

STATE OF SOUTH CAROLINA
COUNTY OF Charleston

Jerome Curry

IN THE SUPREME COURT
BRIEF IN SUPPORT OF NOTICE
OF APPEAL OF COURT OF COMMON
PLEA Judgment Entered BY PCR
Judge Marvin Dukes

2022-CP-10-2017

RECEIVED

JUL 02 2026

S.C. SUPREME COURT

Brief In support of notice of Appeal

VS.

STATE OF SOUTH CAROLINA

STATEMENT OF FACTS

Now comes the Applicant with this above entitled Brief in support of notice of Appeal For PCR Judgment By Honorable Judge Marvin Dukes. The Applicant states that all statements stated herein are true & correct so help me God. The PCR Application was filed May of 2022 the Applicant has been before (8) PCR Judges without judgment being entered judgment just now entered after over 4 years since filing I move before this court herein for judgment on this Brief and all filings pro se that have

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Been filed on behalf of the Applicant within the lower court The Applicant states ~~that~~ that PCR Judgment was bias and ~~prejudice~~ prejudice further based upon abuse of discretion and error of law as well as total denial of due process to fairness and equal protection of the laws further in violation of all rules, laws, statutes, State & Federal constitutions and State and United States Supreme Court rulings Case was place on hold due to state stating incompetent to move on due to being incompetent which do not apply to PCR due to

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Fact that PCR proceedings are civil actions, in which delay in the entering of any judgments thereof do not apply to PCR proceedings. Further stating it only applies to criminal defendants within state criminal proceedings only. Like for the charges that I am being held within the Sheriff's At Cannon Detention Center for now such warrants NO(5) 2026A1010200121-0127. Further knowing at time arrested for these offenses Applicant has, still, been, yet to get or receive any treatments, meds, programs, or restored like this Court ordered thus resulting in the Applicant still

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now incompetent mentally ill left untreated even after this Court ordered such (7) times by (7) different PCR Judges. Knowing without such treatments for PTSD, Bipolar Disorder, paranoid schizophrenia, and anti social disorder there is no way possible Applicant could ever get better without treatment, meds, counseling, or programs to have him restored to become competent as ordered. The

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Applicant states that to state this fact no attorney, public defender, Guardian Ad Litem's, Court appointed Counsel's, nor SC Att. Gen. Danielle Dixon or Meloy Brown, or Charleston County [REDACTED] Solicitors office have yet to make such judgment in the connections of warrant NO(5) [REDACTED] 2026A1010200121-0127 like in which was done within this pending case allowed to be used (8) times in civil case herein yet never used once in pending criminal case and warrant NO(5) 2026A1010200121-0127 the

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Applicant is that same person now yet still incompetent now why are these allegations not being raised now as pursuant to law to be raise correctly within criminal proceedings??? Thus also more proof evidence to the fact that the Att. Gen. office Danelle Dixon & Melody Brown along with court ordered counsel's and guardian ad litem's did in fact conspired to use this sham, legal defense, (8) times over 4 yrs in a row and still counting thus unconstitutional.

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Violation of due process, fairness, equal protection of the laws. Applicant was forced to file Civil Rights lawsuit case # 2025-CP-10-0160 due to these stated facts denial of court ordered mandatory mental health treatments released from (SCDC) December 1, 2025, still without this treatment nor program to be restored to become competent thus abuse of discretion, Fraud upon court, denial of due process, Applicant states judgment entered as yrs thus herein. Further

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Fairness, equal protection of laws, denial of justice, an error of law, and fact, plain error, further an miscarriage of justice, in which the court allowed and still further allowed to take place 8 times (57) months and counting still without any judgment entered at all based upon denial for justice and fairness. Further going against all rules, laws, statutes, and Supreme court rulings in which are all binding upon all lower courts in which this lower court refuse

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to honor and respect further uphold. Thus going further against the Constitution in which is mandatory not discretionary must be followed in which all judges have sworn an oath to honor, respect, uphold, and enforce such Constitution. Further in violation of Rules of Judicial Conduct for Judges Rule 501, Canons 1-5 as well as all and every Canon within the Rules of Judicial Conduct. Furthermore the Applicant states that the Att. Gen. office Darlene Dixon has been allowed misuse her power and authority.

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Unlawful use of governmental use of office, unlawful use of process, malicious prosecution, further perjury under oath, false documentation allowed as well as fraud upon Court while conspiring to deprive the Applicant of his civil & Constitutional rights to fairness, due process, equal protection of the laws, State & Federal Constitution.

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Furthermore the [REDACTED] Supreme Court has ruled that the Solicitors, Att. Gen. office are representative of the State public and [REDACTED] defendants and their duties are to be held to the highest standard of the law to ensure that any conviction be based upon the [REDACTED] law and the law alone further to avoid any procedures that will cause a wrongful conviction and to ensure that justice is served based upon the laws and the Constitution and further to refrain from prosecuting any case known lack probable cause.

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In which the Att. Gen. Danelle Dixon and this court knows there was no probable cause, no indictments, no preliminary hearing set, no State v. Blair Hearing, withholding of evidence that would have change the outcome, Brady violation, Rule 5. disclosure of evidence, withheld two years, and two weeks after guilty plea, guilty plea entered without Blair Hearing while still incompetent, mentally ill, still declared as such now.

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Conviction without West v. Bessers hearing to suppress one on one show up identification in violation of Ohio v. State, Beck v. State of Ohio, lack of probable cause for arrest, Franks Hearing violation being incompetent & mentally ill at time of arrest and conviction, speedy trial violations, invalid waiver of indictment orally while incompetent/mentally ill

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without State v. Blair hearing, in which was mandatory before court could accept guilty plea thus due process violation, ineffective assistance of counsel, render judgment void and unconstitutional knowing there stated facts with evidence, exhibits, testimony presented further stating to court had Applicant knew these things were wrong or that he was entitled to such he would have never relied upon counsel advice to plea guilty but instead plea not guilty more than enough to prove ineffective assistance

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Furthermore pursuant to Rules of Judicial Conduct Canon 1: It states in part that a Judge shall uphold the integrity and independence of the judiciary. Further stating that a Judge shall participate in establishing, maintaining and enforcing high standards of Conduct and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved.

Rule 501 SCACR Code of Jud. Conduct Canon 3 states that: A Judge shall perform the duties of judicial office impartially and Diligently. A Judge shall be faithful to the law and maintain professional competence in it, A Judge shall not be swayed by partisan interests, public clamor or fear of criticism. Further the Rules states that:

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A Judge shall perform judicial duties without bias or prejudice, A Judge shall not, in the performance of judicial duties by words or conduct manifest, bias or prejudice including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age and shall not permit staff, Court officials and others subject to the Judges direction and control to do so.

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Further A Judge must not independently investigate facts in a case and must consider only the evidence presented. Furthermore

according in the case of In re Richland County Magistrate's Court 389 SC 408 states in part. A prosecutor must see that no conviction takes place except in strict conformity with the laws, and that the accused is not deprived of any

Constitutional rights or privileges, see also, State v. Rayfield 369 SC 106 states that: A solicitor is an officer of the Court who represents all the people, including the accused and he or she occupies a quasi-judicial position in which should be preserved.

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In the case of Quattlebaum 338 SC 441 states that: A prosecutor has a special responsibility to do justice and is held to the highest standards of professional ethics Appellate Court Rule 407, Rules of Prof. Conduct Rule 3.8. It which further states that a prosecutor must refrain from prosecuting a case that is known to lack probable cause; See also: State v. Davis 239 SC 280 in which states that: while a solicitor should prosecute vigorously he or she must prosecute fairly, for concern of state, whose representative he is not that defendant shall be convicted but that justice shall be done. According to the Black's Law Dictionary (7th ed 2024)

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It states that conflict of interest = is a real or seeming incompatibility between two interests that one possesses or is obligated to serve when one of those interests might benefit the person to whom both are entrusted. A conflict arises when an officer may benefit personally from a decision made in an official capacity whenever a public servant has a private interest in an industry or business then is a

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Possibility of conflicting interests if the private interest is involved, Furthermore the law states that a person who is incompetent/mentally ill as the law states at time he or she is arrested for an act that would be otherwise criminal is not criminally accountable for such act and will not be convicted or punished for it See: American Jurisprudence Section 43

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Furthermore pursuant to American Jurisprudence Second Edition Section 83 states that 'A criminal defendant who is by legal standards not competent to stand trial has a right not to be placed on trial further pursuant to the US Constitution under both Due Process Clause of the Fourteenth Amendment and state laws prohibits the state from convicting a criminal while mentally incompetent regardless of whether that person is tried while represented by counsel or while acting pro se. Every defendant has a substantive fundamental right under the due process clause to not be tried or convicted while incompetent. Furthermore the defendant moved on before this court herein with case in-

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accordance with preliminary hearing see: South Carolina Jurisprudence Section 27 definition in which states: That a preliminary examination is a hearing to determine if probable cause is present see also: South Carolina Jurisprudence Section 31 in which states that the purpose of a preliminary examination is to determine if the state can show that there is probable cause to believe that the defendant committed the crime with which he has been charged and to warrant the defendant's subsequent trial

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According to the American Jurisprudence Second Edition Section 268 it states in part that: A preliminary hearing is required to be conducted by a certified impartial judge. The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence in defense relevant to the limited purpose of the hearing. Furthermore according to the American Jurisprudence Second Edition Section 518 states that: The purpose of a preliminary hearing are to protect the accused from forfeiting his or her liberty in case there is no probable cause for believing that he or she is guilty of the crime and to relieve the defendant from the expense and

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Ignominy of a prosecution where the known facts do not justify a trial. In the case of *State v. Weeks* 185 SC 277 it states in part that in criminal prosecution defendant must be given benefit of doubt, *State v. Pavlic* 185 SC 514 states that: The State must prove all essential elements of crime. *Likienthal v. Walcott* 157 Cal. 260 100 P. 237 states in part that: Burden of proof in criminal case never shifts. Furthermore according to American Jurisprudence Second Edition Section 517 states that: The United States Supreme Court has held that the State must provide a fair and reliable determination of probable cause as a condition of any significant pretrial restraint of probable liberty. Thus a person arrested without a warrant must promptly be brought before a neutral

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Magistrate for a judicial determination of probable cause, Furthermore pursuant to American Jurisprudence Second Edition Section 768 it states that: A preliminary hearing is required to be conducted by a certified impartial judge. The accused may present evidence. American Jurisprudence Second Edition Section 520 states that: A preliminary hearing examination must be held without any unreasonable delay further stating that when an arrested individual does not receive a probable-cause determination within time required the arrested individual does not bear the burden of

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Proving unreasonable delay Rather the burden shifts to the State to demonstrate the existence of a bona fide emergency or other extraordinary circumstances. A Magistrate who adjourns a preliminary hearing for more than the time period allowed without the consent of the defendant loses jurisdiction further stating that a defendant's constitutional right to a speedy preliminary hearing is not infringed.

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According to the United States Supreme Court case of Gerstein v. Pugh 429 US 103 stated that in Shaheed v City of Tampa 407 US 345 (1972) probable cause for the issuance of an arrest warrant must be determined by someone independent of police and prosecution see also United States v. United States District Court 407 US 297 further stating that the entire instruments of the criminal law cannot be entrusted to a single functionary. Furthermore pursuant to American Jurisprudence Second Edition Section 406 states that prosecutorial misconduct has been defined as a prosecutor's improper or illegal act involving an attempt to pervert the jury or judge to wrongly convict a defendant or assess an unjustified punishment.

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Furthermore according to American Jurisprudence Second Edition it states that although the state is obligated to prosecute with earnestness and vigor it is as much its duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one. The prosecutors conduct and language in the trial of cases in which human life or liberty is at stake should be forceful but fair because the prosecutors represents the public interest which demands no victims and asks no conviction through the aid of

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passion, prejudice or resentment if the defendant is guilty he or she should be convicted only after a fair trial conducted strictly according to the sound and well established rules which the laws prescribe. Furthermore pursuant to State v. Bellardino 429 SC 563 it stated that conviction of an accused who is legally incompetent violates due process and state must be adequate to protect this right US Const. Amend

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Furthermore according to Ramirez v. State 413 SC 351 which states that due process prohibits the conviction of an incompetent defendant and the right may not be waived by a guilty plea. USCA Const. Amend 14. See also Cee v. State 326 SC 314, State v. Colder 322 SC 428, Hall v. Catoe 360 SC 353, Matthews v. State 358 SC 456, McLaughlin v. State 352 SC 476, State v. Singleton 322 SC 480, In Interest of Antonio H. 319 SC 395, and Jeter v. State 308 SC 230. According to SCRCMP Rule 2 Preliminary Hearings (b) Time for Hearing states in part that If the defendant request a preliminary hearing the hearing shall be held within ten days following the request, According to American Jurisprudence Second Edition Section 1003 it states in part that Due process entitles a person

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To a fact finding based on the record produced before a decision maker it also requires that the decision maker actually consider the evidence and the argument that the party presents. Due process is ordinarily absent if a party is deprived of his or her property or liberty without evidence having been offered against him or her in accordance with established rules. Further under Due Process clause of the Constitution, State and Federal an opportunity to submit evidence to rebut charges

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on adverse claims and testimony is an essential requirement of a full and fair hearing there is a clearly established constitutional due process right not to be subject to criminal charges on basis of false evidence that was [REDACTED] deliberately fabricated by the state. Fabrication of evidence constitutes a violation of the right to a fair trial under the due process clause of the Fifth, Sixth, and Fourteenth Amendments. The Due Process clause of the 14th Amendment also forbids fundamental unfairness in the use of evidence whether true or false.

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Pursuant to American Jurisprudence Second Edition Section 622 it states in part that: A police line up is unduly suggestive if it steers the witness to one suspect. American Jurisprudence Second Edition Section 907 states that the US Supreme Court has expressed strong disapproval of the practice of showing suspects singly rather than as part of a line up to persons for the purpose of identification, State v. Davis 402 SC 50 states that single person show up are particularly disfavored in the law, State v. Starks 410 SC 580 states that the trial court determination that the one man show up identification procedure was not suggestive was clearly erroneous see also: State v. Frazer 394 SC 213, State v. Brown 356 SC 496, State v. Moore 343 SC 282.

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State v. Johnson 311 SC 132, United States v. Wade the Supreme Court held that the Sixth Amendment right to counsel attaches to critical stages of pretrial procedures in connections to suggestive pretrial line-ups, show-ups, which would lead to the conviction of innocent persons. Defendant has right to counsel to guard against suggestive one-on-one show up procedures and enables counsel to reconstruct and challenge those procedures. Moore v. Illinois State Defendant has a right to counsel during identification procedure, including one-on-one identifications.

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Thus also violates defendant's right to due process see: State v. Denno, U.S. v. Wade 388 US 218. Furthermore pursuant to Beck v. State of Ohio 85 S.Ct 223 when Constitutional validity of arrest without warrant was challenged it was incumbent on prosecution to show ~~mere~~ specificity than ~~mere~~ fact that someone told police officers something about defendant, ~~mere~~ if any actually said to police officers making arrest without warrant and why officers making arrest without warrant and why officers thought information was credible.

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Further stating that good faith on part of arresting officer is not sufficient to withstand attack on constitutional validity of arrest without a warrant in the case of Beck v. State of Ohio 85 S.Ct 223 it stated that: police officers knowledge of defendant's physical appearance and his prior record was neither [redacted] admissible nor entirely irrelevant to issue of probable cause for his arrest but these two factors alone or in combination were insufficient to constitute probable cause USCA Const. Amend. 4, 14, See also Terry v. Ohio 88

S.Ct 1868 in which states in part that: The police must whenever practicable obtain advance judicial approval of searches and seizures through the warrant procedure See: Katz v. United States 378

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US 347, Beck v. State of Ohio 379 US 89, further stating that [redacted] Intrusions upon constitutionally guaranteed rights must be based on more than [redacted] unarticulate hunches and simple good faith on part of officer is not enough, Furthermore the fourth amendment protects not places but people. he is entitled to be free from governmental intrusion. Furthermore pursuant to Terry v. Ohio 88 S.Ct 1868 states that: no right is held more sacred or is more

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Carefully guarded by the common law than the right of every individual to the possession and control of his own person free from all restraint or interference of others unless by clear and unquestionable authority of laws The fourth amendment has been recognized as a principal mode of discouraging lawless police conduct

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The Applicant states that in regards to PCIL Case # 2020-CP-LA-05357 the law and the Supreme Court ruled that the registry is for offenders that are against minors further to be imposed upon violent offenders whom have committed rape of women and kids in which the Applicant was never once was convicted of the statute was strictly enforced and made law for those such offenses and offenders only. Thus cruel punishment denial of equal protection of the laws further without due process hearing mandatory hearing not discretionary hearing on risk factor of re-offending in which was never conducted at all

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Whatsoever, Furthermore Charge in which wrongfully convicted for did not even warrant such sentence and punishment further done without probable cause for arrest withholding of Brady material, 911 phone call records Melvi Biggers hearing, timely preliminary hearing, one-on-one show-up identification while in handcuffs standing at the rear of a police car thus further suggestive unconstitutional due process violation yet still allowed.

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Furthermore Applicant was told that he would receive time serve for exchange of guilty plea and further would have never plead guilty if he had known that he would be subject to life time requirement of such having to register as if he was a violent sexual rapist of women or child rapist. Further in which such charge arrested for was in no degree of law to be held nor considered as which sentence that was imposed. Thus Due Process Violation.

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The Applicant was misled by plea counsel to waive indictment orally without written, signed, mandatory, waiver, pursuant to SC Code Section 17-23-130, 17-23-140. The South Carolina Supreme Court stated and strictly construed that it is mandatory not discretionary that before judge can accept guilty plea and waiver of indictment waiver of indictment must be done in writing only and that oral waiver of indictment is insufficient see: State v. Charleston, Adam v. State, State v. Martin. Thus due process violation, ineffective assistance of counsel, causing plea & judgment to be void & unconstitutional, Applicant further was incompetently mentally ill at time of invalid waiver as well thus further ineffective, due process violation, causing plea and judgment void. Applicant stated had he known these stated facts prior to pleading guilty he would have never relied upon the advice of counsel to plea guilty but instead went on to trial. The Applicant stated and presented evidence, gave testimony, to fact that he was convicted without writ

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And timely preliminary hearing that was requested within time required by law that due process violation, ineffective assistance of counsel, further knowing that for counsel still to advise Applicant to plea guilty and not move to have charges dismissed thus further fraud and misrepresentation as well as prosecutor's misconduct. Applicant stated had he known this before pleading guilty he would have never relied upon wrongful advice of plea counsel to plea guilty but instead plea not guilty and went to jury trial instead. Thus causing plea, judgment, entered to be void and unconstitutional.

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Furthermore the Applicant gave testimony and presented evidence to the fact that he was convicted while incompetent, mentally ill, at time of arrest counsel was ineffective, violated due process rights, for failing to move for insanity affirmative defense, knowing these stated facts with evidence, findings, doctors, mental health specialist, and Hospital that Applicant infant was mentally ill and incompetent at time of arrest and guilty plea. Applicant further stated had he been given or known about this evidence he would have never relied upon wrongful advice of plea counsel to plea guilty but instead went to trial. Thus ineffective assistance of counsel, due process violation, causing plea, sentence, and judgment to be void & unconstitutional.

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The Applicant states that he gave testimony, presented evidence, into fact that he was convicted due to Brady v. Maryland, Rule 5 disclosure of evidence violation, thus due process, ineffective assistance of Counsel. Such evidence withheld two years and two weeks after guilty plea which would have change outcome of plea proceedings where 911 phone call records, sex offender photo came up, in which all victims and witnesses never identified Applicant as the suspect that committed their offense. Further picking same suspect in photo line that was not the Applicant. Further evidence withheld was findings, statements, reports, by mental health doctor, specialist, and Hospital as well as arresting officers stating that at time of arrest and offense the applicant was intact, sane, crazy, and out of his mind, at time of arrest, also withheld was indictment that was never presented before the state grand jury pursuant to S.C. Code Section 17-18-26, S.C. Const. Art. I Section 11 no true bill Applicant never indicted at all whatsoever. Applicant

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stated had he known this or had this was made known to him before plea of guilty he would have never plead guilty but instead plea not guilty and never would have relied upon wrongful advice of plea, counsel, to plea guilty but instead went to trial thus due process violation, ineffective assistance of Counsel, rendering judgment, plea, and conviction void and unconstitutional. The Applicant further raised and gave testimony, presented evidence, facts that he was convicted

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without requested Wied v. Biggers hearing on known void and unconstitutional, suggestive, one on one, show up identification, in which the Applicant was said to be identified from 20 yards away while in back of EMS Truck while in handcuffs being treated for physical and mental illnesses. But ^{witness not made} ~~known~~ that due process violation without Counsel present further the S.C. Supreme Court as well as the United States Supreme Court has strictly ruled and declared that one on one show up procedures are unlawful and further violated the Constitution. Applicant move for such identification to be suppressed in which plea counsel stated Applicant was not entitled to such procedure. Applicant state had he known this before pleading guilty based upon wrongful advice of Counsel he would have never plead guilty.

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but went to trial instead. Thus due process violation, ineffective assistance of Counsel, rendering plea, sentence, and conviction void and unconstitutional. The Applicant further gave testimony and presented evidence of the fact that [REDACTED] he was convicted without Frank's hearing on void, invalid, and unconstitutional arrest affidavit based upon perjury under oath further based upon Fraud conspiring to deprive civil rights to fairness, due process, equal protection of laws. That arrest affidavit further charging the Applicant with armed robbery yet stating elements of attempt strong arm robbery, purse snatching, and petty larceny but not armed robbery nor attempt armed robbery making it impossible for the Applicant to know what charge to prepare any legal defense for Counsel further ineffective, violated due process, by failing to have arrest affidavit quash and all charges dismissed. The Applicant stated that had he

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known that before pleading guilty he would have never plead guilty but instead went to jury trial and never relied upon wrongful advice of plea Counsel to plea guilty. Thus due process violation, ineffective assistance of Counsel, rendering plea, sentence, and conviction void and unconstitutional. Applicant further presented evidence and gave testimony that he was forced by (SCDC) to serve sentence past time he was required to serve 6 yrs 85% start date May 13 2020, 526 days Jail Credit Applicant released December 1, 2025, with two years community supervision to last until 2027 thus unlawful based upon Fraud by

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(SCDC) perjury and false documentation being presented misclassification as not mentally ill and incompetent seriously mentally ill Prisoner by (SCDC) Staff and Classification officers causing max out date to be incorrectly changed and Applicant serve over 5 yrs and one month which was required all based upon Fraud perjury and false charges as well as false documentation presented with wrongful and misclassification of Applicant by (SCDC)

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Furthermore in the case of Beck v State of Ohio 85 Sct 223 the Supreme Court stated that: when constitutional validity of arrest without warrant is challenged it was incumbent on prosecution to show with considerably more specificity than mere fact that someone told police something about defendant if any actually said to police officers making arrest without warrant and why officers thought information was credible. Good faith on part of arresting officer is not sufficient to withstanding attack on constitutional validity of arrest without a warrant. Furthermore the case of State v. Davis 420 SC 50 states: that [redacted] single person show-up are disfavored in the law see also State v Frazier 394 SC 213 in which states: that single person and identification procedure are suggestive see also: State v. Brown 356 SC 496, State v. Moore 343 SC 282

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State v. Moore 540 SE2d 445 states that single person show ups as showing suspect singly to persons for the purpose of identification and not as part of a line up has been widely condemned see also: State v. Johnson 427 SE2d 718, In the interest of Jamal Rashee A. 410 SE2d 326, Neil v. Biggers 409 US 188, US v. Wade 388 US 218, State v. Denno 388 US 293, Moore v. Illinois State that defendant has a right to counsel during identification procedure including one on one procedure (This violate due process, Furthermore the law in South Carolina states that pretrial identification violates due process.

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Where there are suggestive elements in the identification procedure that make it all but inevitable that the victim will identify one person as the culprit. The practice of showing up suspect outside of a line up has been widely condemned further stating that a police line up is unduly suggestive if it [redacted] steers the witness to one suspect. The US Supreme Court has expressed strong disapproval of the practice of showing suspect singly rather than part of a line up. [redacted]

[redacted]

[redacted]

[redacted]

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In which the Att. Gen. Danelle Dixon and this court knows there was no probable cause, no indictments, no preliminary hearing set, no State v. Blair Hearing, withholding of evidence that would have change the outcome, Brady violation, Rule 5. disclosure of evidence, withheld two years, and two weeks after guilty plea, guilty plea entered without Blair Hearing while still incompetent, mentally ill, still declared as such - now

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Conviction without West v. Buggers hearing to suppress one on one show up identification in violation of Ohio v. State, Beck v. State of Ohio, lack of probable cause for arrest, Franks Hearing violation being incompetent & mentally ill at time of arrest and conviction, speedy trial violations, invalid waiver of indictment orally while incompetent/mentally ill

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without State v. Blair hearing, in which was mandatory before court could accept guilty plea thus due process violation, ineffective assistance of counsel, render judgment void and unconstitutional knowing these stated facts with evidence, exhibits, testimony presented further stating to court had Applicant known these things were wrong or that he was entitled to such he would have never relied upon counsel advice to plea guilty but instead plea not guilty

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Further the defendant states that pursuant to the United States Supreme Court case of Snyder v. Massachusetts it clearly ruled and states the Supreme Court stated: that denial of right to be present during a critical stage of the proceeding such as preliminary hearing is due process violation & unconstitutional. The defendant states that when counsel was appointed he requested to be present at preliminary hearing further provided counsel with evidence, cases, and questions to ask at preliminary hearing. Defendant states that its [REDACTED] since demanded for timely preliminary hearing in which by rules of criminal procedure is required to be held within ten days. Furthermore the law in South Carolina further states that when an arrested individual does not receive a probable cause hearing within time requires the arrested individual does not bear the burden of proving unreasonable delay.

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Rather the burden shifts to the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance. A magistrate who adjourns a preliminary hearing for more than the statutory period without the consent of the accused loses jurisdiction. Further this are process violation as well. Furthermore the law states within South Carolina concerning preliminary hearings that: where a state statute provides that a defendant who is in custody and charged with a felony has the right to a preliminary hearing within a specified number of days after he or she was arraigned.

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or pleads not guilty there is an absolute right to such hearing and absent a waiver such right cannot be impinged upon by the magistrate even on a showing of good cause. A defendant's right to a speedy preliminary hearing is not infringed. The Defendant further move before the court and state that according to the Constitution state and federal concerning due process requirements it states: That the requirement of the due process are satisfied in a takings case if one has reasonable notice opportunity to be heard and to present a claim or defense.

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The due process requirement further states that the accused must be duly advised of the nature and cause of the accusation and have a fair opportunity to defend against it. Further stating that it is a fundamental matter of due process that the defendant in criminal case be afforded a meaningful opportunity to present evidence due process and complete defense which includes the right to present evidence due process is denied when denied the right to present a defense. The constitution further states that no warrant shall issue but upon probable cause support by oath or affirmation a warrant affidavit must set forth particular facts and circumstances underlying the existence of probable cause so as to allow the magistrate to make an independent evaluation of the matter. Further under due process clause of the constitution an opportunity to submit evidence to rebut

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charges or adverse claims and testimony is an essential requirement of a full and fair hearing; under due process it also states that there is a clearly established constitutional due process right not to be subject to criminal charges on basis of false evidence that was deliberately fabricated by the state or prosecution. Fabrication of evidence in which constitutes a violation of the right to a fair trial. under the Due Process clause of the fifth, sixth, & Fourteenth Amendments. The Due Process clause

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Of the 14th Amendment also forbids fundamental unfairness in the use of evidence true or false. Furthermore the fourth amendment protects individuals legitimate expectations of privacy by requiring that probable cause exist before a law enforcement officer undertakes arrest and search or seizure. Further stating that a warrantless arrest may be made after police have established probable cause to believe that the detainee has committed a crime not before finding of probable cause in which officers cannot arrest then later find grounds for probable cause that would be unconstitutional. Further stating that when using information from a source to

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establish probable cause the police must first ensure its reliability. Furthermore pursuant to US Supreme Court case of Terry v. Ohio 88 S.Ct 1868 it states in part that: Intrusions upon constitutionally guaranteed rights based on more than inarticulate hunches and simple good faith on part of officers is not enough further stating that the fourth amendment protects people not places he is entitled to be free from governmental intrusion. Further stating that no right is held more sacred or is more carefully guarded by the common law than the right of every individual to the possession and control of his own person free from all restraints or interference of others unless by clear and unquestionable authority of law, the fourth amendment has been recognized as a principal mode of discouraging lawless police conduct see: Weeks v. United States 232 US 383, Linkletter v. Walker 381 US 618,

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In the case of Terry v. Ohio 88 S.Ct 1868 it states that: Courts which sit under our constitution cannot and will not be made party to lawless invasions of the constitutional rights of citizens by permitting unhindered governmental use of such invasions. Further stating that the US Supreme court has held that a search which is reasonable at its inception may violate the fourth amendment by virtue of its intolerable intensity and scope. *Kremen v. United States* 353 US 346. The scope of the search must be strictly

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tried to and justified by the circumstances which rendered its initiation permissible. Furthermore stating: In justifying intrusion the police officer must be able to point to specific and articulable facts which taken together with rational inferences from those facts, reasonably warrant that intrusion. In the US Supreme Court case of *Beck v. State of Ohio* 85 S.Ct 223 the Supreme Court stated that: Police officers knowledge of defendants physical appearance and his prior record was neither inadmissible nor entirely irrelevant to issue of probable cause for his arrest but these two factors alone or in combination were insufficient to constitute probable cause.

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The Applicant states that pursuant to the United States Supreme Court case of *US v. Gonzales-Lopez* 126 S.Ct. 2557 it clearly states and ruled that: The Sixth Amendment guarantees the defendant the right to be represented by an otherwise qualified attorney whom is willing to represent the defendant even though he is without funds USCA Const. Amend. 6.

Further stating that the Sixth Amendment right to counsel is violated when the erroneous disqualification of counsel [REDACTED] impairs the assistance that a defendant receives at trial from the counsel that he chose USCA Const. Amend. 6.

STATEMENT OF FACTS

The Supreme Court further stated that: Where the right to be assisted by counsel of one's choice is wrongly denied it is unnecessary to conduct an ineffectiveness or prejudice inquiry to establish Sixth Amendment violation since the right to select counsel of one's choice is not derived from the Sixth Amendment's purpose of ensuring a fair trial thus deprivation of the right is complete when the defendant is erroneously prevented from being represented by the lawyer he wants regardless

STATEMENT OF FACTS

of the quality of the representation he received USCA Amend. 6. The right to counsel of choice commands not that a trial be fair but that a particular guarantee of fairness be provided to wit the accused be defended by the counsel he believes to be best. *Crawford v. Washington* 541 US 36 thus case further stating that right was violated and no need of additional showing of prejudice to make such violation complete pp. 2561-2563.

Grounds For Appeal

- (1) PCR Judge abuse his discretion / due process violation
- (2) Judgment based upon error of law & fact / due process violation
- (4) Judgment entered void & unconstitutional / due process violation
- (5) No justification for judgment entered / due process violation
- (6) Judgment entered not based upon findings of fact & conclusion of Law / due process violation
- (7) Judgment entered in violation of due process denial of right to present a lawful defense.
- (8) Judgment entered based upon fraud & conspiracy to deprive civil, & Constitutional Rights

Grounds For Appeal

- (9) Judgment entered in violation of State v. Blair hearing and SIC Code Section 44-23-430, 44-23-460 conviction without such mandatory requirement. Judge not able to accept guilty plea without having State v. Blair Hearing thus unconstitutional due process violation
- (10) Due Process violation as pursuant to Mel v. Byggers, & Franks hearing violation PCR Judge knew this & over look this fact even with evidence & testimony presented.

Grounds For Appeal

- (11) Judgment entered was void & unconstitutional entered in violation of due process fairness equal protection of the laws refusing to vacate known and void judgment in which remains void at all time has no deadline for void judgment which further cannot be enforced nor affirm and upheld must be vacate only.

Grounds For Appeal

(11) PCN Judge erred when not ruling for conviction to be vacated due to guilty plea being void and unconstitutional entered while incompetent mentally ill without findings of whether he was competent to move so forth on in such hearing further while knowing he entered and pled guilty upon the record way before [REDACTED] being advise [REDACTED] of all rights waived by pleading guilty thus due process violation & ineffective assistance of counsel.

Grounds For Appeal

(12) PCN Court erred for not vacating known void [REDACTED] conviction known no preliminary hearing was held thus due process violation rendering judgment in Court in [REDACTED] General session void void & unconstitutional after [REDACTED] requesting such preliminary hearings and never being provided with one therefore [REDACTED] counsel based upon Fraud and conspiracy trick Applicant into waiving Preliminary of [REDACTED] indictment to justify no indictment and for court to accept such waiver knowing waiver of indictment must be [REDACTED] mandatory must be done in writing only which supreme court has strictly [REDACTED] ruled thereof that waiver must be done in writing only and that oral waiver of [REDACTED] indictment is unconstitutional and invalid

Grounds FOR APPEAL

- (13) PCN Judge error by not ruling on Brady violations knowing that evidence withheld two years and two weeks after guilty plea if never withheld would have ~~changed~~ changed the outcome of the hearing and I would have never pled guilty upon advise of ~~counsel~~ counsel to plea guilty
- (14) Court erred for not vacating judgment knowing that I was incompetent at time of guilty plea & at time of offense

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Conclusion

Based upon all these stated facts herein I move to have the PCR Judgment vacated and new trial granted due to abuse of discretion error of law and total denial of justice, fairness due process of ~~the~~ law and equal protection of the laws to do otherwise would be a denial of justice ~~and~~ and fairness I move so herewith this motion in support of appeal

STATE OF SOUTH CAROLINA
County of Charleston
Jerome Curry
VS.
STATE OF SOUTH CAROLINA

IN THE SUPREME COURT
APPEAL FROM COURT OF COMMON PLEAS
2022-CP-10-2017
APPEAL FROM Honorable PCR Judge Marvin Baker
AFFIDAVIT OF SERVICE BY MAIL

AFFIDAVIT OF SERVICE BY MAIL

(1.) I am presenting this petition on my behalf before this court herein

(2) I certify and declare that all parties have been given notice of this petition on this 26th day of June, 2026 By placing in the hands of officer to be mailed to all addresses listed below;

Respectfully Submitted BY LSI

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

South Carolina Att. Gen. Office
P.O. Box 11549
Columbia SC 29211