

July 1 2027

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JUL 06 2026

S.C. SUPREME COURT

Robert Joseph Helrigel Jr. # 390927

V

State

Appellate case No. 2025-002407

Pro SE

6 pages

20 supporting Documents

2. Petitioners plea was rendered involuntary when petitioner's primary motivating factor in pleading guilty was moving to prison from county jail.

Petitioner was detained at Alvin S Glenn Detention Center in an unsafe, unhealthy, and unconstitutional conditions. Inmates were being assaulted, stabbed, and no officer to prevent assaults. Black mold, rodents and the kitchen not up to DHEC standards. (pg. 8 Appendix) defendant "I'm being locked up with violent people, people getting stabbed, and I'm, you know...? (pg. 16 Appendix) Mr. Williams "He's in Richland county now, which is not the best place to be" "hopefully, He'll go to R&E. I think immediately after this." (Pg.20 appendix) Court "and he should not go back to Richland county should he?" Mr. Williams "no he should not "Defendant "no ,your honor" Williams "He'll go to R&E your honor" That was on September 29, 2022 I was sent back to Alvin S Glenn Detention Center and housed there until May 2023 despite being told that I would not, months after charge in Richland was dismissed. The sole motivating factor for accepting that plea offer at that particular time was getting out of unsafe conditions at Alvin S Glenn Detention Center. It was a breach of agreement to continue to subject me to unsafe, unconstitutional conditions despite Court, Mr. Williams and defendant acknowledging that defendant would not go back there. Reports have been included from Ted Clifford statewide accountability reporter at the State newspaper, as well as articles in Prison Legal News, and the Charleston Post and Courier that corroborate claim of violent, unsafe, unhealthy, and unconstitutional conditions at Alvin S Glenn Detention Center. In October 2022 the DOC inspected ASGDC and uncovered over a dozen violations of minimum jail standards. From Jan. 1 to July 17, 2023 at least 30 detainees suffered injuries classified by the sheriff's department as aggravated assaults. Assistant Attorney General Kristen Clarke "over the past 15 months, I've held the Hands of family members who had to bury their loved ones" "I've spoken to law enforcement officers that do not feel safe entering these spaces, and I've met with community advocates who are deeply concerned about what appear to be consistent constitutional failures in these facilities." The investigation by the U.S. Justice Department focused on Alvin S Glenn failing to protect incarcerated people from violence and subjected them to dangerous living conditions. The kitchen received a "C" rating by Health inspectors. Richland county sheriff Leon Lott "our investigations speak to the issues at the detention center" In February 2022 Lason Butler died in his cell and was discovered with rat bites. January 2023 Antonius Randolph was beaten to death by five other inmates who broke into his cell. An investigation by the sheriff's office found that cell doors were routinely left unlocked. Safety concerns were so serious that in 2022, the jails health provider declined to renew its contract. Wellpath CEO "This poses a safety risk as this leaves no way to call for help in the event of an emergency." From 2020 to 2023, experts found that about half the time entire housing units which house hundreds of people had just one officer on duty. That January just 28 of a required 1,176 patrols were done. June 2022 a representative of Advanced Correctional Healthcare Inc. wrote to county and Jail leadership that they were pulling their nurses out of the facility for the evening when it was discovered that their would only be one officer on duty. "There is a serious risk in the facility that has risen to a dangerous situation there. The shortage of correctional staff is dangerous not only to the jail staff and inmates but also to the nurses." The United States Justice Department released findings that accuse the Alvin S Glenn Detention Center of violating the US constitution. "ASGDC violates the Eighth and Fourteenth Amendments of the United States constitution by failing to protect incarcerated people from an unreasonable risk of violence and harm from other incarcerated people." Officials wrote in the report. The Eighth and Fourteenth Amendments impose

"Certain basic duties on prison officials," including taking "reasonable measures to guarantee safety" of convicted individuals and detainees. Investigators also confirmed there were at least 60 stabbings at the detention center in 2023 alone. Numerous other reports of officers assaulting inmates, sexual assaults by officers, misconduct, bribery, and smuggling. The unsafe, unconstitutional conditions at ASGDC were the sole motivating factor for accepting that plea offer at that particular time, which was breached by returning me to ASGDC.

*Documents included to support argument 29

1. It was defendants understanding that time credit for house arrest would be received.

The conditions of defendants bond hearing on 5-6-2022 (see document included) "Not to away from residence except for work, legal, church or medical reasons; 8pm -7:00 am must be at residence" I followed conditions of house arrest only going to work and the hospital or doctor for my son Westley Helrigels medical appointments. It was my understanding that I would get credit for time served during this time from April 6 2022 until the day that I was sentenced on September 29, 2022, which is 177 days. The record does not reflect me getting credit for that time. The fact that Counsel did not clarify this is ineffective assistance of counsel. The Defendant request the case be remanded for resentencing. Recently Hunter V United States affirmed defendant can challenge aspects of sentencing despite plea deal. SC code of laws 24-13-40 computation of time served "In every case in computing the time served by a prisoner, full credit against the sentence must be given for time served prior to trial and sentencing, and may be given for time spent under monitored house arrest" A defendants liberty interests is diminished while on house arrest imposed as conditions of bond see state v Garvin April 8, 2026 WL 945692. None of the exceptions to being given credit apply to defendant. 2013 amendment to sc code of laws 24-13-40 show legislative intent and nullify state v Higgins(s.c. ct app2004) 357 S.C. 382, 593 S.E. 2d 180. The requirement that a prisoner receive credit for time served is mandatory State v Higgins (S.C. App 2015) 413 S.C. 533, 777 S.E.2d 6. Because the language of the statute mandating the defendant receive credit for time served prior to trial unless one of 2 exception (now 4) exist is mandatory, a judge cannot deny defendant credit for time served prior to trial unless one of 2 (4) exceptions applies. State v Boggs (S.C. App 2010) 388 S.C. 314,696 S.E.2d 597.

* Document included Bail proceeding form |

1 c. Failure to object to the states recommendation at sentencing.

It was defendants understanding that plea was a "recommendation of "15 to 20". (Appendix pg. 14) Inv. Mcmillan "A high year amount" and solicitor oppenheimer "somewhere on the upper range "was a breach of plea agreement. See Smith v State 407 S.C. 270, 754 S.E. 2d 900 (2014) state recommendation was breach of plea agreement even when the state did not get the expected benefit. Court of appeals Judge William vacated sentence and remanded for resentencing. Supreme Court judge Hearn held that states breach of agreement warranted invalidation of agreement and new trial. See also Jordan v Stat\, 297 S.C. 52, 374 S.E. 2d 683 (1988); Thompson V state, 340 S.C. 112, 531 S.E. 2d 294 (2000)

1 e. For failure to request a preliminary hearing

No Preliminary hearing was held despite being scheduled for May 17, 2022. Defendant was not indicted until August 8 2022* which would have been reason to not have preliminary hearing.* See Rule 2, SC R cirim P. (pg. 102 of appendix) Mr. Williams stated " I requested one. I don't know that we had one, but we requested one, and if they scheduled it, I'm sure we would have gone. I don't remember, is the honest—but I know we requested one."* Preliminary hearing supposedly scheduled for May 11, 2022. (pg. 153 of appendix) Judge Cordell Maddox stated "Counsel confirmed that they did request a preliminary hearing. However, the indictments were true billed before a preliminary hearing was held." Counsel never previously stated that the indictments were true billed if so it was not fact. Indictments were not true billed until 3 months after Preliminary hearing was supposedly scheduled.

*Document court summons for preliminary hearing e\

*Documents true billed indictments e2

1 k. For failure to object to the state improperly addressing applicants prior history and pending charges at the plea hearing.

(pg. 14 appendix) I attempted to object to Inv. Mcmillans comments because of my counsel's failure to do so and was stopped by the court from speaking. Inv. Mcmillan "During the course of the investigation, we did give Mr. Helrigel a chance to cooperate which he failed to do so" Disclosure of accused's silence at any stage of interrogation violates his constitutional protection against self-incrimination. U.S.C.A. const. amend 5. See state v Arther 290 S.c. 291, 350 S.E. 2d 187 (1886) also Castro v State 417 S.C. 77,789 S.E. 2d 44(2016) {also no Miranda rights were ever read} Inv, mcmillan "when he made bond, he continued his line of behavior , and as you can see, he is currently in jail in Richland County for the same type of offenses, and the state request a high year amount" Defendant was not convicted of charges referred to and charged were dismissed and later expunged. Inv. Mcmillans comments were egregious considering the presumption of innocence until proven guilty. See State v Arther, 290 S.C. 291 350 S.E. 2d 187 (1986) While information concerning prior criminal activities is admissible as additional evidence during sentencing phase, information regarding formal charge that was ultimately dropped by prosecutor is irrelevant. See also state v Gaskins 284 S.C. 105=, 326 S.E. 2d 132 (1985); State v Plath, 281 S.C> 1, 313 S.E. 2d 619 (1984()) Inv. Mcmillans comments were false egregious and his recommendation violated constitutional rights and breached the plea agreement. (pg.19 appendix) Oppenheimer "with regards to the Richland County charge ... nurse did witness the defendant place the cocaine— the 400 grams or more of cocaine and a gun in the trash can." This statement by Ms. Oppenheimer is wrong in several ways. First the charge was not 400 grams or more but 10 or more, which is a huge disparity exaggerated 40 times, the difference between 3-10 years and 25 to 30 years. Also I was not guilty of the charges and were dismissed and expunged. Referring to a nurse being witness is hearsay. No testimony existed or was ever given. Hearsay affidavit is not admissible evidence. See State v Stewart, 288 S.C. 232, 341 S.E. 2d 789 (1986); State v Latham, 275 S.C. 550,273 S.E. 2d 772 (1981). In State v Smith, 230 S.C. 164, 94 S.E. 2d 886 (1956) judge ruled defendant was unfairly prejudiced by solicitors exploitation and remanded for a new sentencing proceeding. The

state's recommendation was a breach of plea agreement and based off incorrect information. In *Townsend v Burke*, 334 U.S. 736, 68 S. Ct. 1252, 92 L. Ed. 1690 (1948) The Supreme Court made it clear that a sentence cannot be prejudiced on false information. Errors were egregious and created prejudice; should not have been considered by the court and aggravated defendant's sentence. See *state v Black* 319 SC 515, 462 S.C. 2d 311 (ct. app 1995). (pg. 159 of appendix) judge Cordell Maddox "He further contends that he was convicted in New Jersey of possession of a machine gun..." despite me presenting document (pg 130 appendix) showing that this was an error corrected by SLED the court reiterated this error showing lack of due diligence exercised by the court. (pg 86 of appendix) Mr. Zelenka "you had an automatic weapon" false did not possess automatic weapon. Also "he had in his possession 736 pills" false it was supposedly 36 pills huge discrepancy and another failure by the state to consider actual facts. (pg 12 of appendix) Ms. Oppenheimer "License was suspended for DUI" false I never have had a DUI ever not at this time or any time prior. "Because of that mr Helrigel was removed from the vehicle and detained" Fruit of the poisonous tree. See *Wong Son v U.S.* 371 U.S. 471, 83 S.Ct. 407, 9 L. Ed. 2d 441 (1963); *Silverthorne Lumber Co. v U.S.* 251 U.S. at 392, 40 S. Ct. at 183 (1920) "knowledge gained by the governments own wrong cannot be used by it in the way proposed. The essence of a provision forbidding the acquisition of evidence in a certain way is that not only evidence so acquired shall not be used before the court but that it shall not be used at all." IN *Jeremiah vW*, 361 S.C. 620, 606 S.E. 2d 766 (2004), in *State v Johnson* 302 S.C. 243, 395 S.E. 2d 167(1990) remanded for rehearing. *State v adams* 409 S.C. 641, 763 S.E. 2d 341(2014) ludge kitteredge held that defendants traffic violations were not intervening criminal acts sufficient to dissipate the taint from the underlying 4th amendment violation and good faith reliance exception to the exclusionary rule, following 4TH amendment violation was not applicable.

1d. Failure to accurately tell applicant what sentence range he was facing

I was sentenced to a 17 year sentence under sc code of laws statute 44-53-375(c)(2)(a). 44-53-375(F) states "A person convicted of and sentence under subsection (c) or € to a mandatory term of imprisonment of twenty five years \, a mandatory minimum term of imprisonment of twenty five years or a mandatory minimum term of imprisonment of not less than twenty five years nor more than thirty years is not eligible for parole. *Hodges v Rainey* 341 S.C. 79, 86, 553 S.E. 2d 578, 582 (2000) The canon of construction "expression unius est exclusio alerius" or "incusio unius est exclusion alterius" holds that "to express one thing is exclusion of another or alternative" 44-53-375(F) indicates to my understanding a 17 year sentence is parole eligible. *State v Taub* 336< S.C. 310, 317, 519 S.E. 2d 797, 801 (ct.app 1999) "The general rule of statutory construction is that a specific statute prevails over a more general one. 44-53-375 (c)(2)(a) is the specific statute was sentenced under. *Hair v State* 305 S.C. 77,79 406 S.E. 2d 332 (1991) "The law clearly provides that if two statutes are in conflict, the latest statute should prevail as to repeal the earlier statute to the extent of repugnancy." 44-53-375 has been amended in 20005, 2010, and 2016. 24-13-100 was enacted in 19995 and was recognized as repealed by implication in *Bolin v South Carolina Dept. of Corrections* S.C. app Feb 24 2016. *Stone v State* 3131 S.C. 533,535 443 S.E. 2d 544,545 (1994) held "when two statutes are in conflict the more recent and specific statute should prevail so as to repeal the earlier general statute." 44-53-375 is the more specific statute the more recent statute and legislative intent is affirmed by the inclusion of subsection (F)Legislature had opportunity to remove but did not. *Bryant v State* 384 S.C. 525, 683 S.E. 2d 280, 282 (2009)"the primary rule of statutory construction is to ascertain and give effect to the intent of the legislature." *North Rivers Co. v Gibson* 2444 S.C. 393, 398, 137 S.E. 2d 264,266 (1964) the court recognized "the rule of

construction that the adoption of an amendment which materially changes the terminology of a statute...raises a presumption that a departure from the original law was intended." Kerr v State 345 S.C. 183, 547 S.E. 2d 494 (2001) the court affirmed in giving relief referencing 44-53-375 "enumerated paragraph at end stated.." Furthermore, legislatures subsequent amendments which added material terms to the unenumerated paragraph signal that a "departure from the original law was intended." Nelson v Ozmint op no. 268 94 filed Nov. 22, 2010 the supreme court construed a statute that made an express provision for one set of circumstances but according to court's reasoning, by omitting such language for another set of circumstances is the provision at issue, the general assembly intended by such exclusion to make a distinction between the issues addressed by the statutes addressed by the statute. The court cited the rule of statutory construction Hodges v Rainey (2000) That the legislature inclusion of one thing is the exclusion of another or alternative. Bolin v SCDC S.C. app Feb 24, 2016) involved the question of whether 24-13-100 defining "no parole offenses" had been modified by a subsequent statute the omnibus crime and sentencing reform act of 2010. Bolin analyzed the effect which the language of the subsequent 2010 omnibus crime reduction and sentencing reform act of 2010 had upon 24-13-100 "no parole offense". The court's analysis is instructive here as well the legislature's use of the phrase "notwithstanding any other provision of law" in the amendments to section 44-53-375 expressed its intent to repeal section 24-13-100 to the extent it conflicts with amended section 44-53-375. See Stone v State (1994); Hair v State (1991); Strickland v State 276 S.C. 17, 19, 274 S.E. 2d 430, 432 (1981) the intent to repeal 24-13-100 is "expressly implied" in 44-53-375(F). State v Long 363 S.C. 360, 364, 610 S.E. 2d 804, 811 (2005) "the legislature is presumed to intend that its statutes accomplish something." The rule of lenity must be applied, the principle that any ambiguity must be strictly construed against the state in favor of the defendant when a statute is penal in nature. See State v Blackmon 304 S.C. 270, 273, 403 S.E. 2d 660, 662 (1991). The amendments to 44-53-375 should prevail as to repeal; 24-13-100 to the extent of repugnancy. It was my understanding prior to accepting plea that 17 year sentence for 44-53-375(c)(2)(a) is parole eligible and still my understanding. Any other interpretation is a miscarriage of justice and a stray from legislative intent.

~~interpretation~~
interpretation

a. failure to discuss trial strategy with applicant

o. Failure to meet with applicant enough

(pg. 99 appendix) Mr. Williams "the first appearance (June 9) I want to say Mr. Stately was at the first appearance. The second appearance I was with him at the second appearance and that is when the initial offer was given." This statement is inaccurate according to me and the state (pg. 69) Zelenka "on June 6 2022, the state sent a plea offer to defense counsel." 3 days prior to first appearance and over a month before Mr. Williams claims. Also the record of appearance on June 9, 2022 has another attorney (Sarah Mauldin) name scratched out Theo Williams hand written above and the signature in the document is neither Williams or Stately. Williams and Stately committed perjury (pg 116) Stately "I guess in this case, specifically I appear to have gone to the first appearance." (119) Marto "do you have any recollection of being at the first appearance?" Stately "No, but" (126) Stately "I don't know that I met him before Ricland hail with all, except for maybe at the first appearance." He admitted did not meet me until September than recanted statement. (pg. 100) Marto "so did you discuss trial strategy with Mr. Helrigel?" Williams "yes we talked about--- we talked about the stop. We talked about---and Mr. Stately when he went out to see him at the jail" (pg 114) Marto "did you discuss the nature of the stop and dash cam photos? Dash cam videos? Was there any discussion about about the presence, lack of quality of

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that information? Williams (109) zelenka "at the time you entered the plea when was this case likely to go to trial?" Williams "2 years" despite the state saying (pg 100) "offer expires after august 26, 2022" he procrastinated and did not inform defendant. "no, I don't -this was a stop." Contradictory statements proof he did not exercise due diligence collecting facts about the case. (pg 119) Marto "now did you discuss trial strategy with mr. Helrigel "Stitley" I don't recall at all talking to him at all about the first case" "I dint remember the first case specifically at all" Ben stitley admitted he never talked to me addressing the charges which I am sentenced for. Williams nor stately exercised due diligence nor took time to create strategy or inform defendant properly. Stitley did not even know what was chaged with in case he supposedly represented me making same false claim as solicitor 400 or more but was 10 or more less than 28, huge disparity and see rule 407 SCACR rule 1.3 regarding due diligence. Williams (109) zelenka "at the time you entered the plea when was this case likely to go to trial?" Williams "2 years" despite the state saying (pg 100) "offer expires after august 26, 2022" he procrastinated and did not inform defendant. See rule 407 SCACR rules of proffessio9nal conduct rule 1.3 diligence, perhaps no short coming is more widely resented than procrastination a client's interest can be adversely affected by the passage of time or the change in conditions even when the clients interests are not effected in substance however unreasonable delay can cause a client needless anxiety and undermine confidence in lawyers trustworthiness. (pg 17) Williams "Robert doesn't know I'm going to talk about this." Strickland v Washington 466 U.S. 668 104 S.ct. 2052 (1984) duties to consult with defendant important decisions and keep defendant informed of important developments. The court agreed the 6th amendment imposes counsel duty to investigate.

** Document - Record of first appearance*

h. failure to properly inform me

(pg 5) court "it also has a fine" oppenheimer "that's correct your honor" court "okay 50,000 do you understand that? defendant " a possible fine or the fine is 50,000?" court "I mean the fine is part of the gig" Williams "if it is they don't necessarily get the money once you do the time but that is a possible fine." Defendant " ii don't have it your honor" court " I don't think you need to be worrying about fines right now" Williams still said it was a possible fine proof he did not know facts or misinformed me. I did nor understand. Also violation of 8th amendment right against excessive fines. (pg 6) court " do you understand that?" defendant " only thing I got a question " Williams " wait wit" I was unsure about something and attempted to get clarification.

g. failure to obtain more favorable plea offer

counsel failed to get deal in writing or negotiate terms sentence could have been structured differently where defendant had possibility of serving less time with good behavior but counsel failed to consider defendants best interest

** Sent record of first appearance to chandler Norville made numerous attempts to have him send back to no avail. Please request Record of First appearance from him.*

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