

Johnnie M. Brisbon, #216581
Murray Unit A-wing Room 266
Broad River Correctional Institution
4460 Broad River Road
Columbia, S.C. 29210

December 04, 2013

Re: Brisbon, Case No. 2013-002427

South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, S.C. 29211

Dear Clerk Kitchings:

Pleas find enclosed within the original Brisbon, case
no. 2013-002427, petition, to be filed in your office.

Thanks you much, Clerk Kitchings.

The Proof of Service to Brisbon, 2009-CP-32-1603.

Sincerely,

s/ Johnnie M. Brisbon
Johnnie M. Brisbon, #216581.

cc: mswpjaz

ymb.

RECEIVED

DEC 09 2013

SC Court of Appeals

THE SUPREME COURT OF SOUTH CAROLINA

Johnnie M. Brisbon, #216581, v.
Petitioner,

State of South Carolina,
Respondent.

State writ of Habeas Corpus, Case No. 2009-CP-32-1603.

Case No. 2013-002427

The petitioner had attempted to seek justice within the lower state courts have been futile and would still be so, further - the petitioner's Constitutional deprivations rest solely on state laws that interworn with and by Federal laws. IT should be quite obvious that the state courts have denied the petitioner the procedural due process pursuant to the Fifth, Sixth, and Fourteenth amendments.

The petitioner's exhaustion of state's remedies requires that the petitioner fairly present Federal and state claims to the state courts in order to give the state the opportunity to pass upon and/or correct, the alleged violations of its prisoner's Federal and state rights... Causes, those Constitutional deprivations clearly and concededly result in the imposition of an unauthorized sentence. IT would also follow that the petitioner is a victim of a miscarriage of justice entitling him to an immediate and unconditional release. The Court has held that in cases in which the cause and prejudice standard is inadequate to protect against fundamental miscarriage of justice. The cause and prejudice requirement must be yield to the imperative of correcting a fundamentally unjust incarceration. The habeas corpus is the most fundamental instrument for safeguarding an individual's Constitutional "Right to Liberty". The petitioner did comply within the conditions precedent for filing a state writ of Habeas Corpus, The petitioner is again asking the honorable court to relax the Rules 60 under Rule 208(b)(6) SCACR. I am a lay person in the state of South Carolina laws and I am not a lawyer, either, and again the petitioner does not asks the honorable court to inquire into the criminal acts for which the petitioner has been convicted for, but into the "Rights to Liberty" notwithstanding the acts. Yes - the petitioner's Johnnie M. Brisbon, #216581, is "in custody" in violations of the Constitution, Treaties, and laws of the United States...

The Honorable Court has explained, when considering whether the state has provided all the process that is due in depriving an individual of life, liberty, or property, the Court must look at both pre and post-deprivation process...

THE RIGHTS TO LIBERTY SUPPORTING

The petitioner was accused of murdering his girlfriend, when they went out on a date one night and he did not bring her back home on this night, however, she was missing for about two or three days before her daughter called or reported it to the Richland County police department and then reported, her mother being missing so the police department started looking and/or investigating a search for her mother. So just about a month later, some hunters found her body in Lee County and the Lee County Sheriff department arrested the petitioner for her death. Lee County Sheriff department did all their investigations on this case for about several months and the Lee County Sheriff found nothings to show the petitioner had anything to do with the killing or the murder of her. So the Lee County Judge dismissed the charges against the petitioner and the judge actually tried to let the petitioner goes, but the Richland County Sheriff and/or police department re-arrested the petitioner and done the same investigations, but the Richland County and police department claims the department would find enough evidence to get a conviction. So the state's solicitor used the topic and/or theme: He was the last person who saw her alive this night, but if you read these facts in the Autopsy and DNA expert's reports - the report will show someone else was with her this night, too. The Richland County Sheriff was trying to find out where was she killed at, so the Sheriff went to the petitioner's job site, work areas, see, Tr. p. 211-213, lines, 12-25; 1-13; 1-2. The lake house or shed is, where the tools are kept, was investigated and searched for large amount of blood and the DNA expert or the autopsy did not find any, see, Tr. p. 213-214, lines, 5; 20-24; 1-3; The Sheriff department and state Solicitor were using an axe as the actual weapon the Sheriff found in the lake house an shed, see, Tr. p. 178-179, lines, 7-8; 17-18; 21-25; 1-25. p. 180-181, lines, 17-21; 13-25; 1-4...

The autopsy stated the wound was about an inch or an inch and a half deep in the neck; the depth was slightly less than the actual width of the blade at that location and in the autopsy report he used the knife as the actual weapon, the Rights to Liberty...

The DNA expert tested several areas in and on the lake house or shed's floors and the floors were all negative for large amount of blood, see, Tr. p. 212, lines 1-2, the DNA expert stated there was no blood available from the victim, the DNA expert did not have a blood sample from the victim to compare, but the state's solicitor told the jury they did, the Rights to Liberty... So the lake house or shed was not the place the victim was killed. The autopsy give their report - he could not give an actual time or/and precisely establish the time of death. It could had been the night the petitioner left her at the restaurant or/and it could had been the next or another night, the autopsy does not know, the Rights to Liberty, see, Tr. p. 176-177, lines, 15-25; 1-13.

"No way possible for me to precisely establish the time of death..."

The autopsy reported the body was not transported by or with anything of the petitioner, his truck, was searched for large amount of blood within or/and with - out the truck and the DNA expert found none, no transporting the body from Richland County to Lee County was by or with the petitioner's truck, either, the Right to Liberty... See, Tr. p. 175-176, lines, 8-25; 1-14; p. 173, lines, 21-22; p. 170, lines, 15-17; p. 171, lines, 9-15. "There are about ten pints of blood in the human body..."

The autopsy stated in his report she was not wearing any clothes - on when she was being killed, see, Tr. p. 168-169, lines, 1-8, and her daughter said at the trial her mother was not wearing the same clothes she was wearing the night she left with petitioner, either, see, Tr. p. 74-76, lines, 14-25; 10-17, even the daughter was confused with whether mother was wearing the night she went out on this date, too; the Rights to Liberty... Causes, where the wounds were the clothes was not torn, hemd, or had holes in the clothes... the Rights to Liberty...

WRONGFUL CONVICTION

All of the state DNA expert and the autopsy reports and evidence shows the petitioner an innocent person of the murder charge. The autopsy admitted he could not give the time of death. The DNA expert and autopsy admitted the lake house or shed was not the place of the murder or killing, and the murder or the killing took place while or was done with her not wearing any clothes. The autopsy and DNA expert admitted the petitioner's truck did not transport the victim body to the Lee County areas.

The autopsy admitted most wounds as these are caused by a knife and he concluded a knife, and the axe, there are several other people who worked at the lake house or shed, who also used this axe, too. There was one witness admitted they saw the petitioner and his girlfriend were headed toward the restaurant this night around an about 9:45 p.m. or 10:45 p.m. and the petitioner had to go to work the next day and she had to baby-sit the next day, too - and the petitioner gave her twenty-dollars just in case whom she saw was not whom she thought they were she would have enough money to get back home.

Catoe, 359 S.C. 120, 597 S.E.2d 782 (2004)

Johns, - S.C. -, 420 S.E.2d 856 (S.C. App. 1992).

South Carolina Code Ann. § 17-17-10 et. seq. 1976.

any Judge or South Carolina Court may hear such petition.

South Carolina code Ann. § 17-17-30 and 40,

Wdom, 337 S.C. 256, 523 S.E.2d 753 (1999).

The right to a state Habeas Corpus is expressly guaranteed and that right cannot be suspended. South Carolina Const. Art. 1 & 18.

Hunder, 376 S.C. 105, 447 S.E.2 203 (1994).

sr. Jannie M. Brisbon
Jannie M. Brisbon #216581.

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON,

Johnnie M. Brisbon # 216581,

Petitioner,

v.

STATE OF SOUTH CAROLINA,
Respondent

IN THE COURT OF COMMON PLEAS

2009-CP-32-1603

PROOF OF SERVICE BY MAIL

I AM AN INMATE AND THE PETITIONER IN THE ABOVE-CAPTIONED ACTION.

A REGULAR COMMUNICATION BY MAIL EXISTS THROUGHOUT THE STATE OF SOUTH CAROLINA AND THIS IS A PROPER CIRCUMSTANCE OF SERVICE BY MAIL.

I HAS THIS DAY SERVED A TRUE COPY OF THE NOTICE OF INTENT TO APPEAL, 2009-CP-32-1603, ON THE FOLLOWING PARTY BY DEPOSITING THE SAME IN THE UNITED STATES MAIL SYSTEM AT THE BROAD RIVER CORRECTIONAL INSTITUTION

POSTAGE PREPAID:

TO: THE ATTORNEY GENERAL OFFICE

ASSISTANT ATTORNEY GENERAL

MARY S. WILLIAMS,

POST OFFICE BOX 11549

Columbia, S.C. 29211

SINCERELY,

J. JOHNIE M. BRISBON
Johnnie M. Brisbon # 216581.

SWORN AFFIRMED AND SUBSCRIBED BEFORE ME

THIS 13 DAY OF NOVEMBER, 2013;


Notary Public of South Carolina

My Commission Expires:

My Commission Expires April 4, 2018

THE SUPREME COURT OF SOUTH CAROLINA

Johanniem, Brisbon, 216581,
Petitioner,

v. State of South Carolina,
Respondent,

2009 - CP - 32 - 1603

2013 - 002427

Proof of Service by mail

I am AN SWORNEE AND PETITIONER IN THE ABOVE - CAPTIONED ACTION. A REGULAR COMMUNICATION BY MAIL EXISTS THROUGHOUT THE STATE OF SOUTH CAROLINA AND THIS IS A PROPER CIRCUMSTANCE OF SERVICE BY MAIL. I HAS THIS DAY SERVED A TRUE COPY OF THIS PETITION TO 2013-002427, ON THE FOLLOWING PARTY BY DEPOSITING THE SAME IN THE UNITED STATES MAIL SYSTEM AT THE BROAD RIVER CORRECTIONAL INSTITUTION POSTAGE PREPAID:

TO: THE ATTORNEY GENERAL OFFICE
ASSISTANT ATTORNEY GENERAL
MARY S. WILLIAMS
Post Office Box 11549
Columbia, S.C. 29211

SINCERELY,

Johanniem Brisbon
Johanniem Brisbon, 216581.

SWORN AFFIRMED AND SUBSCRIBED BEFORE ME

THIS A DAY OF DECEMBER 2013.

Eugene K...
Notary Public of South Carolina

my Commission Expires: APR. 24, 2016

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DEC 09 2013

SC Court of Appeals