

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appellate Case No. 2024-000643

The State, Respondent,

v.

Russell Lewis Walker, Appellant.

Appeal from the Edgefield County

Court of General Sessions

The Honorable Debra R. McCaslin, Presiding

APPELLANT'S MOTION TO DISMISS CHARGES AND VACATE JUDGMENT

Counsel for Appellant Russell Lewis Walker, respectfully moves this Honorable Court to vacate the judgment of conviction entered against him on April 10, 2024, and to dismiss with prejudice all underlying criminal charges. This motion is based on two fundamental and incurable violations of law and the Constitution: (1) the trial court's lack of subject-matter jurisdiction due to the State's failure to provide a preliminary hearing, a non-waivable procedural right; and (2) the unconstitutional coercion of Appellant's guilty plea, which was the direct product of outrageous and unlawful misconduct by the presiding judge and the prosecutor. In support of this motion, Appellant states the following:

INTRODUCTION

This case presents a catastrophic failure of the judicial process. The proceedings below were not merely flawed by ordinary error; they were corrupted from their inception by the State's denial of a fundamental procedural safeguard and were ultimately consummated by an act of judicial tyranny. A citizen, Appellant herein, was unlawfully arrested and imprisoned at the personal direction of the presiding judge, who acted without legal authority and in concert with the prosecutor. This unconstitutional seizure was calculated to, and did, break Appellant's will to proceed to a jury trial. The resulting guilty plea is a legal nullity, obtained through duress, and it cannot be allowed to stand. Because the State's misconduct has irredeemably tainted these proceedings and deprived Appellant of his right to a trial by a neutral arbiter, the only just remedy is the vacating of his conviction and the dismissal of all charges with prejudice.

STATEMENT OF FACTS

1. On July 21, 2021, at his initial bond hearing for the underlying charges in this matter, Appellant served a timely and proper written demand for a preliminary hearing. The State never provided this hearing.
2. For nearly three years, the case proceeded despite this fatal jurisdictional defect. On April 9, 2024, Appellant appeared with counsel for a pre-trial hearing before the Honorable Debra R. McCaslin in McCormick County. The hearing concluded, and Judge McCaslin took the pending motions under advisement. Appellant and his counsel then departed the courthouse.
3. After the hearing had officially concluded and Appellant had left, Assistant Solicitor Douglas Wayne Fender II initiated a private, improper *ex parte* communication with Judge McCaslin. During this communication, Mr. Fender made unsworn allegations that Appellant had violated his bond conditions.

4. Based solely on this improper communication, and in the clear absence of all jurisdiction, Judge McCaslin summarily ordered law enforcement to arrest and incarcerate Appellant. This order was issued without a written motion from the State, without notice to Appellant or his counsel, and without conducting the mandatory hearing required by South Carolina law for bond revocation.
5. Acting on this facially invalid judicial directive, a McCormick County Sheriff's Deputy arrested Appellant without a warrant and transported him to the McCormick County Detention Center, where he was strip-searched and falsely imprisoned.
6. On the morning of April 10, 2024, Appellant was taken from his jail cell and brought back to the McCormick County Courthouse in prison garb. He was presented to Judge McCaslin, the very judicial officer who had orchestrated his unlawful imprisonment the previous day. Under the extreme duress of this unlawful incarceration, and being advised by counsel that he had no other path to freedom, Appellant was coerced into waiving his right to a jury trial and entering a guilty plea.

ARGUMENT

I. The Trial Court Lacked Subject-Matter Jurisdiction, Voiding All Subsequent Proceedings.

It is black-letter law in South Carolina that a defendant's timely request for a preliminary hearing is a jurisdictional prerequisite to the circuit court's authority to hear the case. *See State v. Sossamon*, 298 S.C. 72, 378 S.E.2d 259 (1989). The failure to grant a preliminary hearing upon a timely demand is not a mere technicality; it is a fatal defect that deprives the court of subject-matter jurisdiction. *Id.*

Here, it is undisputed that Appellant made a proper, written demand for a preliminary hearing on July 21, 2021. It is also undisputed that the State wholly failed to provide one. As a result, the circuit court never acquired subject-matter jurisdiction over this case. Every action taken

by the court after that point—every hearing, every order, and most critically, the acceptance of Appellant’s guilty plea on April 10, 2024—was a legal nullity. The judgment of conviction is void *ab initio* and must be vacated, and the charges must be dismissed.

II. The Guilty Plea is Constitutionally Void as it was the Product of Unconstitutional Coercion and Duress Orchestrated by the Court and the Prosecutor.

A guilty plea, to be valid under the Due Process Clause of the Fourteenth Amendment, must be knowing, intelligent, and, above all, voluntary. *Boykin v. Alabama*, 395 U.S. 238 (1969).

A plea induced by threats, intimidation, or misrepresentation is involuntary and unconstitutional. A plea entered under the duress of being unlawfully imprisoned by the presiding judge herself represents a perversion of this standard.

The plea in this case was the direct and intended result of the coordinated, unconstitutional misconduct of Judge McCaslin and Assistant Solicitor Fender. Judge McCaslin’s order to arrest Appellant was not a judicial act; it was an act of personal power taken in the complete absence of all jurisdiction. A judge’s authority to revoke a defendant’s bond is not absolute; it must be properly invoked. South Carolina law mandates the specific procedure required:

“Upon a verified petition by the solicitor... the court may issue a warrant directing that the defendant be arrested and brought before the court.” S.C. Code Ann. § 17-15-55. The statute requires a verified petition and a subsequent hearing.

Here, there was no petition, no verification, no warrant, and no hearing. There was only an improper *ex parte* conversation that prompted a raw order for seizure. This was not an act in “excess of jurisdiction”; it was an act taken in the “clear absence of all jurisdiction,” as the court’s power to act under § 17-15-55 was never invoked. By abandoning the mandatory statutory process, Judge McCaslin ceased to act as a judge and instead acted as a law enforcement official, personally directing an unlawful arrest.

This unconstitutional seizure created an inherently coercive environment that rendered a voluntary plea impossible. Forcing Appellant to appear for his final hearing in prison garb, after a night in jail at the direction of the presiding judge, sent an unmistakable message: the arbiter was not neutral, the rule of law was irrelevant, and the only path to freedom was submission. A plea extracted under these circumstances is a product of duress, not of a free and voluntary waiver of rights. It is constitutionally void and cannot stand.

**III. Dismissal with Prejudice is the Only Appropriate Remedy for the State's
Outrageous Misconduct.**

The combination of the State's failure to afford a preliminary hearing and the subsequent conspiracy between the prosecutor and the judge to coerce a guilty plea constitutes outrageous government conduct that has fundamentally corrupted the administration of justice in this case. The integrity of the judicial process has been compromised beyond repair. A new trial cannot remedy this level of misconduct. The Appellant was deprived of his right to a jury trial not by his own choice, but by the unconstitutional machinations of the very state actors sworn to uphold the law. To remand this case for a trial would be to reward the State for its transgression, giving it a second chance to convict a defendant whose will it successfully broke through unlawful means.

The only remedy sufficient to vindicate Appellant's rights and to protect the integrity of the judiciary is to dismiss the charges with prejudice. This Court must send an unequivocal message that our system of justice will not tolerate a process where a citizen's liberty can be stripped away by a judge's lawless whim.

CONCLUSION

For the foregoing reasons, Appellant Russell Lewis Walker respectfully prays that this Court enter an order:

1. Vacating the judgment of conviction entered on April 10, 2024; and

2. Dismissing with prejudice all underlying criminal charges in this matter.

Respectfully submitted,

Wanda Carter, SCCID
Counsel for Russell Walker
1330 Lady Street Suite 401
Columbia, SC 29201.
Date: August __, 2025

Phone # _____

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served a true and correct copy of the foregoing Motion to Dismiss Charges and Vacate Judgment upon the Office of the Attorney General, counsel for the Respondent, by depositing it in the United States Mail, postage prepaid, addressed as follows:

South Carolina Attorney General's Office Rembert C. Dennis Building 1000 Assembly Street
Columbia, SC 29201

Wanda Carter

Date: August ____, 2025

RECEIVED

Aug 22 2025

SC Court of Appeals

Russell Lewis Walker
714 Spearhead Court
North Augusta, SC 29860
(803) 293-0558
harlev74rlw@yahoo.com

Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

VIA U.S. MAIL

Certified Mail with Return Receipt tracking# 7020-2450-0001-3101-7678

August 18, 2025

RE: Appellate Case No. 2024-000643; *State v. Russell Lewis Walker* Demand for Ruling on Pending Motion to be Relieved as Counsel

Dear Clerk of Court:

I am writing as the Appellant in the above-referenced matter to address a critical and unconscionable delay that has completely paralyzed my appeal and is depriving me of my constitutional right of access to the courts.

The procedural history is straightforward. The South Carolina Commission on Indigent Defense appointed Attorney Wanda Carter as my appellate counsel. In or around June of 2024, Ms. Carter filed a Motion to be Relieved as Counsel in this matter. As of the date of this letter, approximately fourteen (14) months have passed, and this Court has yet to issue a ruling on her motion.

This extraordinary inaction has placed me in an untenable legal predicament. I am being denied all access to this Court. When I have attempted to file substantive motions on my own behalf, they have been rejected under the well-established rule prohibiting hybrid representation. Simultaneously, my counsel of record, Ms. Carter, has been non-

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communicative and has taken no action whatsoever to advance my appeal since filing her motion to withdraw. I am, in effect, trapped—barred from representing myself, yet left without an attorney who will act on my behalf.

This indefinite procedural limbo is not a mere inconvenience; it is a flagrant violation of my constitutional right to due process of law and meaningful access to the courts. My appeal cannot be held in a state of suspended animation indefinitely while a simple procedural motion goes unresolved.

Accordingly, I respectfully demand that the Clerk's Office take immediate action to resolve this matter. I request that you either:

1. Immediately present Attorney Carter's pending Motion to be Relieved as Counsel to the Court for a ruling; or, in the alternative,
2. Provide me with a clear directive from the Court as to how I may proceed to have my substantive motions heard while Ms. Carter's status remains unresolved.

Please be advised that a failure to promptly resolve this procedural paralysis will leave me with no alternative but to seek a writ of mandamus from the South Carolina Supreme Court to compel action on this matter.

Respectfully submitted,



Russell Lewis Walker, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served a true and correct copy of the foregoing letter upon counsel of record by depositing it in the United States Mail, postage prepaid, addressed as follows:

Wanda Carter S.C. Commission on Indigent Defense, Appellate Division 1330 Lady Street,
Suite 401 Columbia, SC 29201



Russell Lewis Walker

Date: August 18, 2025



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1345

Wanda H. Carter, Interim Chief Appellate Defender

August 22, 2025

The Honorable Jenny Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: The State v. Russell L. Walker
Appellate Case No. 2024-000643

Dear Ms. Kitchings:

Attached please find a copy of a Motion to Dismiss Charges and Vacate Judgement that I am filing on behalf of Mr. Walker.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Wanda H. Carter
Interim Chief Appellate Defender

WHC/sl

cc: Mark R. Farthing, Esquire