

IN THE SUPREME COURT OF South Carolina

Meiba Nealy - 279950

vs.

The State of South Carolina

2005-CP-26 **RECEIVED**

Issues Raise for <sup>0017203</sup> Review;

6<sup>th</sup> Amendment <sup>SC Supreme Court</sup> U.S.C.A.

14<sup>th</sup> Amendment U.S.C.A.

The (Appellant) files this Notice of Intent for a belated Appeal based on after-discovered Evidence. 6<sup>th</sup> Amendment U.S.C.A. and 14<sup>th</sup> Amendment U.S.C.A.

Whether Defense Counsel was deficient in his Representation and presentation of the Case. Ineffective Assistance of Counsel, failure to charge the Jury on NOUE Pros Defense, failure to charge Entrapment Defense, Counsel's represented Co-defendants all from Public Defender's Division. One Co-defendant was granted Transitional Immunity for open court testimony, to testify against the (Appellant).

Whether the (Appellant) was convicted on Hearsay Evidence under F.R.C.P. Rule 801 (9) (1) by Co-defendants absence any Authentic Scientific, DNA, fingerprinting evidence being presented at trial, for inspection by the jury. No Discovery Evidence to connect the (Appellant) with the crime,

Only hearsay Evidence.

The (Appellant) was denied Due Process of Law, to a fair Jury trial. Trial of Co-defendant was joint with the (Appellant). Co-defendant was present at his sentence, in conjunction with his presence at the (Appellants) trial. In violation of Due Process of Law. The issue is that Co-defendant was granted Transitional Immunity To implicate the (Appellant) although Presence at crime scene does not constitute guilt.

Respectfully,  
Mella Reese, 279950

Sworn before me on October 1, 2013

Kathy R. Barnes

My Commission Expires August 12, 2015

# In The Supreme Court of South Carolina

Melba Nealy - 279950  
vs.

2005-CP-26-6247

Statement of  
Fact

The State of South Carolina

- 1.) The Lower Court did not have subject matter Jurisdiction to impose sentence pursuant to Article III 817 (ACT. 83) A Judge cannot impose a sentence under a statute that is unconstitutional. Statute is VOID and not Law, Hence the Judge is without Jurisdiction to impose it. See Ex PART, Hollman, 60 S.E. 19 (1908) The (Petitioner) was sentenced to 55 years over the amount of time for Lynch-mob lynching.
  - 2.) Entrapment Defense, / Nolle Pross. Defense. The (Petitioner) was indicted on Heresy of one co-defendant who was given a plea deal to implicate her as a member of the mob lynching because she's the (deceased) mother-in-law and was present at the crime scene. Consequently the (2) other co-defendants, entering a guilty plea, freeing her from the case.
  - 3.) Ineffective Assistance of Counsel, who failed to move to withdraw from the case, because the Public Defenders Division had joint representation of all the Defendants - which prejudiced the (Petitioner's) defense. Defense Attorney failed to charge the Jury on the issues of Entrapment Defense, Nolle Pross Defense and failed to produce any scientific proof to show that the (Petitioner) committed any act to cause the Death of Deceased.
- Therefore, the (Petitioner) was convicted of Heresy

In The SUPREME Court of South Carolina

APPEAL From: Horry County

Residing Judge: Steven H. John

General Sessions Court

Indictment NO: 2005-CP-26-6247

Melba Nealy-#279950

Appellant

vs.

The State of South Carolina

Respondent

Certificate of Service

I Declare under Penalty of Perjury that all Parties has been served a copy of The Notice of Intent To Appeal.

Respectfully,  
Melba Nealy  
279950

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Attorney General  
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Sworn before me on 10/1/2013

Kathy R. Barnes

My Commission Expires August 12, 2015

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In The Supreme Court of South Carolina

Appeal from Horry County  
Steven H. John - Residing Judge  
Indictment No: 2005-CP-26-6247

APPELLANTS  
BRIEF ON APPEAL

Melba Nealy - \* 279950 Appellant

**RECEIVED**

vs.  
The State of South Carolina Respondent

OCT 17 2013

Procedural History:

S.C. SUPREME COURT

Appellant was indicted by a grand jury on 2 Counts of Murder, Criminal Conspiracy, and Lynching. Appellant ~~went~~ to trial by jury on 11-14-2001, on November 16, 2001 the Appellant was convicted on all charges. Appellant received a 35 year Sentence. The Appellant filed a PCR 9-18-2003, PCR was heard on 9-26-2003. Appellant was granted a Direct Appeal on September 26, 2003, Appeal was denied 2007. Appellant filed a PCR on 12-9-2005, it was dismissed 12-28-2006 by Administrative Judge Paula H. Thomas. New Appeal on July 28, 2013.

This Appeal is based after Discovered Evidence, this Appeal is as follows:

Respectfully,  
Melba Nealy 279950

Sworn before me on 10/1/13  
Kurt R. Barnes

My Commission Expires August 12, 2015

evidence under F.R.C.P. 801 (g)(1).

- The (Petitioner) was prejudice by counsels Ineffective Assistance. Counsel failed to inform the jury that all co-defendants were represented by the state.
- Other co-defendants plead guilty, One to 30 years, and one to life, both siblings were represented by the state.
- Counsel failed to Charge the jury on Nolle Pros Defense.
- Counsel failed to Charge the jury on Entrapment Defense.
- Counsel failed to Charge the Jury on Here say Evidence.
- Counsel failed to Charge the jury subject matter Jurisdiction to imposed sentence in lieu of Trial Judge's Sentencing in Excess in violation of article III:17. (ACT. 83)
- Counsel failed to Charge the jury on a motion not with standing the verdict of not guilty of mob lynching Death.

Respectfully  
Mella Weese  
279950

Sworn before me on October 1, 2013

Harry R. Barnes

My Commission Expires August 12, 2015

# In The Supreme Court of South Carolina

Melba Nealy - 279950  
vs.

Appeal No:

2005-CP-26-6247

The State of South Carolina

## Table of Authorities

6<sup>th</sup> Amendment U.S.C.A.: False Representation

14<sup>th</sup> Amendment U.S.C.A.: Denied Due Process of Law

Article III 817 (ACT. 83) - Excessive Sentencing.

Quoting Case Laws.

- 1.) Gibson-v-state, 334, S.C. 515, S.E. 2d. 320
  - 2.) Hollman-v-state, 60 S.E. 19 (1908)
  - 3.) Strickland-v-washington, 466. U.S. (1983)
  - 4.) Fraiser-v-state, 306. S.C. 158, 410, S.E. 2d, 572
  - 5.) Roseboro-v-state, 317. S.C. 242, 454, S.E. 2d. 312
- 1.) In Gibson -v-state, prosecution concealed evidence of eyewitness account, In this case at bar, prosecution concealed co-defendants plea agreement in exchange for a lighter sentence, for testifying against the (Petitioner) in this case at bar.
- 2.) In Hollman it was held that Trial Judge sentence was in violation of Ex-part, void of the statute un constitutional.
- 3.) In Strickland -v- Washington, Counsel was found to be Ineffective
- 4.) In Fraiser -v- state, DNA was admitted, yet in the (Petitioner's) case no DNA Expert was called for her defense.
- 5.) In Roseboro -v- state, counsel failed to charge the Jury, which was the same in the (Petitioner's) case at bar.

Respectfully,  
Melba Nealy 279950

Sworn before me on October 1, 2013

*Ruth R. Barnes*

My Commission Expires August 12, 2015

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