated technique, by its unfair prejudicial effects.

'Forensic Interview'
'Confrontation Clause'

(155). Diggs failed to challenge many of the States statements for facts. Here, Diggs failed to bring about a subjection to the State's witnesse's social history which was central to the whole issue of Applicant's defense. But, in the very factors which weigh heavily upon this social history, that, are not so strangely missing, were the mitigating circumstances from which the State deceitfully turned as aggravated.

'A' When considering the volume of references to Applicant's association with the accuser, the State did not hesitate to excoriate Applicant for being the accusers therapist for dubious reason. Applicant had a 14 month association with the accuser, of which this time was attributed as theraphy. And this was implied by the State as a 'psychiatric state' which would be necessary to support such a premise. The language has been consistent for that application according to established records from the State.

a' The State claimed that Applicant had a doctor's office in his home which was absurd, and then claimed it was a school room which was also absurd. Actual photos reveal a living room chalk board which displays abstract writings as notations dealing with the observance of human nature, pattern behavior, from which most adults find as abstract and was not for immature consumption. However, they were observations on that particular variable state of mind from which Applicant journaled and worked out thesis for on the chalkboard.

'B' However, the State showed that they were aware of cumulative information on this variable state of mind while at the same time sought to suppress it if it favored Applicant.

a' Frobowitz's police report narratives, and saying that he went in search of the premise for said writings. Frobowitz's interjection of 'faith based therapist.' The accuser's close in age brother who had been diagnosed with Attention Deficit Hyperactive Disorder and etc.

b' The state tried to prove the intent was contrived through the association of a retarded social history environment, and that Applicant preferred that the accuser had Attention Deficit Disorder because he could take advantage of it.

C' Strangely enough, none of this brought about a challenge to the diagnosis of the state by counsel of record Diggs. In the end, the accuser was seen as credibile and Applicant was judged to have been the one with the issues, a fact accomplished by the jury not even hearing any direct unadulterated testimony from him. The state accomplished

this task through cumulative unchallenged statements.
(156). The quiet voice of reason was silent in Applicant's defense. There was absolutely no story-line on social history brought forward that could draw to a divergent theory as opposed to the unfettered picture the State painted.
'A'. What does a variable state of mind mean? It is a safe word to use for a person who does not have a Ph.D to describe someone who's appearance can be recognized as one state, however, that person's state can change dramatically in accordance to certain circumstances, in effect, a dual personality in a person with extreme variance.
a. Would Knowledge of a variable state of mind be relevant? States', of a witness can be reflected from 'character evidence', 'habit evidence', 'profypical bias evidence', 'demeanor evidence' and etc. And if none of these can be probed, there would be no way of knowing if the absence of such knowledge would be harmless error, because there would be no way to evaluate, if not considered defensive.
b'. when unfair prejudice exist, it seeks to take advantage of the lack of its investigation. Therefore, deflection is a tool manifest in the attempts to hide the facts. The State has shown cause for hiding calm and logical reasoning because it is abandoned here in search of the truth, proving that, in the failure to remain objective, prejudice in its unfairness breeds contempt before investigation, from which the 'confrontation clause' was meant to prevail against.
(157). The State did suppress the 'variable state' from the state's experts criteria. Was this kind of information relative?
'A'. The State by force caused Applicant to be detained in the county jail for almost one year over the issue of suppressing Applicant from seeking redress for civil rights violations, by, pen and paper. Simply by trying to establish that Applicant was mentally retarded without any rational showing, was still an effort at a mental evaluation regardless of suspect cause. However, the accuser who has potentially made heinous false accusations coming from a showing of questionable social history, gets a free pass, and that primrose path is actually bolstered by the state as an enabler, and initially helped to exacerbate probable cause, is enough to make a person want to throw-up.
a'. Applicant did possess volumes of writings that were relative to its association with the accuser, and particularly Applicant's journaling on the variable state of the accuser detailing specific

prototypical bias and impeachment material, and the accuser's own confessional writings. These the State is accountable for. And the question remains: Should the forensic interviewer have known of any suspect variable state of mind ordinarily available from the investigating officer who relays such information, namely Det. Frebowitz? Should the accuser have been subjected to a mental health evaluation at the time? Should the defense have had an opportunity at the time to have its expert examine the accuser before time ran its course, as Solicitor Spratlin stated on court record before Judge John on Feb. 25, 2014 "they loose a certain amount of memory every six months" thereby other areas would also diminish accordingly.

(158). Between the *forensic* [sic] *interviewer's* lack of full knowledge about the declarant's *variable state of mind*, and *social history*, and in considering the factors of the leading aura of the setting, and leading volitives from the interviewer expecting a directed or 'directive' performance from the declarant, the bolstering from the interviewer saying "*thank you for being truthful*" served to reinforce deception, the lack of statements being made under oath; at the time, lack of cross examination, lack of scrutiny for veracity, no means for the declarant's mind to be impelled by the consideration to tell the truth without pressing upon the declarant the gravity of their conduct - in light of the fact that there was no compelling use of terminology, or excited state, or convincing formularies for expression of intent or physical feasabilities that could stand against a rational interlocution, in search of truth, where there was no showing that might imply that the declarant would be too sensitive for such engagements.

(159). The State literally had a fluid uninterrupted free course in doing just what they wanted to do, and thereby, shaping the outcome as they went, only in unfair prejudice. And what was missing from Diggs was his duty to defend Applicant's presumption of innocense Applicant is entitled to by law. Instead Diggs predominately adjoined the state by allowing the state free access to perpetrate deception.

(160). "As pointed out in 'Idaho v. White,' 497 U.S. 805, 110 S. Ct. 3139 U.S. Idaho, 1990 "Factors to determine trustworthiness guarantees required for admission of hearsay statements" "*under the confrontation clause*"

✓ a. "to be admissable under confrontation clause, hearsay evidence used to convict defendant must possess indicia of reliability by virtue of its inherent trustworthiness, not by reference to other evidence at trial, and, thus evidence corroborating truth of statement cannot support finding that statement bears particularized guarantees of trustworth-

mess." See also 'Idaho v. Wright,' 116 Idaho at 389, 775 P. 2d 1231, "were fraught with the dangers of unreliability which the confrontation clause is designed to highlight and obviate."

(161). "It is interesting to note that Blackburn's medical records disclose that in 1944 he was given a diagnosis of 'psychosis, manic depressive, manic phase' and yet was said to answer questions 'relevantly and coherently'. Dr. Rowe stated that it was clear Blackburn was suffering from schizophrenia of the paranoic type. They entertain *** delusions ***" 'Blackburn v. Alabama,' 361 U.S. 80 S.ct. 274 U.S. 1960.

(162). Diggs did not challenge the limitation the court put on cross-examining the declarant in the forensic interview when she took the stand. Diggs also limited his cross-examination on the other state's witnesses, especially those from the accusers social environment and history.

(163). 'Jolly v. State,' 314 S.C. 17, 443 S.E. 2d 566. "Improper corroboration testimony that is merely cumulative to victims testimony in sexual conduct prosecution cannot be harmless, because it is precisely this cumulative effect which enhances devastating impact of improper corroboration. 'State v. Barrett,' 293 S.C. 485, 386 S.E. 2d 242 (1989).

(164). The witness is assumed to be credible in the absence of an attack. See 'S.C. Dept. Highways and Pub. Transp. V. ESI Ins.,' 322 S.C. 147, 470 S.E. 2d 387 (ct. App 1996).

165). 'State v. Martin,' insures that convictions will not result from testimony of individuals who cannot be challenged at trial." 292 S.C. 437, 357 S.E. 2d 21 (1987).

(166). 'State v. Kromah,' 401 S.C. 340, 737 S.E. 2d 490. "The title of "forensic interviewer" is a misnomer. The use of the word forensic indicates that the evidence is deduced as the result of the application of some scientific methodology. The exact scientific methodology applied apparently defies identification. The RATAC style of interviewing is not scientific. It merely represents the objectives and topics of discussion between the interviewer and the child. Somehow RATAC is supposed to convert the interviewer into a human truth detector whose opinions of the truth are valuable and suitable for the jury. 'A troublesome 'compelling finding', 'In considering the ongoing issues developing from their use at trial, we stated today that we can envision no circumstances where their qualification as an expert at trial would be appropriate.

However, an interviewer's expectations or bias the suggestiveness of the interviewers questions, and the interviewer's examination

of possible alternative explanations for any concerns, are all factors that can influence the interviewer's conclusions in this regard. Such subjects, while undoubtably important in the investigation process are not appropriate in a court of law when they run afoul of evidentiary rules and a defendant's constitutional rights."

(167). "Trial court improperly limited the scope of State's witness" Court was authoritative, controling, demanding in his court demeanor.

(168). "Did not argue he was prohibited by any rule of law from examining victim about the elements". 'State V. Hill,' (S.C. App. 2011) 394 S.C. 280, 715 S.E. 2d 368.

(169). "Exposure of 'witness 'motivation in testifying is a proper and important function of a constitutionally protected right of cross examination". Delaware V. Van Arsdall,' 475 U.S. 673, 106 S.Ct. 1431, 89 L Ed 674 (1986).

170). "Noting that "the bias of a witness is subjected to exploration at trial and is 'always relevant as discrediting the witness and affecting the weight of his testimony." 'Davis V. Alaska,' 415 US 308, 316." The court held that blanket prohibition against exploring potential bias through cross examination is a "pro se error," so that the actual prejudicial impact of such an error is not examined."

(171). "Whether the trial court improperly limited the scope of defense counsel's cross-examination of State's witnesses," 'Mcknight V. State,' 'Ard V. Catoe,' 'Thompson V. Wainright (cont'd,' 'Sneed V. Smith,' 'State V. Clark'.

(172). "The confrontation clause provides "in all criminal prosecution the accused shall enjoy the right to - be confronted with the witness against him". 'U.S. Const. Amend VI." "The confrontation clause guarantees a defendant the opportunity to cross-examine a witness concerning bias" 'State V. Clark,' 315 S.C. 478, 481, 445 S.E. 2d 593, 594 (1994). A defendant demonstrates a confrontation clause violation when he is prohibited from "engaging in otherwise appropriate cross-examination designed to show a protypical form of bias... from which jurrors... could draw inferences relating to the reliability of the witness," 'State V. Stokes,' 381 S.C. 390, 401-02, 673 S.E. 2d 434, 439 (2009).

(173). 'Davis V. Alaska', 'Davis mandates reversal whenever the prosecution puts a witness on the stand but the court does not permit the defense to cross examine concerning relevant bias." 415 U.S. 308, 94 S.Ct. 1105, 39 L.Ed. 2d 347 (1974).

(174) "Evidence is unfairly prejudicial if it has an undue tendency to suggest decision on an important basis, such as an emotional one." 'State

v. Martucci,' (S.C. App. 2008) 380 S.C. 232, 669 S.E. 2d 598, 'State v. Wilson,' (S.C. 2001) 345 S.C. 1, 545 S.E. 2d 289.

(175) "Favorable evidence is material, and constitutional errors results from its suppression by the government.

Touchstone of materiality is a "reasonable probability" of a different result," 'Strickland v. Bagley', 'Brecht v. Alabama'.

(176). "Suppression of evidence is a violation of due process." 'Kyles v. Whitley' - Brady Violation.

(177). "All evidence is meant to be prejudicial, it is only unfair prejudice which must be scrutinized under the evidentiary rule providing that relevant evidence "may be excluded if its probative value is substantially outweighed by the dangers of unfair prejudice." 'Rules of Evid., Rule 403' 'State v. McGee 408 S.C. 278, 758 S.E. 2d 730 S.C. App., 2014.

(178). "unfair prejudice means an undue tendency to suggest decision on an improper basis." 'Wiles, 383 S.C. at 158, 679 S.E. 2d at 176, Dennis, 402 S.C. at 636, 742 S.Ed. 2d at 26, "Evidence is unfairly prejudicial if it has an undue tendency to suggest a decision on an important basis, such as an emotional one". 'State v. Cheesebore, 346 S.C. 526, 547, 552 S.E. 2d 300, 311 (2001).

(179). "I also wrote to emphasize that this court cannot require state courts to apply harmless-error analysis to violations of the federal constitution." See 'Connecticut v. Johnson' 460 US 73, 88., 103 S.Ct. 969, 978, 74 L.Ed. 2d 823 (1983).

(180). 'State v. Manning' 305 S.C. 413, 409 S.E. 2d 372 S.C. 1991, "The due process clause of the Fourteenth Amendment "safeguards against dilution of the principle that guilt is to be established by probative evidence and beyond a reasonable doubt." 'Taylor v. Kentucky,' 436 U.S. 478, 98 S.Ct. 1930, 1935, 56 L.Ed. 468 (1978). An instruction is defective if a reasonable juror could interpret it to allow a finding of guilt based on a degree of proof below that required by the due process clause." 'Cag v. Louisiana' 498 U.S. 39, 111 S.Ct. 328, 112 L.Ed. 2d 339 (1990). "such instruction could mislead the jury into finding no reasonable doubt when in fact there was some." 'Holland v. United States,' 348 U.S. 121, 75 S.Ct. 127, 138, 99 L.Ed. 150 (1954).

'A'. "Out of court statement is not admissible unless the witness is charged with recent fabrication or improper motive or influence" Rule 801(d)(1)(B) SCRE" 'State v. Russell' 383 S.C. 447, 'State v. Saltz' 346 S.C. 114, 123 4, 551 S.E. 2d 240 245 (2001).

'Suppression' 'Extrinsic Fraud'

(181). Applicant began his defense proclaiming that he, in fact, did, have exculpatory evidences, documentations and recordings, which if it was not for the State's bad acts, Applicant would have been exonerated by these evidences. And not only was the State accountable for said evidences being compromised, through the unlawful and irresponsible seach and seizure, leaving the premises unsecured, the shown bad acts for trying to cover-up, and not accounting for removal of certain documents, was aware of the State's witnesses compromising Applicant's property, did not investigate for police report and etc., as the State had full knowledge and sought to suppress all such material evidence regarded and evidence subject to such did engage in extrinsic fraud and suppression.
A. Also, the State, through the auspices of the J. Reuben Long Detention Center has tampered with and or destroyed Applicant's personal property which has contained exculpatory evidences. See Exhibit 'KK'

(182). 'Arizona V. Youngblood,' 488 U.S. 51, 109 S. Ct. 333, U.S. Arizona 1988.
"Failure of police potentially to preserve evidence is not denial of due process of law unless defendant can show bad faith on part of police; requiring defendant to show bad faith limits extent of police's obligation to preserve evidence to reasonable bounds and confine it to that class of cases where interests of justice clearly require it, that is those cases in which police themselves by their conduct indicate that evidence could form a basis for exonerating defendant. U.S.C.A. Const. Amend 14.
(183) At the behest of Detective Frebowitz, Frebowitz did interfer with the recovery of Applicant's exculpatory materials while attempting to cover-up their accountability and was adjoined by the State in further suppression of material facts surrounding the circumstance of Applicant's missing exculpatory materiality. Diggs defended the state here.
(184)"Favorable evidence is material, and constitutional errors results from its suppression by the government.
Touchstone of materiality is a "reasonable probability" of a different result." 'Strickland v. Bagley,' 'Brecht V. Alabama.'

'Abuse of Discretion'

(185). All of the trial court's rulings were without evidentiary support as demonstrated in this complaint.

186). "An abuse of discretion occurs when the ruling is based on an error of law or a factual conclusion that is without evidentiary support." Fields v. Regional Med. Ctr. Orangeburg', 363 S.C. 19, 609 S.E. 2d 506 (2005); 'Kenney v. Dobbs House, Inc., 275 S.C. 562, 274 S.E. 2d 290 (198). See also 'Simon v. Flowers', 231 S.C. 545, 550, 99 S.E. 2d 391, 393-94 (1957).

(187). "Error of law exists: (1) when the circuit judge, in issuing the order, was controlled by some error of law -- or (2) when the order, based upon factual, as distinguished from legal, considerations, is without adequate evidentiary support". 'McSween v. Windham,' 77 S.C. 223, 226, 57 S.E. 847, 848 (1907) - an abuse of discretion when the ruling is manifestly arbitrary, unreasonable or unfair." 'Fields,' 363 S.C. at 26, 609 S.E. 2d at 509, 'Means v. Gates,' 348 S.C. 161, 558 S.E. 2d 921 (Ct. App. 2001).

(188). "An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." 'State v. Colden,' 372 S.C. 428, 641 S.E. 2d 912 S.C. App. 2007.

(189). Counsel of record Diggs failed to challenge trial court's rulings for evidentiary support, or object for preserving for appeal because of his part of extrinsic fraud over such evidences.

(190). "A trial court may not consider the weight of the evidence in deciding a motion for directed verdict." 'State v. Lemire', 406 S.C. 558, 753 S.E. 2d 247 S.C. App., 2013.

(191). Diggs failed to articulate such rulings based on errors, by his failing to object. All of the judges rulings and his court room conduct was based on unfair prejudice and extrinsic fraud conspiracy as outlined in this complaint, and with further specifics Applicant will require the assistance of counsel for articulation.

✓

'A' This complaint has made a case for reasons against the trial judge hearing the PCR complaint and a request for change of venue due to prejudice as stated. "The Supreme Court Rule 33, shows reasons for the trial judge not to hear PCR. 'Henry v. State', 275 S.C. 148. 'Canon 3 (c) (1) of the Code of Judicial Conduct.

'Privation'

(192). Applicant read a Motion To Dismiss counsel Joye before Judge Hyman who signed a 'Mental Competency Evaluation Order'. The reading of the Motion gave clear evidence of the mental competency necessary for a showing of Applicant's ability to function rationally in the absence of any indication of mental retardation. The lawyer and judge abused the mental health evaluation law by unfair prejudice.

(193). For the reasons in citing previous civil rights abridgements as seperate and previous to trial is for the purpose of showing fatiguing of Applicant and the anguish that not only preceded trial, but, was continued into trial as Diggs failed to file any pretrial motions dealing with state abuse of process. And because of the material facts revolving around extrinsic fraud, where, Applicant has shown substantial cause, in that, all of the suppressed facts were at issue for said attorneys for reproof and exhibition for defense, instead, Applicant experienced infliction for his practice in religion, and a patriotic ideological belief, in the right to government for redress of grievance, whereas, the story-line has shown the mental health evaluation statute was abused for the purpose of 'deprivation against Applicant, as, a deterent, because, of his pursuit of rights, from which Diggs adjoined.

'A'. 2011 Act No. 47, § 13, provides as follows:

"Section 13. In sections 1 through 6 of this Act, the terms 'intellectual disability' and 'person with intellectual disability' have replaced and have the same meanings as the former terms 'mental retardation' and 'mentally retarded'." Statute § 44-23-410.

(A) Whenever a judge of the circuit court or family court has reason to believe that a person on trial before him, charged with the commission of a criminal offense or civil contempt, is not fit to stand trial because the person lacks the capacity to understand the proceedings against him or the assist in his defense as a result of lack of mental capacity, the judge shall:

a. the statute language asserts what the examiners look for:

(1) "if a person is suspected of having intellectual disability or having a related disability or by both sets of examiners if the person is suspected of having both mental illness and intellectual disability or a related disability.

(B) The test of mental competence does not focus on whether a defendant in fact cooperates with his counsel, the ** 709 question is whether

he has sufficient mental capacity to do so if he so chooses."
"Test for determining whether defendant is competent, not whether
he is actually cooperating with his lawyer." 'State v. Reed', 322
S.C. 35, 503 S.E. 2d 747 S.C. 1998.

a. Again, Applicant read a perfectly lucid motion before the court.
see Exhibit 'LB' Clerk's files. Court hearing Jan. 23, 2013

b. On May 1, 2013 Judge Hyman acknowledged on court record that
Applicant's vocation could prove favorable by teaching counsel Doge
about his issues. See pg. 15 paragraph 25 (b) in this complaint. This hardly
shows suspect mental retardation by Judge Hyman's observations.

c. Applicant's right to personal and private competence was violated,
his 4th, 6th, 8th, 9th, and 14th Amendments. See also Roe v. Wade.

d. Judge Hyman exposed content of the mental health evaluation in
open court for ridicule of Applicant, Aug. 8, 2013

1. Statute code § 44-22-100 'evaluation is to remain confidental and
not for public disclosure'.

'Voire dire'

(194). Diggs picks all liberal jurrors for trial, all the while believing that
Applicant is a politically active conservative. Applicant asked Diggs if he
could address the issue regarding certain likely biases, and Diggs responded
that Applicant could not search out the juries biases.

'A'. The predominat assumption would be found in the relevant fact that
since Frebowitz already acknowledged that he plundered Applicant's personal
writings at his residence and discovered writings to Rush Limbaugh, and
the President which was George Bush Jr. at the time, and noting that Rush
Limbaugh is a well Know conservative radio talk show host that is known
for antagonizing 'Liberals' Page 356 trial transcript. This ideological area
is a well established subject for emotional biasness. Common sence would
easily recognize that a liberal jurrer could in fact harbor such a bias.

a. Applicant also spent a period of 10 years writing specifically about
political ideological natures dealing with identifying the psychological
make up, in deep analysis and exploitation of liberalism's far left. In fact,
the 'Humanist movement' once called Applicant its number one enemy.

b. Applicant asked Diggs why he struck a jurrer and Diggs said it was
because she was a school teacher. The Horry County venue is a
predominant conservative one and most of the teachers are conservative

c. Applicant did recognize that by age, dress and mannerisms', that, most of the jurror's were likely fringe to center liberals. But no one can know because Diggs did not allow Applicant to address this most obvious right to identify this vital distinction, during the jury voire dire. Also, liberal orientated social issues entertain great margins of difference between psychiatric and spiritual discernments over the variable state of mind Applicant's vocation centered on, than do conservatives.

(195). 'State V. Flynn,' 368 S.C. 83, 84 627 S.E. 2d 763, 764 (Ct. App. 2006) id at 84, 627 S.E. 2d, at 765. "The state explained that it struck a black female because she was a Head Start Director, which it viewed "a very liberal job." In response, defense counsel argued that being liberal was not an appropriate reason for striking jurror. The state further explained, "Your Honor," I believe that is a social welfare kind of a program, and as a director she is liberal in nature. It's a liberal type of attitude and job, and that is why I struck her."

(196). State v. Short,' 327 S.C. 329, 335, 489 S.E. 2d 2009, 212 (Ct. App 1997) aff'd, 333 S.C. 473 511 S.E. 2d 358 (1999). "(The principle function of the preemptory strike is to allow for the removal of a jurror in whom the challenging party perceives bias or prejudice, even when the jurror is not challenged for cause).

(197). "Distinctive group underrepresented or a systematic exclusion," U.S.C.A. Const. Amend. 6.

(198). "When reviewing trial court's qualification or disqualification of prospective jurrors, ultimate consideration is that jurror be unbiased, impartial and able to carry out the law as explained to him." 'State V. Council,' 335 S.C. 1, 515 S.E. 2d 508 S.C. 1999.

(199). South Carolina Statute § 17-27-10-120 (1985) "Counsel shall be given a reasonable time to confer with Applicant. Counsel shall insure that all available grounds for relief are included in the Application and shall amend Application if necessary.

'Animus domini'

200 (200). The State, in its trend as embodied in this complaint, sought to achieve 'animus domini', meaning: (the intent to exercise dominion over Applicant- physically and mentally), through, applying its unchallenged force against Applicant in an unfair prejudice, from the denial of the preliminary hearing, corrupted indictments, coercion, speedy trial, denial of police report, unfair trial and etc., whereas, the concourse of the State's behavior in an accepted corrupt tradition, is, a specific 'actus reus' of the auspice of the county when the 'actus reus' is the result of conduct, as, the crime is conducted by the event. 'Actus reus' is one of the ingredients 201 of 'mens rea', as understood by legal maxim.

201). The 'mens rea' has been a constitutional turpitude as Applicant was terrorized for nearly three years with the constant impending threat of life imprisonment, as, the only means of communication with the judicial system. Applicant was given court appointed attorneys who's duties were dictated by their 'amicus curiae', as, more efficiently termed as State agents in clandestine character. Applicant sought the legal process as an equal treatment entitlement, and fair due process, in asking the State to 'do right,' by, dismissing ineffective assistance of counsel according to the Sixth Amendment guarantee from whence the State rebelled, because, due process challenged the State's sanctity of operating in a favorable symbiotic relationship with 'ineffective assistance of counsel- amicus curiae', against the defense interest of Applicant. As Judge Hyman stated on court record when Applicant read his motion to dismiss counsel Joge, and Judge Hyman denied the motion he said, "Mr. Legg, 'it is, what it is.'" The State, in holding to their favorable tradition, adamantly refused to recognize its habitual failings here as Applicant asserted fair claims due to have been recognized as due process rights, as, the State in turn, without sedulous care, represented by county agents, sought to squash as inconvience to the State.

(203). Because the attorneys acted in 'amicus curiae', because of the indolence of the State, in an effort to deprive Applicant, was no fault of Applicant but, such actions Applicant continually brought to the attention of the state, bears the burden on the State for the injuries.

'A'. The denial of the preliminary hearing from whence many of the issues could have been properly addressed, including the proper declaration of probable cause for the scrutiny of the indicia of reliable probability, the police involvement in fraud, the proper establishment for time lines regarding the search warrant and its

construction, questions of the arrest and arrest warrant, establishing and preserving the questionable facts regarding the compromised property and etc., which by way, would have begun the proper procedure by establishing these important facts of materiality in a proper conciliatory order, as, opposed to the State's advantageous disarray of the facts for obfuscation at trial.

'B.' Applicant made several attempts to make a police report which would have addressed the exigency for intervening in the rescue of Applicant's property and evidences in a timely manner, as opposed to that denial, for covering up the fraudulent acts of the police at the cost of Applicant's rights.

'C.' The State relied upon the symbiotic relationship with said attorneys for their devises for prostrating Applicant's defense through the abuse of process in the overt act in using lawful procedure for an unlawful end result as the 'mens rea' proving to have cheated Applicant out of fair due process.

'D.' The relativeness that the State condoned the behavior of the court appointed attorneys, for giving the State the advantage is akin to the fox guarding the hen house, and has been a means for the actor's ducking accountability because of such lack of fear of consequences which is likened to a 'police state'.

'E.' Therefore, as counsel Diggs sought to serve his own whims, Diggs failed to bring forth and articulate the abuse of the State in all of its elements that served to impugn (fight against) Applicant's rights by the State's conducements.

(204). For these reasons, Applicant further brings forth the evidence through established record.

'A.' Because probable cause was tainted, vilified by the bad acts of the police and fraud, and the vitiated use of illegally seized information from Applicant's residence, as the facts have been the opportune exacerbation used to gain the indictments for the purpose of terrorizing Applicant and for psychological coercion technique which expanded almost three years in allegiance with state procedure, was never challenged by appointed counsel in the indictments.

'a.' And because of the necessity for showing the perniciousness of this behavior and its injury, Applicant seeks the Grand Jury transcript for the above reasons. Namely, Applicant was subjected to unlawful antagonistic elements by subverted means to procure them, that is,

Fraudulant and unlawful provocation for securing the extreme indictments for such coercion terrorism. The solicitor's use of unfair prejudicial discriminatory remarks and the vitiated use of illegally seized property and tainted probable cause brought to questions by the perpetrated fraud of the police, and etc..

'B.' Applicant had asked counsel Diggs if he could acquire the grand jury transcript, meaning the 'impanelment documents and supportive materials'. But Diggs simply lied and said he was not entitled to the grand jury information. Applicant as well ask all the attorneys this question because of its meritorious relevance only to receive the same answer. To prove that the challenge was imperative, on April 5, 2012 before Judge Hyman, during the phantom arraignment finding hearing, Applicant stated before the court that he did not understand the indictments, but, this inquiry was dismissed.

'C.' Diggs failed to preserve for appeal the challenge on the indictments eventhough the true Bill indictments were set aside for trial, leaving the lesser charge for trial. However, 'in criminalibus voluntas reputabitur pro facto;' (in criminal matters, the intent will be reckoned as the deed.) In criminal attempts or conspiracy, (the intention is considered in place of the act). The fact that the coercion terrorism did play a part which contributed to Applicant's due process violations, eventhough they may have preceded the trial, the collocation of the seperate injuries as 'actus reus' form the whole of the 'mens rea'. The actors by the habit of circuity fail in their lack of accountability and lack of due diligence to see the whole injury as 'Dolus circuity non purgatur;' (Fraud is not purged by circuity.

'D.' " The primary purpose of an indictment are to put the defendant on notice of what he is called upon to answer, ie., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the trial court to know what judgement to pronounce if the defendant is convicted. Code 1976 § 17-19-20."

'E.' "A defendant must challenge the legality and sufficiency of the process of the state grand jury before the jury renders verdict in order to preserve the error for direct appealate review). § 14-7-1140"

'i.' "A defendant's right to obtain recorded proceedings and testimony before state grand jury in preparing his defense, which right is subject to limitations imposed by statute and rule, necessarily arises post-indictment; although maintaining secrecy is essential while a matter

is under deliberation by the grand jury, such concerns diminish following issuance of the true bill of indictment and thus, a defendant is allowed to obtain and use the impanelment documents in preparing a defense and ensuring protection of his due process rights. U.S.C.A. Const. Amend. 14; Code 1976 §§ 14-7-1700, 14-7-1720, 14-7-1770, Rules Crim. Proc. Rule (5)." See 'Evans V. State,' 363 S.C. 495, 611 S.E. 2d 510 S.C. 2005.

b. "Thus, after defendant obtains the requested information, the burden is on the defendant to prove facts upon which a challenge to the legality of the grand jury or its proceedings is predicted." 'State V. Jackson,' 240 S.C. 238, 243, 125 S.E. 2d 474, 477 (1962).

c. 'Code 1976 § 14-7-1770' "Terms did not impose complete prohibition." The whole precept of the 'ensuring protection of due process right's has been at the heart of Applicant's struggles. By challenging the indictments as part of that circuity, brought to the fore, many of the issues for preserving Applicant's property, evidences and material facts would have made 'that difference', yet, the unchallenged bridge to the material connectiveness served the state's unfair prejudicial advantage.

d. "Courts have a duty of vigilance to assure that appointed counsel shall give professional service to their indigent clients;" 'Braxton V. Peyton,' 365 F.2d 563 C.A. Va. 1966 July 26.

e. "whether a lawyer is employed by a prosperous defendant at a handsome fee or serves an indigent without compensation in discharge of duty resting upon him as an officer of court, the canons of the profession require his entire devotion to interest of client, warm zeal in maintenance and defense of his rights and exertion of his utmost learning and ability." 'Jones V. Cunningham,' 313 F. 2d 347 (4th Cir. 1963). 'Turner V. State of Maryland,' 318 F. 2d 852 (4th Cir. 1963) *565. 'American Bar Association, Canons of Professional Ethics, Canon 15, 318 F. 2d at 854.

f. "In holding that the respondent had standing to invoke the exclusionary rule in a grand jury proceeding, the court of appeals relied on Fed. Rule Crim Proc (41(e)), 465 F. 2d at 1222-1224. Rule (41(e)) provides in relevant part, that '(a) person aggrieved by an unlawful search and seizure may move the district court . . . for the return of the property and to suppress for the use as evidence anything so obtained,'" 'Alderman V. U.S.,' 394 U.S., 165, 173 n. 6, 89 S. Ct. 961, 966 N. 6, 22 L. Ed 176 (1969).

g. "[W]hen that indictment is presented, that accusation made, that pleading filed, the accused has two courses of procedure open to him. He may question the propriety of the accusation, the manner in which it has been presented, the source from which it proceeds, and have these matters promptly and properly determined; or waiving them, he may put in issue the truth of the accusation; and demand judgment of his peers on the merits of the charge." Gentry quoting State v. Faile, 43 S.C. 52, 59-60, 20 S.E. 798, 801 (1895).

h. "Petitioner argues the due process clause, the Sixth Amendment, the State constitutional mandate that all courts shall be public, and public policy as expressed in the State Freedom of Information Act all support his argument. Petitioner asserts the court of appeals recognized his position in 'State v. Alabama', 319 S.C. 509, 462 S.E. 2d 308 (Ct. App. 1995). S.C. Code Ann. §§ 30-4-15 to 165 (1991 + Supp. 2003).

i. "* Defendant was entitled to release of impanelment documents from grand jury that had indicted him, in post-conviction relief (PCR) proceeding." 'Evans v. State'.

205). Counsel Diggs failed to give such legal advise when Applicant had asked for such specifics. The tragedy is the fact that this Applicant had to go to prison to learn about such due process rights. None of the fore mentioned lawyers responded to Applicant's due process inquiries as pointed out in this complaint.

(206). For these reasons Applicant request of the court the following entitlements in a court order to compel disclosure for discovery:

a. 1. Grand Jury impanelment and all supporting materials. Applicant's supporting argument is based on those cited case laws as above in the theme of 'Evans v. State', and the fact that pre-trial denial of due process did affect the outcome of the trial, and the indictment procedure bears the marks of material relevance. The findings from the grand jury inquiry will develope respondent facts, such as an equal protection challenge and etc. S.C. Code § 14-7-130, (Supp. 2003) S.C. Code Ann. § 14-7-810 - S.C. Code Ann. § 14-7-1660 (Supp. 2003). Move To Compel Rule 5(a), S.C. Crimp. Indictment True Bill date - Oct. 27, 2011.

'A.' "However we conclude impanelment documents, including the State's petition, supporting materials, and the impaneling judges order, may be released to a defendant prior to trial upon timely request or to a Applicant in a PCR proceeding." Evans v. State.

(2). The '*Event Schedule*' from the Clerk of Court of Horry County and the Solicitors' Office listing all court events, legal filings, transactions, notices and all material of judicial history, dates and etc., of which concern the name Ronald L. Legg and Don Legg- This is to include the Sheriff's Dept. Rule 3-A-B-C, rule 3-E.

'A'. For investigation of the further improprieties as mentioned in this complaint, it will be necessary to secure records from the J. Reuben Long Det. Ctr. and the Southern Health Partners' Medical Facility.

a'. All movements ledgered or otherwise noted regarding the movements of Ronald L. Legg, from the Facility to other locations, magistrate, lawyer visits, General Sessions and in and around the J. R. L. D. C. facility. All inter-administration files, notes, reports, investigations, and etc., on Ronald L. Legg. All copies of the Kiosk transmissions to and from administration personel departments, medical facility and etc. Records of personal property and the listed status of personal property from Ronald L. Legg and Don Legg.

b'. Photo copies of the Correction Officers Log in journal where detainee Ronald L. Legg was housed from March 9, 2014 to March 16, 2014 showing those dates complete entries.

c'. All medical records pertaining to sick call, doctor and nurse visits, medical diagnosis, lab reports, medical prescriptions, and any and all inter-office administrative medical notes, ledgers and reports regarding Ronald L. Legg. Copies of all Kiosk communications to and from Ronald L. Legg regarding medical issues.

'B'. As the State Constitutional mandate that all courts shall be public, and public policy as expressed in the State Freedom of Information Act South Carolina Code Ann §§ 30-4-10 to 30-4-165 (West 1976 & Supp. 2003).

a'. All records, and billings filed by the attorneys Thomas W. Floyd, Scott Joye and William Issac Diggs, to the Indigent Defense Fund and Horry County as appointed counsel regarding all necessary records concerning Ronald L. Legg

b'. The recovery of all discovery materials or copies thereof from said (a.) attorneys.

(3) The Court Reporter recording, note and materials related to the trial.

(4). Return of all of Applicants personal property removed from his residence including all such photographs and copies thereof.

6). 'Court's Charge To Jury', as counsel Diggs failed to object to the following.

1' In the Court's charge to the jury, it is clear that a sublime prejudice did prevail against impartiality, considering the ambival-ent verbage by a subjective influence already established in trial history, which invaded the province of the jury, and also through the Court's charge to the jury in judicial stylized superlative and masculine adjectives and adverbs, but with disentious inflection, by, an inference that favored the State, in giving the State a superiority of force and effect, conceptually raising the emotions of the jury. through, intimations of empowering the jury with provision in biased antithetical election, signaling out Applicant's invidious emasculated defense associated with the culturally identified ignominious religious stigma, in relation to the alleged offense, left to implication by the imprimatur of the Court's power of suggestion in direction, thereby, also shifting the burden of proof unto Applicant through the Court's suffusing legal diatribe, as, displayed in the following concourse of excerpts from trial transcript. And in view of the whole, the Court attempts to establish a core fact through specious reasoning standpoints, but ends up with disjunctives that would confuse a normal juror. And because of the extended religious connotation which clearly creates an undue tendency to suggest decision on an improper association, it is a religious inflection that will be later discussed.

'A' Beginning at pages (377) and (378), excerpts showing two sections will illustrate also disjunction by phrase in parenthesis, and by viewing the general language to the specific critique of result.

pg. (377), (4) "The presumption of innocence does not end when you
(5) begin your deliberation but it accompanies the Defendant
(6) throughout the trial until you reach a verdict of guilt
(7) based on evidence satisfying you of that guilt beyond a
(8) reasonable doubt.

(9) The presumption of innocence is like a robe of
(10) righteousness placed about the shoulders of the Defendant
(11) which remains with the defendant until it has been stripped
(12) from the Defendant by evidence satisfying you of the
(13) Defendant's guilt beyond a reasonable doubt.

(14). The presumption of innocence is not mere legal theory.
(15). It is not a legal phrase. It is a substantive right to
(16). which every Defendant is entitled unless you, the jury are
(17). satisfied from evidence of the Defendant's guilt beyond a
(18). reasonable doubt.

The disjunctive for the above section is as follows from page (378).
(5). (The law does not require
(6). proof that overcomes every possible doubt).

Page (379):
(6-8). You must abandon your idea of the law (paraphrased).
(6-8). You are sworn to accept the law as I state it (paraphrased).
(14). You are the jury the sole judge of the facts in
(15). this case, you are not to infer what I've said during
(16). the progress of the trial in ruling upon the admisibility
(17). of evidence, or otherwise, or anything that I say now during
(18). this instruction to you.

The disjunctive for this section as above, from page (379) follows:
(19) (The law does not
(20). allow me to have an opinion about the facts in this case)."

'2'. The disjunctives are directly related to the importance of realizing an internal conception of the discourse's contamination from which the disjunctives prove by a confusion which highlights a more indepth perception that would mislead and confound a normal surror.

'A'. This relative fact is found in lines (9-13), first section, which is important to recognize as a prejudicial infliction for understanding the sublime nature of error.

a. During trial, an obvious impression existed in the State's evidence which suggested Applicant's religious piety. In Det. Frebowitz's interrogation interview he plaited the idea that Applicant was a 'faith based therapist', as the jury heard that statement and its colloqual inferences, 'not on transcript'. Frebowitz wanted to leave an impression that Applicant was a priest. And that suggestion was attended throughout the trial with other ancillary additions, such as, Frebowitz's statement that he discovered Applicants writings to Rush Limbaugh, a noted Left Wing Liberal antagonist radio talk show host, news commentar and satirist for the political right associated with the religious right, and also letters to the president (Bush) at the time, also associated with the religious right from whence Frebowitz also stated that Applicant had books on 'Mind manipulation'. These

statements traditionally incense liberals and raise their inherent prejudices as would effect a liberal juror more notably under these circumstances in a subliminal sense as well. Just as the Court's charge to the jury suggests by understanding this critique, it is important to reason the leading suggestion, by the phrases which linger.

'B'. Statement on Limbaugh and the President are from page 356 (20-24). what is at issue is not just that the two disjunctives appear as contradictions on the surface, but, more meaningfully the first disjunction is pregnant with an inter-alia which will take some explaining. It is of course complex, because of the difficulty in trying to explain, as the Court does, presumption, intent and doubt. However, in the disjunctive phrase,' the law does not require proof that over comes every possible doubt,' would seem to favor the defendant (Applicant), by giving doubt of guilt a liberal opportunity. Although, this could be viewed as such, but the problem is that the phrase is incapsulated by the dominant inculcated theme, notably engulfed by lines (9-13) pg. 377, leading more to the connotation of the subject matter which entails instruction on presumption, doubt, and intent, in a powerful religious metaphor combined with the more repetitious phrases, page 377 (8-9), "satisfying you of **that guilt** beyond a reasonable doubt," and (17-18), "evidence of **the defendant's guilt** beyond a reasonable doubt," evokes an inherent personal power of judgment on 'that guilt - which is the defendant's guilt,' not requiring proof that over comes every possible doubt, showing the implication can be prejudicially lead by imbedded ambivalent suggestions.

'2'. The key here is to realize that the Court has opened the door to comparing intent to righteousness, leaving one to believe that the presumption of innocence is like a cloak of righteousness, thereby, the mental element of the crime charged is based upon unrighteousness, in accordance to the Court's narrative in the continuity of the theme. showing that presumption of innocence (righteousness), is capable of being stripped away, by reason of intent, 'satisfying you', of (unrighteousness). And since unrighteousness is the evaluater for intent, intent is mortified through unrighteousness, meaning therefore, a moral question. According to Webster's Dictionary, the meaning of moral is: "based on strong likelihood of conviction rather than in solid evidence, being psychological rather than physical or tangible effects." A reasonable doubt is founded upon real tangible basis, not upon caprice or conjecture.

'A'. According to 'Black's Law Dictionary,' "Moral certainty is not required to sustain reasonable doubt." Everything relating to human affairs, and depending on moral evidence is open to possible or imaginary doubt.

'B'. With the prejudicial trial history exploiting the Christian politic of Applicant, fused with the Court's (9-13) decision to adopt that segment, with the high road instruction on moral certainty / substantial doubt, ecclesiastical law and natural law with no disparities, with no definitiveness as to 'what law' in the mix, including the use of disjunctive phraseology, cannot be sequestered from the trial surroundings of the whole in prejudicial equivocality, which cannot be explained from any other reasonable hypothesis, other than leaving the jury with a subjective feeling,' satisfying you', propensity, left to any prejudice, open to moral relativism, as prejudice is psychological, based on personal conviction, and could be(imaginary).

a'. The failure in not selecting that impartial jury, based upon the State's unfair prejudice, clearly left open the probability that a liberal juror, or other, could have been lead to conceivably rely on his or her own inherent or misguided prejudice subject to capricious influence, even without conscious reflection on making that final decision, given the way circumstances from the State's flirtatious scheme with prejudice, thereby, shifted the burden of persuasion onto Applicant for defending himself against *'that'* invasion of the juries province, clandestinely shifting *'that'* burden unto Applicant.

b'. The only evidence at trial was presumption, where facts presumed, had only preponderance to connect with. So the State raised the presumption of intent from a religious antecedent, from which the State normally seperates from discourse, in the seperation of [sic] church and state clause, so it could safely imply intent as an irreligious behavior, rather than from a psychiatric antecedent, because, it is easier to judge from religious bias than from a psychiatric one. Religion leaves open imagined prejudice.

c'. In this case, the State in its acclaimed duty in search of truth, withheld the psychiatric proclivity of the accuser and imposed a religious persecutional presumption on Applicant.

d'. After having framed the invasion of the juries province from unfair prejudice, through this perspective, the remainder of the charge may appear to shore up such lack of confidence in the instruction. However, what remains is persuasive address

with a continuing plague of undue suggestion, with an indelible impression of sanitizing, by building upon the state's credentials as a caretaker of the jury in the shaping of the juror's conscience by the benevolence of the State's impressionistic legal impart, demonstrated by such harmless sounding rhetoric as "freeing your mind of all improper influence", page 385 (3-4), and "you must abandon your idea of the law", page 379 (6-8). This language though complete in its intent, yet continues to add to the suggestion of the State's philosophy of law is associated with a religion of relativism, as such ideas are efforts to direct the jurie's conscience by having them dismiss all sovereign ideas of law, which disuades the right of the juror to vote his conscience unless it conforms to the total dictates of the State's relativism, with no clear distinct of law. "You and I are for the community", page 385 (5). By the concourse of the whole from this view, that phrase is a charge against Applicant, as the Court and the jury are confederates, in line with the State against Applicant because the Court makes no distinction between it and the State in determining Applicant's will (intent), of the ordinary consequencies of his actions based on prejudicial conclusion of theory and an imposed judicial political relativism.

'C. The jury is not granted the opportunity to self retain an image of conscience individuality without the officiousness of State dominance suggesting that Socialistic conformity through inured slickness. The average juror would not prepare himself for such meandering.

'3. The second disjunctive, page 379 (19-20), "the law does not allow me to have an opinion about the facts in this case". And not just based on the phrase's contradiction, citing its placement, the judge did impart his opinion during the trial. Of course the Court could have said, "the law does not allow me to share my opinion of the facts with you during the charge of this instruction to you." But, the Court did not say that! What is thereby left to consider is that the court serves to let the jury know that the the Court is absolved from the accountability of determining the facts from opinion, and likewise, with that statement's liberal interpretation, "you and I are acting for the community", leaves the impression of a ring of relativism, absolving the self through the whole, whereas, this leaves less tangible persuasive considerations open to natural prejudices which follow the group.

'A'. For the sake of economy here, the Court's charge is married to the unfair prejudices matrixed in the trial, and the charge has too many infractions against impartiality with too many interludes of persuasion, showing the Court directed the jury to believe the law presumes a person intends the ordinary consequences of his actions by reason of religion, from which the jury reasoned intent could have been satisfied, although measured by prejudicial variables inferred, and subjected to persuasion, surrendered to the antithetical nature of modern liberal multiformity relativism, at the exclusion of the political religious right, the jury believed Applicant to be ideologically affliated with. Therefore, the aspersions precast the inevitable conflict for justice and truth by the State taking the lower road.

a'. The Court's charge was unconstitutional by depriving Applicant of fair due process from which counsel Diggs failed to acknowledge and object to.

b. "Where intent of accused is ingredient of crime charged, its existence is a question of fact which must be submitted to jury, and the trial court may not withdraw or prejudice the issue by instruction that the law raises a presumption of intent from an act." Morissette V. U.S., 342 U.S. 246, 72 S.ct. 204, 96 L.Ed. 288 (1952).

c'. "Standard is not rhetorically inconsistent with a conclusive or burden-shifting presumption. The jury could have interpreted the two sets of instructions as indicating that the presumption was a means by which proof beyond a reasonable doubt as to intent could be satisfied." 'U.S. V. Gainey' 380 U.S. 63 85 S.ct. 254 U.S. Ga. 1965

d' "To protect both parties to an impartial jury, the trial court must conduct voir dire of the prospective jurors to determine whether the jurors are aware of any bias or prejudice against a party, as well as to elicit such facts as will enable the parties intelligently to exercise their rights of premptory challenge. U.S. Const. Amend. 14." 'State V. Woods,' 345 S.C. 583. 'State V. Coaxum,' S.E. 2d ----, 2014 WL 5013234.

e'. 'State V. Adkins,' 353 S.C. 312, 577 S.E. 2d 460 S.C. App. 2003. "Impermissable for the State to comment directly or indirectly upon defendant's Failure to testify" which the court did.

'Unconstitutional Statute'

(207) 'Unconstitutional Statute'

A. Applicant wishes to argue that the South Carolina Statute 17-23-175 is arbitrary under the Eight and Fourteenth Amendments of the United States Constitution by allowing for an out of court statement by a child to leave a controversy which counsel Diggs failed to articulate by reasoning the following:

'B'. To make this argument, Applicant will base it on the fact that the state established that an awareness, by its assertions, and witness statements during trial, shows that, it would be a reasonable presumption that Applicant observed and collected information on a noted variable mental state of the declarant who participated in the contaminated voir dire by reason of the forensic interview, 'without that factual basis'. Such inference regarding a mental history or a behavioral history, would indicate that a plausible bias for a mendacious element could have existed with the declarant, by reasonable determinates from available information, for substantiating a distinction for caution. In showing that such factors had an existence, and the state was aware at the time of soliciting the service of the forensic interviewer, the mandate of the statute did not govern by thorough foresight, for a more modern respected procedure for science, as its shortcomings allowed the admission of duplicitous criteria to prevail without the benefit of experiental licenced, equated professionalism. Without such attendance under said circumstances, leaves a critical vacuousness for the protection of substantial rights of the defendant (Applicant), bearing on the fact especially that the state would possess the knowledge which would register this forum for law, as will be demonstrated in this argument.

(208). In giving the fact that Applicant plead not guilty to the charge, Applicant maintains the divergent view contrary to the result of the interview which impressed the jury, therefore, Applicant being more privileged in knowledge of the specific foundations of deceit, in which Applicant is more cognizant of such a basis, by the personal experience of the ardent construction in motive, based on Applicant's familiarity of the nature which sustained it as a discernable profile, identifiable by reason of common text book diagnostics, showing declarant could be easily suspected (with such background merit), of being subject to proliferation of false testimony, enabled by the ambit of certain untrained persons, who otherwise by

naivete, supporting such mendaciousness through badly planned language, consonatal with duplicitous motive, giving form and attention to cavalier milking of false victimization, by, engendering confederacy for retaliatory vindictiveness, aversive behaviors and etc, by, such cued leadings of suggestive fostering and invite, which did take place in said forensic interview. 'See transcript of forensic interview.'

'A.' Such a nature as portrayed of the declarant, being intentionally here, vaguely described, is not an isolated model or a caricature of a wishful thinking defense; on the contrary, as the subject matter of a type of behavioral characteristics is at the center of modern epidemological studies, as a statistical relevancy concerning a formidable wide spread identifiable behavioral disorder, specifically illustrated by the 'American Psychiatric Association's Diagnostic Statistical Manual of Mental Disorders', and, various other derivative case studies are available to the common layman and parent at book stores which renders the subject of childhood type behavior disorder traits easily identifiable, by, common conceptual observation, matching statistical diagnostic profiles, not limited to, or, exclusively confined to clinicians. Public awareness of such states has become almost commonplace, when considering the modern anomy, showing trend of behavioral disorder in children in relation to dysfunctional statistics, sharing the latitude and gravity of mendaciousness.

'B.' Chances are great, that statistics would show that a large percentage of sexual assault accusations by children would inculpate an easily identifiable social history with some relationship to a knowable personality disorder, which could show the accuser to have an inherent propensity to have bias motives for the manufacture of false accusations, by reason of behavioral disorder logic, generated by internally strung imaginings, rather than as external realities, and can be maintained and influenced by the 'aversive' attachment of such a syndrome associated against orderly truths. As such would require expertise for differentation by simple social history recognition followed up by recommendation for advanced handeling.

'C.' Instead, what has taken place with statute 17-23-175, is that the statute has allowed someone with minor skill, unlicenced by the state, with very limited, vain training, in elementary word association academics for the purpose of a subjective directionally lead sexual discourse, for the pragmatic structuring for arranging

disparity between the two statute's burden of proof for the State, especially when the State proves to possess knowledge in one statute which would facilitate truth finding, yet, by virtue of a vague difference in a similar statute, proves the State can also be unnecessarily duplicitous by actually fostering truth's kindred opposite path by leaving an open door for theatrical mendaciousness the State proves prone to participate in, and ignorantly promotes.

'E' In civil statute 19-1-180 (D)(4), it promotes, (D): "In determining whether a statement possesses particularized guarantee of trustworthiness under section (B)(2)(b), the court may consider but is not limited to, the following factors. (4) any apparent motive the child may have to falsify or distort the event, including bias, corruption or coercion".

a' The understanding here is "any apparent motive", in which the court would have the privilege to entertain, not limited to just divorced parent's coercions.

b' In this showing, the civil statute is more strict regarding the policy mandate of insurance for greater certainty against any susceptible currents in ardent forms of mendaciousness by licensure, where the criminal statute is clearly more tolerant of such invasions, less subjective to cautions, by absence of licensure, but the degree of punishment at risk, in the criminal statute's application, is more consequential when the forensic interviews proves dramatically impressive.

c' One of the arbitrary results drawing on the criminal state 17-23-175, lacking this initial, pivotal 'extra effort', requiring more perspicaciously trained or experienced persons invested with the affairs of social history, who may be more familar with the lack of verity and such states, which govern chimerical minded children with 'any apparent motive', thus leaving the rationalization of the enabeling non-licensed interviewer who lacks 'any apparent motive' experience, as this Applicant demonstrates from the conceptual trial experience. Applicant exposes that interview, showing what can go wrong for an unfair State advantage and prejudice against the defendant (Applicant).

d' When the said forensic interview took place, the interviewer proceeded without a cautious constitution towards pretentiousness, at the cost of altruistic credulity, for the sake of the vanity of the interviewer's provincial academics which actually led to this

case, cater to the declarant's 'any unapparent motive', to the interviewer, as is clearly established by the reciprocity between interviewer and declarant, 'emotive and emote', encouraged only discordant contigents, yet, left the necessary sophistic impressions for the court's non-objective endorsement.

'F.' There was no timely opportunity to challenge the out of court statement, as the ripe opportunity against time hardened deception, withered through no fault of Applicant, as 34 months elapsed, there was no proper direct confrontational cross-examination, test for bias, it was just a free pass with leading questions and bolstering by the interviewer who projected credibility in the interview with an expressed credulous nature and enforced the declarant's confidence in the mendacious behavior pattern

'G.' The extra effort for the scrutenization by licencing of the particular ambit of persons' in the civil statute, and not in the criminal statute, would have been governed by the rational basis for a constitution against pretentious motive from social history environmental states of influence, proved by including school counselors, teachers, law enforcement, physician and etc., who would be endowed with social history affairs. Therefore, a case can be shown that equal circumstances can exist in social history that does not discriminate where the environmental background can house the same pertinent factors for 'any apparent motive', whereas, one statute proves to protect, or offer 'protection with the 'state's resources' for one class of person while discriminating against another.'

a. 'Town of Mount Pleasant v. Chimento,' 401 S.C. 522, 737 S.E. 2d. 'An arbitrary distinction that would violate due process.' 836 S.C. 2012.

b. " the consequences of imprecision is more severe when it permits or encourages arbitrary and discriminator enforcement against equality and raises a void for vagueness challenge.

c. 'South Carolina Dept. of Social Services v. Pringle' " Similar to and cited State v. Brown,' 317 S.C. 55. " . . . Here it is conceded that Houston is not licenced by the State of South Carolina in any field, nor is there any suggestion that she is a law enforcement official, an officer of the court, a physician or other health care provider, a teacher, a school counselor, a DSS staffer or a child care worker. Rather, she is a child forensic interviewer with a bachelor's degree in sociology and a master's degree in rehabilitation counseling. Houston also has a certificate with RATAC model

through her participation with a program called Friendly Words. Heaston was not qualified person under § 19-1-180 (G) and the video tape of her interview with children was not admissable."

d. The credentials for the interviewer in Applicant's trial of said forensic interview were limited to an 'undergraduate degree' in psychology, and such training as in the limited one week required study training for RATAC, and was not licenced in any field, yet the declarant was able to manipulate the forum, as the DVD was admitted under § 17-23-175.

e. It could be argued that by the very nature of the forensic interviewer's ineptness toward the controversial mental state of the declarant, served as improper corroboration by inadvertently providing the format, which invaded the province of the jury.

f. 'Jolly v. State', 314 S.C. 17, 443 S.E. 2d 566. Improper corroboration testimony that is merely cumulative to victims testimony in criminal sexual conduct prosecution cannot be harmless, because it, is precisely this cumulative effect which enhances devastating impact of improper corroboration. 'State v. Barrett', 299 S.C. 485, 386 S.E. 2d 242 (1986). 'State v. Williams' 285 S.C.

g. "Cumulative Error Doctrine" 'Spence v. Johnson' 80 F. 3d 989, 117 S.Ct.

h. "In constraing statute, court will reject any interpretation that leads to unreasonable result. 'Busby v. Moore', 330 S.C. 201, 498 S.E. 2d 883 S.C 1998.

i. 'State v. Brown,' 317 S.C. 55, 451 S.E. 2d 888 S.C. 1994. "In determining whether statute violates federal protection clause, court accords great deference to legislatively created classification, and classification will be sustained if it is not plainly arbitrary and there is any reasonable hypothesis to support it.

j. The State's forensic interview for evidence before the jury was an act that was improperly imbued with the imprimatur of an expert that does not logically withstand mature expert criticism, in relation to modern science. And was not licensed under § 40-63-200.

'H'. Counsel failed to note 'all cumulative compounding effects' for the sufficient gravity of the substantially offended rights of Applicant, as prejudiced him in the eyes of the jury to the extent of the failure to note 'that body', perpetuated a miscariage of justice as quoted in 'Chubert v. U.S.' C.A.8. (Mo.) 1969 In refering to all cumulative prejudices displayed at trial.

'Catch 22'

210). 'Lack of Jurisdiction' 'Judicial Catch 22 by State'.

'A' As recorded evidence shows, Applicant asked for a Speedy Trial through first appointed counsel Thomas Floyd. With Floyd's failure to process any motions, Applicant asked the State for his dismissal for lack of due process. The State was aware of the Speedy Trial request from Applicant's own filings with the Clerk of Court, from which the solicitor's office received copies. However, the State controlled the circumstances by refusing to dismiss counsel Floyd, by refusing to entertain said Motion as court recorded. The State created the judicial 'Catch-22', which controlled the inability for Applicant's access to the court for addressing the lack of due process for the Speedy Trial. Applicant sought release without bond for the purpose of hiring a private attorney from which Diggs and the other's refused to entertain. Diggs failed to file a Motion To Dismiss based on Lack of Jurisdiction for all violations including Speedy Trial violation. As such are traditional behaviors of this circuit.

'B' Speedy Trial (1) Length of delay; (2) the governments reason for delay; (3) the time and manner of the defendant's assertion of his rights; and (4) the prejudice suffered by the defendant. 'Baker v. Wingo', 407 U.S. 514, 92 S.Ct. 2182. 6th Amend. Article 1 § 14 of the South Carolina Const.

a' See Exhibit 'FG', page 3 of 6 (10), filed with the Clerk of Court Dec 4, 2011 received by the solicitor's office Dec. 16, 2011. The State was aware of Applicant's appeal for a Speedy Trial, but the State suffocated all of Applicant's due process rights by controlling the ineffectualness.

b' "Willful neglect on the part of the prosecution." 'State v. Allen', 269 S.C. 233, 237 S.E. 2d 64 (1977).

c' 'Strunk v. United States', "Relief granted is dismissal of the charges."

d' "Dismissal is the only possible remedy for deprivation of const. right to Speedy Trial; reduction of sentence will not suffice." Fed. Rules Crim. Pro. rule 20, 18 U.S.C.A.; U.S.C.A. Const. Amend. 6.

'C' "The jurisdiction of a court over subject matter of a proceeding is fundamental." 'Brown v. State', 343 S.C. 342, 540 S.E. 2d 846 (2001). Lack of subject matter jurisdiction can be raised at any time, including for the first time on appeal or PCR. 'State v. Funderburk', 259 S.C. 256, 191 S.E. 2d 520 (1972).

a' There have been several spoils by the length of the State's delays. The timeliness for examining the declarants veracity in the forensic interview!

11). Counsel Diggs failed to object to the Solicitor's unethical standards in the whole of his behavior in his general practice of unfair prejudice, in direction of State's evidence, coercion tactics, enabeling of false testimony, deliberate obfuscation of facts, and court room antics. Diggs failed to articulate the following:

'A' The State (Solicitor), promoted the conclusion that Applicant used psychiatric theraphy on the accuser and for devious reason, by weaving together non-factually bound innuendos, while at the same time, denying that any psychiatric issues existed with the accuser, and by suppressing such evidence, in a duplicitous connivance for manipulating certain prejudices of the jurrors', while denying any documentation existed on the issue, by denying accountability for their loss, did so for the purpose of maintaining a sanitized image of the accuser for the embellishment of intent, and defending the bad acts of the police. The State deceitfully suppressed evidence contrary to the State's fabricated story-line.

'B' In the Solicitor's efforts to mislead the jury and unfairly prejudice the defendant, trial was affected by the abetting and perpetuating deep psychological rears in the moors and attitudes of the jury to find guilt upon subjective feelings rather than on a more certain evaluation of the evidence through objective reasoning. And in a showing by example, the Solicitor who towers at six foot four inches or more, stormed across the court room in a very dramatic intimidating display, jabbing a pointed finger in Applicant's face, with a powerful inculcation in body language, accusing Applicant of said heinous act, determinately attesting to the jury that he did do the deed, accompanied by his acrimonious certainty in a vituperated illustration, for the purpose of emotionally swaying the jury toward the redemptive power of the State against the clearly belittled and shamed defendant (Applicant), by the afeared projected drama against him as he sat alone, wearing the bright yellow shirt, with no moral defense in attendance because none were notified, and as Applicant was targeted as a defenseless immoral predator, judged by the State's certain subjectivity by the Solicitor's demonstration of power coercion.

'C' The Solicitor proves the same propensity for exaggerating evidence, as the police have for strategic devise, showing the motive operant in the inescapable habit and pattern applied in the coercion manipulation strategy as has been generally accepted as a judicial

practice. Rather than in the predicate search for truth, by ferreting it out through the disciplines of ethical canon, the Solicitor imposed upon fair restraint, by nasting the jury with the practice of the means to make a person. . . . follow a prescribed and dictated course. . . to inflict or impose . . . intimidation for overcoming one's will, being a form of constructive force as a devise for an emblematic finite power of influence over the jurie's province as the Solicitor displayed that potential also against Applicant. The Supreme Court has argued that force and coercion has basically the same meaning as used in S.C. Code Section 16-3-654, and Webster's has it as "to force to act or think in a given way."

'D.' This behavior being explicit in Det. Frebowitz's interrogation coercion audio, and the pretrial coercion tactics overall, is implicit in the Solicitor's violent natured behavior at trial, and in showing of a circumlocutory language of inured slickness by a coercive forum for manipulating the jury to make their decision 'on no other given way', than by the directed specific prejudices of coercive devise, steered and with advance of force, directed by the impositional power scheme of the State, as the Solicitor demonstrated when he theatrically stormed Applicant, with his power accusational thrust showing the threat of the power the State possessed in contravention against the plainly attuned visible account of the defense counsel's acquiescence. The State was violent against Applicant in total contrast to the presumption of innocence. The Solicitor's misconduct is imbedded in the whole pattern and practice as an extortionate conclusion. Approx. page 390 (16-17) (212). The overall complaint in Layman's language, is a charge against the 'custom and tradition' in (pattern and practice), of the Horry County Judicial Circuit, which has by the offense, for the State, almost perfected an unlawful catch-22, by a vexatious force in subjugating Applicant's due process and equality rights through the perverting of a lawfully initiated process which prospered in favor of the State by the State's actors in causation of an agglomeration of material defense factors, fostered by cooperation of the State actors who depended upon the indolence of Court appointed attorneys who by habit and like-mindedness, and by way of custom and convience, acted in loyalty to the State rather than by respect of the office entrusted to them for the lawful duty

to their client, an indigent defendant persecuted for his religious and political beliefs. Thereby, together with the State actors, shared a common prejudice, which shows in this complaint, where all mitigating factors and exculpatory evidences, witnesses, and etc., for the defense, all the actors served to dissem (disembody), as a relevant whole of materiality, by harassing their connectiveness, for deflecting their accountability, credibility and meritorious effectiveness as a whole, through circuitousness against due process.

(213). The stratagem shows clearly by the failure of the counsel of record Riggs for deliberately not addressing this disjoining, before the court or at trial, and in Applicant's continuance in filing motions for due process only to be perpetually harassed by the court ('judges'), against those reasons. The State held the upper hand in a proverbial catch-22, playing the power role in mured avoidance for deprivation, a judicial tyranny for imposing the State's unhindered will by the avoidance of procedural and substantive rights as the procedure for such, exempted by the pattern and practice of that civil rights violation conspiracy to disembody rights through tyranical extortion as an extrinsic fraud by unchecked State intrusive power shown through the actors violent coercive tactics, which are also manifest within the properties of intellectual provocations.

(214). In this following, is a showing of the question of specific defense criterion the State and court appointed attorney's based their instrumentalism on, whereas, instrumentalism means: (where the validity of the theory is determined by the success of the action), wherein, the efforts as proved in the conspiratoral scheme were acts of deliberately disassociating the connectiveness of the defense criterion. By example, Applicant was purposefully deprived from testifying at the Jackson V. Denno hearing, because, Applicant's facts would have opened the door to the question about the whole of the defense criterion the State actors made every attempt at disassociating as one aspect of the criterion would reveal the others, therefore, the whole was muffled. The violent tone and threatening rhetoric of the State actors was a means of deflection from the real pertinent questions:

'A' the question of the original arrest and search warrant, the question of antecedent acts and tainted probable cause by the police, the question of the physical evidence to back up the indicia of probable cause,

the question of the accountability of removed and missing exculpatory evidences from the residence, the question of what was removed and what was not, question of the lawfulness of the search warrant by its authentication, the question of a police report over Applicant's stolen property, question of State's witnesses involved in the theft of Applicant's property, the question of a SLED or other internal investigation, question of the arrest dates of Applicant, question of Frebowitz's coercion interrogation, question of court appointed counsel sharing of lawyer client confidential information with the State, question of denial of a preliminary hearing, question of Det. Frebowitz producing a secondary search warrant to cover up the illegal one, question of indictments used for coercion terrorism the court appointed attorneys were complicitous with, question of an 8 month wait for a bond hearing, question of State Solicitor using religious discrimination to effect the bond, question of challenging the indictments and time line, question of the denial of a speedy trial, question of Judge Culberson ruling against Applicant's Motion To Dismiss first court appointed attorney Floyd because Applicant cited federal case law, question of false arraignment hearing, question of forced mock trial without preperation for plea coercion with counsel Floyd, question of forced mental health evaluations for civil rights redress retaliation, question of J.R.L.D.C. (Sails) accountability for Applicant's personal property with exculpatory evidences, question of the conspiracy not to indict the magistrate judge and Detective in criminal wrong doing by the exposure of Code 17-13-140 and 17-13-141, question of the suppression of the social history of the accuser, question of not just the coercion strategem and deficient performance from counsel of record Diggs, but also the conspiratorial extrinsic fraud against all of the above criterion and etc, in the maxim 'truth is only relative to the whole', where as in this limited showing, there is reason to believe the actor's all worked to disembody.

(215). In the conspiracy to protect the State, Diggs's actions show in his failure to bring out the facts surrounding the pending federal civil rights lawsuit against Det. Frebowitz, case no. 4:12-cv-511, Frebowitz being defendant, Applicant the plaintiff, as would be common knowledge for a seasoned attorney according to 'Martin v. Dunlop', 266 S.C. 230, "Evidence of post or pending litigation between witness and party against whom witness is testifying is commonly admissable to demonstrate bias." Also see 'State v. Collins', 235 S.C. 65, North Greenville College v. Sherman Const. Co. Inc.', 270 S.C. 553, 243 S.E.

2d 441.

A. "Question derived from the illegal search of his office and seizure of his files to thwart the (Fourth and Fourteenth Amendment protections) of... individual privacy... and to entangle the courts in the illegal acts of Government agents Ibid. 'U.S. v. Cosandra,' 414 U.S. 338, 94 S.Ct. 615 U.S. Ohio 1974."

B. Testimony of Det. Frebowitz was highly prejudicial, suggesting Applicant was guilty by Frebowitz's discernment of Applicant's character based on the subject matter of Applicant's religious and political academia Frebowitz discovered through the illegal search warrant, and presented at trial as evidence calculated to create prejudice. S.C. Rules of Evidence 401-403.

216). "On rare occasions the court has re-examined a State court interpretation of State law when it appears to be an obvious subterfuge to evade consideration of a federal issue. 'Radio Station WOW, Inc., v. Johnson, 326 U.S. 120, 129, 65 S.Ct. 1475, 1480 L.Ed 2092"

A. "State engaged in ineffective process, deception and creating a false appearance of procedural bars. 28 U.S.C. 2254 (b)(1)(B)(ii).

217). James Madison's prediction in his address to the First Congress on June 8, 1789:

A. "If they (the rights) are incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of the rights: they will be an impenetrable bulwark against every assumption of power in the legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights: 1 Annals of Congress, 439 (1789)."

B. "Since, however, these judges were without power to direct or control the conduct of law enforcement officers, the enforcement tool had necessarily the turn goals of enabeling the judiciary to avoid the taint of partnership in official lawlessness and of assuring the people - that the government would not profit from its lawless behavior, thus minimizing the risk of seriously undermining popular trust in government."

(218). The Solicitor's obdurated motive in contravention of good conscience served to prejudice the defendant unfairly by his acts in foisting upon the jury a storyline dependent solely upon Applicant's due process violations, where the strength in the whole of propagated contrivance was made credible by the State's permissable hand in weakening, or, and

eliminating Applicant's defense in conjunction with all actors for the same illicitly arrived at overt act. And in so doing, without such foresight, has inadvertently shifted the burden onto Applicant to defend against State contrived devises. 'Mullaney v. Wilbur,' "Devises requiring defendant to present some evidences contesting otherwise presumed or inferred fact shifts burden of production of evidence to defendant and thus must satisfy certain due process requirements." (219). The State worked to block the evidence it forced the defendant (Applicant) to present, thereby, as the State shifted this burden by its contrived story-line, a story-line the State knew it could only maintain as it eliminated defense privilege, thereby, the State prevented that due process for its advantage.

'A' "However strong the prosecuting attorney's belief may be of the prisoner's guilt, it is her duty to conduct the trial in such a manner as will be fair and impartial to the rights of the accused, and not say or do anything which might improperly affect or influence the jury. He should not abuse or make any unseemly demonstrations toward accused; make remarks or insinuations calculated to impress the jury against accused." 'State v. Beale,' 201 S.E. 490, 23 S.E. 2d 746 S.C.

a' "Personal opinion of counsel has no place at trial." 'U.S. v. Bess,' C.A.6. (Ky.) 1979, F. 2d 749, Criminal Law 2091

b' Solicitor misconduct: S.C. Section 15-7-100, 17-21-80, 'Davis v. McCall.'

(220). Just as the State justified its imposed story-line, it sought also to give it credence by enhancement improperly imbued with the imprimatur of a one sided [sic] medical expert from which counsel Diggs also failed to articulate a proper thorough cross-examination as to explicity why no physical evidence of abuse should be favorable to the State's story-line, because, such a showing of testimony served only to improperly bolster the State's case, as it would lead a jury to believe the expert considered the child's accusation truthful.

(221). Counsel of record failed to file a motion for a new trial.

(222). When trial court judge vouched for the credibility of court appointed attorney Diggs, just as judge Hyman did for counsel Joye, and Calhoun for Floyd, all on court record, the question remains as to their success for the advantage of the State in convictions and pleas, by comparison to just how many cases were favorable

for the defendants. And the judges as official representatives have all stated categorically, their recognition of the court appointed attorneys recognized and hailed tradition and custom as successively favored by the State. See paragraphs (201), (203), D.

(223). "All proceedings at a motion hearing, including any findings of fact and conclusions of law made orally by the court, must be recorded by court reporter or a suitable recording device." Fed. Rules of criminal proc. Rule 12."

(224). "A pattern of official negligence gives rise to an inference that attendant constitutional deprivations represent official policy." 'More V. City of Columbia,' 284 S.C. 278.

(225). The absurd abandonment of the common respect for human rights by the actors in this complaint, has clearly shown cased a draconian inhumane repugnancy against due process and equality not exclusively against Applicant.

(226). Applicant is also making a Rule 59(e) motion consistent with South Carolina Code 17-27-80, asking the PCR Judge to make specific findings of fact and conclusions of law on all of the allegations in this complaint. The critical fact prevails upon an interpretation of the whole to be sure that fraud is not purged by circuity. The central element of the offense against Applicant has been an accreditation by judicial officials for the disembodiment of the whole of Applicant's defense criterion and due process rights by an act of emasculation by judicial tyranny. So, it is only natural for Applicant to expect the judicially ethical reconstruction of the constituents, to be restored to their significant whole. '17-27-150'

(227). Pre-trial and trial rights of Applicant were violated, therefore, further acquisition of various mentioned records and material facts will be necessary. To include the return of Applicant's illegally seized personal property.

(228). Trial counsel must assure that a criminal defendant is made fully aware of his appeal rights. 'White V. State,' 263 S.C. 110 208 S.E. 2d 75 (1974). Counsel Diggs failed to discuss appeal rights with Applicant.

(229). Because of the absence of a civil rights sanction, at trial, by example, Counsel Diggs asked a State's witness if Applicant had electricity in his home, yet, he never clarified this, leaving to the jurie's imagination a prejudicial injury against the Applicant defendant. Trial transcript p. (325) (1-11). This is an example of the insensitivity indicative of the general disregard for Applicant's rights, just as all of the actors

failed in their own relative cognitive dissonance, given over to like minded bigotedness that complimented the rambelings of a personality disordered child, that, preyed on such social faltering, as when such becomes combined, feeds an unrestrained 'mob type mentality', however large or small, fed by the winds of fostered subjective prejudices, by the absence of institute restraint. This is what the sanctity of Constitutional Rights is supposed to ward against, if it is instituted in a custom and practice of the community, and its judicial institutions.

(230). Because of the absence of this civil rights sanction, Applicant was manifestly demonized because he was understood as, and treated as, an inconsequential indigent Christian Right Wing political activist, as someone the actors disagreed with ideologically and felt threatened by, and yet, consequently believed by such inherently motivated prejudices, that Applicant was not fit for the community. Their thoughts and actions operated with impunity and without circumspection, as the records of fact reveal.

(231). This complaint demonstrates very clearly what happens when the judiciary emasculates due process rights, and in its place gives birth to bigotry.

(232). The actors in this complaint are:

State Actors

Appointed counsel: Thomas Floyd, Scott Joye, William Diggs
Judges: Culberson, Hyman, Cottingham, Mayers
Solicitors: Candice Lively, Martin Spratlin
Police: Det. Neil Frehowitz, Gregory Lent
Institutions: S. Reuben Long Detention Center

Also

State witness: Natalie Demaio, Carol Rather, Merson Wagoner, Benita Whipple

(233). The Solicitor states before the jury that Applicant was a 'manipulator page (397) (10-16), who manipulated the accuser, Frehowitz and etc. But what the Solicitor had failed to realize, was that Applicant was actually studying manipulators, as it is reflected here in this very complaint, showing 'the circuitous process in likemindedness', has been the accuser, Frehowitz, Solicitor and etc., who have involved themselves, unbeknowest to them, on that patterned-

'A-Team' on a story-line directed by a story-teller, which has an established record of that pattern, simply because the facts do exist to prove this, in contrast to what Solicitor Spratlin tries to insinuate when he says that Applicant's testimony (in agreement with Diggs), was the coerced interrogation interview Frebowitz himself manipulated, page (397) (12), as the sole evidence of Applicant as a manipulator, along with Frebowitz's testimony. In fact, the Solicitor attempts here to manipulate the jury into believing that it is Applicant who is the manipulator while the real scenario shows how both Frebowitz and Solicitor Spratlin manipulated the use of the word 'frigid'. When Applicant refered to the accuser on the audio as 'frigid', he was refering to a particular personality disorder symptom in reference to the most common use of the word according to Webster's: (1) extremely cold, (2) lacking warmth or feeling, and (3) stiff and formal. From which these terms properly reflect upon the nature of a child who typically can be found to abhor affection in any relation to being touched if they are the subjects of certain personality disorders. However, the Solicitor managed to manipulate the jurrors minds into believing that Applicant was referencing a sexual innuendo without sufficient grounds, implying that Applicant's inconsiderate sexual reference about a 10 year old was perverted. The fact remains by this example that the Solicitor is the one who is established on record in the continuous manipulation of false grounds.

(234). "under the circumstances, we find it apparent that Joseph's rights have been violated by the failure of the State to produce the original warrant and return for the trial court's review." 'State v. McKnight', 291 S.C. 110, 352 S.E. 2d 471 (1987). 'Exclusion is proper remedy.'

For the same reason, why would a seasoned attorney, who perhaps at one time was an appellate attorney be ignorant of certain primary laws? Why would a seasoned attorney not confront the accuser's mother about her credibility by the reference on a lengthy police record?

(235). Because of the incomplete transcript, Applicant's appeal is frustrated.

Federal Rule (33)

'A' Applicant reserves the right to Amend this complaint.

see paragraph (204) d; "Courts have a duty."

Brief Synopsis Of Allegations

(236). Grounds,

Issue One:
Abuse Of Discretion

Part 1, Paragraph: (69)., (83)., (88)., 'B'., (111)., (121).,
Part 2, Paragraph: (16)., (25)., (130)., (173)., (185)., = et. al. means: all else embodied in the complaint. Part 3 para. (359)

(237).

Issue Two:
Abuse Of Mental Health Statute

Part 1, Para. (25. 'A'., c'. - 31)., (86, 87)
Part 2, Para. (25)., (192)., et. al.

(238).

Issue Three:
Bad Acts Of Police

Part 1, Para. (100)., (102)., (112).,
Part 2, Para. (7)., (8)., 'A'. a'., (14). a'., (19). 'A'., (98)., (127)., (182)., et. al.

(239).

Issue Four:
Central Issue

Part 1, Page 3 A.,

(240).

Issue Five:
Civil Rights Conspiracy

Part 1, Page 3A., Paragraph: (61). (64). 'A'., (68)., (70)., (71)., (75)., (86)., (87)., (89)., b'., (91-99)., (107-109)., (112)., (114)., (117)., (120)., (124-127)., (129-135)., (150)., (152)., (154)., (155)., (168)., (169)).,
Part 2, Para. (6)., (7)., (29-57)., 'A'., (58-62)., (95)., (96)., (104)., (105)., (110)., (112-118)., (193)., (204)., 'C'., 'E'., c'., (212-214)., (219)., (222)., (226)., et. al. Part 3 para. (359)

(241).

Issue Six:
Coerced Statement

Part 1, Para. (165)., (189) 'A'.
Part 2, Para. (15)., 'B'., (19). 'B'., (98)., (143-144)., (147)., (211). 'D'., et. al.

(242).

Issue Seven:
Coercion / tyranny

Part 1, Para. (1. - 33)., (41)., (44)., (100)., (112)., page 3 A.,
Part 2, Para. (1). 'B' a'., (57). 'A'., (204)., (211). 'c'., - 213), et. al.

(243).

Issue Eight:
Conflict of Interest

Part 1, Para. (89).,b'., (111)., (133)., (204).C'.'E' c'., (212-214)., (219)., (222)., (226)., Part 2, Para. (23)., et.al.

(244). Issue Nine:
Counsel Incompetence

Part 1, Para. (9).A., (106),(60). Part 3, para. (359)
Part 2, Para et.al.

(245). Issue Ten:
Could Not Prove Intent

Part 1, Para.
Part 2, Para. (19).'C', et.al.

(246). Issue Eleven:
Court's Charge To Jury

Part 1, Para.
Part 2, Para. (180)., (206-207)., et.al. / Part 3, para. (359).

(247). Issue Twelve:
Court Room Prejudice

Part 1, Para. (3)., (72)., (73)., (83)., (85)., 'A'. (89)., (103)., (108)., (111)., (112-113)., (115)., (135)., (146)., (147)., (150)., (158)., (163)., Part 2, Para. (15).'B'., (99-103)., (106)., (107)., (125)., (128)., (167)., (171)., (204).d'., (211)., et.al.

(248). Issue Thirteen:
Confrontation Clause

Part 1, Para. (64).,'A'., (65)., (141)., Part 2, Para. (98)., (156).b', (158)., (160)., (170)., et.al.

(249). Issue Fourteen
Cumulative Doctrine

Trial Transcript Page 140 (1-4)
Part 2, Para. (98)., et.al. Part 3, para. (358-361)

(250) Issue Fifteen:
Due Process And Equality

Part 1, Para. (3).,'A'., (60).'A'., (78)., (100)., (112)., (28).'B'.,a'., Part 2, Para. (4).'A'., (14)., (23)., (31)., (57).'A'., (95)., (203)., (193)., et.al.

(251). Issue Sixteen:
Extrinsic Fraud

Part 1, Para. (2).'E', (1-38)., (50)., (51)., (60).'A'., (64).'A'.(70)., (76)., (78)., (87)., (101)..(106).-(10)); (112)., (116-120)., (123)., (126)., (132)., (135)., (143)., (148)., (155)., (162)., (164)., (168)., et.al. Pt 3, para. (359)

Part 2, Para. (2)., (4)., (7-12). a'., (16)., (21)., (22)., (57)., A', (63 65)., (97)., (98)., (112)., (131)., (144)., (156)., a'., (158)., (166)., (181)., et.al. Part 3, Para. (352) — Part 1 para. (170) a'. (252).

Issue Seventeen:
Eight Amendment

Part 1, Para. (3). 'A'., (15)., (25)., (33)., (46). 'A'., a'., (41)., (43)., (100)., (253).

Part 2, Para. (1). 'A'. a'., 'B'. a'., (59)., (210)., et.al.

Issue Eighteen:
Forensic Interview

Part 1, Para. (47)., (88)., Transcript Page 141 (5-8)
Part 2, Para. (98)., (123)., et.al. (254).

Issue Nineteen:
Jackson V. Denno

Part 1, Para.
Part 2, Para. (13). 'A', (16)., (25), (98)., (144)., (214)., et.al. Part 3 (359) (255).

Issue Twenty:
Lack of Jurisdiction

Part 1, Para.
Part 2, Para. et.al. (256).

Issue Twentyone:
Illegal Search Warrant

Part 1, Para. (120)..
Part 2, Para. (6)., (8). 'A'. a'., (15)., (215). 'B'.. Part 3 para. (359) (257).

Issue Twenty Two:
Impartial Jury

Part 1, Para. (74). A',
Part 2, Para. (95)., (194)., (198)., et.al (258).

Issue Twenty Three
Inability to Affect Appeal - (Direct)

Part 1, Para. (91) - (99)..
Part 2, Para. et.al. (259).

Issue Twenty Four:
Ineffective Assistance of Counsel

Part 1, Para. (4-38)., (58)., (66)., 'A'., (65)., (76)., (78)., (79)., (85). 'A'., (86). 'A'., (88). 'B'., (89). a', (90)., (106)., (114)., (116)., (119)., (131)., (141)., (142-143)., (157)., (160)., (161)., (167)., pages 1 through 45, (133)., (170 a', b'

Part 2, Para. (22)., (57)., 'A'., (66 94)., (129)., (133)., (145)., (155)..

'C'., (156)., a'., (159)., (162)., (164)., (168)., (209).'H'., (211)., (260). Part 3, para. (354 et.al. Part 3 para. (355) Pt 3, para. (358-361) (354).

Issue Twenty Five:
Irreparable Harm to future Defense

Part 1, Para. (87)., (91)., (5)., Part 2, Para. (88).'C'., (91)., (157).a'., (210).'C'.a'., Transcript page 422 (10-12) et.al.

(261). Issue Twenty Six:
Presumption of Innocence

Part 1, Para. (9).'A'., Part 2, Para. et.al.

(262). Issue Twenty Seven
Religious Discrimination

Part 1, Para. (166)., Part 2, Para. (41).'A'., (19).'D'.,'E'., (57).'A'., (96)., et.al.

(263). Issue Twenty Eight:
Solicitor Misconduct

Part 1, Para. (68)., (87)., (89)., (100)., (107)., (109)., (132)., (155)., (16), Part 2, Para. (12).a'., (13)., (24-28)., (64)., (105)., (116)., (118)., (130)., (141)., (155)., (210).'A'.,'B'., (218), (219)., (211)., et.al.

(264). Part 3, para. (355) Issue Twenty Nine:
Suppression

Part 1, Para. (45)., (46)., (51)., (75)., (76)., (87)., (99)., Part 2, Para. (155)., a'.,'B'., (176)., (181)., (182)., (183), (184)., (210).'A'., et.al. Part 3 para (352)

(265). Issue Thirty:
Tampering With Evidence

Part 1, Para. (50,51). Part 2, Para. (181).'A', Part 3 (355) et.al.

(266). Issue Thirty One:
Unconstitutional Statute

Part 1, Para. (46-48)., Part 2, Para. (207-209)., et.al.

(267). Issue Thirty Two:
Corrupt Transcript

Part 1, Para. (91-99)., et.al.

(268). Issue Thirty Three:
Right to Expert On Social History

Trial Transcript Page 408 (20-21). " We don't Know that aspect

of the child's personality that we should know."

(269). Issue Thirty Four:

Right to Call Witnesses

Trial Transcript Page 26 (17), Mr. Diggs: "The only witness I could think of that would be pertinent," I don't know where he is but we could certainly try to find him and subpoena him" (paraphrased), et.al.

(270). Issue Thirty Five:

Cumulative Effect of Trial Errors

✓ "Failure to note significant gravity as to substantially offended rights of defendant and prejudice him in the eyes of the jury to the extent that failure to note them would be a perpetual miscarriage of justice." 'Chabet v. U.S.,' C.A.8. (Mo.) 1969, 'State v. Freeman,' 319 S.C. 110, 459 S.E. 2d 867. 'State v. McKnight,' 291 S.C. 110 352 S.E. 2d. 471 (1971), et.al.

(271). Issue Thirty Six:

Prejudicial Abuse Of Discretion

Trial Transcript Page 357 (4-11) Q. "you also -- Mr. Diggs asked you several times about the Defendant's hobby and psychology or something like that - - -"

The Court: "Now, I've ruled on that, It's got nothing to do with this case." Para. (35), Part 1 - (89), et.al.

(272). Issue Thirty Seven:

Failed to Challenge Indictment

South Carolina Code Ann § 17-19-100 (1976), an indictment may be amended at trial of if the amendment does not change the nature of the offense charged. 'Hope V. State,' 328 S.C. 78, 492 S.E. 2d 76 (1997). Pt 3, para. (349) 'A', 'Complaint', et.al.

(273). Issue Thirty Eight:

Factual Impassibilities

Trial Transcript Page 135 (10-12) "but she stated really that it made me feel that that was impossible in the way that she stated it happened," (paraphrased), et.al.

(274). Issue Thirty Nine.

Negative Characteristics of Defendant

Trial Transcript Page 339 (5-8) "Why is it so important for her to have ADD? Because he gets to treat her. She's still an opportunity for him. You know what the opportunity was." (paraphrased), et.al.

(275). Issue Fourty.

Summary Dismissal

PCR's — 'Part 2' — 142 of 142

√ S.C. § 17-22-70 Rule 71.1 SCRCP 'App. V. State of S.C.', et al.

(276). Issue Fourty One:

State's Contemptuous Acts Of Impunity

Trial transcript page 24 (23 25) The Court: "And Mr. Diggs, I can assure you that at the end of the day he's going to sue you, too, and maybe me, but that's fine," et. al.

(277). Issue Fourty Two:

Pro se denial

Trial transcript page 29 (5-8) "and you don't give me any choice but to accept Mr. Diggs as my attorney." The Court: "That's correct," et. al.

(278). Issue Fourty Four:

State's Conspiratorial denial of Indictment Due Process And Cruelty Due To:

Accordingly, to the pattern of practice in coercion tyranny, all counsel's failed to challenge indictments and the foreboding injury of the exaggerated probable cause used for exploitation by the original indictments for the purpose of causing a predetermined emotional breakdown for a period of 34 months by threatening with inordinate long term sentence in exchange for a 16 year plea on indictments that were never challenged for evidentiary grounds to support the coercion strategy causing cruel and unusual treatment in violation of S.C. Const Art. I, §15 and the Eight Amendment U.S. Constitution. And also exaggerated for denying a reasonable bond, and failed to give bond or indictment first week of term, 'State V. Campbell'. And denied reasonable bond because of religious persecution violating Applicant's First and Fourteenth Amendment Rights.

(280). State conspired with Court appointed attorneys for the purpose of the avoidance of allowing Applicant to be adequately advised of the essential elements of the offense that had to be proven as established by Applicant during first arraignment hearing 'State V. Rayfield' Lack of physical evidence to support, was known by the State, from which no provisions were forthcoming by the State in lieu of the State's opportunity for mental tyranny.

(281). The long term detainment was caused by the State's denial of due process, denial of reasonable and timely bond, failure to dismiss court appointed attorneys for justifiable reasons, in joinder with the State in due process denial, and denial of preliminary hearing and speedy trial. et. al.

Issue Fourty Four:
State's Conspiratorial Denial Of Indictment Due Process And Cruelty Due To:

Accordingly, to the pattern of practice in coercion tyranny, all counsel's failed to challenge indictments and the foreboding injury of the exaggerated probable cause used for exploitation by the original indictments for the purpose of causing a predetermined emotional breakdown for a period of 34 months by threatening with inordinate long term sentence in exchange for a 16 year plea on indictments that were never challenged for evidentiary grounds to support the coercion strategy causing cruel and unusual treatment in violation of S.C. Const. Art. 1, § 15 and the Eight Amendment U.S. Constitution. And also exaggerated for denying a reasonable bond, and failed to give bond or indictment first week of term, 'State v. Campbell,' And denied reasonable bond because of religious persecution violating Applicant's First and Fourteenth Amendment Rights.

State conspired with court appointed attorney's for the purpose of the avoidance of allowing Applicant to be adequately advised of the essential elements of the offense that had to be proven as established by Applicant during first arraignment hearing. 'State v. Rayfield' lack of physical evidence to support, was known by the state, from which no provisions were forthcoming by the State in lieu of the State's opportunity for mental tyranny.

The long term detainment was caused by the State's denial of due process, denial of reasonable and timely bond, failure to dismiss court appointed attorneys for justifiable reasons, in joinder with the State in due process denial, and denial of preliminary hearing and speedy trial. See also Part 3, para. (34) A in addition to this issue.

South Carolina State Statute 17-27-20 'Persons who may institute proceedings; exclusiveness...

(1) The conviction or sentence was in violation of the Constitution of the United States or the Constitution or laws of this State; et. al.

PCRS 'Part 3' Pg. 142 A of 142

'Recap' #2014-CP-26-8376

From Trial Transcript:

(282). Colloquy Of Conspiracy.

Page 25 (20-25), 26 (1-4)

Mr. Joye: "Mr. Legg wanted Mr. Diggs, Mr. Floyd, and myself to have a magistrate and this officer indicted. He also wanted someone arrested for some property that was taken from his mobile home."

* The Court: "That had nothing to do with the defense of him in this case."

Mr. Joye: "No, Your Honor."

See 'Summarization Of Complaint,' also 'Animus domini' et. al.

(283). Ineffective Assistance Of Counsel

Page 20 (13-16)

The Court: "And you have investigated sufficiently and called all the witnesses you think are appropriate?"

Mr. Diggs: Your Honor, yes. To answer your question, yes."

Page 403 (17-21).

Mr Diggs: "I think when I did the opening statement I even said we had a single mother, and I made the mistake because we didn't hear anything about stepdad, you know, the male in the home, helping take care of these children. we didn't hear anything about that."

Page 410 (3-4)

Mr. Diggs: "stepdad__ I don't know where the biological dad is, I don't remember any evidence about where that individual is."

Mr. Diggs: "it should have been investigated in our case, but it wasn't." Page 406 (22-23)

Page 26 (13-15)

Mr. Legg: "But I have witnesses that we___"

The Court: "He's a lawyer. He would be able to know what witnesses are or are not available."

See Complaint Part 2: (5), (6), (7), (96), (157), 'A', 'B', (18), et. al.

(284). Catch-22

Page 29 (5-10)

PCRS — Part 3 — Pg. 142 B of 142

The Court: "Your record indicates that you think you can continue to delay this case and manipulate our court proceedings by firing attorneys. That sir, is over." et.al.

(285).

Extrinsic Fraud

"Under these circumstances, we find it appeared that Joseph's rights have been violated by the failure of the State to produce the original warrant and return for the trial court's review." 'State v. McKnight,' 291 S.C. 110, 352 S.E. 2d 471 (1987).

The Court: "Thirdly, you mentioned some alleged missing evidence. There's no testimony to what that evidence would have been. There's no testimony at all that it would be inculpatory or exculpatory. There's no evidence of what it was, and there's certainly no evidence of misconduct by the arresting authorities." Page 463 (8-14)

Page 263 (3-6)

Q. "How many times did you write statements?"

A. "Quite a bit."

Q. "Okay, A Lot?"

A. "Yes!"

See also transcript pages 51 (11-12), 176 (23), 178 (18).,

"Relevant evidence," means evidence having a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." 'Rule 402, SCRE'; Rule 401

Page 347 (15-17), (21-25), 348 (1-3)

Q. "Did you have a chance to look at any of the writings?"

A. "Yes sir, I did."

Q. "All right. And wouldn't they pretty much corroborate the interest that was shown by my client in his interview with you on psychology, child psychology, ADD and those kinds of things ---?"

A. "Yes sir."

Q. "--- inter-personal relationships and that kind of thing?"

A. "Yes sir."

Q. And would it be reasonable to draw the inference from what you saw in his house that he was using that -- his writings to maybe teach children or other people."

A. "I would use the term manipulate children or other people.

not necessarily to teach."

"When a defendant in a criminal case testifies in his own behalf, his character for truth and veracity may be impeached, but not his moral character." 'State v. Robertson,' 26 S.C. 117.

"Material evidence "proof of its existence or non existence would affect the disposition of the case under the applicable law." et. al.

(286).

Cumulative

Page (141) (5-8)

Mr. Diggs: "there were a couple of times when the examiner was leading the witness."

The Court: "Very few."

Page (140) (1-4)

Mr. Diggs: "Our position is you just can't get around the fact that, you know, the jury hears again, and again, and again, and again ---."

The Court: "I understand that." et. al.

(287).

Court Prejudice

Page (419) (12-13)

The Court: "You understand that whatever your verdict is, either not guilty or guilty, it's got to be unanimous"

'Court Leaves no room for independent uncertainty.'

Page (419) (21-22)

The Court: "I'm not entitled to a factual opinion and I have none."

Page (145) (24-25)

The Court: "That's about as far a stretch I've heard lately."

Page (355) (8-10)

The Court: "It has nothing to do with this case. He objects and I sustain it." (No one objected - search the transcript!) et. al.

(288).

Solicitor Misconduct

Page (422) (10-12)

Mr. Spratlin: "There's also other parts in the transcript that I edited it, your Honor, the parts about the truth and all that stuff ---" S.C. & 15-7-100, 17-21-30, et. al.

(299).

Unfair Prejudice

Page (422) (10-12)

The Court: "Well, how -- you wouldn't even know how to go

through a law library if I provided one for you."
Page (27)(25)
The Court: "You've got one of the best lawyers in the state standing right by you."
Page (125)(2-6)
The Court: "but you are aware of the fact that I have an obligation to follow the constitution."
Mr. Diggs: "yes sir. I've always thought that was a tough situation to be in."
'What is Diggs's record?' et. al.

(290). Disbarment

Counsel of record William Issac Diggs's license to practice law has been temporarily suspended by the South Carolina Disciplinary Council of the Supreme Court.
Was Diggs's apparent troubles which Kept him from investing in Applicant's case brought down through his preoccupation with present troubles? Was Diggs's interest at the time the need for playing a role favorable to the state? Diggs's license was suspended five months after Applicant's conviction. 'In re Diggs,' 410 S.C. 150, 765 S.E. 2d 425 S.C. 2014, Sept. 23, 2014.
Under the pretense of a practical 'winnowing' defense strategy sanction, as an attorney technique. Diggs would have learned as chief appellate attorney, but practiced in Applicant's case in a prejudicial version as displayed in his representation at trial, counsel of record Diggs made several obvious attempts for censoring Applicant's participation at trial, along with the State, and in particular, the 'privation' for preventing Applicant's objections to 'procedural defaults' Applicant has also labeled as 'extrinsic fraud.' et. al.

(291). Essential Issue Fourty Three:
Procedural Default

The Court had a predetermined motive not to entertain Applicant's formal motion to dismiss counsel of record Diggs.
Trial Transcript Page (18)(8-10)
Mr. Spratlin: The only motion the State feels we need to deal with before picking the jury, this being removal of counsel.
Page (18)(12-14)

(292). The Court to Diggs: "What you had indicated, not with a __ in not a formal motion, but there was some indication that he wanted to discharge you.

Page 22 (7-12), (24-25)

The Court: "May I ask you why you sued him?"

Mr. Legg: "It involved me trying to recover some evidence from __"

(The Court interrupts): "Okay. What's the second one?"

The Court: "Why did you file against Mr. Joye, who I know to be an excellent attorney?"

Page 23 (1-9)

Mr. Legg: "Under the same circumstances, your Honor, Judge __"

(The Court interrupts): "Okay. Well, who else __ and who was the next one?"

Page 24 (12-13)

Mr. Legg: "Well, your Honor, Thomas Floyd acknowledged in court ___"

(The Court interrupts): "I'm not interested in Thomas Floyd."

Page 26 (10-15)

Mr. Legg: "Your Honor, he ___"

(The Court interrupts): "___ and when he tells me he's ready for trial, he's ready for trial!"

Mr. Legg: "But I do have witnesses that we ___" Page 26 (13-15)

(The Court interrupts): "He's a lawyer."

Page 29 (14-25)

The Court: "Now, Mr. Legg, before the jury gets here, let me __ on Friday, you deliberately interrupted my proceedings by busting out, I'm entitled to a fair trial. I did not say anything at that time. I urge you, it would be very serious, do not do that."

"So you let Mr. Diggs handle these proceedings?"

Page 30 (11-12)

The Court: "Does the defense have any voir dire?"

Mr. Diggs: "Your Honor, I don't think so."

Page 45 (11-13)

The Court: "Mr. Diggs, as I understand it, you waived the presence of the defendant for Post Trial Motions?"

Mr. Diggs: "Your Honor, we do."

Pg 5 'Part 3'

(293). The Court intentionally confuses the issue over the illegal search warrant, as to the rightful ownership of the seized property, the 'Fruit of A Poisonous Tree,' and the vitiated use of said fruit, the inevitable confusion in the Jackson v. Denno Hearing, and the prevention of Applicant from testifying on these issues, including the interrogation statement which all fall under 'Procedural Default.' The recorded statement was a secret interrogation.

Page 57 (24-25)

Mr. Spratlin: "and in an overabundance of caution for the purpose of appeal, the State is not going to seek to validate the search warrant."

Page 357 (12-15)

Mr. Spratlin: "Yes sir, I just want -- Mr. Diggs did go somewhere into the mind manipulation, and I just wanted to address one question with the detective on that."

The Court: "You may do so."

Page 357 (16-17)

Mr Spratlin: Q. "Was there books on mind manipulation there?"

A. "There was."

'Diggs did not go into mind manipulation. Detective Frebowitz did.'

Page 348 (7-8)

(Diggs to Detective Frebowitz when Frebowitz himself broaches the subject of 'manipulation.')

A. "I would use the term 'to manipulate' children or other people, not necessarily to teach."

'This is the State's Fruit of the Poisonous Tree, and Frebowitz's twisting of what he actually observed.'

Page 93 (12-15)

The Court: "If it's a violation of a search warrant, it's illegal."

Mr. Spratlin: "It was a violation of the defendant's rights, your Honor, you're absolutely right."

(294). The substance of the character about the interrogation interview as to how it was directed to score a predetermined image by the substance and character of what detective Frebowitz gleaned from the illegal search warrant's seizure of material from Applicant's property, considering the subject matter of said writings, loaded the psychological nature of the interview, regardless of any redacted portions by the State, and if

said redactions were approved of by Applicant, are facts which are relative. The interview was a secret interrogation.

Page (89) (2-12)

Q. "With the respect to your interview of the defendant in this case, did you have a chance to look at any of the items taken from his home and review those items prior to your interview with him?"

A. "Yes sir."

Q. "Would one reason be to better prepare for your interview?"

* A. "Yes sir."

Page (90) (16-17)

Mr. Spratlin: "the statement was given following an arrest."

Page (91) (2-3)

The Court: "and there's no suggestion by anyone that he was offered any hope or - - -"

* 'Applicant was not allowed to testify to the facts regarding that very supposition.'

Page (79) (9-15)

Mr. Diggs: "Not with my permission, but, I mean, I'm aware of what he redacted."

The Court: "Well, do you agree that it was proper that it be redacted?"

Mr. Diggs: "Yes sir, well, depending on how he wanted to use the statement, yes sir."

The Court: "Oh, that's good enough."

Page (53) (20-22)

Mr. Spratlin: "Your Honor, the Jackson V. Denno, the statement taken from the defendant was independent of any kind of evidence that was recovered from the house." 'Not true'

Page (83) (5-6)

Mr. Frebowitz: "I've been trained in interrogation and interview, right."

Page (83) (14-15)

Frebowitz: "It's my job to get - - -"

The confusion over the trial of A Personous Free:

Page (54) (17-19)

The Court: "No sir: I can tell you if you start introducing that stuff, that's coming in, too, right or wrong."

Page (55) (7-8)

Part 3

(295). The Court: "You can't pick out for your - - - he can't pick out for himself what he wants to introduce - - -"

(296). The conspiracy to not only cover up tainted probable cause but also to cover up the accountability for such missing exculpatory evidences as further exposure to these facts prove Procedural Default, and et. al.

Page (53) (22-24)

Mr. Spratlin: "There was plenty of probable cause to arrest the defendant besides the evidence that was recovered from his house, that being the testimony of the victim."

Page (345) (1-14)

Diggs to Frebowitz: Q. "And it was an affidavit that you put together, correct, Remember?"

A. (No response)

Q. "You had - - I'm not going any further than that and you can just say yes or no."

A. "Yes sir."

Q. "All right. Now, when did you get that information?"

A. "From talking to the victim."

Q. "That being Morgan?"

A. "Yes sir."

'The search warrant affidavit was declared on June 17th, 2011 but the probable cause for it was not manifest until June 18th, 2011 as shown here:'

Page (341) (18-25), 342 (1)

Q. "Okay. And when - - do you recall the date of her interview with Morgan?"

A. "I have it in my notes that I can refresh my memory."

Q. "Can you look and tell us?"

A. "Yes sir. Her interview was June 20th, 2011.

Q. "And yours was - - -?"

A. "The 18th."

Q. "Two days prior?"

A. "Yes sir."

'The State and all actors participated in obvious great length to confuse and avoid the dates relative.'

Page (346) (6-8)

Q. "Okay. And she said he penetrated my vagina or in so many

words that would be expressed by a ten year old?"

A. "Yes sir."

Q. "And you stand by the statement you made in your affidavit?"

A. "Yes sir."

(297). The affidavit and the indictment which Applicant was alleged to have been arrested on and held in jail for thirty four months was based on a charge that required physical proof and DNA, of which there was neither.

On June 14, 2011 a minor complaint as stated by officer Lent, "did not amount to much," was based from a verbal assault against the accuser by the Applicant. After phone conversations with Detective Frebowitz with Applicant on the 15th and 16th of June 2011 which involved ideological content which incensed Frebowitz, the following day on June 17th Frebowitz executed his illegal search warrant,

(298). On the same day of June 17th Applicant entered his house through the open, unsecured and damaged door, during the same day which Applicant shored up the damage, and the Horry County Police broke into the door again with a ram jack under the same premise of the same illegal search warrant and arrested Applicant. Applicant was taken to the J. Reuben Long Det. Ctr. and was booked under the name of Don Legg. The following day of June 18th 2011 Applicant was rearrested under the name Ron Legg.

(299). Under this appropriate scenario, the actors have shown themselves to engage in an obvious persistent predetermined dialogue in a guise for convoluting these relevant facts.

A. The trial colloquy reveals that element of factual evidence avoidance which throws doubt to the whole story by the exposure to the rehearsed agenda, and through noting the continued concern over the ability of such trial experts to conceal relativity. But, most striking, is the court's involvement, and in orchestrating the motive in the predetermination found in the dialogue which works to protect the court and shield the state. The strategy is understood by digesting the motive in the colloquy of the following excerpts under 'Procedural Default' by counsel of record's failure.

B. Page 94 (1-9)

The Court: "I want some testimony as to whether or not he was ever back in that house after your illegal search warrant."

Spratlin: "Yes sir. Your Honor, that's what Detective Lent will be

able to testify about."

The Court: "See, he's alleging that after he had certain material they took and won't produce, and I want to know if he had an opportunity to take it himself." ?

Page 101 (20-24)

The Court: "That's the way I understand it. The 17th is the search warrant, arrested the 18th, and the report was finished on the 23rd, but he was in that residence for a day after he was first interviewed."

Mr. Spratlin: "Yes sir."

Page 329 (23-25), 330 (1-3)

Q. "Okay. Now, after the defendant was arrested, what if anything, did you do in regards to him?"

A. "I was informed by officer Lent that he had been taken into custody I believe the next day or -- I perfected a warrant with the correct name and there went to J. Reuben Long Det. Ctr. and requested to interview him."

'The State was fully aware of the appropriate criteria for the time lines, the police reports, booking records, and the 'Event Schedule' filings with the Clerk of Court and solicitor's possession, plus the experienced knowledge of a search warrant 'return' statute which which would clarify the pretense of the court as expressed on page 101 (5). The Court: "It can't be very difficult."

300). Page 140 (21-23)

The Court: "As a part of making that finding, of course, you've got to find that the questions were not particularly leading, and so I find that."

The Court: "I agree with you that it might be doubling up with her testifying." Page 141 (23-24)

Page 141 (5-9)

Mr. Diggs: "There are a couple of times where the examiner is leading the witness."

The Court: "Very few."

Page 283 (11-15)

Q. "Has anyone tried to touch you on your private parts that made you feel yucky? and her response was yes ma'am, and then your question was who was that, and she said my client, correct?"

A. "Correct."

Page 145 (24-25)
Mr. Spratlin: "I mean, I will err on the side of caution and take out more than enough."
Page 146 (1-2)
The Court: "You'll be in a mistrial situation if they hear it."
Page 434 (1-3)
Mr. Spratlin: "your Honor, there have been numerous things that were redacted. The page numbers are different. The transcript also has not been entered into evidence."
Page 435 (8-10)
Mr. Spratlin: "your Honor, there are other parts of the interview that have been redacted. There's whole sections that have been taken out."
Page 255 (21-22)
A: "~~Like~~ I was — I mean, I got upset because, I mean no one cusses at me like that."

(301) Page 23 (12-13)
Mr. Spratlin: "This case was statused before Judge John back in the December term, so three months ago it was statused for this week."
'Applicant was never informed about a statused date'.

(302). "Habeas Corpus, State procedural default will not bar federal habeas corpus review of claim of trial counsel's ineffectiveness where there was no meaningful opportunity to raise claim on direct appeal." See 'Trevino V. Thaler,' 2013, 133 S. Ct. ~~133~~ 1911, 185 L. Ed. 1044. Federal Rule 28, 28 USCA. Code § 16-3-651 C.C. et. al.

Conclusionary Statement

(303) The Court tells Diggs to be careful about a reversal page 268 (14-19), and the Court makes an objection for vicarious reason for the State. page 355 (8-10). And the obvious court room colloquy proving previous assessment for inter-related suppressions found in subtle phrases of discrimination and discreet gestures of rebuke for silencing Applicant page 94 (1-9), showing contempt against presumption of innocence, as penalty in unfair bias for shielding the County's illicit pattern of practice, through a predetermined conclusion for privation of Applicant's due process, preventing disclosure on the relevant

missing exculpatory evidences and preventing disclosure on the substantial writings of the accuser, and preventing scientific expert evaluation for the potential of the writings for showing prototypical bias and impeachable materiality pages (347 (15-17), (21-25), 348 (1-3). And showing specific dialogue for which counsel Diggs ignored in cross-examination of the accuser and witnesses, after having knowledge of such relativeness. Thereby, the actors worked to prevent relative witnesses, evidence and scientific corroboration - ("but I have witnesses") page (26 (13-15) whereas, the actors sought to spoil with harrassment (a tactic), as in the evidentiary hearing, as Applicant shows his attempts to bring to light, leading facts, page (22 (7-12), (24-25), in that conspiracy. And in further denial of 'Faretta v. California' for Pro Se, self representation, page (42 2) (10-12) (29 (5-8).

(304). " To show prejudice, there must be reasonable probability that the jury's verdict was influenced by the challenged evidence or lack there of." 'Kirton, 381 S.C. at 24, 671 S.E. 2d at 115 quoting' State v. White', 322 S.C. 364, 374, 642 S.E. 2d 607, 611 (Ct. App. 2007).

" To warrant reversal based on the admission or exclusion of evidence, the complaining party must prove both the error of the ruling and the resulting prejudice." 'Vaught v. A.C. Hardee & Sons, Inc.', 366 S.C. 475, 623 S.E. 2d 373 (2005). 'Fields, 363 S.C. at 26, 609 S.E. 2d at 509; 'Harahan v. Simpson,' 326 S.C. 140, 485 S.E. 2d 903 (1997); 'Ellis v. Davidson,' 358 S.C. 509, 595 S.E. 2d 819 (Ct. App. 2014).

South Carolina Code § 17-23 60. "Accused right to counsel, to produce witnesses and proofs, and to confront witnesses."

South Carolina Code § 17-27-20 (A) "Any person who has been convicted of or sentenced for a crime and who claims, (4) That there exist evidence of material facts, not previously presented and heard that requires revocation of the conviction or sentence in the interest of justice" Rule (71 I. SCRCP

"The right to expert testimony" 'State v. White,' 372 S.C. 364, 642 S.E. 2d 607 S.C. App. 2007

(305) In violation of the First Amendment 'Religious Discrimination', "Mr. Legg is a faith based therapist, and if released he will do it again", used to deny a reasonable bond and, subjecting to the jury to Applicant as a moral debased person. See 'State v. Knox,' 28 S.C. 114

In violation of the Fourth Amendment by the vitiated use of

illegally seized property and violation of personal and vocational privacy, both residential and mental. See 'State v. Emerson,' 132 S.C. 362.

In violation of the Fifth Amendment based on the violation of the indictment statute, and lack of substantial physical evidence.

In violation of the Sixth Amendment for Speedy Trial, effective assistance (representation), right to call witnesses, confrontation clause, an erroneous informing on indictment, and process.

In violation of all applicable rights including Fourteenth, due process and equality clause. et. al.

(306). Issue Fourty Five:

Failure To Investigate And Call Witnesses

"Right to call witnesses, especially for prototypical bias and impeachment." Rule 803, Rule 608 SCRE. "Evidence of Character, conduct and bias of witness." "Except for the addition of subsection (c), this rule is identical to the federal rule. Subsection (a) of this rule permits a witness' truthfulness to be impeached by opinion or reputation evidence. The general rule in South Carolina is that a witness' general reputation for truth and veracity is placed in issue when taking the stand. See 'State v. Mayer,' 301 S.C. 181, 391 S.E. 2d 235 (1990); 'State v. Robertson,' 26, S.C. 117, 1 S.E. 443 (1887), 'State v. Hale,' 284 S.C. 348, 326 S.E. 2d 418 SC ct. App. 1985). et. al.

(307) Issue Fourty Six:

Religious Bigotry

'State v. Hunt' 2 Hill (S.C.) 1, 20 S.C.L. 1, 1834 WL 1462, S.C. App. L. + Eq., March 1834 129 pages dealing with religious bigotry. et. al.

(308). Issue Fourty Seven:

Failure Of Police To Preserve

Failure to preserve specific evidence known to be accountable to the police and specific evidence in their possession, proven by the factors of record to be relevant materiality, known to the police et. al.

Issue Fourty Eight:
Unconstitutional Circuitous Nature of State (Catch 22)

(309). Civil Rights Conspiracy – Extrinsic Fraud

Without a probable cause showing, Applicant was forced to wear an electronic bracelet that contained a fourty thousand (40,000) watt electric shock during trial, without any indication to warrant such an extreme intimidation for constraint. Applicant was warned by the attending officer of the court and reinforced by the judge's rebuke, that, any unsolicited response from Applicant would constitute retaliation justifying shock.

(310). See page 29 (14-25) trial transcript, where Judge Cottingham exaggerates Applicant's statement, "I'm entitled to fair due process", during the courtroom colloquy in a previous hearing, citing it as an 'out burst', which is used in the rebuke during trial as a 'control prop for censorship'. According to actual court record, would show Applicant made a reply in turn, in order to reflect a defendant's meliorated point, by following the judge's lead for interjecting ones self into the debate under invitation, as Applicant was formally invited. It is the judge's domineering demeanor which proves to continuously pervade the discourse by over riding interruptions, which beckons the subjective to interject for the purpose of preserving on record one's objections for appeal, which is a constitute for one's rights, even while dodging bullets from prejudicial megalomania efforts in censorship.

311). Diggs failed to object to this custom and tradition in judicial tyranny, of suppression treatment through 'privation and censorship', in an effort to hinder Applicant through such numerous measures from a meaningful participation in his defense. And by the counsel of record Diggs's withholding of adversarial challenge against the State's runaway collateral advantage, through its aberration of Applicant's due process rights, in failure to challenge the State's substantiation criterion, the fraudulent conspiratorial suppression of mitigating defense factors, witnesses, exculpatory evidences, (Journals, writings and etc.), which showed bias and impeachment materiality against State's witnesses, which would have mainly supported the probative defense storyline for corroborating Applicant's

innocence as witness to relevant states of mind, and circumstances which would have challenged the State's assertion of moral turpitude, the (actus reus), as that defense was suppressed, otherwise, would have demonstrated the requisite alibi.

(312). Because of the presumed complex nature of the defense, assessed by the actors in this complaint, through their innate bias, and 'custom and tradition' of prejudice, because of the combined elements of the specific inter alia and invidious character of Applicant's vocation which subsisted on (religious and political), (spiritual and psychological) 'causitives,' (neuro sociological and etc.), whereas, the actor's prejudice presumed such to be pretentious or otherwise, and that prejudice became the sphere of constitutional abridgment, empowered by the unchecked authoritarian 'nature' of the State.

(313). In so doing, while also taking advantage of Applicant's plighted indigent status, the actors contemparenous drives moved them to suppress what they feared, or could not comprehend, because blind prejudice, or certain bigotry constitutes such exactness in censorship. According to Webster's, the definition of censorship is, (3): Inhibition by either ego or super-ego of conscious awareness of painful feelings or ideas.

(314). The actors from the beginning, of attending to the chimerical mind of the accuser, by initially engendering a fallible indicia of probable cause, and through the seed of a prevailing prejudicial contaminare, generated a more dispensable probable cause by unfairly prejudicing Applicant's defense, the State thereby, served that imagination and bolstered the accuser, adding insult to injury, through that blind pride, which is the root of the offense, by the State's taking of the low circuitous road, by, its custom and tradition of offense, which in fact proves to serve the State through the 'mere nature' of prejudicial attainment, in the unfair scope, of 'due process suppression' by that circuitous path.

(315). Through such uninhibited nature of the State, as outlined herein, shows such actions in Constitutional violations against Applicant have been excused and sanctioned by insinuation of custom and tradition, through the 'nature' of circuitous path, attributed to such boisterous phrases as, "This is Horry County an Independent Republic", in the belief of sovereign entitlement to the enactment of judicial, historical, independence from certain State and United States Constitutional constraints, by 'privileged nature,' as Judge

Cottingham implied on trial transcript page (27)(9) when he said to Applicant, "You think you can manipulate our court proceedings." As the judge excoriated Applicant's plight for redress of U.S. Constitutional Civil Rights guarantee of due process, as did Judge Culberson and Judge Hyman in equal manner, established on court record.

(316). Such a nature of a circuitous path implied here, was expressed fundamentally in the same doctrine as the one used by the Nazi torturers and executioners who's defense at the Nuremberg trials was due to the blame on obedience to the laws of custom and tradition found in the established circuitous path of the new regime. Psychoanalyst discovered later, the duplicitous nature of some of the nazi scientists who, while loyal to the circuitous laws of the land, could actually work during the day torturing other human beings, and go home to have a normal dinner with their family. Such human beings in service to their country were found to possess an extraordinary dual personality, out of which serves only to fool and confuse the conscience.

(317). "Congress - made Keenly aware by the post-bellum conditions in the South that States through their authorities could sanction offenses against individuals by settled practice which established State law as truely as written codes - designed 1979 s to reach, and as a rule; as well, official conduct which, because engaged in permanently and as a rule; or systematically; came through acceptance ** 511 by law-administering officers to constitute 'custom or usage' having the cast of law. See Monroe Pipe 365 U.S. 167, 315 S.Ct. 473 U.S. 1961"

318). "Rather, all the evidence converges to the conclusion that Congress by S 1979 created a civil liability enforceable in the federal courts only in instances of injury for which redress was barred in State courts because some 'statute, ordinance, regulation, custom, or usage' sanctioned the grievance complained of."

319). "Only when the States, through their responsible organs for the formulation and administration of local policy, sought to deny or impede access by the individual to the central government in connection with those enumerated and administrative of local policy functions assigned to it, or to deprive the individual of a certain minimal Fairness in exercise of the coercive powers of the State, or without reasonable justification to treat him

differently than other person's subject to their jurisdiction, was an overriding federal sanction imposed. As between individuals, no corpus of substantive rights was guaranteed by the Fourteenth Amendment, but only 'due process of law' in the assertainment and enforcement of rights and equality in the enjoyment of rights and safeguards that the States afford. This was the base of the distinction between federal citizenship and *238 state citizenship." See Buckman v. Rosenbaum Co., 260 U.S. 22, 31, 43 S.Ct. 9, 67 L.Ed. 107.

(320). "The court holds that § 1985(3) prohibits a private conspiracy to interfer with the exercise of First Amendment Rights only if such action is involved."

"FN2 The Court does not require that the conspirators be state officials or act under color of State law. Instead, the requirement is that the conspiracy intend to cause the State or a person acting under color of State law to deprive the victims of the conspiracy, of their constitutional rights." See 'United Broth. of Carpenters and Joiners of America, Local 610,'... 463 U.S. 825, 103 S.Ct. 3352 U.S. 1983.

(321). "That statute prohibits State officials from depriving citizens of "any rights, privileges, or immunities secured by the Constitution" 'Rev. Stat. 1979, 42 U.S.C. §1983.

'McDonald v. City of Chicago, ILL.', "including the right of every man to pursue his profession without the imposition of unequal or discriminating restrictions," Id., at 96-97.

(322). 42 U.S.C.A. § 1985 "If two or more persons in any State *** conspire *** for the purpose of depriving, either directly or indirectly, any person or class of person's of the equal protection of the laws; (and) if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such a conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators." See 17 Stat. 13 Mr. Shellabarger emphasized that the purpose of the charge was to make the gist of the offense a deprivation of equality of rights, not a deprivation of rights alone. Cong. Globe, 42 Cong., 1st Sess. 478.

(323). If counsel entirely fails to subject the prosecution's case to meaningful adversarial testing, there has been a denial of Sixth Amendment rights which makes adversarial process itself presumptively unreliable." 'U.S. V. Cronic', 466 U.S. 648, 104 S. Ct. 2039 U.S. 1984

(324). "It could convert the appointment of counsel into a sham and nothing more than a formal compliance with the Constitution's requirement that an accused be given the assistance of counsel. The Constitution's guarantee of *655 assistance of counsel cannot be satisfied by mere formal appointment." 'U.S. v. Cronic.' See also 'Avery v. Alabama', 308 U.S. 444, 446, 60 S. Ct. 321, 322, 84 L. Ed. 377 (1940). See page 111 this complaint, para. (204) d; "Courts have a duty to assure appointed counsel's professional service."

(325) Through the 'circuitous nature' of the State, it sanctioned that 'assistance of counsel sham,' through its 'conspiratorial custom and tradition', counsel did participate in, by failing to object to such violation of the 'equality of rights'. The actors are sought to maintain and dominate the proceeding Judge Cottingham referenced as exclusive to that 'circuitous path' nature, page 27(9) trial transcript. et. al.

(326). Issue Fourty Nine:
State Ingrains False Accusations

By the State's preoccupational nature in that prejudice as outlined, as was practiced against Applicant, and experienced in the eyes and ears of the accuser, served the culminating imagination of the accuser, while, the State failed to recognize the cumulative effects of bolstering the imagination of false accusation, giving undue confidence, thereby served to engram the imaginary fortress, giving firmer residency in the mind through restiveness, fed by the comaradery of the enclaved credulity of the State actors and auspice of the State powers which would require a psychiatric expert to testify as to the damage to future defense. et. al.

PCRS — Part 3 — Pg 142 S of 142

(327). Issue Fifty.

Cumulative Bolstering By Imprimatur Of State's Expert Witnesse's Prejudicial Effects, Improper Admission By The Court, And Counsel Of Records' Failure To Adequately Challenge

(328). The medical expert Carol Rather and the forensic interviewer Natalia Demaio's testimonies together amounted to cumulative bolstering and the fostering of deceptive and contradictory evidence.

(329). In the forensic interview the court's abuse of descretion by prejudice and clear error of law was manifest when the judge ruled the interview was relatively truthful in the face of clear and concise evidence to the contrary. Trial transcript page (121)(22-24), counsel Diggs's cross-examination of forensic expert interviewer Natalia Demaio: Q: "Did Morgan appear to contradict herself during the interview?" A: "No sir." Page (135)(11-12). A: "it made me feel that it was impossible in the way that she stated it happened, that it was impossible or that it was a red flag for me." 'This was not shared with the jury.'

Page (129)(15-16). Q: "You state your interview was clear disclosure of?" A: "Yes sir."

(330). In addition, the unredacted transcript of the interview as mentioned earlier where the state removed whole portions, 'not available here', and the admitted fact of Demaio thanking the accuser for being truthful, thereby bolstering unduly, the confidence of the accuser, whereby, corrupting the whole interview and the accuser's testimony. And no attorney sought an early deposition of the accuser's testimony for preserving an unadulterated interview, at Applicant's request.

(331). The elemental question about penetration was the relevant issue of a probable cause, which was initially to validate the illegal search and arrest warrant, and the dates of the alleged crime until the indictment was changed.

(332). While on the same subject of improper bolstering, the question of the veracity of the accuser, the state's witnesses, and the police and the solicitor, are all married to the question of penetration in the following exampled illustration in the medical examiner's testimony. Accordingly, the defense did not raise the issue of penetration as it was apparently stripped from the indictment because of its non-factual existence. Therefore, the medical examiner's opinion testimony or expert testimony served only to bolster the accuser's claim (basically)

demonstrating anything could happen without proof to the contrary, serving as credibility for the accuser. The medical testimony made it look as if the Applicant could have done something that time served to wear away the evidence of, it. This was partisanship for the State, and shifting the burden onto Applicant.

(333). A specific excepted ruling in 'Hudnall,' goes to the issue here, directly. "In this case, the evidence was admitted to bolster the child's testimony that the crime had in fact occured and was not offered to explain any seemingly inconsistent response to the trauma. We find admission of the irrelevant and prejudicial expert testimony was error which could not have been harmless in view of the paucity of evidence against Appealant."

"admissible only where it is offered to rebut a defense claim that victims actions were inconsistent with such trauma." 'State v. Hudnall,' 293 S.C. 97, 359 S.E. 2d 59 S.C. 1987.

'Paucity' of evidence is consistent with Applicant's case.

(334). "The admissibility of a particular piece of evidence often turns on the purpose for which it is offered, and expert opinion testimony in child abuse cases is no different." 'Hudnall.'

"Although the court did not articulate its rationale in full, 'Hudnall,' had two distinct bases. First, 'Hudnall' was grounded on the well-established character evidence rule which prevents the admission of bolstering evidence, because a witness is presumed to be credible and have good character in the absence of an attack. See 'S.C. Dept. of Highways + Pub. Transp. v. ES Ins.', 322 S.C. 147, 470 S.E. 2d 387 (Ct. App. 1996). See 'State v. Rogers,' 293 S.C. 505, 506, 362 S.E. 2d 7, 8 (1987).

335). Diggs did object here, Page (292) (1-4). "Your Honor, we object on the grounds of relevancy because there's never -- I mean, the State has already in previous testimony established there was no penetration."

336). The state subjected the jury to the probability of abuse by the medical experts colloquy that could lead to penetration, yet, there was no such conclusive disclosure from the accuser, about penetration. But, what is important is the fact that the medical expert witness and the solicitor infringed on the unearned for credibility bolstering for the accused, yet, most significantly in an underhanded offense, not addressed at trial, but shown here by the reliable contradiction in the substrate to procedural unfairly prejudices Appellant by

the State's inured devise through the emotionally charged inflection language that was partisan in the expert's testimony, whereas, equal time with a defense expert would certainly reveal counter academics to the State's, notably covering areas the State's witness avoids, however, most importantly, along with and not to over shadow the improper bolstering, but to include the fact that the expert's own language shows the State's zeal for unfair prejudice in using the trial colloquy of the medical expert's canned statements that are loaded with emotionally charged prejudicial adjectives in the pretense of educating the laymen towards what would be projected as scientific interpretation of a complex behavioral nature, yet, invading the province of the jury with negative connotations, persuading for childhood sympathies and psychological elevations or biases for the State's abuse claim of more serious acts, but, is used to justify in this case, the failure of the victim of abuse to disclose the occurence in time for physical/medical revelations. The medical examiner demonstrates favorably to the state, (the almost impossibility) of such a timely disclosure of the abuse by such children, although, when the State claimed the abuse occured between June 1, 2010 and June 14, of 2011 page 157 (2), when it would have been conceivable for a medical exam and DNA, to discover the evidence of abuse, and as the State initially claimed as (penetration), the accuser would have (immediately disclosed), contradicting the medical examiners whole hypothesis, as the accuser made a police report on June 14th, when the alleged crime was the probable cause for the search and arrest warrants issued on June 17, 2011. The State heretofore, uses the medical examiner's testimony to explain why such children as the accuser do not display evidence of abuse or penetration, because, they do not disclose in a timely manner, and therefore, the wounds heal, showing no scar tissue during the untimely exams. *Abuse alleged that happened every day for a year.* (337). There remains a problem, did the State-police, lie about the penetration, or, the alleged victim? Such conclusions are never addressed in this case. Was the medical examiner's canned report used for perjured testimony for camoflaging the issue of penetration and unfairly casting aspersions on Applicant? The medical examiner testifys the accuser did not disclose in time, or that was the impression from the testimony. However, since

the conviction did not prove the dated allegation, because, the dates were never correlated to any facts or to the medical examiners testimony. The accuser apparently did claim penetration and it was timely disclosed, however, the accuser must not have realized a physical exam would reveal otherwise, (the truth), and thereby, the accuser lied, or the police lied, and in such regard for the State's interest, the solicitor and others engaged in extrinsic fraud and cover-up, as the judge did continue to rule all evidence as reliably truthful, and of course admissable. Diggs failed to challenge such relativity.

338). Page (291) (2) Rather's testimony: A: "I did not find any abnormalities in her evaluation."

Page (292) (1-4) Mr. Diggs: "Your Honor, we object on the grounds of relevancy because there's never — I mean, the State has already in previous testimony established there was no penetration."

339). The Court: "No sir." "I'll permit him to go further." Page (292) (7-8) Direct by Spratlin: Q: "Dr. Rather, is it common for a victim of child sexual abuse not to disclose the abuse immediately?"
(14) A: "It is very rare that children disclose immediately."
(19) Q: "Is it so common for children to disclose immediately?"
(20) A: "Well, there's many reasons children don't disclose."
Page (293) paraphrased: (3-4) A: "The biggest one children say is they're afraid they're going to get in trouble if they tell."
(6-8) Q: "Is there any particular way that a victim of a child sexual abuse should act when they are suffering the abuse?"
(9) A: "No there's not one particular way."
(10-25) paraphrased: Q: "How different can children act?"
A: "go into a fetal position, giddy, nervous, laughing, very tearful, take the responsibility on themselves, some are screamed at, not believed."

340). Page (294) (1-4) Q: "So the fact that a child was not crying or upset during the forensic interviews, would that have any relevance on whether or not they were abused?"
A: "No."

341). The State alleged penetration, holding Applicant for 34 months in pre-trial detainment in a catch-22, preventing Applicant from obtaining counsel that would challenge the substantiation of the charges and for a reasonable hold. Penetration was in fact the probable

cause element used by the State for extortion of a plea, while the State had the medical report, asserting no physical abuse occured, as the allegation was in fact disclosed in a timely manner, proving that penetration as charged was non-factual. See page 292 and the rest of Rather's report testimony, of which was centered on a likely scenario for penetration abuse, hebubeit prejudicially, even-though the indictment was charged for trial, charging Applicant basically with just touching, without any factual evidence or a credible assertion of the act whatsoever, as opposed to Rather's testimony regarding any idea of an unlikely scenario because of the dates not in question, showing that relative specific of materiality was absent; 'the dates', of frequent occurance up to June 14, 2011.

(342). Page 292. when it turned convenient for the State (16-19), the State avers to its own logic for non-proof of penetration by, 'twisting' the non existence of physical evidence into a presumption of a likely occurence, through the inured slickness of entitling Rather's bolstering testimony under the guise of education, hewbeit, making a not easily discernable fact of contradiction for the jury, as Rather's report mainly focuses on an 'untimely exam,' when in fact, the opportunity was there, and the exam was timely, apparently from the date of June 16, to June 20, of 2011 for an alleged occurence just days prior. The jury obviously did not recognize that the State intentionally excluded any reference to pertinent dates. This has been a motus operendi of the State. The jury was thereby duped, as the State fraudulently manipulated the facts and turned what would have been a favorable report for the defense into a favorable report for the State, only through the art of legerdemain, which required again, the support of all of the actors including counsel of record's acquiescence over the actual facts he declared he investigated sufficiently. Such continual corrupting of evidence had a very definite devistating influence on the jury through such cumulative effects, 'in the art of producing guilt from subjective feeling'.

(343). The State thereby asserted, an examination in a timely manner would have revealed physical abuse, implying that since disclosure was not timely the State could not procure the necessary evidence. The State notably employed canned phraseology and incorporated the fixation on the word 'immediate' disclosure, while needing relevant time-lines. A mere realizable academia on the physiology of the female genitalia would warrant a more

exhaustive dispensation of such education to fully oblige that celebrated intent here by Rather's participation, particularly concerning such possible regenerative (full recovery) natures, if at all possible concerning 'abuse of penetration', in such a short time.

(344). The examination occured within a reasonable timely manner, relegated according to the police report of June 14, search and arrest warrant dated June 17, 2011 as Det. Frebowitz asserted the probable cause on June 16, 2011. The exam, for the purpose of discovering abusive penetration into a biologically sensitive area would at least register some common sense to a sustainable degree for conceptualizing the exam would have been timely according to arrest warrant.

"A circuit court's ruling on the admissibility of an expert's testimony constitutes an abuse of discretion when the ruling is manifestly arbitrary, unreasonable, or unfair. 'State v. Grubbs' 353 S.C., 374, 379, 577 S.E. 2d 493, 496 (Ct. App. 2003). To show prejudice, the Appellant must prove "that there is a reasonable probability the jurie's verdict was influenced by the challenged evidence or lack thereof." 'Fields v. Reg'l Med. Ctr. Orangeburg,' 363 S.C. 19, 26, 609 S.E. 2d 506, 509 (2005).

(345). "In this particular case, none of the testimony has any relevance except insofar as it informs the jury Smith believes the story told by the victim. As justice Pleicones explained in Jennings, there is no other way to interpret the language used in (Smith's testimony) other than to mean [she] believed the [victim was] being truthful" 'State v. McKerley' 397 S.C. 461, 725 S.E. 2d. 139 S.C. App. 2012. Similarly, as with both experts, they came across to the jury even though 'indirectly', the implicatio being the same. As with Demaio's interview thanking the accuser for being truthful, and although the statement was redacted, the impression she left on the accuser, and the character of her presence with the accuser theatrically carried the impression of that statement which carried over to the juries prejudices, by the impression in her directives through her credulity, lacking professional objectivity.

(346). In Rather's testimony, under Rule 403 SCRE relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. As well with Demaio's.

In Demaio's interview, she literally violated what protocol is on Supreme Court Record against in 'Kromah'

(347). "In Kromah our Supreme Court held forensic interviewers should

avoid (1) stating the child was instructed to be truthful (2) offering a direct opinion on the "child's veracity or tendency to tell the truth," (3) indirectly vouching for the child, "such as stating the interviewer has made a "compelling finding of abuse," (4) indicating "the interviewer believes the child's allegations in the current matter," (5) opining the child's behavior indicated the child was telling the truth". 'Kromah,' 401 S.E. at 360, 737 S.E. 2d at 500.

(348). In Demaio's interview she states there was clear disclosure pag(129)(15), indicating she believed the accuser. Even though this fact was not revealed to the jury, Demaio's report influenced the judge's decision which weighed on the admisability of the DVD, wherefore, Demaio's credulity in the theatrics of the interview's persuasion of the jury was indirectly an exposure to the influence which can be easily perceived in the mannerisms of confidential fidelity to a storyline, whereas, her enthusiasm in her testimony was partisan for the State just as Rather's was.

(349). "It is undeniable that the primary purpose for calling a forensic interviewer as a witness is to lend credibility to the victim's allegations." 'State V. Dempsey', 'Portillo', 403 at 71, 757 S.E. 2d at 724, 'Kromah' 401 S.E. at 352.

'A'. No attorney discussed the indictments with Applicant as Applicant apealed to judge Hymen during the first arraignment. From the stacking of charges to the lesser offense added later, the statutes were never challenged or properly recorded at trial. Apparently, S 16-15-140 repealed the valid statute 16-141.1, applicable at the time of alleged offense, and was thereby changed to accomadate more broad range speculation of the offense which would compliment the scheme in Rather's testimony for a more liberal conception Applicant now challenges as fraud. et. al. See Issue Fifty Three 'stacking charges', 2nd Amendment - Addendum.

Issue Fifty One:

Directed Verdict Denial

(350). The court denied the motion for directed verdict in error of law because the paucity of evidence was fraught with the State's unfair prejudice in exaggerating the credibility of its case through corruption in every element, thereby, the jury could not have fairly and logically deduced a legitimate decision from a lack of factual evidence, without the State's taint.

(351). "A circuit judge should grant a directed verdict motion when the evidence merely raises a suspicion the accused is guilty."

pars

'State v. Brown', 402 S.C. 119, 740 S.E. 2d 493 S.C. 2013

352). "The trial court (judge), is required to submit the case to the jury if there is "any substantial evidence" which reasonably tends to prove the guilt of the accused or from which his guilt may be fairly and logically deduced." 'State v. Martin', 340 S.C. 597, 533 S.E. 2d 577 (2000). 'State v. Mitchell', 341 S.C. 406, 535 S.E. 2d 126.

353). "the State must present substantial circumstantial evidence." 'State v. Long', 325 S.C. 59, 62, 480 S.E. 2d, 63 (1997)(quoting 'State v. Little John', 228 S.C. 324, 329, 89 S.E. 2d 924, 926. "Accordingly, the trial court should not deny the motion "when the evidence merely raises a suspicion that the accused is guilty." Id. Also, see Amendment-Addendum (2nd), with issue Fifty one, furthered, filed following this Amended-Addendum Complaint (1st).

354). Because of counsel of record's prejudicial misjoinder with the State, Diggs lacked any evidentiary structured facts for flushing out defense storyline. And Diggs did not attempt to discover any mitigating facts or circumstances as this complaint has demonstrated, whereas the State sought guilt from unchallenged subjective feeling.

355). The conspiracy has been made obvious by this exhaustive complaint, as Diggs clearly shows 'canned representation' as a sham, whereas, the State served to reinforce that characterization, shown also conclusively in the solicitor's misconduct and outright misjoinder deceptions. Just days prior to trial, solicitor Spratlin was present at the Ex parte Motion Hearing before Judge John on Feb. 25, 2014 just 12 days prior to trial when Diggs stated he did not have time to prepare a defense for Applicant. On page 23 (14-17) paraphrased, Spratlin states, "Mr. Diggs worked faithfully with me, and we've been ready to go to trial". This was an effort, although fraudulently, to convince the court of Diggs's defense preparedness, et al. Diggs failed to object to insufficiency of evidence, Rules 56(h) 59(a). See Amendment-Addendum 2nd, Issue 51.

(356) Issue Fifty Two:

Rule 59 (e), 17-27-80

✓ Because the State will readily intrude upon the complaint by denying a requisite evaluation of the complaint's factual order, through the State's 'simplism' to State's advantage, likely imposed through an expedient 'composite' justification attack ('Leit motif'), as its custom and tradition of the State's will and truculent force, as such is partial to the complaint, by the State's proven harangue of Applicant's

PCRS

effort to expose the full contextual reality of all material elements of the offense, as is the relative storyline of materiality the State would seek to dismember, through incursion, in an effort to deflect and obfuscate the construction of the case, therefore, Applicant is exercising his right to enact upon the State it's Statute S.C. code 17-27-80, Rule 5(c) because, this means, is, the only open judicial format presently, for arresting the likely to continue offense, that, shows the actor's misadjoined behavioral logic in tradition and custom of that conspiracy, is, indicative of an anti-social personality disorder syndrome, which is non-conducive of, and against the U.S. Constitutional provisions, whereas, being unchallenged, remains repugnant of, and an over-reaching atrocity against the equality of civil rights, and therefore such called for adjudication against that freely operating, entrained custom and tradition, of a pugnacious circuitous path, in the trend of a Socialistic/Fascist-Caste philosophy, in conspiracy, must be fully addressed in an effort for Applicant to receive a fair and impartial hearing." 15 27-150'

(357). Applicant is fully aware of the harsh rhetoric selected for his 'mote juste', for the analysis as an appropriately described offense. The importance here, remains in the fact that the actors' literally engaged in the conspiratorial misconstruction of Applicant's defense, by the actual extrinsic fraud of the storyline. Whether or not the actors fully appreciated each's role, would be attributed to their blindness. The fact remains, however, that the anti-social personality disorder is attributed to the fact that such a conspiracy against civil rights through the powers of the State for some benign social justice, in a lawful proceeding to an unlawful end, could only be a forthright act in behavioral logic as described. And in being a judicially ascribed act outside of lawful standards (done clandestinely), is an action from within the individuals personal prejudice, thereby, ideological, and for this matter warrants the suitable justiciable political question of the appropriately described philosophy.

(358). Applicant was convicted by conditions contrary to fact, et al., as the following concluding principle facts clearly display:

(359). The court's 'nolle me tangere' in conspiracy and extrinsic fraud with Solicitor Spratlin and Counsel Diggs, speaking in code colloquy specifically referencing (" **that document**)" in

PCRS

Secret, trial transcript pages 360-361, in a discourse to intimidate Diggs regarding the original search warrant, Exhibit 'B', in an explicit extortionate conspiratorial extrinsic fraud. Also, pg. 88 (16-25), 91 (16).

(360). Diggs's obvious duplicity prevails in his subtle manner which is a clue to his entrained custom and tradition of an 'amicus curiae' nature, as seen in how Frebowitz's [sic] 'Bad Acts' were highly susceptible to deciphering for the defense, but, was avoided. Frebowitz's malfeasant illegal search warrant with exacerbated/exaggerated probable cause, missing exculpatory evidences, the derivative use of seized writings for vitiated 'distortion', to unfairly prejudice Applicant were concomitant to the defense storyline. However, in contrast, Diggs 'extolls' Frebowitz's reputation before the jury, page 414 (18-20), "This Detective is a professional, we're lucky to have him in the position he's in," which further lent sanitized credibility to the State's unchallenged fraud, and did in fact prejudice Applicant.

(361) Further, with Demaio, the forensic interviewer, Diggs also 'extolls' her reputation before the jury, page 408 (4-5), "to be experienced as she is she's got to be excellent," as Applicant challenges her credentials, also concomitant to the defense story line. And also Diggs lend credibility to the accuser's allegations by expressing sympathy to her 'victimization', page 413 (10-12), "She's going to have everything available to her that the system can offer and that's rightly so." There are no harmless errors in such cumulative prejudices, et. al.

"There were numerous references to the truth the State redacted" According to Solicitor Spratlin, trial transcript pg 434 (11-14) in reference to the forensic interviews.

Copies of Exhibits dependant upon appointed attorney.

I reserve the right to 'Amend and Addendum'

#2014-CP-26-8376

Respectfully submitted,

Feb. 26, 2015

Ronald C. Rigg

Amended
MELANIE HUGGINS-WARD
CLERK OF COURT
ANDY COUNTY

Amendment / Addendum

PCR Application No.

Issue Fiftythree: Trial counsel failed to suppress indictment, 'State v. Smalls', 364 S.C. 343.

(362). Issue Fiftyfour: In accordance with the citation by the South Carolina Supreme Court ruling on the Direct Appeal trial counsel Diggs filed, and appellate counsel argued before the Supreme Court, trial counsel failed to preserve a highly relevant issue for appeal.

(363). A). 'State v. Legg', Appellate case no. 2014-000568. The Supreme Court recognized that Appellant raised a secondary issue which was not preserved for Appellate review only when they are raised and ruled on by the lower court,

(364). (a). clearly showing here that appellate counsel recognized a relevant secondary issue, whereas, issue was raised for appellate review concerning the State's expert witness, which should have been raised by trial counsel during Applicant's trial, seperate from the badly prepared, yet preserved issue, the Supreme Court did rule on, although appellate counsel realized the secondary issue was highly relevant and prejudicial to defense. See 'Initial Brief by Appellant Defense,' Exhibit 'BAD' (TG)

(365). Issue Fiftyfive: Another argument for Deficiency of Performance by trial counsel also revolves around the more recent ruling on the Direct Appeal as raised by trial counsel Diggs and represented by Appellate counsel Robert Dudek on the above mentioned ruling:

(366). A). The Supreme Court of South Carolina made a determination on the appeal which was raised by

trial counsel Diggs as it was determined to be a weakly expressed articulation in terms of a vague grounding of the challenge as the court cited, " Although not posited in these precise terms, appellant brings a facial challenge to section '17-23-175' under procedural due process."

(367). (a) the Court also stated, "A facial challenge is an attack on a statute itself as opposed to a particular application."

(368). (b). Here, the Supreme Court reveals the conflict of interest in trial counsel's assistance, whereas, Diggs showed only an interest in the legislative authority of the statute, as opposed to defending Applicant against a more obvious application of the statute's more broad permissiveness, showing, or challenging a more indepth prejudicial application of the statute by the State's wrongful application which did not necessarily comport with the statute's legislative intent the Supreme Court was left to conclude was absent.

(369). (c). as shown here, trial counsel failed to object to State's allowing of alleged victim's out of court statement because it failed to comply with the statute,

(370). (i). " Failed to object to impermissible out of court statement and as hearsay evidence that was unduly prejudicial because it was inconsistent with the victim's trial testimony", as also the Supreme Court recognized in its ruling that the alleged victim's cross examination showed inconsistencies." *State v. Stahlnecker*, 386 S.C. 609, 690 S.E. 2d 565. See also 'State v. Legg', 2014-000568 where the Court acknowledges the alleged victim's inconsistencies.

(371). (ii). not consistent with declarant's testimony, it's hearsay. Rule 801 (d)(1)(B).

(372). Issue Fiftysix: The evidence in the record establishes trial counsel was deficient in Objecting to

numerous admissions of improper hearsay, thereby satisfying the first prong of 'Strickland.'

(373). A). Trial counsel failed to object to solicitor's unduly prejudicial hearsay statements. See Tr. Tr. Pg. 61 (22-25) "other victims;" and thereby failed to move the court to strike from the record such continuing unduly hearsay statements which prejudiced Applicants character on record.

(374). Issue Fifty seven: According to S.C. Code 1976 '17-27-20 (4): "That there exist material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice."

(375). A). The State presented fraudulent intended evidence, in an effort to thwart the 'Motion To Dismiss The Indictment,' See Exhibit 'MDI'; Tr. Tr. Pg. 49 (9-10). "The Court: ___ and that would be his motion to dismiss the indictment."

(376). (a). State asserted Applicant was arrested on June 18, 2011 as an effort to shield any wrong doing by the police, whereas, Defense counsel claimed the police left Applicant's house unsecured after breaking into the residence with an unlawful search warrant, and compromised exculpatory evidences, whether due to the police's removal, or the State's witnesses, however, the State sought to cover up the police accountability by introducing a fictious date by chicanerous attribution as a premeditated devise of the State solicitor, for the purpose of leaving the impression that Applicant was present on the date of the search warrant, and remained on the premise for 24 hours, and was arrested the following day, thereby, absolving the police of any accountability for Applicant's property, because, the property remained in Applicant's responsibility.

(377). (b). the State claimed the search warrant was executed on June 17, 2011 and Applicant was arrested on June 18, 2011 as a contrived devise for fraudulent purpose, and not as an accidental reading of the evidence because the exhibition of the date was for satisfying elaboration on the prearranged issue.

(378). (c). fact remains that Applicant was arrested on June 17, 2011 on the same day the search warrant was executed, a date critical to Applicant's innocence. See Exhibit 'TL', (as new evidence dated June 23, 2015) showing the J. Reuben Long Det. Ctr. affirming Applicant was detained on June 17, 2011. Exhibit 'DA', showing State's perjured evidence', Tr. Tr. Pg. 101 (10-24).

(379). B). See Exhibit '4T' 'Police Report showing date of arrest to be June 17, 2011.

(380). (a). This missing exculpatory evidence during the trial, available in Discovery, shows trial counsel Diggs failed to secure facts for rebutal of the States false evidence, and was reviewable in due course of time as the State introduced the evidence at the beginning of the trial.

(381). (b). trial counsel was negligent in his duty to validate the facts asserted by the State, failing to research the case effectively, having known in advance the issue of the search warrant and police culpability in wrongdoing. See Exhibit 'PSW' Tr. Tr. Pg. 50 (4-5).

(382). (1). where is the record on the hearing as mentioned?

(383). C). The fraudulent evidence prejudiced the 'Motion To Dismiss The Indictment,' See Exhibit 'PSW', Tr. Tr. Pg. 463 (12-14), "The Court: there's certainly no evidence of misconduct by the arresting authorities."

(384). (a). See Exhibit 'TT', Tr. Tr. Pg. 328 (19-21) "You determined his real name was Ronald Legg after he was arrested? A. Yes." See Exhibit 'JD', Applicant was arrested under the name Ronald Legg, on June 17,

2011.

(385). (b). The State intentionally excluded Lead Detective Frebowitz's report and trial counsel complied. See Exhibit '4T.'

(386). Issue Fifty eight: Trial Counsel failed to obtain a ruling on the 'Motion To Dismiss The Indictment,' to file an appeal based on the correct facts:

(387). A). Motion To Dismiss The Indictment: See Exhibit 'MDI'; Tr. Tr. Pg. 49 (9-16).

(388). (a). See Exhibit 'PMb' (TG) Tr. Tr. Pg. 460 (18-25), 461 (1-3). Ruled on by the court based on State's case, Exhibit 'PMd,' Tr. Tr. Pg. 402 (2-22), Exhibit 'PMe' Tr. Tr. Pg. 463 (1). (TG)

(389). (b). Issue was not raised on appellate case because of lack of adversarial contest and corrupted suppression of evidence, and suppression of Applicant's right to participate in the appeal process both in the lower court and the court of appeals. See Exhibit 'PTM'; Tr. Tr. Pg. 464 (2-3), "Court affirms trial counsel Diggs waived Applicant's presence during Post Trial Motions.

(390). (i). trial counsel waived Applicant's right to be present without Applicant's consent.

(391). Issue Fifty nine: In a continuation of § 17-27-20 (4), in that, 'There exist material facts, not previously presented and heard, as in Issue 57, concluding here, two other areas covering material facts not previously presented are as follows:

(392). A). Investigating Detective Neil Frebowitz was terminated from employment with the Horry County Police Department on March 14, 2014 the day after Applicant's conviction on March 13, 2014. See Exhibit 'TM,' 'Termination Letter.' Frebowitz's termination was intentionally withheld until after Applicant's trial because reason's for Frebowitz's termination were relative

to Applicant's case. See Exhibit 'TM', 'Termination Letter.'

(393). B). Applicant's personal property withheld by the J.R.L.D.C. contained relative material evidence, being exculpatory, was never retrieved by Defense counsel and mysteriously vanished from custody of the J.R.L.D.C.. And the J.R.L.D.C. claimed to have transferred the property to the S.C.D.C., but the S.C.D.C. administration asserts the property in question was never received as claimed. See Exhibits 'RC', 'CR', 'IR', and 'FGC one thru six.'

(394). Issue Sixty: Trial counsel failed to file a motion for the retrieval of all of Applicant's illegally seized property and photographs of his property, previous to trial.

(395). Issue Sixtyone: Trial counsel never once discussed any trial preparations, that is, strategy or defense theory, or for calling any witnesses. And trial counsel Diggs acknowledged Applicant wanted to prepare for trial, yet Diggs brought forth the concept of a 'resolution,' but it was a devise for stalling, 'running out the clock,' as Diggs never discussed his premise for a resolution. See Exhibit 'Z', 'Diggs Letter.'

(396). Issue Sixtytwo: Trial counsel Diggs was neffective in processing his 'Ex-Parte Order for Prior Approval of Expert Services. See Exhibit 'EX.'

(397). Issue Sixtythree: Trial counsel failed to observe basic rules of procedure for protecting Applicant's substantive rights stemming from these many issues:

(398). A). For the purpose of protecting Applicant's right to equality in the face of a disproportionate number of indigents falling under the counties boasted 98% conviction rate on criminal cases, as public knowledge counsel failed to defend Applicant against the status

quo, for equal treatment.

(399). (a). trial counsel failed to ask questions of the state's case, and witnesses designed to elicit testimony favorable to Applicant, by, dwelling unnecessarily on irrelevant issues and even issues harmful to Applicant

(400). (b). "It is substantive law's identification of which facts are critical and which facts are irrelevant that governs." 'Reyes V. Koehler,' S.O.N.Y. 1993, 815 F. Supp. 109.

(401). (c). many of what decisions trial counsel made about the case did not take place in court, nor reflected in motions and other court documents, even as all of Diggs's decisions were based on the absence of Applicants partisipation by Diggs's conflict of interest.

enclosed Exhibits: 'MDI' (A) - 'TL' (B) - 'DA' (C) - '4T' (D) 'PSW' (E) - 'TT' (F) - 'JD' (G) - 'PME' (H) 'PTM' (I) - 'TM' (J) - 'RC' (K) - 'CR' (L) - 'IR' (M) - 'FGCJ' (N) - 'Z' (O) - 'EX' (P)

All additional exhibits are marked (TG) means for counsel to get, because of inmate restrictions.

I, Ronald L. Legg swear that all of the issues in this complaint are true.

Respectfully Submitted

Sworn to and subscribed before me this 17 day of July, 2016

S Ortiz

(Notary Public of South Carolina)

My Commission Expires 8/17/24

Amend / Addendum

FILED
HORRY COUNTY
MELANIE HUGGINS-WARD
CLERK OF COURT

PCR Case No.

July 8, 2016

402). Issue Sixty Four: Ineffective Assistance of Appellate Counsel;

A). Appellate Counsel failed to raise issue of Ineffective Assistance of Trial Counsel,

B). Appellate Counsel failed to make the record sufficient on several issues in accordance with this complaint as the trial transcript reveals,

a). and thereby failed to make clear the issues for appeal

C). Appellate Counsel failed to secure the Court Recorder's 'recordings' of trial record because of the incompleteness of trial transcript as outlined in the complaint, showing by Applicant's illustration, the lack of a thorough record for appeal purposes,

'Southerland V. State,' 337 S.C. 610, 524 S.E. 2d 833 (1999). 'Ezell V. State,' 345 S.C. 312, 548 S.E. 2d 852 (2001). 'Bennett V. State' 383 S.C. 303 680 S.E. 2d 273 'Deas V. Reynolds,' 2016 WL 2642107

There are 572 numbered paragraphs in this complaint, as this amendment corrects the previous given number.

Respectfully Submitted,

(A)

Exhibit 'MD1'

JURY OUT/ON RECORD (On page Amend- 3 of 7 paragraph (375) 49 5 of 7 para. (387)

witnesses will be here, as well as Ms. Achury from the Childrens' Recovery Center.

THE COURT: Let the record reflect I want to hear all motions and have them ruled on to the extent that I can so we can go to work -- that one motion that Mr. Diggs made, I will rule on after I hear some of the evidence in the case, ---

MR. SPRATLIN: Yes sir. Thank you, Your Honor.

THE COURT: --- and that would be his motion to dismiss the indictment.

MR. SPRATLIN: Yes sir. We'll address some of those issues in the Jackson V. Denno hearing like we discussed back in chambers.

THE COURT: That will be fine. Please have the Defendant back in the courtroom promptly at 2:30 All right, see you then.

MR. SPRATLIN: Thank you, Your Honor.

(LUNCH RECESS.)

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Mr. Diggs (sic)?

MR. SPRATLIN: Yes sir.

THE COURT: In the Jackson V. Denno, that will be, I assume, the same officer that gathered certain material?

MR. SPRATLIN: Yes sir, Your Honor. It's Officer Neil

Frebowitz with the Horry County Police Department. He was also one of the officers that executed the search warrant at the Defendant's residence.

THE COURT: And you have previously asserted on the hearing on Friday, which is made a part of this record, that everything that he had in his possession you turned over to the Defendant?

MR. SPRATLIN: Yes sir, Your Honor. Copies were given to the Defendant, and the box of evidence is actually seated right underneath this chair here if the Defendant wishes to use any of it.

THE COURT: Have you shown it to him before?

MR. SPRATLIN: Yes sir. He saw it before and he has given us copies of everything. It's all writings, Your Honor. It's all writings of the Defendant.

THE COURT: All right.

Mr. Diggs, you made a motion based on some other concerns. Let me hear that. I think we can address it through this officer.

MR. DIGGS: Right. What we are alleging is that in addition to materials that were collected by the State in this case, in addition to those materials that have been made available to us, there were two additional types of writing that were there. One was a spiral-bound notebook that was black in color, and then one was a ledger book, and

(B)

Horry County Sheriff's Office

Exhibit 'JL'
(On Page 4 of 7
Amend. Paragraph (37&))

J. Reuben Long Detention Center
Phillip E. Thompson - Sheriff
4150 J. Reuben Long Ave
Conway, SC 29526

June 23, 2015

To whom it may concern:

Ronald Legg was in our facility from June 17, 2011 until he was sent to SCDC on March 14, 2014. We do not have any record of a Don D. Legg ever being booked into our facility.

Sgt. Sandy Lowe
Classification Supervisor

(C)

Exhibit 'DA'
(On Page Amend- 4 of 7 Paragraph (378))

THE COURT: --- of the illegal search warrant ---

MR. SPRATLIN: --- according ---

THE COURT: --- and his arrest.

MR. SPRATLIN: --- according ---

THE COURT: It can't be very difficult.

MR. SPRATLIN: Yes sir, Your Honor. According to the police report that Detective Lent testified about, the Defendant was arrested in his residence on June 23rd, 2011.

THE COURT: Well, is that correct, Officer?

A. Well, sir, it shows that the arrest date was on June 18th, 2011. The report was entered on June 23rd.

MR. SPRATLIN: I apologize.

Q. So he was arrested on June 18th.

THE COURT: That's what I heard him say.

Q. And how many days after the search warrant was executed was he arrested?

A. That would be the next day.

Q. The next day, and he was arrested in his residence?

A. Yes.

THE COURT: That's the way I understand it. The 17th is the search warrant, arrested the 18th, and the report was finished on the 23rd, but he was in that residence for a day after he was first interviewed?

MR. SPRATLIN: Yes sir, Your Honor.

THE COURT: All right.

I didn't mean to keep interrupting you, but that was important to me.

MR. SPRATLIN: No sir. I was trying to get there, but you made me get there a whole lot simpler.

THE COURT: Well, I thought so.

MR. SPRATLIN: Thank you, Officer. I have no further questions. Please answer any questions Mr. Diggs might have.

THE COURT: Mr. Diggs, you may examine.

Did you participate in the illegal search?

A. No. I was not there when the search warrant was executed.

THE COURT: You was not there. Thank you.

CROSS-EXAMINATION BY MR. DIGGS:

Q. Detective Lent, you were -- you had an opportunity to go inside the home?

A. Yes. When I originally responded, I was ---

Q. Okay. How long were you in the home?

A. I might have been at the house, outside in the yard, and inside, for probably less than an hour.

Q. Okay. Did you have occasion to see any video recording equipment, cameras, monitors, anything like that?

A. My recollection of the residence was that it was pretty cluttered. It was organized, but it was full.

Q. A lot of stuff in there?

(D) [redacted]

Exhibit '4T'
On page Amend- 4 of 7 & 5 of 7
paragraph (379) & (385)

On June 16, 2011 the below signed called the subject on the telephone number listed on the report (843-995-6551). The subject, who acknowledged his identity, stated his was a "Christian based individual who was treating the victim for ADD" and any contact was therapeutic. Subject became hostile towards additional questioning and declined to answer any questions.

On June 16, 2011, the below signed appeared before Judge Mayers and pursuant to an application of probable cause, Warrant M840652 was issued charging Don Dale Legg with CSC 1st Degree with a Minor under 11. As the victim described writings and letters between her and the subject, a search warrant was applied for and subsequently granted for the subject's home and office, located at 5221 Bottle Branch Rd., Conway, SC. The below signed, along with Officer Fred Rash responded to the address annotated on the police report but found the home unoccupied.

During a later search of the property pursuant to the warrant, several items were seized as evidence. The items, including journals, writings, posted placards as well as small sized apparent children's swim or underwear which was found in the subject's bedroom dresser.

On June 16, 2011 at 1600 hours, the below signed received a telephone call from Cpl. Paul Johnson who advised the subject had been observed entering his home. Police were on the scene and the subject initially refused to surrender but was subsequently taken into custody without incident and was transported to HCDC for booking on the warrant.

On June 17, 2011 at 0700 hours, the below signed received a telephone call from Officer Lent advising while attempting to serve the warrant, it was confirmed by HCDC Officer's the subject had provided a false and fictions name during the investigation and again at the jail. A fingerprint record search by the FBI determined the true identity of the subject to be Ron Lee LEGG, with a date of birth of September 13, 1950. The below signed subsequently responded to the offices of Judge Butler and obtained a warrant on the original CSC charge listing the correct name of the arrestee as well as a subsequent warrant charging him with providing false information to police.

On June 17, 2011, the subject was interviewed while in custody at the Horry County Detention Center. The subject was provided his Miranda rights and voluntarily provided an oral statement which was recorded. The subject acknowledged diagnosing and then "treating" the victim for a psychological illness through behavior modification as well as other techniques. A copy of the interview is included with this report.

Detective Neil Frebowitz

Frebowitz with the Horry County Police Department. He was also one of the officers that executed the search warrant at the Defendant's residence.

THE COURT: And you have previously asserted on the hearing on Friday, which is made a part of this record, that everything that he had in his possession you turned over to the Defendant?

MR. SPRATLIN: Yes sir, Your Honor. Copies were given to the Defendant, and the box of evidence is actually seated right underneath this chair here if the Defendant wishes to use any of it.

THE COURT: Have you shown it to him before?

MR. SPRATLIN: Yes sir. He saw it before and he has given us copies of everything. It's all writings, Your Honor. It's all writings of the Defendant.

THE COURT: All right.

Mr. Diggs, you made a motion based on some other concerns. Let me hear that. I think we can address it through this officer.

MR. DIGGS: Right. What we are alleging is that in addition to materials that were collected by the State in this case, in addition to those materials that have been made available to us, there were two additional types of writing that were there. One was a spiral-bound notebook that was black in color, and then one was a ledger book, and

witnesses will be here, as well as Ms. Achury from the Childrens' Recovery Center.

THE COURT: Let the record reflect I want to hear all motions and have them ruled on to the extent that I can so we can go to work -- that one motion that Mr. Diggs made, I will rule on after I hear some of the evidence in the case, ---

MR. SPRATLIN: Yes sir. Thank you, Your Honor.

THE COURT: --- and that would be his motion to dismiss the indictment.

MR. SPRATLIN: Yes sir. We'll address some of those issues in the Jackson V. Denno hearing like we discussed back in chambers.

THE COURT: That will be fine. Please have the Defendant back in the courtroom promptly at 2:30 All right, see you then.

MR. SPRATLIN: Thank you, Your Honor.

(LUNCH RECESS.)

(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)

THE COURT: Mr. Diggs (sic)?

MR. SPRATLIN: Yes sir.

THE COURT: In the Jackson V. Denno, that will be, I assume, the same officer that gathered certain material?

MR. SPRATLIN: Yes sir, Your Honor. It's Officer Neil

home and spoke to the victim and her mother.

Q. So you went over to the home and spoke with the victim and her mother?

A. That's correct, sir.

Q. And we saw in court yesterday the forensic interview of the minor child. What, if any, involvement did you have in that taking place?

A. I established through our protocols a request for a forensic interview and then that was followed up on. They did go to the Childrens' Recovery Center for that interview, and I reviewed that, that process.

Q. Okay. Based on your investigation and totality, did you have sufficient probable cause to issue a warrant for the Defendant?

A. Initially I had probable cause to issue a warrant for who we believed to be Donald Legg, and it wasn't until he was taken into custody and fingerprinted we determined him to be Ronald Legg.

Q. Okay. You determined his real name was Ronald Legg after he was arrested?

A. Yes.

Q. And so the initial warrant in this case, who was it issued for?

A. Donald Legg.

Q. And the Defendant, he's not Donald Legg?

A. I was a desk officer in Pennsylvania when I was in college, so a total of forty years now in law enforcement.
Q. Forty years experience. What's your current job at Horry County Police Department?
A. I'm a detective with the Major Crimes Section.
Q. What is the Major Crimes Section?
A. We investigate the serious crimes, the violent crimes that occur in Horry County. My responsibility is basically homicides and sexually-based offenses.
Q. And would lewd act upon a minor be one of those sexually-based offenses?
A. Yes sir, it would be.
Q. Now, as a detective, what are some of your duties in cases that you are assigned?
A. We are responsible to follow up on the initial police officer's report. Their responsibility is to just what the jury just heard, that Officer Lent respond to the scene to have a preliminary information, see if he can develop witnesses, provide that to our investigative unit, in this case myself, and I then conduct follow-up investigations.
Q. And, Detective, what, if any, involvement did you have in the case we're here today about, Mr. Ronald Legg?
A. I did just that. After receiving the case and revealing the information that Officer Lent provided, reading his report and then speaking with him, I went to the

(G)

Inmate Receipt

Exhibit '~~SAA~~' '30' Pg 1 of 2

(Cx Page Amend- 4 of 7 paragraph (384))

Inmate: LEGG, RONALD LEE

Inmate #: 2011061388

Date: 6/17/2011

Receipt Number: 2011115190

Property Bin ID: 190

Quantity	Item	Description	Color	Serial No.	Status
1	SHIRT		MULTICOLOURE		STORED IN PROPERTY ROOM
1	SHORTS		BROWN		STORED IN PROPERTY ROOM
1	BELT	BRAIDED STYLE	BLACK		STORED IN PROPERTY ROOM
2	SHOES		BLACK		STORED IN PROPERTY ROOM
1	WATCH	MULTI SCRATCH ON FACE	BLACK		STORED IN PROPERTY ROOM
1	WALLET		BROWN		STORED IN PROPERTY ROOM
1	KEYS		MULTICOLOURE		STORED IN PROPERTY ROOM
1	CIGARETTES	OPEN BOX	MULTICOLOURE		STORED IN PROPERTY ROOM
1	RING		YELLOW		STORED IN PROPERTY ROOM
1	CELLPHONE	MULTI SCRATCHES ON FACE	BLUE		STORED IN PROPERTY ROOM
1	BATTERIES	SEPARATE FROM CELLPHONE	BLUE		STORED IN PROPERTY ROOM
					STORED IN

20 MISC APERS MULTICOLO PROPERTY ROOM

Ga

Exhibit "JD" Pg. 2 of 2

on Page Amend-4 of 7
paragraph (384)

~~part of "SPR"~~

I acknowledge that the Status shown on this receipt for each Item is correct as of 6/17/2011 at 19:05.

Signed:

Signed By Ronnie Rogg

(4)
Exhibit (on Page Amend- 5 of 7)
Paragraph (38e)

PMe

they are respectfully denied.

First, there's ample evidence for the jury to conclude it was lascivious acts by the Defendant. Secondly, it would appear to me that the statute that you refer to is certainly constitutional. There's no evidence by me that this court or any court in the United States has declared it unconstitutional, but that's an issue for our Supreme Court.

Thirdly, you mentioned some alleged missing evidence. There's no testimony to what that evidence would have been. There's no testimony at all that it would be inculpatory or exculpatory. There's no evidence that it would help or hurt the Defendant. There's no evidence of what it was, and there's certainly no evidence of misconduct by the arresting authorities.

The record reflects as to those issues, those matters obtained in that illegal search, all of those were turned over to the Defendant.

Can you again affirm that, Mr. Spratlin?

MR. SPRATLIN: Yes sir, Your Honor. All contents taken by law enforcement were turned over and made available for the Defense review.

THE COURT: All right.

I note your objections and thank you for them, Mr. Diggs. They are respectfully denied. In my view, it is appropriate that the verdict and sentence stand. Thank you

so much.

The record will reflect that he has waived the presence of the Defendant in these post-trial motions.

MR. SPRATLIN: Thank you, Your Honor.

THE COURT: All right. Thank you gentlemen. Again, the case was professionally tried by both of you.

MR. DIGGS: Thank you, Your Honor.

THE COURT: I was just pleased to be your presiding judge.

MR. SPRATLIN: Yes sir. Appreciate it.

(Conclusion of Transcript of Record.)

(1) Exhibit 'PTM'

On Page Amend- 5 of 7
Paragraph (389)

361
D1995

so much.

The record will reflect that he has waived the presence of the Defendant in these post-trial motions.

MR. SPRATLIN: Thank you, Your Honor.

THE COURT: All right. Thank you gentlemen. Again, the case was professionally tried by both of you.

MR. DIGGS: Thank you, Your Honor.

THE COURT: I was just pleased to be your presiding judge.

MR. SPRATLIN: Yes sir. Appreciate it.

(Conclusion of Transcript of Record.)

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THE COURT: All right.

I note your objections and thank you for them, Mr. Diggs. They are respectfully denied. In my view, it is appropriate that the verdict and sentence stand. Thank you

(J)

(On page Amend 5 of 7) Exhibit '1M' page 6 of 7 para. (392) COPY

HORRY COUNTY POLICE DEPARTMENT

Dedicated to Providing Comprehensive, Quality Law Enforcement

2560 North Main Street, Suite 7 - Conway, SC 29526 - Tel.: 843-915-5350 - Fax: 843-248-1886

✓ pg. 1 of 2

MEMO TO: Neil M. Frebowitz
Employee ID # 584

FROM: Saundra Rhodes
Chief of Police

DATE: March 14, 2014

RE: Letter of Termination

An Internal Affairs investigation was conducted after an allegation of disclosure of confidential information for the period of June 1, 2013 to September 23, 2013. Upon conducting a thorough investigation, the Office of Professional Standards has found the complaint to be sustained. This investigation has substantiated that you violated County policies:

Findings: (Policy Violations)

- **Horry County Government Policy # 1.6 CONFIDENTIALITY POLICY:**
  Horry County Government is committed to respecting the privacy of its citizens and employees. Information obtained by employees in the course of employment should be considered confidential and not be disclosed to other employees or the public with a "need to know".
  - 2 counts
- **Horry County Government Policy # 5.9 (13)** – Conduct on or off duty that has a negative impact on the County.
  - 2 counts
- **Horry County Government Policy # 5.9 (32)** – Unauthorized or improper use or disclosure of County records, documents or information.
  - 2 Counts
- **Horry County Government Policy # 5.9 (38)** – Divulging or misusing confidential information, including removal from County premises, without proper authorization, any employee lists, records, designs, drawings, or confidential information of any kind.

Forwarded to Mr. Owens, IAD on 3/20/14 (interdepartmental) cbb

(3a)

TM page 5 of 7 para. (392)

- **Horry County Government Policy # 5.9 (43)** – Conduct that causes embarrassment for the County.
  - 2 counts
- **Horry County Police Policy # 1-4 (IV) (I) (I)** – Information: Employees shall not communicate to any person who is not an employee of this department any information concerning operations, activities, or matters of law-enforcement business, the release of which is prohibited by law or which may have an adverse impact on the department image, operations, or administration.
  - 2 counts

You are advised that your termination is subject to grievance as outlined in the Horry County Personnel Police Manual. Questions you may have regarding further processing of this action must be made with the Horry County Human Resources Department.

It is so ordered,

Saundra Rhodes
Chief of Police

Receipt of Letter: _____
Neil M. Frebowitz

Approved: _____
Paul Whitten
Assistant County Administrator

cc: Human Resources
File

(On Page Amend-6 of 9 Paragraph (393)) Exhibit RC

(K)

Ronnie,
I just Know This would happen. I don't Know
If you remember what you wrote on That
Permison Slip for me to get your Stuff.?
Any way The day I came in After you Left I was
Informed by Eddie Hill That I could not Then or
ever get your Stuff from property because
of The way you had written The Permisson
Slip out. I did read It and It did refer
To your Thing IN property being Linked To
The chain of Evidence and at That point
They would not release It To me.
I Asked Eddie what was going To happen
and at That point he wasn't sure. So a
couple of weeks went by and I ask him
again at That point he said he had forgot
about It but was going To do something
That day. After That I haven't heard anything.
Next week 5-20-14 I will ask him again
and see what he said. any way There is
a guy named Mike Miller (friend) That is There
also.

You are right about demonic forces of evil although
Its not confined To Horry Co. I Think It is
Nation wide. It was good To Finally here
From you Your Brother and Sister In Christ

INMATE GRIEVANCE

Inmate:	2011061388	LEGG, RONALD LEE
File Date:	3/13/2014 6:13:00 AM	
Meeting Date:		
Resolution Date:	3/14/2014 9:04:00 AM	
Grievance Status:	CLOS	

Chairman:	
Member 1:	
Member 2:	
Officers:	KIOSK27
Subject of Grievance:	REQUEST/PAGE 2/INTERNAL AFFAIRS/INTERNAL AFFAIRS - OTHER REQUEST

Statement:
COULD I SEE YOU RIGHT AWAY? THANK YOU.

Review:

Findings:
WHAT IS THIS PERTAINING TO MR LEG?

--

OFFPICCONE
HORRY COUNTY DETENTION CENTER

INMATE GRIEVANCE

Inmate:	2011061388	LEGG, RONALD LEE
File Date:	3/13/2014 6:14:00 AM	
Meeting Date:		
Resolution Date:	3/13/2014 7:39:00 AM	
Grievance Status:	CLOS	

Chairman:	
Member 1:	
Member 2:	
Officers:	KIOSK27
Subject of Grievance:	REQUEST/CHAPLAIN/RELIGIOUS MATERIALS

Statement:
COULD I PLEASE GET A FREEDOM OF INFORMATION JAIL HOUSE LAW BOOK PLEASE? THANK YOU.

Review:

Findings:
CHAPTER 7 WILL BE SENT THURSDAY

--

SGTStrickland
Horry County Detention Center

(L)

(On Page Amend - 6 of 7)
paragraph (393)

Exhibit "CR"

INMATE GRIEVANCE

Inmate:	2011061388	LEGG, RONALD LEE
File Date:	3/13/2014 3:42:00 PM	
Meeting Date:		
Resolution Date:	3/14/2014 12:12:00 PM	
Grievance Status:	CLOS	

Chairman:	
Member 1:	
Member 2:	
Officers:	KIOSK27
Subject of Grievance:	GRIEVANCE/UNIT MANAGER/UNIT MANAGER - OTHER GRIEVANCE

Statement:
ATTENTION MAJOR JOHNSON, IN ANSWER TO YOUR ANSWER TO MY LAST COMMUNICAE REGARDING THE KIOSK ENTRIES. THAT ANSWER DID NOT RESOLVE THE ISSUE. FOR ONE THING, NO WOULD TOLD ME THAT IF I SELECTED THE 25 THAT THE BALANCE WOULD BE PUT IN PROPERTY. HOWEVER, HAVING THE KIOK ENTRIES IN MY PROPERTY DOES NOT SERVE THE PURPSE WHEREAS THE RQUEST WAS FOR ME TO HAVE PHYSICAL POSSESSION OF THEM, AND BESIDES THE GROUP YOU SENT TO ME DID NOT CONTAIN THE MEDICAL ENTRIES WHICH WOULD CONSIST OF THE WHOLE. ACCORDING TO THE LAW, IAM ENTITLED TO ALL DOCUMENTS THAT CONTAIN MY NAME, INCLUDING THE BED BOOK AND MEDICAL BY THIS INSTITUTION. WITHOUT HAVING SERVED THAT REQUEST OPENS THE INSTITUTION UP TO A STATE AND FEDERAL LAWSUIT. I HAVE A LIEUGETIMATE AND LAWFUL RIGHT TO THE REQUEST. THEREFORE YOU MUST SHOW IN WRITING A LEGAL REFUSAL FOR ARBITRATION. THANK YOU FOR YOUR TIME OVER THIS MATTER AND ANSWERRING SO FAR.

Review:

Findings:
RELEASED

--

UMNapolitano
Horry County Detention Center

INMATE GRIEVANCE

Inmate:	2011061388	LEGG, RONALD LEE
File Date:	3/14/2014 5:07:00 AM	
Meeting Date:		
Resolution Date:	3/14/2014 7:26:00 AM	
Grievance Status:	CLOS	

Chairman:	
Member 1:	
Member 2:	
Officers:	KIOSK27
Subject of Grievance:	REQUEST/CHAPLAIN/RELIGIOUS - OTHER REQUEST

Statement:
TO RON CONKLIN, I AM LEAVING THE BUILDING RATHER QUICKLY, WONDER WHY? PLEASE RETRIEVE MY PERSONAL PROPERTY. THE PHONE IS EVIDENCE SO PLEASE BE CAREFUL WITH IT. I WILL TRY TO GET IN TOUCH WITH YOU WHEN I GET TO WHERE I AM GOING. GOD BLESS.

Review:

Findings:
INMATE RELEASED

Exhibit 'I R' (On Page Amended 6 of 7) Paragraph (393)

(M)

Inmate Receipt

Inmate: LEGG, RONALD LEE
Inmate #: 2011061388
Date: 7/30/2015
Receipt Number: 2015262033
Property Bin ID: -No Bin-

Quantity	Item	Description	Color	Serial No.	Status
1	SHIRT		MULTICOLOURE		TRANSFERRED TO SCDC
1	SHORTS		BROWN		TRANSFERRED TO SCDC
1	BELT	BRAIDED STYLE	BLACK		TRANSFERRED TO SCDC
2	SHOES		BLACK		TRANSFERRED TO SCDC
1	WATCH	MULTI SCRATCH ON FACE	BLACK		TRANSFERRED TO SCDC
1	WALLET		BROWN		TRANSFERRED TO SCDC
1	KEYS		MULTICOLOURE		TRANSFERRED TO SCDC
1	CIGARETTES	OPEN BOX	MULTICOLOURE		TRANSFERRED TO SCDC
1	RING		YELLOW		TRANSFERRED TO SCDC
1	CELLPHONE	MULTI SCRATCHES ON FACE	BLUE		TRANSFERRED TO SCDC
1	BATTERIES	SEPARATE FROM CELLPHONE	BLUE		TRANSFERRED TO SCDC
20	MISC PAPERS		MULTICOLOURE		TRANSFERRED TO SCDC

(On Page Amend- 6 of 7 paragraph (393) Exhibit 'FGC'1' 1 thru 6'

(N)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
RESPONSE TO INMATE CORRESPONDENCE

TO:	Inmate Ronald L. Legg
SCDC #:	359236
INSTITUTION:	Evans CI
FROM:	Jonathan R. Eckstrom
DATE:	May 27, 2016
RE:	Inmate Correspondence Dated 3/3/2016 FOIA: Itemized Property on Control List

Mr. Legg,

This is a follow up to my March 30, 2016 communication with you on the kiosk system. The first (1) inquiry you addressed in your above referenced FOIA request was answered by your Warden on February 19, 2016 in response to your grievance 862-15. In regards to your second (2) inquiry, you will need to contact the J. Reuben Long Detention Center. Lastly, you can research your third (3) inquiry in your Institution's law library. I checked ~~with the SCDC Grievance Coordinator, who then~~ checked with the IGC at your institution, and SCDC does not have any documentation responsive to this FOIA request. I hope this response satisfies your inquiry. I am returning your original letter so you ~~can have~~ it for your records.

S/ Jonathan R. Eckstrom
Jonathan R. Eckstrom
Office of General Counsel

(Nb)

'FACTS'

I am requesting more specific information.

(1) I need to know if the record shows that S.C.D.C according to J. Reuben Long Det. Ctr., did or did not receive said property. Again, I am requesting specific information for the purpose of denying or affirming that the said property was received from J. Reuben Long Det. Ctr. or if it was not received, or if it was received.

(2) I am requesting in writing from the South Carolina Department of Corrections the address to this issue for legal purposes. The personal property in question pertains to evidence involving a criminal proceeding which is under investigation

(3) I am requesting in addition documentation regarding the procedures and policies for such a transaction, i.e., as outlined herein, the procedure for receiving said property, confirmation with the inmate, and storing of said property.

I am fully aware that the Warden stated that Corporal Bruce; Property Control Officer stated she never received any items from J. Reuben Long Det. Ctr. However, to make this clear (she) is not S.C.D.C. The Warden also stated, "I suggest you write them about the missing property.

Now, I am registering this complaint concerning any furtherance of this issue from the grievance.

On 2/22/16 I was called before the grievance officer for addressing the grievance issue. I read the grievance while standing outside in foul weather while having to yell through the window to the grievance officer. I told the grievance officer I need a step 2 grievance form for pursuing the issue. She then told me that I had to sign the form to get a step 2 grievance form. So, I signed the form but did not check any of the boxes above the Grievant signature space. I handed it to her, then she handed me the copy of the grievance. I started to walk away when I noticed it was not a step 2 grievance form and was just a copy of the grievance. I require

(No)

FGC 2

goes with Counsel General letter

Ronald L. Legg #359236
Evans Corr. Inst. FSO-145
610 Hwy. 9, West
Bennettsville, S.C. 29512

RECEIVED
MAR 10 2016
GENERAL COUNSEL

SCDC
Office of General Counsel
4444 Broad River Rd.
Columbia, S.C.

March 3, 2016

Re: FOIA
enclosed: copies

Dear General Counsel,

I recently received a letter from this office denying the process on a South Carolina Freedom of Information Act request, stating the reason because of an unaddressed grievance on the issue.

I am now reinstituting that FOIA request by asserting that the obstacle this office claims prevented the process of that request has been resolved to the satisfaction of the institution but not to the issue.

In order to prevent a going to and fro from any further delay on the FOIA I am going to address at length the issue again and clear the slate from any interference the grievance on the issue may constitute by enclosing also with this request a complaint on that grievance procedure.

I am requesting specific documentation on an issue regarding personal property under my name which was held in the J. Reuben Long Det. Ctr. from June 17, 2011 until March 14, 2014 or sometime thereafter they claim that this property was transfered to S.C.D.C. I have not only needed to know if said property was in the possession of S.C.D.C., but also if it was received.

Now, according to the Warden's decision on my grievance he claims property control has done no wrong because the said property is not in their control. However,

(NC)

'FGC4'

reading glasses and did not have a pair. But I turned and told her that I needed a Step 2 grievance form and she then told me it was too late because she had already closed it out. I then said, what does that have to do with anything? And she said it was too late because I had already checked the box where it said "I accept the Warden's decision and consider this matter closed". Then I said, "I did I did not check that box, you put that check there." Then she said, Its too late I closed it out, go and write Columbia about it.

Before me was an inmate by the name of Ryan Brader who this grievance officer also refused to give him a Step 2 grievance form.

The Warden clearly wrote on the grievance form that if I wished to pursue this matter, all I had to do was to contact the grievance coordinator for the appropriate form. This I did as I requested the form. But the coordinator played a bait and switch game out of the issue to deprive me of that form.

I am not basing the FOIA request on the grievance. I am basing the FOIA request on a legal issue for specific documentation in a proper manner, this procedure is for avoiding misappropriation of a legal matter. I am pursuing this FOIA in accordance to the law and should not have to be jumping through hoops in order to frustrate the issue.

Please respond in writing to my request within 15 days of receipt or show cause for lawful exemption.

With warm, personal regards, I am,

Sincerely

enclosed: property list
and step 1 grievance

(Nd)

'FGCS'

over

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Ronald L. Legg SD

SCDC NUMBER: 359236

INSTITUTION: Evans

HOUSING UNIT: FSD145

WORK ASSIGNMENT: Dorm Worker BY:

RECEIVED NOV 12 2015

Grievance No. ECI-0862-15

Code: General PR

Policy

Disc. Hear.

Class.

PREA

Date Received 11-23-15

IGC Initials 12/27/15

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I have received notice from the J. Reuben Long Detention Center in Conway, S.C. that my personal property from the J.R.L.D.C. was turned over to S.C.D.C. I am trying to get S.C.D.C. to confirm this but I can not get a response.

Kiosk Nos. for the informal resolutions are as follows: 15-822911, 15-830325

ACTION REQUESTED:

Confirmation whether or not S.C.D.C received the property.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

9-23-2015 on Kiosk

10-30-2015

15-822911, 15-830325

Grievant Signature 11-4-15 Date

(NE) (FGC6)

SCDC 10-5 (Rev. May 2013)

Inmate Legg:

WARDEN'S DECISION AND REASON:

This is in response to grievance# ECI 862-15

I have reviewed your grievance and pertinent documentation. I was unable to verify any misconduct on behalf of any SDC employee or staff. Corporal Bruce; Property Control Officer stated she never received any items from J. Reuben Long Detention Center. I suggest you write them inquiring about your alleged missing property items. Based on the information provided, I consider this matter resolved.

If you wish to pursue this matter, please contact your grievance coordinator for the appropriate forms. You have five (5) days from receipt of my response to submit a Step-2 grievance form.

Warden Signature 2-19-16 Date

- ☐ I accept the Warden's decision and consider the matter closed.
- ☐ I do not accept the Warden's decision and wish to appeal.

Grievant Signature 2/22/16 Date

IGC Signature 2/22/16 Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing in the Grievance Box within five (5) days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via placement in the Grievance Box.

(a)

Law Offices of
WILLIAM ISAAC DIGGS
Licensed in NC & SC

1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843.626.4243
843.626.5123 Fax
www.MyrtleBeachLaw.com

On Page Amend - 6-7
paragraph (395)

November 7, 2013

Exhibit, Z

Ronald Legg
4150 J Reuben Long Ave
Conway, South Carolina 29526

RE: State vs. Ronald Legg

Dear Mr. Legg:

This letter is to give you an update as to what is occurring with your file. We are currently reviewing discovery that came in from the Solicitor's office and we will discuss the charges with the solicitor that has been assigned to your case as well as we are waiting to receive the file from your former attorney. As of today we do not have any good offer from the state to discuss with you and I do understand that you want to take this case to trial, but we are working towards a resolution in this matter as soon as possible and preparing for trial at the same time. I will come and see you to discuss your case the week of November 18, 2013. I do not want you to feel that you are not being represented. With kind regards, I remain

Sincerely,

Williams Isaac Diggs

Appeal — Why Diggs ignored theft suppression motion

WID/bad

(P) Exhibit EX

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	THE COURT OF GENERAL SESSIONS FOR THE 15TH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA, -VS- RONALD LEGG Defendant	)	EX-PARTE ORDER FOR PRIOR APPROVAL OF EXPERT SERVICES

THIS MATTER COMES BEFORE THE COURT on a Motion by counsel for the defendant seeking approval for the hiring of experts in this case and payment of funds by the State of South Carolina for such expert services in this criminal matter pending in Horry County. Defendant is charged with committing a lewd act upon a minor female child.

The Court has heard Defense Counsel's Oral Motion. Defense counsel informs the Court that psychiatric expert services are required in this matter to provide expert testimony on the issue of Attention Deficit Disorder and investigative services to procure information, school records and records from the Department of Social Services all of which relate to the alleged minor child victim in this prosecution. Defense counsel has informed this Court that the alleged minor victim has a brother living in the home with her who recently accused his biological father of criminal sexual conduct, which accusation was unfounded and shown to be not true. Moreover, defendant has demonstrated to the Court that (1) the alleged minor victim likely suffers from ADD, and (2) the alleged minor victim was scolded by the defendant and told she was not going to

(Pa) Exhibit EX

be able to visit him in the future: and such history and circumstances might reasonably contribute to false allegations as against the defendant by the alleged minor victim. Having considered said Motion in the context of the alleged facts of this case as the Court understands them to be, and having reviewed the status of Defense Counsel's expert services request, the Court finds that the expert services requested are reasonable and necessary for the defense of this case, and are therefore authorized by this Court. Furthermore, based upon the seriousness of the offense and the findings above cited, this Court finds that this is a proper matter for the authorization of funds pursuant to Appellate Court Rule 602(g).

Inasmuch as the defendant is indigent, this Court finds that as provided by statute and case law of this state, the State of South Carolina must bear the cost for these services. If state funds are unavailable, the Court will be so advised and the Court will address the matter.

This Order is issued pursuant to Ake v. Oklahoma, 470 U.S. 68 (1985), *McMehan v. York County Council,* 281 S.C. 249, 315 S.E.2d 127 (S.C.App. 1984), S.C. Code § 16-3-268 (1988 Cum. Supp.), S.C. Code § 17-3-80 et. seq. (1988 Cum. Supp.), and *Bailey v. State,* 309 S.C. 455, 424 S. E. 2d 503 (S. C. 1992).

IT IS THEREFORE ORDERED, that this Court approves the defendant's request for the service of the expert in the field of investigation and ~~Attention Deficit~~ Disorder and other co-occurring personality disorders. Disruptive Behavior ~~Disorder~~. It is further,

ORDERED that the approved costs are not to exceed _____

_____Dollars;

This Order shall be filed with the Clerk of Court and made a part of the public

(Pb)

Exhibit EX

record in this case upon the completion of this case.

AND IT IS SO ORDERED.

Steven H. John, Chief Administrative Judge
For the Court of General Sessions for the
Fifteenth Judicial Circuit

This _____ day of February, 2014
Conway, South Carolina

Cover Letter

Melanie Huggins-Ward
Clerk of Court Horry County
P.O. Box 677
Conway, S.C. 29528-0677

HORRY COUNTY
2016 JUN 27 AM 8:25
MELANIE HUGGINS-WARD
CLERK OF COURT

June 17, 2016

Honorable Melanie Huggins-Ward,

Please find enclosed 'Motion To Reinstate PCR Application No. 2014-CP-26-8376 Previously Dismissed Without Prejudice, with Amendment/Addendum, pages 1 thru 7, with Exhibits, and A, B, C Contents pages.

Could you please return to me an 'In Clock Stamped Copy' of these submissions to your office for filing with the court.

Thank You,

With warm, continuing, personal regards, I am

Sincerely,

ALAN WILSON
ATTORNEY GENERAL

October 11, 2017

FILED
HORRY COUNTY
2017 OCT 16 P 1:53
CLERK OF COURT

The Honorable Renee N. Elvis
ATTN: Laurie Hardwick
Horry County Clerk of Court
PO Box 677
Conway, SC 29528-0677

Re: **Ronald L. Legg, #359236 v. State of South Carolina**
2016-CP-26-6592

Dear Ms. Elvis:

Enclosed please find the original **Return, Partial Motion to Dismiss and Motion for a More Definite Statement** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Johnny E. James Jr.
Assistant Attorney General

JEJ/mm

Enclosures

cc: Daniel A. Selwa, II, Esquire

R. EMBERT C. DENNIS BUILDING • POST OFFICE BOX 11549 • COLUMBIA, SC 29211-1549 • TELEPHONE 803-734-3970 • FACSIMILE 803-253-6283

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
Ronald L. Legg, S.C.D.C. No. 359236,	)	Case No.: 2016-CP-26-06592
Applicant,	)	
v.	)	**RETURN, PARTIAL MOTION TO DISMISS, AND MOTION FOR MORE DEFINITE STATEMENT**
State of South Carolina,	)	
Respondent.	)	

FILED
HORRY COUNTY
2016 OCT 16 PM 2:55

In response to the application for post-conviction relief filed by Ronald L. Legg (Applicant) on October 13, 2016, Respondent would show this Court:

I.

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. Applicant was indicted at the October 2011 term of the Horry County Grand Jury for lewd act on a minor child (2011-GS-26-03553).[1] William I. Diggs, Esquire represented Applicant,[2] and Martin D. Spratlin, of the Fifteenth Circuit Solicitor's Office, prosecuted the case.

[1] Applicant was additionally indicted for two counts of criminal sexual conduct with a minor child under 11 years of age (2011-GS-26-03552; 2012-GS-26-02179). The CSC indictments were dismissed *nolle prosequi* prior to trial.

[2] Applicant was initially represented by William Thomas Floyd, Esq. Applicant brought suit against Mr. Floyd in federal court and counsel recused himself from further representation. Tr. 21, l. 22 – p. 22, l.4. Applicant was then briefly represented by Johnny Gardner, Esq., who removed himself due to a conflict of interest. Tr. 22, ll. 12-17. Applicant's third attorney was R. Scott Joye, Esq., who met the same fate as Mr. Floyd—he was sued in federal court and relieved. Tr. 22, l. 18 – p. 23, l. 9. Mr. Diggs worked on the case after Mr. Joye's departure. Tr. 23, ll. 10-17. Applicant tried to fire Mr. Diggs, but upon learning of the Court's firm stance that trial would proceed as scheduled, Applicant relented and permitted Mr. Diggs to continue representation. Tr. 28, l. 19 – p. 29, l. 7.

Underlying Crime

Between June 2010 and June 2011, when M.W. (Victim) was between the ages of ten and eleven, Applicant on a number of different occasions inappropriately touched Victim's body in various places, spread her legs, exposed himself to her, called her "sexy," stole her clothing while swimming, and displayed programming with explicit sexual content. Tr. 202-225. After an instance of verbal abuse by Applicant, Victim disclosed the conduct to her mother. Tr. 183, l. 14 – p. 184, l. 12. Law enforcement arrested Applicant a few days later and charged him with committing a lewd act on a minor. Tr. 324, l. 18-23.

Trial and Appeal

On March 10, 2013, Applicant proceeded to trial before the Honorable Edward B. Cottingham and a jury. The jury found Applicant guilty as indicted on March 12, 2013. On March 13, 2013, Judge Cottingham sentenced Applicant to imprisonment for a term of 12 years.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert Michael Dudek, Esquire. Jennifer Ellis Roberts, of the South Carolina Attorney General's Office, represented Respondent. Two questions were presented to the South Carolina Court of Appeals:

I. [Whether t]he trial court properly denied [Applicant's] challenge to the constitutionality of [S.C. Code Ann.] § 17-23-175.

II. [Whether t]he trial court properly qualified Dr. Carol Rahter as an expert in medicine and child sexual abuse despite [Applicant's] objection on the basis of relevancy. Furthermore, [Applicant's] argument that Dr. Rahter's opinion regarding a victim laughing or crying when disclosing abuse was irrelevant and misleading is not preserved, but even if preserved, the trial court properly allowed the testimony regarding how children act during disclosure because it was relevant in this case.

State v. Legg, Final Brief of Respondent at 1. Upon motion by the State, the Supreme Court of South Carolina certified the appeal by order dated May 29, 2015, and held the matter in abeyance

pending a decision in State v. Anderson, which similarly considered § 17-23-175. Anderson was decided a few months later. Id., 413 S.C. 212, 776 S.E.2d 76 (2015). The parties proceeded to oral argument before the Supreme Court on February 9, 2016. By opinion decided April 20, 2016, the Supreme Court affirmed Applicant's convictions. State v. Legg, 416 S.C. 9, 785 S.E.2d 369 (2016). The Remittitur was issued on May 6, 2016.

II.

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:[3]

1. Ineffective Assistance of Trial Counsels
    a. "Ineffective Assistance of Counsel by 'nefarious default,' in also conspiracy with State agents of the Horry County Police and 15th Judicial Circuit Court. Judges, Solicitor, and Court appointed attorneys in their professional and individual capacities so names herein, for the purposes of a coerced plea deal, by way of taking advantage of the despondent psychological detainment state, which inflictions of terror scare tactics, running out the clock, depriving of due process, discrimination against equality, to deprive civil rights in general, and so did conspire in the abuse of legal process through lawful means to an unlawful end, in complicity of perjury and throwing of a mock trial for State advantage and for infliction of consequences for not accepting a proffered plea deal in the violation of the law of the right to the presumption of innocence and in violation of the laws of State of South Carolina and the United States Constitution and in the Full Faith and Credit Clause in the laws of the land."
    b. "One direct link to the fact that all three attorneys were disingenuous about the Applicant's defense lies in the fact that Applicant informed all three attorneys that he had a cell phone in his personal property at the S.R.L.D.C which contained messages (texts) from the accuser, which is material evidence. No attorney bothered to secure this piece of primary evidence."
    c. Counsels failed to object to the falsified search warrant.
    d. Applicant's attorneys acted as friends of the court in an effort to deprive the Applicant of his liberty.
2. Ineffective Assistance of Counsel – Floyd
    a. Counsel's "incompetence and ineptness toward Applicant's defense, and his coercive strategy caused Applicant to file a motion for dismissal of

[3] Below is Respondent's best attempt to summarize Applicant's *220 page pro se, handwritten* application. As a related matter, Respondent would direct the Court's attention to its Motion for a More Definite Statement on page 13 of this return.

counsel."

b. Counsel "showed the intent to ignore Applicant's concerns."

3. Ineffective Assistance of Counsel – Joye
   a. "Counsel was adamant about not reviewing Applicant's [self-prepared] defense facts."
   b. Counsel had a conflict of interest with another case Applicant was involved in.
   c. "As Applicant made it known to [counsel] that it was not his will to undergo a mental health evaluation by the State, [counsel] suredly (sic) reinforced the 'contempt of court threat' in noncompliance."
   d. "A.D.D. happens to be a personal conflict of interest for [counsel] because he admitted to having a sun who was diagnosed with it."
   e. "Counsel made several extenuating attempts to influence the outcome, as the major objective was to subject Applicant to a deprecated mental evaluation that he could influence and the 'vice generate' of his joinder in conspiracy with Counsel Diggs in the final 'overt act.'"
   f. Counsel "subjected Applicant to class based bias."
   g. Privation
      i. "The lawyer (Joye) and judge abused the mental health evaluation law by unfair prejudice."
4. Ineffective Assistance of Counsel – Diggs
   a. "Counsel initially prejudiced Applicant through ineffective assistance of counsel based upon a preconceived strategy to coerce a plea deal for expedient purposed before investigating Applicant's defense.
   b. "As counsel continued to follow through in what Applicant asserts is a standing procedural protocol as 'coercive mission attempt,' commonly exercised against indigent defendants."
   c. Counsel "proceeded to unjustly, psychologically manipulate the counsel-client legal process against due process will of Applicant."
   d. "Counsel failed to entertain the merits of Applicant's defense facts, failed to discuss and file a timely motion, failed to investigate state witnesses and test for veracity, and test against protypical (sic) bias, failed to consider expert testimony adequately, failed to discuss and file subpoenas, failed to interview defense witnesses, failed to address any legal questions for remedy or give legal advise when asked, failed to make trial prep motions at Applicant's request and with his participation."
   e. "Counsel used smartly contrived deflections, causing Applicant to experience unnecessary added psychological anxiety, taking advantage of Applicant's circumstantial state and medical state, with the proximity of the mental state of despondency prone to manipulation, with the contrived factors of 'running out the clock' and as the coercion strategy failed, counsel further subjected Applicant's defense to the collateral advantage of the State, 'not completed by due process,' by depriving Applicant of the fair due process, and harming future defense in a continuing 'extrinsic fraud' in a conspiracy to deprive equality."
   f. Counsel reflected only a "minimal pragmatic defense."

g. "It was always obvious to Applicant that Diggs did not plan for a defensive strategy."
h. Counsel "failed to review Applicant's defense brief."
i. "During counsel's brief spontaneous visits, [counsel] had a routine...whereas counsel's paralegal was in attendance, they both played a role of 'good lawyer, bad lawyer'" in an attempt to get Applicant to plead guilty.
j. "Counsel became the final participating principle in the 'overt act' as the evidence will support all the criteria necessary for fact finding of a conspiracy to deprive of rights."
k. Counsel "made several brief coercion attempts that were short and concise visits which served to 'runout the clock'" in an attempt to get Applicant to take a plea deal.
l. "Applicant received a letter from [counsel] saying that he was preparing for trial, but this never happened."
m. Counsel asked a witness in an unrelated case if they knew Applicant, implying "exposed privileged material."
n. "Within 5 days of a State planned trial for Applicant, counsel continued to fail in any form of a defense preparation with Applicant."
o. "Diggs did not show up at trial with a defense strategy, absolutely no defense witnesses, did no outside investigation, was not rehearsed on the facts, [and] remembered only some non-essential facts..."
p. "Counsel presented less than a minimal defence without any consent from Applicant, for any kind of a constructive outline for an invitation to discover mitigated facts,...there was none (sic)."
q. "Diggs failed to challenge the Judge's warning for cross examination, or object for preserving for appeal" concerning wrapping up his cross examination.
r. "Counsel's behavior was conspiratorial by the very nature of his stating on court record that he was 'effective assistance,' ready for trial, therefore in joinder with the other State actors against this Applicant."
s. Applicant asked Counsel to "approach the court" concerning Applicant's lack of sleep during Trial, which Applicant blamed on his medication.
t. Counsel failed to object to forensic expert interviewer.
u. Counsel "used inured slickness to make Applicant believe many of the issues would be brought forward during trial, but...this did not happen..."
v. Counsel asked "for a hearing on post-trial motions in the absence of the Applicant."
w. "Diggs failed to challenge many of the State's statements of facts."
x. "Diggs failed to challenge trial court's rulings for evidentiary support, or object for preserving for appeal because of his part of extrinsic fraud over such evidences."
y. "Diggs picks all liberal jurors for trial, all the while believing that Applicant is a politically active conservative. Applicant asked Diggs if he could address the issue regarding certain likely biases, and Diggs responded that Applicant could not search out the jury's biases."

z. "Applicant had asked counsel if he could acquire the grand jury transcript, meaning the 'empanelment documents and supportive materials,' but Diggs simply lied and said he was not entitled to the grand jury information."

aa. "Diggs failed to preserve for appeal the challenge on the indictments, even though the true bill indictments were set aside for trial..."

bb. "Counsel Diggs failed to object to the Solicitor's unethical standards in the whole of his behavior in this general practice of unfair prejudice, in direction of State's evidence, coercion tactics, enabling false testimony, deliberate obfuscation of facts, and court room antics."

cc. "Counsel failed to file a motion for a new trial."

dd. Counsel failed to object to "numerous admissions of hearsay..."

ee. "Trial counsel failed to obtain a ruling on the 'motion to dismiss the indictment,' to file an appeal based on the correct facts."

ff. "Counsel failed to file a motion for the retrieval of all of Applicant's illegally seized property and photographs of his property, previous to trial."

gg. "Trial counsel never once discussed ay trial preparations, that is, strategy or defense theory, or for calling any witnesses."

hh. "Trial counsel was ineffective in processing his 'ex-parte order for prior approval of expert services.'"

ii. "Trial counsel failed to observe basic rules of procedure for protecting Applicant's substantive rights stemming from these many issues."

jj. *Conjectura Pietatis* "...shown by Diggs ineffective assistance of counsel at trial as essentially a well pretended defense designed to merely make a show of effect but inadvertently exposed a 'throwing of the defense to the advantage of the state' and this end result serves as punishment to Applicant and serves as an advertisement to others for not accepting the plea deal."

kk. "Tampering with the Evidence"

   i. "By Diggs bypassing on the indictment of the 'Fruit of the Poisonous Tree,' and the State protecting itself against wrongdoing accountability by not examining the events which partook of the suppression of evidence and misconduct, and such doors to such evidences have remained closed as Diggs remained a principle in that conspiracy, with the State in allowing State witness deceptions, extrinsic fraud begins to show more vividly."

   ii. "Applicant showed Diggs the two search warrants in question for comparison and as Diggs noted the disparity between the actual executed search warrant and the later codified one, Diggs feigned concern, but Diggs acquiesced over the issue at trial and covered for the State."

   iii. "Diggs failed to recognize his descendent nature conflicting with imperative duty imposed by law not to embrace such circumventive behavior with the other actors now made more cognizable by Applicant's complaint, and because at his

disingenuousness, he failed to allow himself to become informed about Applicant's case..."

5. "Ineffective Assistance of Appellate Counsel"
    a. "Appellate counsel failed to raise issue of ineffective assistance of trial counsel."
    b. "Appellate counsel failed to make the record sufficient on several issues in accordance with this complaint as the trial transcript reveals and thereby failed to make clear the issues for appeal."
    c. "Appellate counsel failed to secure the Court Recorder's 'recordings' of the trial record because of the incompleteness of trail transcript as outlined in the complaint, showing by Applicant's illustration, the lack of a thorough record for appeal purposes."
6. Brady Violation
    a. "Frebowitz' termination letter was intentionally withheld until after Applicant's trial because reasons for Frebowitz' termination were relative to Applicant's case."
7. Lack of Jurisdiction
    a. "Diggs failed to file a motion to dismiss based on lack of jurisdiction for all violations including speedy trial violation."
8. Prosecutorial Misconduct
    a. "In the solicitor's efforts to mislead the jury and unfairly prejudice the defendant, trial was affected by abetting and perpetuating deep psychological rears in the moors and attitudes of the jury to find guilt upon subjective feelings rather than on a more certain evaluation of the evidence through objective reasoning."
    b. The solicitor demonstrated misconduct by "jabbing a pointed finger in Applicant's face, [through] powerful inculcation in body language, accusing Applicant of said heinous act, determinately attesting to the jury that [Applicant] did do the deed..."
    c. "The State presented intended evidence, in an effort to thwart the 'Motion to Dismiss the Indictment.'"
    d. "*Animus Domini*"
        i. "The State, in its trend as embodied in this complaint, sought to achieve '*animus domini*,' meaning 'the intent to exercise dominion over Applicant – physically and mentally' though applying its unchallenged force against Applicant in an unfair prejudice..."
    e. "Tampering with the Evidence"
        i. "Applicant began his defense proclaiming that he, in fact, did have exculpatory evidence, documentations and recordings, which if it was not for the State's bad acts, Applicant would have been exonerated by these evidences."
9. Fourth Amendment Violations
    a. The police did not have probable cause to issue an arrest warrant.
    b. Applicant was subject to an interview for interrogation without an arrest warrant.
    c. Illegal search and seizure of items in Applicant's office.

10. Trial Court Error
    a. "Judge Hyman continued to openly chastise Applicant for suing in Federal Court for due process..."
    b. "Judge Cottingham said, 'I warn you, because of her tender age.' This interruption from on high command clearly served to bolster the confidence of the witness by indicating that the witness could be relieved of any pressure on a test of veracity or from the anxiety caused by a protypical (sic) bias challenge..."
    c. "Trial Judge Cottingham refused to fully entertain Applicant's motion for dismissal of counsel as the solicitor prejudiced Applicant by making a false argument, which implied Applicant was suing the appointed attorney for a ruse without any substantial facts."
    d. "The trial judge prejudicially accused Applicant of suing for the purpose of trying to delay the trial, putting off by suing each attorney as a charlatan ruse, and the accusation was without factual substantiation, as the factual reasons for Applicant filing for redress for grievances were all available to the solicitor."
    e. "...incompleteness of the trial record...over one thousand occurrences of missing 'epochs'"
    f. "Trial court improperly limited the scope of State's witness."
    g. "In the court's charge to the jury, it is clear that a sublime prejudice did prevail against impartiality."
    h. "The Court denied the motion for directed verdict in error of law because the paucity of evidence was fraught with the State's unfair prejudice in exaggerating the credibility of its case through corruption in every element..."
11. "Abuse of Discretion"
    a. "All of the trial court's rulings were without evidentiary support as demonstrated in this complaint."
12. "Unconstitutional Statute"
    a. "Applicant wishes to argue that the South Carolina Statute 17-23-175 is arbitrary under the Eighth and Fourteenth Amendments of the United States Constitution by allowing for an out of court statement by a child to leave a controversy ..."
13. "Religious Discrimination"
    a. "Because of Applicant's Christian piety and vocation without a Ph.D., and his personal ideological patriotism, Applicant was treated as an enemy of the State because he threatened the status quo of a system of reverence for the corrupted version of the 'conjectura pretatis' as described herein this complaint which by favor of the State, honors any such reservoir for State will bent for a 98 percent conviction rate for the county..."
14. "Right to Expert on Social History"
    a. "Trial transcript page 408 (20-21), 'We don't know that aspect of the child's personality that we should know.'"
15. "Right to Call Witnesses"
    a. "Trial transcript page 26 (17), Mr. Diggs: 'the only witness I could think

of that would be pertinent, I don't know where he is but we could certainly try to find him and subpoena him' (paraphrased)."

16. "Failure of Police to Preserve"
    a. "Failure to preserve specific evidence known to be accountable to the police and specific evidence in their possession, proven by the factors of record to be relevant materiality, known to the police."
17. "State Ingrains False Accusations"
    a. "By the State's preoccupation nature in that prejudice as outlined, as was practiced against Applicant, and experienced in the eyes and ears of the accuser, served the culminating imagination of the accuser, while the State failed to recognize the cumulative effects of bolstering the imagination of false accusation, giving undue confidence, thereby served to engrain the imaginary fortress, giving firmer residency in the mind through restiveness, fed by the comradery of the enclaved credulity of the State actors and the auspice of the State powers which would require a psychiatric expert to testify as to the damage to future defense."
18. Censorship
19. "Religious Bigotry"

Attached to and incorporated herein are the records of the Horry County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

III.

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must

prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant's allegations of ineffective assistance of appellate counsel are also without merit. A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983). Where the strategic decision to

exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, at 537; Gilchrist v. State, 364 S.C. 173, 612 S.E.2d 702 (2005); Anderson v. State, 354 S.C. 431, 581 S.E.2d 834 (2003). When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Smith v. Robbins, 528 U.S. 259, 288 (2000) (citing Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986)).

Applicant's allegation that appellate counsel "failed to raise issue of ineffective assistance of trial counsel" is without merit as a matter of law. Ineffective assistance of trial counsel is an issue for post-conviction relief and cannot be raised on direct appeal. Matter of Chapman, 419 S.C. 172, 182, 796 S.E.2d 843, 847 (2017). Accordingly, the allegation should be summarily dismissed.

Applicant's allegation that appellate counsel was deficient for not securing the court reporter's recordings of trial is also without merit as a matter of law. Respondent can find no law which obliges appellate counsel to acquire the court reporter's audio recordings in addition to the written transcript. Appellate counsel's only responsibility with respect to the transcript was to acquire it and then retain it for the entire appeal and a period of at least one year after the remittitur. See Rules 207, 221, SCACR. The written transcript is sufficient. Accordingly, the allegation should be summarily dismissed.

Otherwise, Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. Respondent requests an evidentiary hearing on this allegation.

V.

Respondent interprets Applicant's sixth allegation as a violation of Brady v. Maryland, 373 U.S. 83 (1963). Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment. Clark v. State, 315 S.C.385, 388, 434 S.E.2d 266, 268 (1993). A Brady claim is based upon the requirement of due process and is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment. Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing U.S. v. Bagley, 473 U.S. 667 (1985)).

Applicant's Brady allegation is without merit. However, the allegation concerning a Brady violation probably raises questions of fact that are not conclusively refuted by the record. Respondent requests an evidentiary hearing on this ground for relief. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI.

Applicant's allegations regarding jurisdiction, summarized above as his seventh allegation, are without merit. "Circuit courts obviously have subject matter jurisdiction to try criminal matters." State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005). The

disposition of a speedy trial request by Applicant would have no impact on the jurisdiction of the court to hear the case. Therefore, Applicant's allegations regarding jurisdiction, and every part of the application based thereupon, should be dismissed pursuant to Rule 12(b)(6), SCRCP.

VII.

Applicant's allegations, summarized as allegations 9-19 above, each allege various forms of trial court error or direct appeal issues. These allegations should be summarily dismissed. An application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's trial or on appeal is not cognizable in an application for PCR. S.C. Code Ann. § 17-27-20(b); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). Trial court error is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant's persistent conspiratorial allegations and dismay with the Court's intolerance thereof could have been raised at trial and thereafter on appeal. Therefore, the allegations summarized above as 9 through 19 should be dismissed as not cognizable under the Uniform Post-Conviction Procedure Act.

VIII.

Respondent also hereby moves for a more definite statement. Applicant has failed to explain with any specificity the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). The application functionally alleges that everybody involved in Applicant's case at every possible time did every possible thing wrong—and did so maliciously. Applicant's effort to collaterally attack his conviction by raising every theoretically conceivable allegation and the kitchen sink is

not "specific." Setting forth every fact does not, in the spirit of the law, constitute setting forth specific facts, but is facially abusive of the judicial process. As a practical matter, the application is no different than if Applicant had broadly alleged ineffective assistance of counsel, though it is apparent that Applicant will attempt to re-litigate every aspect of his criminal proceedings through post-conviction relief.

It is incumbent upon Applicant, *through counsel*, to amend his application to set forth *specific* facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth narrowly and specifically the grounds on which his claims are based.

IX.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP; Mangal v. State, Op. No. 27726 (S.C.Sup.Ct. filed July 19, 2017) (Shearouse Adv.Sh. No. 27 at 47). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless

granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

X.

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

XI.

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsels and that Brady was violated. Respondent additionally requests the Court grant its motion for a more definite statement, set forth in Section VIII of this return. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

[*Signature on following page*]

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
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11 Oct., 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	
	)	2016-CP-26-6592
RONALD L. LEGG, #359236,	)	
Applicant,	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	

FILED
HORRY COUNTY
2017 OCT 16 AM 9:23

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

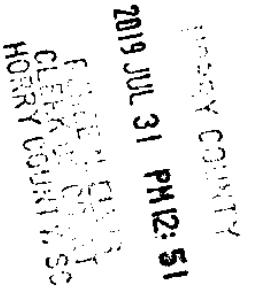
3. I have this day served a copy of the **Return, Partial Motion to Dismiss and Motion for a More Definite Statement** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Daniel A. Selwa, II, Esquire
516 29th Avenue North
Myrtle Beach, SC 29577

DATED this 11th day of October, 2017.

Mallory Morris, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
Ronald L. Legg, S.C.D.C. No. 359236,	)	Case No.: 2016-CP-26-06592
Applicant,	)	
	)	**ORDER OF DISMISSAL**
v.	)	
State of South Carolina,	)	
Respondent.	)	



This matter comes before the Court by way of an application for post-conviction relief filed by Ronald L. Legg ("Applicant") on October 13, 2016. Respondent made its return on or about October 11, 2017. The Court convened an evidentiary hearing into the matter on March 28, 2019, at the Horry County Government & Justice Center in Conway, South Carolina. Applicant was present at the hearing and proceeded *pro se*.[1] Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent.

The Court heard testimony from witnesses R. Scott Joye, Esq.; William I. Diggs; and Martin D. Spratlin, Esq.. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original trial transcript, the records of the Horry County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. The Court finds as follows:

[1] Applicant was previously represented by Daniel A. Selwa, II, Esq. Applicant and Selwa appeared before the Honorable Kristi F. Curtis on Friday, November 30, 2018, at which time both men sought to remove Selwa from the case. By Order field December 18, 2018, Judge Curtis relieved Selwa and permitted Applicant to proceed *pro se* based on Faretta warnings administered at November 30, 2018, hearing.

I. PROCEDURAL HISTORY

Applicant was previously[2] confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. Applicant was indicted at the October 2011 term of the Horry County Grand Jury for lewd act on a minor child (2011-GS-26-03553).[3] William I. Diggs[4] represented Applicant, and Martin D. Spratlin, Esq., of the Fifteenth Circuit Solicitor's Office, prosecuted the case. On March 10, 2013, Applicant proceeded to trial before the Honorable Edward B. Cottingham and a jury. The jury found Applicant guilty as indicted on March 12, 2013. Judge Cottingham sentenced Applicant to imprisonment for a term of 12 years.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert Michael Dudek, Esq., who raised the following issues:

1. Whether the court erred by refusing to rule the South Carolina forensic interview statute unconstitutional because it was arbitrary in allowing the alleged victim's testimony to be heard twice by the jury, thereby bolstering the testimony of the alleged victim, where no other type of criminal case allows this procedure, and its arbitrary nature therefore deprived appellant of his due process right to a fair trial under the Fourteenth Amendment?
2. Whether the court erred by allowing Dr. Carol Rahter to testify as an expert in medicine and "child sexual abuse" since her testimony was not relevant and it was highly prejudicial because of her medical testimony that the allegation here was consistent with that of "sex abuse" victims who generally do not disclose abuse immediately. Furthermore, her opinion that the jury should not draw essentially "rational" conclusions from a victim laughing for crying when disclosing abuse was extraordinarily irrelevant and misleading?

---

[2] The Court's understanding is that Applicant is now a resident of Akron, Ohio.

[3] Applicant was additionally indicted for two counts of criminal sexual conduct with a minor child under 11 years of age (2011-GS-26-03552; 2012-GS-26-02179). The CSC indictments were dismissed *nolle prosequi* prior to trial.

[4] Applicant was initially represented by William Thomas Floyd, Esq. Applicant brought suit against Floyd in federal court and counsel recused himself from further representation. (Tr. 21-22). Applicant was then briefly represented by Johnny Gardner, Esq., who removed himself due to a conflict of interest. (Tr. 22, ll. 12-17). Applicant's third attorney was R. Scott Joye, Esq., who met the same fate as Floyd—he was sued in federal court and relieved. (Tr. 22-23). Diggs represented Applicant after Joye's departure. (Tr. 23, ll. 10-17). Applicant attempted to relieve Diggs, but upon learning of the trial court's firm stance that trial would proceed as scheduled, Applicant relented and permitted Diggs to continue representation. (Tr. 28-29).

Upon motion by the State, the Supreme Court of South Carolina certified the appeal by order dated May 29, 2015, and held the matter in abeyance pending a decision in State v. Anderson, which similarly considered S.C. Code Ann. § 17-23-175. Anderson was decided a few months later. 413 S.C. 212, 776 S.E.2d 76 (2015). The parties proceeded to oral argument before the Supreme Court on February 9, 2016. Applicant was represented by counsel Dudek, and the State was represented by Jennifer Ellis Roberts, Esq., of the South Carolina Attorney General's office. By opinion decided April 20, 2016, the supreme Court affirmed Applicant's convictions. State v. Legg, 416 S.C. 9, 785 S.E.2d 369 (2016). The remittitur was issued on May 6, 2016.

First PCR Application: 2014-CP-26-08376

Applicant filed his first application for post-conviction relief on December 17, 2014 (2014-CP-26-08376). The application was dismissed without prejudice by Order of the Honorable Steven H. John dated April 20, 2015, and filed May 6, 2015, due to the then-pending appeal.

Present Application

Applicant originally raised numerous issues in a roughly 220 page, handwritten application, prompting a motion for a more definite statement from Respondent. Applicant, subsequent to the relief of counsel Selwa, filed a 203-plus page *pro* se amendment on January 14, 2019, which alleges he was held unlawfully for, by his count, sixty-four different grounds for relief. The volume, structure, and interconnected nature of the allegations as presented by Applicant do not permit a traditional recitation of the grounds here. Nor do the allegations permit a traditional subsection-per-allegation form of written order, as might typically ensure complete compliance with statutory mandate and precedent. See S.C. Code Ann. § 17-27-80 ("The court shall make specific findings of fact, and state expressly its conclusions of law,

relating to each issue presented."); Pruitt v. State, 310 S.C. 254, 255-56, 423 S.E.2d 127, 128 (1992) (reminding litigants and circuit courts that orders must "address the merits of the issues raised by the applicant."); Reese v. State, 425 S.C. 108, 820 S.E.2d 376 (2018) (remanding where an order dismissing a PCR matter failed to rule upon each of an Applicant's claims). The Court endeavors to address each of Applicant's claims as they are broadly categorized below, in light of the evidence presented at the evidentiary hearing:

1. Ineffective Assistance of Pre-Trial Counsel R. Scott Joye;
2. Ineffective Assistance of Trial Counsel William I. Diggs;
3. "Overreaching" or Cumulative Error; and
4. Prosecutorial Misconduct of prosecutor Martin D. Spratlin.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable."). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "The

prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Id. at 696-97.

B. Ineffective Assistance of Counsel Joye

Applicant alleges that counsel R. Scott Joye, Esq., was ineffective in representing him in matters prior to trial.

1. Evidence Adduced at the Evidentiary Hearing

At the evidentiary hearing, Joye testified that he asked that Applicant be subjected to a mental health evaluation because he was worried that Applicant did not comprehend what Joye was telling him. Joye explained that based upon his years of experience as an attorney, that he felt he had to request the evaluation. Joye rejected Applicant's contention that the evaluation was illegal.

On cross-examination, Joye testified he was called by Circuit Public Defender Orrie West, who asked him to take on representation of Applicant after attorneys Floyd and Gardner were unable to proceed. Joye testified he enjoys taking cases to trial, and described it as similar to going to another planet. Joye testified he met with Applicant six to seven times. Joye explained that, from the start of any representation, he points out to his clients "the good, the

bad, and the ugly." In Applicant's case, Joye explained the "good" was that there was no physical evidence. Joye did not know or meet with the victim, and so he could not forecast how she might testify. Joye explained the "bad" included (1) the lengthy statement Applicant gave to law enforcement, and (2) that Applicant at one point claimed to be his brother. Joye recalled that Applicant told him he could testify as an expert on attention deficit disorder, that the victim suffered from ADD, and that the disorder provided for the victim's propensity to lie. Joye further recalled that Applicant diagnosed him as suffering from ADD. Joye also testified Applicant thought Joye was operating under a conflict of interest because one of Joye's close relatives also allegedly had ADD.

Responding to Applicant's claim that he gave cover to the State's alleged misfeasance in procuring a search warrant, Joye testified that the original search warrant contained boilerplate from an entirely unrelated case. Joye testified he was saving the issue for trial, and that he did not want the State to have an opportunity to cure the problem before trial, but rather force them to address the problem after the jury was sworn. Joye opined that prosecutors tend to look primarily at the strengths of their cases, and fail to identify weaknesses. In that context, Joye opined, a pre-trial motion to challenge the search warrant would not be helpful. Joye recalled trying to explain his strategic reasoning on the subject with Applicant, but Applicant never understood him.

Joye further testified that Applicant was worried that items seized during the execution of the search warrant were not turned over in discovery. Joye initially could not recall precisely what the items were, but recalled concluding they were not relevant. Joye explained Applicant had written a number of documents on the subject of ADD.

Joye testified his entire representation of Applicant lasted only six months, and that Applicant repeatedly asked him to cease representation. Joye represented to the courts that he could continue to represent Applicant after the first and second demands he be relieved. After Applicant filed suit in federal court, Joye could no longer represent as much, and he was relieved. Joye testified that he spoke with Diggs only briefly, if at all.

On redirect examination, Applicant advanced his position that Joye could not entertain Applicant's theory of the case, and was operating under a conflict of interest, due to familial attention deficit disorder, and argued that personality issues reflect spiritual issues. Joye emphasized the search warrant issue was a *trial* issue, that he wanted the element of surprise, and that he did not require additional research on the subject to prepare. Joye testified Applicant wanted Detective Frebowitz arrested. Joye broadly opined that everybody makes mistakes, and that he saw no signs of a conspiracy to convict Applicant. Applicant asserted law enforcement broke into his home illegally, took his papers, and lost them. Joye indicated he requested specific materials from law enforcement which they indicated they did not have.

2. Findings

The Court finds Applicant has failed to meet his burden of showing any ineffectiveness on the part of counsel Joye. As to the allegations relating to the mental health evaluation, the Court finds Joye exercised reasonable professional judgment in requesting a mental health evaluation of Applicant based upon his substantial experience as a criminal attorney and his personal interactions with Applicant. See Jeter v. State, 308 S.C. 230, 417 S.E.2d 594 (1992) (denying PCR where counsel "reasonably relied on his own perceptions" in determining whether an evaluation was necessary). The Court finds Applicant has presented no evidence to show

Strickland prejudice from the evaluation that was conducted, nor can the Court independently conceive of how he could have been prejudiced.

As to the allegations relating to the search warrant, the Court finds Joye did not give cover to any misfeasance or malfeasance on the part of the prosecution, but rather identified a potential basis for argument at trial and strategically determined it was more valuable to preserve the issue until after a jury was sworn and jeopardy attached. See Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000) ("Where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel."); see also State v. Mathis, 359 S.C. 450, 457-58, 597 S.E.2d 872, 876 (Ct. App. 2004) (quoting State v. Baum, 355 S.C. 209, 214, 584 S.E.2d 419, 422 (Ct. App. 2003)) ("Generally, jeopardy attaches when the jury is sworn and impaneled, unless the defendant consents to the jury's discharge before it reaches a verdict or legal necessity mandates the jury's discharge."). The Court further finds Applicant has failed to meet his burden of showing prejudice, as Joye was relieved, such that his treatment of the subject could not have impacted the outcome of trial. Still further, the Court finds Applicant could not have shown prejudice because the State conceded at trial that the search warrant was flawed and was not permitted to introduce any materials recovered from the search.

As to the allegations relating to any conflict of interest, the Court finds Joye was not operating subject to any conflict of interest. See State v. Gregory, 364 S.C. 150, 152, 612 S.E.2d 449, 450 (2005) (citing Fuller v. State, 347 S.C. 630, 557 S.E.2d 664 (2001)) ("An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendants."). That close relatives of attorney Joye allegedly were diagnosed with attention deficit disorder is insufficient to establish any conflict—there is no evidence said close relatives'

interests were adverse to Applicants. The Court finds that Joye's reliance upon life and professional experience to determine the validity and effectiveness of a strategy proposed by Applicant does not constitute a conflict of interest; to the contrary, such reliance upon the whole of one's experience reflects Joye effectively rendered professional judgments weighing one theory of the case against another to determine the *best* theory of defense, consistent with an attorney's core responsibilities as an effective litigator. See Ronald L. Carlson & Edward J. Imwinkelried, Dynamics of Trial Practice: Problems and Materials, 4th Edition at 34 (2010) ("On the eve of trial, the attorney must make the choice of theory and theme. . . . [T]he attorney must do so in order to achieve a trial presentation characterized by simplicity and continuity."), Id. at 40 ("[I]f one theory has superior corroboration—disinterested, unequivocal lay witness testimony or testimony by an eminently credentialed expert—the availability of the corroboration cuts in favor of that theory."); Id. at 43 (cautioning against theories which require juries to find intentional misconduct by the opposing party); see also Thomas A. Mauet, Trial Techniques, 8th Edition at 24 (2010) (explaining an attorney's theory of the case "should be consistent with the jury's beliefs and attitudes about life and how the world works."). The Court further finds Applicant has failed to meet his burden of showing prejudice, as Joye was relieved, such that his treatment of the subject could not have impacted the outcome of trial.

As to any allegations regarding Applicant's writings, the Court finds Joye requested the materials of concern to Applicant, supposedly among those seized during the execution of the search warrant, but that the prosecution reported they were not in their possession—there was little more Joye could have done. The Court finds Joye reasonably determined the writings were not relevant to the charges or the trial. The Court finds Joye adequately reviewed discovery in the case, and adequately met with Applicant, to develop a picture of the case and reasonably

determine there was no basis to believe the prosecution engaged in any misfeasance or malfeasance relating to materials seized in the execution of the search warrant.

Altogether, the Court finds Applicant has failed to present any deficiency on the part of counsel Joye, nor any Strickland prejudice from the deficiencies alleged. To the contrary, Joye more capably and thoroughly represented Applicant in the course of six months than many defendants receive in years of litigation. Accordingly, Applicant's request for post-conviction relief due to the alleged ineffective assistance of counsel Joye is **DENIED**.

C. Ineffective Assistance of Counsel Diggs

The overwhelming thrust of Applicant's claims revolve around the performance of trial counsel William I. Diggs. The testimony introduced to address Applicant's claims of ineffectiveness was not elicited in a linear fashion. The Court here endeavors below to organize the testimony at the evidentiary hearing in a form to reflect the issues addressed therein.

1. Evidence Adduced at Evidentiary Hearing

At the evidentiary hearing, Applicant initially opined Diggs was a decent person, but thereafter confronted him regarding his disbarment. Diggs testified he was disbarred for using money from trust accounts to cover office expenses. Diggs explained that his wife was critically ill at the time, that he was in over his head, and that he should have closed his practice. Diggs testified that he found it difficult to extract himself from professional operations given his hundreds of clients, and asserted he devoted time to Applicant's case. Diggs conceded he did not respond to inquiries by the South Carolina Office of Disciplinary Counsel, but that he failed to do so because more important matters commanded his attention. Diggs testified that he was homeless for a time, living out of his car in a life and death circumstance, and that he did not reliably receive postal service for a period of time. Diggs declined to answer whether he had

committed a felony. Diggs testified that he could not undo what occurred at his office to lead to his disbarment, but asserted that he did a great job in Applicant's case. Diggs testified that Applicant at one point acknowledged he performed capably as his attorney. On cross-examination, Diggs testified he enjoyed being a defense attorney, and found challenging the State to be rewarding. Diggs explained his wife was disabled since 1989, but that her disability did not impact his practice until 2013, at which time it became a distraction "from the business side." Diggs nonetheless endeavored to adequately represent his clients.

Diggs denied having a conversation with Applicant surprising him with news that he was "going to court today[.]" Diggs testified he moved for funding for an expert witness to testify to attention deficit disorder, and the record[5] shows for investigative services "to procure information, school records and records from the Department of Social Services all of which related to the alleged minor child victim in this prosecution." Diggs also sought more time to facilitate the use of the expert witness, but the Honorable Steven H. John denied the motion. Diggs denied that Judge John utilized any "kind of secret language" in denying the motion. Diggs could not recall precisely what occurred at the *ex parte* funding hearing.

Applicant questioned Diggs regarding Applicant's writings, and the extent of his investigation into the materials Applicant alleged were missing from the law enforcement search of his residence. Diggs testified that his understanding is that an autobiography of the victim was thought to have been lost in the house, but noted he had a "sample" as reflected in the trial record. (Tr. 51, ll. 14-15). The record reflects Diggs, on Applicant's behalf, alleged that two booklets containing writings from both Applicant and the victim were not turned over by the State. (Tr. 50-51). Counsel further noted that the victim testified at trial that Applicant would

[5] Diggs' proposed order prepared to grant the motion was included in Applicant's amended application as part of the exhibits labeled "CAN."

make her write things. (Tr. 262-63). Counsel testified that he reviewed all of the evidence that Applicant produced, as well as all of the evidence in the State's possession. Counsel opined the case came down to the minor victim's credibility. Diggs testified that Applicant was not forthcoming in the course of investigating the case. For example, Diggs recalled that Applicant forbid him from speaking to his family, and misrepresented his identity. On redirect, Diggs explained that the hundreds of pages writings he *did* receive from Applicant were difficult to understand. Diggs acknowledged Applicant's interest in "behavior modification."

Applicant contended the minor victim's brother also made allegations against their biological father who did not live in the house; Diggs replied that he investigated facts he deemed pertinent to Applicant's case, and that he tried to obtain everything seized by the State.

Diggs could not recall bringing Applicant up in the unrelated trial of State v. Bradley Gerald Mullins.

Applicant contended Diggs engaged in "duplicity" in his case, and asserted Detective Frebowitz was fired the same day as Applicant was convicted. Diggs denied playing softball with the detective. Diggs testified that Frebowitz was not really relevant to the case, but rather that the minor victim's credibility was the case. Diggs noted Frebowitz did not offer any direct evidence.

Counsel testified he did not investigate the minor victim's social history to establish a victimization motive, and did not seek out any school records. Diggs testified that Applicant did not offer any social history information regarding the minor victim during his pre-trial investigation. On cross-examination, Diggs testified he did not want to risk offending the jury by going to the child's school and introducing information there recovered. Diggs described the case as delicate, and that he had to strike a delicate balance in challenging the minor victim.

Diggs explained his custom was not to investigate a minor sex victim's social background unless he had reason to believe there was extreme conduct to justify the risk of doing so.

Applicant returned to the minor victim's testimony regarding her writings. (Tr. 262-63). Counsel testified he took the victim's testimony on the subject at face value, and did not go back to revisit his pre-trial motion regarding the existence and disclosure of the writings. Counsel explained he did not believe the testimony about the writings provided evidence favorable to the defense, but conceded the subject matter of the writings could have been important. Diggs testified it was hard to know if the writings would have been relevant without knowing their content. Confronted with the trial court's ruling on the post-trial motion for a mistrial (Tr. 463, ll. 8-14), Diggs testified that it was a problem not knowing the substance of the writings, and that he had no idea what the minor victim would have said about the writings. Diggs noted that the State denied seizing Applicant's writing, and that Applicant's own family later took things from Applicant's trailer.

Applicant contended he could not sleep for two nights due to medication issues at J. Reuben Long Detention Center, and that Diggs was ineffective in failing to move for a continuance. Diggs testified he did not recall having any such conversation on the subject with Applicant, and that he would have followed up on it if it occurred in the way he described. Applicant directed Diggs to the trial record, which reflects Diggs raised the issue to the trial court at the start of the third day of trial, explaining how jail staff was administering Flomax[6] in the evening, rather than the morning. (Tr. 313-14). Diggs testified he did not feel a continuance was necessary. Diggs noted it would have been easy enough to request a continuance, but that it was not his impression at the time that one was necessary, and opined that Applicant's condition was not such that he was concerned. On cross-examination, Diggs testified that he understood

[6] Flomax is a medication to treat an enlarged prostate.

Applicant's medication to be for his personal comfort, and that it did not interfere with his ability to proceed to trial. Diggs testified that obtaining a continuance mid-trial would have been difficult and unnecessary.

Applicant challenged that Diggs failed to argue for his good character. Diggs testified that between the misrepresentations by Applicant as to his identity and the restriction on Diggs' ability to speak with Applicant's family, he did not want to put character into issue. Applicant contended that Diggs "couldn't present a moral defense[.]" On cross-examination, Diggs explained that Applicant, when approached by law enforcement, identified himself as his brother. On redirect, Diggs was uncertain, but offered that he learned of the misrepresentation from Applicant.

As to the Jackson v. Denno hearing, Counsel could not recall the hearing. Diggs acknowledged Frebowitz recorded a statement from Applicant. Diggs testified he would have reviewed the statement to determine whether it was a voluntary statement, and that he would have looked at the waiver of rights and whether he had an attorney. Diggs described the recorded statement as pretty typical. Diggs recalled Applicant made a decision at the time to cooperate with law enforcement and could not recall Applicant ever telling him that the police had tricked him. Applicant declared law enforcement tried to get into his mind. Linking back to the flawed search warrant, Diggs mused over the proposition that Frebowitz educated himself for the interview using fruits of the poisonous tree, and that it was an interesting issue. Nonetheless, Diggs asserted that Frebowitz use of materials from the search was not what ultimately convicted Applicant. Rather, Diggs reaffirmed his belief the jury's verdict rested on the credibility of the victim.

Applicant took issue with the bright, yellow shirt Diggs provided him to wear for trial. Diggs asserted the shirt and Applicant looked presentable. Diggs offered that if he had believed Applicant was not presentable to a jury, he would have raised the issue to Applicant. Applicant retorted that the color yellow is associated with "caution."

Applicant claimed the trial judge put an electric ankle shocker on him during the trial. Diggs testified that Applicant was not a violent person, that he was not familiar with the issue, and could not recall any conversation on the subject. Applicant opined Diggs should have objected to the use of a shock bracelet. On cross-examination, Diggs firmly denied Applicant was ever electrocuted. Diggs recalled that Applicant was able to consult with him during the trial.

Applicant contended the issue of ineffective assistance could have been raised for the issue to be raised on direct appeal. Diggs testified such would be extremely rare, and noted he had done around 1,000 appeals.

Applicant and Diggs discussed portions of the record relating to the flawed search warrant. At trial, the State conceded it could not bring in any evidence seized pursuant to the warrant in its case-in-chief, but posited it could potentially bring matters up in reply. (Tr. 56-57). The State firmly stated it would not seek to validate the search warrant, and the trial court warned it would not likely permit the introduction of anything from the search, even in rebuttal. (Tr. 57-58). Later in trial, during redirect examination of the minor victim, the State attempted to introduce a document, but was shut down by the trial court. (Tr. 267-70). Diggs could not recall discussing the search warrant with prior attorneys.

Diggs ultimately denied discussing anything with Applicant's prior lawyers. Diggs defended his efforts and reaffirmed again that Applicant was convicted by the minor victim's testimony, with some assistance from the State's expert testimony.

Applicant contended that law enforcement misrepresented the date of his arrest, and referred to the trial record. (Tr. 101, ll. 20-23). Diggs testified the dates were not important subjects to pursue, and that he did not see how any discrepancy in the dates of the warrants would have any import or effect on the case. Diggs expressed that he did not believe the solicitor lied to him.

On cross-examination, Diggs testified he was originally licensed to practice law in 1980 and until the time of his disbarment, committed some 75% of his practice to criminal law. Diggs testified he filed motions pursuant to Rule 5, SCRCrimP, and Brady, and reviewed all of the materials thereafter provided which were relevant to the case. Diggs testified he personally investigated the case by reviewing the materials obtained in discovery, as well as visiting the crime scene. Diggs explained Applicant provided no leads for investigation. To the contrary, Applicant did not want him to pursue character issues and forbade contacting his family. Diggs expressed his belief Applicant was not truthful to him, but made clear that he was not passing judgment against Applicant.

Diggs explained his trial strategy was to challenge the minor victim's credibility, and to attack the adult witness from child services. Diggs recalled trying to go into the minor victim's writings, but the child began explaining how she would write them under coercion from Applicant. Diggs testified that Applicant never informed him of the contents of the writings, or even try to summarize the contents of the writings, and that the writings could have been written by Applicant or the minor victim. Diggs testified that he never considered a strategy involving

third-party guilt, and noted that there was substantial evidence to show that Applicant spent a great deal of time with the minor victim. Diggs rejected an "attention deficit disorder strategy" because he felt there was not enough evidence to support doing so. Diggs opined that even if the minor victim had ADD, a strategy built around that fact would not have stuck with the jury, but rather would have aggravated them. On redirect, Diggs explained the point of his strategy was to show that the State aided the imagination of a child.

On redirect examination, Diggs testified he and Applicant had opportunities to discuss every issue in the case. Diggs could not recall specific conversations, but denied ever telling Applicant that they should not discuss a topic. Diggs described their meetings as typical attorney-client meetings: they talked about the case and Diggs answered Applicant's questions. Diggs testified he always tried to obtain some kind of plea offer as part representing clients.

Applicant asserted he provided Diggs a list of witnesses who he wanted to testify in his defense. Diggs replied that he recalled no such thing.

Prosecutor Martin Spratlin testified that no materials seized pursuant to the search warrant were lost or destroyed, and that they were all made available to Applicant's attorneys.

2. Findings

First, as to Applicant's overarching allegations of "percepticide" and Diggs' ability to present a "moral defense," the Court finds no merit to them. The record reflects the earnest efforts of a defense attorney who reasonably relied upon decades of experience in criminal law, identified the key issues of fact and law pertinent to Applicant's defense, and focused the greater part of his attention and resources on those key issues. However contemptible Diggs' actions leading to his disbarment may have been, there is no sign in the record that his personal issues interfered at all with his representation of Applicant before or during trial. There is no evidence

that Diggs' personal issues foreclosed his ability to pursue any particular defense strategy. Despite Diggs' disbarment, this Court finds he testified credibly as to all questions presented throughout the evidentiary hearing.

As to Applicant's argument that Diggs' disbarment should dissolve the presumption of effective assistance, the Court can find no precedent to support the position. Generally speaking, attorneys are presumed competent to provide "the guiding hand that the defendant needs," such that "the burden rests on the accused to demonstrate" a violation of the Sixth Amendment. Id. However, there are "circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified." Id. Prejudice may be presumed *per se* in three circumstances: (1) when a defendant is completely denied counsel at a critical stage of his or her trial; (2) when there has been a constructive denial of counsel from an attorney's complete failure to subject the prosecution's case to meaningful adversarial testing; and (3) when circumstances of trial are such that the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that the presumption of prejudice is appropriate without inquiry into the actual conduct of the trial. Nance v. Ozmint, 367 S.C. 547, 551-52, 626 S.E.2d 878, 880 (2006); Cronic, 466 U.S. at 659-60. Disbarment does not equate to any of the three circumstances. As such, the strong presumption of effective assistance remains in effect.

As to the allegation that Diggs surprised Applicant with the date of his trial, the Court finds the allegation was credibly refuted by Diggs' testimony at the evidentiary hearing.

As to allegations relating to the theory of the case selected, the Court finds that Diggs reasonably selected a trial strategy that was consistent with the evidence in the case and consistent with reasonably effective assistance of counsel. See Sexton v. French, 163 F.3d 874, 885 (4th Cir. 1998) (quoting United States v. Teague, 953 F.2d 1525, 1531 (11th Cir. 1992))

("Decisions that may be made without the defendant's consent 'primarily involve trial strategy and tactics,' such as 'what evidence should be introduced, what stipulations should be made, what objections should be raised, and what pre-trial motions should be filed.'"); Ronald L. Carlson & Edward J. Imwinkelried, Dynamics of Trial Practice: Problems and Materials, 4th Edition at 34 (2010) ("On the eve of trial, the attorney must make the choice of theory and theme. . . . [T]he attorney must do so in order to achieve a trial presentation characterized by simplicity and continuity."), Id. at 40 ("[I]f one theory has superior corroboration—disinterested, unequivocal lay witness testimony or testimony by an eminently credentialed expert—the availability of the corroboration cuts in favor of that theory."); Id. at 43 (cautioning against theories which require juries to find intentional misconduct by the opposing party); see also Thomas A. Mauet, Trial Techniques, 8th Edition at 24 (2010) (explaining an attorney's theory of the case "should be consistent with the jury's beliefs and attitudes about life and how the world works."). The Court finds Diggs correctly identified that the minor victim's credibility was the central issue of the case, and correctly focused his attention on a strategy founded on the idea that her imagination was catalyzed by the State to accuse Applicant. The Court finds no credible evidence has been presented to show any merit to pursuing strategies involving third-party guilt, Applicant's character, or that the victim's credibility was diminished by the fact that she allegedly is diagnosed with attention deficit disorder. Diggs' articulated how Applicant's access to the minor victim was substantial enough that a third-party guilt strategy was not appealing, and explained why he did not wish to put Applicant's character into issue given Applicant's misrepresentations and restrictions on speaking with his family. The Court concurs in Diggs' judgment that arguing the minor victim was a liar because she was diagnosed with ADD would have likely only distracted the jury from more viable lines of defense, or even offend jurors.

Furthermore, Diggs *did* attempt to obtain funding from the Court to investigate such a claim, and was rejected by Judge John.

As to allegations relating to Diggs' efforts to recover writings allegedly seized by law enforcement, the Court finds Diggs did all he could reasonably do to ensure he was provided all materials in the possession of the State. The Court finds no evidence has been presented to show the State ever possessed the writings in question. To the contrary, there is some evidence to show Applicant's family or even Applicant himself could be responsible for the alleged writings. The Court finds that Applicant actively inhibited Diggs from further investigation of the writings through his refusal to articulate their contents to Diggs, and through his restrictions on contact with his family. Furthermore, no such writings were introduced at the evidentiary hearing, nor is there other evidence adequate to appraise the Court of their substance and relevance to Applicant's trial. To the extent the Court could possibly glean some idea of their contents from the trial record and the *pro se* writings submitted to this Court as part of this action, it does not appear any such writings would have been at all beneficial to Applicant—consistent with Diggs' testimony, Applicant's filings in this matter are difficult to navigate and understand. The minor victim testified at trial testified her writings were the product of Applicant's coercion, such that the contents of her writings would arguably be harmful to Applicant, whatever they are.

As to the allegation Diggs brought up Applicant's case in an unrelated trial, this Court finds no evidence has been presented to show Diggs did so, or how doing so at all impacted his own trial.

As to allegations relating to Detective Frebowitz, the records provided by Applicant as part of his application appear to reflect Frebowitz was terminated for disclosing confidential investigatory information to a person not authorized to review such information—namely

secretaries at the Magistrate's Office. The reports appear to indicate Frebowitz was open, and even defiant, when confronted with his violations of the Horry County Police Department's confidentiality policies. There is no indication or evidence of fabrication or falsification of evidence, or that investigatory information was improperly disclosed in any way as to taint witnesses. The letter of termination provided by Applicant reflects Frebowitz was fired on March 14, 2014, after trial. The Court finds Frebowitz's termination subsequent to Applicant's trial was immaterial to Applicant's trial. The Court finds that Diggs could not have impeached Frebowitz with his termination, or with any of the information leading to his termination, because the termination did not occur until after Applicant was convicted. Further, the Court finds that even if Diggs had somehow been able to impeach Frebowitz with his termination and the investigation leading to it, such impeachment would have been of very little value in the context of Applicant's case. The Court finds Diggs did not shield Frebowitz from being challenged at trial, or otherwise engage in any "duplicity" in the representation of Applicant.

As to the allegations relating to Diggs' alleged failure to investigate the minor victim's social history, the Court finds Diggs articulated valid strategic reasoning not to challenge the victim's credibility in that particular way—doing so could potentially offend jurors. Additionally, the Court finds Diggs was presented nothing, either from Applicant or from the materials produced in discovery, to show any sufficiently extreme conduct to justify the risk of investigating and attacking the victim based on her social history. As a related matter, no evidence of the minor victim's social history was presented at the evidentiary hearing, such that this Court is left to merely speculate as to precisely what it is that Diggs was supposed to have utilized.

As to the allegations relating to Applicant's medication issues at J. Reuben Long, the Court finds Diggs' properly brought the issue to the trial court's attention at the appropriate time and in the appropriate form to try and obtain relief for his client. The Court finds Diggs' reasonably relied upon his own perception of his client to determine that he could proceed with trial, and that a mid-trial motion for a continuance was unnecessary. The Court notes that the medication at issue was not any psychotropic medication necessary to maintain competence, or directly related to a healthy sleep schedule. Additionally, Applicant has presented no evidence to show that his alleged sleep disruptions were caused by the medication schedule and not some other cause (such as the stresses of a criminal trial), or how the supposed disruptions impacted anything in the conduct of the trial.

As to allegations relating to the Jackson v. Denno hearing, the Court finds no evidence has been presented to show any basis on which Diggs could have objected to the voluntariness of Applicant's statement to law enforcement. Diggs credibly testified he reviewed the statement and saw no basis to meaningfully challenge it.

As to the allegations relating to the "bright, yellow shirt" Diggs provided to Applicant for trial, this Court finds the issue is entirely meritless. Neither the shirt, nor any photograph of the shirt, has been provided to the Court to pass judgment on its suitability for trial. There is no evidence Applicant objected to wearing the yellow shirt at the time of trial, either to his attorney or to the court. Diggs exercised his own professional judgment in providing the clothing, and deemed it to be presentable, which is satisfactory to the Court. Absent some material link, such as similarity to local jail garb[7] or similarity to clothing said to have been worn by a perpetrator in a case where identity is at issue, the fundamental fairness of a trial in our criminal justice system is not called into question by the defendant's wearing of a yellow shirt.

[7] Here typically orange or beige.

As to allegations relating to the trial judge's admonitions, this Court finds there is no credible evidence to support Applicant's claim that Judge Cottingham threatened to attach a 40,000 watt shock bracelet, or engaged in prejudicial criticisms in the presence of the jury. To the contrary, the record reflects Judge Cottingham exercised admirable restraint in admonishing Applicant outside the presence of the jury for Applicant's repeated efforts to terminate counsels on the eve of trial and an apparent outburst by Applicant during proceedings. (Tr. 18-30). None of Judge Cottingham's remarks were objectionable. Thus, Diggs had no basis to raise an objection. Even if some basis did exist, as the remarks were made outside the presence of the jury, Applicant cannot show Strickland prejudice from their unobjected utterance.

As to the allegations relating to the preservation of ineffective assistance claims for direct appeal, the Court finds no merit in the allegation. Ineffective assistance of counsel is appropriately adjudicated in a post-conviction relief action under the present statutory scheme, and not on direct appeal. See S.C. Code Ann. § 17-27-10, et. seq.

As to the allegations relating to the search warrant, the Court finds Applicant cannot show either deficiency or prejudice under Strickland where the State agreed at trial that the search warrant was defective and was not permitted to introduce the fruit of the poisonous tree.

As to the allegations relating to the date of arrest, the Court finds no evidence has been presented to show how any discrepancy in the date of the arrest warrant could have impacted his case. Diggs reasonably relied upon his own professional judgment in determining that the subject was not one which would produce anything to assist in Applicant's defense.

As to allegations relating to the sufficiency of time spent in consultation, the Court finds Diggs credibly testified to meeting with and discussing the case with Applicant on multiple

occasions. The Court finds no evidence has been presented to show what, if anything, Applicant or Diggs could have discovered had they spent additional time in consultation.

As to the allegations relating to a supposed list of witnesses Diggs failed to call in Applicant's defense, no such witnesses were presented at the evidentiary hearing, such that Applicant has failed to meet his burden of proof. This Court finds Diggs credibly testified Applicant never produced any such list.

Over the course of hundreds of pages of writings and documents, the text of which dwarfs the trial transcript, Applicant takes issue with *almost* every distinguishable element of his trial and Diggs' representation. What few remaining conceivable issues *could* have been raised from what little remains untouched by Applicant's prolix literature will not be raised *sua sponte* by this Court—whatever was left out could only be left out by Applicant's deliberate choice. Through exhaustive examination, Diggs provided clear, reasonable answers to every question raised by Applicant, and explained his reasoning both in broad strokes and in detail. For all of the reasons above, the Court finds Applicant has failed to demonstrate *any* deficiency on the part of counsel Diggs, let alone any prejudice from the deficiencies alleged. Accordingly, Applicant has failed to meet his burden under Strickland and his request for post-conviction relief due to the assistance of counsel Diggs is **DENIED**.

D. Cumulative Error and Effective Assistance of Counsel

Applicant, by varying phrases, argues cumulative error. "Whether the cumulation of several errors, which by themselves are not prejudicial, would warrant relief is an unsettled question in South Carolina." Green v. State, 351 S.C. 184, 197, 569 S.E.2d 318, 324 (2002). Though unsettled, "the threshold to asking the cumulative prejudicial question is to first find multiple errors." Id., 351 S.C. at 197, 569 S.E.2d at 325.

This Court finds that, similar to Green, the present matter is not suited to settle the question. The Court finds no instances of error on the part of any of Applicant's counsels, let alone multiple, such that there is not a multiplicity of prejudice to consider in cumulative form. Accordingly, Applicant's request for relief based upon the unsettled doctrine of cumulative error is **DENIED**.

E. Prosecutorial Misconduct

Applicant alleges that the State failed to disclose evidence in its possession in violation of Brady v. Maryland, 373 U.S. 83 (1963), and otherwise engaged in misconduct during the closing argument phase of trial. "Brady requires the State to disclose evidence in its possession favorable to the accused and material to guilt or punishment." Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 268 (1993). "A Brady claim is based upon the requirement of due process. Such a claim is complete if the accused can demonstrate (1) the evidence was favorable to the accused, (2) it was in the possession of or known to the prosecution, (3) it was suppressed by the prosecution, and (4) it was material to guilt or punishment." Gibson v. State, 334 S.C. 515, 524, 514 S.E.2d 320, 324 (1999). The mandate of Brady extends to evidence "that is not in the actual possession of the prosecution but known by others acting on the government's behalf in the particular case, including the police." State v. Kennerly, 331 S.C. 442, 452-53, 503 S.E.2d 214, 220 (Ct. App. 1998) (citing Kyles v. Whitley, 514 U.S. 419 (1995)). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Clark, 315 S.C. at 388, 434 S.E.2d at 268 (citing United States v. Bagley, 473 U.S. 667 (1985)).

However, an application for post-conviction relief does not serve as a substitute for direct appeal, and an issue that could have been raised at applicant's trial or on appeal is not cognizable

in an application for PCR. S.C. Code Ann. § 17-27-20(b); Drayton v. Evatt, 312 S.C. 4, 8-9, 430 S.E.2d 517, 520 (1993) (citing Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)); Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001). Trial court error is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973).

1. Evidence Adduced at Evidentiary Hearing

Applicant's questioning of Spratlin was brief—Applicant accused the 6'3", 248 pound Spratling of intimidatingly pointing at him in closing arguments. Spratlin testified he could not specifically recall pointing, but admitted he frequently does so.

On cross-examination, Spratlin testified that materials were seized from Applicant's house, including voluminous writings, which he reviewed and made available to Applicant's counsels. Spratlin testified that his predecessor on the case, Candice Lively, evidently made copies of the materials as well. Spratlin testified that nothing went missing, and nothing seized from Applicant's residence was trashed. Spratlin could not recall the content of the writings, but knew that some part of them related to attention deficit disorder and/or attention deficit hyperactivity disorder. Spratlin testified he had not been aware of controversies around Detective Frebowitz. Spratlin recalled the flawed search warrant affidavit referred to an unrelated grand larceny. Spratlin testified the issue was caught and corrected, but that he made the judgment call not to use any of the seized documents, and that they were unnecessary. Upon questioning by this Court, Spratlin could not recall if Applicant's attorneys ever made copies of the seized papers.

On redirect examination, Spratlin testified that a transcript of the forensic interview was produced and given to Diggs in order to identify what needed to be redacted. Pressed by

Applicant for details, Spratlin could not recall seeing a purple journal, or the contents of the writings and documents, but did remember a picture of a placard. Spratlin could not recall ever receiving notice of Frebowitz impending termination from the Horry County Police Department. Spratlin confirmed that Joye obtained a mental health evaluation of Applicant. Spratlin read the mental health examiner's report.

2. Findings

As to the allegations relating to the State's production of materials seized from Applicant's trailer, the Court finds that the State made available to Applicant and his attorneys all materials in its possession. The Court finds no materials were lost or destroyed by the State during or subsequent to the execution of the search warrant. Applicant has failed to meet his burden of showing that any material evidence was not turned over to him. As such, his claim for relief pursuant to Brady v. Maryland is **DENIED**.

As to the allegations relating to the State's disclosure of Frebowitz impending termination, the Court finds that the solicitor was entirely unaware of the matter and was not in a position such that he should have known anything about the internal personnel matters of the Horry County Police Department. The Court finds Applicant has presented no evidence to show that the determination to fire Frebowitz became final at any time during or prior to his trial; to the contrary, the only evidence shows that the determination to terminate Frebowitz became final on the Friday *after* his trial. Indeed, had Frebowitz been questioned on the subject, he would have been unable to admit or deny that he was about to be fired. Further, as noted in previous sections, Frebowitz' termination was for improperly disclosing confidential investigatory materials to persons not authorized to receive such disclosures, not for any fabrication, falsification, or destruction of evidence, nor for anything directly related to applicant's

proceedings. Frebowitz was open, honest, and defiant in the records provided by Applicant to this Court. This Court finds that neither Frebowitz termination, nor the acts leading to it, are probative of truthfulness or untruthfulness; thus, Applicant would have been unable to question Frebowitz on the subject, and would have been unable to introduce extrinsic evidence to show the same. See Rule 608(b), SCRE ("Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of a crime as provided in Rule 609, may not be proved by extrinsic evidence."). For all of these reasons, the Court finds Applicant has failed to meet his burden of showing that the State failed to turn over material evidence, and as such his claim for relief under Brady v. Maryland is **DENIED**.

As to the allegation that the solicitor engaged in misconduct by pointing at him during closing arguments, the Court finds the issue is entirely without merit. Technically the matter could have been raised at trial and thereafter on appeal, such that the issue is not cognizable in a post-conviction relief action. But more importantly, the Court finds there is no law to provide that a prosecutor cannot point during his closing arguments. The prosecutor's physical stature is irrelevant. Accordingly, Applicant's demand for relief by way of this allegation is **DENIED**.

III. MOTION TO ALTER OR AMEND

Prior to and during the evidentiary hearing, Applicant moved pursuant to Rule 59(e), SCRCP, to alter or amend the judgment to address all issues raised. This Court denies Applicant's motions without prejudice as premature. If upon review of this order Applicant determines that not all issues raised at the evidentiary hearing were ruled upon, he is free to again make a motion to this Court consistent with the South Carolina Rules of Civil Procedure.

IV. CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 16th **day of** July **, 2019.**

BENTLEY PRICE
Presiding Judge
Fifteenth Judicial Circuit

Charleston, South Carolina

ALAN WILSON
ATTORNEY GENERAL

August 15, 2019

The Honorable Renee N. Elvis
Clerk of Court, Horry County
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Conway, South Carolina 29528-0677

2019 AUG 19 PM 12:11
HORRY COUNTY, SC

Re: Ronald L. Legg, #359236 v. State of South Carolina
2016-CP-26-06592

Dear Ms. Elvis:

Enclosed please find the original **Order to Amend** signed by the Honorable Larry B. Hyman Jr., in the above-captioned case, for filing in your office.

Should you have any questions, please do not hesitate to contact me at (803) 734-3737.

Sincerely,

Johnny Ellis James Jr.
Assistant Attorney General

JEJ/ec

Enclosure

REMBERT C. DENNIS BUILDING • POST OFFICE BOX 11549 • COLUMBIA, SC 29211-1549 • TELEPHONE 803-734-3970 • FACSIMILE 803-253-6283

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
Ronald L. Legg, S.C.D.C. No. 359236,	)	Case No.: 2016-CP-26-06592
Applicant,	)	**ORDER TO AMEND**
v.	)	
State of South Carolina,	)	
Respondent.	)	

2019 AUG 19 PM 12:11
HORRY COUNTY, SC

This matter originally came before the Court by way of an application for post-conviction relief filed October 13, 2016. The Court adopted Respondent's proposed order and issued on July 31, 2019, an Order of Dismissal. Respondent moves that the following sentence be stricken from Page 30 of the Order in light of Applicant's completion of his sentence:

> 2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

The Court grants Respondent's motion and orders the language be stricken from Page 30 of its July 31, 2019, Order of Dismissal.

AND IT IS SO ORDERED THIS 12th **DAY OF** August, **2019**

BENTLEY PRICE
Presiding Judge
Fifteenth Judicial Circuit

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FOR THE FIFTEENTH JUDICIAL CIRCUIT
Ronald L. Legg, S.C.D.C. No. 359236, Applicant, v. State of South Carolina, Respondent.	)	Case No.: 2016-CP-26-06592 **MOTION TO ALTER OR AMEND PURSUANT TO RULE 59(e), SCRCP**

2019 AUG 19 P1:12:11
CLERK OF COURT
HORRY COUNTY, SC

This matter originally came before the Court by way of an application for post-conviction relief filed October 13, 2016. The Court adopted Respondent's proposed order and issued on July 31, 2019, an Order of Dismissal.

On August 9, 2019, Applicant contacted Respondent by telephone and pointed out that the final page of the proposed order commands that "[t]he Applicant must be remanded to the custody of the South Carolina Department of Corrections." Applicant is not presently incarcerated, as he completed the sentenced imposed. The inclusion of this language in the proposed order was Respondent's error, the product of the overwhelmingly incarcerated status of applicants for post-conviction relief.

WHEREFORE, Respondent respectfully moves pursuant to Rule 59(e), SCRCP, that this Court order that the above quoted offending language be stricken from page 30 of its Order of Dismissal filed July 31, 2019. A proposed order to that effect is submitted concurrent with this motion.

{Signature on following page}

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JOHNNY E. JAMES JR.
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

9 July, 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	
	)	
	)	2016-CP-26-06592
RONALD L. LEGG,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

2019 AUG 16 P 12:11
HORRY COUNTY
CLERK OF COURT
HORRY COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Motion to Alter or Amend Pursuant to Rule 59(e), SCRCP** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Ronald L. Legg
787 Upson Street
Akron, Ohio 44305

DATED this 9th day of August, 2019.

Eva Cook, Legal Assistant
For Respondent

Ronald L. Legg

787 Upson St.

Akron, Ohio 44305

The Honorable Renee N. Elvis

Horry County Clerk of Court

Post office Box 677

Conway, South Carolina 29528-0677

FILED
2019 AUG 27 AM 11:16
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Re: Ronald L. Legg V. State of South Carolina

Case No.: 2016-CP-26-6592

Dear Ms. Elvis:

Please find this Motion to Alter or Amend pursuant to Rule 59 {e}, SCRP by Plaintiff, in the above captioned case, for filing in your office. Can you please process and return an "in clocked stamped copy" as I am Pro se in this matter.

Cc: Johnny E. James Jr.

Sincerely,

Aug. 21, 2019

Ronald L. Legg, Plaintiff

COUNTY OF HORRY	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Ronald L. Legg,	)	Case No: 2016-CP-26-06592
Applicant,	)	
V.	)	RULE 59 [e] Motion SCRP
State of South Carolina,	)	
Respondent.	)	
_____	)	

FILED
2019 AUG 27 AM 11:16
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Now comes Ronald Legg [Applicant], before this court, asking the court to hear this Rule 59 [e] Motion, thereby, asking the court to amend its ruling, and rule on every issue Applicant raised in his Post Cponviction Relief Application.

This matter originally came before Bently Price, Presiding Judge, Fifteenth Circuit by way of relief filed October 31, 2016 by Ronald L. Legg, Applicant, Vs. State of South Carolina, Respondent; Case No.: 2016-CP-26-06592. The Court adopted Respondent's proposed order and issued on July 31, 2019 an Order of Dismissal.

Plaintiff is advising the Court that a copy of the Order signed By Judge was never received by this plaintiff. Plaintiff was informed by The Clerk of Court Horry County (clerk) Lori Hardwick, that due to the age of the case, the files were not available through Public Index search, and the Assistant Attorney General failed to notify Plaintiff of the signed order. And the Horry County Clerk Of Court's office did not receive the signed order until Aug. 1, 2019.

I, Ronald L. Legg, on this date of Aug. 21, 2019 am making this Rule 59 {e}, SCRCP motion by Plaintiff asking the Court to amend and alter its ruling to dismiss, and thereby, rule on all issues raised in the complaint by Plaintiff, regardless of any presupposed lack of merit in the totality of the issues raised by Respondent.

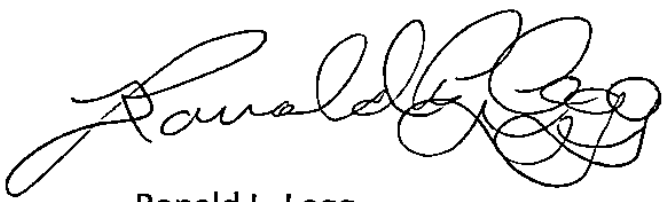
Aug. 21, 2019 Respectfully submitted,

Page 2 of 2

FILED
2019 AUG 27 AM 11:16
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Certificate of Service

I, Ronald L. Legg, Plaintiff in case No. : 2016-CP-26-06592, Legg V. State of South Carolina, have on this day of Aug. 21, 2019 served a copy of Rule 59 {e} Motion SCRP On Honorable Renee N. Elvis Horry County Clerk of Court by placing in regular US mail, addressed to Post Office Box 677 Conway, S.C. 29528-0677 and therewith served.



Ronald L. Legg

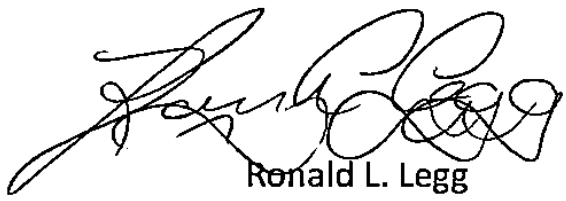
787 Upson St.

Akron, Ohio 44305

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2019 AUG 27 AM 11:17
RENEE C. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Certificate of Service

I, Ronald L. Legg, Plaintiff in case No. : 2016-CP-26-06592, Legg V. State of South Carolina, have on this day of Aug. 21, 2019 served a copy of Rule 59 {e} Motion SCRP On John E. James Jr. Asst. Attorney gen, S.C. by placing in regular US mail, addressed to Post Office Box 11549 Columbia, S.C. 29211-1549 and therewith served.



Ronald L. Legg

787 Upson St.

Akron, Ohio 44305

ALAN WILSON
ATTORNEY GENERAL

April 12, 2024

FILED
HORRY COUNTY
2024 APR 15 P 3:42
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

The Honorable Renee Elvis
Horry County Clerk of Court
PO Box 677
Conway, SC 29528-0677

Re: **Ronald L. Legg v. State of South Carolina**
2016-CP-26-06592

Dear Ms. Elvis:

Enclosed please find the original Return to Applicant's Motion Pursuant to Rule 59(e) of the Respondent, with its accompanying attachment(s), in the above-captioned case, for filing in your office.

Sincerely,

D. Russell Barlow II
Assistant Attorney General

DRB/dl
Enclosure

cc: The Honorable Bentley Price
Ronald L. Legg

REMBERT C. DENNIS BUILDING • POST OFFICE BOX 11549 • COLUMBIA, SC 29211-1549 • TELEPHONE 803-734-3970 • FACSIMILE 803-253-6283

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Ronald L. Legg, Applicant v. State of South Carolina, Respondent.	)	CASE NO. 2016-CP-26-06592 **RETURN TO APPLICANT'S MOTION PURSUANT TO RULE 59(e), SCRCP**

FILED
HORRY COUNTY
2019 APR 12 P 3:42
RENEE K. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

The State, by and through undersigned counsel, making its Return to Applicant's Motion to Alter or Amend, filed on August 27, 2019, would respectfully show this Court:

PROCEDURAL HISTORY

Applicant is not currently confined in the South Carolina Department of Corrections. Applicant was indicted at the October 2011 term of the Horry County Grand Jury for lewd act on a minor child (2011-GS-26-03553).[1] William I. Diggs, Esquire, represented Applicant,[2] and Martin D. Spratlin of the Fifteenth Circuit Solicitor's Office prosecuted the case.

[1] Applicant was additionally indicted for two counts of criminal sexual conduct with a minor child under 11 years of age (2011-GS-26-03552; 2012-GS-26-02179). The CSC indictments were dismissed *nolle prosequi* prior to trial.

[2] Applicant was initially represented by William Thomas Floyd, Esq. Applicant brought suit against Mr. Floyd in federal court and counsel recused himself from further representation. Tr. 21, l. 22 – p. 22, l.4. Applicant was then briefly represented by Johnny Gardner, Esq., who removed himself due to a conflict of interest. Tr. 22, ll. 12-17. Applicant's third attorney was R. Scott Joye, Esq., who met the same fate as Mr. Floyd—he was sued in federal court and relieved. Tr. 22, l. 18 – p. 23, l. 9. Mr. Diggs worked on the case after Mr. Joye's departure. Tr. 23, ll. 10-17. Applicant tried to fire Mr. Diggs, but upon learning of the Court's firm stance that trial would proceed as scheduled, Applicant relented and permitted Mr. Diggs to continue representation. Tr. 28, l. 19 – p. 29, l. 7.

UNDERLYING CRIME

Between June 2010 and June 2011, when M.W. (Victim) was between the ages of ten and eleven, Applicant, on a number of different occasions, inappropriately touched Victim's body in various places, spread her legs, exposed himself to her, called her "sexy," stole her clothing while swimming, and displayed programming with explicit sexual content. Tr. 202-225. After an instance of verbal abuse by Applicant, Victim disclosed the conduct to her mother. Tr. 183, l. 14 – p. 184, l. 12. Law enforcement arrested Applicant a few days later and charged him with committing a lewd act on a minor. Tr. 324, l. 18-23.

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RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

TRIAL AND APPEAL

On March 10, 2013, Applicant proceeded to trial before the Honorable Edward B. Cottingham and a jury. The jury found Applicant guilty as indicted on March 12, 2013. On March 13, 2013, Judge Cottingham sentenced Applicant to imprisonment for a term of 12 years.

Applicant filed a timely notice of appeal, and a direct appeal was perfected by Robert Michael Dudek, Esquire. Jennifer Ellis Roberts of the South Carolina Attorney General's Office represented Respondent. Upon motion by the State, the Supreme Court of South Carolina certified the appeal by order dated May 29, 2015, and held the matter in abeyance pending a decision in State v. Anderson, which similarly considered S.C. Code Ann. § 17-23-175. Anderson was decided a few months later. Id., 413 S.C. 212, 776 S.E.2d 76 (2015).

The parties proceeded to oral argument before the Supreme Court on February 9, 2016. By opinion decided on April 20, 2016, the Supreme Court affirmed Applicant's convictions. State v. Legg, 416 S.C. 9, 785 S.E.2d 369 (2016). The Remittitur was returned on May 6, 2016.

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HORRY COUNTY
2024 APR 11 P 3:42
RENEE ELVIS
CLERK OF COURT
HORRY COUNTY, SC

CURRENT APPLICATION

In his application, Applicant alleged he is being held in custody unlawfully on the following grounds:

1. Ineffective Assistance of Trial Counsels
   a. "Ineffective Assistance of Counsel by 'nefarious' default,' in also conspiracy with State agents of the Horry County Police and 15th Judicial Circuit Court. Judges, Solicitor, and Court appointed attorneys in their professional and individual capacities so names herein, for the purposes of a coerced plea deal, by way of taking advantage of the despondent psychological detainment state, which inflictions of terror scare tactics, running out the clock, depriving of due process, discrimination against equality, to deprive civil rights in general, and so did conspire in the abuse of legal process through lawful means to an unlawful end, in complicity of perjury and throwing of a mock trial for State advantage and for infliction of consequences for not accepting a proffered plea deal in the violation of the law of the right to the presumption of innocence and in violation of the laws of State of South Carolina and the United States Constitution and in the Full Faith and Credit Clause in the laws of the land."
   b. "One direct link to the fact that all three attorneys were disingenuous about the Applicant's defense lies in the fact that Applicant informed all three attorneys that he had a cell phone in his personal property at the S.R.L.D.C which contained messages (texts) from the accuser, which is material evidence. No attorney bothered to secure this piece of primary evidence."
   c. Counsels failed to object to the falsified search warrant.
   d. Applicant's attorneys acted as friends of the court in an effort to deprive the Applicant of his liberty.
2. Ineffective Assistance of Counsel – Floyd
   a. Counsel's "incompetence and ineptness toward Applicant's defense, and his coercive strategy caused Applicant to file a motion for dismissal of counsel."
   b. Counsel "showed the intent to ignore Applicant's concerns."
3. Ineffective Assistance of Counsel – Joye
   a. "Counsel was adamant about not reviewing Applicant's [self-prepared] defense facts."
   b. Counsel had a conflict of interest with another case Applicant was involved in.
   c. "As Applicant made it known to [counsel] that it was not his will to undergo a mental health evaluation by the State, [counsel] suredly (sic) reinforced the 'contempt of court threat' in noncompliance."
   d. "A.D.D. happens to be a personal conflict of interest for [counsel]

because he admitted to having a sun who was diagnosed with it."

e. "Counsel made several extenuating attempts to influence the outcome, as the major objective was to subject Applicant to a deprecated mental evaluation that he could influence and the 'vice generate' of his joinder in conspiracy with Counsel Diggs in the final 'overt act.'"
f. Counsel "subjected Applicant to class based bias."
g. Privation
    i. "The lawyer (Joye) and judge abused the mental health evaluation law by unfair prejudice."

4. Ineffective Assistance of Counsel – Diggs
    a. "Counsel initially prejudiced Applicant through ineffective assistance of counsel based upon a preconceived strategy to coerce a plea deal for expedient purposed before investigating Applicant's defense.
    b. "As counsel continued to follow through in what Applicant asserts is a standing procedural protocol as 'coercive mission attempt,' commonly exercised against indigent defendants."
    c. Counsel "proceeded to unjustly, psychologically manipulate the counsel-client legal process against due process will of Applicant."
    d. "Counsel failed to entertain the merits of Applicant's defense facts, failed to discuss and file a timely motion, failed to investigate state witnesses and test for veracity, and test against protypical (sic) bias, failed to consider expert testimony adequately, failed to discuss and file subpoenas, failed to interview defense witnesses, failed to address any legal questions for remedy or give legal advise when asked, failed to make trial prep motions at Applicant's request and with his participation."
    e. "Counsel used smartly contrived deflections, causing Applicant to experience unnecessary added psychological anxiety, taking advantage of Applicant's circumstantial state and medical state, with the proximity of the mental state of despondency prone to manipulation, with the contrived factors of 'running out the clock' and as the coercion strategy failed, counsel further subjected Applicant's defense to the collateral advantage of the State, 'not completed by due process,' by depriving Applicant of the fair due process, and harming future defense in a continuing 'extrinsic fraud' in a conspiracy to deprive equality."
    f. Counsel reflected only a "minimal pragmatic defense."
    g. "It was always obvious to Applicant that Diggs did not plan for a defensive strategy."
    h. Counsel "failed to review Applicant's defense brief."
    i. "During counsel's brief spontaneous visits, [counsel] had a routine…whereas counsel's paralegal was in attendance, they both played a role of 'good lawyer, bad lawyer'" in an attempt to get Applicant to plead guilty.

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HORRY COUNTY
2024 FEB 13 P 3:47
JULIE ELVIS
CLERK OF COURT
HORRY COUNTY, SC

j. "Counsel became the final participating principle in the 'overt act' as the evidence will support all the criteria necessary for fact finding of a conspiracy to deprive of rights."
k. Counsel "made several brief coercion attempts that were short and concise visits which served to 'runout the clock'" in an attempt to get Applicant to take a plea deal.
l. "Applicant received a letter from [counsel] saying that he was preparing for trial, but this never happened."
m. Counsel asked a witness in an unrelated case if they knew Applicant, implying "exposed privileged material."
n. "Within 5 days of a State planned trial for Applicant, counsel continued to fail in any form of a defense preparation with Applicant."
o. "Diggs did not show up at trial with a defense strategy, absolutely no defense witnesses, did no outside investigation, was not rehearsed on the facts, [and] remembered only some non-essential facts..."
p. "Counsel presented less than a minimal defence without any consent from Applicant, for any kind of a constructive outline for an invitation to discover mitigated facts,...there was none (sic)."
q. "Diggs failed to challenge the Judge's warning for cross examination, or object for preserving for appeal" concerning wrapping up his cross examination.
r. "Counsel's behavior was conspiratorial by the very nature of his stating on court record that he was 'effective assistance,' ready for trial, therefore in joinder with the other State actors against this Applicant."
s. Applicant asked Counsel to "approach the court" concerning Applicant's lack of sleep during Trial, which Applicant blamed on his medication.
t. Counsel failed to object to forensic expert interviewer.
u. Counsel "used inured slickness to make Applicant believe many of the issues would be brought forward during trial, but...this did not happen..."
v. Counsel asked "for a hearing on post-trial motions in the absence of the Applicant."
w. "Diggs failed to challenge many of the State's statements of facts."
x. "Diggs failed to challenge trial court's rulings for evidentiary support, or object for preserving for appeal because of his part of extrinsic fraud over such evidences."
y. "Diggs picks all liberal jurors for trial, all the while believing that Applicant is a politically active conservative. Applicant asked Diggs if he could address the issue regarding certain likely biases, and Diggs responded that Applicant could not search out the jury's biases."
z. "Applicant had asked counsel if he could acquire the grand jury

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HORRY COUNTY
2024 APR 15 P 3:42
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HORRY COUNTY, S.C.

transcript, meaning the 'empanelment documents and supportive materials,' but Diggs simply lied and said he was not entitled to the grand jury information."

aa. "Diggs failed to preserve for appeal the challenge on the indictments, even though the true bill indictments were set aside for trial..."

bb. "Counsel Diggs failed to object to the Solicitor's unethical standards in the whole of his behavior in this general practice of unfair prejudice, in direction of State's evidence, coercion tactics, enabling false testimony, deliberate obfuscation of facts, and court room antics."

cc. "Counsel failed to file a motion for a new trial."

dd. Counsel failed to object to "numerous admissions of hearsay..."

ee. "Trial counsel failed to obtain a ruling on the 'motion to dismiss the indictment,' to file an appeal based on the correct facts."

ff. "Counsel failed to file a motion for the retrieval of all of Applicant's illegally seized property and photographs of his property, previous to trial."

gg. "Trial counsel never once discussed ay trial preparations, that is, strategy or defense theory, or for calling any witnesses."

hh. "Trial counsel was ineffective in processing his 'ex-parte order for prior approval of expert services.'"

ii. "Trial counsel failed to observe basic rules of procedure for protecting Applicant's substantive rights stemming from these many issues."

jj. Conjectura Pietatis "...shown by Diggs ineffective assistance of counsel at trial as essentially a well pretended defense designed to merely make a show of effect but inadvertently exposed a 'throwing of the defense to the advantage of the state' and this end result serves as punishment to Applicant and serves as an advertisement to others for not accepting the plea deal."

kk. "Tampering with the Evidence"

i. "By Diggs bypassing on the indictment of the 'Fruit of the Poisonous Tree,' and the State protecting itself against wrongdoing accountability by not examining the events which partook of the suppression of evidence and misconduct, and such doors to such evidences have remained closed as Diggs remained a principle in that conspiracy, with the State in allowing State witness deceptions, extrinsic fraud begins to show more vividly."

ii. "Applicant showed Diggs the two search warrants in question for comparison and as Diggs noted the disparity between the actual executed search warrant and the later codified one, Diggs feigned concern, but Diggs acquiesced over the issue at trial and covered for the State."

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HORRY COUNTY
2016 APR 25 P 4:12
RANEE PERRY
CLERK OF COURT
HORRY COUNTY, SC

iii. "Diggs failed to recognize his descendent nature conflicting with imperative duty imposed by law not to embrace such circumventive behavior with the other actors now made more cognizable by Applicant's complaint, and because at his disingenuousness, he failed to allow himself to become informed about Applicant's case..."

5. "Ineffective Assistance of Appellate Counsel"
   a. "Appellate counsel failed to raise issue of ineffective assistance of trial counsel."
   b. "Appellate counsel failed to make the record sufficient on several issues in accordance with this complaint as the trial transcript reveals and thereby failed to make clear the issues for appeal."
   c. "Appellate counsel failed to secure the Court Recorder's 'recordings' of the trial record because of the incompleteness of trail transcript as outlined in the complaint, showing by Applicant's illustration, the lack of a thorough record for appeal purposes."
6. Brady Violation
   a. "Frebowitz' termination letter was intentionally withheld until after Applicant's trial because reasons for Frebowitz' termination were relative to Applicant's case."
7. Lack of Jurisdiction
   a. "Diggs failed to file a motion to dismiss based on lack of jurisdiction for all violations including speedy trial violation."
8. Prosecutorial Misconduct
   a. "In the solicitor's efforts to mislead the jury and unfairly prejudice the defendant, trial was affected by abetting and perpetuating deep psychological rears in the moors and attitudes of the jury to find guilt upon subjective feelings rather than on a more certain evaluation of the evidence through objective reasoning."
   b. The solicitor demonstrated misconduct by "jabbing a pointed finger in Applicant's face, [through] powerful inculcation in body language, accusing Applicant of said heinous act, determinately attesting to the jury that [Applicant] did do the deed..."
   c. "The State presented intended evidence, in an effort to thwart the 'Motion to Dismiss the Indictment.'"
   d. "*Animus Domini*"
      i. "The State, in its trend as embodied in this complaint, sought to achieve '*animus domini*,' meaning 'the intent to exercise dominion over Applicant – physically and mentally' though applying its unchallenged force against Applicant in an unfair prejudice..."
   e. "Tampering with the Evidence"
      i. "Applicant began his defense proclaiming that he, in fact, did have exculpatory evidence, documentations and recordings, which if it was not for the State's bad acts, Applicant would have been exonerated by these evidences."

FILED
HORRY COUNTY
CLERK OF COURT
2021 P 42

9. Fourth Amendment Violations
   a. The police did not have probable cause to issue an arrest warrant.
   b. Applicant was subject to an interview for interrogation without an arrest warrant.
   c. Illegal search and seizure of items in Applicant's office.
10. Trial Court Error
   a. "Judge Hyman continued to openly chastise Applicant for suing in Federal Court for due process..."
   b. "Judge Cottingham said, 'I warn you, because of her tender age.' This interruption from on high command clearly served to bolster the confidence of the witness by indicating that the witness could be relieved of any pressure on a test of veracity or from the anxiety caused by a protypical (sic) bias challenge..."
   c. "Trial Judge Cottingham refused to fully entertain Applicant's motion for dismissal of counsel as the solicitor prejudiced Applicant by making a false argument, which implied Applicant was suing the appointed attorney for a ruse without any substantial facts."
   d. "The trial judge prejudicially accused Applicant of suing for the purpose of trying to delay the trial, putting off by suing each attorney as a charlatan ruse, and the accusation was without factual substantiation, as the factual reasons for Applicant filing for redress for grievances were all available to the solicitor."
   e. "...incompleteness of the trial record...over one thousand occurrences of missing 'epochs'"
   f. "Trial court improperly limited the scope of State's witness."
   g. "In the court's charge to the jury, it is clear that a sublime prejudice did prevail against impartiality."
   h. "The Court denied the motion for directed verdict in error of law because the paucity of evidence was fraught with the State's unfair prejudice in exaggerating the credibility of its case through corruption in every element..."
11. "Abuse of Discretion"
   a. "All of the trial court's rulings were without evidentiary support as demonstrated in this complaint."
12. "Unconstitutional Statute"
   a. "Applicant wishes to argue that the South Carolina Statute 17-23-175 is arbitrary under the Eighth and Fourteenth Amendments of the United States Constitution by allowing for an out of court statement by a child to leave a controversy ..."
13. "Religious Discrimination"
   a. "Because of Applicant's Christian piety and vocation without a Ph.D., and his personal ideological patriotism, Applicant was treated as an enemy of the State because he threatened the status quo of a system of reverence for the corrupted version of the 'conjectura pretatis' as described herein this complaint which by favor of the State, honors any such reservoir for State will bent for a 98 percent

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HORRY COUNTY
2024 APR 23 P 3:
RENEE L. ELLIS
CLERK OF COURT
HORRY COUNTY, SC

conviction rate for the county..."

14. "Right to Expert on Social History"
    a. "Trial transcript page 408 (20-21), 'We don't know that aspect of the child's personality that we should know.'"
15. "Right to Call Witnesses"
    a. "Trial transcript page 26 (17), Mr. Diggs: 'the only witness I could think of that would be pertinent, I don't know where he is but we could certainly try to find him and subpoena him' (paraphrased)."
16. "Failure of Police to Preserve"
    a. "Failure to preserve specific evidence known to be accountable to the police and specific evidence in their possession, proven by the factors of record to be relevant materiality, known to the police."
17. "State Ingrains False Accusations"
    a. "By the State's preoccupation nature in that prejudice as outlined, as was practiced against Applicant, and experienced in the eyes and ears of the accuser, served the culminating imagination of the accuser, while the State failed to recognize the cumulative effects of bolstering the imagination of false accusation, giving undue confidence, thereby served to engrain the imaginary fortress, giving firmer residency in the mind through restiveness, fed by the comradery of the enclaved credulity of the State actors and the auspice of the State powers which would require a psychiatric expert to testify as to the damage to future defense."
18. Censorship
19. "Religious Bigotry"

FILED
HORRY COUNTY
2019 APR 5 P 3:
RENEE E. ELLIS
CLERK OF COURT
HORRY COUNTY, S.C.

Respondent made its Return, Partial Motion to Dismiss, and Motion for a More Definite Statement on October 16, 2017. On January 14, 2019, Applicant filed his "Applicant's Motion in Opposition: To Respondent's Partial Motion to Dismiss, and Motion for More Definite Statement."

An evidentiary hearing into the matter convened on March 28, 2019, at the Horry County Government & Justice Center in Conway, South Carolina. Applicant was present at the hearing and proceeded *pro se*.[3] Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent. The Court heard testimony from witnesses R. Scott Joye, Esq., William

[3] Applicant was previously represented by Daniel A. Selwa, II, Esq. Applicant and Selwa appeared before the Honorable Kristi F. Curtis on Friday, November 30, 2018, at which time both men sought to remove Selwa from the case. By Order field December 18, 2018, Judge Curtis relieved Selwa and permitted Applicant to proceed *pro se* based on Faretta warnings administered at the November 30, 2018, hearing.

I. Diggs, and Martin D. Spratlin, Esq. On August 1, 2019, the Court filed its Order of Dismissal, dismissing Applicant's PCR application with prejudice. On August 12, 2019, Respondent filed its Rule 59(e), SCRCP, motion to amend the Order of Dismissal. On August 19, 2019, the Court granted Respondent's Rule 59(e). SCRCP, motion and filed its Amended Order.

APPLICANT'S MOTION TO ALTER OR AMEND

On August 29, 2019, Applicant filed a "Rule 59(e) Motion SCRCP." In his motion, Applicant requests the Court amend and alter its ruling to dismiss, and rule on all issues raised, even those that lack merit.

Respondent submits that this Court properly ruled on all issues after ample opportunity for Applicant to present all his issues and that this motion should be denied in full.

FILED
HORRY COUNTY
2024 APR 15 P 3:42
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

[SIGNATURE PAGE FOLLOWS]

REQUEST FOR SUMMARY DISMISSAL OF THE MOTION

WHEREFORE, Respondent respectfully requests this Court deny Applicant's Rule 59(e), SCRCP, motion.

FILED
HORRY COUNTY
2024 APR 15 P 3:12
IRENE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Assistant Attorney General

By: D. Russell Barlow II

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

April 12, 2024

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS
	)	
	)	2016-CP-26-06592
RONALD L. LEGG	)	
Applicant,	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
STATE OF SOUTH CAROLINA,	)	
Respondent,	)	

FILED
HORRY COUNTY
2024 APR 15 P 3:42
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the Return to Applicant's Motion Pursuant to Rule 59(e) in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ronald L. Legg
787 Upson St.
Akron, OH 44305

DATED this 12th day of April 2024.

Dellene Lizama, Legal Assistant
For Respondent

Ronald L. Legg

787 Upson St.

Akron, Ohio 44305

FILED
HORRY COUNTY
2019 AUG 27 AM 11:16
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

FILED
2024 APR 15 P 3:42
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

The Honorable Renee N. Elvis

Horry County Clerk of Court

Post office Box 677

Conway, South Carolina 29528-0677

Re: Ronald L. Legg V. State of South Carolina

Case No.: 2016-CP-26-6592

Dear Ms. Elvis:

Please find this Motion to Alter or Amend pursuant to Rule 59 {e}, SCRP by Plaintiff, in the above captioned case, for filing in your office. Can you please process and return an "in clocked stamped copy" as I am Pro se in this matter.

Cc: Johnny E. James Jr.

Sincerely,

Aug. 21, 2019

Ronald L. Legg, Plaintiff

COUNTY OF HORRY	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
Ronald L. Legg,	)	Case No: 2016-CP-26-06592
Applicant,	)	
V.	)	RULE 59 [e] Motion SCRP
State of South Carolina,	)	
Respondent.	)	
_____	)	

FILED
2019 AUG 27 AM 11:1
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Now comes Ronald Legg [Applicant], before this court, asking the court to hear this Rule 59 [e] Motion, thereby, asking the court to amend its ruling, and rule on every issue Applicant raised in his Post Cponviction Relief Application.

FILED
HORRY COUNTY
2024 APR 15 P 3:43
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

This matter originally came before Bently Price, Presiding Judge, Fifteenth Circuit by way of relief filed October 31, 2016 by Ronald L. Legg, Applicant, Vs. State of South Carolina, Respondent; Case No.: 2016-CP-26-06592. The Court adopted Respondent's proposed order and issued on July 31, 2019 an Order of Dismissal.

FILED
HORRY COUNTY
2019 AUG 5 PM 3:42
RECEIVED
CLERK OF COURT
HORRY COUNTY, SC

Plaintiff is advising the Court that a copy of the Order signed By Judge was never received by this plaintiff. Plaintiff was informed by The Clerk of Court Horry County (clerk) Lori Hardwick, that due to the age of the case, the files were not available through Public Index search, and the Assistant Attorney General failed to notify Plaintiff of the signed order. And the Horry County Clerk Of Court's office did not receive the signed order until Aug. 1, 2019.

I, Ronald L. Legg, on this date of Aug. 21, 2019 am making this Rule 59 {e}, SCRCP motion by Plaintiff asking the Court to amend and alter its ruling to dismiss, and thereby, rule on all issues raised in the complaint by Plaintiff, regardless of any presupposed lack of merit in the totality of the issues raised by Respondent.

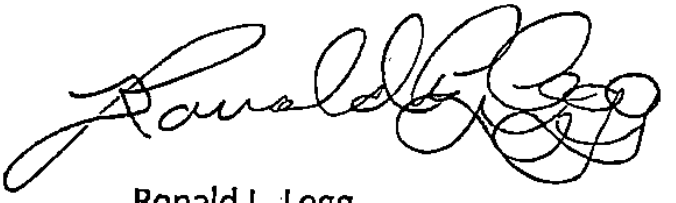
Aug. 21, 2019 Respectfully submitted,

Page 2 of 2

FILED
2019 AUG 27 AM 11:16
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Certificate of Service

I, Ronald L. Legg, Plaintiff in case No. : 2016-CP-26-06592, Legg V. State of South Carolina, have on this day of Aug. 21, 2019 served a copy of Rule 59 {e} Motion SCRP On Honorable Renee N. Elvis Horry County Clerk of Court by placing in regular US mail, addressed to Post Office Box 677 Conway, S.C. 29528-0677 and therewith served.



Ronald L. Legg

787 Upson St.

Akron, Ohio 44305

FILED
HORRY COUNTY
2020 APR 15 P 3:43
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

FILED
2019 AUG 27 AM 11:17
RENEE C. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Certificate of Service

I, Ronald L. Legg, Plaintiff in case No. : 2016-CP-26-06592, Legg V. State of South Carolina, have on this day of Aug. 21, 2019 served a copy of Rule 59 {e} Motion SCRP On John E. James Jr. Asst. Attorney gen. S.C. by placing in regular US mail, addressed to Post Office Box 11549 Columbia, S.C. 29211-1549 and therewith served.

FILED
HORRY COUNTY
2019 AUG 27 P 3:42
RENEE C. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Ronald L. Legg

787 Upson St.

Akron, Ohio 44305

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
Ronald L. Legg, Applicant v. State of South Carolina, Respondent.	)	CASE NO. 2016–CP–26–06592 **ORDER DENYING APPLICANT'S MOTION PURSUANT TO RULE 59(e), SCRCP**

FILED
HORRY COUNTY
2020 MAY -1 P 3:00
RECEIVED
CLERK OF COURT
HORRY COUNTY, SC

This matter comes before the Court by way of Ronald L. Legg's (Applicant) Motion to Alter or Amend Pursuant to Rule 59(e), SCRCP, filed August 27, 2019, asking this Court to alter or amend its Order of Dismissal denying Applicant's application for post-conviction relief.

PROCEDURAL HISTORY

Applicant is not currently confined in the South Carolina Department of Corrections pursuant to orde Applicant was indicted at the October 2011 term of the Horry County Grand Jury for lewd act on a minor child (2011-GS-26-03553).[1] William I. Diggs, Esquire, represented Applicant,[2] and Martin D. Spratlin of the Fifteenth Circuit Solicitor's Office prosecuted the case.

[1] Applicant was additionally indicted for two counts of criminal sexual conduct with a minor child under 11 years of age (2011-GS-26-03552; 2012-GS-26-02179). The CSC indictments were dismissed *nolle prosequi* prior to trial.

[2] Applicant was initially represented by William Thomas Floyd, Esq. Applicant brought suit against Mr. Floyd in federal court and counsel recused himself from further representation. Tr. 21, l. 22 – p. 22, l.4. Applicant was then briefly represented by Johnny Gardner, Esq., who removed himself due to a conflict of interest. Tr. 22, ll. 12-17. Applicant's third attorney was R. Scott Joye, Esq., who met the same fate as Mr. Floyd—he was sued in federal court and relieved. Tr. 22, l. 18 – p. 23, l. 9. Mr. Diggs worked on the case after Mr. Joye's departure. Tr. 23, ll. 10-17. Applicant tried to fire Mr. Diggs, but upon learning of the Court's firm stance that trial would proceed as scheduled, Applicant relented and permitted Mr. Diggs to continue representation. Tr. 28, l. 19 – p. 29, l. 7.

UNDERLYING CRIME

Between June 2010 and June 2011, when M.W. (Victim) was between the ages of ten and eleven, Applicant, on a number of different occasions, inappropriately touched Victim's body in various places, spread her legs, exposed himself to her, called her "sexy," stole her clothing while swimming, and displayed programming with explicit sexual content. Tr. 202-225. After an instance of verbal abuse by Applicant, Victim disclosed the conduct to her mother. Tr. 183, l. 14 – p. 184, l. 12. Law enforcement arrested Applicant a few days later and charged him with committing a lewd act on a minor. Tr. 324, l. 18-23.

TRIAL AND APPEAL

On March 10, 2013, Applicant proceeded to trial before the Honorable Edward B. Cottingham and a jury. The jury found Applicant guilty as indicted on March 12, 2013. On March 13, 2013, Judge Cottingham sentenced Applicant to imprisonment for a term of 12 years.

Applicant filed a timely notice of appeal, and a direct appeal was perfected by Robert Michael Dudek, Esquire. Jennifer Ellis Roberts of the South Carolina Attorney General's Office represented Respondent. Upon motion by the State, the Supreme Court of South Carolina certified the appeal by order dated May 29, 2015, and held the matter in abeyance pending a decision in State v. Anderson, which similarly considered S.C. Code Ann. § 17-23-175. Anderson was decided a few months later. Id., 413 S.C. 212, 776 S.E.2d 76 (2015).

The parties proceeded to oral argument before the Supreme Court on February 9, 2016. By opinion decided on April 20, 2016, the Supreme Court affirmed Applicant's convictions. State v. Legg, 416 S.C. 9, 785 S.E.2d 369 (2016). The Remittitur was returned on May 6, 2016.

CURRENT ACTION BEFORE THIS COURT

In his application, Applicant alleged he is being held in custody unlawfully on the following grounds:

1. Ineffective Assistance of Trial Counsels
   a. "Ineffective Assistance of Counsel by 'nefarious default,' in also conspiracy with State agents of the Horry County Police and 15th Judicial Circuit Court. Judges, Solicitor, and Court appointed attorneys in their professional and individual capacities so names herein, for the purposes of a coerced plea deal, by way of taking advantage of the despondent psychological detainment state, which inflictions of terror scare tactics, running out the clock, depriving of due process, discrimination against equality, to deprive civil rights in general, and so did conspire in the abuse of legal process through lawful means to an unlawful end, in complicity of perjury and throwing of a mock trial for State advantage and for infliction of consequences for not accepting a proffered plea deal in the violation of the law of the right to the presumption of innocence and in violation of the laws of State of South Carolina and the United States Constitution and in the Full Faith and Credit Clause in the laws of the land."
   b. "One direct link to the fact that all three attorneys were disingenuous about the Applicant's defense lies in the fact that Applicant informed all three attorneys that he had a cell phone in his personal property at the S.R.L.D.C which contained messages (texts) from the accuser, which is material evidence. No attorney bothered to secure this piece of primary evidence."
   c. Counsels failed to object to the falsified search warrant.
   d. Applicant's attorneys acted as friends of the court in an effort to deprive the Applicant of his liberty.
2. Ineffective Assistance of Counsel – Floyd
   a. Counsel's "incompetence and ineptness toward Applicant's defense, and his coercive strategy caused Applicant to file a motion for dismissal of counsel."
   b. Counsel "showed the intent to ignore Applicant's concerns."
3. Ineffective Assistance of Counsel – Joye
   a. "Counsel was adamant about not reviewing Applicant's [self-prepared] defense facts."
   b. Counsel had a conflict of interest with another case Applicant was involved in.
   c. "As Applicant made it known to [counsel] that it was not his will to undergo a mental health evaluation by the State, [counsel] suredly (sic) reinforced the 'contempt of court threat' in noncompliance."
   d. "A.D.D. happens to be a personal conflict of interest for [counsel] because he admitted to having a sun who was diagnosed with it."
   e. "Counsel made several extenuating attempts to influence the

outcome, as the major objective was to subject Applicant to a deprecated mental evaluation that he could influence and the 'vice generate' of his joinder in conspiracy with Counsel Diggs in the final 'overt act.'"

f. Counsel "subjected Applicant to class based bias."
g. Privation
    i. "The lawyer (Joye) and judge abused the mental health evaluation law by unfair prejudice."

4. Ineffective Assistance of Counsel – Diggs
    a. "Counsel initially prejudiced Applicant through ineffective assistance of counsel based upon a preconceived strategy to coerce a plea deal for expedient purposed before investigating Applicant's defense.
    b. "As counsel continued to follow through in what Applicant asserts is a standing procedural protocol as 'coercive mission attempt,' commonly exercised against indigent defendants."
    c. Counsel "proceeded to unjustly, psychologically manipulate the counsel-client legal process against due process will of Applicant."
    d. "Counsel failed to entertain the merits of Applicant's defense facts, failed to discuss and file a timely motion, failed to investigate state witnesses and test for veracity, and test against protypical (sic) bias, failed to consider expert testimony adequately, failed to discuss and file subpoenas, failed to interview defense witnesses, failed to address any legal questions for remedy or give legal advise when asked, failed to make trial prep motions at Applicant's request and with his participation."
    e. "Counsel used smartly contrived deflections, causing Applicant to experience unnecessary added psychological anxiety, taking advantage of Applicant's circumstantial state and medical state, with the proximity of the mental state of despondency prone to manipulation, with the contrived factors of 'running out the clock' and as the coercion strategy failed, counsel further subjected Applicant's defense to the collateral advantage of the State, 'not completed by due process,' by depriving Applicant of the fair due process, and harming future defense in a continuing 'extrinsic fraud' in a conspiracy to deprive equality."
    f. Counsel reflected only a "minimal pragmatic defense."
    g. "It was always obvious to Applicant that Diggs did not plan for a defensive strategy."
    h. Counsel "failed to review Applicant's defense brief."
    i. "During counsel's brief spontaneous visits, [counsel] had a routine…whereas counsel's paralegal was in attendance, they both played a role of 'good lawyer, bad lawyer'" in an attempt to get Applicant to plead guilty.
    j. "Counsel became the final participating principle in the 'overt act' as the evidence will support all the criteria necessary for fact finding

of a conspiracy to deprive of rights."

k. Counsel "made several brief coercion attempts that were short and concise visits which served to 'runout the clock'" in an attempt to get Applicant to take a plea deal.
l. "Applicant received a letter from [counsel] saying that he was preparing for trial, but this never happened."
m. Counsel asked a witness in an unrelated case if they knew Applicant, implying "exposed privileged material."
n. "Within 5 days of a State planned trial for Applicant, counsel continued to fail in any form of a defense preparation with Applicant."
o. "Diggs did not show up at trial with a defense strategy, absolutely no defense witnesses, did no outside investigation, was not rehearsed on the facts, [and] remembered only some non-essential facts..."
p. "Counsel presented less than a minimal defence without any consent from Applicant, for any kind of a constructive outline for an invitation to discover mitigated facts,...there was none (sic)."
q. "Diggs failed to challenge the Judge's warning for cross examination, or object for preserving for appeal" concerning wrapping up his cross examination.
r. "Counsel's behavior was conspiratorial by the very nature of his stating on court record that he was 'effective assistance,' ready for trial, therefore in joinder with the other State actors against this Applicant."
s. Applicant asked Counsel to "approach the court" concerning Applicant's lack of sleep during Trial, which Applicant blamed on his medication.
t. Counsel failed to object to forensic expert interviewer.
u. Counsel "used inured slickness to make Applicant believe many of the issues would be brought forward during trial, but...this did not happen..."
v. Counsel asked "for a hearing on post-trial motions in the absence of the Applicant."
w. "Diggs failed to challenge many of the State's statements of facts."
x. "Diggs failed to challenge trial court's rulings for evidentiary support, or object for preserving for appeal because of his part of extrinsic fraud over such evidences."
y. "Diggs picks all liberal jurors for trial, all the while believing that Applicant is a politically active conservative. Applicant asked Diggs if he could address the issue regarding certain likely biases, and Diggs responded that Applicant could not search out the jury's biases."
z. "Applicant had asked counsel if he could acquire the grand jury transcript, meaning the 'empanelment documents and supportive materials,' but Diggs simply lied and said he was not entitled to the

grand jury information."

aa. "Diggs failed to preserve for appeal the challenge on the indictments, even though the true bill indictments were set aside for trial..."

bb. "Counsel Diggs failed to object to the Solicitor's unethical standards in the whole of his behavior in this general practice of unfair prejudice, in direction of State's evidence, coercion tactics, enabling false testimony, deliberate obfuscation of facts, and court room antics."

cc. "Counsel failed to file a motion for a new trial."

dd. Counsel failed to object to "numerous admissions of hearsay..."

ee. "Trial counsel failed to obtain a ruling on the 'motion to dismiss the indictment,' to file an appeal based on the correct facts."

ff. "Counsel failed to file a motion for the retrieval of all of Applicant's illegally seized property and photographs of his property, previous to trial."

gg. "Trial counsel never once discussed ay trial preparations, that is, strategy or defense theory, or for calling any witnesses."

hh. "Trial counsel was ineffective in processing his 'ex-parte order for prior approval of expert services.'"

ii. "Trial counsel failed to observe basic rules of procedure for protecting Applicant's substantive rights stemming from these many issues."

jj. *Conjectura Pietatis* "...shown by Diggs ineffective assistance of counsel at trial as essentially a well pretended defense designed to merely make a show of effect but inadvertently exposed a 'throwing of the defense to the advantage of the state' and this end result serves as punishment to Applicant and serves as an advertisement to others for not accepting the plea deal."

kk. "Tampering with the Evidence"

i. "By Diggs bypassing on the indictment of the 'Fruit of the Poisonous Tree,' and the State protecting itself against wrongdoing accountability by not examining the events which partook of the suppression of evidence and misconduct, and such doors to such evidences have remained closed as Diggs remained a principle in that conspiracy, with the State in allowing State witness deceptions, extrinsic fraud begins to show more vividly."

ii. "Applicant showed Diggs the two search warrants in question for comparison and as Diggs noted the disparity between the actual executed search warrant and the later codified one, Diggs feigned concern, but Diggs acquiesced over the issue at trial and covered for the State."

iii. "Diggs failed to recognize his descendent nature conflicting with imperative duty imposed by law not to embrace such circumventive behavior with the other actors now made more

cognizable by Applicant's complaint, and because at his disingenuousness, he failed to allow himself to become informed about Applicant's case..."

5. "Ineffective Assistance of Appellate Counsel"
   a. "Appellate counsel failed to raise issue of ineffective assistance of trial counsel."
   b. "Appellate counsel failed to make the record sufficient on several issues in accordance with this complaint as the trial transcript reveals and thereby failed to make clear the issues for appeal."
   c. "Appellate counsel failed to secure the Court Recorder's 'recordings' of the trial record because of the incompleteness of trail transcript as outlined in the complaint, showing by Applicant's illustration, the lack of a thorough record for appeal purposes."
6. Brady Violation
   a. "Frebowitz' termination letter was intentionally withheld until after Applicant's trial because reasons for Frebowitz' termination were relative to Applicant's case."
7. Lack of Jurisdiction
   a. "Diggs failed to file a motion to dismiss based on lack of jurisdiction for all violations including speedy trial violation."
8. Prosecutorial Misconduct
   a. "In the solicitor's efforts to mislead the jury and unfairly prejudice the defendant, trial was affected by abetting and perpetuating deep psychological rears in the moors and attitudes of the jury to find guilt upon subjective feelings rather than on a more certain evaluation of the evidence through objective reasoning."
   b. The solicitor demonstrated misconduct by "jabbing a pointed finger in Applicant's face, [through] powerful inculcation in body language, accusing Applicant of said heinous act, determinately attesting to the jury that [Applicant] did do the deed..."
   c. "The State presented intended evidence, in an effort to thwart the 'Motion to Dismiss the Indictment.'"
   d. "*Animus Domini*"
      i. "The State, in its trend as embodied in this complaint, sought to achieve '*animus domini*,' meaning 'the intent to exercise dominion over Applicant – physically and mentally' though applying its unchallenged force against Applicant in an unfair prejudice..."
   e. "Tampering with the Evidence"
      i. "Applicant began his defense proclaiming that he, in fact, did have exculpatory evidence, documentations and recordings, which if it was not for the State's bad acts, Applicant would have been exonerated by these evidences."
9. Fourth Amendment Violations
   a. The police did not have probable cause to issue an arrest warrant.
   b. Applicant was subject to an interview for interrogation without an

arrest warrant.

c. Illegal search and seizure of items in Applicant's office.

10. Trial Court Error
    a. "Judge Hyman continued to openly chastise Applicant for suing in Federal Court for due process..."
    b. "Judge Cottingham said, 'I warn you, because of her tender age.' This interruption from on high command clearly served to bolster the confidence of the witness by indicating that the witness could be relieved of any pressure on a test of veracity or from the anxiety caused by a protypical (sic) bias challenge..."
    c. "Trial Judge Cottingham refused to fully entertain Applicant's motion for dismissal of counsel as the solicitor prejudiced Applicant by making a false argument, which implied Applicant was suing the appointed attorney for a ruse without any substantial facts."
    d. "The trial judge prejudicially accused Applicant of suing for the purpose of trying to delay the trial, putting off by suing each attorney as a charlatan ruse, and the accusation was without factual substantiation, as the factual reasons for Applicant filing for redress for grievances were all available to the solicitor."
    e. "...incompleteness of the trial record...over one thousand occurrences of missing 'epochs'"
    f. "Trial court improperly limited the scope of State's witness."
    g. "In the court's charge to the jury, it is clear that a sublime prejudice did prevail against impartiality."
    h. "The Court denied the motion for directed verdict in error of law because the paucity of evidence was fraught with the State's unfair prejudice in exaggerating the credibility of its case through corruption in every element..."
11. "Abuse of Discretion"
    a. "All of the trial court's rulings were without evidentiary support as demonstrated in this complaint."
12. "Unconstitutional Statute"
    a. "Applicant wishes to argue that the South Carolina Statute 17-23-175 is arbitrary under the Eighth and Fourteenth Amendments of the United States Constitution by allowing for an out of court statement by a child to leave a controversy ..."
13. "Religious Discrimination"
    a. "Because of Applicant's Christian piety and vocation without a Ph.D., and his personal ideological patriotism, Applicant was treated as an enemy of the State because he threatened the status quo of a system of reverence for the corrupted version of the 'conjectura pretatis' as described herein this complaint which by favor of the State, honors any such reservoir for State will bent for a 98 percent conviction rate for the county..."
14. "Right to Expert on Social History"
    a. "Trial transcript page 408 (20-21), 'We don't know that aspect of the

child's personality that we should know.'"

15. "Right to Call Witnesses"
    a. "Trial transcript page 26 (17), Mr. Diggs: 'the only witness I could think of that would be pertinent, I don't know where he is but we could certainly try to find him and subpoena him' (paraphrased)."
16. "Failure of Police to Preserve"
    a. "Failure to preserve specific evidence known to be accountable to the police and specific evidence in their possession, proven by the factors of record to be relevant materiality, known to the police."
17. "State Ingrains False Accusations"
    a. "By the State's preoccupation nature in that prejudice as outlined, as was practiced against Applicant, and experienced in the eyes and ears of the accuser, served the culminating imagination of the accuser, while the State failed to recognize the cumulative effects of bolstering the imagination of false accusation, giving undue confidence, thereby served to engrain the imaginary fortress, giving firmer residency in the mind through restiveness, fed by the comradery of the enclaved credulity of the State actors and the auspice of the State powers which would require a psychiatric expert to testify as to the damage to future defense."
18. Censorship
19. "Religious Bigotry"

Respondent made its Return, Partial Motion to Dismiss, and Motion for a More Definite Statement on October 16, 2017. On January 14, 2019, Applicant filed his "Applicant's Motion in Opposition: To Respondent's Partial Motion to Dismiss, and Motion for More Definite Statement."

An evidentiary hearing into the matter convened on March 28, 2019, at the Horry County Government & Justice Center in Conway, South Carolina. Applicant was present at the hearing and proceeded *pro se*.[3] Johnny Ellis James Jr., of the South Carolina Attorney General's Office, represented Respondent. The Court heard testimony from witnesses R. Scott Joye, Esq., William I. Diggs, and Martin D. Spratlin, Esq. On August 1, 2019, the Court filed its Order of Dismissal,

[3] Applicant was previously represented by Daniel A. Selwa, II, Esq. Applicant and Selwa appeared before the Honorable Kristi F. Curtis on Friday, November 30, 2018, at which time both men sought to remove Selwa from the case. By Order field December 18, 2018, Judge Curtis relieved Selwa and permitted Applicant to proceed *pro se* based on Faretta warnings administered at the November 30, 2018, hearing.

dismissing Applicant's PCR application with prejudice. On August 12, 2019, Respondent filed its Rule 59(e), SCRCP, motion to amend the Order of Dismissal. On August 19, 2019, the Court granted Respondent's Rule 59(e). SCRCP, motion and filed its Amended Order.

APPLICANT'S MOTION TO ALTER OR AMEND

On August 29, 2019, Applicant filed a "Rule 59(e) Motion SCRCP." In his motion, Applicant requests the Court amend and alter its ruling to dismiss, and rule on all issues raised, even those that lack merit.

After careful consideration of the arguments of Counsel and Applicant and review of the record, this Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or fact not appropriately considered. The order of dismissal issued by this Court contains the appropriate findings of fact and conclusions of law as required by § 17-27-80 of the South Carolina Code of Laws and Rule 52(a) of the South Carolina Rules of Civil Procedure. Accordingly, Applicant's motion for reconsideration is **DENIED.**

IT IS THEREFORE ORDERED that Applicant's motion is hereby **DENIED AND DISMISSED.**

AND IT IS SO ORDERED this 26 day of April, 2024.

THE HONORABLE BENTLEY PRICE
Presiding Judge
Fifteenth Judicial Circuit

Henry, South Carolina

May 2. 2024

The Honorable Renee Elvis
Horry County Clerk of Court
PO Box 677
Conway. SC 29528-0677

FILED
HORRY COUNTY
2024 MAY -7 P 12: 24
RENEE Y. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Re: Ronald L. Legg V. State of South Carolina

2016-CP-26-06592

Dear Ms. Elvis:

Please find enclosed 'Motion For Extension of Time To File', in the above captioned case, for filing in your office. Can you please process and return an "In clocked stamped copy". as I am Pro se in this matter.

cc: D. Russel Barlow II
Assistant Attorney General

Ronald L. Legg
88 Vesper St.
Akron, OH 44310

State Of South Carolina County Of Horry	)	In The Court Of Common Pleas Fifteenth Judicial Circuit
Ronald L. Legg Applicant, v. State Of South Carolina Respondent.	)	Case No: 2016-CP-26-06592 "Motion For Extension Of Time" To file Applicant's "Request For The Court To Deny Respondent's Request For Order Denying Applicant's Motion Pursuant to Rule 59(e) SCRCP

FILED
HORRY COUNTY
2016 MAY -7 P 12:22
REBECCA H. DAVIS
CLERK OF COURT
HORRY COUNTY, SC

Now comes Ronald L. Legg. Applicant Pro se, before this Court, requesting this Court to hear this "Motion For Extension Of Time", to file Applicant's Request to Deny Respondent's Order Denying Applicant's Motion Pursuant to Rule 59(e) SCRCP, for the following reasons:

Applicant filed Rule 59(e) SCRCP Motion on August 21. 2019. requesting the Court to rule on all issues raised in the PCR Complaint, as Applicant thereby raised the issue that the Court's ruling denying Applicant's relief was arbitrary, too attenuated and subjected to erroneous findings based upon Trial Attorney's mental state and veracity during testimony in PCR hearing.

FILED
HORRY COUNTY
2024 MAY 7 P 12:24
REBECCA H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

(1). On April 12. 2024 Respondent filed Motion For order Denying Applicant's Motion Pursuant to Rule 59(e), SCRCP. This has been approximately four years, eight months, (1,715) days after Applicant's Motion was filed. A very unusal delay that has obviously

caught Applicant off guard, especially after several prompts to get Respondent to reply.

(A). Notice of Respondents Motion was delivered to the wrong address, causing a delay in Applicants receipt of notice.

(B). Applicant presently resides in Akron, Ohio. Out of state residence makes it very much more diffacult to find an attorney in South Carolina to represent Applicant

(C) Present medical conditions restricting travel.

FILED
HORRY COUNTY
2020 MAY -7 P 12:24
RENEE H. DAVIS
CLERK OF COURT
HORRY COUNTY, SC

In the interest of Justice, in order to more effectively assist the Court in making its decisions based upon the merits of the case, Applicant request of the Court to grant

extension of time (45 days) from the date of May 12. 2024.

It is therefore Ordered that Applicant's 'Motion For Extension of Time' for (45 days) from May 12, 2024 be granted.

And so it is Ordered on this ____ day of ____ 2024

FILED
HORRY COUNTY
2024 MAY -7 P 12:
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, S.C.

The Honorable Bentley Price
Presiding Judge
Fifteenth Judicial Circuit

_____. South Carolina

May 2. 2024

The Honorable Bentley Price
Presiding Judge, Fifteenth Judicial Circuit
100 Broad St., Ste. 432
Charleston, SC 29401

Re: Ronald L. Legg V. State of South Carolina

2016-CP-26-06592

FILED
HORRY COUNTY
2024 MAY -7 P 12:22
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, S.C.

Dear Judge Price:

Enclosed please find 'Motion For Extension For Time To File' in the above captioned case.

Sincerely

Ronald L. Legg

88 Vesper St.
Akron, Ohio 44310
Applicant

cc: D. Russel Barlow II
Assistant Attorney General

Re: Ronald L. Legg V. State of South Carolina

2016-CP-26-06592

FILED
HORRY COUNTY
2024 MAY -7 P 12:24
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Dear Mr. D. Russell Barlow

Please be advised that my correct address is:

Ronald L. Legg
88 Vesper St.
Akron, Oh. 44310

Sincerely,

May 2, 2024

Horry County
SOUTH CAROLINA
Committed to Excellence

Renee N. Elvis
Horry County Clerk of Court
P.O. Box 677
1301 2nd Avenue
Conway, SC 29526

May 8th, 2024

Ronald L. Legg
88 Vesper Street
Akron, OH 44310

RE: 2016CP2606592

Dear Mr. Legg:

I have received your recent letter regarding the 'Motion for Extension of Time to File'. I have filed this within your case and have enclosed a clocked copy as requested. I have also forwarded this to the Attorney General's Office for review. I have also enclosed the copy of the most recent Order dated May 1st, 2024 denying the Rule 59(e) Motion filed on 08/27/2019.

Please let me know if I can be of any further assistance.

Sincerely,

Renee N. Elvis

Renee N. Elvis

RNE/hgl

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
COUNTY OF HORRY	)	**2016-CP-26-06592**
RONALD L. LEGG,	)	
	)	
Applicant,	)	**Transcript of Record**
	)	
vs.	)	
	)	MARCH 28, 2019
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

B E F O R E:

Honorable Bentley Price
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

Johnny James, Jr., Esquire
Attorney for State

Sallie Beth Todd
Circuit Court Reporter

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
SCOTT JOYE				
By Mr. Legg	9		22	
By Mr. James		11		
WILLIAM ISAAC DIGGS				
By Mr. Legg	36		140	
By Mr. James		126		
MARTIN SPRATLIN				
By Mr. Legg	156		164	
By Mr. Spratlin		157		

Certificate of Court Reporter .....

E X H I B I T S

NO.	DESCRIPTION	ID	EV	PAGE

(THERE WERE NO EXHIBITS MARKED DURING THIS HEARING.)

THE COURT: Alright. Good morning.

MR. JAMES: Good morning, Your Honor.

THE COURT: How are you?

MR. JAMES: Good.

THE COURT: I am Bentley Price. I am a Circuit Court Judge. I am a Resident Judge in Charleston and will be conducting today's hearing, okay, just for the record so you know who I am. Alright.

MR. JAMES: Thank you, Your Honor.

THE COURT: Are you ready to proceed?

MR. JAMES: Yes, Your Honor.

THE COURT: Alright. Yes, sir, call your case.

MR. JAMES: If it may please the Court, Your Honor. This is the matter of Ronald L. Legg versus State of South Carolina docket number 2016-CP-26-06592. Mr. Legg is present here in the courtroom today and is proceeding pro se. He was advised of his Ferretta Rights at the previous term of Post Conviction Relief in this circuit if I recall correctly. Mr. Legg, is that accurate to your recollection?

MR. LEGG: Yes, sir.

THE COURT: And you understand what a Ferretta Warning is?

MR. LEGG: Yes.

THE COURT: It's all of the warnings and pitfalls that are associated with representing yourself without an attorney.

MR. LEGG: Yes, sir.

THE COURT: And you understand that right?

MR. LEGG: Yes, sir.

THE COURT: And you're waiving that right here today?

MR. LEGG: Yes, sir.

THE COURT: And you want to proceed forward pro se?

MR. LEGG: Yes, sir.

THE COURT: Okay. I find that he's freely and voluntarily waived that right and he wants to proceed forward pro se and will allow it.

MR. JAMES: Mr. Legg was indicted at the October 2011 term of the Grand Jury for Lewd Act on a Minor Child. He was ultimately represented on that charge by Mr. Bill Diggs, Esquire, who is also present here in the courtroom today. That case was prosecuted by Mr. Martin B. Spratlin of the 15th Circuit Solicitor's Office, who is also present here in the courtroom here today. Your Honor, there was also a number of other attorneys who at one point or another represented Mr. Legg over the course of his prosecution. I have indicated all of those attorneys in the footnote on page 1 of the State's Return which is provided in the Judge's packet on the bench before you. In addition to Mr. Diggs, Mr. Scott Joye is also present here in the courtroom today and previously represented Mr. Legg.

Your Honor, Mr. Legg proceeded to trial on March 10, 2013

before the Honorable Edward B. Cottingham and a jury. That jury found him guilty on March 12, 2013 and on March 13th, 2013 Judge Cottingham sentenced Mr. Legg to imprisonment for a term of 12 years. Mr. Legg has completed that term of incarceration and is now here free and of his own accord.

Mr. Legg filed a Notice of Appeal and that Appeal was perfected by Mr. Robert Dudek of the Office of Appellate Defense. The South Carolina Supreme Court certified that appeal by Order dated May 29, 2015. The parties proceeded to oral argument before the Supreme Court on February 9th, 2016. The Supreme Court affirmed the conviction by Opinion decided April 20th, 2016. The Remittitur was handed down May 6th, 2016. Subsequently on October 13th, 2016 his application for Post Conviction Relief was filed.

Your Honor, Mr. Legg was previously represented on this Post Conviction Relief Appeal by Mr. Daniel Selwa. He was relieved and he was advised on his Ferretta Rights that Your Honor went over again just now. There was still a pending Motion for a More Definite Statement. In response to that Mr. Legg provided, dated January 11th, 2019, a lengthy amendment to his application for relief. I have endeavored in my own notes to try to summarize those allegations, but Mr. Legg may wish to do so at the outset so that all present know in which direction we're going.

Additionally, Your Honor, as a scheduling matter, Mr.

Scott Joye who is here subject to the State's subpoena has a conflict later this afternoon. I've advised Mr. Legg of this and that Mr. Joye as a practical matter really needs to be called first, either as his witness or if he does not intend to call Mr. Joye, the State respectfully requests to call him out of order so that he can go ahead and catch his flight.

THE COURT: We will certainly accommodate that. That's not a problem whatsoever.

MR. JAMES: Alright. With that procedural history set forth, unless there are further questions, I'll give the floor over to Mr. Legg to proceed with his case.

THE COURT: Mr. Legg, real briefly before we begin, you understand what we're doing here today; correct?

MR. LEGG: Yes, sir.

THE COURT: Alright. And in a Post Conviction Relief, this is obviously a very unique scenario, whereby there's only two options in a PCR which is one, if I grant it you go back and start over, okay. You go back and start over, okay. You begin your entire case back over basically from the day that you were arrested, indicted that's where you start. Do you understand that?

MR. LEGG: Yes, sir.

THE COURT: Okay. And if I deny it, the normal course of action would be that you would go back to prison and you would serve the remaining course of your term of imprisonment.

However, you have already served that term of imprisonment.

MR. LEGG: Yes, sir.

THE COURT: Okay. So, you understand that by going forward here today if I in fact find that there is good cause to grant your petition that you will go back to where you started and you potentially may have to serve greater time and be reincarcerated. Do you understand that?

MR. LEGG: I understand that, Your Honor.

THE COURT: And do you wish to go forward here today?

MR. LEGG: Yes, sir.

THE COURT: And you wish to go forward here today pro se.

MR. LEGG: Yes, sir.

THE COURT: And you've already acknowledged that you understand your Ferretta Warnings. You acknowledge those?

MR. LEGG: Yes, sir.

THE COURT: Alright. Mr. Legg, this is a unique aspect, I don't really want to know -- you have every right to present your case in the manner in which you want to present it, but there is a situation whereby one of the attorneys has a conflict. Do you intent on calling Mr. Scott Joye as one of your witnesses in your case in chief?

MR. LEGG: Yes, sir.

THE COURT: You do?

MR. LEGG: Yes, sir.

THE COURT: The State has asked me if it's okay with you

because you are the petitioner, if you want to call him would you call him first as one of your witnesses which would be unique because it would be potentially out of order in whatever order in which you have set out for your petition.

MR. LEGG: Yes, sir. We can accommodate him.

THE COURT: Okay. Thank you so very much. Well, go ahead and call your first witness then.

MR. LEGG: I'd like to call Mr. Scott Joye.

THE COURT: Alright. Mr. Joye.

SCOTT JOYE, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: Please have a seat and state your name for the Court.

MR. LEGG: Do I need to go to the podium?

MR. JAMES: You can if you wish to.

MR. JOYE: Richard Scott Joye. J-O-Y-E.

THE COURT: Alright. Mr. Legg, let's do this. Because you have all of your notes and everything at your table, how about you just stand behind the table. We won't even worry with the podium today, okay.

MR. LEGG: Okay. Thank you.

THE COURT: That will make it easier for everybody. That way you don't have to walk back and forth. Okay?

MR. LEGG: Yes.

MR. JAMES: I appreciate that as well, Your Honor.

THE COURT: Absolutely, not a problem. You've got all of your stuff there so let's just do that. Alright. Yes, sir, proceed.

DIRECT EXAMINATION OF MR. JOYE BY MR. LEGG:

Q: Mr. Joye, you represented me at one time.

A: I did.

Q: And I have a problem. I've had several accounts were the State has claimed that I've had problems with lawyers, I've gone through four or five of them, which keep coming up on the record. And it makes me kind of look back because it makes me look like I'm problematic and you're very familiar with an accusation like that. When you first represented me, you came to visit me in the county jail. I remember speaking to you and the problem that I originally had with you was that you came at me as if you were like a prosecutor and you prejudged me and I felt very oppressed by you. I didn't feel like you were giving me any moral support. And the statements that you made to me was like I was standing in court and I was standing before a prosecutor rather than ---

MR. JAMES: I must respectfully object. I haven't heard a question yet. It appears that ---

MR. LEGG: Well, I'm setting that up ---

THE COURT: Mr. Legg, give me one second. Let me rule on his -- I'm going to sustain his objection. If you don't mind, let's just keep it -- you ask a question, allow him to

respond. I'll give him more than ample opportunity to respond and then I'll give you more than ample time to ask another question, but let's try to keep it to the question answer.

MR. LEGG: Okay.

BY MR. LEGG:

Q: My problem was that you never counseled me about the trial. You remember you went before Judge Hyman and ordered a mental health evaluation on me; is that correct.

A: I did ask for a mental health evaluation.

Q: Okay. Can you explain why you did that?

A: Sure. Because if you were convicted, I felt it was going to problematic at some point in time because you never seemed to comprehend anything I was trying to tell you. I'd had, I believe at that time, something like 15 years of trial experience both as a prosecutor and as a defense attorney. I wasn't there for moral support; I was there to represent you legally. I didn't -- and my job is not to judge whether you are guilty or not guilty. My job is to represent you to the best of my ability. I thought there were a number of problems with the case, not the least of which was ---

Q: Well, Mr. Joye, I respect that but that's going overboard and for saving time.

A: Okay.

Q: The reason I brought that up is since you said you had 15 years' experience, the motion that you asked the Court to

order for mental health evaluation, were you aware that action was illegal? That was not appropriate according to the law. You don't order or ask the Court to order a mental health evaluation on your client just because you feel that you're not communicating well with your client. That's basically what it boils down to. And I just wanted to make it clear that the reason that I opposed that is because I spent an extraordinary amount of time because of that mental health evaluation and it was basically illegal. Are you aware of that?

A: I do not believe it was illegal.

Q: Okay. That's all I have for you today, Mr. Joye.

CROSS EXAMINATION OF MR. JOYE BY MR. JAMES:

Q: Good morning, Mr. Joye.

A: Good morning.

Q: Thank you for kindly joining us here today. You mentioned your experience. When were you initially licensed as a member of the South Carolina Bar?

A: May of 1996.

Q: And since May of 1996 about how much of your practice has been criminal?

A: Ninety-eight percent.

Q: How did you come to represent Mr. Legg?

A: I was contacted by Orrie West, who is the chief public defender here. She said that a conflict had arisen between

Mr. Legg and his first trial counsel, Tom Floyd. And I believe a grievance had been filed against Tom. And as a result, she had appointed Johnny Gardner; however, Mr. Gardner had some conflict. He never actually got involved in the case. And I agreed to represent Mr. Legg. Ms. West knows because I have told her on occasion that I am looking for trials. I want cases that are going to trial, not ---

Q: You prefer to try cases not plead cases.

A: If I'm going to take an appointed case, it seems most of my practice now tends to focus on DUI and my folks want a deal. So yeah, I really do, I mean I enjoy trial work. You know, it's kind of like going to another planet for a little while because you really don't, you really don't focus on anything else but your trial while you're in trial.

Q: Do you recall about how many times you met with Mr. Legg in your course of your representation of him?

A: Several. I don't know, maybe six, seven, something like that.

Q: In the course of those meetings did you explain to him all of his constitutional rights like his right to a jury trial?

A: Yes, I did. And what I typically want to point out to anyone first, right from the start, is the good, the bad, and the ugly so I try to give them an objective overview of the case. Because it's their case, they're so wrapped up in it

that they don't see it from outside of the box. I try to get a client to imagine they were in the jury and they were seeing the trial.

Q: And I was going to get to it a little bit later but since we've already gone down that path a little bit I'll go ahead and ask you now. What was the good, the bad, the ugly in Mr. Legg's case?

A: The good was there really was no physical evidence other than kind of circumstantial stuff that would have been discovered in his mobile home. I told him I did not know the young lady. I had never seen her before in life. I did not know how she was going to come across on the stand, whether that would have been good, bad, or whatever. I told him that I thought that his statement to the police was problematic. It had some issues.

Q: What statement did he give to law enforcement?

A: He gave a very long statement. Detective Frebowitz basically sat back and let him talk. He told me that he was going to testify as an expert in the field of Attention Deficit Disorder and Attention Deficit Hyperactive Disorder which he believed the young lady, the victim, suffered from. I told him I was -- has asked me if I was familiar with the condition. I told him I was, my own son had been diagnosed ADD and ADHD. In fact, his pediatrician, who is the former head of the pediatric section of the AMA couldn't stand still

when he was telling me because he suffers from ADD. He basically said that he thought I had a conflict and he also thought I was ADD. I told him that I thought that most of the good trial attorneys I knew were somewhat ADD. But just because you are ADD did not necessarily mean you make false accusations.

Q: Okay. And was that the nature in which this Detention Deficit Disorder came into relevance initially in his mind?

A: From the immediate -- from the very first meeting, yes.

Q: So, he felt that the victim suffered from Attention Deficit Disorder and therefore had a propensity to lie?

A: That's correct.

Q: Okay.

A: And, in fact, she was lying in this case. I didn't make any judgments about Mr. Legg and what actions he took or didn't take. I made a judgment based on what I saw as the evidence. And one of the problems that I saw immediately was that he had claimed he was Donald Legg, who was his brother and as I came to understand was a registered sex offender.

MR. LEGG: I object to that, Your Honor. That's incorrect information.

MR. JAMES: Your Honor, I would just respect ---

THE COURT: I'm sorry, go ahead.

MR. JAMES: If I may?

THE COURT: Yes.

MR. JAMES: I would just respectfully submit that testimony is not offered to prove the truth of the matter asserted, but rather to reflect the lawyers understanding of the facts and how he took them into consideration in representing his client.

THE COURT: Well, I don't believe it was hearsay to begin with. He didn't say what someone else said. He said through his investigation he came to realize that someone associated with Mr. Legg was in fact also on the registry. So, it's not hearsay. State your objection.

MR. LEGG: The objection is he's claiming that I was claiming ---

THE COURT: Stand up for me.

MR. LEGG: --- to be my brother which is not true. There's no record to prove that. Claiming that my brother is a sex offender is not true either so both of those are actually not relative to the case and shouldn't be on the record anyway.

THE COURT: Okay. So, you are objecting as to the relevance of the statement?

MR. LEGG: Right.

THE COURT: Okay. I'll -- and that's what your objection is. What is your response to the relevance of the statement?

MR. JAMES: I think it goes to the -- well, res gestae

might not be the perfect description of it, but to the totality of the circumstances of the representation and the relationship between Mr. Joye and his client.

THE COURT: I agree. I'll overrule your objection. Thank you.

BY MR. JAMES:

Q: Did Mr. Legg ever provide you any documentation or certification or education or any other evidence of that nature to show you that he was in fact an expert in the analysis and diagnosis of Attention Deficit Disorder?

A: No, he did not.

MR. LEGG: Your Honor, I object to this line of questioning.

THE COURT: Can you please stand up just to make sure that you will be heard.

MR. LEGG: I believe Mr. Joye here -- I don't understand why it has to do with Post Conviction Relief why he's asking him this line of questions because my complaint is ineffective assistance of counsel, trial counsel against Mr. Diggs himself. The only relevance I see Mr. Joye plays in this was the fact that on record that the State has claimed that I've been problematic with attorneys. Essentially from the beginning I've tried to get attorneys to be sympathy with my defense, which an attorney like Joye never really heard my defense, never counseled me on the defense.

THE COURT: Okay. So, what -- state your objection.

MR. LEGG: The objection is the line of question he's asking. He's retrying the case here and it has nothing to do with ineffective assistance of trial counsel.

THE COURT: Okay. So, your objection is to relevance?

MR. LEGG: Right.

THE COURT: Whether the testimony given here today is relevant to the PCR.

What I essentially believe he's saying here is you're going outside the scope of his original direct questioning. So, you're kind of going outside of what he intended to prove with this witness. So, let's kind of hone it in if that's okay.

MR. JAMES: I can tighten it up, Your Honor. Just for the sake of the record, should I treat that objection as sustained or overruled?

THE COURT: Sustained.

MR. JAMES: Okay. Thank you, Your Honor.

THE COURT: I'm sorry. I'll overrule the objection as to the relevance of it. I'm just saying that I understand what his objection is and essentially, he's saying you're going a little bit outside of the scope of his direct.

MR. JAMES: If I may beg a moment of the Court's indulgence, Your Honor.

THE COURT: Sure.

BY MR. JAMES:

Q: Mr. Joye, I am in my own words summarizing an accusation raised against you in the most recent amendment to Mr. Legg's application. He alleges in addition to the mental health evaluation that you gave cover to the State's misfeasance or malfeasance in recovering certain items subject to a search warrant. Do you recall a search warrant being issued and served in this case?

A: I do and there was a problem with the search warrant in that there was some boilerplate language from a previous search warrant; however, there was no Scheduling Order set in this particular case. I thought that was great cross examination fodder. I additionally would have made the motion -- you know, sometimes there are problems that the prosecution may have that they may not realize they have. I didn't know whether or not they had figured that out or not, but if you make them aware of it prior to trial a lot of times it can miraculously get cured, whereas if you in fact seat a jury and they're sworn and then there are problems you could very well win on a technicality and double jeopardy would attach. So, a pretrial motion is, if there's no Scheduling Order by the Court, really is much more detrimental when it could actually turn out to be very helpful. And I explained that to him.

Q: Did he appear to understand your reasoning when you explained it to him?

A: Not really. He never really seemed to understand anything that I had to say, and I was -- I'm not here to be sympathetic to the defense. I'm here to point out what the case is about and what it is. I'm not -- that's my job. That's my roll as I see it. I just want to try to make sure -- I don't want to argue about what I'm trying to tell you in an objective manner because I know what's coming down the pike. I know what a trial is about. I know what's going to happen in a trial and I want you to see that. And I also want you to know where I believe your arguments fail.

Q: Did Mr. Diggs ever communicate to you his concerns that delay in addressing the search warrant issue would prejudice him in any way?

A: I don't believe Mr. Diggs and I ever ---

Q: I apologize if I said Mr. Diggs, I meant Mr. Legg.

A: Mr. Legg. I saw no way it could have. I don't specifically remember that. I saw no way whatsoever that raising the issue was going to be beneficial. In fact, I thought it would have been the exact opposite because if they could then try to explain away something and know it's coming versus -- I've found in my career as a defense attorney that prosecutors tend to look at how good their case is and don't look for problems. So, that's usually where we as defense attorneys make hay.

Q: Put simply, don't tell them what they're doing wrong.

A: Absolutely not.
Q: Alright. And did he ever communicate to you his, he being Mr. Legg, did he ever communicate to you his concern that perhaps materials were seized pursuant to that search warrant which were not turned over by law enforcement or the prosecution?
A: Yes, but what he was talking about I was not so much concerned with because I failed to see any relevance in how they would be relevant. I don't remember any specific thing. I know that he wanted me to try to get his mobile home back and I couldn't -- it was kind of funny because I talked to his landlords, who I knew. They told me that a tree had fallen on it and that it'd been all the way to the dump.
Q: You indicated that he was worried that things were seized, and you expressed your opinion that those items were not relevant. What were those items?
A: I honestly don't know, but it wasn't about the case.
Q: Okay.
A: They were items that belonged to him.
Q: Were they papers or writings of Mr. Legg's?
A: I don't remember him mentioning any papers or writings that were missing. There were a number of writings. There were a number of papers, all pretty much so pertaining to Attention Deficit Disorder and Attention Deficit Hyperactive Disorder. Not research mind you, but his own writings.

Q: Do you recall for how long you represented Mr. Legg on these charges?
A: Six months perhaps, nine months, something like that.
Q: And why did the attorney/client relationship come to an end?
A: Mr. Legg, and I believe I actually made the motions on his behalf, on three separate occasions asked that I be relieved. The third time -- both times the Judge asked me did I not believe that I could perform my duties as his attorney, and I couldn't honestly tell him no. You know, sometimes as lawyers, particularly when we're appointed on cases, it's a tough row to hoe because the client doesn't necessarily believe in you and believe you're an agent of the State. The last time that I went before Judge Hyman I told Judge Hyman that quite frankly that Mr. Legg, that we were in a different situation because he had filed about a 10-page federal complain. Now, I didn't say complaint, I said complain, because a complaint would state a cause of action. But the fact that he had filed against me in Federal Court put us in a different situation and then Judge Hyman relieved me, and other counsel was appointed, eventually Mr. Diggs.
Q: Did you ever communication with Mr. Diggs about this case or your representation of Mr. Legg?
A: If I did it was very briefly. Mr. Diggs is quite, you know, quite an attorney himself. He certainly didn't need my

help and quite frankly I thought he ought to -- I didn't call him and he didn't call me because he should have the benefit of seeing it fresh.

Q: And this should seem self-evident, but you no longer represented Mr. Diggs (sic) at the time of trial?

A: That's correct.

MR. JAMES: I have no further questions for this witness, Your Honor.

MR. LEGG: Your Honor, I would like to -- Mr. James brought up some important issues I feel I need to straighten out for the record.

THE COURT: Sure.

REDIRECT EXAMINATION OF MR. JOYE BY MR. LEGG:

Q: Again, Mr. Joye, the issue here is I've had a series of lawyers. My complaint with these lawyers representing my case is their failure basically to entertain my concept of what transpired. So, my issue with you started from the first day and you acknowledged for the Court that you had a son who was Attention Deficit Disorder. He was diagnosed and my roll in this whole case is I was basically into understanding that phenomenon and my interpretation of that was that it was a spiritual (inaudible) which is inherited in families. So, saying that means that I told you when I first met you what I tell all of these lawyers. The first thing I say so they know where I'm coming from I will say these words, Jesus Christ is

my Lord and savior. That means that I am biblical. That I am basically Christian based. And that means issues like personality disorders, in my opinion, have to do with spiritual issues. Now, where we ran aground was your failure to entertain that. And it was my opinion during that time that you were bother by that. So bothered that you didn't want to hear anything that I had to say and I can understand that you have a shortness of memory, but I don't to this case or any of these issues. And if you recall, if you notice here I have a ton of papers known as the stack of papers. The time that you came to see me I brought my papers in and within that was my case which was my brief, my witnesses, and the whole issue about the case was there for any lawyer to read to understand my defense from my point of view. Now, of the times that you came to visit me, first thing you did when I introduced those documents, you pushed those aside. And I can bring you back to a date whenever you were highly offended because I was sitting and when I showed you these documents you pushed them aside and I said what's the problem. You just shook your head; you didn't say anything. Then I asked you, Mr. Joye, do you know how to read? Do you remember that?

A: Not --- not ---

Q: Okay. You were highly offended by it. And I said did you pass the bar exam? So, what you did was you snatched the piece of paper up like this and you began to read it to prove

to me that you could read. So, from that instance you still refused to take the papers. You left the conference room, went in to Judge Hyman's chambers, came back about three minutes later. They brought me out and then you went before Judge Hyman and said Your Honor, I would like to order a mental health evaluation on my client. That's basically saying that there was a failure to communicate between you and I and you sit here today and try to raise up all of these issues that I had a lack of understanding of the law, that I did not pay attention to the issues. So, the problem is I appreciate the fact that you said some positive things in my defense. I can really use that. But I just want to first of all straighten this out for the record that our problem was a conflict of interest. There was a controversy about you having a son ADD and if we would have went any further I would have brought that claim to that inherited disposition or personality disorder to your family history. There's no way that you could have -- well, I'm sure you shake your head because I'm sure you have a lack of understanding, but I don't have a lack of understanding. I could sit here all day and I could talk about the personality disorder and I could match up with the AMA or any psychological association on the issue because the problem is before this goes any further into all of those other things that you brought into the record that you should -- I asked you recuse yourself during that time

because of that conflict. Now, I view that as a legitimate cause for you to step down. You said I can't recuse myself. A lot of lawyers will say that, I can't recuse myself, but you can. You can go before the Court and say Your Honor, there's a conflict of interest because I cannot represent this mans defense because this man's defense would be in conflict with my own knowledge about what's taken place with my son and ADD. You could not have held -- you could not have made a defense for me regardless of what you say. Alright.

Now, the search warrants we have on the record. Why was the search warrants relevant when I brought that up? Well, because later on down the road as you well know ---

MR. JAMES: I must respectfully object. I've been very flexible and sitting down, but I haven't heard a question asked of the witness yet.

MR. LEGG: Yes, Your Honor.

THE COURT: I sustain his objection. As we indicated earlier if you don't mind if you would just ask him a question and give him ample opportunity to respond. I'll let you ask as many questions as you'd like.

MR. LEGG: I apologize, Your Honor.

THE COURT: It's okay.

MR. LEGG: I'm a little nervous.

THE COURT: It's alright. I understand.

MR. LEGG: I'm kind of playing off of questions that he

already asked him. So, I wrote those down. So, I guess I'll just repeat the question.

BY MR. LEGG:

Q: So, earlier you made a statement that the issue of the search warrant was not relevant. Was that correct?

A: No. I did not say that. In fact, what I said was it was a trial issue. When you had -- when you had a jury sworn so that if ---

Q: Okay. I understand that. I understand that.

A: And I explained that to you at the time that it did not have -- that it was very important that that would be something that we dealt with at trial because we didn't want them, being the prosecution, to have a chance to explain it away or make it less that what it was. So, if we clued them in to where we were going, we took away the element of surprise and surprise was only going to be our friend.

Q: Mr. Joye, I appreciate that, but that's kind of going left field here. If you could just focus a little bit here. The issue, would that have required you to do any research or investigation about the property that was removed by this illegal search warrant?

A: No, sir, it would not have.

Q: Okay. I appreciate that. Later on, it's determined that during the trial Mr. Diggs raised an issue that he didn't, you know, come through with the whole issue about the motion to

dismiss the charges based on the police's accountability, lack of accountability for some documents that they recovered from the house. Now, that was just an after affect from your judgment call now saying it wasn't relevant.

Now, let me move forward just a minute and I'll show you something. Do you recall during the trial when the Judge asked you if he brought up the issue about wrongdoing by the police officer and a Judge, if it had any relevance to the case? Do you remember what your answer was?

A: I don't remember ever being at trial with you.

Q: Okay. Well, the trial record says that you said that had no relevance whatsoever to the case, to the history. My accusation that I brought to you, if you remember, you stated that if it's correct with you that you stated that I was coming before you about wrong doing that a detective and a Judge. You told the Court that I wanted you to have them arrested.

A: Yeah. I got that. Okay. Yeah. That was something that I believe that you had raised in your complaint to the Judge. I addressed it, look people make mistakes. Having dealt with Magistrate Mayor over a number of years, I did not believe that the Judge had collaborated with someone else to give a fraudulent search warrant. As I understand it, nothing from that search warrant was ever used. There was a problem with the search warrant, always was a problem with the search

warrant, but I did not see it as a criminal conspiracy to put you in jail and convict you of a crime. No, I did not.
Q: Okay. Now, that was your opinion, correct?
A: It's still my opinion.
Q: Okay. You told -- how about, are you aware after the fact that Detective Frebowitz was actually fired from the Horry County Police Department?
A: I have no earthly idea about Detective Frebowitz. I saw him once about two months ago.
Q: Okay. For the record let me state that your opinion, your milquetoast opinion, which you view -- that means that you view the issues that I was trying to tell you as insignificant. But after the fact, as a matter of fact, when the issue I made about Neil Frebowitz which would have required you to not dismiss that complaint and when I was in Court and I tried to raise that issue before the Judge when the Judge asked me Mr. Legg, why are you firing all of these lawyers? And I basically said well, Your Honor, just like Mr. Joye he didn't give me chance to explain that which I thank God I'm having the opportunity now. He refused basically to entertain my defense of any of the issues. And you're stating now that you felt that it was insignificant. So, after the fact when Neil Frebowitz was fired from the police force for irrelevant, you know, behavior to my case, that would have helped my case, but you dismissed that. So, that is why, Mr.

Joye, I asked you to recuse yourself for several of those issues.

Now, let me ask you one more question. Do you remember me telling you that I had exculpatory evidence in police custody in property? I had my cell phone; I had papers and documents. Do you remember -- do you remember me telling you that?

A: And I went through a number of -- a cell phone in and of itself would not be exculpatory. Your writings would not necessarily be exculpatory. The only thing exculpatory would have been something that intended to show you're not guilty. The fact that you ---

Q: Mr. Joye, ---

A: --- had written documents ---

Q: --- simmer down. I know you have to catch an airplane.

THE COURT: Mr. Legg, as I indicated earlier, I appreciate you asking questions, but then I said I'd give him more than ample opportunity to respond. So, if you ask him a question, let's give him all the time that he needs to respond. Okay.

MR. LEGG: Okay. Fine. Okay.

THE COURT: Deal?

MR. LEGG: Yes, okay.

THE COURT: Alright. Yes, sir.

BY MR. LEGG:

A: There were several things that I believe you had mention to me that I requested that they said that they didn't have. I can only get what, what actually they had. And I had a property list. Now, some of the things I don't know if they had or didn't have, but I believe that they provided me with everything that they had in their possession.

Q: Is that it?

A: That's it.

Q: I'm just trying to hurry up because I know you have a plane to catch. Well, I thank you for that. Again, after the fact I can prove that the documents that if you would have paid attention to me and you would have went and rescued those exculpatory documents that I had in writing -- see, you're shaking your head like it's irrelevant. Listen, at the trial, the Judge asked Mr. Diggs when he was making a motion to dismiss the charges based on ---

MR. JAMES: Objection. Relevance. Anything that occurred at trial subsequent to the end of Mr. Joye's testimony or representation, he has no original knowledge of what's ---

MR. LEGG: Your Honor, Mr. Joye was present during that trial and the record states that -- well, it's on record. The record states that he had these issues that I'm raising to get him to address those is relevant to a series of events that occurred that the attorneys that I had complaints against, as

with Mr. Joye, should have intervened showing that they were relevant. The case proves that the issues I raised were all relevant. The documents disappeared from police custody. I had to file a Freedom of Information Act to recover these exculpatory evidence, which Mr. Joye during the time he could have done that as my attorney because of the importance of those documents.

THE COURT: Okay. I'm going to sustain his objection based on the fact that Mr. Joye was only your attorney for six to nine months and was not present at your trial. I'm not sure which record you're referring to that he was there, but based on that his position is -- as to relevance I agree that it's not relevant as to what happened at your actual trial as Mr. Joye was not present at that trial.

MR. JAMES: Judge, just to make sure that the record is abundantly clear, Mr. Joye was present for some pretrial motions, but he was not present as far as I'm aware at the actual prosecution of the trial.

THE COURT: Are you referencing that he was present at those pretrial motions and that's when he potentially could have intervened?

MR. LEGG: He was in and out during the trial because he sat in the back room. There's three days, he attended that trial for three days. The Judge called him up and the reason I bring this up because in my complaint the word conspiracy,

which a lot of individuals seem not to have a good interpretation of that means. It means that he was called by the State to give testimony as to why he was dismissed and it's relative because I had filed a motion before the Court to dismiss Mr. Diggs before the trial. Now, he was called as a witness to oppose that motion. So, that's why anything he has to say is relevant to my trial. And he was attended because I looked back in the back of the courtroom and I thought he's evidently interested in the case because he was there.

THE COURT: Okay. So, you're saying ---

MR. JAMES: The gist of what I'm hearing, Your Honor, is that he's referring to this pretrial motion that is set forth roughly on pages 24 and 25 of the trial transcript. If that is to what he is referring, then I will go ahead and withdraw my objection.

THE COURT: Okay. He's withdrawing his objection. Restate your question for Mr. Joye and allow him ample opportunity to answer please.

BY MR. LEGG:

Q: Okay. The question was about exculpatory papers that the police had in their possession because I didn't raise bail. I stayed in jail for three years. You represented me for about -- you were there, I couldn't get you off my case for -- I had to stay a whole year in jail for that matter. Based on the papers that were exculpatory, I had the first, second, or

third day, look I have evidence on my behalf. I had writings from this individual basically making statements that she was pretty much going to do what she did. And to you arguing that that wasn't relative to my case and the point I'm making is that the Judge brought up to Mr. Diggs when he filed the motion to dismiss the charges based on the police and the lack of accountability when they broke into my house illegally and took some papers out and those papers were missing. The Judge asked if they had any evidence of those writings. Those writings basically were there and the issue I'm raising that the Court never allowed me to entertain was why I dismissed you. So, the only thing I'm saying for the Court record is it's brought up that I've had four or five lawyers, and nobody understands why they were dismissed. And that brings to the issue that you failed to entertain my defense when you took over the offense for my defense and forced me to take an illegal mental health evaluation. And that's basically the nature of the attorneys that I attempted to scrutinize after Mr. Joye in resulting of which I felt a lack of loyalty of Mr. Diggs and filed a motion based on that. So, I appreciate having the opportunity to get that on the record, Your Honor.

THE COURT: Okay. Alright. Do you have any other questions of Mr. Joye before I excuse him?

MR. LEGG: No, sir.

THE COURT: Alright. One questions, Mr. Joye, just real

quickly. When you asked for the mental health evaluation was it ordered during your representation?

MR. JOYE: Yes, sir.

THE COURT: Okay. That's all I have. Alright. Any objection to Mr. Joye being excused?

MR. JAMES: No objection, Your Honor.

MR. LEGG: No objection, Your Honor.

MR. JOYE: Thank you, Your Honor.

THE COURT: Alright. Enjoy the rest of your day.

MR. JOYE: Good to see you.

THE COURT: Yes, sir. You as always.

Alright. Mr. Legg, call your next witness.

MR. LEGG: Your Honor, I had to call Mr. Joye for the sake of ---

THE COURT: Right. I appreciate it. We appreciate you allowing him to go first because I know he has somewhere to go.

MR. LEGG: He has to get to the airport and all of that. I guess we jumped the gun because of that but I do have a motion that is called a Rule 59E Motion that I would like the Court to make sure that the Court has.

THE COURT: Okay. Give me one second and let me take a look at it.

MR. LEGG: For the record.

THE COURT: Have you seen this, Mr. James?

MR. JAMES: Not that I'm aware of, Your Honor.

THE COURT: Alright. For the record, Mr. Legg has submitted a motion under Rule 59E which states a Motion to Alter or Amend the Judgment shall be served not later than 10 days of receipt of written notice of entry of the order. And what are you intending to ---

MR. LEGG: Your Honor, that motion, if I'm correct, I'm requesting that the Court make a ruling on every issue that I raised in the complaint.

THE COURT: In your petition or your Application for PCR?

MR. LEGG: Yes, sir.

THE COURT: Okay.

MR. LEGG: There's numerous issues which the State actually wanted me to whittle down for the sake of the timeliness of the Court but my motion was raised that it's necessary for all of those issues to be heard and ruled on because as you can see the purpose of that is there's a series of errors that are too numerous to ignore has taken place in my case.

THE COURT: I'm just going to take your motion under advisement, and I'll rule on it later. Okay. We're just making sure that we're doing this correctly, okay.

MR. LEGG: Sure.

THE COURT: I understand what you are asking the Court to do.

MR. LEGG: Right.

THE COURT: But I'm not sure if this is the correct manner in which to ask for it, but I'll still need to rule on your motion. At this point in time I'm just going to take it under advisement. Okay.

MR. LEGG: Okay.

THE COURT: It does not stop or preclude you from moving forward with your case, so you can call your next witness. Okay.

MR. LEGG: Okay. Thank you.

THE COURT: You're welcome.

MR. LEGG: I'd like to call Mr. Isaac Diggs to the stand.

THE COURT: Okay. Mr. Diggs.

WILLIAM ISAAC DIGGS, HAVING BEEN FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: Please have a seat and state your name for the Court, please.

MR. DIGGS: My name is Williams Isaac Diggs. D-I-G-G-S.

THE COURT: Thank you very much.

Yes, sir. You may proceed.

DIRECT EXAMINATION OF MR. DIGGS BY MR. LEGG:

Q: Mr. Diggs, I think you're a decent fellow. I always like your demeanor and all.

A: Thank you.

Q: And I read a little bit about your disbarment and I'm

sorry for that. But I'm going to have to dredge that up a little bit because of my case.
A: It's your case.
Q: Can you please state for the record as briefly as you can about the disbarment?
A: We used money out of the trust account to cover office expenses. It occurred during a difficult time in my life. I don't know how much detail you want in that respect.
Q: Well, I think that -- to help you out, what's relative to my case ---
A: Right.
Q: I know you heard me talk to Mr. Joye.
A: Yes.
Q: Being a Christian I told all my lawyers that first thing I say is Jesus Christ is my Lord and savior. That means I'm trying to introduce the fact of moral issues about my defense. And because of your disbarment which had to do with issues during a time that you were representing me. Essentially, to make it simple, I just feel that because you were involved in immoral activities that ---
A: Well, can I respond to that? At that time, you may be aware that my wife was critically ill. Just give me a second. That's a responsibility that was on me to take care of her. We had the office operation; we had the representation of clients. What I should have done, now realizing looking back

I was in over my head. It was too much going on. I couldn't handle everything responsibly. Now, I'm going to say I did devote time to your case. I thought that was important at that moment.

Q: I'm sorry, I didn't hear that.

A: I did devote time to your case. But when you're ongoing -- I look back on it now, I should have closed my office, but I had hundreds of cases ongoing and it's difficult to just extract yourself out of that operation under those circumstances. It was very, it was difficult. I didn't handle it properly and here's the result. But even now, you know, I'm the primary caregiver of a spouse. She's been in bed for five years and it's a burden. And let me tell you something, you learn in life, you know, when you have those kinds of challenges. But, going back and looking at our representation in your case, Ron, I felt like we did a good, a credible job. But I'm here as a witness in your case and I'm ready to respond to any kind of question that you have.

Q: Okay. I thank you for that. Now, I just want to go -- I understand that you had a reason for doing what you were doing but I'm just going to play hardball with you on this. Like I said, I like you and I can sympathize with you. But the Supreme Court basically, if I can read before the Court in just a second, if you could address the question that I'm going to ask you.

A: Sure.
Q: Was that they disbarred you to protect the public from you.
A: Right.
Q: And do you remember the language that they used?
A: I don't remember.
Q: You don't remember?
A: No
Q: Well, I do know that they -- that you didn't show up to make a defense. That you basically just said hey you were ---
A: Well, that's true. There were things going on. Believe it or not, there were things going on in my life that were more important than those proceedings. I know that sounds incredible, but there were.
Q: I understand. But their language basically says, if I could read this Supreme Court's Ruling. It says that the hearing panel carefully considered all of the different forms of disciple available to it. That's basically stating what they're going to come to a conclusion about was all of these issues that were so egregious for a lawyer like you with such an impeccable reputation, you know, many years of service and all of that. According to them, it made it worse because you were -- had high standards as an attorney but yet you failed. So, the language became worse because of that because of the respect that the public had for your office and all of that.

A: Can I respond to that point?
Q: Yes.
A: We had a lot of mitigating evidence that could have been presented but I didn't present it.
Q: I just want to ask if you could agree to this or not. This is page six of 10 of my amendment in my complain. It says that these reasons, their finding was because the intent of the defendant to commit acts where harm or potential harm is foreseeable. Do you agree with that?
A: I don't, you know, looking back on that I didn't have any intent -- there was a -- it was like a train that was out of control from my perspective in terms of my practice. I didn't have any intent. You know, it's not like we took that money and went on a vacation to Italy.
Q: That's kind of like you can't see the train wreck coming. Right?
A: If you -- if it's out of control you may see it coming but there's not really anything you can do about it.
Q: Okay. And then B says circumstances reflecting defendant's lack of honesty ---
MR. JAMES: I'm going to respectfully object. We're getting pretty far field in extrinsic evidence being used to impeach the witness on the stand at this time.
MR. LEGG: Your Honor, I feel this is totally relevant here because we're talking about competency of the trial

attorney. The merit of this is based on I was convicted, wrongly convicted. I have a life sentence. I have to register as a sex offender. So, this is not about some mediocre case about divorce and so forth. This has to do with the mental state of this attorney. I'd like to ask him these questions. This is a ruling on the Supreme Court which weighs heavily upon your ability to make a clear decision to whether or not he was competent.

THE COURT: I completely agree with Mr. Legg. It certainly goes to what was transpiring during that course of time during the trial of Mr. Legg's case. And I believe Mr. Diggs is being completely honest about what was transpiring during that time. And I certainly think it goes to the competency of relevancy of the representation that was given to Mr. Diggs case, I mean Mr. Legg's case at that time, so I'll allow it.

MR. LEGG: Thank you, Your Honor.

MR. JAMES: Thank you, Your Honor.

BY MR. LEGG:

Q: Now, my last question was circumstances reflecting the defendant's lack of honesty, trustworthiness or integrity. Is that a yes or?

A: I don't understand that question.

Q: Well, they were making this evaluation.

A: I think that they made that evaluation based on a lack of

mitigating evidence that could have been presented. There was a time when we were actually homeless during that period of time. Try handling that with a spouse who is bedridden, so I didn't -- you know, if I had gone up and participated in the proceedings we could presented all of that evidence and it might have been different. But I can certainly understand where the Court is coming from based on what the record was before them at the time. But that doesn't mean that I'm agreeing with everything that they say. It may be accurate based on what they knew, but, you know, that's what they had available to them and that's their determination.

Q: It's basically saying that you had trust of ---

A: Of course, of course.

Q: You know, I read this and the research on it. I don't know the facts involved in the case but let me ask you this while we're on this subject. Were you ever arrested for this crime?

A: No.

Q: Charged? You weren't?

A: No.

Q: So there's some kind of protectionism going on?

A: I don't think so. I think, you know, when you go back and you look at the facts of the case, and I would prefer not to get into them in detail. They're not relevant here. But understand there was not an intent on my part expressly. Now,

I take responsibility. I should have stopped that. Okay. I should have gone to the bar, explained I've got to retire. I've got things going on that are out of control.
Q: So, you're saying, Mr. Diggs, that you had no self-control?
A: I'm saying that things were beyond my ability to manage them.
Q: Right. So, I would say my interpretation of that would be just pretty much the same?
A: No. I don't agree.
Q: Okay. Alright. Let me read this here. It says elevation of defendant's own interest above those of his clients.
A: That's absurd. With all due respect to the Court, again it was a life and death situation from my perspective so I would disagree. Again, the Court didn't have an opportunity to understand the context of what was going on in my life.
Q: Because they called you to come and give a defense and you refused, didn't you?
A: I don't recall. I don't recall getting ---
Q: They called you ---
A: --- let me again say ---
Q: They called you; they wanted to hear your side of the story.
A: I did not hear from them because I don't believe I ever

received the pleadings from them. And again, back in that time frame we were basically living out of a car and so it's -- so there were times, there were times that we didn't get ---

Q: Trust me, I can sympathize with that. I was in a county jail while people were stealing my home. So I was homeless and I was eating jailhouse food and meanwhile I was living in an environment of a bunch of people that probably wanted to kill me because they heard a lie, which that's another issue I'd like to bring up in just a moment. But so, I can sympathize with you on that.

A: No, I was just trying to explain to you why I might not have gotten the mail delivery at that time because we lost a home also at that point.

Q: I can understand, me too so we have that in common. How about now, I'm reading this as if this is me on this end of these children basically that you've took money from. So, that would be like me being a victim of you, same thing as my defense. I'm asking for a defense in what I'm going through in Court. I'm trying to establish your mental state during the time that you were representing me and the fact that you were in this frame of mind and you did not have the capacity --

A: No, that -- let me explain. I'm sorry, go ahead and finish.

Q: Okay. Well, there's a few of them here. I'm saying what

they're doing is they're giving a personality assessment of you, Mr. Diggs, as a trial attorney during this time you're representing me.

A: Well, they don't know what's going on and again to defend the Court's language, they didn't have a fully developed record to make that determination. They had to make that determination based on what was before them.

Q: Well, I think they're up there and they can have a broad view. They can see the forest and they're not too close to trees to see the forest. So, they would look at your actions and they would make a determination from years of experience what was going on with you.

How about this? It says acts of dishonesty, misrepresentation, deceit, or fabrication.

A: What about it?

Q: I'm asking you that because you heard when Mr. Joye was here, I asked Mr. Joye about entertaining my defense so when you came to visit me you never heard any defense. You were there for two or three minutes. You did the same thing with my documents, you pushed them back.

A: Well, I don't agree with that at all. You can look at the jailhouse records and see how long I was there.

Q: I understand but let me make my interpretation of that.

A: Alright. Okay.

Q: You had hundreds of cases, and actually I know how you

guys work. You go in and you visit 10 inmates at the same time, you've got just a -- you want to establish a record proving that you were there.

A: You can -- you can look at the records at the jail and see.

Q: Do you remember the day of trial, Mr. Diggs, when you came, and you told me well guess what? You're going to trial today, and I said what? But, Mr. Diggs, you haven't even had consultation with me about -- I had no knowledge this was coming up.

A: That conversation didn't take place.

Q: Okay. How about if we go with what the Supreme Court ruled? I'm sure you can respect the ruling.

A: I don't think they witnessed the conversation.

Q: It says acts of dishonesty, misrepresentation, deceit or fabrication. Now that's only about six out of 15 here. Are you being dishonest with us today or have you overcome this person that you were?

A: I don't -- I haven't been dishonest today, and I don't think the Court based that language on a fully developed record.

Q: It says misappropriation of conversion of assets of any kind to which defendant recipient was not entitled, whether from a client or any other sources. Now, how do you address that? Yes or no?

A: I think that there's general language you can apply to my situation that on the surface might be applicable, but I think that if you have a fully developed record some of it I think would fall off as not being applicable to that situation.
Q: Well, let me tell you this ---
A: Listen, listen. I'm not denying, I have responsibility for what happened in my office and it really -- I can't undo it. But, you know, in terms of what affect that might have had on my representation of you, you know, I don't see the connection. Because when I was going back and I was looking at the trial transcript here, I think we did a credible job and you acknowledged that, you know. If I'm not mistaken it was in this courtroom.
Q: Were you doing a good job when you told the jury I was guilty?
A: I didn't.
Q: You didn't read that in the record?
A: No.
Q: When you told the alleged victim that she deserved all of the help that she could get from the government treatment programs, that's implying that she was abused ---
A: Well, I don't agree.
Q: --- when she wasn't.
A: I don't agree that it implies that you're guilty. I think that it implies that she needs help.

Q: Well, let's get into the record and we'll get into my argument and why it was different that yours. Now, let me just get to this point here. Let me make an example for you so you can answer this question. I had an attorney, six months ago I had him dismissed because I found his amendment and I brought these issues up and every time your name comes up a lot of attorneys don't want to take my case for some reason.

A: His wife was one of my wife's therapists, Selwa is that the name?

Q: Selwa, yeah. Well, he did not bring that up. I'm glad you brought that up.

A: He was mildly familiar with the case.

Q: Because he said because I raised these issues up, he did not want to make the amendment because of the consequences to him. Do you have any idea what that might mean?

A: I don't. I'm not following you.

Q: Well, he didn't want -- he didn't want me to stand here and raise these issues with you because he feared the consequences to him. I wrote a letter to Mr. James and asked him to have a court hearing based on that. We didn't have to; he was dismissed.

A: Based on my reaction or what, if I could ask?

Q: No, because your name come up and I'm making this issue now about incompetency and ---

A: Okay.
Q: --- and ineffective assistance of counsel and all of these other issues about this conspiracy going on that I raised at ---
A: Alright. I'm sorry. Go ahead.
Q: Okay. Now, factor D, which these are alphabetized, but commission of a felon. Now, did you or did you not commit a felony?
A: I'm not going to answer that. I'm going to plead the fifth actually.
Q: Alright. I respect that. Now, factor I no prior record of disciplinary offenses. I guess you'd been pretty slick for a while. It says that you had a dishonest or selfish motive. Now, would that be ---
A: And again, I think my response is going to be the same to every one of those. There was mitigating evidence I could have presented.
Q: But you didn't bring that to the Supreme Court.
A: I didn't, that's right. So, it gave the Court an incomplete record and they were justified I think in making all of those findings based on the evidence that was before them. But that doesn't mean, at least in my mind, that they were accurate across the board. Mitigating evidence, I think, is always something that should be considered before reaching the bottom-line conclusion. I'm certainly not blaming the

Court for that. I should have or certainly the process is such that I could have made mitigating evidence available to them. The timing of the hearing, circumstances going on in my life ---

Q: Mr. Diggs, you're a lawyer and the law reads that when you don't show up that's basically an admission of guilt.

A: I'm sorry.

Q: When you don't show up ---

A: I think if you have notice of the hearing and you choose not to show up that's a reasonable conclusion.

Q: Don't you think that this is such, you know, you were disbarred from ever arguing before the Federal Supreme Court. Don't you think that's a big thing that they would cross all of their T's and dot their I's.

A: I think, I think it's a big thing but, you know, as I said a few minutes ago believe it or not it wasn't even the biggest thing going on at the time.

Q: Alright. How about K factor F, these are all called factors, a pattern of misconduct?

A: I think that my response would be the same.

Q: Now, there was two, there was two sets of children that you had care of their estate, right? And so, you took money out of both of those sets of kids.

A: It was one account, but I'm not going to go into the details.

Q: Alright. Factor G, multiple offenses, we'll skip over that. And M, which they claim here, and I think basically the absence of any guilt on your part which is pretty obvious to see now to the extreme. But they say factor K is absence of full and free disclosure to the hearing panel, which you've already addressed that, right? But N ---

A: I never have appeared before a hearing panel, it's true.

Q: How about, like I said if I'm reading this as me. Here I am, I'm arrested for this heinous crime that I have to give answer to, and I don't have any attorneys coming up and saying well okay, you know, here's how this goes. Nobody said that. It was all prejudgment on it. But I consider myself a vulnerable individual and I became victim because I trusted the system was going to work for me, it was going to be fair. And I had these attorneys that were going to fight for me basically for justice and for right regardless of what the State was saying, whatever or however ugly they made the picture. So, here they have factor R, vulnerability of the victims. So, the victims are vulnerable. I'm vulnerable. So, I'm trusting you as a lawyer to do that right thing and I feel all of this time you're trying to coerce me into a plea deal which that's entirely wrong for somebody who is innocent. And you never let that go all of the way to the last minute. And I remember telling you one time, I will plead to child abuse by using an F word which they accuse me of saying, you

know it's spelled out, but I've never really said that the way it's spelled out. I've always used other words. And I was willing to plead guilty for that, but not these other charges. So, I was vulnerable. Never had any basically consultation from you of how to proceed in this trial.

A: Well, I disagree with you on that.

Q: Because you know why? Because just like Mr. Joye who just left here, he never had counsel with me. I go in there naked, never knowing what to expect, never knowing who to call for witnesses for sure, never having consultation about that. But at the same time do you remember you telling the Judge you called all of the witnesses?

A: I don't -- I'm not following your question.

Q: Okay. Well, we'll get to that in a minute. Okay. We're down here. A substantial degree of experience in the practice of law, right? That's you, do you agree to that?

A: Are you quoting the Court?

Q: I'm quoting the Court. It's all the Court here. This is factor S.

A: I think that what I'm going to do is not answer any questions that you have pertaining to it. I think what I'm trying to do is address that situation. I've explained to you what was occurring, why I didn't appear at any kind of hearing. So, that's going to have to speak for itself.

Q: Well, what puzzles me before I go onto these others.

What if you could tell me, you're a lawyer, you've been in this field for a long time, why are you -- are you under some kind of protectionism from this jurisdiction because you were never arrested? Is it because of your reputation, your impeccable reputation as an assistant US attorney, not US attorney but State Attorney General?

A: I'm not going to answer that.

Q: Really?

A: Of course not.

Q: Don't you think that you should have been arrested or at least arraigned?

A: I'm not going to answer that.

Q: Well, that's highly suspicious on my part and I'm just saying that's my opinion as to why I've experienced this failure to be able to find an attorney to represent me. That's why I'm as dumb as rocks when it comes to law.

A: No, you're not. Listen, my response would be ---

Q: Listen, whenever a boulder falls on my foot I'm going to scream and that's all I know how to do.

A: My response would be -- can I call you Ron, Ronald or Mr. Legg?

Q: Mr. Legg.

A: Alright. I would cite the transcript. I think we did a credible job. You and I worked together on the case regardless of what you're saying ---

Q: Excuse me, I ---
A: --- but I think when you read that transcript it was a credible defense.
Q: Well, I beg to differ with you on that because I see it entirely differently.
A: Alright.
Q: Now, let me go to the trial transcript record. Now, as you may recall, I had written a motion to dismiss these charges and I had offered that to you. Okay. There was two motions that I filed. One was to have you dismissed and there was a grounds ---
A: Yes, I remember that.
Q: --- but eight days before that trial date you filed a motion, an Ex Parte Motion for an Expert Witness. A lot of the issue was that I had -- there was nobody investigating the veracity of this alleged victim. There was no social witness to come up and to expose what I was trying to explain to everybody that basically the kid was wacked out. So, you filed a motion and we went before Judge John and Judge John just said he recited some real high law language saying that your motion was not competent. It just wouldn't fly. Do you recall that?
A: I don't recall that particular characterization of it. I think that it's probably in the record somewhere and you could look at it.

Q: Well, during that day, and I'm asking you, if you recall telling me that Judge John was speaking some kind of secret language as we walked out of court?
A: I was not. No. I wouldn't agree with that.
Q: Well, you stated on the record that Judge John, that you asked for more time because you had another case and Judge John obviously would not give you more time. Is that correct?
A: If you're -- I don't have any immediate recollection of that right now, but I'm not challenging the accuracy of what you're saying. I just don't recall.
Q: Okay. Now, at the beginning of the trial, I know the Court has that record and will probably study that later. But, at the beginning of trial when I filed the motion to have you dismissed; do you remember why I was asking for you to be dismissed in that motion?
A: I don't recall off the top of my head at this point.
Q: Okay. Now, do you recall that the Judge asked you if you investigated the case. Do you remember what your answer was?
A: I'm going to have to look at the record.
Q: The Judge asked you if you called all witnesses. Do you remember what your answer was?
A: I don't understand that question. I think you hit on that question earlier and I'm not completely following. What do you mean have I called all of the witnesses?
Q: That's what the Judge asked you in Court record.

MR. JAMES: Your Honor, if I may offer in order to try to clarify the proceedings a little bit, I have a copy of the trial transcript here that I can provide to the witness if Mr. Legg would like to direct him ---

MR. LEGG: Sure.

MR. JAMES: May I approach the witness?

THE COURT: Absolutely.

MR. DIGGS: I have a copy of the transcript.

THE COURT: Mr. Legg, what the prosecutor is saying is if you will just refer to the part of the record in which you are referencing and you could ask the witness to refresh his recollection by referring to that section and then he could maybe better answer your questions. Is that okay.

MR. LEGG: Yes, sir.

THE COURT: Alright.

MR. LEGG: I just want to say for the record that I was trying for the sake of all of these pages, I was trying to do a Readers Digest version of it, but I guess ---

THE COURT: Well, that's okay. You certainly are more than welcome to ask him a question and if he says he doesn't not recall and you want to move to the next question and you're okay with that answer then you're more than welcome to continue with your questioning.

MR. LEGG: Thank you, sir.

THE COURT: Yes, sir.

BY MR. LEGG:

Q: Okay. I'll skip to what I have in my notes here which has that I pointed out is that Diggs failed to investigate the case which by measure or the lack thereof affected the relevant substance of that need. By fact of trail transcript for sustainable facts and for the following through one the motions he raised before the Court he therefore failed to appeal the Court's ruling on them. Diggs thereby created what I call confusion on the motion to dismiss, Jackson versus Denno new trial, directed verdict and filed to file a motion for continuance by not being prepared. Now, on the trial transcript I think it's page 49 which would be verse 9, the Court said -- well, it's actually in 8 and 9. Mr. Spratlin says: Yes, sir. Thank you, Your Honor. And addressing ---

A: Are you looking at the trial transcript or the record on appeal?

Q: Trial transcript. Beg your pardon.

A: I'm confused because I'm not seeing that.

Q: Okay. Let me make sure I've got these right.

A: Alright.

Q: If you look on page 49 this is pretrial motions.

MR. JAMES: Page 49 of the trial transcript line 8 reads: Mr. Spratlin: Yes, sir. Thank you, Your Honor.

MR. DIGGS: Yes, I see that.

BY MR. LEGG:

Q: And the Court says: And that would be his motion to dismiss the indictment. Right?
A: That's what it says.
Q: Mr. Spratlin says: Yes, sir. But we're going to go down. That's just introducing what he's talking about. We're going to go to page 51. The Court asked you on line 9, 10 and 11, the Court says: Have you got any evidence other than his assertion that this stuff existed? Now, what we were talking about by this bringing to your recollection.
A: Right.
Q: My idea of the motion was because I had documents which was basically a biography of this alleged victim making these claims against me and this clearly showed her mental state.
A: Was that the missing material that ---
Q: Missing, right.
A: Okay. And I explained that here that we had some other materials that were available similar to what was missing but we didn't have the particular materials.
Q: Okay. That would be an incorrect statement.
A: Okay. Correct me.
Q: You were clearly saying that Your Honor, I don't have it.
A: Then I was following up with saying that I had a sample. What I was saying was we had other material.
Q: I don't think so. I think you were referring to a placard or whatever in that misstatement. But you were asked

several times, now listen this is the whole key to my case would be that here I'm taken to trial for this accusation that I touched this alleged victim. And I, basically everybody says that I'm an expert on ADD and I've done all of this research and all of that Attention Deficit Disorder. That means a study, I was engaged in a study and I had all of these handwritings from this kid who had been writing all of these statements and stuff that I had that when the police came the first time I showed them that. There was a basket full of her stuff pertaining to any allegations she would make. That would have exonerated me, period. Now, the police have a search warrant saying that they went to my house to retrieve writings between me and the alleged victims. Now, those writings never showed up. Now, with the history that I was making of my case because of the illegal search warrant and the police and later them turning over documents that were in my house that were not in discovery that showed up to me that I was searching for. That was the whole nucleus of why I was asking for the charges to be dismissed. Now, relevant to that I'm saying that there were documents, there were writings, there were papers that are exculpatory that I'm asking the State to be accountable for, the police's malfeasance, their actions showed a distrust on their part. That was a motion that I wrote. So, the Judge says to you, he said: Well, he could make that up. Do you have any evidence that these

writings existed? Did you or did you not clearly state: No, Your Honor, I don't have any evidence of those writings?

A: If that's what the records says.

Q: That's what the record says. But later on, who comes forth and it comes up, did you -- to this alleged victim, what were you doing at this house? She said well I was writing things. What were you writing? Well, about misbehavior, misdeeds. So, she confirms, and her mother confirms what was she doing over there. Well, he had her write stuff. I was literally writing misbehaviors so they could see that so that could be documented and that was my defense and you said none existed. So, during the trial the witness was there. Three witnesses stating the facts, not just me, that these writings did exist and you never recovered that motion asking the Court that there's the evidence and I would like for you to review your denial for my motions because of that issue. Now, and the reason I bring that up was also the Court asked you: Mr. Diggs, are you ready to go to trial? When I said I would like to have this lawyer recused. Why? Because he has failed to investigate. He has failed to call witnesses. Right? He has failed to consult with me on the case. And you said: Yes, sir. What?

A: I have no idea.

Q: Okay. Well ---

A: I'm not following you. I don't mean to be, I mean, I'm

trying to follow you, Mr. Legg.
Q: Well, I hope ---
A: But I recall we looked at all of the evidence that had -- that the State had in its possession and we looked at all of the evidence that you made available to us.
Q: And I didn't ---
A: That you made available.
Q: Did I make any evidence ---
A: That you had produced.
Q: Can you tell the Court what that was?
A: I know your writings that you produced. The ones that you've mentioned here in this hearing today. We looked at that and I felt that the case came down to the child's credibility. So, you know, that's the way that we approached the case.
Q: Well, to correct the record, I don't think you had any evidence because the record doesn't show it at trial.
A: Well, I'm telling you we went and looked at the evidence that the State had in its possession. We did that several days in advance of the trial.
Q: Well, let me ask you this.
A: Okay.
Q: Let me ask you this. The State brought up as I recall, I can dig it out but I'm sure you probably remember a little bit that we talked about the stepfather. And you said on record

stepfather, we didn't hear anything about that. I didn't know there was a stepfather. I didn't know there was another man in the house. So, you're saying that you relied on the State's evidence rather than your own investigation because that clearly showed don't you think? Here's a 10-year-old child accusing this adult man who lived next door of these heinous acts of touching her. No physical evidence by the way, just touching. That if there was another man in the house don't you think that he would be a key witness, important to the case to bring forward to see or to go and ask him and investigate the veracity of this child, the social history of this child? Do you know anything? You know, I'm defending my client about this case. Do you know -- I know him personally. I know exactly what the person would have said if you would have called him as a witness. I know exactly what he would have said, he was an honest man. He was an illegal immigrant and his motive for not lying because the law says that if you're here and you commit a crime you will be deported. He would have told the truth on the stand. He's probably one of the ultimate most witnesses that would have been in my case, but yet he didn't even know he existed. So, I want to ask you Mr. Diggs, do you think that would fall into your failure to investigate the case?

A: I think if he'd been a witness, you know, with respect to the allegations that were made in your case it would certainly

be relevant and I should have investigated that.
Q: Thank you for that.
A: But it's my understanding that he wasn't and, you know, I think that the record shows that we did a credible job in defending you. And again, you weren't forthcoming, Mr. Legg, you know, with respect to your own situation. You could have helped more, but I felt like, you know, by not allowing me to talk to your family, misrepresenting your status and your brother's status. I don't remember exactly how that came up, but I was aware of that as well. But, you know, you make a point. This gentleman might have, maybe he was there that day and saw what happened and it wasn't the way the child described it. And if that's the case then I think you've got a point.
Q: Thank you, Mr. Diggs. I appreciate that.
THE COURT: Mr. Legg, if it's okay. We've been going for about an hour and 35 minutes and there's been a lot of ongoing colloquy that the court reporter has to take down. So, let's just take about a 5-minute break. Mr. Legg, take this opportunity to just kind of get your remaining questions together for us if you would please and we'll just take about a 5-minute recess. Okay. Alright.
MR. JAMES: Thank you, Your Honor.
THE COURT: Yes, sir.
(COURT IN RECESS)

THE COURT: Alright. Mr. Legg. Mr. Diggs, of course you're still under oath and so we'll just continue with the questioning of Mr. Diggs. Mr. Legg.

MR. LEGG: Yes, sir.

BY MR. LEGG:

Q: Mr. Diggs, on the Supreme Court's ruling on the issues, there basically is two things. They said they disbarred you to protect the public from you. Do you have any knowledge of that?

A: Well, it speaks for itself. You know, I didn't participate in the proceeding.

Q: Okay.

A: In fact, well, I don't think I've even seen it. Whatever that document says, you know, it's going to have to stand for itself.

Q: We'll be going down the same road, so I'll try to get into another issue and try to speed this up. Now, one other thing which is important that you should know. Do you remember representing Bradley Mullins murder trial? And Ray, what's his name, was a witness? Anthony Ray? Do you remember that?

A: I do ---

MR. JAMES: Objection. Relevance. We're not getting into Bradley Gerald Mullins or any other trials.

MR. LEGG: Your Honor, it has to do with this case. I'm

asking -- it has to do with his competence during this time. I'll just ask him one question and we'll sum that up.

THE COURT: What is your position? Is it still the same?

MR. JAMES: My position is still the same, Your Honor.

THE COURT: I'm going to agree with him. I'm going to sustain his objection. We're not getting into anything else except for what happened in this trial and your case at hand. Okay.

MR. LEGG: Well, it has to do with during the trial while he's representing me. I think it's a relevant issue about Mr. Diggs competency during the time. My name was brought up in a trial and I wanted to ask him if he could acknowledge why he brought that up. My name was brought up in a murder trial and as a result of that because my name was brought up, I ended up getting a hit. I was attacked by this gang that had to do with this trial in which Mr. Diggs inadvertently brought my name up, which I felt he shouldn't -- he basically contributed to that. I felt that was incompetent on his part during that time.

THE COURT: Were you convicted at this point in time or was this still while you were incarcerated awaiting trial?

MR. LEGG: I was under his representation. I was awaiting trial. And he basically had this murder trial and the State's witness against this man, Mr. Diggs had asked this man if he knew me by my name. And that acknowledged that I

had given some information to Mr. Diggs about this man. And later on, when I was sentenced to prison I was attacked by this person's gang, known as the Folk Gang. Now, that directly tied into this individual who was testifying in this murder trial. So, the result thereof is I'm trying to establish Mr. Diggs incompetency at the time to actually do that knowing that my life was in jeopardy as a result of that. And I do have a scar where I was attacked and hit in the head. I had to go to the hospital.

THE COURT: Alright. I'll allow one question as to just solely that one issue, his state of mind at the time he was representing you in which your case was outstanding, and he brought your name up in another trial. Just solely to that issue.

MR. LEGG: Okay.

BY MR. LEGG:

Q: Is that correct, Mr. Diggs?

A: Yeah. I just don't have any recollection of it. I'm sorry about that. I would have to look at the transcript of the trial to see.

Q: Okay. Alright. Now, back to the issue of lack of investigation in the case. There would have been another witness, which as you recall the girl's, the alleged victim's brother. I think he was 12 at the time. Do you remember that he had made some accusations against his father about sexual

molestation? Do you recall that?
A: I do recall that.
Q: And Detective Frebowitz investigated that case also.
A: I don't recall.
Q: Okay. So, do you feel that that child's real father not living at home, with the stepfather living at home, so he made an accusation against the real father. Do you not feel that that real father would have been a relevant key witness in my case to show the propensity of those kids to do something? As it turned out, the boy's accusation turned out to be non-substantiated because they didn't bring a case against him. Do you feel that that man should have been called as a witness?
A: I think that what we did at the time was investigated the facts we thought were pertinent to the case and I didn't pursue that particular line.
Q: Well, during that time you stated on the record that you didn't know where the real father was.
A: Whatever the record shows about that. I don't have any independent recollection of it.
Q: Now, one of the issues I want to try to get into is showing that basically your statements on the record is what I call like duplicity. In other words, you say one thing and then over here say something that's entirely different but meaning the same thing, that's being duplicitous. In other

words, it's like being a hypocrite or you're making a statement to the jury, you made a statement to the jury well he's guilty. You just flat out said he's guilty. Then later on you come back and you try to clean that up. I felt that was a very harmful statement when you said that. But the --- where I'm going here ---

A: Can I ask you what part of the record you're talking about? What you're referring too.

Q: Hold on a minute. I'm going to get into that. I'm going to show you the record.

A: Alright.

Q: But I'm leading up to something I'm going to ask you, is that I feel, you know, I brought up this issue about Detective Frebowitz. And you and all of these other lawyers never really pursued any of that information that I had, which is more than is even on the record. And I'm not really at liberty to elaborate on it further but the fact of it is that I brought up the issue of wrongdoings on these people and it was never investigated. It was just squashed by you and everybody else. But later it turned out that Detective Frebowitz was fired from the police department. Now, the point is that neither you nor Mr. Spratlin brought up the fact that Detective Frebowitz was fired and his order of -- of when they fired him was signed by Chief Rhodes the same day that I was convicted. So, in other words, Detective Frebowitz was on

trial and he was a key witness on my case. It's very prejudicial and it's very, very harmful everything he had to say. He appeared in plain clothes and the man who took his job was Detective Lynch. So, some way or the other Frebowitz was demoted, which I didn't know at the time until I did research on it through the Fredom of Information Act, and thank God for Chief Rhodes who gave me the information as to why this man was fired, terminated. The funny thing about it was do you think, Mr. Diggs, that that would have been relative if it was known that Mr. Fredowitz was fired from the police department?

A: I think what was important in the case was the child's testimony and I don't think anything flowing out of the arrest warrant -- the search warrant or anything he did was relevant to the issue in your case. Now, I can understand where you're coming from because I know that there was missing property and that kind of thing that you were certainly interested in, rightfully so following after the trial and even before the trial. But I didn't see the importance, I didn't see that as prejudicial to your case. What I saw was that child's credibility and I think that was the issue that we had to deal with, that we tried to deal with in your defense.

Q: Okay. Clearly, you're making several statements saying that the issues that I'm bringing up were not big issues.

A: No. I'm not saying they weren't big issues. There are

issues in a case that are relevant to the trial as I see it and they may differ. The way I see it, I think, might differ from the way you see it. I'm not saying they're not big issues. But I think that your conviction rested on the child's credibility and that's what we were trying to assail at some point during the trial. It's a difficult thing to do to challenge the credibility of a little girl ---

Q: Did you do an investigation on her social history, Mr. Diggs, to establish that for my defense?

A: Not beyond what we had available ---

Q: Did you do ---

A: --- in the discovery material.

Q: Mr. Diggs, did you do any investigation for me into this little girl's social history to determine her veracity? Did you interview any of the neighbors? Did you have, as a matter of fact, did you have a detective investigate the case, go to the school to search out or investigate any of her peers to see if maybe she had some kind of a victimization psychological issue or she sought out and made stories up to other people ---

A: No. No, I didn't do that. I didn't do that.

Q: Okay. Thank you. Now, so you're saying that you didn't investigate the case?

A: I'm saying I didn't do what you just described.

Q: Okay. Do you think that would have been important for

her veracity?
A: I think it would, it -- of course her veracity is important, but I didn't do the activities that you're describing in your question.
Q: The social history.
A: At her school, correct.
Q: Okay. Well, I'll get to the record where it says that you even acknowledged in the trial transcript that we didn't do -- we didn't investigate that. You said that several times, we don't know anything about her veracity so that would be established in it, correct?
A: Whatever the transcript says I would say is probably reliable.
Q: Okay. But that would go against you saying the transcript says you did a credible defense. So, it's starting to add up towards ---
A: I think we did a credible defense.
Q: Okay. See, that's a duplicitous statement there. So, as many times as I've brought this up, you're agreeing with me that the issue that you didn't investigate that would have been relevant, it would have been important to my case. You're saying yes it was, so now you're over here being duplicitous and you're saying well we did a credible case. So, that's the point I'm trying to make about duplicity, correct?

A: I'm not going to agree with what you just said.
Q: Okay. Well, that's what happened before the jury. See, the jury looked at it like this, Mr. Diggs, come on now. I was entitled to the benefit of doubt. Did you bring any up? Of course not. No benefit of doubt; no case for the benefit of doubt.

So, now, here's another issue. You were basically, let's say put it this way if you agree me or not in a question, the hound dogs, blood hounds were on your trail because you were actually doing something over here that was against the law. You said you didn't see that train wreck coming. You didn't have self-control. So, in your mind during that time anybody that commits criminal acts has to be aware, now listen ---
A: I'm not going to answer that question. I'm not going to answer any questions relating to my activities and my frame of mind with respect to that.
Q: Your frame of mind during the trial, which is what ---
A: No. I'm talking about the disbarment issues that you keep referring to.
Q: Okay. Well, let's say we'll put the disbarment issue over here. So, here's the Detective Frebowitz, right? And he's what? Horry County? How would you describe his position at the time when he was actually lawfully working at the police department? What was he called?
A: I have no idea what he was called.

Q: Lead detective.
A: I would have to go back and look at what his job title was.
Q: So, the reason I'm putting this -- I'm phrasing this question this way, you basically are committing a crime. You don't have to answer that, but I'm saying I'll get you to answer the question that I'm leading to tell me that you're commit a crime. Now, of course you don't want to make the police mad or even the solicitor angry at you to be suspicious of anything to perhaps maybe investigate you for your crimes during that time; is that correct?

MR. JAMES: Objection. Leading.

BY MR. LEGG:

A: I'm not going to answer your question anyway.
Q: Alright. Well ---

THE COURT: He's made an objection, okay. And he objected to leading which means that you are giving a -- you're eliciting a response that you want, which means that essentially you are testifying as to the answer in which you want. So, I am going to sustain his objection. Mr. Legg, I have given you a ton, a ton of leeway here. I think you would agree.

MR. LEGG: Yes, sir.

THE COURT: Okay. But, I'm going to have to ask that, I gave you an opportunity to kind of collect your questions for

Mr. Diggs and to try to proceed forward. I'm going to have to ask that you start asking a little bit more concise questions. Again, Mr. Diggs has been extremely honest with you and I believe that he is testifying as truthfully and honestly as he possibly can. Now, I'm going to have to ask you to try to start formulating a little bit more questions. I'm going to tighten you up a little bit more on the leading and testifying currently. You're going to have more than ample time to call yourself as a witness. I'm going to let you take the stand if that's you want to do, you certainly don't have to. You can testify all you want at that point in time. But, for purposes of asking Mr. Diggs questions, let's go ahead ask and illicit all of the information that you want from him and then you can take everything that's been given to you when you take the stand and you can testify on your own behalf. Is that fair?

MR. LEGG: Yes, sir.

THE COURT: Okay. Let's try that.

MR. LEGG: I appreciate your patience, Your Honor.

THE COURT: Absolutely.

BY MR. LEGG:

Q: Okay. A more direct question, did you play softball with Detective Frebowitz?

A: I don't -- I don't have any recollection of it.

Q: Okay. Because that was one of the issues I raised in the complaint, you know, I've got an attorney that's committing

crimes and he's not going to anger ---
A: Can you give me a time frame?
Q: During the trial?
A: Oh, of course not.
Q: Or during the investigation?
A: Maybe 30 years ago.
Q: Okay. Now, we're going to get to the issues about where you actually asked the alleged witness how many times did you write statements, and she said quite a bit. And you said okay a lot? And she said yes. Now, putting a variant on that, do you remember I raised the issue about the, about the motion to dismiss the charges based on an improper handling of the documents removed from my house, correct? And then the Judge says to you: Okay, Mr. Diggs, do you have any evidence that these even existed. Right? So, later on in the trial there's evidence that existed, correct?
A: I don't know. I don't know what you're referring to.
Q: Okay. Well, ---
A: If you could direct me to it.
Q: On page 263, line 1, 2, all the way down to 10 here and then -- and I'll get another one.
A: Okay. Yes, I'm cross examining her.
Q: Right. But you actually start on -- if you go back to 262 the bottom line, number 25.
A: Okay.

Q: It's kind of like the entry into the question and you're asking this individual, the alleged victim: But did he have you from time to time write in the notebooks? Right? And then the answer was: Like he would tear the paper out. How many times did you write statements? And she said: Quite a bit. And then you said: Okay. A lot? And she said: Yes. So, in your mind what is that saying?

A: I'll take it at face value.

Q: I'm sorry. I didn't hear you.

A: I'll take it at face value that she did what she's testifying to.

Q: That there were writings?

A: Yes.

Q: Okay. But, you said earlier during the motion in the Jackson ---

A: Well, I didn't have any of those.

Q: But you didn't have no knowledge of any writings for that motion. So, here at the very beginning the pretrial motions were filed, like my motion which was never heard, and it basically highlighted this that there were writings that were exculpatory and would have exonerated me showing this individuals state of mind, correlating my relationship to her with everything I say, that would prove everything I'm saying is true, that I wasn't capable of doing what I was charged because my mind was over here on this because it shows a whole

different person. So, I was asking the Court to dismiss the charges based on the police mishandling because those documents disappeared. Now, the point is, and you as a lawyer know, this illegal search warrant stated that the police went to retrieve writings between the defendant and the alleged victim, right? When I left my house, those writings were there. When I came back, those writings were not there. So, I filed a motion because they never showed up in discovery to hold the police accountable to find out and to investigate that, where are the writings. And the Court asked you specifically: Mr. Diggs, do you have any evidence that these writings existed. Right? So, here is your evidence later on in the trial. Here's your evidence. Did you go back and ask the Judge to review the Motion to Dismiss now that you have evidence because you have witnesses that testified ---

A: Well, no I didn't go back and revisit the motion. I don't see the -- I'm not drawing the connection that you are with it. I'll just leave it there. I didn't go back and revisit the motion and I don't see that as really providing evidence that's favorable to the defense specifically.

Q: But that was the motion based on that.

A: Well, I'm talking about her testimony here.

Q: So, you're saying her testimony there is not prevalent?

A: No. I'm saying we don't know specifically what the writings wre.

Q: So, you're saying you did not follow up to find out specifically what the writings were?
A: At this point in the trial ---
Q: Okay. But the issue ---
A: --- I think that's where we left it.
Q: --- but the issue at this point was not the ingredients in the writings, but the fact that writings existed between her and ---
A: Well, in my mind the subject matter, the actual language in the writings would have been important.
Q: Okay.
A: The fact that some writing existed wasn't the issue in my mind at that point.
Q: Okay. I'm going to try to speed through this. Diggs failed to make a Motion for Continuance. Issue was raised after two days without my sleep, too late to resolve and was never resolved. Do you remember me coming to you and saying, you know, last night, the night before I couldn't sleep, and I thought it was just stress? But the second night the same thing, pattern repeated. They were giving me medication at night and I didn't realize it until the second night that I couldn't sleep, and I told the guard to be witness to that. So, I came and told you the next day, you know, that's two days, 48 hours that I've went without sleep and I don't think there's anyway I can take the stand. And I asked you to bring

that to the Court's attention and ask for a continuance based on that. Do you think that would have been a good reason?
A: You know, I don't recall having those conversations. But let me say this, had it occurred the way you're describing, I would have followed up on it and brought that to the Court's attention. I don't recall that happening ---
Q: Okay.
A: --- the way you're describing.
Q: Page 313, line number 8 all of the way down to 25 to refresh your memory there. You're talking about -- you're bringing the issue up to the Court. It says, well maybe you can read that Mr. Diggs.

THE COURT: While he does that, Mr. Legg, I apologize for interrupting you. I'm going to give him some time. They just informed us that the Court is going to have a hearing at 1 and this court reporter will have to be involved in that and I need to give her an opportunity to go to lunch. So, how much longer do you think you will have with Mr. Diggs?

MR. LEGG: A good while. I'd say at least an hour. I'm going to try to run through these.

THE COURT: Okay.

MR. LEGG: Unless he wants to break down and admit to the Court that he was incompetent during that time, we could conclude with all of this I do believe if he could convince you ---

THE COURT: Okay. Well, hold on. Let's do this, I want to give her ample time to have lunch and do some things that she needs to do because when we start back at 1 then we're going to be proceeding right after that and she won't have an opportunity to have a break. So, let's go ahead and break now for lunch. There's going to be a hearing in here at 1. We're going to start back here to be safe at 2. Alright. And we'll just continue with Mr. Diggs' testimony. Mr. Diggs, obviously you're fully aware you're still under oath. Do not discuss anything with Mr. Diggs. Obviously, you understand that, but you can't talk to him at all. You can't discuss anything with him, he's still under oath. Okay. So, Mr. Legg, just to let you know where my head's at when we begin back at 2, let's -- why don't you take this opportunity to get you some good concise questions down? And again, as I indicated before, I'm going to let you ask Mr. Diggs as many questions as you want. We'll be here until you're done asking questions, but I want you to get to asking questions. Whatever testimony is elicited from him, I will then give you the opportunity to make your argument to me, okay, if you would like to take the stand. But making the argument with him for my purposes, you don't want to do it twice, okay. If you don't have any intention of taking the stand, that's completely fine. But let's get to a little bit more of the question and answer, okay, just so I can get some information that I'll need to be

able to make a proper ruling. Okay.

MR. LEGG: I appreciate your patience.

THE COURT: You're more than welcome. We'll reconvene back here at 2 o'clock.

MR. JAMES: Your Honor, in light of the pending motion, should the State clear the material from the table here? I don't know how involved the hearing is.

THE COURT: It's a Motion to Reconsider. I don't think that it's going to be anything overly -- Mr. Legg, you're going to want to make sure that your papers are off the table. Certainly, keep then in order, but you're not going to want anybody to kind of see what you're dealing with so let's just remove that. And again, y'all probably just might want to do the same, just put it on the floor or something.

MR. JAMES: Alright. Thank you very much.

THE COURT: Okay. You're more than welcome.

(COURT IN RECESS)

THE COURT: Alright. Let's go back on the record for Mr. Legg. Alright. I hope everybody had a good lunch. Mr. Legg, did you have an opportunity to get some good, clear, concise questions together for Mr. Diggs?

MR. LEGG: Yes, sir.

THE COURT: Alright. How much longer do you think you have with Mr. Diggs, just for planning purposes?

MR. LEGG: I'm going to try to rush through this.

THE COURT: Well, don't rush. I just want you to get back to answering -- ask and answer questions.

MR. LEGG: Right. Probably and hour and a half at the most.

THE COURT: And then as to --- are you planning on calling Mr. Spratlin?

MR. LEGG: Yes, sir.

THE COURT: And are you planning on testifying yourself?

MR. LEGG: Probably not.

THE COURT: Okay. Then that's fair enough. Alright.

Mr. Diggs, if you'll come right back up. Alright. Mr. Diggs, as you are fully aware, you're still under oath, so no need to re-swear the witness. So, you can go ahead and begin whenever you are ready, Mr. Legg.

BY MR. LEGG:

Q: Okay. I want to try to do this as briefly as possible on these questions. We've already went over this issue, but the question, the question I wanted to get a clear concise answer from you was the issue of the Motion to Dismiss based on the missing documents, the writings. And I just wanted to know if you felt in a better interpretation whether those missing writings would have been relevant to the dismissal of the charges in the case?

A: It's hard to know that without having seen the writings.

Q: Okay.

A: You know, the substance of the writings. Of course, you know, if they were on point it's a whole range from not relevant at all to exactly what you needed as a defense.
Q: Okay. So, you're saying you failed to investigate that substance?
A: The substance of the writing?
Q: Right. You failed to investigate that?
A: I didn't investigate the substance of the writing.
Q: Okay.
A: I think that probably you and I would have had discussions about it.
Q: Okay. I just want to read this what the Court said, and this is on page 463, lines 8 through 14. And the Court says to you: Thoroughly you mentioned some alleged missing evidence. There's no testimony to what that evidence would have been. There's no testimony at all that it would be inculpatory or exculpatory. There's no evidence that it would help or hurt the defendant. There's no evidence of what it was and there's certainly no evidence of misconduct by the arresting authorities. Now, the reason I read that, as you well know, later on in the trial it came up and there were witnesses that were testifying that those writings did exist; especially the alleged victim said she did write writings and what was the general contact of that was because she was writing about her misbehavior and things forth that I had her

to write. So, ---
A: The -- I'm sorry.
Q: In that light would him stating that you don't have any of that so that showed up in trial, but my question is did you feel that you failed to go back and use that to answer these direct question from the Court?
A: I think that we had a problem with knowing what the substance of the writing was. And we were in a position that we wouldn't ever know what it was. It was based on what your recollection would have been.
Q: But you had the opportunity right there with the witness on the stand to question her, you know, about the content of those writings.
A: And I didn't have any idea what she would say.
Q: Okay. Fine. Thank you. Now, we left off when I was referring to 48 hours without sleep. I will ask you why you did not ask the Judge for a continuance based on that?
A: The only -- you know, thinking back on it I don't have, you know, I'm relying on what you're telling me. I don't have recollection of use having that conversation.
Q: Right.
A: I don't dispute what you're saying. But, the only thing I could say is it didn't strike me as something that needed to be done and I'm not being critical on you at all, but if you like hit me in the head and said Bill I can't do this, I need

to take a break or I need this medicine and why don't we try to continue this thing. You know, it just didn't come across to me in that fashion at the time.

Q: Okay. For your recollection, on page 313 of the trial transcript, lines 8 through 25 you are stating to the Court: He's supposed to take that in the morning, but they are giving it to him in the evening and when he takes -- when he does that it interrupts his sleep and he can't two nights in a row he's not been able to get to sleep. And to the extent that Your Honor can help get that regulated, I would ask that the faculty out there, the medical people, get that to him in the morning. The Court: Well, they have medical professionals out there. I would not substitute my judgment for them. I would ask that the guard or whoever at the detention center, ask them to look into that issue for me. But, please, I'm not telling them to do it or not do it, that's their call. So, let them know that this is requesting that the medication be taken in the morning. Now, there may be some good medical reason why they do it at night. That is because it might have him less attentive at the trial during the daytime. DO you understand? Now, I would question that the Judge is basically ---

A: Right.

Q: --- his quoted colloquy regarding them basically medicating me with the intention of having something to do

with my attention during the day. Now, I would put the brakes on and said wait a minute here, you know, Your Honor, the man hasn't slept for 48 hours and now you're trying to imply that they drugged him so he would have attention during the trial. Don't you think you as a lawyer, you would have said I need to put the brakes on this here. I need to ask for a continuance. We need to investigate this.

A: I'm not getting that at all the way you are interpreting it. I think the record demonstrates what my understanding of the situation was at the time. I felt like we needed to get you the medication. But let me tell you, it would have been my practice, it would have been very easy for me to ask for a continuance, you know, if that had occurred to me that that's where you wanted to go and that's what needed to be done. That's not the impression that I had right there. You know, looking at this record now it kind of supports what I'm saying. If I had felt like at all, you know, that we needed to break here and give you an opportunity, you know, to collect yourself with the medications and so forth I would have done it. That's the not the impression that I had.

Q: Well, for the record it had nothing to do with mental stability. That was allergy medication because I had dry skin.

A: Okay.

Q: If you recall, I told you that ---

A: Well ---
Q: --- they gave me the wrong mediation and it caused me to be up for 48 hours, two days in a row. So here comes up me to take the stand to testify. Okay.

I want to ask you a question. Do you think I would have been cohesive, competent after 48 hours of no sleep ---
A: Well ---
Q: --- plus the stress? Do you think I would have been capable of going on the stand and making a good defense? Since there is none, the only defense relies on me to be absent of any nervousness at all. Do you think I could have accomplished that task with any reasonable ---
A: If I had seen you -- in my opinion, if I had seen you in that condition I certainly would have pursued that, but that, you know, you didn't come across that way to me.
Q: Well, let me also say that you looked at me and you said I can see it in your face. You said that you could see the sleeplessness in my face. Now, anybody will tell you that 48 hours without sleep is going to show somehow in your mental capacity, your endurance, your ability to be cross examined by this expert Rottweiler back here. There's no way knowing him, seeing him in action, no way I could have withstood any of his treachery and tricks in the courtroom.
A: I would just say, you know, there's no reason why I wouldn't have made that motion if I'd had that impression.

Q: Okay. So, you're saying you didn't have the impression. Okay. That's fine. So, let me ask you this here, do you think just from where we gone so far, do you think that -- you know in the transcript it comes up the Bible was made reference to, basically implying that I was a Christian and I've been doing this moral behavior and so forth and it was part of my case because this child had this, you know, personality disorder and the family was dysfunctional. It had to do with human motivation and behavior. It had to do with Christian based understanding of that and being able to interpret that. Now, do you think that under the circumstances since you were disbarred, I just want to ask you a direct question, do you think that you were competent enough to prepare a moral defense for me based on that underlying ---

A: You mean putting your character at issue in the case?

Q: I beg your pardon.

A: Putting your character at issue in the case, is that what you're asking?

Q: Exactly.

A: Well, you had misrepresented your identity. You didn't want me to talk to your family ---

Q: Excuse me.

A: --- and so I didn't ---

Q: Excuse me.

A: --- want to go in that direction.

Q: Is that on record? Is there proof that I used misrepresentation of my identity?
A: I recall it ---
Q: Well, you ---
A: --- in fact, I think you might have told me. You might have been the one who told me.
Q: No. You got that from the State.
A: No.
Q: Well ---
A: Let me -- I'm not sure where I got it.
Q: Thank you.
A: But you and I discussed it and it wasn't a big deal. It had been corrected and so we move on.
Q: So, you're basically saying I'm immoral?
A: Did I -- no, I didn't say that.
Q: Okay. Well, let me read you this ---
A: I'm saying there -- it's risky when you put a person' character at issue in a case.
Q: And that was part of my defense. But let me read this here.
A: Okay.
Q: It has to do with competency of a lawyer in a trial, whether he has a moral conscience or not. So, this will come from legal writing, but not mine, it says ---
THE COURT: Mr. Legg. Mr. Legg, I'm not going to allow

you to just read something into the record. If you'll state a question for the witness, I'll be happy -- we can entertain that, but I'm not just going to let you read something into the record. Okay.

THE COURT: Okay. Fine. Okay.

BY MR. LEGG:

Q: That would be my argument that I would contest that. That you could not prepare a moral defense on my behalf because of your incompetency during the trial.

Now, the Jackson versus Denno hearing, I want to ask you, can you recall with clarity you did not never fulfill really the motion on the Jackson versus Denno hearing on that, it was just kicked down the road. What was your intent on bringing up the issue of the Jackson versus Denno hearing?

A: I can't recall.

Q: Okay. Did you know that Detective Frebowitz said that he was a policeman on the metropolitan police department for 25 years?

A: Did I know that, or did I hear that?

Q: He stated that on record.

A: I don't recall him saying that.

Q: Okay. He stated that on record and I asked you to investigate that and I've got a letter from metropolitan police department stating he never worked there.

A: I don't believe his testimony was what convicted you. I

think it was the young girl. The way I viewed the case rightly or not, it came down to her credibility and the way the State tried to bolster her testimony during the trial. And, you know, that's the way we approached the case. Now, with respect to the Detective, I don't think he had any direct evidence personally that was incriminating.

Q: Well, you're basically saying here's a 10-year-old girl gets up on the stand and she sounds credible.

A: No. I'm saying her credibility is the issue in the case.

Q: Right. So, in other words, you never had any investigation for the social history to challenge her credibility.

A: Well, you know ---

Q: When it's there.

A: I don't know what the social history was that you're talking about.

Q: Because you didn't investigate?

A: Well, we didn't -- you and I talked about the case. We talked about the child ---

Q: But you did not investigate?

A: --- and it was an issue that you and I discussed. It's not something that was on your mind at the time.

Q: Well, the stack of documents that I tried to get you to discover ---

A: To find?

Q: --- it was there before you every time we met.
A: Is that the material that you had written?
Q: Yes. Alright. So, basically what you're saying is your credibility for representing me is on the trial transcript, right? It prevails and the only issue that you think convicted me was the fact that ---
A: Her testimony.
Q: --- her testimony.
A: Yes.
Q: Alright. Now, let me ask you this. You supplied the yellow shirt, which normally a lot of defendant's go in to trial they get a suit and a tie and all of that to look kind of representable.
A: That -- those clothing articles came from the Public Defendant's Office, I believe.
Q: Do you remember the collar of that shirt?
A: I don't remember.
Q: It was a bright yellow shirt.
A: I think that it looked presentable.
Q: Like this color here is a bright green.
A: Right.
Q: It was about as intense as this; it was a bright yellow. So, that's all I had, I just had -- I didn't have a jacket. As a lawyer, do you know the psychological factor a collar plays ---

A: With a jury?
Q: --- in a lot of these trials?
A: I think that you looked presentable. Let me tell you this, if I had felt like that you didn't look presentable, I would have made an issue out of it.
Q: Well, normally when you tell a child whenever they're crossing the street and they see a light, what's the first thing that they see? They recognize green, right, as go. What does yellow represent?
A: In a streetlight, a stop light?
Q: Right.
A: It represents caution.
Q: Thank you.
A: I've never heard that though with respect to a shirt.
Q: Well, when you investigate cases like this here and you pay attention to all of these things ---
A: Well, yours wasn't the first case that I've worked on.
Q: And I'll tell you how it worked in my case because the solicitor happened to point out, you know, this monster over here in this bright yellow shirt.
A: Did he say that? I don't recall.
Q: That plays a roll before the jury.
A: I don't recall him saying that.
Q: Well, we have it in court record, the trial transcript.
A: A monster?

Q: Well, under all of these circumstances I think anybody can tell in this courtroom I'm a pretty reasonable person if I didn't have to fight for this hearing. I do a lot of articulating messages with people. I'm very open. We can sit and discuss and talk about a lot of things. And I don't think anyone can find any proof that I would in a courtroom be suspect of any kind of about nature of overturning tables and stuff like that, it's just not in my character. Now, the Judge made on the court record, that because he asked me a question and I just told him I just wanted do process. He brought that up and made me wear a 40,000-watt ankle bracelet. So, over here is the deputy or sheriff with his hand on a button about like a bomber that he could push off at any time. And you were aware of that, correct?

A: I don't recall it.

Q: I'm not in a courtroom for three days and I'm not going to bring to your attention that I have an ankle monitor right there, the ankle bracelet 40,000-watt.

A: You and I haven't met since the trial and so I'm not familiar with the circumstances.

Q: I brought that up to you and you failed to object to that. That was just totally wrong. That also impinged on my ability to basically be without any kind of stress or duress from the State. You never once brought that up to the Court that it was wrong for them to do that.

A: I'm confused about it. Can you like give me the context of where that happened, where I should have objected?
Q: The first time when I pointed it out. I sat there and you're over here and I said look at what they done. They made me wear a 40,000-watt ankle bracelet. The guy is sitting over there with the trigger, all they've got to do is if I say the wrong thing as far as I'm concerned ---
A: I don't recall us having that conversation. You were incarcerated at the time of the trial, correct?
Q: That's correct.
A: And so, they put the monitor on you during the trial.
Q: That's correct.
A: Is that what you're saying?
Q: And it's wrong.
A: I don't remember. I really do not remember us having that conversation.
Q: The rulings will state that that's just wrong. They have a hearing on it. So, I would say as my attorney you failed to ask the Court for a hearing to justify why I had to wear that monitor.
A: If you had made that issue with me, I would have made it to the Court.
Q: Okay. Well, I did and we're over that, but you didn't.
So, now, at the end of the trial did you not tell me that you were going to come get me for the appeals. At the end of

the trial you said, well if we're going to have the motion for the appeals ---

A: That would have been a post-trial motion.

Q: --- I'll come and get you, right? Did you say that?

A: I don't recall that. Normally, I think my preference would have been to have you here. I don't make that call. I mean, someone made a determination. If you weren't here that determination wasn't made by me, it was made by somebody else.

Q: Okay. Well, the court records shows that the Judge asked you and you said that you denied, you waived your defendant's presence for the post-trial motions. The court record says that.

A: Can you show me that?

Q: Okay. I'll dig it out. We'll get to that.

A: Alright.

Q: Now, the reason I brought that up is because you know actually what happens because I didn't hear from you I said well I've got 10 days to file a motion so I'm going to file a motion and send it to the Clerk of Court because I didn't want that time to lapse and invalidate my right to an appeal. So, I did file an appeal and it was on top of yours. But I didn't know and didn't recognize it until later, but there's an important issue to that. Now, the -- on the appeal's court -- on your appeal, because you appealed the motion ---

A: Well, I did a post-trial motion. I didn't do the appeal.

Q: Right. So, you just -- you appealed that one?
A: We did a post-trial motion. I don't have it in front of me at the time.
Q: Okay. And Dudek carried your motion carried your motion, but he also raised a secondary issue. Now, my point there is also for incompetence of trial attorney was that they could dispute this according to the law, but they would say that you can't raise a ineffective assistance of counsel in a direct appeal. Now, the reason they say that, and I'll ask you what do you have to say about that, is because I can't go to the direct appeal as opposed to going to PCR court for that ineffective assistance of counsel. But, on the other hand, the appellate attorney can raise the issue of ineffective assistance of counsel by raising an issue that he feels has merit. I'm sure -- are you aware of any of that?
A: Not in South Carolina.
Q: Okay. Well, I did read that anyway studying the law ---
A: I think if the issue is raised at the trial court and it's been pursued in some fashion it can be reviewed at the Appellate Court, that's possible, but I think that would be extremely rare in South Carolina.
Q: Okay. Well the issue is relevant. The reason I bring that up is because when I filed my appeal ---
A: Uh-huh. (Affirmative response)
Q: --- they hauled me into court down here and of course I

didn't have an attorney to represent me at that time so they dismissed it because I said that I had -- I didn't know it until Mr. -- the State man back there had given me a copy of it, but the South Carolina Supreme Court had recognized my appeal and held it in abeyance until another court ruling was issued on State versus Antonio Anderson which had to do with issues in my case. So, what I'm saying is the appellate attorney raised that issue, but the Appellate Court said we can't hear that because the trial attorney did not raise that in his appeals.

A: I'm not familiar with the opinion that you're talking about. Are you asking me to respond to it?

Q: Well, I'm asking you if you felt that there was another issue that you could have made a motion for an appeal on?

A: I think that at the time we made an issue -- we made a motion, post-trial motion based on what we thought the meritorious issues were in the case.

Q: Okay.

A: And let me just say for the record, I've probably done 1,000 appeals.

Q: Okay. I understand that and -- now, Judge John -- you filed an Ex Parte Motion for an expert's services, we briefly touched on that, and Mr. Spratlin attended that hearing. And this is why I have to recall on this, can you explain to me what ex parte meant? Can you tell the Court what that means?

A: Right now, I'm trying to recall the nature of the hearing that we're talking about.

Q: It was for a motion.

A: Ex parte is without the other side present.

Q: Right. But he did show up, correct?

A: I don't know. I don't recall.

MR. LEGG: Mr. Spratlin, do you recall?

THE COURT: You can't --- go ahead.

MR. JAMES: Objection.

THE COURT: I'll sustain his objection. He's not on the witness stand.

MR. LEGG: Okay.

BY MR. LEGG:

Q: Now, I just want to ask, most of my issues having you represent me is in the layman's language, I didn't get a fair trial which I felt I had plenty of defense which I couldn't get to, my hand's were tied every which way I turned, bad luck or whatever. So, actually my complaint based on procedural was a lot of that, which is why a lot of this is so lengthy because when you get into the arguments about due process, you know, if could be depending on the case itself, but the fixed parameter basically is procedural.

So, all of these issues that I raised like the 40,000-watt ankle bracelet, the yellow shirt, to me that all ties into as procedural, which I would have expected you as an

attorney to be more competent and more focused on how the environment was taking shape, everything from the illegal search warrants not raising, you know, the proper arguments on that.

Which when we get into the illegal search warrant, I want to ask you if you recall at all bringing up the statutes which governs the processing of an illegal or legal search warrants, arrest warrants and so forth.

A: Are you asking me a question?

Q: Yes, sir.

A: I don't recall.

Q: Okay. Okay. So, I hope we're not going to bogged down with a memory failure here. So, I just want to kind of -- okay. Now, there was another issue which I felt was kind of a thorn in the whole process. Do you remember by any change bringing up the issue of the search warrants and who was culpable for the property inside the house during that time? An issue was brought up, Mr. Spratlin brought it up and they argued this. That there was a date that was affixed to when that search warrant was actually executed and the time of which I was actually arrested which state -- Mr. Spratlin made the argument that Your Honor they executed this illegal search warrant but Mr. Legg was in the residence during that time a full 24 hours so any missing property that has to go to his accountability. Do you remember that?

A: I'd have to look at the transcript.
Q: Okay. And then the date was fixed that they were trying to say that I was there on the day and so forth, like the 17th. But if you look at the discovery, all of the evidence, the documents I have was I was arrested basically on the day that they tried to claim that I was free.
A: Okay. What's your question?
Q: Did you feel that -- is there a void in your representation during that time to say wait a minute Your Honor let's look at the record and let's fix this correctly. Yet, you just set it out and let them come up with a false date. It was a fictitious date to get out of ---
A: I think I would have to rely on what the record shows about that. I don't remember you and I having discussions about it ---
Q: Alright.
A: --- beyond what I would have reflected in the record that was developed.
Q: Okay. It clearly stated that it's wrong what they're saying. They're saying that I was basically free when I said all you had to do was ---
A: Well, I remember them denying that they had taken any of your property. I remember that was an issue in your case, that you had claimed that there were missing documents and evidence that you needed, you felt like would be helpful to

your defense. And I remember the State saying, well we don't have that. And I remember there was also -- didn't your family come in and take the material property out of your house at some point? I mean, the way I recall ---

Q: It was way after.

A: Okay. But you know, I think Mr. Legg, I would have to review that transcript and look at what was said at the time about that issue.

Q: What we would go over that per se every word.

A: Well, I'm telling you what I recall off of the top of my head at this time.

Q: Okay. So, if you're looking at the transcript would that help you? Basically, because I'm going to ask you ---

A: It might. It might, it might not. It depends on what it says.

Q: Now, we're going to go into this whole thing about Detective Frebowitz and the relevance of -- we can go into -- we brought that up that here is just a bad cop, right? And so, sure, you know they're going to say, yeah, you're claiming a bad cop, right? Okay. Now, this is after the fact, they found what he was doing. He would do things. He would try to coerce people into filling out these affidavits by using pictures that were illegal and he had pornographic pictures and so forth. Now, ---

MR. JAMES: Objection. Hearsay.

MR. LEGG: Oh, I have the ---

THE COURT: Hold on. Let me rule. What is the out of court statement?

MR. JAMES: He's describing things that are certainly beyond his personal knowledge or the witness' personal knowledge about the nature and circumstances of Detective Neil Frebowitz's termination with the Horry County Police Department.

MR. LEGG: And ---

THE COURT: Hold on. Well, it wouldn't be hearsay because he's not stating what someone else said. He is just trying to characterize what happened outside of what you are saying is in his knowledge and purview ---

MR. JAMES: Perhaps more accurately phrased as facts not in evidence.

THE COURT: Alright. What's your argument?

MR. LEGG: Well, my argument is I do have from the Horry County Police Department, the record stating exactly why Neil Frebowitz was terminated. So, the language that I'm using comes out of those records. That is in my Amended Complaint.

THE COURT: Okay. I'm going to overrule the objection. But what you just said ---

MR. LEGG: Right.

THE COURT: --- just ask him.

MR. LEGG: Okay.

BY MR. LEGG:

Q: Now, the reason I ask that is because this fruit of a poisonous tree ---

A: I'm not understanding what you asked. Can you repeat that?

Q: The reason I'm asking is because there were issues that came up which I, and like we referred earlier that Detective Frebowitz was fired from the police department, that had to be knowledge of the State, right? Which I don't know if you knew that or not, but you certainly danced around that on the record. You even asked him like in a quiet manner, that's why I brought up the issue of protectionism of your own interest. You asked him specifically, now there was an affidavit Mr. Frebowitz that you filled out but I'm not going to go there blah, blah, blah for the jury. So, you kind of like swept that under the carpet. So, there was an issue of fruit of a poisonous tree every since whenever he had the illegal search warrant ---

A: Can I ask you what evidence you're talking about? What's the fruit of the poisonous tree here? I'm not following that.

Q: Fruit of the poisonous tree is a bad cop and anything he does is contagious.

A: That's not what convicted you. I think what was important in your case was the child's testimony and that's -- I don't see that as fruit of the poisonous tree.

Q: Okay. But I understand you're kicking that down the road, but my point I'm making is the reason I was convicted was because the ineffective assistance of counsel based on incompetence. It has nothing to do -- you can take any kid to go up and say that, but the defense would have to come with the trial counsel. These issues were too numerous to ignore. It was in your hands ---

THE COURT: Mr. Legg, again, this is a statement made by yourself as opposed to a question to the witness. I'd ask that you state a question, please.

MR. LEGG: Okay.

BY MR. LEGG:

Q: Fruit of the poisonous tree, I'm asking you why you did not pursue the fruit of the poisonous tree of a bad cop and everything ---

A: I don't think it was pertinent to the defense. I don't think it was a way of attacking the child's credibility.

Q: Okay. Now, Mr. Diggs, page 268 I want to ask you specifically to what this mysterious document is that's bantered around between the Court and you on lines 14 through 19, page 268. It says: He's claimed I opened the door. I mean, if he wants to introduce that document, that's fine. No, sir, says the Court. I'll tell you what, I'm not going there. I'm not going to do that. You're getting into a whole other area and you're getting where you're going to get

reversed if you do. So, here's the Court trying to warn you about a reversal.
A: I think he was warning the solicitor.
Q: Okay. Alright. The mysterious document comes up time and again in the trial transcript.
A: I don't recall what it was, but I think what the Court's saying there is if he goes in that direction he's going to put some reversable error in the record and he doesn't want that to happen.
Q: And page 58, the Court says ---
A: Fifty-eight?
Q: Yes, sir. The reason I asked you about the fruit of the poisonous tree is it comes up and you're silent on the issue in most cases in the trial transcript.
A: Okay.
Q: Alright. The Court says: I understand. I'm not sure I'm going to let you put anything, the fruits of a poisonous tree either, even in rebuttal.
A: What line are you on?
Q: That's 3 through 5. And I would like to ask you, does that raise a red flag for you that you should demand a hearing on this?
A: I think -- I don't recall specifically what it is that was at issue in this particular comment by the Judge, but it must, you know, it's something that's going to come into the

trial. I mean, it would raise -- it would be a red flag, you know, if it actually comes into evidence and is used by the State against you. I'm not sure where we're going here with that one?

Q: Well, it's clear to me that the Court is shooting you down to try to keep you from this fruit of a poisonous tree argument.

A: I think he's expressing that to the solicitor. I'm not the one trying to introduce that. I think the State is.

Q: Well, admittedly -- just let me ask you this question. Never mind, I'll just skip that, and I'll just go on. There's basically a lot of issues that I want you to answer as opposed to the attacks from the Court, from the Judge, upon you. In my opinion, what was said there was silencing you, you had no fightback. Now, that's all through the record, the trial transcript.

A: If you could show me examples, I will try to address them.

Q: Okay.

A: But that's typically not my character, especially with Judge Cottingham. We were usually quite active, you know, in our exchanges.

Q: Okay. Let me ask you this, Detective Frebowitz made a recording shortly after my arrest, statements. Did you ever interview me in regards to that recording?

A: Uh-uh. (Negative response) I don't have any recollection. I think that typically when you and I would discuss the case there weren't any limitations on it and it was pretty free willing. So, you know, at that -- if you could maybe go a little bit further, what is it in the recording that you want to address it might help me remember what it is that you're trying to get to?
Q: So, in other words, you're saying that you didn't think that it was important to have a conversation with me about how that might have been set up?
A: Recording you? Are you talking about without your knowledge?
Q: No. I had my knowledge. I'm talking about ---
A: You're talking about he interviewed you and recorded you?
Q: Yes.
A: Okay. That was pretty typical.
Q: So, you just like left it at that and never once interviewed me or asked me?
A: I think, I think you and I -- what you do in that situation as a defense attorney is to see if there was a voluntary statement or you were read rights and that kind of thing. But any time -- it was quite routine for detectives to record all of your statements, and it is, it is.
Q: So, would you have any interest to know, fish around from the guy who he just interviewed ---

A: Beyond the substance of the statement ---
Q: --- that's really interrogation, isn't it? Instead of a kind word like interview, it's more of an interrogation.
A: I think what I would do is look at the waiver of rights, you know, what the circumstances were, did you have an attorney, which amendment applied, fifth or sixth.
Q: And that's it?
A: And the substance. If it was a voluntary statement, I think we're pretty much bound by what you decided to do at the time that you gave the statement.
Q: After the fact, when you found out that this man is terminated.
A: Well, I don't know that that would have any influence on, you know, the -- did he trick you into getting you to make the statement? I think maybe is that where you're going?
Q: Are you asking me that now?
A: Yes.
Q: Okay. Now, you've never asked me that before, right?
A: Well, you've never asked me that question about it. You made a decision at that time that you were going to make a statement. I don't know that it matters whether he recorded it or not. He's going to write down notes of what you said.
Q: Well, if you read a lot of cases, you'll find that the police are not 100 percent trustworthy. They do have some fall through the cracks. And some of these interrogation

interviews do -- are problematic. But as far as -- you're making the stand that you just went ahead and went with the State in everything in the case. You never bothered to ask me if I was tricked or manipulated in any way and here come to find out later, this is the type of man that that is.

A: Do you -- are you saying now that they tricked you into making the statement?

Q: Well, I'm not going to make a statement now that has to do with my trial if that's -- but I'm asking you specifically would you ---

A: What I would do is look at the record and discuss it with you. I don't recall you ever saying, listen that wasn't a voluntary statement. They tricked me into waiving my rights and I think ---

Q: You never? It's because you never counseled me on anything. You just admitted that you never asked me.

A: If we could look at the jail records and see when I visited you. There weren't any limitations on what you and I discussed about your case.

Q: To the point and straight, I want to ask you this, do you think it was relative at all that this detective went in, took writings out of my residence and he did that with the intent of getting into my mind so he could later use that in his trial preparation and the language is there in the transcript wherein you just go along with all of this stuff. And you

asked him, said -- page 89, 2 through 12: With respect to your interview with the defendant in this case, did you have a chance to look at any of the items taken from his home and review those items prior to the interview with him? And what did he say?

A: He said: Yes, sir.

Q: Okay. Now, would that basically be a clue that he's researching this so that he could set up an interview and record it for trial preparation, would that be a clue?

A: Are you ---

Q: Fruit of the poisonous tree, that he may have seeded words into the interview that, in his experience, effect the jury's ears? They hear certain words. Never once did you ---

A: You're saying he used the fruit of a poisonous tree to educate himself about what he was going to investigate? I think that's an interesting issue.

Q: Say that again.

A: I think that's an interesting issue. I don't recall thinking about it at the time.

Q: Well, that's one of my complaints is that I've never had the opportunity ---

A: There's wasn't a -- well, you did have an opportunity. We never had any limitations on what you and I discussed ---

Q: Because ---

THE COURT: Hold on. Hold on. Mr. Legg, when he's

speaking ---

MR. LEGG: Okay. I'm sorry.

THE COURT: --- we're all going to be -- let him finish. Okay. You asked him a question, as I indicated with Mr. Joye, he's going to have more than ample opportunity, you're going to have more than ample opportunity to answer your questions. So, let's allow him to answer the question, please.

BY MR. LEGG:

A: I think it's an interesting issue that you raise. It's an interesting question, but I don't think that it resulted in any evidence, fruit of the poisonous tree evidence, that went into the jury ---

Q: Went into the jury ---

A: I think what convicted you was the child's testimony.

Q: Okay. Alright. Here's a statement from the Court which is on page 27. I'm going to try to go through these this way, when I asked you if you had an opportunity to object to anything that the Court was doing, and it goes, the Court: Well, that may or may not, but -- alright, Mr. Legg, listen to me carefully. I am not going to dismiss this distinguished attorney. Your record indicates that you like to think that you can continue to delay this case and manipulate our court proceedings by firing attorneys. That, sir, is over. Now, Mr. Legg -- on page 29 -- before the jury gets here, let me -- on Friday you deliberately interrupted my proceedings by

bursting out I'm entitled to a fair trial. I did not say anything at that time. I urge you it would be very serious, do not do that. That would jeopardize your case in the presence of the jury. Your entitled to a fair trial and you will get one. Do not interrupt the proceedings because my experience has been over the years that this sort of conduct may alienate the jury and you don't want to do that. So, let Mr. Diggs handle these proceedings. Do you understand that?

That was the 40,000-watt ankle bracelet, so you're taking over now. So, he just handed your case over to you, to which I have nothing to say. That's the way I understood that. So, anything I had to say you just rolled your eyes because you were being shielded by the Court during that time.

Now, let's see -- now, the particular harm is I researched this, I know you want to keep saying you did a credible defense but I really want to get to the statements that you made. The harm is before the jury if I can get to that. Now, my complaint is that -- I'm trying to see, if you can just be patient with me. Okay. I'll just read this here.

THE COURT: Hold on. Mr. Legg, I'm not just going to allow you to read something into the record. If you'd like to state it in the form of a question in which he can respond to I'll be happy to allow you to do that. Again, if you want to summarize your position as to the ineffectiveness at the close of your case, I'm happy to hear from you at that point in time

when you can surmise all of these things that you're extracting from all of these witnesses. As I indicated previously, you elicit the testimony, then at the end, essentially like you saw in the closing arguments, I'll be happy to hear from you and you can make those arguments. But, at this point in time I'm going to have to ask you that you put it in the form of a question.

MR. LEGG: It's just difficult, you know, to ---

THE COURT: We're doing the best we can. I agree we're all trying to get through this together.

MR. LEGG: That refers to anything that's in the Complaint?

THE COURT: I'm sorry?

MR. LEGG: These writings, these particular ones, like this is in my Complaint in the amendment and so forth.

THE COURT: Then that's been made a part of the court record. That will be consider by the Court. That will be read by me, considered by me. You certainly don't need to read it back into the record. It's already a part of the record. So, if you'd like to ask him a question then certainly feel free to ask him as many questions as you'd like.

MR. LEGG: Okay. Just bear with me a little bit and I'll try to get that right. Most of these issues, there's a total of 64 issues that I've raised and ---

THE COURT: Mr. Legg, let me stop you there. On the 64 that you've raised in your Complaint, how many of those are you addressing with Mr. Diggs?

MR. LEGG: Probably everyone.

THE COURT: Okay. And what number are we currently on?

MR. LEGG: Okay. Well, actually we were on the -- I was kind of going through this because I assumed that you would have this on record like ---

THE COURT: You're correct. I mean, you filed it, we have it. I mean, I'll show you.

MR. LEGG: I believe you've got it.

THE COURT: I've got it right here.

MR. LEGG: I just wanted to say when I first wrote that I did the best I could and later on I learned kind of how to whittle it down. Like the issue of the -- the second issue that was raised by the Appellate Court, that was issue 64.

THE COURT: Okay. My question quickly was, I'm just asking you of the ones that you'd like to address with Mr. Diggs, you indicated to the Court there was 64. I simply asked, just what number are we currently on?

MR. LEGG: I don't know because I'm lost in it.

THE COURT: Gotcha. I apologize. Go ahead.

MR. LEGG: I'm trying to expediate the process.

THE COURT: Take your time.

MR. LEGG: Okay.

BY MR. LEGG:

Q: I'm going to go down to -- I think I can pick up on some of these issues and come up with a number. Okay. One of my complaints early on was that the first attorney shared lawyer/client confidentiality with the State based on the illegal search warrant that the attorney shared with the State and then two days after the initial discovery he came back with a new discovery. He tried to claim that that was an office organization and discovery. This search warrant is wrong. It had a typographical error in it. Do you remember that?

A: What your discussions were with your prior attorneys?

Q: Yes.

A: No. I don't remember that.

Q: But then I relayed that over to you about the illegal search warrant.

A: Well again, you know, I don't think that we had any evidence at the trial of the case that was the fruit of an illegal search. I think what convicted you was the child's testimony and, you know, the experts who were introduced to try to support what she was saying.

Q: Okay. So, you're clearly saying that for the search warrant, illegal search warrant, the missing documents, statements, testimony from the alleged victim child, those were not relevant?

A: I didn't say that.
Q: Well, you're saying that I was convicted on her testimony and nothing else. That's what you're saying.
A: I think I was saying that I think the jury verdict rested on the credibility of the child.
Q: Well, let me ask you this. During the time, I'm sure maybe I could get your attention on this date here. I have, this is a police report if I could show that to Mr. Diggs pertaining to that date in which you would have had, you would have had that when they made an argument about the date of my arrest. You would have had those dates there. When the issue was brought up about the illegal search warrant and documents actually taken by the police out of my house.
A: Well, are you talking about -- can I ask you, are you talking about the alleged missing documents?
Q: Right. So, you look down at the bottom and you can see the dates there, right?
MR. JAMES: If I may consult with Mr. Legg briefly to confirm that I have the document he's showing to the ---
THE COURT: Sure. And just for the record, real quick Mr. Legg, are you utilizing this to refresh his recollection or for identification purposes only or do you want to make this part of the record?
MR. LEGG: Just recollection. It's already in the Complaint.

THE COURT: But you can make it as another exhibit if that's what you'd like to do, but you're utilizing this just for his purposes of refreshing his recollection?

MR. LEGG: Just for his purpose of the date.

THE COURT: Okay. Yes. Take your time.

MR. LEGG: Yes, sir.

BY MR. LEGG:

Q: Down at the bottom you see June 17th, right?

A: Yes.

Q: Okay. Now, the State made the argument that I was arrested on the 18th and that was in open court. That was an opportunity time while we were contesting basically the missing evidence so the Court went into this big rehearsal with the State and you sat there and let them do that because he wanted to make his argument ---

THE COURT: Mr. Legg, ask him a question.

MR. LEGG: Okay.

BY MR. LEGG:

Q: At what time did you just decide that you were going to bow out of that argument? Did you make that decision, or did you just not even want to bother to check the date when it was such a big issue?

A: I don't understand what you're getting at in the question. I think anything that -- I think based on your testimony or your statements to me, we knew that some

documents were missing. The State denied they had the documents. I don't know, you know, to be honest with you, I don't know what we could have done to locate them. You know, we asked -- we asked and made inquiries about it. We were told that we had everything that they took. And, you know, that's the hand that we were dealt. So, you know, again you're saying that the child wrote some documents that indicated that you were innocent. Is that your statement, your position?

Q: No, sir. I'm saying that a hearing was being held on the issue and I'm asking you why you bowed out of the hearing by not just reaching over and getting the document that clearly would have clarified the appropriate date? So, the State used the fact that I was there on the 16th or the 17 -- no, on the 17th when those search warrants were issued and therefore I had all day to do, be guard of the documents and I wasn't arrested until the 18th. So, what that did is that satisfied the Judge and he closed down the hearing on that issue, closed it out. Because he made a ruling ---

THE COURT: Mr. Legg, please don't indicate what you speculate what the Judge was attempting to do. Please just ask Mr. Diggs a question.

MR. LEGG: Okay. Well, I can get the record on that, the trial transcript, and show what the Court is saying. Can I use the trial transcript?

THE COURT: Sure.

MR. LEGG: Okay.

BY MR. LEGG:

Q: So, that was early on. So, my question was basically regarding the importance ---

THE COURT: Hold on. Mr. Legg.

MR. LEGG: Yes, sir.

THE COURT: Don't just keep putting this things in the record. Feel free to get what you'd like for Mr. Diggs to review, find it and ask him a question pertaining to it, please.

MR. LEGG: Okay. Well, let me see if I can discover that in the process here and I'll go back to it if that's okay with you.

THE COURT: Sure.

MR. LEGG: Instead of taking the time to dig it out.

THE COURT: Okay.

MR. LEGG: I'm trying to go through these.

MR. DIGGS: Your Honor, can I take a break for a second?

THE COURT: Absolutely. We'll just take a 5-minute break, okay. Is that okay with you? Okay. A 5-minute break.

Mr. -- you can stay on the record. Mr. Legg, how about take this opportunity to get your final questions for this witness. For the record, it's 3:05. We're going to take a break until 3:10 and you still have Mr. James to examine this

witness and you still have, I'm assuming, may have another witness to call and you can still call yourself. So, we're getting tight on time.

MR. LEGG: Okay.

THE COURT: Yes, sir. Okay. We'll take a 5-minute break.

(COURT IN RECESS)

THE COURT: Mr. Diggs?

MR. DIGGS: Yes, sir.

THE COURT: Are you ready to go?

MR. DIGGS: Yes, sir.

THE COURT: Okay. Mr. James, do we need to wait on anybody?

MR. JAMES: No, sir. We can go ahead with the proceeding.

THE COURT: Alright. We'll go back on the record. Mr. Legg, briefly I just wanted to let you know I believe that we would all agree that Mr. James has only objected very periodically and I've been very lenient in allowing you to question the witnesses. This is your day in court, it's yours and I want you to have it.

MR. LEGG: Okay.

THE COURT: Alright. You are a pro se applicant and in doing so I've given you a lot of leeway. I would say probably a million times more than what I would give an attorney

because you're not an attorney. You've acknowledged that you understand what the pitfalls are of moving forward. But the rules don't allow, or make me, or force me I should say to treat you any differently. You are held to the same standards as an attorney is. Okay. That's the rule when you represent yourself pro se. I have not held you to that standard. I've allowed you to do a lot more things than I would certainly ever allow an attorney to. I think you've done a fine job in representing yourself, but I'm going to hold you to those standards now. Okay.

MR. LEGG: Alright.

THE COURT: It's time. You ask a question; he'll give you an answer. You'll wait for him to complete his response and then you'll ask another question. I'm not going to let you go off script anymore. Okay.

MR. LEGG: Okay.

THE COURT: Do you think that's fair?

MR. LEGG: Yes, sir.

THE COURT: Okay.

MR. LEGG: I believe the word is you've been liberal with me on that. Thank you.

THE COURT: Liberal, I would -- you're more than welcome and that's fine. I'll be happy to utilize those terms, I've been liberal with you. So, please just feel free to being your questioning.

MR. LEGG: Well, I just want to say right now that ---

THE COURT: Well, hold on. You just started what we said we weren't going to do which is you want to say something. What you want to do is ask something. So, ask him a question and allow him to answer.

MR. LEGG: I just wanted to ---

BY MR. LEGG:

Q: I asked you earlier about the relevance of the arrest date. So, I just wanted to bring to your attention to recollect your memory if you could help me address this. ON page 101 of the trial transcript, lines 20 and 21. The State says -- the Court says: That is the way I understand it, the 17th is the search warrant, arrested the 18th, and the report was finished on the 23rd. But he was in the residence for a day after he was first interviewed. I just wanted to make sure that you answered this for me, that by the State going through all of this trouble with this date which they did on the trial transcript and you bowed out and you're again saying ---

THE COURT: Ask, ask a question, Mr. Legg.

BY MR. LEGG:

Q: Did you feel that the date was not an important thing to pursue?

A: That's the way I'm looking at it right now. I mean, help me pin it down. I mean, what are we -- what's the problem

with the discrepancy if I could ask in terms of trying to clarify my understanding.

MR. LEGG: Okay. If I could answer that?

THE COURT: Absolutely.

BY MR. LEGG:

Q: I would say because the State went out of their way for misinformation to make a misstatement on the date

A: What was the purpose?

Q: Well, you'd have to ask them what their motive was, but you went along with that is what I'm saying. Did you ---

A: Apparently, apparently I didn't see anything that was -- I might have agreed with you, you know, there's a discrepancy here, but I didn't, you know, realize any importance there beyond, you know, the fact that there was a discrepancy. I didn't see what affect it would have on our case.

Q: Okay. So, let me ask you this. Are you being kind to the State by calling that a discrepancy?

A: You mean today? Am I being ---

Q: Today, yes.

A: I don't, I don't know the detective. I don't think the solicitor lied to me and I don't think that he would lie to the Court. That's just my opinion about it, but I'm not going out of my way to be kind to them. I'm telling you what my opinion is.

MR. LEGG: Your Honor?

THE COURT: Yes, sir.

MR. LEGG: I don't think I really need to consume much more time with this witness because I think he's giving me a lot of pleading the fifth, bad memory. So, we're not really gaining anything other than the record already back that already over the record. So, I'm a little washed trying to get him to cooperate and trying to satisfy the Court. But I think that once you read the Complaint and you get into that you can understand the issues that the trial transcript itself will verify the issues that I raise rather than have the witness kind of song and dance to the issues and kind of fade out on it. So, it's making it difficult to keep up and to give him some good questions to prove my point. My point basically is the incompetence of trial counsel and I think he's exhibiting that through this questioning. So, I would like to kind of rest on that.

THE COURT: Okay. I'll accept your statement and I -- so you have no further questions for this witness, it's certainly your witness.

MR. LEGG: No. I think it's frugal --- fruitless to do that.

THE COURT: Alright. Well, thank you so very much. Mr. James.

MR. JAMES: If I may utilize the podium, Your Honor? I'm going to take notes as I ask questions.

THE COURT: Absolutely.

CROSS EXAMINATION OF MR. DIGGS BY MR. JAMES:

Q: Mr. Diggs, I will preface this very briefly, normally I would walk through specific portions of the transcript of the trial record in order to go over your decision making throughout trial. But because time is of the essence and because the entire record is before the Court, we're going to go over some of the high concept considerations in your representation of your client Mr. Legg.

A: Okay.

Q: So, first and foremost, we touched on this earlier in the direct examination. When were you originally licensed by the South Carolina Bar?

A: 1980.

Q: Alright. And from that date until the date of your disbarment, about what portion of your practice was criminal?

A: Seventy five percent.

Q: Okay. How did you originally come to represent Mr. Legg?

A: I was court appointed I believe.

Q: Okay. And after that appointment on a number of occasions he attempted to relieve you of representation, correct?

A: Eventually, I think he did.

Q: But ultimately you ended up representing him through the course of the trial?

A: I did. And I think the Judge makes it clear on the record why he didn't relieve me. The Judge felt like the case had been pending for quite some time and that it should go to trial. And so, you know, I was not relieved.
Q: When you took over representation of Mr. Legg did you file motions under pursuant to Rule 5 and Brady?
A: I think if they hadn't been done -- I would have to go back and look. I think so, my practice would have been to do that.
Q: And did you receive materials responsive?
A: Yes, yes.
Q: Did you review those materials yourself?
A: Yes.
Q: Did you review those materials with Mr. Legg?
A: All of the materials that were available to review, the answer to that would be yes.
Q: What sort of materials would have been excluded from that?
A: I can't recall. I just remember there may have been an item or two that was taken out of the residence that was in the possession of the police department, but I didn't see the relevance to the case. I would have discussed that with Mr. Legg, but I wouldn't have reviewed that with him at the police department.
Q: So, perhaps physical evidence that you couldn't take to

him?
A: Yes, yes. Correct.
Q: Okay. Did you conduct any sort of independent investigation, either personally or through a private investigator?
A: I did it personally. I didn't hire an investigator in the case, but I went to the area and observed, tried to get a handle on where this occurred and of course, reviewed the materials that we had available to us; and I did have discussions with Mr. Legg. In terms of investigating, you know, I've stated I didn't go into the background, the child's background at school or anything like that because in my opinion we were looking at the child's credibility, what she was going to say on the stand. You know, trying to develop a strategy to best handle that, to approach it, to try to discredit her but at the same time not offend the jury, you know, by attacking this child who is testifying, who had been the victim allegedly and who the jury concluded was the victim.
Q: You would agree that it's a delicate balance?
A: It is a very delicate -- you know, it wasn't the first one that I'd had. There were some other cases, both at the trial level and at the appellate level involving this kind of case. But I felt like in my mind that it was going to come down to that child's credibility and whether or not we could

call that into question, convince the jury that there might be a question about the accuracy of what she was saying.

Q: Did Mr. Legg provide you any witnesses, character witnesses or leads follow up on?

A: No. No. Mr. Legg didn't want me to pursue that kind of material, in my opinion. I mean, that's the way I recall the case. He didn't want me to speak with his family and so no. And I didn't make an issue out of his character as I alluded to earlier in my testimony. I didn't think that he had been truthful completely at times during the prosecution of the case. I'm not being critical ---

Q: To clarify, do you believe that he had not been truthful to law enforcement or not been truthful to you?

A: To me.

Q: Okay.

A: And let me say to me, and/or law enforcement, and/or prior attorneys. And let me -- well, I'll leave it there.

Q: You may go ahead if you wanted to expand on that.

A: You know, I didn't formulate any kind of judgment against Mr. Legg. You know, I tried to understand the position that he was in and I didn't think what he had said was really outrageous, giving an incorrect name for example. I mean, I didn't think that had a lot of bearing on the facts of this case, but I think it did question in my mind whether or not we wanted to go in the direction of putting up character in terms

of a defense.
Q: Ultimately, what trial strategy did you decide to pursue?
A: Just to try to question the child's credibility and attach, I think, you know really even try to attack the adult. I can't remember the name of the lady that came in from child services to try to support the child. I think we really attacked her. I think you can do that much more easily with an adult than you can with a child.
Q: Where there particular -- do you recall particular means by which you attacked the child's credibility?
A: I don't know. I would have to go back and look at the specific questions that were asked in the cross examination.
Q: Okay. Mr. Legg informed you that he believed there were documents seized by law enforcement from his residence, correct?
A: Well, yeah, he did that, but ---
Q: Did he ever communicate to you at least in summary what the contents of those writings would have been?
A: No.
Q: Okay. And were these only his writings or did this include the writings referenced at trial made by the child victim at his behest?
A: I'm not following the question. I think, clarify the question for me because I'm confused now between his writings and the child's writings.

Q: My apologies. It's a little bit of confusion on my part as well. There are the writings that Mr. Legg refers to that he believes that law enforcement seized and kept, lost, or misplaced, or destroyed or whatever.
A: These writings supposedly by the child that indicates that she is not telling the truth?
Q: Well that's what I'm asking, are the writings that he believes that were lost were they just Mr. Legg's writings or did he assert that they included writings by the child?
A: It could have been both. I just don't recall. Most of the writings that I was familiar with and I understood to exist were those that he did. He said that the child had certain writings. She indicated that did, but we didn't pursue really what the substance was. And I didn't want to give the child a chance on the stand really to expound on that.
Q: And indeed, even touching the writings at all during trial ---
A: Correct.
Q: --- if you recall correctly ---
A: Yes.
Q: --- that she indicated that -- she started to talk about some of the reasons that she would be made to write, correct?
A: Yes.
Q: And one of those reasons was that Mr. Legg would get

angry if she called her own mother, correct?
A: Right.
Q: Okay. And then you terminated the questioning on that line pretty quickly.
A: Yes.
Q: Okay. Were you aware of any controversies around Detective Frebowitz at the time of trial?
A: I might have been, but it wasn't anything that directly impacted our case in my opinion at the time.

MR. JAMES: If I may beg a moment of the Court's indulgence.

THE COURT: Absolutely.

BY MR. JAMES:

Q: And Mr. Legg, this -- not Mr. Legg, counsel ---
A: Mr. Diggs.
Q: --- Mr. Diggs, my apologies. It's been a lengthy day. This is not an allegation that Mr. Legg went over with you in direct, however it is raised in the amended application. Do you have a copy of the transcript before you?
A: The trial transcript?
Q: The trial transcript, yes.
A: Yes.
Q: Would you please for me, flip over to page 184?
A: Okay.
Q: From lines 1 to 8, I'm going to read aloud and I want you

to read along silently with me.
A: Okay.
Q: And this is the testimony of Danita Whipple. So, she stayed on the phone for a second and she, she was crying, and I said -- this is a redacted transcript, so it says victim ---
A: Okay.
Q: --- victim what's wrong. Is there something else wrong? She said yes. I said well tell me. And she said that Don had spread her legs and she told him to stop and he had put his hands, his fingers down her butt crack and before she could tell me anything else I said just hold on and I'll be right there in 15 minutes. Did you consider objecting to that testimony?
A: I can't recall. It may be, if this is a separate occurrence, you know, to be honest with you I can't recall.
Q: You can't recall if there was any strategic reason?
A: I do not, I don't recall.
Q: And at the risk of sounding as though I'm arguing against myself, would you agree that that is beyond the time and the place of the abuse?
A: As I understand it, it would be.

MR. JAMES: I beg a moment of the Court's indulgence.

THE COURT: Absolutely.

BY MR. JAMES:

Q: Did you ever consider pursuing a strategy of third party

guilt in this case?
A: No. Well, you know, in terms of other men in the house and that kind of thing?
Q: Correct.
A: Not really. It didn't -- I would say no. There was a lot of evidence that the relationship that Mr. Legg had with the child, he spent a lot of time with her. You know, I think they went swimming. You know, it's just not the type of case that third-party guilt came into my mind about. It just, it never, it never surfaced as an issue in my mind.
Q: Okay. These are going to sound as though they're a bit afield from the subject matter of this PCR initially but I'm going to bring it back around. When you practiced law did you enjoy the practice of law?
A: Yes.
Q: Did you find it stressful or did you find it rewarding?
A: I think it was rewarding. I enjoyed it and I especially liked the part of doing the appellate work. I enjoyed the library and that kind of this. I know it sounds strange. But then as I did more trial work it was, it was fun, and I felt like the State needed to be challenged. And that's why I enjoyed being a defense attorney.
Q: Would you agree that from time to time the practice of law provides you with an escape from some of the other stresses of life.

A: I never looked at it like that, but I wouldn't disagree with that. See, my wife had been disabled since 1989. So, the basically the whole time I was in private practice and she deteriorated over the course of time. But it didn't really begin to impact my practice until 2013 just prior to my representation of Ronald, or Mr. Legg. I'm sorry, I meant Mr. Legg. And one thing I tried to do was focus on the representation that I provided to make sure that we were prepared for the trials, you know, that we adequately and properly represented those clients. And I think that we did that in this case. But there's no doubt that her condition distracted my attention from the practice, you know, from the business aspect of the practice and I, I've thought a lot of times maybe I should go to the bar association and say look maybe I have something to offer here in the form of CLE. You know, for practicing attorneys to say look this is something that can happen.

Q: I said I was going to bring it back around, but I believe you have already done so, so I'll move on. Mr. Legg suggested that you should have sought a continuance in the middle of trial. Would you agree with me that it is difficult to continue a trial once it has already begun?

A: Yes, certainly. But, you know, that's an issue that I would not have hesitated to bring up had I felt like it was needed. The discussions that we had at the time, you know, my

discussions with my client at that time just didn't strike me as such that we need to continue this case. I felt like the medication was the issue, that he needed that for his personal comfort and that's why I addressed that with the Judge. But it never rose to the height that it was going to interfere with his ability to participate in a trial.

Q: Was Mr. Legg able to consult with you over the course of the trial?

A: Yes. Absolutely.

Q: And so, you could ask him questions?

A: Yes.

Q: And he could answer them?

A: Yes.

Q: And he didn't get electrocuted while he was answering them?

A: No.

MR. JAMES: I beg one last moment of the Court's indulgence.

THE COURT: Take your time.

BY MR. JAMES:

Q: Earlier there was testimony to the fact that Mr. Legg misrepresented his status and his identity perhaps to law enforcement. In what way did he misrepresent his status and identity?

A: I think initially he gave his brother's name, you know,

as his own name. I don't recall exactly how I became aware of that, but I did become aware of it. I didn't learn it, I did not learn that from discussions with previous attorneys. It was from some other source, but I don't recall exactly how I learned it. It may have been Mr. Legg himself.

Q: And was it your belief, at or about that time, that this brother was a registered sex offender?

A: I don't remember that part about the story. My understanding was it was in an effort to mislead his true identity at least briefly.

Q: Do you recall broadly the evidence the State had against your client?

A: Yes. I believe so.

Q: Okay. Do you recall what their theory of the case was?

A: Basically, that he'd just improperly touched the child.

Q: Okay. Could you briefly articulate what the State's evidence was against your client? Was it simply just the child's statements or was there anything in addition?

A: I think it was similar to what this witness testified to at the trial. And to be honest with you, it's been a -- just recently I've moved and been through a lot of -- I haven't had an opportunity to actually read the transcript. I did read the transcript a couple of times, but it's been, this case has been delayed a couple of times so I can't remember the details going back without looking at her testimony as to what it was,

but it was something similar to what was testified to here in this case. And to be honest with you, I can't remember if it was in the truck on the way home from swimming or some other occasion. I would need to look at her testimony again just to look at the specifics.

Q: Mr. Legg examined you on the subject of investigating the child's social background and you also additionally indicated in the cross examination earlier that you did not do so. Is that something that you would typically look in to?

A: The way I look at it, you know, this is a child and regardless unless -- if there was something that was extreme, some extreme conduct on the part of the child perhaps, but ordinarily, you know, the way I view that it's just going to come down -- children say stories, you know, put stories together, everyone knows that. But I felt like it was going to come down to what that child did on the stand in the trial, you know, how she came across to the jury and that's, that was what we had to deal with.

Q: So, if I may rephrase that, am I understanding correctly? You didn't feel it to be particularly helpful unless there was something just truly ---

A: Correct. Correct.

Q: Mr. Legg suggested, and it could be that I misunderstood him in the course of his direct examination, that he wanted you to pursue a strategy of challenging the child's

credibility based on a diagnosis of ADD.
A: Correct. Right.
Q: Why did you not pursue that strategy?
A: I didn't feel like there was enough evidence, and I'm not being disrespectful to Mr. Legg, but I didn't, I didn't feel like there was enough evidence to pursue it. And again, you know regardless, let's say that what he's saying is true, okay, and she had that. It's going to come down to what the jury believes on the stand. And I think, you know, the credibility is at issues, you know, in terms of trying to -- let's focus over here at the detective, let's focus over here on the warrant, let's focus over here on some kind of psychological problem that the child has. I think it's very easy for a jury to see that as an effort to divert attention. It's going to come down to what her believability is when she testifies. And in this case, I made the determination based in my, in my opinion and I had practiced for 33 years. I felt like it was just trying to challenge her reliability of her statement in the case.
Q: You challenged the admissibility of the forensic interview video, correct?
A: I think so. I would have to go back and look at the transcript and I'm sorry. With regard to specifics ---
Q: We can let the record speak for itself on that.
A: Okay.

MR. JAMES: I have no further questions for this witness.

THE COURT: Okay. Alright. Mr. Legg, would you like to briefly respond?

MR. LEGG: Yes, sir, just briefly.

THE COURT: Okay.

REDIRECT EXAMINATION OF MR. DIGGS BY MR. LEGG:

Q: Mr. Diggs, I would like to know, my brother's name was brought up as a sex offender. I would like to know where you got that information?

A: I didn't get that information. I heard it for the first time today in the courtroom.

Q: Okay. Well, I'll just tell you for a fact for the record, he's not. I know my brother so ---

A: Okay. I had never heard that before.

Q: Well, it's kind of offensive. I have -- you have to respect the fact that I'm defending him ---

THE COURT: Mr. Legg.

MR. LEGG: Yes, sir.

THE COURT: He admitted that he did not hear that until today. That was not his testimony, it was the former attorney that indicated that.

MR. LEGG: Well, I had heard him say he had heard it from somebody else.

BY MR. LEGG:

A: No. I heard, I heard that you had misrepresented your

identity.
Q: Okay.
A: I have never heard anything about him being a sex offender.
Q: Okay. Now, where did you hear that I misrepresented my identity?
A: I can't -- it might have been from you. The only thing I can say this afternoon as I sit here is, I knew that about you, but I didn't discuss the case with Mr. Joye. I got the records, you know, the materials that he had acquired, but that was even done through staff at my office. I don't think I ever directly spoke with him about the case. So, it's most likely that I learned it from you that you had misrepresented your identity.
Q: Do you remember the State bringing that in before the jury and that argument was that I gave a false name to the police, that I was arrested under my brother's name?
A: Well again, I would have to look at the record.
Q: Yeah, well the record says ---
A: If that's what it says, then that's what it says.
Q: --- the record says that I was arrested under Ronnie Legg, not Don Legg. The arrest record proves that. Anyway, do you believe that the State aided the imagination of this alleged victim?
A: I think, you know, I think that that's the point I might

have been trying to make in the way I attacked the expert that they had from the child services office, department. But we really -- I think that we tried to challenge the concept that they were trying to enforce the child and not really talk about what the facts were of what her testimony was if you follow what I'm saying.

Q: No, I don't but that's fine.

A: Okay. What I'm saying ---

Q: Now, I want to ask you, you told Mr. James that I didn't elaborate on the content of the writings, what they were about.

A: Right.

Q: Okay. Now, do you remember any of the -- during the day of, the couple of days before the trial you did get a stack of my writings. Do you remember any of those writings that pertained to what's known as a brief that I wrote for the defense?

A: No. You have -- you write a lot of material and there were hundreds of pages of materials that you had written in your case. It was difficult to go through that and have an understanding, you know, of everything that you were trying to convey in those materials. And I remember we spent a lot of time, I spent a lot of time trying go, just understand the point you were trying to make when you were engaged in that process.

Q: But you remember the discovery, not just my writings of this particular association with the alleged victim. There was a photograph of a chalk board in my living room.
A: Yes.
Q: There was the placard that they had used as some kind of evidence. Do you remember anything that would show, because you told Mr. James here that I did not give you any clue about what the writings were, but do you remember any of the psychological factors in my writings and discovery that would have shown that I was basically into behavior modification?
A: I knew that you were very interested in that. You spent a lot of time working on it. I'm not in a position to gauge, you know, your competency in that area. You're an intelligent man. You probably were accurate in a lot of the materials, a lot of the work that you did. But refresh my memory again what the question was.
Q: Okay. We're talking about number one, your selective recall on some things but you can't recall on others. But this particular issues was I sat here and Mr. James asked you if I was to give you any sort of notation or description about the writings which were involved which pertained to the issue of the dismissal of the case because it was exculpatory evidence. You told him that I did not tell you about any of those that you could have used basically for a defense. That's what it comes across as.

A: If I understand your question correctly, that's true. I don't recall you giving me anything with specific information that would have done that.

Q: Now, I wonder if you could tell me, you also told Mr. James that I had sat in trial and I had asked you questions backwards and forth, that's what you implied.

A: Well, you had an opportunity to discuss any issue in the case ---

Q: Was there an opportunity ---

THE COURT: Mr. Legg.

MR. LEGG: Yes, sir.

THE COURT: When he's speaking, she can't speak for two people into that machine.

MR. LEGG: I'm sorry.

THE COURT: You have to let him finish and I'll give you ample opportunity to ask another question.

MR. LEGG: I'm sorry.

THE COURT: You're okay.

BY MR. LEGG:

A: We had an opportunity to discuss every issue, and we did I think, that you brought up. I don't read your mind, of course, and so I was, you know, I would discuss issues as you raised them and I don't remember ever cutting you off and denying you an opportunity to do that.

Q: Okay. I'm trying to narrow this down because you could

of course say that, and anybody could read things into that. But can you tell me what kind of conversation that we had since you're claiming that I -- we had during the trial. Can you, can you say what it was?

A: Well, certainly not. You know, that was a number of years ago. I don't remember specific conversations that we had. But I do know that I never said hush, you know, we don't need to do that, we don't need to discuss it. I was always open to listening to anything that you had to say, any input that you wanted to have into the case.

Q: Well again, I'm claiming and maybe you can tell me why you have select hearing on some things. You can make a broad statement, but you can't back it up. So, it's important, you're making a statement for the record and it's making me look like ---

A: Well, Mr. Legg, I mean, I'm trying to recall the best that I can when you ask me questions. And when you talk about specific conversations that we had during the course of the trial I don't recall with any specificity what it was we discussed. But I know that we had free communication back and forth during the course of that trial. And I never did anything knowingly that would prohibit you from having access to me in terms of what your thoughts were.

Q: Let me ask you also, now you claim that you had several visits to me here in the county jail.

A: Yes.
Q: That you'd pull me out.
A: Yes.
Q: Can you tell me what the embodiment of those visitations consisted of?
A: I don't, I don't know what you mean. We talked about the case. I answered questions that you had about the case. It was a typical attorney/client interview and meeting, discussion about the evidence in the case, discussions about the alleged facts, and those kinds of conversations.
Q: Let me say this and maybe I can help you out a little bit.
A: Alright.
Q: Why is it, I don't have a problem remembering these specific details of all of these events precisely and I don't understand why people's memories are foggy unless they chose to be. But I remember most of your visits that you came in with your assistant and you worked this double time bait and switch ---

THE COURT: Mr. Legg.

MR. LEGG: Yes, sir.

THE COURT: Question please.

MR. LEGG: Okay.

BY MR. LEGG:

Q: Was it a predominant thing for you to pursue a plead deal

as opposed to going to trial?
A: I always pursue the plea deal if I thought it was the best likely outcome of the case, but it's not something I would pressure a client to do. It was always left to the client to make that decision.
Q: Okay. Now, I filed the motion now knowing the reason behind filing this motion. I wrote a four- or five-page motion for the Court to dismiss you. Now, during the trial date I brought that motion before the Judge and I was never allowed to address that. You were my attorney then on my behalf. You brought it up, Mr. Legg has a motion to have me dismissed. Now, I'm asking you now that the Court suppressed me and kept me from reading that motion and addressing that motion. He just threw things out there.
A: He ruled that he wasn't going to delay the trial anymore and that you were going to go to trial because it was like a three-year-old case if I'm not mistaken.
Q: Well, you're saying that I'm being disqualified for that motion rather than you being my attorney.
A: No. I'm saying that the Judge ruled on the motion. And a lot of times you get in trouble when you re-argue the same motion, you know, again. It's not something that you do, that you are permitted to do.
Q: Well, for the record, for the record I would like to get you to make a clear statement on the question that I just

asked you because you just, you mumbled things that are incoherent to the details. I asked you specifically, you're representing me as my attorney, and I filed a motion before the Court. Now, should you not represent me on that motion to ask for a hearing for the Judge to entertain the motion rather than you saying what the Judge decided to do. I'm asking you as part of your duty as an officer of the court representing me, to see that the interested and procedural rights and all of that are followed. I filed a motion and traditionally anybody that files a motion they go into Court, they ask the Judge to entertain, to hear that motion. That would have been your responsibility, correct, to object to the ---

A: Let me, let me say that I think the issue was put to Judge and I think the Judge ruled on it. Okay. And I think you and I ---

Q: Mr. Diggs.

A: --- have a difference of opinion ---

Q: Mr. Diggs.

A: --- about that matter.

Q: Okay. The only reason I'm interfering is because you're saying the same thing over.

A: Well, it's the same question.

THE COURT: Mr. Legg, when you ask him a question and he answer it, in these types of proceedings unfortunately you're going to be stuck with the answer he gives. Unfortunately if

you don't like it it's still his answer. Okay.

MR. LEGG: Okay. Gotcha.

THE COURT: Alright. Next question please.

BY MR. LEGG:

Q: You stated to Mr. James also that I never had any witnesses. Is that correct?

A: What my testimony was I don't know; I don't recall you outlining any particular witnesses that I should investigate and ask to come and testify.

Q: Let me ask you this. Do you remember the day of the hearing I brought papers in with me? I had a list of names of witnesses and you mumbled what? Too late?

A: I don't remember mumbling anything.

Q: Okay.

A: I don't recall the conversation that you're discussing.

Q: Okay. Okay. I guess that's about all that I have for you, Mr. Diggs.

THE COURT: Alright. Thank you so very much. Any objection to having Mr. Diggs be excused?

MR. JAMES: Certainly not.

THE COURT: Mr. Legg, any -- can he be excused? He's free to go?

MR. LEGG: Yes, sir.

THE COURT: Alright. Thank you so very much for being here, Mr. Diggs. We do appreciate it.

MR. DIGGS: Thank you.

THE COURT: You are excused.

Alright. Let me grab our witness list. We'll stand in recess. Okay.

Hold on. We're going to stand in recess for just a couple seconds. Are y'all discussing something for tomorrow?

MR. JAMES: Yes, Your Honor.

THE COURT: Okay.

MR. JAMES: My apologies.

THE COURT: That's okay. We'll be in recess.

(COURT IN RECESS)

THE COURT: Alright. Let's go back on the record.

Alright. Mr. Legg, you have had four witnesses subpoenaed. The one remaining that I see that is present here in the courtroom is Martin Spratlin. Mr. Diggs (SIC), just as an aside, you understand that this is an ineffective assistance of counsel hearing of which Mr. Spratlin had no representation in your case.

MR. LEGG: Right.

THE COURT: He was the prosecutor in your case.

MR. LEGG: Right.

THE COURT: I don't know for what purpose you would call the prosecutor in reference to the ineffective assistance of counsel of your prior attorneys of which both have testified in this hearing. You have indicated that you weren't sure

whether you wanted to testify or not, obviously I would give you that opportunity. But I've never seen the prosecutor be called in a PCR hearing and I'm not sure what type of testimony you intend on eliciting. What would you be trying to elicit from that witness?

MR. LEGG: Well, there's an action that he partook of which I felt was read by the jury as him having some inside information, his actions. And I would like to -- it's not, it's an action that he took, it's not on the record, but I would like to have him verbalize that so it would be establish for the record which means that my attorney during the time should have objected to that and made a censorship from that from the Court.

THE COURT: Okay. Let me stop you there and make sure I'm with you.

MR. LEGG: Alright.

THE COURT: Was it something that was read to the jury or was it in some type of motions hearing just in front of the Judge? What type of information ---

MR. LEGG: Well, essentially what he did was he was standing there before the jury and I'm sitting over there by lonesome and he came over and stuck his finger in my face and called me a monster before the jury. I felt that was very offensive and very pointedly ---

THE COURT: Okay. Let me stop ---

MR. LEGG: --- a message to the jury that ---

THE COURT: Okay. Let me stop you there. Was this during the course of the trial?

MR. LEGG: Yes, sir.

THE COURT: And you said you were sitting by your lonesome, you don't mean -- your attorney was present though, correct?

MR. LEGG: Well, he was sitting here, but, you know, I was targeted.

THE COURT: Okay. And would I be correct if I were to guess that this was either in his opening statement or in his closing argument?

MR. LEGG: Closing argument before the jury.

THE COURT: Okay. And that would be in the trial transcript as a part of the record brought here today, correct?

MR. LEGG: Well, not the action because it's visual as opposed to verbiage so I didn't ---

THE COURT: Well, unfortunately the court reporter can only take down what is stated, not any type of gestures that may or not have been made.

MR. LEGG: Right. Well, that's why I was relying on his testimony to acknowledge that gesture if he's honest about that.

THE COURT: Okay. And you want to put that in the

record?

MR. LEGG: Yes, sir.

THE COURT: And your contention is that for purposes of ineffective assistance of counsel that your counsel should have objected to him doing that?

MR. LEGG: Should have objected and asked for an explanation before the jury to censor that. You know, as far as him calling me a monster that would be as if he had some inside information. That was very offensive to do that during closing argument. And to walk from there several paces with the intent, I know he had in mind of doing that, and it's not out of anger, it's personal.

THE COURT: Well, Mr. Legg, I want you to have a clean record and if you're calling him just for him to acknowledge that, I don't see any prejudice that that may have on your record. Do you see what I'm saying?

MR. LEGG: Right.

THE COURT: For you maintaining an accurate record throughout these proceedings. What is your position, Mr. James?

MR. JAMES: The State -- just to clarify, the listed subpoenaed witness on the roster are the State's subpoenaed witnesses. My understanding is that Mr. Legg actually wanted perhaps the presence of additional persons, but I can't subpoena witnesses for him. I can only subpoena the witnesses

that I believe are going to be relevant to the State's case to the resolution of the PCR. So, I subpoenaed these four individuals, then upon subsequent review contacted Mr. Dudek and told him that I did not believe his presence would be necessary and that if for whatever reason we determined it would be, then we could potentially call him and have him testify by telephone as is frequently the case for appellate counsel.

THE COURT: Okay.

MR. JAMES: Mr. Spratlin is specifically here because of the allegations that the State potentially seized property that was not returned to or disclosed to Mr. Legg. So, I only briefly wanted to put him on the stand to very briefly address those allegations.

THE COURT: Okay. So, your contention is that its not even a witness for Mr. Legg to even call because he did not subpoena him.

MR. JAMES: He can -- I don't believe I have a basis to stop him from calling him. But he is here under State's subpoena.

THE COURT: Okay. And understanding that, Mr. Spratlin (SIC), you want to condense or confirm your questioning into what I assume is now going to be just two isolated questions.

MR. LEGG: Correct. Your Honor, I had submitted a list of witnesses that I wanted to subpoena, and I talked to Mr.

James about that. But I assume that since he was, he was subpoenaing those witnesses that I would just rely on them being here and it wouldn't be necessary ---

THE COURT: And I think you were correct in doing so because he was able to subpoena them and have them here.

I don't see any prejudice to having him testify to that. Again, I think the record speaks for itself. I don't want to snuff out Mr. Legg's ability to maintain a clean record that he wants to try to establish or build. Do you see any prejudice in having him testify potentially to that?

MR. JAMES: I don't see any prejudice regarding it. I think either way both of us are going to get out the necessary information from the witness so when he takes the stand whether he's his witness or mine ---

THE COURT: I would agree with you. Mr. Legg, call your next witness.

MR. LEGG: I'd like to call Mr. Spratlin.

THE COURT: You don't need to bring all of that you here, do you?

MR. SPRATLIN: Just in case.

THE COURT: Okay. I was just trying to save you the trip.

MR. SPRATLIN: Just in case.

THE COURT: You never know.

MARTIN SPRATLIN, HAVING BEEN FIRST

DULY SWORN, TESTIFIED AS FOLLOWS:

THE CLERK: Please state your name for the Court.

MR. SPRATLIN: Martin Dale Spratlin.

THE COURT: Could you spell your last name for us?

MR. SPRATLIN: S-P-R-A-T-L-I-N.

THE COURT: Alright. Thank you so very much. Mr. Legg.

DIRECT EXAMINATION OF MR. SPRATLIN BY MR. LEGG:

Q: Mr. Spratlin, you heard us in discussion about the question I'm going to ask you.

A: Yes, sir.

Q: I just want to ask you; can you tell me how tall you are and how much you weigh?

A: Now or at the time?

Q: As you are now.

A: As I am now, well still 6'3. I'm a little bit heavier now, about 248 right now.

Q: Now, do you recall by any change you doing a motion that I just talked about? You came over and you pointed your finger at me?

A: I do not recall specifically, but I do not doubt that I did point at you to some point during the trial. It is something that I have done during several trials.

Q: I appreciate your honesty on that, truly. But my issue with that is, you're a domineering force. I've watched you in action. You hop around and you're very confident and all of

that. My concern was of course anything that convinced the jury of guilt as opposed to innocence. And I'm just drawing attention to the fact that my attorney should have recognized that you were sending that improper signal to the jury as if you had some inside knowledge or whatever of course your personal opinion on that and that weighed heavily on the jury's decision ---

THE COURT: Alright.

BY MR. LEGG:

Q: --- because you did that.

THE COURT: Alright. Mr. Legg, have you elicited what you needed to elicit?

MR. LEGG: Yes, sir.

THE COURT: Alright. Thank you so very much.

Anything from you, Mr. James?

MR. JAMES: Yes, Your Honor. If I may go ahead on cross-examination and get to materials beyond that in the interest of time?

THE COURT: Okay.

CROSS EXAMINATION OF MR. SPRATLIN BY MR. JAMES:

Q: Mr. Spratlin, thank you for being here today.

A: Yes, sir.

Q: And for waiting around all day.

A: Yes, sir.

Q: You were the prosecutor assigned to this case, correct?

A: I was. I was not the original prosecutor assigned to the case, but I took it over in I think February 2013.
Q: And that was as part of your employment with the 15th Circuit Solicitor's Office?
A: Yes, sir.
Q: In the course of your prosecuting this case did you receive from law enforcement, or receive notice from law enforcement that they had obtained certain materials from Mr. Legg's property?
A: Yes. In the discovery provided to me and in my conversations with law enforcement I was aware of stuff that was taken from the property.
Q: Okay. Do you recall generally the nature of the stuff that was taken?
A: I would best -- the way I could characterize it would be voluminous writings on behalf of Mr. Legg. There were also I believe some photographs taken from the residence as well.
Q: Did you ever have an opportunity to review those writings?
A: I did. I know I did. Also, there was another -- I don't believe she had passed the bar yet, but there was someone assisting me on this case who eventually became employed by our office, Monica Wooten. I know that she also went out there and viewed those documents along with Mr. Diggs. I was not present for the meeting with Mr. Diggs, but I have had a

chance to see the large stacks of papers.
Q: So, those voluminous writings were made available to Mr. Diggs?
A: Yes, sir. And I believe, I do not have exact firsthand knowledge of this, but I believe the former prosecutor on the case before me, Candice Lively, had even made a copy of those documents and provided them to Mr. Joye when he was the attorney of record. I don't know if those were then passed to Mr. Diggs, according to her records anyway.
Q: So, it was your understanding that Mr. Diggs had both been provided a physical copy of the voluminous writings and also the opportunity to come and review the originals in your possession.
A: I cannot say for certain if he was provided the voluminous amount, or the documents himself, but he definitely had a chance to come look through them.
Q: Did any of the voluminous writings ever go missing to your knowledge?
A: To my knowledge, no.
Q: Were any of them ever trashed?
A: To my knowledge, no.
Q: Do you recall, understanding that they were voluminous, thematically what the content was of those writings?
A: Honestly, not to a great extent. I never anticipated using them in my case in chief. I do know that there were

writings on ADHD. Based on my understanding as well as I still have several of the photographs in my file that were taken from the bulletin, from the chalkboard excuse me, that was set up in Mr. Legg's house. But I believe they were, and I might be recalling this from the audio tape between Detective Frebowitz and Mr. Legg, but I believe they were mostly in regards to ADHD type research on behalf of Mr. Legg.

Q: Were there any other materials in the State's possession that were not either turned over or made available to Mr. Diggs?

A: No, sir. I would have set up a meeting, and that was in fact the meeting where all of the evidence would have been available for review.

Q: Were you aware of any controversies regarding Detective Frebowitz at the time of trial?

A: At the time of trial I was not aware of any controversies.

Q: Alright. Were you aware of any deficiencies or defective characteristics in the search warrant of Mr. Legg's property?

A: Yes.

Q: And what were they?

A: There was a -- may I get the document to refresh my recollection?

Q: Absolutely. We'll put that big ole box you brought up to the stand to use.

A: Exactly. Now I feel justified. Essentially, there was a part of the search warrant which referred to a grand larceny in the affidavit section of the search warrant. At the time that this all occurred back on June 23rd, or around June of 2011. I think it was June 17th the search warrant was submitted and someone I believe had caught that there was an issue with the affidavit provision of the search warrant back around June 23rd because they then go Judge Mayer to sign a document stating basically that on June 17th, 2011 Detective Neil Frebowitz initially presented an affidavit for a search warrant and orally reviewed the facts of the case with me. The search warrant was signed and served. It was later discovered that the document was determined to be defective. Essentially, there was some debate on whether or not we could still go forward on the search warrant based upon the -- even the affidavit being itself defective but it being supplemented by the oral testimony of Detective Frebowitz. However, I made a judgment decision based upon the large amount of evidence that I felt I had including the statement that Mr. Legg had given to Detective Frebowitz, that I did not need any of the documents for my trial so I chose not to use any of them and agreed not to use any of them. Because obviously the affidavit -- the affidavit to me was so deficient that there basically was not an affidavit at all.

Q: And so the documents seized were not introduced at trial?

A: To my knowledge, no. There was one that I recall being marked for evidence and I can't recall if it was one of the documents or if it was a photograph. But it was actually marked I believe by the defense.

Q: Alright.

A: Because it was marked for ID purposes only, I believe there was some concern by the defense obviously about losing last close and not wanting to introduce any documents. But there was either a photograph or something marked for identification purposes only.

MR. JAMES: I have no further questions for this witness.

THE COURT: Alright. Just briefly. You indicated that, and I got lost just briefly so bear with me, that Mr. Diggs and you had a pretrial meeting whereby these documents that we have discussed throughout this proceeding were made available for his review.

MR. SPRATLIN: It was actually another attorney in our office. At that point I'm not sure if she had passed the bar or not, but Monica Wooten went with Mr. Diggs to review. But to my knowledge everything was review.

THE COURT: Okay.

MR. SPRATLIN: Everything was available.

THE COURT: Okay.

MR. SPRATLIN: And I have had my own opportunity to review it.

THE COURT: And are you aware if Mr. Diggs either took a copy of these voluminous documents or if one was made, was simply made available to him? Do you know if he ever copied them and actually took them into his own possession?

MR. SPRATLIN: I do not know if he copied them. What I do know according to the records from the previous prosecutor on the case, Candice Lively, that a copy of those documents was made for Attorney Joye, Scott Joye. Now, whether or not those copies were since given to Mr. Diggs, I do not know.

THE COURT: Okay.

MR. SPRATLIN: But they were made available for his review.

THE COURT: And what you're indicating to me is that the issues that have been brought to the Court's attention pertaining to this search warrant potentially would be moot because anything that was seized as a part of it was not introduced to the jury at trial?

MR. SPRATLIN: No, sir. I specifically, in fact I believe Judge Cottingham and the way Judge Cottingham always did it, instructed me very clearly not to ---

THE COURT: I understand.

MR. SPRATLIN: --- use any of those documents.

THE COURT: That just clarifies some of the information. Thank you so very much.

Mr. Legg, would you like to briefly ask him any more?

MR. LEGG: Yes, sir.

THE COURT: Remember keep it to what Mr. James has addressed.

MR. LEGG: Okay.

THE COURT: Thank you very much.

REDIRECT EXAMINATION OF MR. SPRATLIN BY MR. LEGG:

Q: Now, Mr. James had asked you about some information regarding transcript of the forensic interview.

A: The transcript of forensic interview would have been provided to Mr. Diggs as well. I don't believe that's what we were referring to though.

Q: Okay. You mentioned several times that you had, that there was a previous solicitor which I'm aware of her. And in the trial transcript you mentioned that the transcript that you received have been redacted and redacted several times. And y'all just lost the original transcript, am I correct?

A: What I believe you're referring to and correct me if I'm wrong on this is there was a transcript of the forensic interview done by my office. That being the interview of the child taken at the Children's Recovery Center.

A: Right.

Q: That transcript was intact completely. I provided a copy to Mr. Diggs in an effort to allow us to agree what portions needed to be redacted under whatever relevant case law because there's certain things in those interviews that the jury -- it

was proper to ask at the time that the interview was conducted in 2010 I believe it was, but would not have been proper in 2014 after State v Kromah for the jury to hear. So, we actually, me and Mr. Diggs, he told me what he wanted redacted and what he felt was inappropriate and I either agreed or we were going to have to take it up to Judge Cottingham, the trial Judge. That's actually why there were two disks entered into evidence in your trial, one of which was the unredacted copy of the forensic interview and the other one was a redacted copy.

Q: Well, you stated on the trial transcript record that those versions were redacted before you actually received a copy.

A: If we're talking about the transcript of the forensic interview, no, sir.

Q: Okay. Well, I'll go back on that, on that record because there was some confusion on that.

A: And I might be confusing what transcript you're referring to, but there was a transcript of the forensic interview which is the only transcript that I'm aware of that was at issue in your trial.

Q: Well, there would only be one and that would be the forensic interview transcript.

A: To my knowledge, and possibly your, an interview of your statement to Detective Frebowitz may have been done as well.

Q: Well, that's a separate issue. I'm aware of that being redacted too. So, now during the trial when this issue came up about missing documents that were removed from the house by the police. You're aware of course that one probable cause mentioned that the detective was in search of writings between the defendant and the alleged victim, correct?
A: That was part of the invalid search warrant, yes.
Q: Okay. Now, the documents that you received that showed up in discovery, can you tell me if those writings, or documents, or papers had anything pertaining to writings between the alleged victim and Mr. Legg?
A: I honestly could not tell you, Mr. Legg. I don't recall the contents of the writings. I believe there was a letter and I believe it was a picture that the victim in this case had written to you. And I believe it was a picture of the letter, I don't recall if that's actually in evidence at Horry County PD or not. I do not recall that.
Q: What you're referring to is called a placard which is a laminated blown up piece of paper ---
A: I don't recall if it was laminated or not. I don't recall ever seeing it in person.
Q: Well, we'll just say that the record reflects that there was none of the documents that were in search of by the detective backed by the search warrant showed up, those particular writings. Okay. Now, you did mention, correct me

if I'm wrong, during the trial that you had possession of the purple journal. The color purple came up. Do you recall that at all?
A: I do not recall that with any specificity. If you show me where in the -- I don't recall if it's in there or not. I don't.
Q: Okay. Now, I just wanted to say that you brought up during the trial that I got all of my expertise of ADD from reading Psychology Today, but I just want to say that I've never read it before. I just knew one day I would see you and say that so excuse me on that. But so, you say that you were not aware of Frebowitz improprieties at all or any suspicion about his misdeeds that he was doing during this time? Or most importantly you stated that to Mr. James, but I want to ask you specifically did Horry County Police Department notice you that Mr. Frebowitz was about to be terminated and the reason they would do that is so you would have a heads up in case he was on any cases. Did that occur?
A: I do, I do not recall that. If that occurred, I do not have any recollection of that. I remember hearing that Detective Frebowitz was let go and I believe it was shortly after your trial. But I do not recall having any prior knowledge of that fact. To the best of my recollection on the stand I do not recall.
Q: Chief Rhodes acknowledged that she did give you

communication on that.
A: Gave me directly?
Q: The solicitor's office, not you personally.
A: If it was given to my supervisor, I don't recall it ever being told to me.
Q: Okay. Alright. Fine. Now, I just want to ask you this, during the trial to me it was a big issue about the search warrant and I'll just tell you why and the reason I want to ask you the question.

THE COURT: Will you just ask him the question please.

MR. LEGG: Okay.

THE COURT: Thank you.

BY MR. LEGG:

Q: Did you, do you feel it would be relevant for an attorney to bring up the statutes governing the search warrants, the return, I forget the number on the statutes but there's two which governs, basically polices the propriety procedures of the search warrants. Are you familiar with those statutes?

MR. JAMES: I must respectfully object. He's calling upon the solicitor to get expert legal testimony and I don't think that's appropriate.

THE COURT: He's also asking him to speculate as to what the attorney was thinking at the time and so I'm going to sustain your objection. You just move on to your next question please.

MR. LEGG: Okay. Alright. Could I rephrase the question?

THE COURT: Sure. Rephrase it and we'll determine whether we have the same objection.

MR. LEGG: Okay.

BY MR. LEGG:

Q: I just want to ask you as the solicitor would it be proper when you're contesting a search warrant to bring up the statute that tells you how you could -- a citizen could validate the authenticity of that search warrant. There's a statute that governs that. As the solicitor would you recognize that?

A: In regards to the case -- sorry, Mr. James.

THE COURT: Go ahead.

MR. JAMES: I was going to say I'm not sure I can discern how that question was really different from the first one.

THE COURT: Mr. Legg, you're asking him to speculate as to what a defense attorney's position should be and you're asking a prosecutor who has the opposite intentions in trial. So, I don't think that question is proper. I don't think he can speculate as to what a defense attorney should or shouldn't be doing in the trial of your case or in the prosecution of your case certainly inside of these proceedings.

MR. LEGG: I understand where you're coming from, but I was just trying to get around that.

THE COURT: I understand. So, I'm going to sustain your objection. Let's move to the next one. Okay.

MR. LEGG: Okay. Alright.

BY MR. LEGG:

Q: Did -- you're aware maybe that Attorney Joye had bothered himself with forcing me to get a mental health evaluation. I think I've seen you with the papers in your hands.

A: I was aware. I think the evaluation actually was ordered while either Ms. Lively or somebody who was filling in for her before I took over her case load. And then it actually came back while I was the prosecutor assigned to your case.

Q: I just want to ask you did you get a chance to read that?

A: Yes, sir.

Q: Okay. So, you saw the documents that were put forward, the writings and so forth?

A: I read the examiner's report.

Q: Alright.

A: I did not read any accompanying documents or anything other than the examiner's report.

Q: Well, I just wanted to say that ---

THE COURT: Hold on. We're not going to make any more statements. I want you to ask a question. And to be honest with you, I think you're getting outside of the -- in your

redirect as to the cross of the witness. I think you're getting kind of outside of that. We're getting back to what Mr. Joye was talking about earlier. That's the first I've heard his name.

MR. LEGG: Okay.

THE COURT: Okay.

MR. LEGG: Alright. Okay. Let's see. I'm doing my best here to keep up. I'm trying to stay on track on issues that Mr. James brought up.

THE COURT: Take your time.

MR. LEGG: I'm digging, and I know it's a valuable asset with all of this experience we have up here. But I think that's about all I can think of Mr. Spratlin.

THE COURT: Alright. Well, we appreciate it. Thank you so very much.

You don't have anything further?

MR. JAMES: Nothing further, Your Honor. May this witness please be excused?

THE COURT: Absolutely. No objection, Mr. Legg?

MR. LEGG: No objection.

THE COURT: Alright. You're free to go. Thank you so very much.

MR. SPRATLIN: Thank you, Your Honor.

THE COURT: Absolutely. Alright.

Mr. Legg, do you have any more witnesses?

MR. LEGG: No, sir. I do not.

THE COURT: Okay. You just wish to close?

MR. LEGG: Yes.

THE COURT: Okay. Nothing further, Mr. James?

MR. JAMES: There will be no further witnesses called by the State, Your Honor.

THE COURT: Okay. Alright. I want to address one last issue that we have. Mr. Legg, you filed a Rule 59(e) motion. And essentially on the motion it says that Mr. Legg comes before the Honorable Court to hear this Rule 59(e) motion for ruling on all issues. Rule 59(e) is when there has been a judgement entered. There has not been a judgment entered in this case, so this filing is just premature. I can certainly make it a part of the record if you just want to go ahead and have the motion just stay with the record, but there will be no ruling on my behalf or my part at this point as it's an early motion, you know, the motion is not ripe yet.

MR. LEGG: Well, let me say, what it comes from is I had worked at a law library for about three years in the prison I was at.

THE COURT: Okay.

MR. LEGG: And the issue had come up that a lot of attorneys failed to file a Rule 59 (e) motion.

THE COURT: Okay.

MR. LEGG: So, a lot of times the Court's would take

advantage of that and they may have 12 issues and so that Judge would just, just rule on three of them out of respect to the time of course. And then that person would file an appeal saying that he filed 12 motions and the Court say well you didn't file a Rule 59 (e) motion.

THE COURT: Well, Mr. Legg, you have since filed your Rule 59(e) motion and it will become a part of the record, so you won't have that issue later on once the actual judgment is issued.

MR. LEGG: Right.

THE COURT: Any concerns?

MR. JAMES: I was just going to add to that, that has -- that was a reoccurring issue has been very firmly brought to the attention to both the Bench and State Attorney General's Office who is very frequently been made responsible to draft orders when there is a denial of relief. So, certainly the Court is aware and certainly the State is aware that any order that comes out of this post-conviction relief hearing will specifically address each and every one of the issues that have been raised. I think that will certainly be done. If the State has any input to it, I have the upmost confidence that the Court will address any and all of the issues to whatever extent it drafts an order.

THE COURT: I will. And just so you know, I will not be ruling on the motion but I'll make it a part of the record.

MR. LEGG: Okay. Thank you.

THE COURT: Alright. Anything further from either side? Alright. Well, thank y'all so very much. I appreciate it. I am going to take this under advisement, and I will issue my ruling soon.

MR. LEGG: Do we make a closing on the -- make any kind of closing, a statement for the Court for what we're trying to accomplish here today. Is that entertainable or is it necessary?

THE COURT: Yeah. I don't have a problem with you making a brief closing. I don't have a problem with that and then I'll certainly give Mr. James the opportunity to make a brief closing as well. Just keep an -- obviously I've been here throughout the entire proceedings and I am fully aware of what was elicited and what's gone on in here. I've payed close attention, so just certainly for the record surmise what you'd like for the Court to take into consideration when reviewing your application.

MR. LEGG: Okay.

THE COURT: Alright.

MR. JAMES: If I may before he begins?

THE COURT: Sure.

MR. JAMES: Could I simply suggest perhaps a time limitation on arguments since it is late in the afternoon.

THE COURT: Sure. Not a problem. I'll give both sides 5

minutes.

MR. LEGG: It won't be long, Your Honor.

THE COURT: Okay. Thank you.

MR. LEGG: I just wanted to say that I'm here basically under duress. I think you've heard some of the testimony from Joye and from Mr. Diggs that I've had a problem by getting lawyers to be responsive basically to what I felt was important issues to argue. And this, this case has come a long way from -- there was an event that occurred here in Horry County with local corruption. I'm sure you're familiar with Detective Large and Frebowitz and all of that. Well, I have had information that I tried to get attorneys to address. You've heard some of that and the court trial transcript addresses some of that at the beginning. And the reason I'm here pro se is not out of my pride, it's just basically out of necessity. So, I've had several lawyers that I've had has been reluctant basically because of the environment they're in for whatever reason they justify. Mr. James knows that I wrote him a letter from the last attorney, and I had filed giving him this amendment. And he made a specific statement to me that he refused to file those because he was concerned about the consequences to him. Now, that was specific language and he ended up getting dismissed from the case as a result of that. So, I'm just saying I'm basically handicapped as a layman here trying to represent myself. It may not be

perfect, but I don't have any alternative. I was released from prison. I had sexual offender registry. I had to go to Ohio in order to get jobs. So, it has been difficult to raise money to hire an attorney. And usually, you know, even the State will tell you to go out of the jurisdiction, Charleston, some place like that. Well, that just ups the cost for an attorney. So, it's just been ridiculous. So, it's out of despair that I'm here representing myself. And I hope that I was able to establish to the Court that my attorney, Mr. Diggs has been duplicitous in the things that he is sayings. He's not clear. He's been very deceptive. And I just hope that that weighs heavily upon your decision to see that all I'm asking for is just a fair trial. I'm asking for the opportunity to have this trial to clear my name, to make a good honest defense out of the case and be done with it. You know, just let justice be served that way. And the whole trial I basically scorned Mr. James and asked him a couple of times, I said look this thing keeps snow balling and it gets worse and worse and it gets harder for me to come out from under this. They keep fighting the case. It's obvious, you know, that I didn't get a fair trial and this thing just keeps adding and adding and adding. And when it comes to someone like me trying to dig out from under that pile it's almost impossible, you know, to make my case.

And the ineffective assistance of counsel according to Strickland versus Washington under normal reasonable standards, I've researched the case. And because Mr. Diggs was disbarred because of this personality issue that he had, disfunction or whatever you want to call it during that time. He comes across as stating he made a credible defense on the record, but it's just absolutely not true. When you digest it to the case, you can see he's making statements and lacking defense and he's telling me that, you know, he called all of the witnesses when I gave him a list of witnesses that were never called. And it's absurd to think that somebody would be in my situation and this thing happens to have absolutely no witnesses, none whatsoever. Not even neighbors, not even a schoolteacher or someone who could come forward and shed light on my story. So, I'm just asking that you take all of that into consideration. I know I haven't perfected this. I've written at length trying to express myself the best way that I can. And I think, I just hope you rely on the incompetence that Mr. Diggs showed today. His reluctance to come forward on issues that he really needed to on something that he did.

THE COURT: Mr. Legg, I think you did a good job today representing yourself. So, I commend you on that. I appreciate you understanding my position on, you know, certain issue that come along and along and I appreciate your attentiveness to everything. And I will certainly take

everything that you have indicated into consideration.

MR. LEGG: I appreciate that, Your Honor.

THE COURT: Yes, sir. Thank you.

MR. JAMES: I'll open with a similar accommodation to Mr. Legg that he has supported himself civility throughout the proceedings here today. Part of the challenge of being a pro se litigant is you raise a innumerable number of allegations, and this is coming across as a pro se litigant that I've had pleasure of attending court with, is that they raise a large number of allegations. Some of which to the lay person seem important but they simply just do not have any merit or weight in a court of law. And then sometimes whether knowingly or intentionally or by accident come across allegations that even a skilled attorney would immediately seize upon.

The overwhelming majority of the allegations that Mr. Legg has raised are of just facially no merit and no impact of the outcome of his trial. Respectfully, nobody was aware of the controversies regarding Detective Frebowitz at the time of trial. And certainly, whatever his errors in conducting himself with honor and dignity in the course of his employment did not rise to the level of affecting this trial with any degree of unfairness. Certainly, the search warrant was heavily defective, and the solicitor recognized that and didn't use any of the materials pulled from that search warrant. Mr. Legg advances a rather novel theory that

ultimately the knowledge that Detective Frebowitz had and utilized in the course of his interrogation of Mr. Legg was in and of itself fruit of a poisonous tree. The State would simply submit that that's too attenuated to make any kind of objection upon in this or any other Court or any other jurisdiction of which the State of South Carolina is presently aware.

Your Honor, Mr. Legg (SIC) accurately testified that this case came down to the credibility of the child witness and he zeroed all of his efforts in on trying to delicately balance the art of challenging the credibility of that child witness without looking like a bully. It is the State's position that Mr. Diggs, along with the other prior attorneys who had represented Mr. Legg, gave competent, thorough representation to him over the course of the trial. The State's position is to the extent that they made any minor errors or hiccups throughout the course of the trial, that it did not affect the ultimate outcome. By those arguments the State's position is that Mr. Legg has failed to show a deficiency of his counsels. He has failed to show the (inaudible) from their performance and accordingly under Strickland versus Washington the application for relief should be denied.

Additionally, Your Honor, there has been sort of the hint but maybe not the explicit declaration of a Brady violation. That is why we put the solicitor up on the stand to testify

that everything was turned over to Mr. Legg's attorneys and since there has been no showing of any exculpatory information that wasn't turned over Mr. Legg cannot meet his burden today. So, on so many of the allegations that we've heard today there was simply no evidence actually introduced to show what, if anything, would have been generated given further investigation or calling on certain witnesses or what have you, as required in a post-conviction relief action.

So, for all of those reasons, Your Honor, I respectfully request that the Application for Post-Conviction Relief be denied.

THE COURT: Alright. And similarly, I had some questions as to those Brady issues as well to try to clarify the record. I do want to thank both of you. I tend to agree, y'all's civility is something to be commended. Mr. Legg, you as well. Not all lawyers can always get together and be as civil as y'all have. Apparently, y'all have actually had some conversations prior to this hearing and it sounds like y'all have both been able to work together to get to where we are today. You both have opposing sides, but I appreciate your civility in this hearing. Alright.

I'll rule as soon as I can. Okay. Thank y'all so very much. Have a wonderful day.

MR. LEGG: Thank you.

MR. JAMES: Thank you, Your Honor.

(COURT IS ADJOURNED)