

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CASE DOCKET NO. _____

RECEIVED

JUL 16 2026

SC Court of Appeals

APPEAL AND PETITION FROM THE S.C. COURT OF APPEALS
UNDER CASE DOCKET NO. 2023-001474

APPEAL FROM LEXINGTON COUNTY GENERAL SESSIONS
UNDER INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JOSEPH JAMES PATTERSON III,

PETITIONER

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

PETITION TO INVOKE THE SOUTH CAROLINA SUPREME COURT'S
ORIGINAL JURISDICTION AND IN THE ALTERNATIVE PETITION
FOR A WRIT OF MANDAMUS TO SUBSTITUTE FOR CONFLICT-FREE
LEGAL COUNSEL PRODUCING CONSTITUTIONAL STRUCTURAL ERROR;
PETITION FOR WRIT OF PROHIBITION AND MOTION TO MOTION THEREFOR

TO: THE SOUTH CAROLINA SUPREME COURT ET. AL.,

ATTACHED THE S.C. SUPREME COURT WILL FIND:

(1) "EXHIBIT NO. 1"---THIS IS A COPY OF THE AFFIDAVIT OF SERVICE AND AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR REVIEW OF CLERK'S ACTIONS UNDER RULE 240(j); MOTION TO COMPEL FILING AND MOTION TO MOTION, [5] PAGES DATED APRIL 29, 2026 FILED UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS.

(2) "EXHIBIT, NO. 2"---THIS IS A COPY OF THE [3] PAGE LETTER TO THE CHIEF ADMINISTRATIVE JUDGE OF THE S.C. COURT OF APPEALS, JUDGE H. BRUCE WILLIAMS DATED APRIL 21, 2026, A COPY OF THE NOTICE FROM THE COURT OF APPEALS DATED APRIL 13, 2026 FILED UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS.

(3) "EXHIBIT NO. 3"---THIS IS A COPY OF THE COVER LETTER, AFFIDAVIT OF SERVICE AND AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR REHEARING AND OR RECONSIDERATION ON THE APPELLANT'S DOCUMENT ENTITLED, "AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR LEAVE TO RELIEVE COUNSEL; MOTION FOR LEAVE TO FILE BRIEF TO ARGUE AGAINST THE PRECEDENT PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217 AND OR IN THE ALTERNATIVE MOTION TO WITHDRAW AND MOTION TO MOTION THEREFOR", SEEKING THAT IF THE COURT DO NOT RELIEVE COUNSEL AND ALLOW THE APPELLANT TO ACT PRO SE, THAT THE COURT APPOINT SUBSTITUTE CONFLICT-FREE COUNSEL THAT IS NOT COMPROMISED BY THE STATE AND SEEK THAT THE COURT RULE ON THE JURISDICTIONAL CLAIMS PRESENTED, [14] PAGES DATED APRIL 10, 2026 ALONG WITH THE ORDER ISSUED BY THE S.C. COURT OF APPEALS DATED FILED MARCH 31, 2026 THAT IS FILED UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS.

(4) "EXHIBIT, NO. 4"---THIS IS A COPY OF THE POST CONVICTION RELIEF APPLICATION [401] PAGES FILED UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT THAT ESTABLISH CASE NO. 2026-CP-32-01723 PENDING WITHIN THE LEXINGTON COUNTY COURT OF COMMON PLEAS. DUE TO THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, CONSPIRING UNDER COLOR OF STATE LAW AND OBSTRUCTION OF JUSTICE OCCURRING UNDER CASE 2023-001474 IN THE S.C. COURT OF

APPEALS, THE APPELLANT WAS FORCED TO FILE THE PCR APPLICATION UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT IN HOPES OF MAINTAINING SOME TYPE OF PRESERVATION OF THE CLAIMS. IT IS PLAIN TO SEE FROM THIS ATTACHED PCR APPLICATION DOCUMENT THAT THE JURISDICTIONAL ISSUES ARGUED WITHIN THIS ATTACHED POST CONVICTION RELIEF APPLICATION CAN INDEED BE RAISED FOR THE FIRST TIME ON APPEAL AND THE APPELLANT HAS PRODUCED SUBSTANTIAL CAUSE AS TO WHY HE MUST BE PERMITTED TO SUBSTITUTE CURRENT APPOINTED COUNSEL TO ARGUE AGAINST THE PRECEDENT ESTABLISHED BY THE STATE v. GENTRY CASE OF 2005. THIS PCR IS THE SOURCE OF THE FRAUD UPON THE COURT, COLLUSION, CONSPIRING UNDER COLOR OF STATE LAW AND OBSTRUCTION OF JUSTICE ARTICULATED THEREIN PRODUCING OVERWHELMING PREJUDICE AGAINST THE APPELLANT REGARDING HIS DUE PROCESS MATTERS PENDING UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS.

INSOMUCH, THE APPELLANT/PETITIONER OBJECTS AND MOTIONS TO INVOKE THE S.C. SUPREME COURT'S ORIGINAL JURISDICTION TO REMEDY THE CONSTITUTIONAL STRUCTURAL ERROR THAT CURRENTLY EXIST WITHIN THE APPEAL, AND OR IN THE ALTERNATIVE PETITION FOR A WRIT OF MANDAMUS TO REQUIRE THE S.C. COURT OF APPEALS TO REMOVE THE COMPROMISED STATE APPOINTED LEGAL COUNSEL AND APPOINT SUBSTITUTE COUNSEL AS IS ARGUED WITHIN THE EXHIBITS. THE PETITIONER MOTION FOR A WRIT OF PROHIBITION TO PREVENT THE S.C. COURT OF APPEALS FROM PLACING ANY FINAL ORDER IN THE APPEAL UNTIL THE COMPROMISED STATE APPOINTED LEGAL COUNSEL IS SUBSTITUTED WITH CONFLICT-FREE COUNSEL AND THE APPELLANT IS PERMITTED TO ARGUE AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY AS HIS DUE PROCESS RIGHTS AND RULE 217 OF APPELLATE COURT RULES WOULD PERMIT.

WHAT IS CURRENTLY GOING ON WITH THE S.C. COURT OF APPEALS AND THE STATE APPOINTED LEGAL COUNSEL, CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE, TO PREVENT SUBSTANTIAL JURISDICTIONAL CHALLENGE FROM BEING RAISED WITHIN THE S.C. COURT OF APPEALS IS OUTRAGEOUS AND SHOCKS THE CONSCIENCE THAT SUCH MANIFEST INJUSTICE WOULD BE PERPETRATED WITHIN THE S.C. COURT OF APPEALS. THE APPELLANT'S LEGAL PROCESS IS CAUGHT IN A PERPETUAL LEGAL LIMBO FURTHER VIOLATING HIS CONSTITUTIONALLY

PROTECTED DUE PROCESS RIGHTS. THE COURT OF APPEALS CANNOT LEGALLY ISSUE A VALID FINAL ORDER WITHIN THE APPELLANT'S APPEAL WHILE ACTIVELY PARTICIPATING IN OR IGNORING A KNOWN FRAUD UPON THE COURT AND COUNSEL COLLUSION, AS DOING SO VIOLATES BASIC FEDERAL AND STATE CONSTITUTIONAL RIGHTS OF DUE PROCESS AND CONFLICT-FREE COUNSEL. THE LEGAL COUNSEL THAT PRESENTLY REPRESENT THE APPELLANT IS COMPROMISED, CONSPIRING UNDER COLOR OF STATE LAW TO PREVENT THE JUST AND PROPER ADJUDICATION OF LEGITIMATE SUBJECT MATTER JURISDICTION ISSUES THAT CAN BE RAISED FOR THE FIRST TIME ON APPEAL. THE APPELLANT OBJECTS AND SEEKS THE S.C. SUPREME COURT'S IMMEDIATE INTERVENTION AND EXERCISE OF JURISDICTION.

UNDER SOUTH CAROLINA LAW, AN APPELLANT CAN SEEK A WRIT OF MANDAMUS FROM THE SOUTH CAROLINA SUPREME COURT, AND THE COURT OF APPEALS IS LEGALLY REQUIRED TO SUBSTITUTE COUNSEL DUE TO GENUINE, IRRECONCILABLE CONFLICT OF INTEREST THUS PRESENTED AND ESTABLISHED AS SEEN AND ARTICULATED WITHIN THE EXHIBITS AND THIS PLEADING. THE APPELLANT MOTIONS TO INVOKE THE S.C. SUPREME COURT'S ORIGINAL JURISDICTION AND IN THE ALTERNATE PETITION FOR WRIT OF MANDAMUS AND PROHIBITION. THE APPELLANT IS AWARE THAT THE GRANTING OF A PETITION FOR WRIT OF MANDAMUS IS NOT AUTOMATIC BUT THE MANDATES OF THE STRICT LEGAL TEST ARE MET UNDER THESE EXTRAORDINARY CIRCUMSTANCES. A FINAL ORDER ISSUED UNDER THE CIRCUMSTANCES ARTICULATED WITHIN THE ATTACHMENTS AND THIS PLEADING WOULD BE FUNDAMENTALLY FLAWED AND VULNERABLE TO BEING VACATED FOR CONSTITUTIONAL STRUCTURAL ERROR. THE APPELLANT'S SUBSTANTIAL DUE PROCESS RIGHTS ARE CLEARLY BEING VIOLATED. THE 6TH. AMENDMENT (AND ARTICLE 1, SECTION 14 OF THE SOUTH CAROLINA CONSTITUTION) GUARANTEES THE RIGHT TO EFFECTIVE CONFLICT-FREE LEGAL COUNSEL. THE RIGHT OF AUTOMONY ESTABLISHED BY MCCOY v. LOUISIANA 2018 U.S. SUPREME COURT CASE CARRIES OVER INTO DIRECT APPEAL. WHEN OFFICERS OF THE COURT (THE DEFENSE ATTORNEY) COLLUDES WITH THE PROSECUTION (THE ATTORNEY GENERAL'S OFFICE) TO SUPPRESS A "ROCK SOLID" JURISDICTIONAL CLAIM(S), IT DEFILES THE INTEGRITY OF THE JUDICIAL SYSTEM. JURISDICTION CAN BE RAISED AT ANY TIME: IN SOUTH CAROLINA, SUBJECT MATTER JURISDICTION CAN NEVER BE WAIVED AND CAN BE RAISED AT ANY POINT, INCLUDING FOR THE

FIRST TIME ON DIRECT APPEAL. THE INTENTIONAL TREATING OF A MOTION FOR SUBSTITUTE COUNSEL AS A MOTION MERELY TO PROCEED PRO SE (SELF REPRESENTATION) WITHOUT CONDUCTING A PROPER FARETTA HEARING CONSTITUTE A REVERSIBLE ERROR OF LAW.

THE S.C. COURT OF APPEALS IN MANDATED AND LEGALLY REQUIRED TO SUBSTITUTE COUNSEL IF AN APPELLANT DEMONSTRATES "GOOD CAUSE". GOOD CAUSE EXISTS WHERE IN THIS CASE WE ARE DEALING WITH AN ACTUAL CONFLICT OF INTEREST, TOTAL BREAKDOWN IN COMMUNICATION, AND STATE SPONSORED COLLUSION WHICH LEGALLY SATISFIES THE LEGAL DEFINITION OF "GOOD CAUSE". WHERE THIS CONFLICT CLEARLY EXISTS, ONCE THE COURT IS PUT ON NOTICE THAT DEFENSE COUNSEL IS ACTIVELY WORKING WITH THE ADVERSE PARTY (THE STATE) TO DAMAGE HIS CLIENT, THE APPELLANT'S DIRECT APPEAL, THE COURT HAS AN ABSOLUTE DUTY TO INVESTIGATE AND APPOINT CONFLICT-FREE COUNSEL. FAILING TO DO SO IS STRUCTURALIZES AN UNFAIR APPEAL PROCESS.

THE APPELLANT MUST PROVE THREE STRICT ELEMENTS TO WARRANT THE GRANTING OF THE MANDAMUS: (1) A CLEAR LEGAL RIGHT--THE APPELLANT HAS AN UNDENIABLE RIGHT TO CONFLICT-FREE LEGAL COUNSEL TO PERFECT HIS APPEAL WITHIN THE S.C. COURT OF APPEALS. (2) A NON-DISCRETIONARY DUTY--THE S.C. COURT OF APPEALS HAVE A PLAIN, MANDATORY DUTY TO PROTECT THE INTEGRITY OF THE COURT AND REMOVE COUNSEL THAT IS COMPROMISED. (3) NO OTHER ADEQUATE REMEDY---THE WAITING FOR A CORRUPTED AND TAINTED APPEAL TO FULLY MANIFEST ITSELF WHICH FORCED THE APPELLANT TO MOVE TO COLLATERAL REVIEW AND FILE A POST CONVICTION RELIEF APPLICATION IS AN INADEQUATE REMEDY BECAUSE THE FRAUD, CONSPIRACY AND OBSTRUCTION OF JUSTICE IS OCCURRING ACTIVELY AT THE DIRECT APPELLATE LEVEL WHICH WOULD ESSENTIALLY DEPRIVE THE APPELLANT OF A "JUST AND FAIR" DIRECT APPELLANT REVIEW THAT THE COLLATERAL REVIEW WOULD NOT FULLY REMEDY. FRAUD MUST BE ARGUED WITHIN THE COURT WHERE THE FRAUD IS ACTUALLY OCCURRING. THE APPELLANT IN ALTERNATE TO THE INVOKING OF THE COURT'S ORIGINAL JURISDICTION AND OR THE SEEKING OF PETITION FOR WRIT OF MANDAMUS ALSO PETITION FOR A WRIT OF PROHIBITION (TO STOP THE COURT OF APPEALS FROM EXCEEDING ITS AUTHORITY (JURISDICTION) UNTIL THE COUNSEL ISSUE IS RESOLVED).

CONTROLLING CASE LAW GOVERNING (4) DISTINCT AREAS APPLY HERE: (1) SUBJECT MATTER JURISDICTION---SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY TIME AND WHERE THE APPELLANT SEEKS TO ARGUE AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494(S.C.App.2005) AS APPELLATE COURT RULES WOULD PERMIT WHICH HE DOES NOT NEED THE PERMISSION OF THE COURT TO DO. THE S.C. SUPREME COURT CLARIFIED THAT ISSUES OF TRUE SUBJECT MATTER JURISDICTION---WHICH REFERS TO THE COURT'S "CONSTITUTIONAL" (EMPHASIS ADDED) AND STATUTORY POWER TO HEAR A PARTICULAR CASE---CAN NEVER BE WAIVED BY A PARTY AND MAY BE RAISED FOR THE FIRST TIME AT ANY POINT IN THE PROCEEDINGS, INCLUDING FOR THE FIRST TIME ON DIRECT APPEAL. IF THE APPELLANT DISCOVERS A VALID SUBJECT MATTER JURISDICTION FLAW, THE COURT OF APPEALS CANNOT LEGALLY REFUSE TO HEAR IT BASED UPON PROCEDURAL RULES OR TIMELINES. (2) THE RIGHT TO CONFLICT-FREE COUNSEL---IN CASES LIKE STATE v. STOOTS, 445 S.C. 127, 912 S.E.2d. 248(S.C.App.2025) AND STATE v. INMAN, 395 S.C. 539, 720 S.E.2d. 31(S.C.App.2011) THE COURT DETERMINED THAT A DEFENDANT'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL INCLUDES THE RIGHT TO CONFLICT-FREE REPRESENTATION. THE APPELLANT BY THE ARGUMENT PRESENTED ESTABLISHED "GOOD CAUSE", WHICH INCLUDES AN ACTUAL CONFLICT OF INTEREST OR RECONCILABLE BREAKDOWN IN COMMUNICATION. CRUCIALLY, THE SUPREME COURT RULED THAT WHEN AN APPELLANT REQUESTS NEW COUNSEL, THE LOWER COURT HAS AN ABSOLUTE DUTY TO CONDUCT A MEANINGFUL INQUIRY INTO THE NATURE OF THE CONFLICT WHICH IN TRUTH DID NOT PROPERLY OCCUR HERE. MISCHARACTERIZING THE APPELLANT'S REQUEST FOR CONFLICT-FREE COUNSEL AS AN AUTOMATIC MOTION TO PROCEED PRO SE---WITHOUT ADDRESSING THE COLLUSION OR CONDUCTING A PROPER INQUIRY---IS A SEVERE ABUSE OF DISCRETION AND A STRUCTURAL LEGAL ERROR. CRIMINAL DEFENDANTS HAVE BOTH 6TH. AMENDMENT RIGHT TO CONFLICT-FREE COUNSEL AND ABILITY TO WAIVE THAT RIGHT. CONFLICT OF INTEREST SUPPORTS CLAIM OF INEFFECTIVE ASSISTANCE. THE APPELLANT IS ENTITLED TO COUNSEL WHOSE UNDIVIDED LOYALTIES LIE WITH HIS CLIENT, JORDON v. STATE, 406 S.C. 443, 752 S.E.2d. 538(S.C.App.2013); STANKO v. STRILING, 190 F.4TH. 681(4th.Cir.2024); UNITED STATES v. PERRY, 92 F.4TH. 500 (4th.Cir.2024); UNITED STATES v. GLOVER, 8 F.4TH.

239(4th.Cir.2021); IN RE: BEARD, 359 S.C. 351, 597 S.E.2d. 835(S.C.App.2004); SENTRY SELECT INSURANCE COMPANY v. MAYBANK LAW FIRM, LLC., 426 S.C. 154, 826 S.E.2d. 270(S.C.App.2019). (3) FRAUD UPON THE COURT---FRAUD UPON THE COURT INVALIDATES ANY FINAL ORDER THAT WOULD BE ATTEMPTED FILED WITHIN THE APPEAL. IN THE CASE OF CHEWING v. FORD MOTOR CO., 354 S.C. 72, 579 S.E.2d. 605(S.C.App.2003) ALSO SUPPORTED BY FOX EX REL FOX v. ELK RUN COAL CO., 739 F.3d. 131 (4th.Cir.2014), THE CHEWING CASE BEING A LANDMARK CASE SUPPORTED BY FOX THE S.C. SUPREME COURT HELD THAT FRAUD UPON THE COURT OCCURS WHEN OFFICERS OF THE COURT (SUCH AS AN ATTORNEY) ACTIVELY COLLUDES OR ENGAGES IN INTENTIONAL MISCONDUCT THAT SUBVERTS THE ADMINISTRATION OF JUSTICE. THE COURT RULED THAT ANY JUDGMENT OR ORDER OBTAINED THROUGH FRAUD UPON THE COURT IS INHERENTLY CORRUPTED AND MUST BE VACATED. IF DEFENSE COUNSEL CONTINUES TO COLLUDE WITH THE ATTORNEY GENERAL TO SUPPRESS A JURISDICTIONAL CLAIM, THEY COMMIT FRAUD UPON THE COURT. ANY APPELLATE ORDER THAT KNOWS OF THIS FRAUD BUT PROCEEDS ANYWAY IS NOT JUST UNCONSTITUTIONAL. IT IS LEGALLY DEFECTIVE AND SUBJECT TO BEING OVERTURNED AND OR RENDERED VOID. (4) THE NEED FOR A WRIT OF MANDAMUS AND WRIT OF PROHIBITION TO HALT THE MANIFEST INJUSTICE---THE SOUTH CAROLINA SUPREME COURT OUTLINED THE STRICT NON-NEGOTIABLE ELEMENTS REQUIRED TO SECURE THE EXTRAORDINARY REMEDY FOR A WRIT OF MANDAMUS AND OR PROHIBITION. THE PETITIONER MUST ESTABLISH A CLEAR LEGAL RIGHT TO THE PERFORMANCE OF THE DUTY, A PLAIN, MINISTERIAL (MANDATORY) DUTY BY THE PUBLIC OFFICER OR LOWER COURT TO PERFORM THAT ACT; AND THE LACK OF ANY OTHER AVAILABLE REMEDY. THE APPELLANT HAS A CLEAR LEGAL RIGHT TO CONFLICT-FREE COUNSEL (INMAN), THE S.C. COURT OF APPEALS HAS A MANDATORY DUTY TO REMOVE A CORRUPTED APPOINTED STATE ATTORNEY, AND ORDINARY POST CONVICTION RELIEF PROCESSES ARE INADEQUATE BECAUSE THE FRAUD IS ACTIVELY, ACTIVELY POLLUTING THE DIRECT APPEAL PROCESS ESSENTIALLY LEAVING THE APPELLANT IN DIRECT APPEAL LEGAL LIMBO. FOR WRIT OF PROHIBITION YOU HAVE AN ACTUAL OR THREATENED EXCESS OF JURISDICTION. IT IS SOUGHT TO STOP AN UNCONSTITUTIONAL ACT FROM PERSISTING OR OCCURRING. THE APPOINTED ATTORNEY REFUSES TO BRING THE LEGITIMATE JURISDICTIONAL CLAIMS. THE APPELLANT SOUGHT REHEARING AND FILED PREVIOUS OBJECTIONS TO

NO AVAIL.

IN RECENT JUDICIAL DECISION LIKE STATE v. STOOTTS, 445 S.C. 127, 912 S.E.2d. 248(S.C.App.2025) THE SOUTH CAROLINA SUPREME COURT RE-EMPHASIZED THAT SUBJECT MATTER JURISDICTION IS A STRICT CONSTITUTIONAL REQUISITE. THE COURT REITERATED THAT A LACK OF SUBJECT MATTER JURISDICTION CANNOT BE WAIVED, CANNOT BE CURED BY THE CONSENT OF THE PARTIES, AND CAN BE RAISED AT ANY TIME BY ANY PARTY, OR BY THE COURT SUA SPONTE, INCLUDING FOR THE FIRST TIME ON DIRECT APPEAL. WHERE THE APPELLANT'S NEWLY DISCOVERED AND PRESENTED CLAIM(S) IS A TRUE SUBJECT MATTER JURISDICTION ISSUE (CONSTITUTIONAL ELEMENT JURISDICTION CLAIM ARGUING AGAINST AN ESTABLISHED JURISDICTIONAL PRECEDENT [GENTRY]), THE COURT OF APPEALS CANNOT INVOKE PROCEDURAL BARS, PRESERVATION RULES, OR TIME LIMITS TO AVOID RULING ON IT. THE FAILURE TO PROPERLY INQUIRE INTO COUNSEL SUBSTITUTION UNDER STATE v. ROBERSON, 438 S.C. 614, 885 S.E.2d. 411 (S.C.App.2023) AND JORDON v. STATE, 406 S.C. 443, 752 S.E.2d. 538(S.C.App.2013) CLARIFIES THE EXACT PROCEDURAL STANDARD A COURT MUST FOLLOW WHEN AN INDIGENT DEFENDANT REQUESTS THE DISCHARGE OR SUBSTITUTION OF APPOINTED COUNSEL. THE COURT RULED THAT WHEN THE APPELLANT VOICES SEVERE DISSATISFACTION OR ASSERTS A CONFLICT OF INTEREST, THE LOWER COURT ABUSES ITS DISCRETION IF IT FAILS TO CONDUCT A SEARCHING, MEANINGFUL INQUIRY ON THE COURT RECORD WHICH DID NOT PROPERLY, FAIRLY OCCUR IN THE APPELLANT'S DIRECT APPEAL UNDER CASE NO. 2023-001474. THE COURT OF APPEALS COMMITTED A SEVERE, STRUCTURAL ERROR OF LAW. BY TRANSFORMING A MOTION FOR SUBSTITUTE, CONFLICT-FREE COUNSEL INTO A MERE ACTIVE MOTION TO ACT PRO SE---WHILE COMPLETELY IGNORING THE UNDERLYING CONFLICT---THE COURT VIOLATES MANDATED CONSTITUTIONAL SAFEGUARDS. WHILE ANALYZING ATTORNEY ETHICS AND JUDICIAL INTEGRITY, THE SOUTH CAROLINA SUPREME COURT AFFIRMED THAT AN ATTORNEY'S PRIMARY, ABSOLUTE ALLEGIANCE IS TO THEIR CLIENT. IF AN OFFICER OF THE COURT (THE DEFENSE ATTORNEY) ACTS IN CONCERT WITH AN ADVERSE PARTY OR ACTIVELY SABOTAGE HIS CLIENT'S CORE LEGAL RIGHTS TO PROTECT AN INSTITUTIONAL INTEREST, IT THOROUGHLY SUBVERTS THE ADMINISTRATION OF JUSTICE. THEIR ACTION PRODUCE INSTITUTIONAL

IRREGULARITIES AND STATE INTERFERENCE THAT COMPLETELY UNDERMINE THE INTEGRITY OF THE ADVERSARIAL PROCESS AND VIOLATE FUNDAMENTAL STATE AND FEDERAL DUE PROCESS GUARANTEES. DIRECT COLLUSION BETWEEN THE ATTORNEY GENERAL AND APPOINTED COUNSEL TO EXPLICITLY SUPPRESS A VIABLE JURISDICTIONAL DEFECT IS THE DICTIONARY DEFINITION OF AN INSTITUTIONAL FRAUD UPON THE COURT. A FINAL ORDER GENERATED BY AN APPELLATE COURT THAT IS FULLY AWARE OF THIS UNCONSTITUTIONAL ACTION AND ACTIVE COLLUSION IS ENTIRELY VOID AND OR ILLEGITIMATE.

THE APPELLANT PETITION TO INVOKE THE S.C. SUPREME COURT'S ORIGINAL JURISDICTION TO REMEDY THIS CONTINUING MANIFEST INJUSTICE AND OR IN THE ALTERNATIVE PETITION FOR A WRIT OF MANDAMUS AND PETITION FOR PROHIBITION BASED UPON THE LITIGATION AND ARGUMENT THUS PRESENTED. THE COURT WOULD GRANT MANDAMUS WHEN (1) THE PETITIONER HAS NO OTHER ADEQUATE MEANS TO ATTAIN THE RELIEF IT DESIRES, (2) THE APPELLANT HAS SHOWN CLEAR AND INDISPUTABLE RIGHT TO REQUEST THE RELIEF, AND (3) THE COURT DEEMS WRIT IS APPROPRIATE UNDER THE CIRCUMSTANCES THUS PRESENTED, IN RE: EXPRESS SCRIPTS, INC., 176 F.4TH. 301 (4th.Cir.2026); GRAY MEDIA GROUP, INC. v. LOVERIDGE, 155 F.4TH. 330 (4th.Cir.2025); CARRIER v. STATE, 441 S.C. 547, 895 S.E.2d. 679(S.C.App.2023).

RESPECTFULLY,

JOSEPH J. PATTERSON III

A handwritten signature in black ink, appearing to read "James Patterson", is written over the typed name "JOSEPH J. PATTERSON III".

JULY 2, 2026

"EXHIBIT NO. 1"

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001474

APPEAL FROM LEXINGTON COUNTY
IN THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOS P PATTERSON III,

APPELLANT

Vs.

5

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF SERVICE

I, JAMES JOSEPH PATTERSON III, DO HEREBY CERTIFY, THAT I
HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING
JUDICIAL NOTICE; MOTION FOR REVIEW OF CLERK'S ACTIONS UNDER RULE
240(j); MOTION TO COMPEL FILING AND MOTION TO MOTION THEREFOR, ON
THE S.C. COURT OF APPEALS, THE S.C. INDIGENT DEFENSE OFFICE AND

THE S.C. ATTORNEY GENERAL BY U.S. MAIL. POSTAGE PREPAID BY
DEPOSITING IT IN THE INSTITUTION MAILBOX ON APRIL 29, 2026.

RESPECTFULLY,

JAMES J. PATTERSON

A handwritten signature in cursive script that reads "James J. Patterson". The signature is written in dark ink and is positioned below the printed name.

APRIL 29, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
IN THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR
REVIEW OF CLERK'S ACTIONS UNDER RULE 240(j); MOTION TO
COMPEL FILING AND MOTION TO MOTION THEREFOR

TO: THE CHIEF JUDGE OF THE SOUTH CAROLINA COURT OF APPEALS
H. BRUCE WILLIAMS ET. AL.,

THE APPELLANT MOTION FOR REVIEW OF CLERK'S ACTIONS AND MOTION TO COMPEL THE CLERK TO FILE AND FORWARD THE MOTION FOR REHEARING AND OR RECONSIDERATION TO THE APPROPRIATE JUDGES FOR ADJUDICATION. THE APPELLANT MOTIONS AND SEEKS THAT THE COURT AND CHIEF JUDGE FORMALLY REVIEW THE CLERK'S REFUSAL TO FORWARD THE PLEADING TO THE COURT FOR ADJUDICATION OF THE MOTION FOR REHEARING AND OR RECONSIDERATION OF THE MOTION TO RELIEVE COUNSEL UNDER APPELLATE COURT RULE 240(j). THE APPELLANT OBJECTS TO THE CLERK REFUSING TO FORWARD THE RECENT PLEADING TO THE COURT FOR REHEARING ON THE MOTION TO RELIEVE COUNSEL DUE TO CONFLICT OF INTEREST INVOLVING STATE APPOINTED COUNSEL AS ARGUED IN THE SUBMITTED PLEADING. THE CLERK IS INAPPROPRIATELY RELYING UPON THE CLAIM THAT THERE IS NO HYBRID-REPRESENTATION. BUT IT IS WELL ESTABLISHED LAW BY JUDICIAL HOLDINGS UNDER STATE v. STUCKEY, 333 S.C. 56 (S.C.App.1998)(THE SUPREME COURT OF SOUTH CAROLINA HELD THAT WHILE SUBSTANTIVE PRO SE DOCUMENTS FILED BY A REPRESENTED PERSON ARE GENERALLY NOT ACCEPTED, THIS DOES NOT LIMIT A PARTY'S RIGHT TO FILE A PRO SE MOTION TO RELIEVE COUNSEL) AND MILLER v. STATE, 434 S.C. 512 (S.C.App.2021)(THIS RULING REAFFIRMS THAT PRO SE DOCUMENTS ARE NOT ACCEPTED REPRESENTED PARTIES, SPECIFICALLY REINFORCING THE "EXCEPTION" (EMPHASIS ADDED) FOR MOTIONS TO RELIEVE COUNSEL WHICH WOULD INCLUDE REHEARING UNDER RULE 221). THE FILING IS SUBMITTED TO ADDRESS THE MOTION TO RELIEVE COUNSEL WHICH CANNOT BE DENIED IS THE INTENT. THIS IS ENFORCED BY THE COURT'S JUDICIAL ORDER 2010-07-08-01 WHICH PROVIDE:

"SINCE THERE IS NO HYBRID-REPRESENTATION"... "WITH THE EXCEPTION OF MOTION TO RELIEVE COUNSEL", FILED PRO SE BY PERSON REPRESENTED BY COUNSEL ARE NOT TO BE ACCEPTED. THE STANDARD FOR ACCEPTANCE IS THE MOTION TO RELIEVE COUNSEL WHICH THIS PLEADING EMBODIES PURSUANT TO SEEKING REHEARING AND RECONSIDERATION ON THE VERY ISSUE OF RELIVING COUNSEL. THEREFORE THE CLERK WAS REQUIRED TO FORWARD THE DOCUMENT FOR JUDICIAL REVIEW, FOSTER v. STATE, 298 S.C. 306, 379 S.E.2d. 907(S.C.App.1989).

IT IS APPROPRIATE FOR THE APPELLANT TO SEEK REHEARING WHERE THE COURT'S PRIOR RULING FAILED TO ADDRESS THE ISSUE OF

SUBSTITUTING THE CONFLICT COUNSEL IF THE COURT DECLINES TO ALLOW THE APPELLANT TO ACT PRO SE. THE APPELLANT'S 6TH. AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION ARE COMPROMISED. THE APPELLANT MOTIONS TO COMPEL THE FILING AND FORWARDING TO THE JUDGES FOR ADDITIONAL REVIEW. THE COURT OF APPEALS "MISAPPREHENDED AND OVERLOOKED" A SUBSTANTIAL FACT AND POINT OF LAW. THE COURT'S ORDER IGNORED THAT SPECIFIC LEGAL ISSUE REGARDING THIS SUBSTANTIAL CONSTITUTIONAL RIGHT TO HAVE CONFLICT-FREE COUNSEL (THE COURT MUST ALLOW SUBSTITUTE IF NOT GIVEN RIGHT TO ACT PRO SE) AND THE APPELLANT'S CONSTITUTIONAL RIGHT OF AUTONOMY (TO HAVE HIS JURISDICTIONAL ISSUES RAISED) AS HIGHLIGHTED UNDER McCOY v. LOUISIANA 2018 OUT OF THE UNITED STATES SUPREME COURT. THE APPELLANT MOTIONS FOR REHEARING UNDER RULE 221 S.C.A.C.R., MOTION FOR REVIEW UNDER RULE 240(j), MOTION FOR REVIEW OF CLERK'S ACTIONS AND MOTION TO COMPEL THE CLERK TO NOT JUST FILE THE PLEADING, BUT FORWARD IT TO THE COURT FOR "FULL AND MEANINGFUL" REVIEW ON THE APPELLANT'S MOTION TO RELIEVE COUNSEL PURSUANT TO APPELLATE COURT RULES, RULE 240(a) OF SCACR DUE TO A CLEAR CONFLICT OF INTEREST.

RESPECTFULLY,

JAMES J. PATTERSON



APRIL 29, 2026

"EXHIBIT NO. 2"

JAMES JOSEPH PATTERSON III
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE S.C. 29512

IN RE: SEEKING REHEARING AND OR RECONSIDERATION OF THE MOTION TO
RELIEVE STATE APPOINTED COUNSEL FOR SUBSTITUTE COUNSEL OR TO ACT
PRO SE DUE TO CONFLICT OF INTEREST.

TO: THE HONORABLE CHIEF ADMINISTRATIVE JUDGE OF THE S.C.
COURT OF APPEALS, JUDGE H. BRUCE WILLIAMS,

SIR, ATTACHED YOU WILL FIND A COPY OF A LETTER DATED
APRIL 13, 2026 THAT WAS ISSUED BY THE DEPUTY CLERK JASMINE SMITH
REGARDING CASE 2023-001474 BASE UPON A PLEADING SEEKING REHEARING
AND OR RECONSIDERATION ON THE MOTION TO RELIEVE COUNSEL THAT WAS
PREVIOUSLY FILED IN THIS CASE. THIS DOCUMENT WAS RECEIVED BY THE
COURT STAMPED RECEIVED ON APRIL 9, 2026 FOR THE PURPOSE OF
SEEKING RECONSIDERATION DUE TO THE COURT MISREPRESENTING THE
JURISDICTIONAL FACTS REGARDING THIS ISSUE.

IT IS THE APPELLANT'S POSITION THAT THE CLERK
INAPPROPRIATELY EXERCISED JUDICIAL AUTHORITY IN VIOLATION OF THE
SEPARATION OF POWERS CLAUSE AND S.C. SUPREME COURT HOLDING UNDER
STATE v. BARNES REGARDING THE DUTIES OF THE CLERK. EVEN THOUGH
THE DOCUMENT APPARENTLY IS FILED, IT APPEARS THAT THE CLERK
FAILED IN HER DUTY TO FORWARD THE PLEADING TO THE JUDGES FOR
ADJUDICATION. THE APPELLANT UNDERSTANDS THAT THERE IS NO
HYBRID-DEFENSE. BUT RULE 264, SCACR(b) PROVIDE: WITHDRAWAL--AN
ATTORNEY OF RECORD IN A MATTER PENDING BEFORE AN APPELLATE COURT

MAY NOT WITHDRAW REPRESENTATION OF HIS CLIENT WITHOUT JUSTIFIABLE CAUSE (THE ATTACHED AND PREVIOUS PLEADING FILED APRIL 9, 2026 ESTABLISHES JUSTIFIABLE CAUSE), OR THE CONSENT, ON PETITION (THE RULES ALLOW THE APPELLANT TO FILE PETITION TO SEEK LEAVE TO RELIEVE COUNSEL) TO AND BY WRITTEN ORDER OF THE APPELLATE COURT, AND WITH MOTION TO THE ADVERSE PARTY (THE MOTION WAS INDEED FILED AND SERVED UPON THE PARTIES AS THE RULE REQUIRES).

THE COURT MISINTERPRETED AND OR MISREPRESENTED THE FACTS REGARDING THE SEEKING OF SUBSTITUTE COUNSEL AND OR TO RELIEVE COUNSEL WHERE THE 6TH. AMENDMENT GUARANTEES THE APPELLANT TO CONFLICT-FREE COUNSEL. EVEN IF THE COURT WOULD NOT PERMIT SELF REPRESENTATION. THE COURT HAS A SUBSTANTIAL DUTY AND OBLIGATION TO ENSURE THE INTEGRITY OF THE JUDICIAL PROCESS IS MAINTAINED, AND ENSURE THE APPLICANT'S 6TH. AMENDMENT RIGHTS TO CONFLICT-FREE COUNSEL REMAIN INTACT AND ARE NOT COMPROMISED.

DUE TO THIS BEING A SUBSTANTIAL CONSTITUTIONAL RIGHT, THE DENIAL OF THE COURT PRODUCES A FINAL APPEALABLE ORDER UNDER THE COLLATERAL ORDER DOCTRINE. WHERE THE ORDER PRODUCES RIGHTS UNDER THE COLLATERAL ORDER DOCTRINE, THE APPELLANT WOULD IN FUNDAMENTAL FAIRNESS BE PERMITTED TO SEEK REHEARING AND OR RECONSIDERATION UNDER THE COLLATERAL ORDER DOCTRINE TO WHICH THE CLERK BY HER UNCONSTITUTIONAL ACTIONS HAVE NOW OBSTRUCTED AND PREVENTED, CONSPIRING UNDER COLOR OF STATE LAW TO ESTABLISH A CONSTITUTIONAL STRUCTURAL ERROR IN THESE PROCEEDINGS THAT WOULD VOID ANY SUBSEQUENT FINAL JUDGMENT THAT WOULD COME FROM THE COURT OF APPEALS UNLESS THIS EGREGIOUS MANIFEST INJUSTICE IS CORRECTED AND THE CONFLICT COUNSEL IS SUBSTITUTED OR REMOVED.

UNDER THESE CIRCUMSTANCE A MOTION FOR REHEARING AND OR RECONSIDERATION UNDER RULE 221, SCACR WOULD BE APPROPRIATE TO WHICH THE CLERK IS CURRENTLY OBSTRUCTING. I AM RESPECTFULLY ASKING THAT YOU INFORM THE COURT TO FORWARD THIS MOTION AND PLEADING TO THE APPROPRIATE S.C. COURT OF APPEALS JUDGES FOR A JUST AND FAIR RULING. THE COURT CANNOT ALLOW THIS CASE TO PROCEED WITHOUT EITHER SUBSTITUTING COUNSEL OR REVISITING THE APPELLANT

SEEKING TO ACT PRO SE. THERE IS NO CONSTITUTIONAL RIGHT TO HYBRID DEFENSE OR SELF REPRESENTATION ON DIRECT APPEAL. BUT THERE IS A CONSTITUTIONAL RIGHT TO HAVE CONFLICT-FREE COUNSEL AS IS ARGUED WITHIN THE PLEADING RECEIVED AND FILED BY THE COURT OF APPEALS ON APRIL 9, 2024, IN RELATION TO THE (14) PAGE DOCUMENT DATED APRIL 10, 2026.

DUE TO THIS ORDER PRODUCING AN ORDER EFFECTING SUBSTANTIAL RIGHTS UNDER THE COLLATERAL ORDER DOCTRINE, SEEKING REHEARING AND OR RECONSIDERATION WOULD BE APPROPRIATE UNDER RULE 221 WHICH IS SUPPORTED BY CASES SUCH AS CITY OF COLUMBIA v. ASSA'AD FALTAS, 420 S.C. 28, 800 S.E.2d. 782(S.C.App.2017) AND LUCAS v. STATE, 352 S.C. 1, 572 S.E.2d. 274(S.C.App.2002); UNITED STATES OF AMERICA v. FRETEHK, 114 F.4TH. 292(4th.Cir.2024). THE APPELLANT IS SEEKING A RULING ON THE PLEADING TO REMOVE THE CONFLICT RIDDEN STATE APPOINTED COUNSEL THAT HAS BEEN PROPERLY AND APPROPRIATELY PLACED BEFORE THIS COURT WITH ALL DUE RESPECT TO ALL PARTIES INVOLVED.

RESPECTFULLY,

JAMES J. PATTERSON III



APRIL 21, 2026

CC: THE CHIEF ADMINISTRATIVE JUDGE H. BRUCE WILLIAMS
THE S.C. INDIGENT DEFENSE OFFICE
THE S.C. ATTORNEY GENERAL
THE S.C. SUPREME COURT
JAMES JOSEPH PATTERSON III



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

April 13, 2026

James Joseph Patterson, III, 00368709
Evans Correctional Institution
610 Highway #9, West
Bennettsville SC 29512

Re: The State v. James J. Patterson, III
Appellate Case No. 2023-001474

Dear Mr. Patterson:

The Court has received your petition for rehearing. Because you are represented by counsel, we are returning your filings to you. *See Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel.").

Very truly yours,


CLERK

cc: Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
John Benjamin Aplin, Esquire
Donald J. Zelenka, Esquire
Samuel R. Hubbard, III, Esquire
Molly Marie Keegan, Esquire

"EXHIBIT NO. 3"

RECEIVED

Apr 09 2026

SC Court of Appeals

JAMES JOSEPH PATTERSON III

#368709 F3B. RM. 230

EVANS C.I. 610 HWY. 9 WEST

BENNETTSVILLE, S.C. 29512

IN RE: FILING A MOTION FOR REHEARING AND OR RECONSIDERATION ON
THE MOTION TO RELIEVE COUNSEL AND THE COURT EITHER APPOINT
SUBSTITUTE COUNSEL OR ALLOW THE APPELLANT TO ACT PRO SE IN CASE
2023-001474.

TO: THE S.C. COURT OF APPEALS,

ATTACHED THE COURT WILL FIND A PLEADING SEEKING
REHEARING AND OR RECONSIDERATION ON THE PREVIOUS FILED MOTION TO
RELIEVE COUNSEL BECAUSE BASED UPON THE LITIGATION PRESENTED
WITHIN THIS ATTACHED DOCUMENT THAT ORDER CANNOT IN FUNDAMENTAL
FAIRNESS TO THE APPELLANT BE DEEMED A FINAL ORDER IN CASE
2023-001475. PLEASE FILE THE DOCUMENT WITHIN THE CASE CAPTIONED.
I THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,

JAMES J. PATTERSON



APRIL 10, 2026

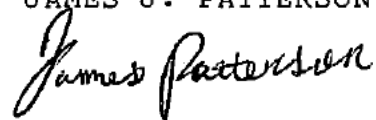
JAMES JOSEPH PATTERSON III
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

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2023-001475. PLEASE FILE THE DOCUMENT WITHIN THE CASE CAPTIONED.
I THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,
JAMES J. PATTERSON

A handwritten signature in cursive script that reads "James J. Patterson". The signature is written in dark ink and is positioned below the typed name.

APRIL 10, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Apr 09 2026

SC Court of Appeals

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF SERVICE

I, JAMES JOSEPH PATTERSON III, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR REHEARING AND OR RECONSIDERATION ON THE APPELLANT'S DOCUMENT ENTITLED, "AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR LEAVE TO RELIEVE COUNSEL; MOTION FOR LEAVE TO FILE BRIEF TO ARGUE AGAINST THE PRECEDENT PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217 AND OR IN THE ALTERNATIVE

1-of-14

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
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MOTION TO WITHDRAW AND MOTION TO MOTION THEREFOR", SEEKING THAT IF THE COURT DO NOT RELIEVE COUNSEL AND ALLOW THE APPELLANT TO ACT PRO SE, THAT THE COURT APPOINT SUBSTITUTE CONFLICT-FREE COUNSEL THAT IS NOT COMPROMISED BY THE STATE AND SEEK THAT THE COURT RULE ON THE JURISDICTIONAL CLAIMS PRESENTED, ON THE S.C. COURT OF APPEALS P.O. BOX 11629 COLUMBIA, S.C. 29211, THE S.C. ATTORNEY GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29221, THE S.C. OFFICE OF INDIGENT DEFENSE 1330 LADY STREET SUITE 401 COLUMBIA, S.C. 29201, BY U.S. MAIL POSTAGE PREPAID BY PDF OR PLACING IT IN THE INSTITUTION MAILBOX ON APRIL 10, 2026.

RESPECTFULLY,

JAMES J. PATTERSON

A handwritten signature in black ink that reads "James Patterson". The signature is written in a cursive style with a large, stylized initial "J".

APRIL 10, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Apr 09 2026

SC Court of Appeals

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
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IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SEEKING THAT IF THE COURT DO NOT RELIEVE COUNSEL AND ALLOW
THE APPELLANT TO ACT PRO SE, THAT THE COURT APPOINT
SUBSTITUTE CONFLICT-FREE COUNSEL THAT IS NOT COMPROMISED
BY THE STATE AND SEEK THAT THE COURT RULE ON THE

JURISDICTIONAL CLAIMS PRESENTED

TO: THE S.C. COURT OF APPEALS ET. AL.,

THE APPELLANT MOTIONS FOR A REHEARING AND OR RECONSIDERATION DUE TO FRAUD UPON THE COURT WHERE THE COURT OF APPEALS FAILED TO RULE ON ESSENTIAL ASPECTS OF THE PREVIOUSLY PLEADING AS AN ACT OF MACHINATION TO CONCEAL THE COURT'S ABUSE OF DISCRETION AND PREVENT THE APPELLANT FROM PROPERLY PRESERVING THE CLAIMS FOR ANY POTENTIAL SUBSEQUENT APPELLATE REVIEW. UNDER SOUTH CAROLINA PRACTICE, AN ORDER THAT DEPRIVES A PARTY OF A RIGHT TO COUNSEL OF THEIR CHOOSING (OR FORCES THEM TO UTILIZE COMPROMISED COUNSEL POSSESSING A "CONFLICT OF INTEREST") CAN BE A CONSIDERED A FINAL DETERMINATION OF A SUBSTANTIAL RIGHT (UNDER THE 6TH. AMENDMENT), MAKING IT IMMEDIATELY APPEALABLE UNDER THE COLLATERAL ORDER DOCTRINE.

PETITION FOR WRIT OF MANDAMUS, OUTSIDE OF PETITION FOR WRIT OF CERTIARARI, IS APPROPRIATE ALTERNATIVE TO COMPEL THE LOWER COURT TO ACT WHEN THEY HAVE FAILED TO PERFORM A NON-DISCRETIONARY MINISTERIAL FUNCTION (REMOVE THIS CONFLICT RIDDEN ATTORNEY OFF OF THIS CASE AND EITHER APPOINT SUBSTITUTE COUNSEL OR ALLOW THE APPELLANT TO ACT PRO SE), OR TO ADDRESS A USURPATION OF POWER LIKE CONCEALING FUNDAMENTAL STRUCTURAL DEFECTS IN AN INDICTMENT, OR THE FACT THAT THERE IS A SECOND ELEMENT TO SUBJECT MATTER JURISDICTION, OR MAKING USE OF THAT OLD, OUT-DATED STATE v. ROBERTS 2005 CASE TO OVERRULE A U.S. SUPREME COURT 2018 CASE ON EFFECTIVE ASSISTANCE OF COUNSEL AND THE CONSTITUTIONALLY PROTECTED RIGHT OF AUTONOMY REGARDING ATTORNEY-CLIENT RELATIONSHIP). IN EXTRAORDINARY CASES WHERE THE COURT OF APPEALS IS OBSTRUCTING JUSTICE, A DIRECT PETITION TO THE S.C. SUPREME COURT IS APPROPRIATE.

WHILE COURTS HAVE AN INHERENT DISCRETION TO DISMISS OR

DENY MOTIONS, THEY GENERALLY MUST PROVIDE THE FULL BASIS FOR THEIR DECISION, PARTICULARLY INVOLVING CONSTITUTIONAL RIGHTS, LIKE THE 6TH. AMENDMENT RIGHT TO CONFLICT-FREE COUNSEL AND FRAUD ALLEGATIONS. A "BARE BONES" OR INCONCLUSIVE DENIAL WITHOUT ADDRESSING THE SUBSTANTIVE ALLEGATIONS OF FRAUD AND COLLUSION MUST BE SEEN AS AN ABUSE OF DISCRETION ON APPEAL. THE S.C. COURT OF APPEALS FAILED TO HOLD THE PROPER HEARING THAT COULD HAVE EASILY BEEN DONE BY SKYPE (VIDEO CONFERENCE), NOR DID THE S.C. COURT OF APPEALS ENTER FINDINGS OF FACT TO ADDRESS THE CONFLICT, COLLUSION AND FRAUD, WHICH IS REQUIRED WHEN COUNSEL FACES A "CONFLICT OF INTEREST" OR "FRAUD UPON THE COURT" IS ALLEGED, WHERE THE COUNSEL IS CONSPIRING UNDER COLOR OF STATE LAW TO PREVENT THE RULING OF SUBSTANTIAL JURISDICTIONAL ISSUES. WHERE ARE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW TO ADDRESS THESE CLAIMS? THE APPELLANT OBJECTS. THE APPELLANT MOTION FOR A REHEARING AND OR RECONSIDERATION TO ADDRESS THIS DEFICIENCY AND MANIFEST INJUSTICE, THE ALLEGATIONS OF "CONFLICT OF INTEREST" AND THE SPECIFIC ALLEGATIONS OF COLLUSION AND FRAUD UPON THE COURT. IF THE S.C. COURT OF APPEALS DENY THE MOTION FOR REHEARING AND OR RECONSIDERATION, THIS WOULD "FINALLY DECIDE" A CRITICAL ASPECT OF THE APPELLANT'S RIGHT TO FAIR REVIEW OPENING THE DOOR TO FILE PETITION FOR WRIT OF MANDAMUS AND OR IN THE ALTERNATE, PETITION FOR WRIT OF CERTIORARI TO THE S.C. SUPREME COURT.

WHEN THE COURT OF APPEALS IS ALLEGED TO BE OBSTRUCTING JUSTICE OR ACTING OUTSIDE IT'S AUTHORITY (JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION), FORCING THE APPELLANT TO MOVE FORWARD WITHIN AN APPEAL WITHOUT CONFLICT-FREE COUNSEL, A PARTY MAY SEEK MANDAMUS OR PETITION FOR WRIT OF CERTIORARI FROM THE S.C. SUPREME COURT. CASES THAT INVOLVE THE S.C. SUPREME COURT STEPPING IN WHEN LOWER COURTS FAIL TO ACT PROPERLY OR WHEN A DIRECT PETITION IS NECESSARY TO ADDRESS STRUCTURAL OR JURISDICTIONAL ISSUES ARE CASES LIKE STATE v. WIGFALL, 2026 WL 710006 (S.C.App.2026)(WHILE PRIMARILY A CRIMINAL APPEAL, IT DEMONSTRATES THE SUPREME COURT'S WILLINGNESS TO REVIEW WHETHER TRIAL COURTS [AND BY EXTENSION THE S.C. COURT OF APPEALS] CORRECTLY ADMITTED TESTIMONY AND ADHERED TO PROCEDURAL

STANDARDS); NATIONSTAR MORTGAGE, LLC. v. GIBBS, 2022 WL 4362405 (S.C.App.2022)(EMERGENCY PETITION FOR WRIT OF MANDAMUS OR IN ALTERNATE WRIT OF CERTIORARI FILED AGAINST CHIEF JUDGE OF THE COURT OF APPEALS, HIGHLIGHTING THE PROCEDURAL PATH OF JUDICIAL REVIEW OF SUPREME COURT'S ROLE IN CORRECTING APPELLATE LEVEL DECISIONS); STATE v. BREWER, 438 S.C. 37, 882 S.E.2d. 156 (S.C.App.2022)(A CASE THAT TRAVELED FROM THE GENERAL SESSIONS COURT, THE COURT OF APPEALS, THE S.C. SUPREME COURT, ILLUSTRATING THE FULL PATH OF JUDICIAL REVIEW AND THE S.C. SUPREME COURT'S ROLE IN CORRECTING APPELLATE LEVEL DECISIONS); BLUE RIDGE ENVIRONMENT DEFENSE v. SCDES, 447 S.C. 311, 926 S.E.2d. 243 (S.C.App.2026)(THE S.C. SUPREME COURT EXERCISED ITS AUTHORITY TO REVIEW COMPLEX LEGAL QUESTIONS HANDLED BY LOWER COURT(S)).

THE S.C. SUPREME COURT FREQUENTLY REMANDS CASES WHEN THE COURT OF APPEALS FAILS TO PROVIDE A "PROPER RECORD", FINDINGS OF FACT, OR SPECIFIC RULINGS OF LAW. WHERE ARE THESE REQUIREMENTS MET BY THE FRAUDULENTLY PRODUCED, EVASIVE, ORDER IN QUESTION, ADDRESSING ISSUES OF OBTAINING "CONFLICT-FREE COUNSEL, AND THE COLLUSION AND FRAUD UPON THE COURT ENGAGED IN BY THE ATTORNEY WORKING HAND IN HAND WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO PREVENT AND OBSTRUCT RULING ON SUBSTANTIAL JURISDICTIONAL CLAIMS MADE IN THE MOTION?, I'On., LLC. v. TOWN OF MT. PLEASANT, 338 S.C. 406, 526 S.E.2d. 716 (S.C.App.2000); FISHBURN v. STATE, 427 S.C. 505, 832 S.E.2d. 584 (S.C.App.2019)(THE RULING DOES NOT CONSTITUTE A SUFFICIENT RULING ON ISSUES AND OR CLAIMS THAT DO NOT SET FORTH SPECIFIC FINDINGS OF FACT TO DEMONSTRATE "JUST AND FAIR" REVIEW). WHERE IS THE CONFLICT-FREE COUNSEL, FRAUD, COLLUSION AND CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SPECIFIC FINDINGS AND CONCLUSIONS OF LAW? ALSO SEE RIVERS v. STATE, 2025 WL 408562 (S.C.App.2025). THE I'On CASE IS THE FOUNDATIONAL STANDARD REVIEW CASE THE S.C. SUPREME COURT USES TO REMAND LOWER COURTS DECISIONS STATING THAT THEY MUST PROVIDE A SUFFICIENT BASIS FOR THEIR DECISIONS. IT ESTABLISHES THAT AN APPELLATE COURT CAN DECIDE "NOVELTY QUESTIONS OF LAW" WITH NO DEFERENCE TO LOWER COURTS IF THE RECORD IS INSUFFICIENT); STATE v. CORLEW, S.E.Rptr., 2024 WL 4973463 (S.C.App.2024)(THIS CASE IS A RECENT EXAMPLE WHERE THE S.C. SUPREME COURT KEPT A MATTER

"PENDING" OR UNDER REVIEW, OFTEN OCCURRING WHEN THE LOWER COURT'S REASONING IS UNDER SCRUTINY FOR BEING SUMMARY OR "BARE BONES", OR IN THIS CASE EVASIVE BY FRAUD UPON THE COURT); BASKIN v. WALKUP, 445 S.C. 353, 913 S.E.2d. 282 (S.C.App.2025)(ADDRESSING LOWER COURT'S HANDLING OF SPECIFIC FINDINGS, UNDERSCORING THAT THE DENIAL OF A SUBSTANTIAL RIGHT [LIKE HAVING CONFLICT-FREE COUNSEL, THE REQUIREMENT TO SUBSTITUTE THAT COUNSEL OR JURISDICTIONAL CLAIMS] REQUIRES A TRANSPARENT LEGAL BASIS).

THE APPELLANT OBJECTS TO THIS LUDICROUS CLAIM THAT THE APPELLANT DO NOT HAVE A CONSTITUTIONAL RIGHT TO ACT PRO SE ON APPEAL. THIS IS NOT THE REAL ISSUE. THE ISSUE IS THE S.C. COURT OF APPEALS CONSPIRING UNDER COLOR OF STATE LAW WITH THE STATE APPOINTED ATTORNEY AND ATTORNEY GENERAL'S OFFICE IN ACTS OF FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE SADDLING THE APPELLANT WITH COMPROMISED LEGAL COUNSEL WHO IS CONSPIRING UNDER COLOR OF LAW TO PROTECT THE STATE'S INTEREST IN CLEAR OPPOSITION TO THE INTEREST OF HER CLIENT IN VIOLATION OF THE 6TH. AMENDMENT. WHILE THE U.S. SUPREME COURT HAS HELD THAT THERE IS NO RIGHT TO SELF REPRESENTATION ON DIRECT APPEAL (MARTINEZ v. COURT OF APPEALS CAL.), A DEFENDANT MAINTAINS A FEDERAL CONSTITUTIONAL RIGHT TO CONFLICT-FREE COUNSEL UNDER THE DUE PROCESS CLAUSE OF THE 14TH. AND 6TH. AMENDMENTS. IF COUNSEL IS "COMPROMISED BY THE STATE", THIS CONSTITUTES AN ACTUAL CONFLICT OF INTEREST THAT UNDERMINES THE CONSTITUTIONAL GUARANTEE OF EFFECTIVE ASSISTANCE OF COUNSEL. WHERE ARE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW THAT ADDRESS THIS CLAIM IN THIS FRAUD PRODUCED UNCONSTITUTIONALLY EVASIVE ORDER? THE U.S. SUPREME COURT HAS ESTABLISHED THAT THE RIGHT TO COUNSEL NECESSARILY INCLUDES THE RIGHT TO A LAWYER THAT IS NOT BURDENED BY A CONFLICT OF INTEREST. THE S.C. COURT OF APPEALS HAVE PRO BONO ATTORNEYS ON FILED THAT DO NOT DIRECTLY WORK FOR THE STATE OR THAT IS COMPROMISED BY THE STATE. EITHER SUBSTITUTE THIS CONFLICT RIDDEN COUNSEL WITH SOMEONE WHO IS NOT TIED DIRECTLY TO THE STATE AND WHO WILL ARGUE THE APPELLANT'S JURISDICTIONAL CLAIMS OR ALLOW THE APPELLANT TO ACT PRO SE. IF THE APPELLANT CAN DEMONSTRATE THAT AN "ACTUAL CONFLICT OF INTEREST" (AS SEEN AND ARGUED IN THE MOTION TO RELIEVE COUNSEL

PREVIOUSLY FILED) ADVERSELY AFFECTED THEIR LAWYER'S PERFORMANCE, WHICH IS DONE BY WHAT IS ARGUED WITHIN THE PREVIOUS MOTION TO RELIEVE COUNSEL, THE APPELLANT DO NOT EVEN NEED TO SHOW "PREJUDICE" (THAT THE OUTCOME WOULD HAVE CHANGED) TO OBTAIN RELIEF---IT IS OFTEN TREATED AS A "STRUCTURAL ERROR" REQUIRING AUTOMATIC REVERSAL. IF THE STATE OR COURT ACTIVELY FORCES THE APPELLANT TO ACCEPT A LAWYER THEY KNOW OR INDICATION POINT TO BEING COMPROMISED, IT WOULD BE VIEWED AS A VIOLATION OF DUE PROCESS AND WOULD BE UNCONSTITUTIONAL UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AS IT RENDERS THE APPELLATE PROCESS FUNDAMENTALLY UNFAIR. WHERE ARE THE CONCLUSIONS OF LAW AND FINDINGS OF FACT WITHIN THE FRAUD PRODUCED EVASIVE ORDER THAT DEMONSTRATE THIS CLAIM WAS ADDRESSED?

UNDER PROFESSIONAL ETHICS AND CONSTITUTIONAL STANDARDS, WHEN AN ATTORNEY HAS A CONFLICT OF INTEREST THAT SIGNIFICANTLY IMPAIRS THEIR ABILITY TO REPRESENT A CLIENT---SUCH AS BEING COMPROMISED BY THE OPPOSING PARTY (THE STATE)---THEY HAVE A MANDATORY DUTY TO WITHDRAW, AND THE COURT HAS THE DUTY TO GRANT THE WITHDRAWAL. THERE WAS AN ALTERNATE MOTION TO WITHDRAW IF THE COURT OF APPEALS DID NOT GRANT THE MOTION TO RELIEVE COUNSEL ALSO ATTACHED. WHERE ARE THE SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THIS MOTION AS WELL?

THE APPELLANT OBJECTS TO THIS INAPPROPRIATE ABUSE OF DISCRETION AND ERROR OF LAW THAT WAS CLAIMED BY THE S.C. COURT OF APPEALS CLAIMING, "APPELLATE COUNSEL HAS NO DUTY TO RAISE EVERY NON-FRIVOLOUS ISSUE PRESENTED BY THE RECORD", CITING THAT OUT-OF-DATE STATE v. ROBERTS CASE ATTEMPTING TO USURP THE AUTHORITY OF THE UNITED STATES SUPREME COURT WHERE THE UNITED STATES SUPREME COURT BY RECENT RULING UNDER MCCOY v. LOUISIANA 2018 GAVE CLARITY TO THIS ISSUE. THIS OUT-OF-DATE CASE LAW CANNOT BE PERMITTED TO OVERRIDE THE UNITED STATES SUPREME COURT REGARDING EFFECTIVE ASSISTANCE OF COUNSEL AND THE CONSTITUTIONALLY PROTECTED RIGHT OF AUTONOMY, WHICH INCLUDE RECENT CASES OUT OF THE 4TH. CIRCUIT AND U.S. SUPREME COURT REGARDING SUBJECT MATTER JURISDICTION. SUBJECT MATTER

JURISDICTION MAY BE RAISED AT ANY TIME AND MAY BE RAISED FOR THE FIRST TIME ON APPEAL, GANTT v. SELPH, 432 S.C. 333, 814 S.E.2d. 523 (S.C.App.2018); STATE v. GORDON, 2024 WL 3292568. SUBJECT MATTER JURISDICTION IS THE POWER OF THE COURT TO HEAR AND DETERMINE CASES OF A GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG; IN OTHER WORDS, SUBJECT MATTER JURISDICTION REFERS TO THE COURT'S CONSTITUTIONAL (ie. ARTICLE 1 § 11) OR STATUTORY (S.C. CODE ANN. §§ 17-19-10, 17-19-20, 17-19-100 WITHOUT SUBTLY AND FORCE CONSTRUCTING THOSE STATUTES ALSO IN VIOLATION OF ARTICLE 1 § 11 OF HE S.C. CONST. AND SEPARATION OF POWERS CLAUSE) POWER TO ADJUDICATE A CASE, KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); WILLIAMS v. JEFFCOAT, 444 S.C. 224, 906 S.E.2d. 588(S.C.App.2024). SUBJECT MATTER JURISDICTION MAY NOT BE WAIVED, EVEN BY CONSENT OF PARTIES (THIS COMPROMISED LEGAL COUNSEL OR THE S.C. COURT OF APPEALS ABUSING THEIR DISCRETION), AND SHOULD BE TAKEN NOTICE BY "BOTH" THE S.C. COURT OF APPEALS AND THE S.C. SUPREME COURT, IN RE: NOVEMBER 4, 2008 BLUFFTON TOWN COUNCIL ELECTIONS, 385 S.C. 632, 686 S.E.2d. 683(S.C.App.2009); THOMPSON v. THOMPSON, 428 S.C. 142, 833 S.E.2d. 274(S.C.App.2019)(SUBJECT MATTER JURISDICTION CANNOT BE WAIVED AND OR FORFEITED AND SHOULD BE TAKEN NOTICE BY THE APPELLATE COURT IN ITS OWN MOTION); SOUTH CAROLINA DEPT. OF SOCIAL SERVICES v. TRAN, 418 S.C. 308, 792 S.E.2d. 254 (S.C.App.2016); JACKSON v. JACKSON, 432 S.C. 415, 853 S.E.2d. 344(S.C.App.2020). THIS IS AN ISSUE DIRECTLY ATTACHED TO THE MOTION TO RELIEVE AND OR SUBSTITUTE COUNSEL SUBMITTED AS EVIDENCE IN SUPPORT OF HER FRAUD UPON THE COURT AND COLLUSION CONSPIRING UNDER COLOR OF STATE LAW TO PREVENT A LEGITIMATE CHALLENGE TO THE STATE v. GENTRY CASE OF 2005 ARGUING AGAINST THE PRECEDENT PURSUANT TO APPELLATE COURT RULE 217. WHERE ARE THE CONCLUSIONS OF LAW AND FACTS THAT DEMONSTRATE THAT THIS CLAIM WAS PROPERLY REVIEWED AND ADJUDICATED BY THE S.C. COURT OF APPEALS WHO IS APPARENTLY AIDING IN ACTS OF FRAUD UPON THE COURT, COLLUSION AND OBSTRUCTION OF JUSTICE TO CONCEAL AND THWART PROPER AND FAIR JUDICIAL REVIEW ON THESE SUBSTANTIAL JURISDICTIONAL FACTS AND CLAIMS? THESE CLAIMS ARE CLEARLY SUBMITTED AS EVIDENCE TO EXPLAIN THEIR CONSPIRATORIAL AIM. THERE ARE NO FACTUAL FINDINGS AND

CONCLUSIONS OF LAW THAT ADDRESS THESE CLAIMS VOIDING THE ORDER FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, ESTATE OF CUNNINGHAM v. MAYOR AND CITY COUNCIL OF BALTIMORE, 128 F.4TH. 238(4th.Cir.2025)(COURT DISMISSED APPEAL BECAUSE THE LOWER COURT OVERLOOKED AND FAILED TO RESOLVE CLAIMS ON TWO ISSUES. BECAUSE JUDGMENT WAS SILENT ON THE CLAIM, IT WAS NOT A FINAL ORDER ON THE ISSUE); ESCOBAR-SALMERON v. MOYER, 150 4TH. 360(4th.Cir.2025)(SILENCE ON A CLAIM PREVENTS FINALITY. THE COURT MUST OBJECTIVELY RESOLVE ALL SUBSTANTIVE CLAIMS BEFORE A JUDGMENT IS FINAL ON AN ISSUE); LOWY v. DANIEL DEFENSE, LLC., --F.4TH.--, 2026 WL 376731 (4th.Cir.2026)(WITHOUT EXPRESSED LANGUAGE SILENCE EQUAL NON FINALITY ALL CLAIMS MUST BE ADDRESSED). THIS PLOT WAS DESIGNED TO THWART SUBSEQUENT APPELLANT REVIEW IN FRAUD AND OBSTRUCTION OF JUSTICE. THE S.C. COURT OF APPEALS CANNOT CONCEAL THE CONFLICT OF INTEREST AND FRAUD UPON THE COURT ARGUED WHICH IS AN ABUSE OF DISCRETION. THE APPELLANT OBJECTS.

RULE 220(b), SCACR: THIS RULE REQUIRES THAT THE APPELLATE COURT DECISION "STATE THE REASONS" FOR THE RESULT AND CITE THE "CONTROLLING LAW" THAT ADDRESS THE CONFLICT OF INTEREST AND JURISDICTIONAL CLAIMS MADE. WHILE THE COURT MAY ISSUE A SHORT MEMORANDUM OPINION, IT CANNOT BE SO EVASIVE AND CIRCUMVENTING ON CLEAR CLAIMS MADE THAT IT PREVENTS MEANINGFUL REVIEW BY THE S.C. SUPREME COURT.

S.C. CODE ANN. § 18-9-280 IN RELEVANT PART PROVIDE:

THE SUPREME COURT IS REQUIRED THAT "EVERY POINT MADE" AND "DISTINCTLY STATED FAIRLY ARISING UPON THE RECORD" SHALL (MANDATORY) BE CONSIDERED AND DECIDED, WITH THE REASONS STATED IN WRITING. THIS CREATES A STANDARD OF JUDICIAL ACCOUNTABILITY THAT THE S.C. SUPREME COURT OFTEN ENFORCES UPON THE COURT OF APPEALS THROUGH REMANDS. THE UNITED STATES SUPREME COURT REGARDING HICKS v. FRAME, 2026 WL 820826 W.Va.(U.S.2026) SPECIFICALLY ADDRESSED THIS MATTER ALSO REGARDING THE 4TH. CIRCUIT COURT OF APPEALS AND THE RELATED LOWER COURT CASE. THE COURTS DETERMINED: "WITHOUT

FINDINGS CONCERNING EACH OF THE PETITIONER'S CLAIMS, THE COURT IS UNABLE TO DETERMINE WHETHER THE LOWER COURT ABUSED ITS DISCRETION. WHERE WE ARE PROVIDED ONLY LEGAL CONCLUSIONS UNSUPPORTED BY SPECIFIC FACTS...REVIEWING COURT SIMPLY IS UNABLE TO DETERMINE WHETHER OR NOT THE CONCLUSION IS AN ABUSE OF DISCRETION (BY THIS FRAUDULENT CONCEALMENT UNCONSTITUTIONALLY EVASIVE ORDER). WE HAVE PREVIOUSLY STATED THAT IN CASES WHERE THERE IS AN ABSENCE OF ADEQUATE FACTUAL FINDINGS, IT IS NECESSARY TO REMAND THE MATTER TO THE LOWER COURT TO STATE, OR, AT MINIMUM, AMPLIFY ITS FINDINGS SO THAT MEANINGFUL APPELLATE REVIEW CAN OCCUR. WHERE THE LOWER TRIBUNAL...MAKES ONLY GENERAL, CONCLUSORY OR INEXACT FINDINGS OF FACT, WE MUST VACATE THE JUDGMENT AND REMAND THE CASE FOR FURTHER FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING "ALL CLAIMS MADE" (EMPHASIS ADDED), STATE v. CORLEW SUPRA.; BASKIN v. WALKUP SUPRA.; STATE v. WIGFALL SUPRA. ARTICLE 1, SECTION 14 (S.C. CONSTITUTION (GUARANTEES THE RIGHT TO BE HEARD BY COUNSEL, HIMSELF OR BOTH) AND ENSURES A FAIR APPEAL. FORCING THE APPELLANT TO MOVE FORWARD IN THIS APPEAL WITH COUNSEL THAT IS COMPROMISED BY THE STATE TO HINDER AND OBSTRUCT LEGITIMATE JURISDICTIONAL CLAIMS FROM BEING RAISED IS A DIRECT VIOLATION OF THIS CONSTITUTIONAL PROVISION, McCOY v. LOUISIANA, 584 U.S. 414 (U.S.2018)(ALTHOUGH A TRIAL LEVEL CASE, THE COURT HELD THAT A DEFENDANT HAS THE AUTONOMY TO CHOOSE THE OBJECTIVES OF HIS DEFENSE. IF COUNSEL IS "COMPROMISED" WHICH IS SUPPORTED BY THE CLAIMS IN THE INITIAL MOTION TO RELIEVE COUNSEL (EVEN BY A WELL MEANING BUT CONFLICTING STRATEGY), IT VIOLATES THE APPELLANT'S 6TH. AMENDMENT RIGHTS. THIS AUTONOMY EXTENDS TO THE APPELLATE DIRECT APPEAL STAGE REGARDING THE FUNDAMENTAL GOALS OF THE APPEAL); CHRISTESON v. ROPER, 574 U.S. 373 (U.S.2015)(THE SUPREME COURT HELD THAT A "SIGNIFICANT CONFLICT OF INTEREST" BETWEEN ATTORNEY AND CLIENT [SUCH AS WHEN THE ATTORNEY'S OWN ERRORS AND RELATIONSHIP WITH THE STATE PREVENTS THEM FROM MAKING CERTAIN ARGUMENTS] ENTITLES THE DEFENDANT TO SUBSTITUTE COUNSEL. THE COURT SPECIFICALLY NOTED THAT COUNSEL CANNOT BE EXPECTED TO ARGUE THEIR OWN INCOMPETENCE OR A "FRAUD" THAT THEY ARE PART OF); EVITTS v. LUCEY, 469 U.S. 387 (U.S.1985)(THE 14TH. AMENDMENT DUE PROCESS CLAUSE GUARANTEE THE RIGHT TO EFFECTIVE ASSISTANCE OF

COUNSEL ON A FIRST APPEAL OF RIGHT. EFFECTIVENESS IS LEGALLY IMPOSSIBLE IF COUNSEL IS BURDENED BY AN ACTUAL CONFLICT OF INTEREST); UNITED STATES v. LATHROP, 634 F.3d. 831 (7TH.Cir.)(THE COURT EMPHASIZED THAT WHEN A "TOTAL BREAKDOWN IN COMMUNICATION" OR "A CONFLICT OF INTEREST" OCCURS, THE COURT MUST GRANT A MOTION TO SUBSTITUTE COUNSEL. FORCING THE APPELLANT TO PROCEED WITH SUCH COMPROMISED LEGAL COUNSEL IS STRUCTURAL ERROR.); CHISTENSON v. KNIGHT, 139 S.Ct. 2740 (U.S.2019)[IN FOLLOW-UP TO CHISTENSON v. ROPER, 135 S.Ct. 891 (U.S.2015)], (THE COURT REAFFIRMED THAT A CONFLICT EXIST WHEN AN ATTORNEY'S INTEREST ARE "DIAMETRICALLY OPPOSED" TO THE CLIENT'S---SUCH AS WHEN A CLIENT SEEKS TO RAISE A CLAIM THAT WOULD IMPLICATE THE ATTORNEY IN PROFESSIONAL MISCONDUCT OR FRAUD). THE APPELLANT MOTIONS FOR A REHEARING AND OR RECONSIDERATION ON THE MOTION TO RELIEVE COUNSEL AND EITHER APPOINT SUBSTITUTE PRO BONO COUNSEL WITH NO TIES OR CONFLICTS REGARDING THE STATE WHO WILL ARGUE THE APPELLANT'S JURISDICTIONAL CLAIMS OR ALLOW THE APPELLANT TO ACT PRO SE. IF THE COURT REFUSES TO GRANT THE APPELLANT'S MOTION TO ACT PRO SE? THE COURT IS REQUIRED TO SUBSTITUTE COUNSEL WITH ANOTHER COUNSEL WHOSE INTEREST ARE NOT IN LINE WITH THE STATE BUT IN HARMONY WITH THE APPELLANT AND THAT COUNSEL BE REQUIRED TO ARGUE THE JURISDICTIONAL CLAIMS PRESENTED BY THE APPELLANT'S CONSTITUTIONALLY PROTECTED RIGHT OF AUTONOMY. JUDICIAL HOLDINGS UNDER TAYLOR v. WILLIAMS, 2021 WL 5417664 (DSC.2021) DEMONSTRATE THAT THE ISSUES ARE PROPERLY PRESERVED BY THE FILING OF THIS MOTION FOR REHEARING AND OR RECONSIDERATION.

PURSUANT TO S.C. CODE ANN. § 14-3-330, APPELLATE JURISDICTION IN LAW CASES PROVIDE:

THE SUPREME COURT SHALL HAVE APPELLATE JURISDICTION FOR CORRECTION OF ERRORS OF LAW IN CASE, AND SHALL REVIEW UPON APPEAL....

(3) A FINAL ORDER AFFECTING A SUBSTANTIAL RIGHT MADE IN ANY SPECIAL PROCEEDING OR UPON A SUMMARY APPLICATION IN ANY ACTION AFTER JUDGMENT. AN ORDER "INVOLVES THE MERITS" AS THE

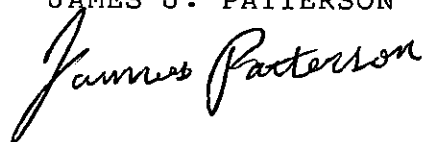
TERM IS USED IN THE STATUTE OUTLINING APPELLATE JURISDICTION IN LAW CASES, AND IS IMMEDIATELY APPEALABLE WHEN IT FINALLY DETERMINES SOME SUBSTANTIAL MATTER, LIKE THE APPELLANT'S 6TH. AMENDMENT RIGHT TO CONFLICT-FREE COUNSEL FORMING THE WHOLE OR PART OF SOME CAUSE OF ACTION OR DEFENSE (ie. SUBJECT MATTER JURISDICTION), BOUHAROUN v. BOUHAROUN, 2026 WL 523826, * 1 (S.C.App.2026); STONE v. THOMPSON, 426 S.C. 291, 826 S.E.2d. 868(S.C.App.2019).

THE APPELLANT MOTIONS FOR A REHEARING AND OR RECONSIDERATION AND SEEK THAT THE COURT OF APPEALS RULE ON IF A CONFLICT OF INTEREST REGARDING THE APPOINTED ATTORNEY IS STATED AND JUSTIFIED BY THAT WHICH IS ARGUED IN THE PREVIOUS FILED MOTION TO RELIEVE COUNSEL; RULE ON THE APPOINTMENT OF SUBSTITUTE COUNSEL IF THE COURT IN ACTS OF RETALIATION AND OBSTRUCTION OF JUSTICE WOULD NOT PERMIT THE APPELLANT TO BE PRO SE; RULE IN FULLNESS IF THE JURISDICTIONAL CLAIM INTENDED TO BE ARGUED UNDER RULE 217 THAT IS SUBJECT TO THE CAUSE OF FRAUD UPON THE COURT REGARDING THE CONFLICT OF INTEREST THE ATTORNEY BEING COMPROMISED BY THE STATE WOULD REQUIRE REMOVAL; AND RULE IF THE JURISDICTIONAL CLAIMS MAY BE RAISED FOR THE FIRST TIME ON DIRECT APPEAL REQUIRING ANY APPOINTED ATTORNEY TO ARGUE THE CLAIM SINCE BY THE COURT'S OWN LANGUAGE AND DETERMINATION IN THE ORDER, THE CLAIM IS ADJUDICATED AS A "NON-FRIVOLOUS" CLAIM. IF THE COURT OF APPEALS IN ITS ORDER MADE USE OF THAT OLD OUT-DATED 2005 CASE MAKING REFERENCE TO "ID AT 589, 614 S.E.2d. AT 629", THOUGH McCOY v. LOUISIANA 2018 SUPERSEDE THIS OLD CITED CASE. THE COURT OF APPEALS IS NOW REQUIRED TO PRODUCE SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW AS TO WHY THE ROBERTS CASE SUPERSEDE THE U.S. SUPREME COURT McCOY CASE AND WHAT MAKES THE APPELLANT'S JURISDICTIONAL CLAIM "NON-FRIVOLOUS" THAT WAS ARGUED IN THE INITIAL MOTION TO RELIEVE COUNSEL. IT IS NOT "REASONABLE TO PROFESSIONAL JUDGMENT" FOR THE ATTORNEY TO CONSPIRE UNDER COLOR OF STATE LAW WITH THE S.C. COURT OF APPEALS AND THE S.C. ATTORNEY GENERAL'S OFFICE TO UNLAWFULLY WAIVE LEGITIMATE JURISDICTIONAL CLAIMS, ESPECIALLY SINCE THE COURT OF APPEALS BY THIS CURRENT EVASIVE ORDER HAS NOW RULED THAT THE ISSUE IS A "NON-FRIVOLOUS"

CLAIM IN NATURE AND CONSTRUCTION. A VIOLATION OF AUTONOMY WHERE THE McCOY v. LOUISIANA CASE IS EXTENDED TO DIRECT APPEALS, IS COMPLETE WHEN THE COURT ALLOWS COUNSEL OR THE COURT ITSELF, TO USURP CONTROL OF AN ISSUE WITHIN THE APPELLANT'S SOLE PREROGATIVE, SUCH AS WHAT "NON-FRIVOLOUS JURISDICTIONAL ISSUES" HE INTENDS TO BRING BEFORE THIS COURT, WHEN PRESENT, SUCH AN ERROR IS NOT SUBJECT TO HARMLESS ERROR REVIEW. ANY ASSIGNED ATTORNEY IS REQUIRED TO BRING THE APPELLANT'S LEGITIMATE "NON-FRIVOLOUS" JURISDICTIONAL CLAIMS BEFORE THE COURT. AS ADJUDICATED BY THE UNITED STATES SUPREME COURT IN THE McCOY CASE OF 2018, THE RIGHT TO DEFEND IS PERSONAL, NOT THE S.C. COURT OF APPEALS LUDICROUS ASSERTION, THAT THIS COMPROMISED STATE APPOINTED COUNSEL HAS NO DUTY TO RAISE THE APPELLANT'S "NON-FRIVOLOUS" ISSUES AND MUST BE ALLOWED TO EXERCISE REASONABLE PROFESSIONAL JUDGMENT, AND THAT "PERSONAL" RIGHT MUST BE HONORED WHICH IS THE LIFE BLOOD OF LAW. AN ATTORNEY, NO MATTER HOW MUCH AN EXPERT, IS STILL AN "ASSISTANT" (AS IN EFFECTIVE ASSISTANCE OF COUNSEL) AND THIS "ASSISTANT" IN VIOLATION OF THE APPELLANT'S CONSTITUTIONAL RIGHT OF AUTONOMY CANNOT BE PERMITTED TO WAIVE OR FAIL TO RAISE LEGITIMATE "NON-FRIVOLOUS" JURISDICTIONAL ISSUES. THE COURT IS REQUIRED TO PRODUCE SPECIFIC FINDINGS OF FACT AND CONCLUSION OF LAW DEMONSTRATING PROPER RULING WAS MADE ON ALL CLAIMS PRESENTED REGARDING THIS CONFLICT RIDDEN STATE APPOINTED LEGAL COUNSEL. THE APPELLANT OBJECTS, McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821, 86 U.S.L.W. 4271 (U.S.2018); MARTINEZ v. RYAN, 556 U.S. 1, 132 S.Ct. 1309, 182 L.Ed.2d. 272(U.S.2012); WILLIAMS v. UNITED STATES, 2018 WL 4656231 (D.Conn.2018); UNITED STATES v. COBBLE, 2018 WL 4283063 (M.D.Ga.2018).

RESPECTFULLY,

JAMES J. PATTERSON



The South Carolina Court of Appeals

The State, Respondent,

v.

James Joseph Patterson, III, Appellant.

Appellate Case No. 2023-001474

ORDER

On February 23, 2026, Appellant filed a motion to relieve counsel. No return was filed. After careful consideration, Appellant's motion to relieve counsel is denied. *State v. Roberts*, 364 S.C. 583, 588–89, 614 S.E.2d 626, 629 (2005) ("Appellant clearly does not have a federal constitutional right to proceed pro se in this appeal from his criminal conviction. We also find there is no state constitutional provision which confers such a right); *id.* at 589, 614 S.E.2d at 629 ("Moreover, appellate counsel has no duty to raise every non-frivolous issue presented by the record and must be allowed to exercise reasonable professional judgment.").

Krista Crites J.
FOR THE COURT

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Melody Jane Brown, Esquire
John Benjamin Aplin, Esquire
Donald J. Zelenka, Esquire
Samuel R. Hubbard, III, Esquire
Molly Marie Keegan, Esquire

FILED
Mar 31 2026

4/14/26

richard

"EXHIBIT NO. 4"

JAMES JOSEPH PATTERSON
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

2026CP3201723

IN RE: TO FILING A POST CONVICTION RELIEF APPLICATION UNDER THE
INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT.

TO: THE LEXINGTON COUNTY CLERK OF COURT,

MA'AM, THIS ATTACHED DOCUMENT IS MY APPLICATION FOR
POST CONVICTION RELIEF THAT IS INTENDED FILED UNDER THE
INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT ALSO PURSUANT TO
RULE 71.1. PLEASE FILE THE DOCUMENT, ASSIGN A CASE NUMBER AND
RETURN TO ME A "COMPLETE" COPY OF THE FILED APPLICATION TO ALLOW
ME TO ARGUING IT WITHIN ANY POTENTIAL SUBSEQUENT APPELLATE
REVIEW. I AM CURRENTLY ACTING PRO SE IN THIS ACTION UNTIL THE
COURT DETERMINE OTHERWISE. THIS ACTION IS INDEPENDENT FROM THE
COURT OF APPEALS AND I AM CURRENTLY ACTING PRO SE FOR THIS
ACTION. THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,
JAMES J. PATTERSON

APRIL 15, 2026

A TRUE COPY
[Signature]
Lex. Co. C.C.P., G.S. & F.C.

FILED

FORM 5

2026 APR 22 AM 11:26

STATE OF SOUTH CAROLINA
LISA M. CONER
CLERK OF COURT
County of LEXINGTON LEXINGTON SC

IN THE COURT OF COMMON PLEAS

JAMES J. PATTERSON III

Full name and prison number (if any) of Applicant
#368709

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

AFFIDAVIT OF FACTS
GIVING JUDICIAL NOTICE

2026CP3201723

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention F3B. RM. 230 EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512.
2. Name and location of Court which imposed sentence LEXINGTON COUNTY
COURT OF GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) _____
SEE ATTACHED PAGES
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 1-of-406
(a) 2022-GS-32-6147 MURDER
(b) _____

A TRUE COPY

Lex. Co. C.C.C.P. G.S. & F.C.

(c) 2022-GS-32-6146 POSSESSION OF WEAPON DURING..

5. The date upon which sentence was imposed and the terms of the sentence:

(a) SEPTEMBER 7, 2023 30 YEARS

(b) SEPTEMBER 7, 2023 5 YEARS CONCURRENT

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty XXX

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. COURT OF APPEALS CASE NO. 2023-001474

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. VOLUNTARILY WITHDREW THE APPEAL DUE TO

ii. COMPROMISED STATE APPOINTED COUNSEL CONSPIRING

iii. UNDER COLOR OF STATE LAW WITH PROSECUTOR

(c) the date of each such result:

i. SEE DOCUMENTS WITHIN THE CASE HISTORY

ii. "

iii. "

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. SEE DOCUMENTS IN CASE HISTORY AND ATTACHED

ii. PAGES.

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

2-of-406

A TRUE COPY

[Signature]

2023-08-08-0-00

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) 4TH., 5TH., 6TH., 13TH., 15TH. AMENDMENT VIOLATIONS;
- (b) PROSECUTIONAL MISCONDUCT; FRAUD UPON THE COURT;
- (c) SUBJECT MATTER JURISDICTION; INEFFECTIVE ASSISTANCE OF COUNSEL.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHED PAGES
- (b) "
- (c) "
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. "
- iii. "
- iv. "
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. "
- iii. "

A TRUE COPY

(c) the disposition thereof:

- i. N/A
- ii. "
- iii. "
- iv. "

(d) the date of each such disposition:

- i. N/A
- ii. "
- iii. "
- iv. "

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. "
- iii. "
- iv. "

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

YES

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. ISSUE 1 IN THE APPLICATION BUT WAS WITHDRAWN DUE
- ii. TO ATTORNEY BEING COMPROMISED BY STATE REFUSING TO
- iii. ESTABLISH JURISDICTIONAL CHALLENGE.

(b) the proceedings in which each ground was raised:

- i. SEE ATTACHED PAGES
- ii. "
- iii. "

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.O.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) THE COMPROMISED ATTORNEY KNEW SHE CAN ARGUE AGAINST
- (b) THE PRECEDENT UNDER APPELLATE COURT RULE, RULE 217
- (c) WHEN NEW CASE LAW WARRANTED IT BUT REFUSED TO DO.

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
i. SEE DOCUMENTS SUBMITTED IN CASE HISTORY.

ii. "

iii. "

- (b) the proceedings at which each such attorney represented you:

i. SEE DOCUMENTS SUBMITTED IN CASE HISTORY

ii. "

iii. "

INASMUCH, IT IS BEYOND DISPUTE THAT THE "SENTENCING SHEET(S)" ARE THE STATE'S EQUIVALENT TO A "COMMITMENT ORDER". THE APPLICANT GIVES THE COURT AND ALL PARTIES JUDICIAL NOTICE. THIS PCR APPLICATION IS NOT MERELY FILED TO ATTACK THE INDICTMENT(S) AND OTHER CONSTITUTIONAL STRUCTURAL DUE PROCESS ERRORS THAT EXIST IN THIS CASE. THIS IS ALSO A COLLATERAL ATTACK UPON THE "SENTENCING SHEET(S)" WHICH ARE LEGALLY DESIGNATED AS "COMMITMENT ORDER(S)" FOR FRAUD UPON THE COURT AND CHALLENGE TO THAT COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THIS WOULD AUTOMATICALLY ESTABLISH CHALLENGE TO THE JURISDICTION OF ANY SUBSEQUENT STATE COURT THAT HEARD APPEAL RELATED TO THESE MATTERS, SUCH AS UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS, WHERE THE PROSECUTOR COMPROMISED THE STATE APPOINTED COUNSEL TO PREVENT THE ARGUING AGAINST THE PRECEDENT WHICH WAS PERMITTED UNDER RULES OF APPELLATE PROCEDURE, RULE 217, WHETHER THE APPEAL WAS DIRECT OR COLLATERAL IN REVIEW, DUE TO ANY FINAL ORDER BEING ISSUED FROM THE CRIMINAL TRIAL COURT BEING A JURISDICTIONAL PREREQUISITE TO THE APPELLATE REVIEW THAT WAS CASE 2023-001474. THE STATE COMPROMISED THE APPOINTED COUNSEL TO PREVENT SUBSTANTIAL JURISDICTIONAL ISSUES FROM BEING REVIEWED BEFORE THAT COURT. THIS DEMONSTRATES THAT THE APPLICANT WOULD NOT BE PROCEDURALLY BARRED IN HAVING THE LEGAL ISSUE THAT WAS INITIALLY PRESENTED UNDER CASE 2023-001474 HEARD WITHIN THESE PCR PROCEEDING BASED UPON THE FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE UNDER THE INDEPENDENT ACTION RULE. IT WOULD BE AN ABUSE OF DISCRETION, OBSTRUCTION OF JUSTICE AND AN ACT OF FRAUD UPON THE COURT AND STATE TO DETERMINE THAT THE APPLICANT WOULD BE PROCEDURALLY BARRED FROM ARGUING THE ISSUE THAT WAS BEFORE THE COURT UNDER CASE 2023-001474 WHERE THE STATE APPOINTED ATTORNEY CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR TO WAIVE SUBSTANTIAL JURISDICTIONAL CLAIMS AND ARGUE AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012 PURSUANT TO RULES OF APPELLATE COURT PROCEDURE, RULE 217 INVOLVING LEGAL ISSUES WHICH CANNOT BE WAIVED AND OR FORFEITED, WHICH CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN AFTER A FINAL ORDER OR JUDGMENT HAS BEEN ISSUED IN THE CASE(S) ARGUED, OR FOR THE FIRST TIME ON APPEAL, STEEL CO. v. CITIZENS FOR A BETTER

ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998); TAMM v. CINCINNATI INS. COMPANY, 2020 WL 60932(S.D.N.Y.2020); CHASE v. ANDEAVOR LOGISTICS, L.P., 2019 WL 5847879, * 2 W.D.Tex.; UNITED STATES v. VALLADARES, 2019 WL 4888629, * 1, W.D.Tex.; ARBAUGH v. Y & H CORP., 546 U.S. 500, 126 S.Ct. 1235 (U.S.2006); STEVENS E. HECKER, PLAINTIFF v. THE STATE OF WASHINGTON, DEFENDANT, 2020 WL 134168 (Fed.Cl.2020); HENDERSON EX REL HENDERSON v. SHINSEL, 131 S.Ct. 1197, 1198+ U.S.; BURGESS v. UNITED STATES, 2019 WL 7293400 * 1 D.Md..

THE "SENTENCING SHEET(S)", AS "COMMITMENT ORDER(S)", ESTABLISH AN ORDER OR DECREE FROM THE GENERAL SESSIONS COURT TO COMMIT THE APPLICANT TO THE S.C. DEPT. OF CORRECTIONS PERTAINING TO THE APPLICANT'S CONVICTION WHICH IS A JURISDICTIONAL REQUISITE TO APPEAL ON DIRECT REVIEW. BOTH THE COMMITMENT ORDER(S) AND THE ACTIONS THAT OCCURRED UNDER CASE 2023-001474 ARE COMING UNDER FIRE HERE UNDER THE INDEPENDENT ACTION RULE DUE TO THE UNCONSTITUTIONAL ACTION THAT SHALL BE ADDRESSED WITHIN THIS DOCUMENT, ALSO DUE TO CIRCUMVENTING, OBSTRUCTING AND OR FAILURE TO HEAR SUBSTANTIAL JURISDICTIONAL ISSUES VIOLATING DUE PROCESS, WHICH CANNOT BE WAIVED AND OR FORFEITED BY THE APPLICANT WHICH THE HIRED AND OR STATE APPOINTED COUNSEL AT BOTH THE TRIAL LEVEL AND APPELLATE LEVEL CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR AND OR STATE TO CONCEAL AND OR SUPPRESS, VIOLATING THE APPLICANT'S CONSTITUTIONAL RIGHT OF AUTONOMY IN THEIR EFFORTS TO PREVENT THESE ISSUES FROM BEING HEARD WHICH VIOLATE U.S. SUPREME COURT HOLDINGS UNDER McCOY v. LOUISIANA,--S.Ct.--, 2018 WL 2186174 (U.S.2018). IN SOUTH CAROLINA A TRIAL ATTORNEY, A POST CONVICTION RELIEF ATTORNEY AND APPEAL ATTORNEY IS LEGALLY AND ETHICALLY PROHIBITED FROM CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO WAIVE LEGITIMATE JURISDICTIONAL CLAIMS. ENGAGING IN SUCH CONDUCT CONSTITUTES PROFESSIONAL MISCONDUCT AND WOULD ALSO BE CLASSIFIED AS FRAUD UPON THE COURT. UNDER SOUTH CAROLINA RULE OF PROFESSIONAL CONDUCT, RULE 8.4, IT IS MISCONDUCT FOR A LAWYER TO ENGAGE IN DISHONESTY, FRAUD, DECEIT, OR MISREPRESENTATION, OR TO ENGAGE IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE. UNDER THE CONCEPT OF CANDOR TO A TRIBUNAL. RULE 3.3 REQUIRES ATTORNEYS TO

BE TRUTHFUL WITH THE COURT AND CORRECT ANY FALSE STATEMENTS OF MATERIAL LAW OR FACT AS IT RELATES TO THE LEGAL ISSUES PRESENTED WITHIN THIS CASE. THE POWER TO WAIVE LEGAL PROTECTIONS GENERALLY BELONG TO THE CLIENT, NOT THE ATTORNEY. A TRIAL OR PCR OR APPELLATE DEFENSE ATTORNEY WHO UNILATERALLY WAIVES A CLIENT'S LEGITIMATE JURISDICTIONAL CLAIMS WITHOUT AUTHORIZATION OR THROUGH DECEPTIVE MEANS VIOLATES THEIR FIDUCIARY DUTY. AS IT RELATES TO "COLOR OF STATE LAW" AND CONSPIRACY, SECTION 1983 LIABILITY, INDIVIDUALS ACTING "UNDER COLOR OF STATE LAW" CAN BE SUED FOR DEPRIVING OTHERS OF CONSTITUTIONAL DUE PROCESS RIGHTS. WHILE PRIVATE ATTORNEYS OR STATE APPOINTED ATTORNEYS TYPICALLY DO NOT ACT UNDER COLOR OF STATE LAW, THE U.S. SUPREME COURT HELD UNDER TOWER v. GLOVER, 467 U.S. 914, 104 S.Ct. 2820, 1 L.Ed.2d. 758(U.S.1984) THAT THEY CAN BE HELD LIABLE UNDER SECTION 1983 IF THEY CONSPIRE WITH THE STATE OFFICIALS TO DEPRIVE THEIR CLIENTS OF CONSTITUTIONAL RIGHTS. ALSO SEE HORTON v. VINSON, 2015 WL 4774276(N.D.Va.2015); YOUNG v. POSEY, 2017 WL 4021083, * 1+ (DSC.2017). IT BECOMES A MISUSE OF THE RULE TO CLAIM THAT NO HYBRID DEFENSE EXIST WHEN UTILIZED AS A LEGAL JUSTIFICATION FOR THE ATTORNEY TO SECRETLY CONSPIRE WITH THE STATE AND PROSECUTOR TO WAIVE A CLIENT'S JURISDICTIONAL CLAIMS AND COMMIT FRAUD UPON THE COURT. SINCE THE APPEAL UNDER CASE 2023-001474 WAS TAINTED BY FRAUD AND OBSTRUCTION, AND IF THE SAME OCCURS UNDER THIS CURRENT PCR APPLICATION. THE APPLICANT WOULD BE ENTITLED TO ADDRESSING IT WITHIN THIS PCR, PURSUANT TO THE ISSUES THAT OCCURRED IN THE COURT OF APPEALS, AND WOULD BE ENTITLED TO SUCCESSIVE PCR IN THIS CURRENT CASE.

RECENT SOUTH CAROLINA SUPREME COURT AND APPELLATE DECISIONS REINFORCE THAT WHILE HYBRID REPRESENTATION IS GENERALLY NOT PERMITTED, ATTORNEYS REMAIN BOUND BY STRICT ETHICAL DUTIES, AND THE COURT WILL INTERVENE IN CASES OF FRAUD, STRUCTURAL DEFICIENCIES, OR THE WAIVER OF FUNDAMENTAL RIGHTS. IN THE CASE OF STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909 (S.C.App.2025), THE HIGHER COURT CONFIRMED THAT WHILE GUILTY PLEAS WAIVE MOST DEFECTS SUBJECT MATTER JURISDICTION CANNOT BE WAIVED AND REMAINS A VALID GROUND FOR LEGAL CHALLENGE. IN THE CASE OF IN THE MATTER OF LOUIS S. MOORE, 446 S.C. 115, 919 S.E.2d. 391 (S.C.App.2025), THE

HIGHER COURT IN ITS DISCIPLINARY ORDER OUTLINES THE DISBARMENT OF AN ATTORNEY FOR CONDUCT THAT INCLUDED VIOLATING RULES OF PROFESSIONAL CONDUCT AND FAILING TO UPHOLD THE INTEGRITY OF THE LEGAL PROFESSION. IN THE CASE OF LINDSEY v. STATE, 2025 WL 3085693 (S.C.App.2025) THE HIGHER COURT HIGHLIGHTED THE COURT'S SCRUTINY IN PCR OF THE LEGAL SUFFICIENCY OF EVIDENCE WHICH IS RELEVANT IN THIS CASE ADDRESSING THE SUFFICIENCY OF THE EVIDENCE FOR THE MURDER ALSO BASED UPON STATEMENTS ENTERED IN VIOLATION OF THE APPLICABLE STATUTES AND OTHER CLAIMS MADE IN THIS CASE, OR THE SUFFICIENCY OF ESTABLISHING THAT THERE ARE INDEED TWO ELEMENTS TO SUBJECT MATTER JURISDICTION IN SUPPORT OF THE APPLICANT'S CLAIMS MADE. IN THE CASE OF CARRIER v. STATE, 441 S.C. 547, 895 S.E.2d. 679 (S.C.App.2023), THE COURT ADDRESSED THE STATE'S MANIPULATION OF THE GRAND JURY PROCESS WHICH SUPPORT ONE OF THE LEGAL ISSUES INTENDED ARGUED WITHIN THESE PCR PROCEEDINGS, AND THE INEFFECTIVE ASSISTANCE OF COUNSEL REGARDING JURISDICTIONAL INDICTMENT DEFECTS. IN THE CASE OF UNITED STATES v. PITTMAN, 125 F.4TH. 527 (4th.Cir.2025), THE COURT DETERMINED THAT A DEFENDANT WHO WISHES TO PRESERVE AN ARGUMENT THAT A STATUTE IS VAGUE, OR SUBTLE EXPANSION OR FORCED CONSTRUCTION OCCURRED, OR THE STATUTE OR INTERPRETATION OF LAW IS VAGUE AND THEREBY UNCONSTITUTIONAL HE MUST BE PERMITTED TO MAKE THE ARGUMENT BY THE PLEADING OR ESTABLISH GOOD CAUSE FOR NOT HAVING DONE SO. THIS ESTABLISHES THAT IT WAS HIGHLY INAPPROPRIATE AND AN ACT OF FRAUD UPON THE COURT FOR THE STATE APPOINTED ATTORNEY AT THE TRIAL LEVEL OR THE APPELLATE LEVEL TO CONSPIRE UNDER COLOR OF STATE LAW TO WAIVE AND FAIL TO PRESENT THE APPLICANT'S LEGITIMATE JURISDICTIONAL ISSUES AS THEY ARE NOW PRESENTED BEFORE THIS COURT.

4 IN REFERRING BACK TO THE STATE v. GENTRY CASE OF 2005 AND THE STATE v. LANGFORD CASE OF 2012, UNDER SOUTH CAROLINA LAW RES JUDICATA DOES NOT ATTACH TO A JUDGMENT PROCURED BY EXTRINSIC FRAUD. BECAUSE EXTRINSIC FRAUD IS CONSIDERED A "FRAUD UPON THE COURT", IT UNDERMINES THE VERY FOUNDATION OF THE LEGAL PROCEEDING, LEADING TO A CONCLUSION THAT THERE WAS NEVER A "REAL CONTEST" BETWEEN THE PARTIES WHERE THE GENTRY COURT PURPOSELY

CONCEALED THE JURISDICTIONAL FACT THAT THERE WAS A SECOND ELEMENT TO SUBJECT MATTER JURISDICTION, THE CONSTITUTIONAL ELEMENT, AND THAT THE INDICTMENT DEFECTS SHOULD HAVE BEEN ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT FOR DUE PROCESS VIOLATION THAT PRODUCED UNCONSTITUTIONAL ACTION VOIDING THEM. THE DOCTRINE OF FINALITY-WHICH RES JUDICATA IS DESIGNED TO PROTECT-IS SUSPENDED IN FAVOR OF JUSTICE. IN SOUTH CAROLINA EXTRINSIC FRAUD IS DEFINED AS FRAUDULENT CONDUCT THAT INDUCES A PERSON NOT TO PRESENT THEIR CASE IN COURT OR DEPRIVE THEM OF THE OPPORTUNITY TO BE HEARD AS HAS OCCURRED WITHIN AND BY THE GENTRY CASE CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, PURPOSELY AVOIDING CASES LIKE STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83., 118 S.Ct. 1003(U.S.1998), WHICH PREVENTED THE INMATES OF THIS STATE FROM FULLY PRESENTING THEIR CLAIM ESSENTIALLY ENSURING THAT THERE WAS NEVER A "REAL CONTEST" BEFORE THE COURT. IT WAS A DELIBERATE AND CAREFULLY CALCULATED SCHEME AND PLOT TO DEFRAUD BY AVOIDING CLEARLY ESTABLISHED JUDICIAL DECISION THAT CURRENTLY HAS NOT BEEN OVERRULED BY ANY COURT UNTIL THIS VERY DAY ILLUSTRATING THAT RES JUDICATA DOES NOT ATTACH TO THIS ISSUE BY THE CONCEALMENT AND SUPPRESSION OF TRUTH, FRAUD, THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE AS THE GENTRY COURT DECEPTIVELY LED THE PARTIES TO BELIEVE, MR. T v. MRS. T., 378 S.C. 127; HILTON HEAD CENTER OF SOUTH CAROLINA INC. v. PUBLIC SERVICE COM'N OF SOUTH CAROLINA, 294 S.C. 9; B.R. v. F.C.S.B., 710 F.Supp.3d. 528(4th.Cir.2024)(FRAUD UPON THE COURT IS NOT YOUR GARDEN VARIETY FRAUD, AS IT ORDINARILY INVOLVES CORRUPTION OF THE JUDICIAL PROCESS ITSELF); FOX EX REL FOX v. ELK RUN COAL CO., 739 F.3d. 131 (4th.Cir.2014).

5 SUCH UNCONSTITUTIONAL ACTION AND FRAUD UPON THE COURT(S) INVOLVED WHERE THE COURT(S) WERE PRIVY TO THESE INJUSTICES, RENDERS THE COMMITMENT ORDER(S) AT THE TRIAL LEVEL, AND ANY JUDGMENT THAT OCCURS UNDER CASE 2023-001474 WITHIN THE S.C. COURT OF APPEALS, VOID FOR UNCONSTITUTIONAL ACTION AS IS TO BE ARGUED WITHIN THIS PCR APPLICATION. THUS, DUE TO THESE JURISDICTIONAL CHALLENGES AND FRAUD UPON THE COURT ARGUED WITHIN THIS DOCUMENT.

ANY CLAIM OF STATUTE OF LIMITATIONS, UNJUST ASSERTED WAIVER, OR CLAIM THAT ANOTHER ACTION IS PENDING IN THE S.C. COURT OF APPEALS, WHERE THAT COURT IN ADDITIONAL ACTS OF FRAUD UPON THE COURT, CONSPIRING UNDER COLOR OF STATE LAW AND OBSTRUCTION OF JUSTICE IS DELAYING RULING ON THE APPLICANT'S VOLUNTARY WITHDRAW DUE TO THE ATTORNEY UNLAWFULLY WORKING WITH THE STATE TO WAIVE SUBSTANTIAL JURISDICTIONAL CLAIMS; WOULD NOT PREVENT REVIEW UNDER THIS PRESENTLY SUBMITTED PCR APPLICATION DUE TO SUCH CLAIMS BEING PROCEDURAL LIMITATIONS FOR WHICH A COLLATERAL ATTACK FOR FRAUD UPON THE COURT IS FREE OF SUCH PROCEDURAL LIMITATIONS WHICH THE AFOREMENTIONED ARE. FRAUD VITIATES EVERYTHING THAT IT ENTERS AND A JUDGMENT PROCURED BY FRAUD MAY BE COLLATERALLY ATTACKED FOR THAT FRAUD UPON THE COURT. THIS APPLIES TO ALL ACTS, ORDERS, JUDGMENTS OR DECREES OF ALL COURTS ON RECORD, WHICH THE SENTENCING SHEET(S), AS "COMMITMENT ORDER(S)" ALSO REPRESENT. ALSO SEE CITINGS OF LAW LISTED WITHIN THIS DOCUMENT. ALSO SEE MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.Miss.2017); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265 CA4 (N.C.2017); LOUMIET v. UNITED STATES, 65 F.Supp.3d. 19 (2014).

INASMUCH, THIS PCR APPLICATION IS FILED UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT(S) INVOLVED WHERE THE JUDGES WERE PRIVY TO ALL THAT OCCURRED CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL AND OR SOLICITOR'S OFFICE, TO DEPRIVE THE APPLICANT OF CONSTITUTIONAL PROTECTIONS. DUE TO ATTACKING THE "SENTENCING SHEET(S)", WHICH ARE THE LEGAL DESIGNATED "COMMITMENT ORDER(S)", AND THE UNCONSTITUTIONAL ACTION DONE BY THE COMPROMISED S.C. INDIGENT DEFENSE OFFICE CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO WAIVE LEGITIMATE JURISDICTIONAL CLAIMS THAT ESTABLISH JURISDICTIONAL CHALLENGE TO THE COURTS INVOLVED, TO INCLUDE ALL OTHER DUE PROCESS VIOLATIONS ARGUED WITHIN THIS PCR APPLICATION, WHICH ARE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, THE STATE OF SOUTH CAROLINA, OR THE LEXINGTON COUNTY COURT OF COMMON PLEAS, AND OR THE LEXINGTON COUNTY SOLICITOR'S OFFICE, CANNOT FAIRLY OR LEGALLY ASSERT THAT THE APPLICANT IS

"TIME BARRED", OR THAT THE APPLICANT STILL HAS AN APPEAL PENDING WITHIN THE S.C. COURT OF APPEALS DUE TO THE UNCONSTITUTIONAL ACTION ARGUED THAT VOIDS THOSE JURISDICTIONS FOR WHICH IS THIS PCR APPLICATION'S AIM. IT IS THE APPLICANT'S CLAIM THAT IT WAS AN ACT OF FRAUD UPON THE COURT TO SIGN THE COMMITMENT ORDER(S), OR FOR THE APPLICANT TO BE FORCED TO WITHDRAW HIS APPEAL UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS, DUE TO THE ATTORNEY'S FAILURE TO RAISE THE JURISDICTIONAL CLAIMS, ABUSING THEIR DISCRETION WHEN THESE JURISDICTIONAL CHALLENGES EXISTED WHICH CANNOT BE WAIVED AND OR FORFEITED, CAN BE RAISED AT ANY TIME, EVEN FOR THE FIRST TIME ON APPEAL, WHERE THE COURT(S) AND PROSECUTOR KNEW GOOD AND WELL, CONSPIRING UNDER COLOR OF STATE LAW, THAT THESE SUBSTANTIAL DUE PROCESS VIOLATIONS AND CONSTITUTIONAL STRUCTURAL ERRORS NOT SUBJECT TO HARMLESS ERROR DOCTRINE EXISTED WITHIN THIS CASE, SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM INVEST v. NET ELEMENT INTERNATIONAL, INC., F.Supp., 2014 WL 12613282 (S.D.Fla.2014); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020).

THEREFORE, THE GENERAL SESSIONS COURT SIGNING ANY RELEVANT "COMMITMENT ORDER(S)", OR THE UNCONSTITUTIONAL ACTION THAT OCCURRED WITHIN THE S.C. COURT OF APPEAL UNDER CASE 2023-001474, IS VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION, AS WELL AS THE APPLICANT'S CONVICTION ATTACHED TO THEM BEING A NULLITY AND IS AS IF THERE WERE NO "COMMITMENT ORDER(S)", OR CONVICTION ATTACHED THERETO MADE OR DONE AT ALL. IT IS WELL SETTLED IN LAW ALSO UNDER THE INDEPENDENT ACTION RULE, THAT A COLLATERAL ATTACK FOR FRAUD UPON THE COURT IS FREE OF ALL PROCEDURAL LIMITATIONS SUCH AS ANY CLAIM THAT THERE IS A STATUTE OF LIMITATIONS BAR, OR THAT THE APPLICANT MAY HAVE ANOTHER ACTION PENDING IN THE S.C. COURT OF APPEALS DUE, TO THEY IN ADDITIONAL ACTS OF FRAUD UPON THE COURT, CONSPIRACY AND OBSTRUCTION OF JUSTICE DELAYING RULING ON THE

WITHDRAWAL, DUE TO THE FRAUD UPON THE COURT AND JURISDICTIONAL CLAIMS THAT ARE PRESENTED WITHIN THIS CURRENT PCR APPLICATION, WHERE ALL THE AFOREMENTIONED ARE FORMS OF PROCEDURAL LIMITATIONS, IN RE: GENESYS DATA TECHNOLOGIES INC., 204 F.3d. 124 (4th.Cir.2000); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599 (U.S.2016); UNITED STATES v. LIBOUS, 858 F.3d. 64 (2nd.Cir.2017. ALSO SEE EXHIBIT(S) "COMMITMENT ORDER(S) ATTACK" AND "CASE HISTORY".

SUBJECT MATTER JURISDICTION IS THE POWER TO DECLARE LAW, WHETHER IT BE UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION OR THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED. THUS, WHEN IT CEASE TO EXIST. THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS THE CAUSE OF CONVICTION AGAINST THE APPLICANT WHICH CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN WHEN A FINAL JUDGMENT HAS BEEN ENTERED INTO THE CASE, EVEN FOR THE FIRST TIME ON APPEAL, ESPECIALLY IN LIGHT OF THE FACT THAT WE HAVE FRAUD UPON THE COURT ATTACHED TO THE JURISDICTIONAL CLAIMS MADE. AGAIN, THE APPLICANT IS ARGUING HIS ISSUES UNDER THE DUE PROCESS/ CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, NOT THE STATUTORY (LEGISLATIVE) ELEMENT THAT THE STATE COURTS IN THE PAST IN AN ABUSE OF DISCRETION AND FRAUD UPON THE COURT ADJUDICATED SUCH ISSUES UNDER, SEBELIUS v. AUBURN REGIONAL MEDICAL CENTER, 133 S.Ct. 817, 184 L.Ed.2d. 627, 81 U.S.L.W. 4053 (U.S.2013); SIZWARD v. RIDDLE, F.Supp.2d., 2013 WL 707018 (DSC.2013); GRUPO DALAFLUX v. ATLAS GLOBAL L.P., 541 U.S. 567, 124 S.Ct. 192, 158 L.Ed.2d. 866(U.S.2004); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F.3d. 624 (4th.Cir.2016); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM. INVEST v. NET ELEMENT INTERNATIONAL, INC. SUPRA.; KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362 (S.C.App.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020). BY THE ISSUES ARGUED. EQUITABLE TOLLING ATTACHES DUE TO THE STATE PROSECUTOR AND THE S.C. SUPREME COURT'S

INVOLVEMENT IN THE FRAUD CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND FATAL INDICTMENT DEFECTS WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION, WHICH GRAVELY EFFECTED THE TRIAL PROCESS SUBJECTING THE APPLICANT TO EXTREME PREJUDICE.

FOR THE RECORD, THE APPLICANT GIVES THE COURT AND ALL PARTIES JUDICIAL NOTICE. TO PREVENT THE STATE AND OR S.C. ATTORNEY GENERAL'S OFFICE AND ITS ALCOLYTES FROM MAKING A TOTALLY MERITLESS STATEMENT OR ASSERTION. IT DOES NOT MATTER WHERE THE APPLICANT GOT THE LEGAL ISSUES FOR WHICH HE SEEKS RELIEF FROM. THEY COULD HAVE CAME FROM "FREDDIE CRUEGER", "BARACK OBAMA", "IRON MAN", "ABRAHAM LINCOLN", "THE LAW LIBRARY CLERK LAWRENCE CRAWFORD", "SPIDERMAN", OR "THE INCREDIBLE HULK". IT DOESN'T MATTER WHOM THE APPLICANT WORKED CONJUNCTIVELY WITH TO PRODUCE THESE LEGAL ISSUES. ONCE THE APPLICANT "PERSONALLY" ENGAGES IN RESEARCH WHETHER IT BE ALONE OR WITH OTHER PARTIES, AND THE APPLICANT "PERSONALLY" DETERMINED THAT THE LEGAL ISSUES IMPACT HIS CONVICTION DIRECTLY, AND THEN "PERSONALLY" DECIDES TO PLACE THE LEGAL ISSUES FORTH IN THIS PCR? BY THE APPLICANT'S CONSTITUTIONAL DUE PROCESS RIGHT OF AUTONOMY, THE APPLICANT CANNOT BE PROCEDURALLY BARRED IN DOING SO. THE RIGHT TO DEFEND IS PERSONAL, AND THE DEFENDANT'S CHOICE IN EXERCISING THAT RIGHT MUST BE HONORED OUT OF RESPECT FOR THE INDIVIDUAL WHICH IS THE LIFE BLOOD OF LAW. THE APPLICANT IS "MASTER" TO DECIDE WHAT LAW HE WILL RELY UPON, PEOPLE v. FLORES, 34 Cal. App. 5TH. 270, 246 Cal. Rptr.3d. 77 (Cal.2019); COLE v. STATE, 590 S.W.3d. 1, 3, Tex. App. BEAUMONT (Tex.2019); THE FAIR v. KHOLER DIE & SPECIALTY CO., 228 U.S. 22, 33 S.Ct. 410(U.S.1913); LANCASTER v. KAISER FOUNDATION..., 958 F.Supp. 1137 (E.D.Va.1997); POWERS v. SOUTH CENTRAL UNITED FOODS & COMMERCIAL WORKERS,..., 719 F.2d. 760(5th.Cir.1983).

9 A VIOLATION OF AUTONOMY IS COMPLETE WHEN THE COURT ALLOWS COUNSEL OR THE COURT ITSELF, TO USURP CONTROL OF AN ISSUE WITHIN THE APPLICANT'S SOLE PREROGATIVE, SUCH AS WHAT LEGAL ISSUES HE INTENDS TO BRING BEFORE THIS COURT, WHEN PRESENT, SUCH AN ERROR

IS NOT SUBJECT TO HARMLESS ERROR REVIEW, McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821, 86 U.S.L.W. 4271 (U.S.2018); MARTINEZ v. RYAN, 556 U.S. 1, 132 S.Ct. 1309, 182 L.Ed.2d. 272(U.S.2012); WILLIAMS v. UNITED STATES, 2018 WL 4656231 (D.Conn.2018); UNITED STATES v. COBBLE, 2018 WL 4283063 (M.D.Ga.2018).

THE APPLICANT WOULD BE ENTITLED TO EQUITABLE TOLLING UNDER THESE CIRCUMSTANCES WHERE THE APPLICANT WAS PREVENTED FROM ADDRESSING HIS FATAL INDICTMENT ISSUE AT THE TRIAL LEVEL BY THE STATE v. GENTRY FRAUD AND BY THE STATE APPOINTED ATTORNEY UNDER CASE 2023-001474 CONSPIRING UNDER COLOR OF STATE LAW WITH THE ATTORNEY GENERAL'S OFFICE TO WAIVE SUBSTANTIAL JURISDICTIONAL CHALLENGES AND THE DEPRIVATION WAS NOT BASED UPON LEGAL STRATEGY, BUT BEING COMPROMISED BY THE S.C. ATTORNEY GENERAL'S OFFICE PRODUCING EXTRAORDINARY CIRCUMSTANCES BEYOND THE APPLICANT'S CONTROL AND THE APPLICANT IS EXERCISING REASONABLE DUE DILIGENCE IN SEEKING TO HAVE THE INJUSTICE REMEDIED. THE FRAUD UPON THE COURT ARGUED AND THE S.C. ATTORNEY GENERAL'S OFFICE AND ITS ACOLYTES COMPROMISING THE APPLICANT'S ATTORNEYS CONSTITUTE EXTRAORDINARY CIRCUMSTANCES FOR THE PURPOSE OF EQUITABLE TOLLING BY PREVENTING THE JURISDICTIONAL CLAIMS FROM BEING ARGUED BEFORE THE S.C. COURT OF APPEALS AND PREVENTING SUCH AT THE TRIAL LEVEL BASED UPON THE FRAUD THAT OCCURRED WITHIN THE STATE v. GENTRY CASE REGARDING SUBJECT MATTER JURISDICTION, CONCEALING THE FACT THAT THERE WAS A SECOND ELEMENT TO SUBJECT MATTER JURISDICTION, THE CONSTITUTIONAL ELEMENT, AND THAT INDICTMENT DEFECTS WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION. THE FRAUDULENT CONDUCT UNDERMINES THE INTEGRITY OF THE JUDICIAL PROCESS IS A SERIOUS ETHICAL VIOLATION THAT SUBVERTS THE FAIR ADMINISTRATION OF JUSTICE. THIS TYPE OF DECEIT DIRECTLY CORRUPTS THE COURT'S ABILITY TO FUNCTION IMPARTIALLY AND FAIRLY, AND IS TREATED VERY SERIOUSLY WHERE THEY CHANGED LAW THAT HAS BEEN ESTABLISHED FOR OVER 200 YEARS. THEIR ACTIONS PREVENTED THE APPLICANT FROM DISCOVERING FACTS NECESSARY TO THE APPLICANT'S RIGHT TO ARGUE AGAINST THE UNCONSTITUTIONALLY VAGUE PRECEDENT UNDER RULE 217 AND TO THE FILING OF POST CONVICTION RELIEF. WITHOUT THE

JURISDICTIONAL CHALLENGES BEING PERMITTED TO BE BROUGHT AS DUE PROCESS LAW REQUIRED AND PERMITTED PRODUCING EXTREME PREJUDICE TO THE APPLICANT'S PROCEEDING. THE ACTION AND INJUSTICE DIRECTLY IMPACT THE VALIDITY AND FAIRNESS OF THE CONVICTION, WHICH WAS THE VERY THING THE ISSUES WERE SOUGHT TO ADDRESS. THE U.S. SUPREME COURT'S DECISION IN HOLLAND v. FLORIDA, 560 U.S. 631 (U.S.2010), IS A KEY CASE SUPPORTING THE APPLICATION OF EQUITABLE TOLLING FOR ATTORNEY MISCONDUCT AND JUDGES CONSPIRING WITH THEM WHERE THEY WORKED TO PREVENT THE FACT THAT THERE WERE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND A CRIMINAL COURT'S JURISDICTION IS NOT ABSOLUTE WHERE THERE ARE CLEAR AND EGREGIOUS UNCONSTITUTIONAL STRUCTURAL ERRORS THAT WOULD VOID THAT COURT'S JURISDICTION, IS FAR MORE EGREGIOUS THAN THE ATTORNEY NEGLIGENCE IN HOLLAND AND WOULD BE CONSIDERED EXTRAORDINARY CIRCUMSTANCES THAT PREVENTED THE APPLICANT FROM DISCOVERING THE FULL EXTENT OF THE FRAUD IN PURSUING HIS CONSTITUTIONAL DUE PROCESS RIGHTS, THEREBY WARRANTING EQUITABLE TOLLING. IN THE CASE OF PELZER v. STATE, 378 S.C. 516; 662 S.E.2d. 618(S.C.App.2008), PROVIDES SUPPORT FOR THE PRINCIPLE OF EQUITABLE TOLLING TO PREVENT UNFAIRNESS HOLDING THAT EQUITABLE TOLLING IS NECESSARY TO PREVENT UNFAIRNESS WHERE A DILIGENT PLAINTIFF FILED A DEFECTIVE PLEADING DURING A STATUTORY PERIOD. THE UNDERLYING PRINCIPLE IS DIRECTLY RELEVANT. IF THE SOUTH CAROLINA COURT IS WILLING TO TOLL A DEADLINE TO PREVENT UNFAIRNESS IN A CASE INVOLVING A DEFECTIVE FILING BY A DILIGENT PETITIONER, IT WOULD LOGICALLY APPLY EQUITABLE TOLLING IN A MUCH MORE EGREGIOUS SCENARIO INVOLVING FRAUD UPON THE COURT INVOLVING THE GENTRY COURT AND BY THE PROSECUTOR COMPROMISING THE APPLICANT'S LEGAL COUNSEL AT BOTH THE TRIAL AND APPELLATE LEVEL TO PREVENT SUBSTANTIAL JURISDICTIONAL ISSUES FROM BEING JUSTLY AND FAIRLY HEARD. ATTORNEY AND JUDICIAL MISCONDUCT ORCHESTRATED BY THE STATE IS CLEAR CAUSE FOR EQUITABLE TOLLING, HOLLAND v. FLORIDA SUPRA; HARRIS v. HUTCHENSON, 209 F.3d. 325 (4th.Cir.2000); ROUSE v. LEE, 339 F.3d. 238 (4th.Cir.2003); PACE v. DiGUGLIELMO, 125 S.Ct. 1807 (U.S.2005); WILLIAMS v. GARLAND, 59 F.4TH. 620 (4th.Cir.2023); UNITED STATES v. BUCHANAN, 638 F.3d. 448(4th.Cir.2011).

EXHIBIT, "COMMITMENT ORDER(S) ATTACK"

ARREST WARRANT

2020A3210800267

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

THE STATE

20022428

against

James Joseph Patterson, III

Address: 2601 Padgett Rd

Hopkins, SC 29061-9401

Phone: SSN: 658-01-0304

Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: 103464792

DOB: 8/15/1997 Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: Arcadeus J Dubard - A03155

Offense: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant James Patterson

on 11/13/20

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Mark H. Westbrook Judicial Center NOV 12 2020

205 East Main Street
Lexington, SC 29072

Lexington City Sheriff's Dept.

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

Personally appeared before me the affiant Arcadeus J Dubard

being duly sworn deposes and says that defendant James Joseph Patterson, III

did within this county and state on or about 11/9/2020

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Lexington

in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On November 9, 2020 at approximately 2120 hours, while in the area of 115 S. Hampton Rd. in the Lexington area of Lexington County South Carolina, the defendant James Joseph Patterson III did commit the crime of Possession of a Weapon during the Commission of a Violent Crime, when he did with malice and aforethought, murder a person while having in his possession a firearm as defined by South Carolina Code of Laws. Murder is defined in South Carolina Code of Laws section 16-1-60 as a violent crime. This incident is supported by witness statements that James Joseph Patterson III did shoot the victim, and physical evidence collected on scene. Patterson III was identified through the use of a photo lineup. LCSD case 20022428

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

Affiant's Address 521 Gibson Road

Lexington, SC 29072-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 11/9/2020

defendant James Joseph Patterson, III

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 11/12/2020

Signature of Issuing Judge (L.S.)

Bradley Stewart Melton

Judge Code: 7321

Judge's Address 139 East Main Street, Suite B

Lexington, SC 29072-

Judge's Telephone (803)785-2594

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

ARREST WARRANT

2020A3210800266

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

THE STATE

20022428

against

James Joseph Patterson, III

Address: 2601 Padgett Rd

Hopkins, SC 29061-9401

Phone: SSN: 658-01-0304

Sex: M Race: B Height: 6 3 Weight: 165

DL State: SC DL #: 103464792

DOB: 8/15/1997 Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: Arcadeus J Dubard - A03155

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant James Patterson

on 11/13/20

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Mark H. Westbrook Judicial Center NOV 12 2020

205 East Main Street

Lexington, SC 29072

ORIGINAL

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ORIGINAL

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

Personally appeared before me the affiant Arcadeus J Dubard

being duly sworn deposes and says that defendant James Joseph Patterson, III

did within this county and state on or about 11/9/2020

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Lexington

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

On November 9, 2020 at approximately 2120 hours, while in the area of 115 S. Hampton Rd. in the Lexington area of Lexington County South Carolina, the defendant James Joseph Patterson III did commit the crime of Murder, when he did with malice and aforethought, shoot the victim in the lower body causing significant trauma resulting in the death of the victim hours later. Witnesses stated, James got into an argument with subjects on scene about money and fired shots during that argument one of which struck the victim. The victim was transported to the hospital and later pronounced deceased. This incident was supported by witnesses who advised that James Patterson III "Little Joe" did fire shots after an argument over money and left in a burgundy sedan. James Joseph Patterson III was identified in a photo lineup as being the shooter. LCSD case 20022428

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Lexington

Affiant's Address 521 Gibson Road
Lexington, SC 29072-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 11/9/2020 defendant James Joseph Patterson, III

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him/her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 11/12/2020

Signature of Issuing Judge

Bradley Stewart Melton

Judge Code: 7321

(L.S.)

Judge's Address 139 East Main Street, Suite B

Lexington, SC 29072-

Judge's Telephone (803)785-2594

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

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ORIGINAL

AFFIDAVIT

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

08-SEP-2022
STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

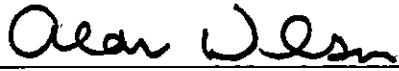
IN THE COURT OF GENERAL SESSIONS
INDICTMENT

SCANNED
At a Court of General Sessions, convened on _____, 2022, the Grand Jurors
of Lexington County present upon their oath:

Weapons / Poss. Weapon during Violent Crime

That James Joseph Patterson, III did, in Lexington County, South Carolina, on or about November 9, 2020, possess a firearm, or visibly display what appeared to be a firearm, during the commission of a violent crime. To wit: James Joseph Patterson, III did discharge a firearm during the murder of William Clark, in violation of South Carolina Code of Laws §16-23-0490, as amended, (1976).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ALAN WILSON (JAK)
ATTORNEY GENERAL

08-SEP-2022
STATE OF SOUTH CAROLINA)
)
)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT

SC 11-1-2022
At a Court of General Sessions, convened on _____, 2022, the Grand Jurors
of Lexington County present upon their oath:

Murder

That James Joseph Patterson, III did, in Lexington County, South Carolina, on or about November 9, 2020, murder the victim, William Clark, with malice aforethought, either express or implied. To wit: on or about November 9, 2020, James Joseph Patterson, III did shoot William Clark, and William Clark did die as a proximate result thereof. All in violation of South Carolina Code of Laws §16-03-0010, as amended, (1976).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ALAN WILSON (JAK)
ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

James Joseph Patterson III

AKA:

Race: B Sex: M Age:

DOB: 8/15/1997 SS#: 658-01-0304

Address: 2601 Padgett Rd.

City, State, Zip: Hopkins, SC 29061

DL#* 103464792 SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022-GS-32 - 6147

AW#: 2020A3210800266

Date of Offense: November 9, 2020

S.C. Code §: 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder (30 years - Life)

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 100665
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ____ years

and/or to pay a fine of \$____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for ____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

30 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. James Joseph Patterson III INDICTMENT/CASE#: 2022 -GS- 32 - 6147

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab, Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$	Beginning	\$
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$
§56-5-2995 (DUI Assessment)		\$12	\$
§56-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ 25
§14-1-213 (Drug Court Surcharge)		\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$

Clerk of Court/Deputy Clerk: Quia Comer
Court Reporter: Stacy JohnsonPresiding Judge: Quia Comer
Judge Code: 2753
Sentence Date: 9-7-23

SCCA/217 (07/2021)

23-of-406

A TRUE COPY Page 2 of 2

Quia Comer
Lex. Co. C.C.C.F., G.S. & F.C.

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

James Joseph Patterson III

AKA:

Race: B Sex: M Age:DOB: 8/15/1997 SS#: 658-01-0304Address: 2601 Padgett Rd.City, State, Zip: Hopkins, SC 29061DL#* 103464792 SID#

IN THE COURT OF GENERAL SESSIONS

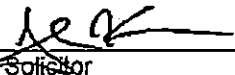
INDICTMENT/CASE#: 2022-GS-32 - 6146AW#: 2020A3210800267Date of Offense: November 9, 2020S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of a Weapon During a Violent Crime (5 years)In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:



100665

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$___; provided that upon the service of ___ days/months/years/Time Served and or payment

of \$___; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.30 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

	\$	
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____		
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
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§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

\$500 \$

TBD \$

TOTAL \$ 125.00

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____Stacy Johnson

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

2753
4-7-23

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

James Joseph Patterson III

AKA:

Race: B Sex: M Age: _____DOB: 8/15/1997 SS#: 658-01-0304Address: 2601 Padgett Rd.City, State, Zip: Hopkins, SC 29061DL# 103464792 SID# _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2022-GS-32 - 6146AW#: 2020A3210800267Date of Offense: November 9, 2020S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession of a Weapon During a Violent Crime (5 years)In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 100665
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$____; provided that upon the service of _____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.30 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

CASE HISTORY

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON) 2021 MAR 31 AM 10:35

THE STATE OF S.C.) LISA M. COMER
CLERK OF COURT
LEXINGTON, SC

-VS-

ORDER SETTING BOND

JAMES PATTERSON, III,

DEFENDANT.

Heard: March 12, 2021 via video conference
State's Attorney: Asst. A.G. Andrew McCallister
Defense Attorney: James McLeod Ervin, Esquire
Court Reporter: Bethanie Creppon

Case Numbers:

2020A3210800266 - Murder

2020A3210800267 - Possession of Firearm During Violent Crime

This is a second hearing regarding bond and bail. The Defendant has moved before this court based on a substantial change in circumstance being the discovery of significant exculpatory evidence in the form of eye-witness testimony. The court directs that bond be set at \$75,000.00 surety. This supersedes the order regarding bond of January 13, 2021 in this matter.

Several people spoke at this hearing, namely a witness for the defense. This court considers the presumption of innocence as well as whether the Defendant is a flight risk or threat to the community. Defendant is represented by attorney James Ervin, who is a member of the private bar and asserts the Defendant will be present to defend this matter and appear as summoned.

IT IS ORDERED that bond is set for the above captioned matters in the amount of \$75,000.00 surety. The Defendant is ordered to have GPS monitoring while on bond. He is also restricted to his residence and can only leave to go to work, school, church and for legal visits to

28-of-406

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF GENERAL SESSIONS

THE STATE,)

-vs-

ORDER REGARDING BAIL

JAMES JOSEPH PATTERSON, III,)

Defendant.)

2021 JAN 26 AM 11:45
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

FILED

Heard: January 13, 2021 via video conference
State's Attorney: Asst. A.G. Andrew L. McAllister
Defense Attorney: James M. Ervin, Esquire
Court Reporter: Bethanie Creppon

Case Numbers:

2020A3210800266 -- Murder

2020A3210800267 -- Possession of Firearm During Violent Crime

CLAIM
PROCESSING
Rule

WPK
#1

This is an initial hearing regarding bail. The court directs that the defendant be held without bond on the murder charge, which is classified as a violent crime. If his cases are not ended within 180 days, he may reapply for bail. If bail is set on the murder charge, the presiding judge will address the firearm charge.

The following allegations are made by the State. On November 14, 2020, a dice game was being played at the victim's home. There were multiple people at the residence. About four people were in the room where the game was being played, and at least one other person inside the home. The defendant got upset because he thought that he was being cheated out of money. He shot the victim, resulting in the victim's death. The defendant fled, as did other occupants. As he was leaving in a vehicle with others, shots were fired from the vehicle. Officers found no indication that the victim had a gun.

Two eyewitnesses have identified the defendant as the perpetrator. Cell phones were obtained and data is being analyzed.

The defendant is 23 years of age. He is from this area. Despite his young age, he has a criminal record from 2016 for unlawfully carrying a pistol and possession with intent to distribute illegal drugs. He received an active Youthful Offender (YOA) sentence, and his parole was revoked in 2019. He was released again from YOA confinement on parole, and he has a pending parole violation case. He has been in jail on the pending charges since mid-November of 2020.

Several people spoke in opposition to granting release on bond, including relatives of the victim and the victim advocate. Detective DuBard, the investigating officer, also opposes bond.

WPK
#2 Mr. Patterson surrendered to law enforcement. His attorney argues that there are gaps in the State's theory of what occurred. According to his attorney, the defendant has complied with the conditions of parole and is not a flight risk or danger to the community. The defendant worked at a restaurant. He finished adult education courses. He would live with his mother, Ms. Anderson, and asserts that he would comply with GPS monitoring, curfew, and any other special conditions of bond.

In ruling on the motion for bail, the court must consider the factors set forth in the following statute, as well as the state and federal prohibitions against excessive bail. The South Carolina constitution allows the court to deny bail for cases involving offenses classified as violent. S.C. Code §17-15-30 sets forth matters that are to be considered in determining conditions of release. It reads, as follows:

SECTION 17-15-30. Matters to be considered in determining conditions of release; contempt.

(A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an

individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person's:

- (1) family ties;
- (2) employment;
- (3) financial resources;
- (4) character and mental condition;
- (5) length of residence in the community;
- (6) record of convictions; and
- (7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

- (1) a person's criminal record;
- (2) any charges pending against a person at the time release is requested;
- (3) all incident reports generated as a result of an offense charged;
- (4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and
- (5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

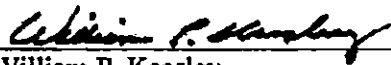
(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

- (a) a person's criminal record;
- (b) any charges pending against a person at the time release is requested;
- (c) all incident reports generated as a result of the offense charged; and
- (d) any other information that will assist the court in determining conditions of release.

#3

Recognizing the presumption of innocence, the court finds that the defendant is a danger to the community justifying that he be held without bail on the charge which is classified as a violent crime. If his cases are not ended within 180 days, he may reapply for release on bail.

AND IT IS SO ORDERED.


William P. Keesley
Circuit Judge

Date: January 26, 2021

LISA M. COHEN
CLERK OF COURT
LEXINGTON, KY

2021 JAN 26 AM 11:15

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF LEXINGTON) 2021 APR -2 AM 11:40

THE STATE OF S.C.

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

-VS-

JAMES PATTERSON, III,

DEFENDANT.

ORDER SETTING BOND

Heard: March 12, 2021 via video conference
State's Attorney: Asst. A.G. Andrew McCallister
Defense Attorney: James McLeod Ervin, Esquire
Court Reporter: Bethanie Creppon

Case Numbers:

2020A3210800266 – Murder

2020A3210800267 – Possession of Firearm During Violent Crime

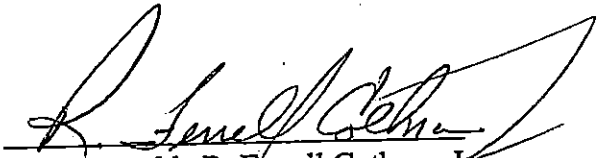
R J C
This is a second hearing regarding bond and bail. The Defendant has moved before this court based on a substantial change in circumstance being the discovery of significant exculpatory evidence in the form of eye-witness testimony. The court directs that bond be set at \$75,000.00 surety. This supersedes the order regarding bond of January 13, 2021 in this matter.

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IT IS ORDERED that bond is set for the above captioned matters in the amount of \$75,000.00 surety. The Defendant is ordered to have GPS monitoring while on bond. He is also restricted to his residence and can only leave to go to work, school, church and for legal visits to

his attorney's office or court. Furthermore, he is to return home within the hour before and after going to work.

IT IS SO ORDERD.



The Honorable R. Ferrell Cothran, Jr.
Eleventh Judicial Circuit
Court of General Sessions

March 31, 2021

Division of Appellate Defense
1330 Lady Street, Suite 401
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Wanda H. Carter, Interim Chief Appellate

September 29, 2025

James J. Patterson, #368709
Evans Correctional Institution
610 Hwy. 9 West
Bennettsville, SC 29512

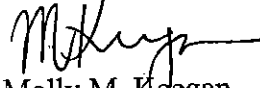
Re: Your Case

Dear Mr. Patterson:

Regarding our phone call today, I wanted to confirm that the status of your case is that it is ready for consideration by the South Carolina Court of Appeals. I also wanted to confirm that I will not be moving to amend your brief. The jurisdictional issue that we discussed concerning your indictment is, in my opinion, meritless. See *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (explaining that if an indictment is challenged as insufficient or defective, the issue must be raised before the jury is sworn and not after); *State v. Bultron*, 318 S.C. 323, 457 S.E.2d 616 (Ct. App. 1995) (determining that an indictment was filed despite lacking a "true bill" stamp because it was a scrivener's error and the indictment was in writing and signed by the grand jury foreman); see also *Tate v. State*, 345 S.C. 577, 549 S.E.2d 601 (2001) (stating that there was no prejudice from counsel's failure to object to missing date information in an indictment because the defect in the caption did not affect the trial court's subject-matter jurisdiction over the case).

However, you are free to hire private counsel or ask the Court to relieve me as counsel if you wish to proceed *pro se*. In the meantime, I will continue to represent you to the best of my abilities. Please feel free to call or write if you have any additional questions.

Sincerely,



Molly M. Keegan
Appellate Defender

MMK/kpw

Petition to be
relieved as counsel
Anders v. California
(1967)
262(a)(3)
262(c)(3)

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RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

1. Whether the trial court properly exercised its discretion in admitting the prior convictions of defense witness Tamare Howell for impeachment under Rule 609(a)(1), SCRE, where: (1) a period of less than ten years had passed since the date of the convictions; (2) the convictions were for crimes punishable by more than one year's imprisonment; and (3) the probative value of the convictions was *not* substantially outweighed by the danger of unfair prejudice?

STATEMENT OF THE CASE

James J. Patterson, III (Appellant), was indicted at the September, 2022 term of the grand jury for Lexington County for murder (2022-GS-32-6147) and possession of a weapon during commission of a violent crime (2022-GS-32-6146). On September 5-7, 2023, Appellant proceeded to a trial by jury before the Honorable Daniel D. Hall. He was represented by James M. Ervin, Esquire. Respondent (the State) was represented by Deputy Attorney General Kinli B. Abee and Assistant Attorney General Joel A. Kozak of the South Carolina Attorney General's Office. At the conclusion of trial, the jury found Appellant guilty as indicted. He was sentenced by Judge Hall to thirty (30) years' imprisonment for murder and five (5) years' concurrent imprisonment for possession of a weapon during commission of a violent crime. (Indictments and Sentencing Sheets; Tr.p.1; p.411-p.413). Appellant timely filed a notice of intent to appeal his convictions and sentence and a brief was submitted in support of his appeal by Chief Appellate Defender Robert M. Dudek of the South Carolina Commission on Indigent Defense. This Brief of Respondent follows.

STATEMENT OF FACTS

As briefly summarized by the State in its opening statement, the charges against Appellant stemmed from the November 9, 2020, shooting death of William Clark (Victim) at his home in Lexington County. According to the State, Appellant shot Victim following a game of dice and a dispute over forty dollars. The prosecutor said the State would call two eyewitnesses

from the crime scene to testify at trial—Kenyatta Strother, the mother of Victim’s child, and Albert Clark, Victim’s brother—as well as calling several law enforcement officers and crime scene investigators in an effort to prove, beyond a reasonable doubt, that Appellant committed the crimes. (Tr.p.52-p.56).

Trial

Following jury selection and addressing some pretrial matters (Tr.p.8-p.46), the jury was sworn and the trial court gave preliminary instructions to the jurors. (Tr.p.46-p.52). As part of those instructions, the trial court explained the jury’s role in determining the facts of the case, including determining whether-or-not the testimony of a witness was believable. The court briefly described things the jurors could consider in determining believability, which included interest, bias, prejudice, opportunity, and how the witness acts on the stand. It also noted the jurors had a right to consider anything in the record that would help them evaluate the testimony of witnesses. (Tr.p.51, lines 7-25).

The parties gave brief opening statements before the State began presenting its case-in-chief. During the State’s open, the prosecutor acknowledged the burden of proof rests entirely on the State, but he also explained that if the defense put up any witnesses, the jury could question whether their story makes sense, particularly in light of any evidence recovered at the crime scene. (Tr.p.55, lines 13-21). During Appellant’s open, counsel repeated what the court had explained, noting that with testimonial evidence the jury’s job was to weigh credibility to

determine if the witness was telling the truth. Counsel explained that credibility could be affected by a witness's bias, motive, and perspective. (Tr.p.57, line 8-p.58, line 18).

As its first witness, the State called Sharmel Miller, an employee with the Lexington County 911 call center, to the stand. He briefly explained how 911 calls are received, logged in to the system, processed through the computer aided dispatch (CAD) system, and recorded. Miller identified the recording of the single call that was made to 911 related to the incident in question and that recording was admitted into evidence and played for the jury. (Tr.p.59-p.63).

Next, the State called Victim's former girlfriend, Kenyatta Strother, to the stand. She explained Victim was the father of the youngest of her three children and had dated her for seventeen years prior to him being killed. Strother identified a diagram of the crime scene as well as several photos of Victim's house which were admitted into evidence. She said that on November 9, 2020, the night of the incident, she and Victim were no longer together, but were still close and that she would still go see him frequently at his house in the Red Bank area of Lexington County. Strother testified she arrived at Victim's house about 8:45 PM on the night of November 9, 2020, and that ten to twelve other people were already present. Strother proceeded to use the photos and the diagram to set the scene. (Tr.p.64-p.71).

Strother testified that when she entered the house, she heard lots of noise from the crowd, which sounded like people gambling—either dice or cards—and she went straight into Victim's room to sit on his bed. She said she could see into the room where people were gambling and overheard talk that somebody was cheating. Strother identified Appellant as one of the

gamblers, testifying she knew Appellant previously. She pointed him out in the courtroom and said she heard him say he was owed money because another guy cheated him out of \$40 on a game. (Tr.p.71-p.74).

Strother testified that after the claim of cheating, she saw Appellant come out of the living room, walk past her, and then walk outside where he approached a Crown Vic, was handed a gun, and reentered the house. She said Appellant was holding the gun when he came inside and that he went back into the living room where the dice game was being played. Strother said Appellant was standing near the group of people playing dice when she suddenly heard him say "don't push me" which caused everyone to jump up. She said Appellant then fired the gun once inside the house before some of the guys closest to him collectively ushered him out of the house through the back door. (Tr.p.74-p.78).

Strother testified that after Appellant was outside, she watched him pacing back and forth with the gun in his hand. She testified someone came around the corner and spoke to Appellant, at which point "he jumped up in the air and he started shooting" towards the kitchen window of the house. Strother said Appellant fired multiple shots and that while she crawled towards the back of the house, she heard someone get into a car, which went screeching through the yard. The car briefly stopped in the yard where she heard more gunshots before hearing the car leave the scene. (Tr.p.74-p.80). Strother testified she remembered both the white Crown Vic and a burgundy sedan being in the yard behind the house. Once she got up, she discovered Victim crawling on the ground. When he tried to get up himself, he could not stand and collapsed.

Then Victim's cousin "Dudley" [sic – later identified by multiple witnesses as "Donnie"] Clark got him in a car and took him to the hospital. Strother testified Appellant was the only person she saw with a gun on the night of the incident. (Tr.p.80-p.84).

The State then called Traffic Deputy Taylor McChesney of the Lexington County Sheriff's Department (LCSD) to the stand. He was the first officer on the scene and arrived at approximately 9:20 PM. McChesney described the scene as relatively quiet when he arrived. He identified a 9-millimeter shell casing he collected from the ground as well as the video recording from his body-worn camera, both of which were introduced into evidence. (Tr.p.93-p.100).

Next, the State called former LCSD crime scene investigator Cody Weyandt. Weyandt responded to the incident location and was assigned as the primary crime scene investigator. He took crime scene photographs inside the residence and created a diagram of the residence, all of which were admitted into evidence. Weyandt described what was depicted in the inside photos and described various items of evidence he had identified with markers including: (1) an expended 9-millimeter cartridge case; (2) a copper jacket from a fired projectile; (3) a Motorola cell phone in a black case; and (4) a Samsung cell phone in a blue case (Tr.p.104-p.114). Weyandt also took photographs and made a diagram of the outside of the residence, all of which were admitted into evidence. He described what was depicted in the outside photos and described various items of evidence he had identified with markers including: (1) a shiny, new 9-millimeter shell casings; (2) bent, weathered, and aged 45-caliber shell casings; (3) numerous

expended 9-millimeter cartridge cases with Hornaday, Sig, and Barnaul headstamps; (4) a custom Apple iPhone case that had a photo on it; and (5) \$40 in cash made up of two \$20 bills. (Tr.p.114-p.129; p.136-p.137).

The following day, Dr. Susan Erin Presnell, a forensic pathologist from the Medical University of South Carolina, was qualified and admitted as an expert in forensic pathology, without objection. Dr. Presnell described the steps she generally takes in performing an autopsy and then described the specific autopsy she performed on Victim. She described Victim's injuries, including how a bullet entered the side of his right hip, into the right pelvis through the right pelvic bone, through blood vessels and arteries, and continued to the left-front hip where the bullet was recovered. Dr. Presnell opined that Victim died from a single gunshot wound to his right hip. (Tr.p.140-p.148). Cameron Sherban from the LCSD special victim's unit then testified as a chain of custody witness about the bullet recovered during the autopsy. (Tr.p.151-p.155). Next, the State called Talmadge Foulks to the stand. Foulks lived near Victim, heard gunshots the night of the incident, and had gunshot damage to her vehicle. She identified several photographs and briefly described the scene. (Tr.p.155-p.159).

The State then called Victim's brother, Albert Clark, to the stand. Albert was at Victim's house the day of the shooting from early afternoon until nightfall. He testified that after Victim went to sleep, he and around ten other people, including Appellant, started a dice game. Albert said he left Victim's house at some point during the game when he ran short on money. He drove to his own house which was about two or three minutes away to get more money and

heard gunshots as he was returning. Albert testified that as he was pulling in at Victim's house, he actually saw gunfire. He said he saw "Little Joe," whom he identified as Appellant, shooting directly across the yard towards Victim and then saw Victim fall to the ground. Albert picked up Victim with the help of Victim's cousin Donnie, and they drove him to the hospital where they took him inside. Eventually they both returned to Victim's house where the LCSD crime scene unit was processing the scene and law enforcement officers were talking to witnesses. Albert testified he never saw Donnie with a firearm, that he did not have a firearm himself, and that neither he nor Donnie fired a weapon at Appellant when Appellant shot at Victim. He testified Appellant was the only person he saw fire a weapon that night. (Tr.p.160-p.171; p.178-p.179).

Next, the State called LCSD Detective Arcadeus Dubard to the stand. On the night of the shooting, Dubard responded to the hospital around 9:30 PM where he was able to review security footage and identify the vehicle that had transported Victim to the hospital. Dubard subsequently participated in making a stop of that vehicle, making contact with Donnie Clark and Albert Clark, and searching Donnie's truck. He testified Donnie and Albert were cooperative and came back to Victim's residence with him to answer questions. Dubard said the crime scene had been secured at that point and that neither Donnie nor Albert would have been allowed access to the scene during the investigation. (Tr.p.181-p.190).

After he arrived at the scene, Dubard spoke separately to Donnie, Albert, and Kenyatta [Strother]—who was able to identify Appellant through a Facebook photo. He said no other witnesses besides these three would cooperate and provide information. Dubard explained the

investigators canvassed the area, executed multiple search warrants, and tried to gather security camera footage from nearby businesses. He testified they recovered a cell phone outside Victim's house, surrounded by shell casings—a cell phone which belonged to Appellant. Dubard later returned to the incident scene to talk to Foulks and take photos of the damage to her car and property. He recovered several spent projectiles from Foulks' property. Dubard also subsequently interviewed Donnie about bullet damage allegedly sustained to one of the rear tires of his "Dually" truck on the night of the shooting. (Tr.p.190-p.203). On redirect examination, Dubard testified LCSD spoke to numerous witnesses on the night of the incident, and no one said Donnie or Albert was the shooter. Conversely, no one told them Appellant was not the shooter. (Tr.p.222-p.224).

Finally, the State qualified LCSC Investigator Thomas Alvin Smith as an expert in firearms examination and he was admitted without objection. Smith explained how bullet examination works, including how he looks through a microscope for unique imperfections called striations, takes photographs, and compares other class characteristic like rifling. Smith specifically examined the bullet removed from Victim's body and a bullet removed from Foulks' car and opined they were fired through the same barrel. (Tr.p.225-p.245). Smith also examined one copper jacket which was inconclusive and nine expended 9-millimeter cartridges from the crime scene. He opined that all nine expended casings were fired through the same barrel and said there was nothing inconsistent with the theory that there was only one firearm on the scene.

(Tr.p.245-p.261). On redirect Smith clarified he tested every bullet and every shell casing that was collected from the scene. (Tr.p.264-p.265). The State then rested. (Tr.p.265, lines 17-19).

Directed Verdict and Right to Testify

Appellant moved for a directed verdict, and after hearing his argument and the State's response, the trial court denied the motion. (Tr.p.265-p.267). The trial judge then advised Appellant, outside the presence of the jury, regarding his right to testify or not testify, and the possibility of being impeached with his prior convictions. (Tr.p.267-p.272).

After a short break and learning Appellant intended to call Tamare Howell as the first defense witness, the State made a motion to be permitted to use Howell's prior convictions to impeach. The prosecutor referenced Rule 609(a)(1), SCRE, as well as the fact that admission of those convictions would be subject to Rule 403, SCRE, and a determination by the trial court regarding the probative value of the evidence, noting credibility was a key issue in the case. (Tr.p.274, line 10-p.275, line 23). Defense counsel argued against admission, focusing specifically on the Rule 403 balancing test. He stated: "I think 403 clearly makes it inadmissible." (Tr.p.276). After hearing further arguments, the trial court ruled:

Well, here's what I'm gonna do. *I'm gonna stick with the rule.* I mean, the issue is, first, whether it's admissible or not, but that - - that gets you to 403, and then the Court has to determine whether it's more prejudicial than probative. . . .

I'm gonna allow - - we're gonna follow the same rule. I'm not gonna allow him to impeach you on the name of the charges. You certainly can ask him if - - however you want to as a trial strategy question. If on impeachment you need to ask him, you can say, for instance, were you convicted of a crime that carried more than one

year in 2016? Were you convicted of another crime in 2016? Were you convicted of another crime that carried more than one year in 2018. I'm gonna allow you to - - I'm gonna limit you to what we generally do with defendants, that you can - - I'm not going to rule that it is inadmissible; however, I think you can use that, but I'm gonna limit you on how you [sic] impeachment of him to the fact of not naming the crime. I find that Mr. Ervin's rights. Depending - - we don't know what - - the facts and circumstances of the strong arm robbery. It may very well have been a true technical strong arm robbery; however, we're all aware of circumstances where people oftentimes in family situations are accused and convicted of an armed robbery or strong arm robbery. So we're not here to flesh out the specifics of each of those, but I'll allow the State to impeach him with the questions regarding convictions of crimes that carry more than one year.

(Tr.p.281, line 16-p.282, line 21) (emphasis added). The trial court subsequently clarified its ruling. It quoted Rule 609 and its reference to Rule 403 before concluding:

I find that in this particular case it's very clear that a large part of this case is based on statements and credibility of up until the point I think three witnesses and may involve the defense witnesses as well, and so I find that under Rule 609 the fact that he was convicted of crimes that carry more than one year, that that is admissible and I find that in weighing those that that goes to the probative value for a jury to determine his credibility.

(Tr.p.283, line 5-p.284, line 1).

Appellant proceeded to call Howell in his defense. Howell testified that Appellant is his cousin and he that he was with Appellant on the night of the incident, November 9, 2020. He said they drove to Victim's house in a burgundy Ford sedan Appellant borrowed from their cousin Stephanie. Howell noted Donnie and Albert were already there along with a couple of other "homeboys" from the neighborhood and that they all started playing dice for money. He

claimed Appellant had won \$1,000 from Albert when a disagreement arose, and Appellant decided to quit playing. Howell testified that when Appellant put his hands on the table to walk off, Victim's gun fell off the table and went off accidentally. He claimed everyone then walked outside to leave when he remembered he left his bag in the house. Howell said he went back in to get the bag when he heard someone say, "get a gun." He claimed that when he came back out with his bag, Albert started shooting at their car, so he ran from the scene. (Tr.p.285-p.299). Defense counsel did not ask Howell about any prior convictions.

As soon as the State started its cross-examination, the prosecutor said: "All right. Mr. Howell, before we get into what happened that night, I want to go over a couple of things. And without telling us what they are, you have, in fact, been convicted of a crime in 2016 that carries more than a year imprisonment; is that right?" (Tr.p.299, lines 8-14). Howell answered: "Yes ma'am;" and Appellant's counsel renewed his objection. (Tr.p.299, lines 15-16). The trial court overruled the objection, and the following exchange occurred:

Q. I'm gonna ask that again. You were, in fact, convicted of a crime in 2016 that carried more than a year imprisonment, right, sir?

A. Yes, ma'am.

Q. Okay. And, again, in 2018, right?

A. 2018? Yes, ma'am.

Q. Okay. And, again, in 2019, right?

A. Yes, ma'am.

(Tr.p.299, line 20-p.300, line 2). The State continued its cross-examination with no further mention of Howell's prior convictions. (Tr.p.300-p.311). Defense counsel also did not mention the prior conviction on redirect. (Tr.p.311-p.312).

After Howell was excused and Appellant was questioned about his right to testify, Appellant took the stand to testify in his own defense. (Tr.p.313-p.316). He essentially mirrored Howell's testimony, claiming that on November 9, 2020, he and Howell borrowed Stephanie's burgundy car and drove it to Victim's house where they participated in gambling with Victim, Albert, Donnie, and others. Appellant provided additional details about the game itself, claiming he was making side bets with Albert and won \$1,000, which Albert paid in \$100 bills. He claimed he lent \$200 back to Albert so Albert could keep betting; however, following an argument over another bet, Donnie grabbed Appellant, so he got up to leave. Again mirroring Howell's testimony, Appellant claimed that as he was getting up, Victim's gun dropped off the table and went off. He said this caused everyone to start evacuating the house. Appellant said he was walking towards the car when he noticed Howell did not have his bag, so he told him to go back in and get it. Meanwhile, Appellant claimed he was sitting in the car counting his money and holding his phone. Appellant testified that when Howell came back out with the bag, he warned Appellant that "they" were about to shoot, so Appellant jumped out of the car to the ground, dropping his phone and some money. Appellant said he then heard six gunshots, followed by at least four more gunshots. He claimed that he then got up and saw Albert running across the yard towards another house, carrying a gun. Appellant claimed he later discovered

two bullet holes in the burgundy car. He testified he never had a gun on the night of the shooting. (Tr.p.316-p.333).

As his third and final witness, Appellant called his cousin, Stephanie Glover, to the stand. Glover testified she used to own a burgundy Ford Focus which she often lent to Appellant, including on the night of the incident. She said when she lent Appellant the car that day it did not have any bullet holes in it, but when it was returned the following day, it had one bullet hole in the front. (Tr.p.347-p.349). On cross-examination, Glover claimed she took a picture of the bullet hole, but the screen of her phone later cracked, so there was no way to retrieve it to share with the police. She also claimed she no longer owned the car and never told law enforcement about the bullet hole because nobody ever reached out to her. (Tr.p.349-p.352). The defense then rested. (Tr.p.352, lines 17-22).

The following morning after a charge conference, the parties made closing arguments. During the State's close, the prosecutor described the elements of the offenses, the State's burden of proof, and the evidence introduced throughout the trial. (Tr.p.359-p.367). The prosecutor also noted that when the defense calls witnesses, the jury had to listen to their testimony and decide if it makes sense. The State first critiqued Appellant's story, then briefly critiqued Howell's testimony in support of that story, but only as to how their story did not match the physical evidence from the scene. The prosecutor never mentioned Howell's prior convictions. (Tr.p.367-p.375). During Appellant's closing argument, counsel attacked the State's theory of the case and argued: "Credibility of the defense. There was not one moment when the State

impeached or questioned the credibility of the three defense witnesses. Not once. She tried. Yes, ma'am. Correct. Correct. Correct. Unflappable testimony as to what happened. Barely any inconsistencies in the minor details." (Tr.p.381, line 22-p.382, line 2). Finally, during the State's rebuttal the State again did not mention Howell's prior convictions. (Tr.p.383-p.388).

The trial judge then charged the jury on the roles of the judge and jury, the indictments, the presumption of innocence, the State's burden of proof, reasonable doubt, direct and circumstantial evidence, credibility of witnesses, expert witnesses, criminal intent, the elements of each offense, and the verdict forms. (Tr.p.386-p.399). At the end of trial, the jury found Appellant guilty as indicted. (Tr.p.401-p.402). He was sentenced by Judge Hall to thirty (30) years' imprisonment for murder and five (5) years' concurrent imprisonment for possession of a weapon during commission of a violent crime. (Indictments and Sentencing Sheets; Tr.p.1; p.411-p.413).

STANDARD OF REVIEW

In criminal cases, an appellate court sits to review only errors of law, and it is bound by the trial court's factual findings unless they are clearly erroneous. *State v. Brown*, 401 S.C. 82, 87, 736 S.E.2d 263, 265 (2012), *cert. denied*, 569 U.S. 1023 (2013); *State v. Wilson*, 345 S.C. 1, 6, 545 S.E.2d 827, 829 (2001). Our appellate courts give great deference when reviewing the evidentiary ruling of the trial court. The admission or exclusion of evidence is left to the sound discretion of the trial judge. *State v. Edwards*, 373 S.C. 230, 234, 644 S.E.2d 66, 68 (Ct. App.

2007). The trial court's ruling on the admissibility of evidence will not be reversed on appeal absent abuse of discretion or the commission of legal error which results in prejudice to the defendant. *Id.*; *State v. Adams*, 354 S.C. 361, 377, 580 S.E.2d 785, 793 (Ct. App. 2003). An abuse of discretion occurs when the ruling lacks evidentiary support or is controlled by an error of law. *Brown*, 401 S.C. at 87, 736 S.E.2d at 265; *State v. Jennings*, 394 S.C. 473, 477-78, 716 S.E.2d 91, 93 (2011); *State v. Morris*, 376 S.C. 189, 205-06, 656 S.E.2d 359, 368 (2008); *State v. McDonald*, 343 S.C. 319, 540 S.E.2d 464 (2000). To warrant reversal based on the admission or exclusion of evidence, the complaining party must prove both the error of the ruling and the resulting prejudice. *Vaught v. A.O. Hardee & Sons, Inc.*, 366 S.C. 475, 480, 623 S.E.2d 373, 375 (2005); *State v. Howard*, 396 S.C. 173, 178, 720 S.E.2d 511, 514 (Ct. App. 2012).

ARGUMENT

I.

The trial court did not abuse its discretion in admitting the prior convictions of defense witness Tamare Howell for impeachment under Rule 609(a)(1), SCRE, because: (1) a period of less than ten years had passed since the date of the convictions; (2) the convictions were for crimes punishable by more than one year's imprisonment; and (3) the probative value of the convictions was *not* substantially outweighed by the danger of unfair prejudice.

Appellant argues the trial court erred in admitting, for impeachment purposes, defense witness Tamare Howell's convictions for strong-arm robbery and possession of less than one gram of methamphetamine or cocaine base (2016); failure to stop for a blue light (2018); and

first offense possession with intent to distribute (2019), under Rule 609(a)(1), SCRE, “by not conducting a Rule 403 balancing analysis . . . given their probative value was substantially outweighed by their danger of undue prejudice.” (Brief of Appellant, p.4). He acknowledges the convictions in the case were not more than ten years old but argues none “had a tendency to prove or show the witness’s propensity for truthfulness or credibility” and therefore, “should have been found to be unduly prejudicial after a proper Rule 403 analysis.” (Brief of Appellant, p.14). Appellant further contends the “vague but prejudicial manner” in which the convictions were conveyed to the jury—with the State being ordered to only refer to them as crimes that carried more than a year imprisonment—permitted the jury to engage in speculation that “was equally if not more prejudicial” than had the crimes been identified. (Brief of Appellant, p.14-p.15). The State disagrees and submits Appellant’s arguments are without merit.

Here, the trial court acknowledged the general rules governing the admissibility of a witness’s prior convictions for purposes of impeachment, as well as the parameters of such admissibility under Rule 609(a)(1), SCRE. Judge Hall stated: “I’m gonna stick with the rule.” (Tr.p.281, lines 16-17)—a rule that begins with these convictions being admissible for impeachment, unless certain circumstances exist which create a substantial danger of unfair prejudice. The trial court specifically acknowledged admission was “subject to Rule 403,” which provides that evidence of a qualifying conviction “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury” The trial court then conducted a Rule 403 analysis before concluding,

admittedly without extensive elaboration, the probative value of the convictions outweighed the danger of *any* prejudice, much less *unfair* prejudice. Although the trial court did not specifically list or reference the five factors set forth by our supreme court in State v. Colf,¹ its analysis addressed at least one of those factors directly, clearly touched on others, and was fully supported by any consideration of all five factors, particularly given the trial court's efforts to "sanitize" any possible prejudice by limiting the State to merely eliciting testimony that Howell had four recent prior convictions carrying more than one year in prison, rather than by identifying those crimes. Indeed, this effort to sanitize the prior crimes arguably eliminated any need for further Rule 403 balancing. Nevertheless, the trial court *did* conduct an adequate Rule 403 balancing analysis in this case. Further, its decision to admit the convictions for impeachment of Howell after conducting the analysis had sufficient evidentiary support and therefore did not constitute an abuse of discretion. Additionally, if there was any error, it was harmless because, beyond a reasonable doubt, it could not have contributed to the jury's verdict where the eyewitness testimony and physical evidence of guilt was overwhelming. Finally, even if this Court concludes it was error and was not harmless, the proper remedy is remand for a more thorough Rule 403 balancing analysis, not remand for a new trial as requested by Appellant. (Brief of Appellant, p.16).

¹ 337 S.C. 622, 627, 525 S.E.2d 246, 248 (2000) (adopting the five-factor test used by federal courts to assist in determining whether the probative value of a prior conviction outweighs its prejudicial effect for purposes of impeachment under Rule 609, SCRE).

A. Law / Analysis

Rule 609 of the South Carolina Rules of Evidence governs the admissibility of a witness's prior convictions for purposes of impeachment, and it prescribes varying standards for admissibility depending on the type of witness (accused versus other than an accused) and/or the type of crime (crime involving dishonesty or false statement versus crime not involving dishonesty or false statement). *State v. Robinson*, 436 S.C. 579, 592-93, 828 S.E.2d 203, 209-10 (2019); Rule 609, SCRE. If a period of ten years or less has elapsed since the date of conviction or of the release of the witness from the confinement imposed for that conviction, Rule 609(a)(1), SCRE, provides that evidence that a witness other than an accused has been convicted of a crime punishable by death or imprisonment for more than one year's imprisonment "shall be admitted," subject to Rule 403, SCRE. *Robinson*, 426 S.C. at 593, 828 S.E.2d at 210; Rule 609(a)(1), SCRE. Under Rule 403, evidence of such a conviction "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." *Id.* (quoting Rule 403, SCRE). Thus, Rule 609(a)(1) requires the trial court to balance the probative value of evidence of a prior conviction and the degree of prejudice to the opponent of the evidence. *Id.* at 594, 828 S.E.2d at 210.

Our supreme court has approved the five-factor analysis generally employed by the federal courts for weighing the probative value for impeachment of prior convictions against the prejudice to the accused. *Colf*, 337 S.C. at 627, 525 S.E.2d at 248. Even though the three Rule

609 admissibility tests differ from one another, the supreme court has, through *Colf*, provided a uniform set of factors for the trial court to consider when applying each test. *Robinson*, 426 S.C. at 594, 828 S.E.2d at 210. The following factors, along with any other relevant factors, should be considered by the trial court: (1) the impeachment value of the prior crime; (2) the point in time of the conviction and the witness's subsequent history; (3) the similarity between the past crime and the charged crime; (4) the importance of the defendant's [or witness's] testimony; and (5) the centrality of the credibility issue. *Id.* at 594, 828 S.E.2d at 211; *Colf*, 337 S.C. at 627, 525 S.E.2d at 248.

Initially, the State notes the prior convictions at issue here all fit squarely within the time limits for admission of impeachment evidence under the Rules of Evidence. Rule 609 provides:

Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect.

Rule 609(b), SCRE. Appellant's trial took place on September 5-7, 2023. Howell's prior convictions for strong-arm robbery and possession of less than one gram of methamphetamine or cocaine base occurred in 2016; his conviction for failure to stop for a blue light occurred in 2018; and his conviction for first offense possession with intent to distribute occurred in 2019. Because these convictions were respectively within seven, five, and four years of Patterson's trial, they clearly fall within the ten-year time limit provided by Rule 609(b), SCRE, and

therefore were admissible to impeach Howell at trial *unless* the trial court determined the probative value was *substantially* outweighed by the danger of unfair prejudice.

Here, the trial judge was clearly cognizant of the requirement that he balance the probative value of admitting the prior convictions against the prejudicial effect to Appellant and made the requisite determination in this case. Indeed, when the State made its motion to use Howell's prior convictions to impeach, the prosecutor properly referenced Rule 609(a)(1) as well as the fact that admission of those convictions was subject to Rule 403 and a determination regarding the probative value of the evidence where credibility was a key issue in the case. (Tr.p.274, line 10-p.275, line 23). Defense counsel then focused his argument against admission on the Rule 403 balancing test arguing: "I think 403 clearly makes it inadmissible." (Tr.p.276). After hearing further arguments, the trial court ruled:

Well, here's what I'm gonna do. I'm gonna stick with the rule. I mean, the issue is, first, whether it's admissible or not, but that - - that gets you to 403, and then the Court has to determine whether it's more prejudicial than probative. . . . I'm gonna allow - - we're gonna follow the same rule.

(Tr.p.281, lines 16-23). The trial court subsequently clarified its ruling. It quoted Rule 609 and its reference to Rule 403 before concluding:

I find that in this particular case it's very clear that a large part of this case is based on statements and credibility of up until the point I think three witnesses and may involve the defense witnesses as well, and so I find that under Rule 609 the fact that he was convicted of crimes that carry more than one year, that that is admissible and I find that in weighing those that that goes to the probative value for a jury to determine his credibility.

(Tr.p.283, line 5-p.284, line 1). Thus, the court clearly made the determination required by Rule 609(a)(1) for admission of the prior convictions, and it clearly balanced the probative value of the evidence against its prejudicial impact before ruling it should be admitted. Although the trial court did not specifically list or reference the five *Colf* factors, its analysis addressed at least one of those factors directly, clearly touched on others, and was fully supported by *any* consideration of all five factors, particularly given the court's efforts to "sanitize" any possible prejudice by limiting the State to merely eliciting testimony that Howell had four recent prior convictions carrying more than one year in prison, rather than by identifying those crimes. Each factor is addressed below.

1. The impeachment value of the prior crimes.

The trial court clearly concluded the four prior crimes had impeachment value even if it did not extensively describe this finding on the record—otherwise, it would not have ruled them admissible. Whatever the case, it certainly did not abuse its discretion in finding Howell's prior convictions had impeachment value that supported admission under Rule 609(a)(1). While the concept of crimes of moral turpitude arguably "became irrelevant for impeachment of witnesses" following the adoption of Rule 609 of the South Carolina Rules of Evidence,² the State submits it still has relevance in determining the impeachment value of prior crimes when a trial court is considering admission under Rule 609(a)(1) rather than 609(a)(2), where the prior crimes at issue are not explicitly crimes of dishonesty or false statement. Moral turpitude involves an act of

² McAninch, Fairey, & Coggiola, *The Criminal Law of South Carolina* 49, (6th Ed. 2013).

baseness, vileness, or depravity in the social duties which a man owes to his fellow man or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *State v. Harvey*, 275 S.C. 225, 227 n.1, 268 S.E.2d 587, 588 n.1 (1980) (quoting Miller on Criminal Law 24 (1934)). “Most offenses found to involve moral turpitude seem to include some form of *dishonest* behavior.” McAninch, Fairey, & Coggiola, *The Criminal Law of South Carolina* 50, (6th Ed. 2013) (emphasis added). Consequently, crimes of moral turpitude would typically carry some impeachment value. Indeed, logic dictates that where honesty is one of the “accepted and customary rules of right and duty between man and man,” a person’s credibility might be negatively impacted where he or she has been convicted, beyond a reasonable doubt, of committing an act of moral turpitude.

a. Strong-Arm Robbery

As noted by our supreme court in *Robinson*, although the crime of strong-arm robbery is not a crime of dishonesty or false statement which would result in automatic admissibility under Rule 609(a)(2), it is nonetheless a crime that carries impeachment value because it implies the witness is not someone to be trusted – that he might not be credible. *Robinson*, 426 S.C. at 599-600, 828 S.E.2d at 213-14. Thus, the trial court did not abuse its discretion in finding Howell’s conviction for strong-arm robbery had impeachment value.

**b. Possession of less than one gram of
methamphetamine or cocaine base**

not crime
of dishonesty

Although it previously held otherwise,³ our supreme court later concluded that simple possession of cocaine is indeed a crime of moral turpitude even though it primarily involves self-destructive behavior, because the harmful impact of the cocaine business on society as a whole is fostered by each individual's use of it. *State v. Major*, 301 S.C. 181, 184-85, 391 S.E.2d 235, 237-38 (1990). Consequently, one who possesses cocaine base is derelict in his "duty to society and fellow men." *Id.*; See also *Green v. Hewitt*, 305 S.C. 238, 242, 407 S.E.2d 651, 652 (1991) (retaining the focus of a moral turpitude analysis on the social duties one owes to society and one's fellow man). Because it is a crime of moral turpitude, the trial court did not abuse its discretion in finding Howell's conviction for possession of less than one gram of methamphetamine or cocaine base had impeachment value.

c. Failure to stop for blue light

Where a witness has previously been convicted of failing to stop for a blue light it implies, in a similar fashion to a conviction for strong-arm robbery, the witness is not someone to be trusted. *Cf. Robinson*, 426 S.C. at 599-600, 828 S.E.2d at 213-14 (finding a conviction for strong-arm robbery implies a witness might not be credible). Indeed, stopping for a law enforcement officer who has engaged the blue lights on his or her vehicle and is in pursuit clearly implicates social duties a person, as a member of society, owes to his fellow man or to

³ *State v. Ball*, 292 S.C. 71, 354 S.E.2d 906 (1987) (holding possession of cocaine is not a crime of moral turpitude), overruled by *State v. Major*, 301 S.C. 181, 391 S.E.2d 235 (1990).

society in general. Fleeing or failing to stop for those blue lights is contrary to the accepted and customary rule of right and duty between man and man. Not only is it a base and vile act that places all other drivers at risk of death or great bodily injury, more importantly it shows fraudulent behavior through evasion and dishonesty. *See State v. Horton*, 271 S.C. 413, 414-15, 248 S.E.2d 263, 263-64 (1978) (finding the offense of "hit and run" involves moral turpitude and was properly admitted into evidence as bearing on credibility). In *Horton*, the supreme court explained: "An act in which fraud is an ingredient involved moral turpitude. One who leaves the scene of an accident is fraudulently attempting to relieve himself of any liability." *Id.* (internal citation omitted).⁴ Similarly, one who fails to stop for a blue light is fraudulently attempting to relieve himself of any liability. Because failing to stop for a blue light involves moral turpitude, the trial court did not abuse its discretion in finding Howell's conviction for that crime had impeachment value.

d. Possession with intent to distribute

Our supreme court has held that a trial court correctly allowed the prosecution to attempt to impeach the defendant with evidence of his earlier conviction for possession with intent to distribute marijuana. *State v. Lilly*, 278 S.C. 499, 500, 299 S.E.2d 329, 330 (1983). It concluded possession with intent to distribute marijuana is a crime of moral turpitude because it involves

⁴ In a civil case, this court affirmed a trial court's exclusion of evidence of a prior conviction for failure to stop for a blue light; however, this decision was made under the abuse of discretion standard of review where the record failed to disclose the trial judge's reasons for excluding the evidence. It was *not* a finding that failure to stop for a blue light is not a crime of moral turpitude. *State v. Novich*, 300 S.C. 334, 336-37, 387 S.E.2d 704, 705-06 (Ct. App. 1989).

the duty which a person owes to other people and to society in general. *Id.*; *See also In the Matter of Byrd*, 308 S.C. 470, 419 S.E.2d 228 (1992) (finding, in an attorney disciplinary matter, that an attorney who pled guilty to possession of cocaine with intent to distribute: “By his conduct, respondent has violated the Rules of Professional Conduct by committing a criminal act that reflects adversely on his *honesty, trustworthiness*, or fitness as a lawyer and by engaging in conduct involving moral turpitude.”) (emphasis added). Thus, the trial court did not abuse its discretion in finding Howell’s conviction for possession with intent to distribute had impeachment value.

**2. The point in time of the conviction
and the witness’s subsequent history.**

In *Robinson*, our supreme court found Robinson’s prior convictions, which occurred four years and two years before the trial, “revealed a continuing pattern of criminal behavior that could legitimately impact his credibility in the eyes of the jury.” *Robinson*, 426 S.C. at 600, 828 S.E.2d at 214. A similar analysis here illustrates both a close temporal proximity between Howell’s prior offenses themselves—four offenses with impeachment value that were committed every year or so from 2016 through 2019—and a close temporal proximity between those prior offenses and the offense for which Appellant was on trial—a crime for which Howell was also present. Howell’s prior offenses were committed seven years, five years, and four years before Howell testified at Appellant’s trial. As in *Robinson*, these two sets of points in time reveal a pattern of continuing criminal behavior that could legitimately evoke questions of

Howell's credibility in the eyes of the jury. The State submits the trial court did not abuse its discretion in weighing this factor as it did even if it did not explicitly reference it from *Colf*.

3. The similarity between the past crime and the charged crime.

Here, Howell's prior convictions had very little or no similarity to the charges for which Appellant was on trial. Consequently, they would have had minimal prejudicial impact even if they were identified. In any event, the trial judge effectively "sanitized" any possible prejudice to Appellant by limiting the State to eliciting testimony only that Howell had prior convictions carrying more than one year in prison. Consequently, the introduction of the convictions should not even be an issue in this appeal. *See Robinson*, 426 S.C. at 597, 828 S.E.2d at 212 ("As previously noted, the 2009 second-degree burglary conviction was "sanitized" when the trial court allowed the State to elicit testimony that Robinson had a prior felony conviction carrying more than one year in prison. The introduction of this conviction is not an issue in this appeal.").

4. The importance of the witness's testimony

Here, Appellant testified in his own defense. He claimed Victim had a gun sitting on the table beside him during the dice game and that later, after he heard gunshots, he saw Albert running across the yard carrying a gun. (Tr.p.326, line 7-p.329, line 24). Appellant claimed he never had a gun at all. (Tr.p.333, lines 12-13). Howell offered similar testimony, claiming that when he came out of the house after retrieving his bag, Albert started shooting at their car. (Tr.p.290-p.295). Thus, Howell's testimony was largely ^{increase ability} cumulative to Appellant's testimony, rendering Howell's testimony less important to Appellant's case. *Robinson*, 426 S.C. at 603, 828

S.E.2d at 215-16. Indeed, Howell's testimony was not necessary to Appellant's defense. With or without Howell's testimony, the jury had to resolve the issue of Appellant's credibility, as well as the issue of Strother's and Albert's credibility, which provided direct evidence of Appellant's guilt. The State submits that under all of these circumstances, the trial court did not abuse its discretion in analyzing this factor in favor of admissibility even if it did not explicitly reference this factor from *Colf*.

5. The centrality of the credibility issue.

The trial court concluded credibility of the witnesses was central to the case. It specifically noted: "... a large part of this case is based on statements and *credibility of* up until the point I think three witnesses and may involve the defense witnesses as well, and so I find that under Rule 609 the fact that he was convicted of crimes that carry more than one year, that that is admissible and I find that in weighing those that that goes to *the probative value for a jury to determine his credibility*." (Tr.p.283, line 5-p.284, line 1) (emphasis added). The trial court clearly concluded the four prior crimes had impeachment value even if it did not extensively describe this finding—otherwise, it would not have ruled them admissible. Because credibility was central to the case, the introduction of prior convictions for impeachment purposes becomes even more legitimate. *Robinson*, 426 S.C. at 606, 828 S.E.2d at 217.

In conclusion, in regard to the five-factor *Colf* analysis, the State submits the record demonstrates the trial court sufficiently considered each of the *Colf* factors in making its decision under Rule 609(a)(1), SCRE, and in determining the probative impeachment value of Howell's

prior convictions was *not* substantially outweighed by the danger or undue prejudice. That decision was not an abuse of discretion and should be affirmed.

B. Harmless Error

To the extent this Court finds the trial court erred in failing to conduct a sufficiently thorough on-the-record balancing of the *Colf* factors, the State submits the conviction should nevertheless be affirmed because that error was harmless in light of: (1) the eyewitness testimony presented at trial, (2) the physical evidence and expert testimony presented at trial; (3) the cumulative nature of the evidence; and (4) the absence of any effort by the State to highlight or reference the convictions during closing arguments.

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. *State v. Sherard*, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). Only errors so substantial that they result in a verdict which would not otherwise have been rendered require reversal. *State v. Jolly*, 304 S.C. 34, 39, 402 S.E.2d 895, 898 (Ct. App. 1991). “A harmless error analysis is contextual and specific to the circumstances of the case.” *State v. Byers*, 392 S.C. 438, 447, 447–48, 710 S.E.2d 55, 60 (2011). “No definite rule of law governs [a finding of harmless error]; rather the materiality and prejudicial character of the error must be determined from its relationship to the entire case. Error is harmless when it could not reasonably have affected the result of the trial.” *Id.* at 447–48, 710 S.E.2d at 60 (quoting *State v. Reeves*, 301 S.C. 191, 193–94, 391 S.E.2d 241, 243 (1990)). A defendant seeking reversal based on error in

admission of evidence has the burden of showing that evidence was prejudicial. *State v. McElveen*, 280 S.C. 325, 327, 313 S.E.2d 298, 299 (1984).

The State presented overwhelming evidence of Appellant's guilt. Two eyewitnesses saw Appellant shooting a gun towards Victim. (Tr.p.74-p.80; p.160-p.171; p.178-p.179). Expert testimony established that every bullet and shell casing collected from the scene were fired through the same gun barrel. (Tr.p.245-p.261). Appellant's phone was recovered from the crime scene, surrounded by the spent shell casings, the night of the shooting. (Tr.p.195, lines 12-19). Additionally, Howell's testimony was cumulative to Appellant's testimony. Given the overwhelming evidence of guilt and the nature of Howell's testimony, the State submits the mention of Howell's prior convictions could not reasonably have affected the result of the trial, and any error was harmless. *Byers*, 392 S.C. at 447-48, 710 S.E.2d at 243; *See State v. Watts*, 321 S.C. 158, 467 S.E.2d 272 (Ct. App. 1996) (stating that error is harmless beyond a reasonable doubt if it does not contribute to the verdict).

C. Remand

To the extent this Court disagrees with all of the arguments above and concludes the trial court's failure to conduct a detailed on-the-record balancing of the *Colf* factors was error, and that the error was *not* harmless, the proper remedy is remand to the trial court for an on-the-record *Colf* balancing test rather than immediate remand for a new trial. *State v. Howard*, 384 S.C. 212, 220, 682 S.E.2d 42, 47 (Ct. App. 2009).

D. Conclusion

In Appellant's case, the trial court considered the appropriate *Colf* factors and ultimately determined that the probative value of Howell's prior convictions was *not* substantially outweighed by the prejudice to Appellant. This is all that was required under Rule 609(a)(1), SCRE. Accordingly, where the trial court considered the appropriate factors and ruled that the prior convictions were more probative than prejudicial, the court did not abuse its discretion, and its ruling should be upheld. To the extent this Court determines the analysis was insufficient and constitutes error, it was harmless beyond a reasonable doubt. Even if not harmless, the appropriate remedy at this stage is simply a remand for a more thorough analysis of the *Colf* factors. The trial court did not abuse its discretion. For all of these reasons, Appellant's convictions should either be affirmed or this matter should be remanded for further proceedings.

CONCLUSION

For all of the foregoing reasons, the State respectfully requests that Appellant's convictions and sentence be affirmed. Alternatively, the State requests that this matter be remanded to the trial court with instructions to conduct a more thorough, on-the-record application of the *Colt* balancing test.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
January 16, 2025

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Daniel D. Hall, Circuit Court Judge

Appellate Case No. 2023-001474

The State,Respondent,

v.

James J. Patterson, III,Appellant.

DESIGNATION OF MATTER

In addition to the matter designated by Appellant, Respondent proposes the following matter to be included in the Record on Appeal:

(1) Entire trial transcript, September 5-7, 2023.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers. The undersigned hereby certifies this Designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

J. BENJAMIN APLIN
Assistant Attorney General

S.R. HUBBARD, III
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ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
January 16, 2025

JAMES JOSEPH PATTERSON III
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

IN RE: CASE NO. 2023-001474 AND FILING MOTION TO RELIEVE COUNSEL
DUE TO CONFLICT OF INTEREST AND FRAUD UPON THE COURT.

TO: THE S.C. COURT OF APPEALS,

THE ATTACHED PLEADING IS BEING FILED FOR THE PURPOSE
OF MOTIONING FOR LEAVE TO RELIEVE THE STATE APPOINTED COUNSEL FOR
ME. PLEASE FILED WITHIN THE CASE CAPTIONED AND FORWARD THE
PLEADING FOR ADJUDICATION. I THANK YOU IN ADVANCE. STILL REMAIN,

RESPECTFULLY,
JAMES J. PATTERSON III

FEBRUARY 23, 2026

CC: THE OFFICE OF INDIGENT DEFENSE
THE S.C. ATTORNEY GENERAL

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT SERVICE

I, JAMES JOSEPH PATTERSON III, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR LEAVE TO RELIEVE COUNSEL; MOTION FOR LEAVE TO FILE BRIEF TO ARGUE AGAINST THE PRECEDENT PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217 AND OR IN THE ALTERNATE MOTION TO WITHDRAW AND MOTION TO MOTION THEREFOR, ON THE S.C. COURT OF APPEALS P.O. BOX 11629 COLUMBIA, S.C. 29211, ON ATTORNEY

MOLLY M. KEEGAN AT THE S.C. COMMISSION OF INDIGENT DEFENSE,
DIVISION OF APPELLATE DEFENSE ATTORNEY MOLLY M. KEEGAN 1330 LADY
STREET SUITE 401 COLUMBIA, S.C. 29211-3332, THE S.C. ATTORNEY
GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29211 AND ALL INVOLVED
PARTIES BY U.S. MAIL POSTAGE PREPAID BY DEPOSITING IT IN THE
INSTITUTION MAILBOX ON FEBRUARY 23, 2026.

RESPECTFULLY,

JAMES J. PATTERSON III

A handwritten signature in cursive script, reading "James J. Patterson III".

FEBRUARY 23, 2026

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2023-001475

APPEAL FROM LEXINGTON COUNTY
THE COURT OF GENERAL SESSIONS

INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JAMES JOSEPH PATTERSON III,

APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR
LEAVE TO RELIEVE COUNSEL; MOTION FOR LEAVE TO FILE BRIEF
TO ARGUE AGAINST THE PRECEDENT PURSUANT TO RULES OF
APPELLATE PROCEDURE, RULE 217 AND OR IN THE ALTERNATE
MOTION TO WITHDRAW AND MOTION TO MOTION THEREFOR

TO: THE S.C. COURT OF APPEALS ET. AL.,

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75-of-406

HERE THE S.C. COURT OF APPEALS AND PARTIES WILL FIND:

(1) A COPY OF THE LETTER THAT ATTORNEY MOLLY M. KEEGAN FORWARDED TO THE APPELLANT DATED FEBRUARY 12, 2026.

(2) A COPY OF THE "DROP AFFIDAVIT" THAT WAS FORWARDED TO THE APPELLANT BY THE ATTORNEY ON RECORD RECEIVED AT THE EVANS INSTITUTION ON FEBRUARY 18, 2026.

INSOMUCH THE APPELLANT OBJECTS TO THESE EGREGIOUS ACTS OF FRAUD UPON THE COURT, CONSPIRING UNDER COLOR OF STATE LAW AND OBSTRUCTION OF JUSTICE THAT CONTINUALLY OCCUR BEFORE THIS COURT, THE S.C. APPELLATE DEFENSE ATTORNEY BEING COMPROMISED BY THE S.C. ATTORNEY GENERAL'S OFFICE TO CONCEAL MATERIAL FACTS AND PREVENT THE APPELLANT FROM ARGUING SUBSTANTIAL JURISDICTIONAL CLAIMS, AND ARGUE AGAINST THE PRECEDENT ESTABLISHED BY THE STATE v. GENTRY CASE THE ATTORNEY SO ELOQUENTLY MAKES REFERENCE TO IN THE LETTER CAPTIONED ABOVE. THE APPELLATE DEFENSE OFFICE IS UNCONSTITUTIONALLY, IN VIOLATION OF MY DUE PROCESS RIGHTS, OBSTRUCTING MY VOLUNTARY WITHDRAWAL FROM THIS APPEAL. IT IS PERSPICUOUS THAT THE AFFIDAVIT THAT SHE FORWARDED TO THE APPELLANT ESTABLISHES A FORM OF "CONTRACT". ALL CONTRACTS, NO MATTER WHAT FORM THEY COME IN, CAN BE MODIFIED BY A PARTY BEFORE THEY AGREE TO SIGN THEM. THE APPELLANT MADE CLEAR HIS POSITION BY THE MODIFICATION TO THE AFFIDAVIT. THE ATTORNEY, CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL THEN IGNORES MY MODIFICATION AND SEND THE ABOVE CORRESPONDENCE AND ADDITIONAL BLANK COPY REMOVING THE MODIFICATIONS THAT WERE PLACED WITHIN THE DOCUMENT. IT BECOMES MORE THAN PLAIN THAT WE HAVE A CONFLICT OF INTEREST WHERE BY SUCH ACTIONS THE APPOINTED ATTORNEY IS WORKING COVERTLY FOR THE STATE AND NOT THE APPELLANT. THE APPELLANT OBJECTS. DUE TO THIS MANIFEST INJUSTICE, THIS PLACES THE APPELLANT IN NO OTHER POSITION THAN TO MOTION FOR LEAVE TO RELIEVE THE STATE APPOINTED COUNSEL IN THE FORM OF ATTORNEY KEEGAN AND MOTION FOR LEAVE TO FILE BRIEF TO ARGUE AGAINST THE PRECEDENT ESTABLISHED BY THE STATE v. GENTRY CASE. IF THE COURT

FAILS TO GRANT THIS RELIEF, THE APPELLANT MOTION THAT THE COURT ACCEPTS THE APPELLANT'S REQUEST TO VOLUNTARILY WITHDRAW THIS APPEAL DUE TO THE STATE APPOINTED ATTORNEY BEING COMPROMISED BY THE S.C. ATTORNEY GENERAL'S OFFICE, CONSPIRING UNDER COLOR OF LAW IN ACTS OF FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE TO PREVENT THE APPELLANT'S SUBSTANTIAL JURISDICTIONAL ISSUES FROM BEING ARGUED BEFORE THIS COURT EXTREMELY PREJUDICING THE APPELLANT IN THIS COURT. QUESTION OF LAW: IS, OR IS NOT, THE APPELLANT PERMITTED TO ARGUE AGAINST AN ESTABLISHED LEGAL PRECEDENT BEFORE THE S.C. COURT OF APPEALS PURSUANT TO RULES OF APPELLATE COURT PROCEDURE, RULE 217?

SUPPRESSION OF TRUTH WITH THE INTENT TO DECEIVE IS FRAUD. FRAUDULENT CONCEALMENT WITHOUT ANY MISREPRESENTATION, OR DUTY TO DISCLOSE WOULD CONSTITUTE FRAUD, INCLUDING ACTS TO CONCEAL, CREATE FALSE IMPRESSION AND DECEIVE, U.S. v. COTTON, 231 F.3d. 890(4th.Cir.2000); IN RE: DURAMAX DIESEL LITIGATION, --F.R.D.--, 2018 WL 949856 (E.D.Mich.2018); UNITED STATES v. PALIN, 874 F.3d. 418(4th.Cir.2017); UNITED STATES v. LUSK, 2017 WL 508589 (S.D.Va.2017). THE APPELLANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE OF THE NEXT PAGES. THIS IS THE OPENING STATEMENT THAT IS FOUND WITHIN THE POST CONVICTION RELIEF APPLICATION THAT THE APPELLANT INTENDED TO FILE UPON THE WITHDRAWAL. IT READS IN RELEVANT PART:

INASMUCH, IT IS BEYOND DISPUTE THAT THE "SENTENCING SHEET(S)" ARE THE STATE'S EQUIVALENT TO A "COMMITMENT ORDER". THE APPLICANT GIVES THE COURT AND ALL PARTIES JUDICIAL NOTICE. THIS PCR APPLICATION IS NOT MERELY FILED TO ATTACK THE INDICTMENT(S) AND OTHER CONSTITUTIONAL STRUCTURAL DUE PROCESS ERRORS THAT EXIST IN THIS CASE. THIS IS ALSO A COLLATERAL ATTACK UPON THE "SENTENCING SHEET(S)" WHICH ARE LEGALLY DESIGNATED AS "COMMITMENT ORDER(S)" FOR FRAUD UPON THE COURT AND CHALLENGE TO THAT COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THIS WOULD AUTOMATICALLY ESTABLISH CHALLENGE TO THE JURISDICTION OF ANY SUBSEQUENT STATE COURT THAT HEARD APPEAL RELATED TO THESE MATTERS, SUCH AS UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS, WHERE THE PROSECUTOR COMPROMISED THE STATE APPOINTED COUNSEL TO PREVENT THE ARGUING AGAINST THE PRECEDENT WHICH WAS PERMITTED UNDER RULES OF APPELLATE PROCEDURE, RULE 217, WHETHER THE APPEAL WAS DIRECT OR COLLATERAL IN REVIEW, DUE TO ANY FINAL ORDER BEING ISSUED FROM THE CRIMINAL TRIAL COURT BEING A JURISDICTIONAL PREREQUISITE TO THE APPELLATE REVIEW THAT WAS CASE 2023-001474. THE STATE COMPROMISED THE APPOINTED COUNSEL TO PREVENT SUBSTANTIAL JURISDICTIONAL ISSUES FROM BEING REVIEWED BEFORE THAT COURT. THIS DEMONSTRATES THAT THE APPLICANT WOULD NOT BE PROCEDURALLY BARRED IN HAVING THE LEGAL ISSUE THAT WAS INITIALLY PRESENTED UNDER CASE 2023-001474 HEARD WITHIN THESE PCR PROCEEDING BASED UPON THE FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE UNDER THE INDEPENDENT ACTION RULE. IT WOULD BE AN ABUSE OF DISCRETION, OBSTRUCTION OF JUSTICE AND AN ACT OF FRAUD UPON THE COURT AND STATE TO DETERMINE THAT THE APPLICANT WOULD BE PROCEDURALLY BARRED FROM ARGUING THE ISSUE THAT WAS BEFORE THE COURT UNDER CASE 2023-001474 WHERE THE STATE APPOINTED ATTORNEY CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR TO WAIVE SUBSTANTIAL JURISDICTIONAL CLAIMS AND ARGUE AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012 PURSUANT TO RULES OF APPELLATE COURT PROCEDURE, RULE 217 INVOLVING LEGAL ISSUES WHICH CANNOT BE WAIVED AND OR FORFEITED, WHICH CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN AFTER A FINAL ORDER OR JUDGMENT HAS BEEN ISSUED IN THE CASE(S) ARGUED, OR FOR THE FIRST TIME ON APPEAL, STEEL CO. v. CITIZENS FOR A BETTER

ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998); TAMM v. CINCINNATI INS. COMPANY, 2020 WL 60932(S.D.N.Y.2020); CHASE v. ANDEAVOR LOGISTICS, L.P., 2019 WL 5847879, * 2 W.D.Tex.; UNITED STATES v. VALLADARES, 2019 WL 4888629, * 1, W.D.Tex.; ARBAUGH v. Y & H CORP., 546 U.S. 500, 126 S.Ct. 1235 (U.S.2006); STEVENS E. HECKER, PLAINTIFF v. THE STATE OF WASHINGTON, DEFENDANT, 2020 WL 134168 (Fed.Cl.2020); HENDERSON EX REL HENDERSON v. SHINSEL, 131 S.Ct. 1197, 1198+ U.S.; BURGESS v. UNITED STATES, 2019 WL 7293400 * 1 D.Md..

THE "SENTENCING SHEET(S)", AS "COMMITMENT ORDER(S)", ESTABLISH AN ORDER OR DECREE FROM THE GENERAL SESSIONS COURT TO COMMIT THE APPLICANT TO THE S.C. DEPT. OF CORRECTIONS PERTAINING TO THE APPLICANT'S CONVICTION WHICH IS A JURISDICTIONAL REQUISITE TO APPEAL ON DIRECT REVIEW. BOTH THE COMMITMENT ORDER(S) AND THE ACTIONS THAT OCCURRED UNDER CASE 2023-001474 ARE COMING UNDER FIRE HERE UNDER THE INDEPENDENT ACTION RULE DUE TO THE UNCONSTITUTIONAL ACTION THAT SHALL BE ADDRESSED WITHIN THIS DOCUMENT, ALSO DUE TO CIRCUMVENTING, OBSTRUCTING AND OR FAILURE TO HEAR SUBSTANTIAL JURISDICTIONAL ISSUES VIOLATING DUE PROCESS, WHICH CANNOT BE WAIVED AND OR FORFEITED BY THE APPLICANT WHICH THE HIRED AND OR STATE APPOINTED COUNSEL AT BOTH THE TRIAL LEVEL AND APPELLATE LEVEL CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR AND OR STATE TO CONCEAL AND OR SUPPRESS, VIOLATING THE APPLICANT'S CONSTITUTIONAL RIGHT OF AUTONOMY IN THEIR EFFORTS TO PREVENT THESE ISSUES FROM BEING HEARD WHICH VIOLATE U.S. SUPREME COURT HOLDINGS UNDER McCOY v. LOUISIANA,--S.Ct.--, 2018 WL 2186174 (U.S.2018). IN SOUTH CAROLINA A TRIAL ATTORNEY, A POST CONVICTION RELIEF ATTORNEY AND APPEAL ATTORNEY IS LEGALLY AND ETHICALLY PROHIBITED FROM CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO WAIVE LEGITIMATE JURISDICTIONAL CLAIMS. ENGAGING IN SUCH CONDUCT CONSTITUTES PROFESSIONAL MISCONDUCT AND WOULD ALSO BE CLASSIFIED AS FRAUD UPON THE COURT. UNDER SOUTH CAROLINA RULE OF PROFESSIONAL CONDUCT, RULE 8.4, IT IS MISCONDUCT FOR A LAWYER TO ENGAGE IN DISHONESTY, FRAUD, DECEIT, OR MISREPRESENTATION, OR TO ENGAGE IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE. UNDER THE CONCEPT OF CANDOR TO A TRIBUNAL. RULE 3.3 REQUIRES ATTORNEYS TO

BE TRUTHFUL WITH THE COURT AND CORRECT ANY FALSE STATEMENTS OF MATERIAL LAW OR FACT AS IT RELATES TO THE LEGAL ISSUES PRESENTED WITHIN THIS CASE. THE POWER TO WAIVE LEGAL PROTECTIONS GENERALLY BELONG TO THE CLIENT, NOT THE ATTORNEY. A TRIAL OR PCR OR APPELLATE DEFENSE ATTORNEY WHO UNILATERALLY WAIVES A CLIENT'S LEGITIMATE JURISDICTIONAL CLAIMS WITHOUT AUTHORIZATION OR THROUGH DECEPTIVE MEANS VIOLATES THEIR FIDUCIARY DUTY. AS IT RELATES TO "COLOR OF STATE LAW" AND CONSPIRACY, SECTION 1983 LIABILITY, INDIVIDUALS ACTING "UNDER COLOR OF STATE LAW" CAN BE SUED FOR DEPRIVING OTHERS OF CONSTITUTIONAL DUE PROCESS RIGHTS. WHILE PRIVATE ATTORNEYS OR STATE APPOINTED ATTORNEYS TYPICALLY DO NOT ACT UNDER COLOR OF STATE LAW, THE U.S. SUPREME COURT HELD UNDER TOWER v. GLOVER, 467 U.S. 914, 104 S.Ct. 2820, 1 L.Ed.2d. 758(U.S.1984) THAT THEY CAN BE HELD LIABLE UNDER SECTION 1983 IF THEY CONSPIRE WITH THE STATE OFFICIALS TO DEPRIVE THEIR CLIENTS OF CONSTITUTIONAL RIGHTS. ALSO SEE HORTON v. VINSON, 2015 WL 4774276(N.D.Va.2015); YOUNG v. POSEY, 2017 WL 4021083, * 1+ (DSC.2017). IT BECOMES A MISUSE OF THE RULE TO CLAIM THAT NO HYBRID DEFENSE EXIST WHEN UTILIZED AS A LEGAL JUSTIFICATION FOR THE ATTORNEY TO SECRETLY CONSPIRE WITH THE STATE AND PROSECUTOR TO WAIVE A CLIENT'S JURISDICTIONAL CLAIMS AND COMMIT FRAUD UPON THE COURT. SINCE THE APPEAL UNDER CASE 2023-001474 WAS TAINTED BY FRAUD AND OBSTRUCTION, AND IF THE SAME OCCURS UNDER THIS CURRENT PCR APPLICATION. THE APPLICANT WOULD BE ENTITLED TO ADDRESSING IT WITHIN THIS PCR, PURSUANT TO THE ISSUES THAT OCCURRED IN THE COURT OF APPEALS, AND WOULD BE ENTITLED TO SUCCESSIVE PCR IN THIS CURRENT CASE.

RECENT SOUTH CAROLINA SUPREME COURT AND APPELLATE DECISIONS REINFORCE THAT WHILE HYBRID REPRESENTATION IS GENERALLY NOT PERMITTED, ATTORNEYS REMAIN BOUND BY STRICT ETHICAL DUTIES, AND THE COURT WILL INTERVENE IN CASES OF FRAUD, STRUCTURAL DEFICIENCIES, OR THE WAIVER OF FUNDAMENTAL RIGHTS. IN THE CASE OF STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909 (S.C.App.2025), THE HIGHER COURT CONFIRMED THAT WHILE GUILTY PLEAS WAIVE MOST DEFECTS SUBJECT MATTER JURISDICTION CANNOT BE WAIVED AND REMAINS A VALID GROUND FOR LEGAL CHALLENGE. IN THE CASE OF IN THE MATTER OF LOUIS S. MOORE, 446 S.C. 115, 919 S.E.2d. 391 (S.C.App.2025), THE

HIGHER COURT IN ITS DISCIPLINARY ORDER OUTLINES THE DISBARMENT OF AN ATTORNEY FOR CONDUCT THAT INCLUDED VIOLATING RULES OF PROFESSIONAL CONDUCT AND FAILING TO UPHOLD THE INTEGRITY OF THE LEGAL PROFESSION. IN THE CASE OF LINDSEY v. STATE, 2025 WL 3085693 (S.C.App.2025) THE HIGHER COURT HIGHLIGHTED THE COURT'S SCRUTINY IN PCR OF THE LEGAL SUFFICIENCY OF EVIDENCE WHICH IS RELEVANT IN THIS CASE ADDRESSING THE SUFFICIENCY OF THE EVIDENCE FOR THE MURDER ALSO BASED UPON STATEMENTS ENTERED IN VIOLATION OF THE APPLICABLE STATUTES AND OTHER CLAIMS MADE IN THIS CASE, OR THE SUFFICIENCY OF ESTABLISHING THAT THERE ARE INDEED TWO ELEMENTS TO SUBJECT MATTER JURISDICTION IN SUPPORT OF THE APPLICANT'S CLAIMS MADE. IN THE CASE OF CARRIER v. STATE, 441 S.C. 547, 895 S.E.2d. 679 (S.C.App.2023), THE COURT ADDRESSED THE STATE'S MANIPULATION OF THE GRAND JURY PROCESS WHICH SUPPORT ONE OF THE LEGAL ISSUES INTENDED ARGUED WITHIN THESE PCR PROCEEDINGS, AND THE INEFFECTIVE ASSISTANCE OF COUNSEL REGARDING JURISDICTIONAL INDICTMENT DEFECTS. IN THE CASE OF UNITED STATES v. PITTMAN, 125 F.4TH. 527 (4th.Cir.2025), THE COURT DETERMINED THAT A DEFENDANT WHO WISHES TO PRESERVE AN ARGUMENT THAT A STATUTE IS VAGUE, OR SUBTLE EXPANSION OR FORCED CONSTRUCTION OCCURRED, OR THE STATUTE OR INTERPRETATION OF LAW IS VAGUE AND THEREBY UNCONSTITUTIONAL HE MUST BE PERMITTED TO MAKE THE ARGUMENT BY THE PLEADING OR ESTABLISH GOOD CAUSE FOR NOT HAVING DONE SO. THIS ESTABLISHES THAT IT WAS HIGHLY INAPPROPRIATE AND AN ACT OF FRAUD UPON THE COURT FOR THE STATE APPOINTED ATTORNEY AT THE TRIAL LEVEL OR THE APPELLATE LEVEL TO CONSPIRE UNDER COLOR OF STATE LAW TO WAIVE AND FAIL TO PRESENT THE APPLICANT'S LEGITIMATE JURISDICTIONAL ISSUES AS THEY ARE NOW PRESENTED BEFORE THIS COURT.

IN REFERRING BACK TO THE STATE v. GENTRY CASE OF 2005 AND THE STATE v. LANGFORD CASE OF 2012, UNDER SOUTH CAROLINA LAW RES JUDICATA DOES NOT ATTACH TO A JUDGMENT PROCURED BY EXTRINSIC FRAUD. BECAUSE EXTRINSIC FRAUD IS CONSIDERED A "FRAUD UPON THE COURT", IT UNDERMINES THE VERY FOUNDATION OF THE LEGAL PROCEEDING, LEADING TO A CONCLUSION THAT THERE WAS NEVER A "REAL CONTEST" BETWEEN THE PARTIES WHERE THE GENTRY COURT, PURPOSELY

CONCEALED THE JURISDICTIONAL FACT THAT THERE WAS A SECOND ELEMENT TO SUBJECT MATTER JURISDICTION, THE CONSTITUTIONAL ELEMENT, AND THAT THE INDICTMENT DEFECTS SHOULD HAVE BEEN ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT FOR DUE PROCESS VIOLATION THAT PRODUCED UNCONSTITUTIONAL ACTION VOIDING THEM. THE DOCTRINE OF FINALITY-WHICH RES JUDICATA IS DESIGNED TO PROTECT-IS SUSPENDED IN FAVOR OF JUSTICE. IN SOUTH CAROLINA EXTRINSIC FRAUD IS DEFINED AS FRAUDULENT CONDUCT THAT INDUCES A PERSON NOT TO PRESENT THEIR CASE IN COURT OR DEPRIVE THEM OF THE OPPORTUNITY TO BE HEARD AS HAS OCCURRED WITHIN AND BY THE GENTRY CASE CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, PURPOSELY AVOIDING CASES LIKE STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83., 118 S.Ct. 1003(U.S.1998), WHICH PREVENTED THE INMATES OF THIS STATE FROM FULLY PRESENTING THEIR CLAIM ESSENTIALLY ENSURING THAT THERE WAS NEVER A "REAL CONTEST" BEFORE THE COURT. IT WAS A DELIBERATE AND CAREFULLY CALCULATED SCHEME AND PLOT TO DEFRAUD BY AVOIDING CLEARLY ESTABLISHED JUDICIAL DECISION THAT CURRENTLY HAS NOT BEEN OVERRULED BY ANY COURT UNTIL THIS VERY DAY ILLUSTRATING THAT RES JUDICATA DOES NOT ATTACH TO THIS ISSUE BY THE CONCEALMENT AND SUPPRESSION OF TRUTH, FRAUD, THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE AS THE GENTRY COURT DECEPTIVELY LED THE PARTIES TO BELIEVE, MR. T v. MRS. T., 378 S.C. 127; HILTON HEAD CENTER OF SOUTH CAROLINA INC. v. PUBLIC SERVICE COM'N OF SOUTH CAROLINA, 294 S.C. 9; B.R. v. F.C.S.B., 710 F.Supp.3d. 528(4th.Cir.2024)(FRAUD UPON THE COURT IS NOT YOUR GARDEN VARIETY FRAUD, AS IT ORDINARILY INVOLVES CORRUPTION OF THE JUDICIAL PROCESS ITSELF); FOX EX REL FOX v. ELK RUN COAL CO., 739 F.3d. 131 (4th.Cir.2014).

5 SUCH UNCONSTITUTIONAL ACTION AND FRAUD UPON THE COURT(S) INVOLVED WHERE THE COURT(S) WERE PRIVY TO THESE INJUSTICES, RENDERS THE COMMITMENT ORDER(S) AT THE TRIAL LEVEL, AND ANY JUDGMENT THAT OCCURS UNDER CASE 2023-001474 WITHIN THE S.C. COURT OF APPEALS, VOID FOR UNCONSTITUTIONAL ACTION AS IS TO BE ARGUED WITHIN THIS PCR APPLICATION. THUS, DUE TO THESE JURISDICTIONAL CHALLENGES AND FRAUD UPON THE COURT ARGUED WITHIN THIS DOCUMENT.

ANY CLAIM OF STATUTE OF LIMITATIONS, UNJUST ASSERTED WAIVER, OR CLAIM THAT ANOTHER ACTION IS PENDING IN THE S.C. COURT OF APPEALS, WHERE THAT COURT IN ADDITIONAL ACTS OF FRAUD UPON THE COURT, CONSPIRING UNDER COLOR OF STATE LAW AND OBSTRUCTION OF JUSTICE IS DELAYING RULING ON THE APPLICANT'S VOLUNTARY WITHDRAW DUE TO THE ATTORNEY UNLAWFULLY WORKING WITH THE STATE TO WAIVE SUBSTANTIAL JURISDICTIONAL CLAIMS; WOULD NOT PREVENT REVIEW UNDER THIS PRESENTLY SUBMITTED PCR APPLICATION DUE TO SUCH CLAIMS BEING PROCEDURAL LIMITATIONS FOR WHICH A COLLATERAL ATTACK FOR FRAUD UPON THE COURT IS FREE OF SUCH PROCEDURAL LIMITATIONS WHICH THE AFOREMENTIONED ARE. FRAUD VITIATES EVERYTHING THAT IT ENTERS AND A JUDGMENT PROCURED BY FRAUD MAY BE COLLATERALLY ATTACKED FOR THAT FRAUD UPON THE COURT. THIS APPLIES TO ALL ACTS, ORDERS, JUDGMENTS OR DECREES OF ALL COURTS ON RECORD, WHICH THE SENTENCING SHEET(S), AS "COMMITMENT ORDER(S)" ALSO REPRESENT. ALSO SEE CITINGS OF LAW LISTED WITHIN THIS DOCUMENT. ALSO SEE MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.Miss.2017); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265 CA4 (N.C.2017); LOUMIET v. UNITED STATES, 65 F.Supp.3d. 19 (2014).

INASMUCH, THIS PCR APPLICATION IS FILED UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT(S) INVOLVED WHERE THE JUDGES WERE PRIVY TO ALL THAT OCCURRED CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL AND OR SOLICITOR'S OFFICE, TO DEPRIVE THE APPLICANT OF CONSTITUTIONAL PROTECTIONS. DUE TO ATTACKING THE "SENTENCING SHEET(S)", WHICH ARE THE LEGAL DESIGNATED "COMMITMENT ORDER(S)", AND THE UNCONSTITUTIONAL ACTION DONE BY THE COMPROMISED S.C. INDIGENT DEFENSE OFFICE CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE TO WAIVE LEGITIMATE JURISDICTIONAL CLAIMS THAT ESTABLISH JURISDICTIONAL CHALLENGE TO THE COURTS INVOLVED, TO INCLUDE ALL OTHER DUE PROCESS VIOLATIONS ARGUED WITHIN THIS PCR APPLICATION, WHICH ARE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, THE STATE OF SOUTH CAROLINA, OR THE LEXINGTON COUNTY COURT OF COMMON PLEAS, AND OR THE LEXINGTON COUNTY SOLICITOR'S OFFICE, CANNOT FAIRLY OR LEGALLY ASSERT THAT THE APPLICANT IS

"TIME BARRED", OR THAT THE APPLICANT STILL HAS AN APPEAL PENDING WITHIN THE S.C. COURT OF APPEALS DUE TO THE UNCONSTITUTIONAL ACTION ARGUED THAT VOIDS THOSE JURISDICTIONS FOR WHICH IS THIS PCR APPLICATION'S AIM. IT IS THE APPLICANT'S CLAIM THAT IT WAS AN ACT OF FRAUD UPON THE COURT TO SIGN THE COMMITMENT ORDER(S), OR FOR THE APPLICANT TO BE FORCED TO WITHDRAW HIS APPEAL UNDER CASE 2023-001474 IN THE S.C. COURT OF APPEALS, DUE TO THE ATTORNEY'S FAILURE TO RAISE THE JURISDICTIONAL CLAIMS, ABUSING THEIR DISCRETION WHEN THESE JURISDICTIONAL CHALLENGES EXISTED WHICH CANNOT BE WAIVED AND OR FORFEITED, CAN BE RAISED AT ANY TIME, EVEN FOR THE FIRST TIME ON APPEAL, WHERE THE COURT(S) AND PROSECUTOR KNEW GOOD AND WELL, CONSPIRING UNDER COLOR OF STATE LAW, THAT THESE SUBSTANTIAL DUE PROCESS VIOLATIONS AND CONSTITUTIONAL STRUCTURAL ERRORS NOT SUBJECT TO HARMLESS ERROR DOCTRINE EXISTED WITHIN THIS CASE, SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM INVEST v. NET ELEMENT INTERNATIONAL, INC., F.Supp., 2014 WL 12613282 (S.D.Fla.2014); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020).

THEREFORE, THE GENERAL SESSIONS COURT SIGNING ANY RELEVANT "COMMITMENT ORDER(S)", OR THE UNCONSTITUTIONAL ACTION THAT OCCURRED WITHIN THE S.C. COURT OF APPEAL UNDER CASE 2023-001474, IS VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION, AS WELL AS THE APPLICANT'S CONVICTION ATTACHED TO THEM BEING A NULLITY AND IS AS IF THERE WERE NO "COMMITMENT ORDER(S)", OR CONVICTION ATTACHED THERETO MADE OR DONE AT ALL. IT IS WELL SETTLED IN LAW ALSO UNDER THE INDEPENDENT ACTION RULE, THAT A COLLATERAL ATTACK FOR FRAUD UPON THE COURT IS FREE OF ALL PROCEDURAL LIMITATIONS SUCH AS ANY CLAIM THAT THERE IS A STATUTE OF LIMITATIONS BAR, OR THAT THE APPLICANT MAY HAVE ANOTHER ACTION PENDING IN THE S.C. COURT OF APPEALS DUE, TO THEY IN ADDITIONAL ACTS OF FRAUD UPON THE COURT, CONSPIRACY AND OBSTRUCTION OF JUSTICE DELAYING RULING ON THE

WITHDRAWAL, DUE TO THE FRAUD UPON THE COURT AND JURISDICTIONAL CLAIMS THAT ARE PRESENTED WITHIN THIS CURRENT PCR APPLICATION, WHERE ALL THE AFOREMENTIONED ARE FORMS OF PROCEDURAL LIMITATIONS, IN RE: GENESYS DATA TECHNOLOGIES INC., 204 F.3d. 124 (4th.Cir.2000); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599 (U.S.2016); UNITED STATES v. LIBOUS, 858 F.3d. 64 (2nd.Cir.2017. ALSO SEE EXHIBIT(S) "COMMITMENT ORDER(S) ATTACK" AND "CASE HISTORY".

SUBJECT MATTER JURISDICTION IS THE POWER TO DECLARE LAW, WHETHER IT BE UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION OR THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED. THUS, WHEN IT CEASE TO EXIST. THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS THE CAUSE OF CONVICTION AGAINST THE APPLICANT WHICH CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN WHEN A FINAL JUDGMENT HAS BEEN ENTERED INTO THE CASE, EVEN FOR THE FIRST TIME ON APPEAL, ESPECIALLY IN LIGHT OF THE FACT THAT WE HAVE FRAUD UPON THE COURT ATTACHED TO THE JURISDICTIONAL CLAIMS MADE. AGAIN, THE APPLICANT IS ARGUING HIS ISSUES UNDER THE DUE PROCESS/ CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, NOT THE STATUTORY (LEGISLATIVE) ELEMENT THAT THE STATE COURTS IN THE PAST IN AN ABUSE OF DISCRETION AND FRAUD UPON THE COURT ADJUDICATED SUCH ISSUES UNDER, SEBELIUS v. AUBURN REGIONAL MEDICAL CENTER, 133 S.Ct. 817, 184 L.Ed.2d. 627, 81 U.S.L.W. 4053 (U.S.2013); SIZWARD v. RIDDLE, F.Supp.2d., 2013 WL 707018 (DSC.2013); GRUPO DALAFLUX v. ATLAS GLOBAL L.P., 541 U.S. 567, 124 S.Ct. 192, 158 L.Ed.2d. 866(U.S.2004); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F.3d. 624 (4th.Cir.2016); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM. INVEST v. NET ELEMENT INTERNATIONAL, INC. SUPRA.; KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362 (S.C.App.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020). BY THE ISSUES ARGUED EQUITABLE TOLLING ATTACHES DUE TO THE STATE PROSECUTOR AND THE S.C. SUPREME COURT'S

INVOLVEMENT IN THE FRAUD CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND FATAL INDICTMENT DEFECTS WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION, WHICH GRAVELY EFFECTED THE TRIAL PROCESS SUBJECTING THE APPLICANT TO EXTREME PREJUDICE.

FOR THE RECORD, THE APPLICANT GIVES THE COURT AND ALL PARTIES JUDICIAL NOTICE. TO PREVENT THE STATE AND OR S.C. ATTORNEY GENERAL'S OFFICE AND ITS ALCOLYTES FROM MAKING A TOTALLY MERITLESS STATEMENT OR ASSERTION. IT DOES NOT MATTER WHERE THE APPLICANT GOT THE LEGAL ISSUES FOR WHICH HE SEEKS RELIEF FROM. THEY COULD HAVE CAME FROM "FREDDIE CRUEGER", "BARACK OBAMA", "IRON MAN", "ABRAHAM LINCOLN", "THE LAW LIBRARY CLERK LAWRENCE CRAWFORD", "SPIDERMAN", OR "THE INCREDIBLE HULK". IT DOESN'T MATTER WHOM THE APPLICANT WORKED CONJUNCTIVELY WITH TO PRODUCE THESE LEGAL ISSUES. ONCE THE APPLICANT "PERSONALLY" ENGAGES IN RESEARCH WHETHER IT BE ALONE OR WITH OTHER PARTIES, AND THE APPLICANT "PERSONALLY" DETERMINED THAT THE LEGAL ISSUES IMPACT HIS CONVICTION DIRECTLY, AND THEN "PERSONALLY" DECIDES TO PLACE THE LEGAL ISSUES FORTH IN THIS PCR? BY THE APPLICANT'S CONSTITUTIONAL DUE PROCESS RIGHT OF AUTONOMY, THE APPLICANT CANNOT BE PROCEDURALLY BARRED IN DOING SO. THE RIGHT TO DEFEND IS PERSONAL, AND THE DEFENDANT'S CHOICE IN EXERCISING THAT RIGHT MUST BE HONORED OUT OF RESPECT FOR THE INDIVIDUAL WHICH IS THE LIFE BLOOD OF LAW. THE APPLICANT IS "MASTER" TO DECIDE WHAT LAW HE WILL RELY UPON, PEOPLE v. FLORES, 34 Cal. App. 5TH. 270, 246 Cal. Rptr.3d. 77 (Cal.2019); COLE v. STATE, 590 S.W.3d. 1, 3, Tex. App. BEAUMONT (Tex.2019); THE FAIR v. KHOLER DIE & SPECIALTY CO., 228 U.S. 22, 33 S.Ct. 410(U.S.1913); LANCASTER v. KAISER FOUNDATION..., 958 F.Supp. 1137 (E.D.Va.1997); POWERS v. SOUTH CENTRAL UNITED FOODS & COMMERCIAL WORKERS,..., 719 F.2d. 760(5th.Cir.1983).

9 A VIOLATION OF AUTONOMY IS COMPLETE WHEN THE COURT ALLOWS COUNSEL OR THE COURT ITSELF, TO USURP CONTROL OF AN ISSUE WITHIN THE APPLICANT'S SOLE PREROGATIVE, SUCH AS WHAT LEGAL ISSUES HE INTENDS TO BRING BEFORE THIS COURT, WHEN PRESENT, SUCH AN ERROR

IS NOT SUBJECT TO HARMLESS ERROR REVIEW, McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821, 86 U.S.L.W. 4271 (U.S.2018); MARTINEZ v. RYAN, 556 U.S. 1, 132 S.Ct. 1309, 182 L.Ed.2d. 272(U.S.2012); WILLIAMS v. UNITED STATES, 2018 WL 4656231 (D.Conn.2018); UNITED STATES v. COBBLE, 2018 WL 4283063 (M.D.Ga.2018).

THE APPLICANT WOULD BE ENTITLED TO EQUITABLE TOLLING UNDER THESE CIRCUMSTANCES WHERE THE APPLICANT WAS PREVENTED FROM ADDRESSING HIS FATAL INDICTMENT ISSUE AT THE TRIAL LEVEL BY THE STATE v. GENTRY FRAUD AND BY THE STATE APPOINTED ATTORNEY UNDER CASE 2023-001474 CONSPIRING UNDER COLOR OF STATE LAW WITH THE ATTORNEY GENERAL'S OFFICE TO WAIVE SUBSTANTIAL JURISDICTIONAL CHALLENGES AND THE DEPRIVATION WAS NOT BASED UPON LEGAL STRATEGY, BUT BEING COMPROMISED BY THE S.C. ATTORNEY GENERAL'S OFFICE PRODUCING EXTRAORDINARY CIRCUMSTANCES BEYOND THE APPLICANT'S CONTROL AND THE APPLICANT IS EXERCISING REASONABLE DUE DILIGENCE IN SEEKING TO HAVE THE INJUSTICE REMEDIED. THE FRAUD UPON THE COURT ARGUED AND THE S.C. ATTORNEY GENERAL'S OFFICE AND ITS ACOLYTES COMPROMISING THE APPLICANT'S ATTORNEYS CONSTITUTE EXTRAORDINARY CIRCUMSTANCES FOR THE PURPOSE OF EQUITABLE TOLLING BY PREVENTING THE JURISDICTIONAL CLAIMS FROM BEING ARGUED BEFORE THE S.C. COURT OF APPEALS AND PREVENTING SUCH AT THE TRIAL LEVEL BASED UPON THE FRAUD THAT OCCURRED WITHIN THE STATE v. GENTRY CASE REGARDING SUBJECT MATTER JURISDICTION, CONCEALING THE FACT THAT THERE WAS A SECOND ELEMENT TO SUBJECT MATTER JURISDICTION, THE CONSTITUTIONAL ELEMENT, AND THAT INDICTMENT DEFECTS WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION. THE FRAUDULENT CONDUCT UNDERMINES THE INTEGRITY OF THE JUDICIAL PROCESS IS A SERIOUS ETHICAL VIOLATION THAT SUBVERTS THE FAIR ADMINISTRATION OF JUSTICE. THIS TYPE OF DECEIT DIRECTLY CORRUPTS THE COURT'S ABILITY TO FUNCTION IMPARTIALLY AND FAIRLY, AND IS TREATED VERY SERIOUSLY WHERE THEY CHANGED LAW THAT HAS BEEN ESTABLISHED FOR OVER 200 YEARS. THEIR ACTIONS PREVENTED THE APPLICANT FROM DISCOVERING FACTS NECESSARY TO THE APPLICANT'S RIGHT TO ARGUE AGAINST THE UNCONSTITUTIONALLY VAGUE PRECEDENT UNDER RULE 217 AND TO THE FILING OF POST CONVICTION RELIEF. WITHOUT THE

JURISDICTIONAL CHALLENGES BEING PERMITTED TO BE BROUGHT AS DUE PROCESS LAW REQUIRED AND PERMITTED PRODUCING EXTREME PREJUDICE TO THE APPLICANT'S PROCEEDING. THE ACTION AND INJUSTICE DIRECTLY IMPACT THE VALIDITY AND FAIRNESS OF THE CONVICTION, WHICH WAS THE VERY THING THE ISSUES WERE SOUGHT TO ADDRESS. THE U.S. SUPREME COURT'S DECISION IN HOLLAND v. FLORIDA, 560 U.S. 631 (U.S.2010), IS A KEY CASE SUPPORTING THE APPLICATION OF EQUITABLE TOLLING FOR ATTORNEY MISCONDUCT AND JUDGES CONSPIRING WITH THEM WHERE THEY WORKED TO PREVENT THE FACT THAT THERE WERE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND A CRIMINAL COURT'S JURISDICTION IS NOT ABSOLUTE WHERE THERE ARE CLEAR AND EGREGIOUS UNCONSTITUTIONAL STRUCTURAL ERRORS THAT WOULD VOID THAT COURT'S JURISDICTION, IS FAR MORE EGREGIOUS THAN THE ATTORNEY NEGLIGENCE IN HOLLAND AND WOULD BE CONSIDERED EXTRAORDINARY CIRCUMSTANCES THAT PREVENTED THE APPLICANT FROM DISCOVERING THE FULL EXTENT OF THE FRAUD IN PURSUING HIS CONSTITUTIONAL DUE PROCESS RIGHTS, THEREBY WARRANTING EQUITABLE TOLLING. IN THE CASE OF PELZER v. STATE, 378 S.C. 516, 662 S.E.2d. 618(S.C.App.2008), PROVIDES SUPPORT FOR THE PRINCIPLE OF EQUITABLE TOLLING TO PREVENT UNFAIRNESS HOLDING THAT EQUITABLE TOLLING IS NECESSARY TO PREVENT UNFAIRNESS WHERE A DILIGENT PLAINTIFF FILED A DEFECTIVE PLEADING DURING A STATUTORY PERIOD. THE UNDERLYING PRINCIPLE IS DIRECTLY RELEVANT. IF THE SOUTH CAROLINA COURT IS WILLING TO TOLL A DEADLINE TO PREVENT UNFAIRNESS IN A CASE INVOLVING A DEFECTIVE FILING BY A DILIGENT PETITIONER, IT WOULD LOGICALLY APPLY EQUITABLE TOLLING IN A MUCH MORE EGREGIOUS SCENARIO INVOLVING FRAUD UPON THE COURT INVOLVING THE GENTRY COURT AND BY THE PROSECUTOR COMPROMISING THE APPLICANT'S LEGAL COUNSEL AT BOTH THE TRIAL AND APPELLATE LEVEL TO PREVENT SUBSTANTIAL JURISDICTIONAL ISSUES FROM BEING JUSTLY AND FAIRLY HEARD. ATTORNEY AND JUDICIAL MISCONDUCT ORCHESTRATED BY THE STATE IS CLEAR CAUSE FOR EQUITABLE TOLLING, HOLLAND v. FLORIDA SUPRA,; HARRIS v. HUTCHENSON, 209 F.3d. 325 (4th.Cir.2000); ROUSE v. LEE, 339 F.3d. 238 (4th.Cir.2003); PACE v. DiGUGLIELMO, 125 S.Ct. 1807 (U.S.2005); WILLIAMS v. GARLAND, 59 F.4TH. 620 (4th.Cir.2023); UNITED STATES v. BUCHANAN, 638 F.3d. 448(4th.Cir.2011).

S.C. CODE ANN. § 17-19-20 PROVIDE THAT EVERY INDICTMENT "MUST" (EMPHASIS ADDED) BE DEEMED GOOD. THE INDICTMENT IS NOT GOOD BY THE PLAIN LANGUAGE RULE OF THE STATUTE THEREBY THE GENTRY RULING ALLOWS THE COURTS TO SUBTLY EXPAND AND FORCE CONSTRUCT BOTH S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE FURTHER ILLUSTRATING THE INJUSTICE THAT HAS OCCURRED BY THE GENTRY RULING. WHEN IT COMES TO THE S.C. SUPREME COURT HOLDING THOSE CASES, SOME FOR ALMOST (7) YEARS TO ALLOW THE TO GO ON A NATIONWIDE "FISHING EXPEDITION" TO FIND UNCONSTITUTIONALLY VAGUE AND OR SILENT CASE LAW THAT ONLY ADDRESSED THE ISSUE OF SUBJECT MATTER JURISDICTION UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION, TO CONCEAL THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, AND UNCONSTITUTIONAL ACTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION ALSO VOIDS JURISDICTION. IN SOUTH CAROLINA WHEN A COURT KNOWINGLY IGNORES WELL ESTABLISHED U.S. SUPREME COURT HOLDINGS LIKE STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998) AND OTHER SIMILAR HOLDINGS, CIRCUMVENTING, FAILING TO ADDRESS THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, IT WOULD CONSTITUTE FRAUD UPON THE COURT BECAUSE IT DEFILES THE JUDICIAL MACHINERY ITSELF. IT OCCURS WHEN A COURT'S IMPARTIAL FUNCTIONS ARE DIRECTLY CORRUPTED, OFTEN BY AN OFFICER OF THE COURT (SUCH AS A JUDGE OR ATTORNEY). PURPOSELY CIRCUMVENTING THE HIGHEST COURT'S HOLDINGS TO REACH A DESIRED OUTCOME--ESPECIALLY CONCERNING SUBJECT MATTER JURISDICTION--INTERFERES WITH THE COURT'S ABILITY TO "PERFORM IT'S NORMAL FUNCTION IN THE USUAL MANNER ITS IMPARTIAL TASKS. IT INVOLVES DECEIT, LIES AND FALSE INFORMATION MAKING THE JUDGMENT VOID AB INITIO, AS THE COURT LACKED THE AUTHORITY TO ACT IN THE FIRST PLACE. WHEN A JUDGMENT IS VAGUE OR SILENT ON A SUBSTANTIAL CLAIM, IF THAT JUDGMENT IS SILENT (ie WHETHER FATAL INDICTMENT DEFECTS WOULD VOID JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT FOR DUE PROCESS VIOLATION), IT MAY NOT BE CONSIDERED A "FINAL JUDGMENT, ESPECIALLY IN THIS CASE WHEN WE HAVE FRAUD UPON THE COURT, THE COURT PURPOSELY FAILING TO ADDRESS WHETHER SUBSTANTIAL DUE PROCESS VIOLATION RISES TO THE LEVEL OF BEING UNCONSTITUTIONAL WHICH WOULD VOID OR MAKE VOIDABLE

JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, ESTATE OF CUNNINGHAM v. MAYOR AND CITY COUNCIL OF BALTIMORE, 128 F.4TH. 238(4th.Cir.2025)(COURT DISMISSED THE APPEAL BECAUSE THE DISTRICT COURT OVERLOOKED AND FAILED TO RESOLVE CLAIMS ON TWO ISSUE. BECAUSE THE JUDGMENT WAS SILENT ON THE CLAIM, IT WAS NOT FINAL, APPEALABLE ORDER); ESCOBAR-SALMERON v. MOYER, 150 F.4TH. 360(4th.Cir.2025)(SILENCE ON A CLAIM PREVENTS FINALITY. THE COURTS MUST OBJECTIVELY RESOLVE ALL SUBSTANTIVE CLAIMS BEFORE A JUDGMENT IS FINAL); LOWY v. DANIEL DEFENSE, LLC.,--F.4TH.--, 2026 WL 376731 (4th.Cir.2026)(WITHOUT EXPRESSED LANGUAGE SILENCE EQUAL NON FINALITY ALL CLAIMS MUST BE ADDRESSED); ALI v. HOGAN, 26 F.4TH. 587(4th.Cir.2022)(THIS CASE REINFORCES THAT THE COURT'S FAILURE TO PROPERLY ACCOUNT FOR CONSTITUTIONAL STANDING [A COMPONENT OF SUBJECT MATTER JURISDICTION] IS A FUNDAMENTAL ERROR. A KNOWING FAILURE TO DO SO BY A JUDGE WOULD ALIGN WITH THE DEFINITION OF CORRUPTING THE JUDICIAL MACHINERY); MONACO v. WV PARKWAYS AUTHORITY, 57 F.4TH. 185(4th.Cir.2023)(IN THIS CASE, THE 4TH. CIRCUIT ADDRESSED HOW SUBJECT MATTER JURISDICTION CAN BE "FORECLOSED" BY CONSTITUTIONAL IMMUNITIES THAT THE LOWER COURT MIGHT IMPROPERLY OVERLOOKED AND WOULD NOT BE ABLE TO EXERCISE JURISDICTION REGARDLESS OF THE MERITS OF THE CASE. IGNORING SUPREME COURT HOLDING THAT DEFINE BARRIERS WOULD CONSTITUTE "EXCESS OF JURISDICTION"); BIXBY v. STIRLING, 90 F.4TH. 140(4th.Cir.2024)(HIGHLIGHTING EXCESS OF JURISDICTION TO ADDRESS MERITS DUE TO FILING CONSTITUTING SECOND HABEAS CORPUS); FRAZIER v. PRINCE COUNTY MARYLAND, 140 F.4TH. 566(4th.Cir.2025)(A COURT THAT LACKS JURISDICTION HAS NO AUTHORITY TO RULE ON THE MERITS); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d 633(S.C.App.2023)(THE PLAIN LANGUAGE OF A STATUTE MUST BE ADHERED TO.). IF A DUE PROCESS ERROR IS SO FUNDAMENTAL IT REMOVES A CASE FROM THE "GENERAL CLASS" PROHIBITING THE COURT FROM HEARING IT. WHETHER YOU WANT TO USE THE PHRASE "VOID" OR "VOIDABLE" OR "ERRONEOUS" THE RESULT IS THE SAME REQUIRING REVERSAL AND OR VACATING OF JUDGMENT. THE GENTRY RULING COMPOUNDED BY FRAUD IN CONCEALING THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION IS INHERENTLY "VAGUE" OR "SILENT" ON WHETHER AN UNCONSTITUTIONAL ACT CAN BE SO EXTREME THAT IT

VIOLATES THE "CONSTITUTIONAL" ELEMENT OF AUTHORITY. THE GENTRY CASE PRODUCES A CONSTITUTIONAL BLIND SPOT. THE PROBLEM WITH LABELLING ALL CONSTITUTIONAL ERRORS AS "PROCEDURAL" AS GENTRY DOES. THE RULING SUGGESTS THAT EVEN FLAGRANT DUE PROCESS VIOLATION--ONE THAT MIGHT EFFECTIVELY STRIP A COURT OF ITS LEGITIMATE POWER UNDER THE 14TH. AMENDMENT--DOES NOT VOID JURISDICTION. IF A COURT TAKES AN ACTION THAT IS EXPRESSLY PROHIBITED BY THE CONSTITUTION (AN UNCONSTITUTIONAL ACT LIKE SUBTLY EXPANDING AND FORCE CONSTRUCTING STATUTES SUCH AS S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 VIOLATING THE SEPARATION OF POWERS CLAUSE AND THE PLAIN LANGUAGE RULE AND OTHER DUE PROCESS VIOLATIONS INTENDED ARGUED IN THIS APPLICATION), GENTRY DOES NOT CLEARLY EXPLAIN AT WHAT POINT THE ACT STOPS BEING A "TRIAL ERROR" AND STARTS BEING AN "ILLEGAL EXERCISE OF POWER" THAT SHOULD VOID THE COURT'S AUTHORITY. GENTRY IS "VAGUE" BECAUSE IT ASSUMES A COURT'S POWER REMAINS CONSTANT REGARDLESS OF HOW IT IS EXERCISED. ROJAS AND STEEL CO. ARGUES THE OPPOSITE, THAT A COURT'S POWER IS CONTINGENT ON FOLLOWING CONSTITUTIONAL REQUIREMENTS (LIKE STANDING AND DUE PROCESS) FURTHER ILLUSTRATING THAT GENTRY BY SUPPRESSION OF TRUTH AND FRAUDULENT CONCEALMENT OF JURISDICTION FACTS CANNOT STAND.

IT IS PERSPICUOUS THAT BY THE INTRODUCTION AND OR OPENING STATEMENT THAT IS IN THE PROCESS OF BEING FILED IN THE APPLICANTS POST CONVICTION RELIEF PROCEEDINGS THAT THE STATE APPOINTED ATTORNEY'S USE OF THE STATE v. GENTRY CASE IS SUSPECT AND DUBIOUS TO SAY THE LEAST LACKING IN MERIT. IF THE APPELLANT AS A "SO-CALLED INMATE" CAN DETERMINE THESE JURISDICTIONAL FACTS, WHY CAN'T THE STATE APPOINTED ATTORNEY? THE ONLY CONCLUSION IS IT IS JUST AS THE APPELLANT ASSERTED. THE STATE APPOINTED ATTORNEY HAS BEEN COMPROMISED BY THE STATE, CONSPIRING UNDER COLOR OF STATE LAW, IN ACTS OF FRAUD UPON THE COURT TO MANIPULATE THE APPELLANT IN WAIVING SUBSTANTIAL JURISDICTIONAL CLAIMS REQUIRING HER REMOVAL FROM OFF THIS APPEAL DUE TO THIS CLEAR CONFLICT OF INTEREST. THE STATE APPOINTED ATTORNEY MADE USE OF STATE v. TATE ASSERTING THAT THE CAPTION IS NOT A PART OF THE FINDINGS OF THE GRAND JURY, THAT IT IS BODY OF THE INDICTMENT THAT IS IMPORTANT?

WELL LET'S TALK ABOUT THE BODY OF THE INDICTMENT(S). NOT ONLY DO THE INDICTMENT FOR MURDER FAIL TO ALLEGE THE TIME AND PLACE OF THE DEATH IN THE BODY OF THE CHARGING INSTRUMENT; THE TIME AND PLACE OF ASSAULT ARE THERE BUT NOT THE TIME AND PLACE OF THE DEATH, VIOLATING THE PROVISIONS OF S.C. CODE ANN. §§ 17-19-10 AND 17-19-20. WITHIN THE BODY OF THE INDICTMENT(S), BY THE LANGUAGE CONTAINED THEREIN, THE GRAND JURY IN VIOLATION OF THEIR SHIELDING FUNCTION HAS SWORE UPON THEIR OATH GUILT AND ALREADY CONVICTED THE APPELLANT BEFORE HE EVER WENT TO TRIAL, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, TAKING AWAY THE APPELLANT'S PRESUMPTION OF INNOCENCE, SHIFTING THE BURDEN OF PERSUASION TO THE APPELLANT IN VIOLATION OF THEIR SHIELDING FUNCTION AND DUE PROCESS LAW. THE GRAND JURY BY THE LANGUAGE UTILIZED WITHIN THE BODY OF THE INDICTMENT DO NOT HAVE THE POWER OR AUTHORITY BY STATE OR FEDERAL LAW, OR STATE OR FEDERAL CONSTITUTION, TO CONVICT A PERSON. THEN IN ORDER TO ATTEMPT TO CURE THIS FATAL CONSTITUTIONAL DUE PROCESS STRUCTURAL ERROR, NOT SUBJECT TO HARMLESS ERROR REVIEW, THE COURT GIVES A CURATIVE INSTRUCTION STATING THAT THE INDICTMENT IS NOT EVIDENCE THAT THE APPELLANT IS INNOCENT UNTIL PROVEN GUILTY. THE PROBLEM WITH THIS IS THAT ONCE THE BELL IS RUNG, IT CANNOT BE UNRUNG, AND IN ORDER TO GIVE THE CURATIVE INSTRUCTION, THE TRIAL COURT MUST CONSTRUCTIVELY AMEND THE INDICTMENT ON THE ESSENTIAL MENS REA ELEMENTS OF THE OFFENSE DEMONSTRATING THE OVERWHELMING PREJUDICE WHICH SUPPORT THAT THIS IS NOT A HARMLESS ERROR. THE "BELL CANNOT BE UNRUNG" IS A CRITICAL SAFEGUARD FOR THE PRESUMPTION OF INNOCENCE. IF THE STATE OR PROSECUTOR PRODUCE "SKUNK LIKE" EVIDENCE OR DOCUMENTS INTO THE PRIVY OF THE TRIAL JURY WITHOUT ANY ASSESSMENT OF ASKING THE JURY IF THEY HAVE EVEN BEEN AFFECTED BY THE DOCUMENT, INFORMATION THAT STINKS UP THE JURY BOX REGARDLESS OF INSTRUCTION, IT SHIFTS THE JURY'S FOCUS FROM THE STATE DUTY TO PROVE THE FACTS BEFORE THEY CAN EVER BY ASSERTED. BECAUSE THE PRESUMPTION OF INNOCENCE IS A "CARDINAL PRINCIPLE" OF THE JUSTICE SYSTEM, SOUTH CAROLINA COURTS RECOGNIZED THAT HEARING OR SEEING SUCH DOCUMENTS CAN SHIFT A JUROR'S MINDSET FROM DID THEY DO THIS CRIME, TO WELL THEY HAVE ALREADY BEEN FOUND GUILTY BY THE LANGUAGE COMING FROM THE GRAND JURY SO IT MUST BE TRUE. IN SOUTH CAROLINA LAW, IF A CURATIVE INSTRUCTION EFFECTIVELY RESULTS

IN CONSTRUCTIVE AMENDMENT BY ALTERING ESSENTIAL ELEMENTS OF THE OFFENSE, IT CREATES A FATAL CONSTITUTIONAL, NOT PROCEDURAL ERROR AND CONFLICT. THE INDICTMENT ALLEGES THE APPELLANT IS GUILTY WITH "MALICE AND AFORE THOUGHT", THE JUDGE'S CHARGE SAYS THE APPELLANT IS INNOCENT OF "MALICE AND AFORETHOUGHT" CHANGING THE VERY NATURE OF WHAT HAS BEEN RETURNED BY THE GRAND JURY. UNDER SOUTH CAROLINA CONSTITUTION, A DEFENDANT HAS A RIGHT TO BE TRIED ONLY ON THE CHARGES RETURNED BY THE GRAND JURY. THE GRAND JURY ALREADY BY THEIR LANGUAGE ADJUDICATED GUILT. THE COURT CANNOT THEN COME BACK AND SAY THE APPELLANT IS INNOCENCE UNTIL PROVED GUILTY OF THE ESSENTIAL ELEMENT CONTRADICTED WHAT IS DETERMINED BY THE GRAND JURY. THIS PRODUCES A POTENTIAL DOUBLE JEOPARDY CLAIM. THE STATE IS STRICTLY BOUND BY THE "SPECIFIC" LANGUAGE AND THEORIES PRESENTED TO THE GRAND JURY. THE COURT BY INSTRUCTION CANNOT SHIFT THE THEORY OF BEING ALREADY CONVICTED BY THE GRAND JURY'S SPECIFIC LANGUAGE. IF THE EVIDENCE OF THE JUDGE'S INSTRUCTION DEVIATE FROM THE INDICTMENT(S) ESSENTIAL ELEMENTS, ITS NOT A "HARMLESS ERROR" THAT CAN BE CORRECTED BY CURATIVE INSTRUCTION. IF THE CURATIVE INSTRUCTION WOULD HAVE TO CHANGE THE LEGAL THEORY OF THE CASE (GRAND JURY INDICTMENT DETERMINATION OF GUILT) TO "FIX" A MISTAKE, THE COURT MUST INSTEAD GRANT DIRECT VERDICT OF ACQUITTAL OR MISTRIAL, AS THE BELL CANNOT BE "UNRUNG" WITHOUT BREAKING THE INDICTMENT ITSELF. IT WOULD CHANGE THE VERY NATURE OF THE ACCUSATION RETURNED BY THE GRAND JURY. A CURATIVE INSTRUCTION THAT LEAD TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT TRIGGERS A MULTI-LAYERED CONSTITUTIONAL CONFLICT. AT IT'S CORE, THIS CONFLICT PITS THE COURT'S "POWER" (JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT) TO "FIX" THE ERRORS AGAINST THE DEFENDANT'S FUNDAMENTAL DUE PROCESS RIGHT TO PROPER NOTICE AND A GRAND JURY VIOLATING ARTICLE 1 § 11 OF THE SOUTH CAROLINA CONSTITUTION, NELSON v. COLORADO, 137 S.Ct. 1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205(U.S.2017)(REGARDING THE PRESUMPTION OF INNOCENCE); BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 (U.S.2016)(REGARDING THE PRESUMPTION OF INNOCENCE). THE PRINCIPLE THAT "ONCE THE BELL IS RUNG IT CANNOT BE UNRUNG" IS A CORNERSTONE OF SOUTH CAROLINA AND FEDERAL JURISPRUDENCE, PARTICULARLY CONCERNING CONSTRUCTIVE AMENDMENTS--WHERE TRIAL COURT'S INSTRUCTION EFFECTIVELY CHANGE THE GRAND JURY'S ORIGINAL

INDICTMENT, STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(THE COURT REVERSED THE CONVICTION BECAUSE THE TRIAL JUDGE'S JURY INSTRUCTION EXPANDED THE INDICTMENT'S SPECIFIC CHARGE); STATE v. ERB, 447 S.C. 84, 924 S.E.2d. 100(S.C.App.2025)(THE INSTRUCTION MUST SPECIFICALLY ALIGN WITH THE CHARGING DOCUMENT); STATE v. PHILLIPS, 430 S.C. 319, 844 S.E.2d. 651(S.C.App.2020)(CASE REVERSED DUE TO THE "ONCE THE BELL IS RUNG IT CANNOT BE UNRUNG" PRINCIPLE); UNITED STATES v. JOHNSON, Fed. Rptr., 2022 WL 17546916 (4th.Cir.2022); UNITED STATES v. BREWBAKER, 87 F.4TH. 563(4th.Cir.2023)(A CONSTRUCTIVE AMENDMENT OF AN INDICTMENT OCCURS WHEN THE COURT OR GOVERNMENT BROADENS THE POSSIBLE BASES FOR CONVICTION BEYOND THOSE STATE WITHIN THE INDICTMENT BY, FOR EXAMPLE, ASSERTING A SPECIFIC LEGAL THEORY IN THE INDICTMENT, BUT THEY RELY ON A DIFFERENT THEORY AT TRIAL; AND THIS IS IMPERMISSIBLE).

NOT ONLY DID THE COURT TAKE AWAY THE APPELLANT'S PRESUMPTION OF INNOCENCE PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDING ALLOWING THE GRAND JURY TO CONVICT THE APPELLANT BEFORE ANY TRIAL COMMENCED BY THE LANGUAGE IN THE INDICTMENT, AND THEN CONSTRUCTIVELY AMENDED THE INDICTMENT(S) ADDED IN THE TIME OF PLACE OF THE DEATH WHICH WAS NEVER PASSED UPON BY THE GRAND JURY. THE TRIAL COURT AND PROSECUTOR ENGAGED IN SHAM LEGAL PROCESS PRODUCING INDICTMENT THAT APPEAR TO HAVE NEVER ACTUALLY WENT TO THE GRAND JURY, RUBBER STAMPING THEM IN ADDITIONAL ACTS OF FRAUD UPON THE COURT, WHICH IS WHY THE APPELLANT IS SEEKING THE GRAND JURY PANEL DOCUMENTS VIA THE INTENDED PCR APPLICATION. THEY ALSO ALLOWED STATEMENTS INTO THE COURT RECORD, NOT JUST THAT ESTABLISH THE RULE 403 CLAIM ARGUED ON APPEAL, BUT WHERE THOSE STATEMENTS WERE ADMITTED IN VIOLATION OF THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 19-1-80, 19-1-90 AND THEIR SISTER STATUTE. THE APPELLANT IS ARGUING AGAINST THE PRECEDENT RELATED TO THIS ISSUE UNDER RULE 217, WHERE THE S.C. COURTS INVOLVED SUBTLY EXPAND AND FORCED CONSTRUCTED THOSE STATUTES ALL OVER THE PLACE IN VIOLATION OF THE PLAIN LANGUAGE RULE, ESSENTIALLY RENDERING THEM NON-EXISTENT IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE SUPPORTING THE EXTREME PREJUDICE PURSUANT TO THE RULE 403 CLAIM

CURRENTLY BEING ARGUED BEFORE THE S.C. COURT OF APPEALS ATTACHING A CONSTITUTIONAL JURISDICTIONAL NATURE TO THE ISSUE. THE STATE PRODUCED TESTIMONY INTO THE RECORD IN VIOLATION OF CRAWFORD v. WASHINGTON. THEY HAD ONE WITNESS APPEAR, BUT ADDED EVIDENCE FOR TWO WITNESSES IN VIOLATION OF THE CONFRONTATION CLAUSE. THE ENTERED DRUG EVIDENCE INTO THE RECORD WITHOUT A PROPER CHAIN OF CUSTODY IN VIOLATION OF THE APPLICABLE STATUTE(S). THE STATUTE REQUIRES THAT THE CHAIN BE ESTABLISHED BY THE REQUIRED FORMS AND TESTIMONY, NOT TESTIMONY ALONE, WHERE THE S.C. COURTS AGAIN SUBTLY EXPANDED AND FOR CONSTRUCTED THE APPLICABLE STATUTE(S). THE APPELLANT IS ARGUING AGAINST THE PRECEDENT FOR THIS ISSUE AS WELL. THERE IS A VIOLATE OF THE APPELLANT'S RIGHT TO PREEMPTIVELY STRIKE A JUROR WHOSE PRESENCE ON THE CASE TAINTED THE JURY AND VIOLATED THE APPELLANT'S DUE PROCESS RIGHTS. THESE ARE ERRORS THAT ARE INTENDED ARGUED UNDER THE DUE PROCESS-CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THE GENTRY CASE IS UNCONSTITUTIONALLY "VAGUE" AND OR "SILENT" ON THE ISSUE OF EXACTLY AT WHAT LEVEL OR POINT, ESTABLISHING A CONSTITUTIONAL "BLINDSPOT", DO THESE EGREGIOUS DUE PROCESS VIOLATION EFFECTS THE COURT'S AUTHORITY (JURISDICTION) TO HEAR THE CASE UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THE GENTRY COURT IN FRAUD, CLAIMS THEIR JURISDICTION IS ABSOLUTE AS LONG AS JURISDICTION EXIST UNDER THE STATUTE, DESPITE ANY SUPPOSED CONSTITUTIONAL VIOLATION THAT EXISTS IN THE CASE IN CONTRADICTION TO MONTGOMERY AND STEEL CO.. THE GENTRY COURT IN ACTS OF SUPPRESSION OF TRUTH AND FRAUDULENT CONCEALMENT, CONCEALED THE FACT THAT THERE ARE TO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, ESTABLISHING THAT THE GENTRY RULING MUST BE DEEMED VOID FOR FRAUD UPON THE COURT AND VAGUENESS. THE COTTON AND PARHURST CASES ARE ADJUDICATED UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION AND STAND IN CONFLICT WITH MONTGOMERY, STEEL CO, THE CITY OF OCALA, FLORIDA AND OTHER SUCH ESTABLISHED CASES OUT OF THE U.S. SUPREME COURT THAT HAVE NEVER BEEN OVERRULED. THE APPELLANT BRINGS HIS CLAIMS UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. IT IS A FUNDAMENTAL PRINCIPLE OF LAW THAT ACTS THAT VIOLATE DUE PROCESS ARE UNCONSTITUTIONAL AND WOULD VOID SUCH JUDGMENTS OBTAINED WITHIN CRIMINAL PROCEEDINGS, DEEP SOUTH TODAY v. MURRILL, 779 F.Supp.3d. 782 (M.D.La.2025);

APPLICATION OF GAULT, 387 U.S. 1, 87 S.Ct. 1428 (U.S.1967)(DUE PROCESS OF LAW IS PRIMARY AND INDISPENSABLE FOUNDATION OF INDIVIDUAL FREEDOM); MATTER OF J.U., 384 N.C. 618 (2023); DOE v. SNYDER, 449 F.Supp.3d. 719 (E.D.Mich.2020); CITY OF CHICAGO v. MORALES, 527 U.S. 41, 119 S.Ct. 1849, 144 L.Ed.2d. 67(U.S.1999); NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE v. U.S. DEPARTMENT OF EDUCATION, 779 F.Supp.3d. 53 (D.D.C.2025); JOHNSON v. UNITED STATES, 576 U.S. 591, 135 S.Ct. 2551 (U.S.2015); LUMUMBER v. KISER, 116 F.4TH. 269 (4th.Cir.2024); MANNING v. CALDWELL FOR CITY OF ROANOKE, 930 F.3d. 264 (4th.Cir.2019). THE GENTRY RULING MUST BE DEEMED VOID BECAUSE IT IS UNCONSTITUTIONALLY VAGUE, SILENT, CREATING A CONSTITUTIONAL BLINDSPOT, AS TO WHETHER A CRIMINAL COURT'S ACTIONS OR JUDGMENTS CAN BE MADE VOID FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND IN EGREGIOUS ACTS OF FRAUD UPON THE COURT TO DEFRAUD THE INMATES OF THIS STATE IN ARGUING THEIR FATAL INDICTMENT DEFECTS, THE COURT PURPOSELY CONCEALED THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, GLOSSIP v. OKLAHOMA, 604 U.S. 226, 145 S.Ct. 612, 221 L.Ed.2d. 90(U.S.2025)(A NEW TRIAL IS THE REMEDY FOR DUE PROCESS VIOLATION UNDER NAPUE v. ILLINOIS, WHICH APPLIES WHERE THE PROSECUTION KNOWINGLY OBTAINS CONVICTION THROUGH THE USE OF FALSE EVIDENCE OR IMPERSSIBLE ADMISSION OF STATEMENTS IN VIOLATION OF THE STATUTES); SAMIA v. UNITED STATES, 143 S.Ct. 2004 (U.S.2023)(THE APPELLANT HAS RIGHT UNDER CONFRONTATION CLAUSE); UNITED STATES v. STEWARD, 135 F.4TH. 161 (4th.Cir.2025)(REINFORCING THAT GOVERNMENT CANNOT PIVOT THEORIES [CURATIVE INSTRUCTION] OTHER THAN WHAT CAME FROM GRAND JURY); RIVERS v. STATE, OP. 28285 (S.C. MAY 2025)(EVIDENCE CAN BE SO PREJUDICIAL AS TO STRIP THE DEFENDANT OF THE PRESUMPTION OF INNOCENCE); McCLELLAN v. UNITED STATES, 44 F.4TH. 215 (4th.Cir.2022)(THE COURT AFFIRMED THE PRESUMPTION OF INNOCENCE EVEN IN CIVIL CASES); UNITED STATES v. CONTRERAS-AVALOS, 139 F.4TH. 314(4th.Cir.2025)(ANY INSTRUCTION THAT BROADENS THE INDICTMENT VIOLATES THE DEFENDANT'S SUBSTANTIAL RIGHTS AND UNDERMINES THE PRESUMPTION THAT THEY ARE INNOCENT OF ANY CHARGE NOT FORMALLY PRESENTED. THE INDICTMENTS SAY THE APPELLANT IS GUILTY BEFORE ANY TRIAL COMMENCE.); UNITED STATES v. LEGINS, 34

F.4TH. 304 (4th.Cir.2022)(A CONSTRUCTIVE AMENDMENT OF AN INDICTMENT OCCURS WHEN THE COURT AND GOVERNMENT BROADENS THE POSSIBLE BASES FOR CONVICTION BEYOND THOSE RETURNED BY THE GRAND JURY); HEBB v. CITY OF ASHEVILLE, NORTH CAROLINA, 145 F.4TH. 421 (4th.Cir.2025); CAROLINA YOUTH ACTION PROJECT; D.S. BY AND THROUGH FORD v. WILSON, 60 F.4TH. 770 (4th.Cir.2023); UNITED STATES v. MOYE, 45 F.4TH. 770 (4th.Cir.2022); UNITED STATES v. SMITHERS, 92 F.4TH. 237 (4th.Cir.2024)(THE 4TH. CIRCUIT VACATED CONVICTION WHERE THE COURT'S JURY INSTRUCTION FAILED TO ADEQUATELY INFORM THE JURY OF THE MENS REA REQUIREMENTS IN THE CASE INVOLVING A DEALER'S PROSECUTION FOR UNLAWFULLY DISPENSING CONTROLLED SUBSTANCES. THE COURT FOUND THAT AN ERRONEOUS INSTRUCTION, WHERE IN THIS CASE THE CURATIVE INSTRUCTION CONSTRUCTIVELY AMENDS THE INDICTMENT ON THE MENS REA ELEMENTS, COMBINED WITH THE OTHER LEGAL ISSUES AND SUBSTANTIAL DUE PROCESS VIOLATIONS THAT EXIST IN THIS CASE, MEANT THE ERROR WAS NOT HARMLESS, SUGGESTING THAT ONCE THE WRONG LEGAL STANDARD WAS RUNG, CONSTRUCTIVELY AMENDING THE INDICTMENTS ON THE MENS REA ELEMENTS, IT COULD NOT BE CURED BY AN OVERALL CHARGE).

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT IT IS ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619, 738 Fed. Appx' 136(4th.Cir.2018); PEOPLE v. FIELDS, N.E.3d., IL. App. (1st.) 122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cal.2017). JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE CASES. WITHOUT JURISDICTION, A COURT, A LOWER COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS AND OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPELLANT, HENSELEY v. CITY OF CHARLOTTE, 2023 WL 2533083 (W.D.N.C.2023); B.R. v. F.C.S.B., 17 F.4TH. 485(4th.Cir.2021); STEEL CO. v. CITIZENS FOR

A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998);
al-SUYID v. HIFTER, 139 F.4TH. 368 (4th.Cir.2025). MERE CLAIM
THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT
MATTER JURISDICTION IS SUFFICIENT TO PERMIT THE APPELLANT TO
ARGUE AGAINST THE PRECEDENT ESTABLISHED BY BOTH THE STATE v.
GENTRY CASE OF 2005 AND THE STATE v. LANGFORD CASE OF 2012
REGARDING CLAIM PROCESSING RULES BASED UPON RECENT JUDICIAL
DETERMINATION COMING OUT OF BOTH THE 4TH. CIRCUIT AND U.S.
SUPREME COURT WHERE THE LOWER COURT WENT BEYOND THE (365) DAYS TO
RESOLVE THE CASE AND THE CLAIM PROCESSING RULE IS JURISDICTIONAL
IN NATURE BEING ATTACHED TO THE S.C. CONSTITUTION UNDER ARTICLE V
§ 4 AND 1 § 23 AS INTENDED TO BE ARGUED IN THE PCR APPLICATION,
STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v.
FEDERAL ELECTION COMM'N, 814 F.3d. 221 (4th.Cir.2016);
WESTMINSTER NURSING CENTER v. COHEN, 2017 WL 5632661
(E.D.N.C.2017); SANTOS-ZACARIA v. GARLAND, 598 U.S. 411, 143
S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023); FIRST PROTECTION
INSURANCE COMPANY v. LEWIS EDWARD O'LEARY, 2025 WL 1936566
(4th.Cir.2025)(THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN
TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS
SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS
OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN
DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY, 2025 WL 590433
(D.Md.2025); KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA, 144
S.Ct. 1673(U.S.1994)(COURTS, ALL COURTS, STATE AND FEDERAL, ONLY
POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE
WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY CASE
BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE
CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION BY ACTS OF
FRAUD UPON THE COURT. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE,
BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN
OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE
OTHERWISE, NOT THIS COMPROMISED STATE APPOINTED ATTORNEY OR THE
COURT OF APPEALS. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED
TO RESPOND WHICH THIS ATTORNEY IN ACTS OF FRAUD UPON THE COURT IS
CONSPIRING UNDER COLOR OF STATE LAW TO PREVENT, COPER BRIGHT
ENTERPRISES v. RAIMONDO, 603 U.S. 369, 144 S.Ct. 2244 (U.S.2024);
LOZMAN v. CITY OF RIVERA BEACH, FLA., 133 S.Ct. 735(U.S.2013).

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED NOW AND INTENDED TO BE FILED WITHIN ANY NEEDED SUBSEQUENT PCR PROCEEDING) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY AND OR FORCE CONSTRUCTING STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN OR LEAVE IN PLACE)--"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C., 834 F.3d. 327, 339 (C.A.D.C.1991); THE CITY OF OCALA, FLORIDA v. ROJAS, 598--U.S.--, 2023 WL 2357328 (U.S.2023)(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES,--S.Ct.--, 2023 WL 2655449 (U.S.2023)(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN,--F.4TH.--, 2023 WL 3214545 (4th.Cir.2023)(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599(U.S.2016)(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES

VOIDS JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998)(UNCONSTITUTIONAL ACTION UNDER BOTH THE STATUTORY AND CONSTITUTIONAL ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION); HAMER v. NEIGHBORHOOD SERVICES OF CHICAGO, 583 U.S. 17, 138 S.Ct. 13(U.S.2017)(ADDRESSING CLAIM PROCESSING RULES AND FRAUD UPON THE COURT).

THE STATE APPOINTED ATTORNEY IS COMPROMISED BY THE S.C. ATTORNEY GENERAL'S OFFICE CREATING A CONFLICT OF INTEREST REQUIRING HER IMMEDIATE REMOVAL. IF THE APPELLANT COULD HAVE FIGURED THESE JURISDICTIONAL CLAIMS OUT SO COULD HAVE SHE. IN SOUTH CAROLINA, AN APPELLATE DEFENSE ATTORNEY IS LEGALLY AND ETHICALLY PROHIBITED FROM CONSPIRING UNDER COLOR OF LAW WITH THE ATTORNEY GENERAL TO MANIPULATE THE APPELLANT INTO WAIVING LEGITIMATE JURISDICTIONAL CLAIMS. ENGAGING IN SUCH CONDUCT CONSTITUTE PROFESSIONAL MISCONDUCT AND WOULD ALSO BE CLASSIFIED AS FRAUD UPON THE COURT. UNDER SOUTH CAROLINA RULES OF PROFESSIONAL CONDUCT, RULE 8.4, IT IS MISCONDUCT FOR A LAWYER TO ENGAGE IN DISHONESTY, FRAUD, DECEIT, OR MISREPRESENTATION AS SHE DID, OR TO ENGAGE IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE. UNDER THE CONCEPT OF CANDOR TO A TRIBUNAL. RULE 3.3 REQUIRES ATTORNEYS TO BE TRUTHFUL WITH THE COURT, WHICH SHE WAS NOT, AND CORRECT ANY FALSE STATEMENTS OF MATERIAL LAW OR FACT AS IT RELATES TO THE LEGAL ISSUES PRESENTED WITHIN THIS PLEADING. THE POWER TO WAIVE LEGAL PROTECTIONS GENERALLY BELONG TO THE CLIENT, NOT THE ATTORNEY. A APPELLATE DEFENSE ATTORNEY WHO UNILATERALLY WAIVES A CLIENT'S LEGITIMATE JURISDICTIONAL CLAIMS WITHOUT AUTHORIZATION OR THROUGH DECEPTIVE MEANS VIOLATES THEIR FIDUCIARY DUTY. AS IT RELATES TO "COLOR OF STATE LAW" AND CONSPIRACY, SECTION 1983 LIABILITY, INDIVIDUALS ACTING "UNDER COLOR OF STATE LAW" CAN BE SUED FOR DEPRIVING OTHERS OF CONSTITUTIONAL DUE PROCESS RIGHTS. WHILE PRIVATE ATTORNEYS OR STATE APPOINTED ATTORNEYS TYPICALLY DO NOT ACT UNDER COLOR OF STATE LAW, THE U.S. SUPREME COURT HELD UNDER TOWER v. GLOVER, 467 U.S. 914, 104 S.Ct. 2820, 1 L.Ed.2d. 758(U.S.1984) THAT THEY CAN BE HELD LIABLE IF THEY CONSPIRE WITH STATE OFFICIALS TO DEPRIVE

THEIR CLIENTS OF CONSTITUTIONAL RIGHTS. ALSO SEE HORTON v. VINSON, 2015 WL 4774276(N.D.Va.2015); YOUNG v. POSEY, 2017 WL 4021083, * 1+ (DSC.2017). IT BECOMES A MISUSE OF THE RULE TO CLAIM THAT NO HYBRID DEFENSE EXIST WHEN UTILIZED AS A LEGAL JUSTIFICATION FOR THE ATTORNEY TO SECRETLY CONSPIRE WITH THE STATE AND ATTORNEY GENERAL'S OFFICE TO WAIVE A CLIENT'S JURISDICTIONAL CLAIMS AND COMMIT FRAUD UPON THE COURT.

RECENT SOUTH CAROLINA SUPREME COURT AND APPELATE DECISION REINFORCE THAT WHILE HYBRID REPRESENTATION IS GENERALLY NOT PERMITTED, ATTORNEY REMAIN BOUND BY STRICT ETHICAL DUTIES, AND THE COURT WILL INTERVENE IN CASES OF FRAUD, STRUCTURAL DEFICIENCIES, OR THE ATTEMPTED WAIVER OF FUNDAMENTAL RIGHTS. IN THE CASE OF STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909 (S.C.App.2025), THE HIGHER COURT CONFIRMED THAT WHILE GUILTY PLEAS WAIVE MOST DEFECTS SUBJECT MATTER JURISDICTION CANNOT BE WAIVED AND REMAINS A VALID GROUND FOR LEGAL CHALLENGE. IN THE CASE OF IN THE MATTER OF LOUIS S. MOORE, 446 S.C. 115, 919 S.E.2d. 391 (S.C.App.2025), THE HIGHER COURT IN ITS DISCIPLINARY ORDER OUTLINES THE DISBARMENT OF AN ATTORNEY FOR CONDUCT THAT INCLUDED VIOLATING RULES OF PROFESSIONAL CONDUCT AND FAILING TO UPHOLD THE INTEGRITY OF THE LEGAL PROFESSION. IN THE CASE OF LINDSEY v. STATE, 2025 WL 3085693 (S.C.App.2025) THE HIGHER COURT HIGHLIGHTED THE COURT'S SCRUTINY IN PCR OF THE LEGAL SUFFICIENCY OF EVIDENCE WHICH IS RELEVANT IN THIS CASE ADDRESSING THE SUFFICIENCY OF THE STATEMENTS USED IN VIOLATION OF THE STATUTES EFFECTING THE RULE 403 CLAIM AND ESTABLISHING THAT THERE ARE INDEED TWO ELEMENTS TO SUBJECT MATTER JURISDICTION IN SUPPORT OF THE APPELLANT'S CLAIMS MADE. IN THE CASE OF CARRIER v. STATE, 441 S.C. 547, 895 S.E.2d. 679 (S.C.App.2023), THE COURT ADDRESSED THE STATE'S MANIPULATION OF THE GRAND JURY PROCESS WHICH SUPPORT THE CLAIMS THAT WERE INTENDED TO BE ARGUED IN POST CONVICTION RELIEF, AND THE INEFFECTIVE ASSISTANCE OF COUNSEL REGARDING JURISDICTIONAL INDICTMENT DEFECTS. IN THE CASE OF UNITED STATES v. PITTMAN, 125 F.4TH. 527 (4th.Cir.2025), THE COURT DETERMINED THAT A DEFENDANT WHO WISHES TO PRESERVE AN ARGUMENT THAT A STATUTE OR INTERPRETATION OF LAW IS ERRONEOUS OR VAGUE OR SILENT

ON A PARTICULAR ISSUE AND THEREBY UNCONSTITUTIONAL, HE MUST BE PERMITTED TO MAKE THE ARGUMENT BY PLEADING OR ESTABLISH GOOD CAUSE FOR NOT HAVING DONE SO. THE APPELLANT MOTIONS FOR LEAVE TO RELIEVE COUNSEL DUE TO CURRENT FRAUD UPON THE COURT, CONSPIRACY, OBSTRUCTION OF JUSTICE AND CONFLICT OF INTEREST. THE APPELLANT MOTION FOR LEAVE TO ACT PRO SE AND LEAVE TO SUBMIT BRIEF OR THAT THE COURT ACCEPT THIS PLEADING AS A FUNCTIONAL EQUIVALENT, OR IF THE COURT DENIES THE REQUEST, THE APPELLANT RESERVES HIS RIGHT TO WITHDRAW THE APPEAL IN ORDER TO HAVE THESE CLAIMS AND LEGAL ISSUES HEARD WITHIN A POST CONVICTION RELIEF PROCEEDING. THE APPELLANT PRAYS FOR THIS RELIEF TO INCLUDE ANY AND ALL OTHER RELIEF THE COURT WOULD DEEM JUST, FAIR AND PROPER.

RESPECTFULLY,

JAMES J. PATTERSON III



FEBRUARY 21, 2026



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
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Wanda H. Carter, Chief Appellate Defender

February 12, 2026

James J. Patterson, #368709
Evans Correctional Institution
610 Hwy. 9 West
Bennettsville, SC 29512

Re: Your Case

Dear Mr. Patterson:

I have received your signed drop affidavit and attached letter dated February 10, 2026. Regarding your attached letter, you are correct that if a trial court lacks subject matter jurisdiction, that issue can be raised anytime. *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 777 (1998) ("Issues related to subject matter jurisdiction may be raised at any time."). However, the issue you raise concerning your indictment, in my opinion, does not deprive the trial court of jurisdiction. *Tate v. State*, 345 S.C. 577, 581, 549 S.E.2d 601, 603 ("The caption of an indictment is no part of the finding of the grand jury; instead, it is the body of the indictment that is important."); *State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) ("If an indictment is challenged as insufficient or defective, the defendant must raise that issue before the jury is sworn and not afterwards."). Because of that, the chances of prevailing on the issue you raise is unlikely and the issue that has been raised in your brief, which is ready for consideration before the South Carolina Court of Appeals, stands a stronger chance of success. By withdrawing your appeal, you will waive review on direct appeal. Based on your letter and stated reasons for withdrawing your appeal, I want to ensure that you understand the consequences of dropping your appeal and the reason I did not move to amend your brief to raise the jurisdictional issue you raised.

I have reattached the drop affidavit to amend the numbered list and the continue affidavit. If it is still your decision to drop your appeal, I ask that you sign the corrected affidavit and return it to me so that I may send a copy to the Court.

Thank you, and please feel free to write if you have any questions or concerns.

Sincerely,

Molly M. Keegan
Appellate Defender

MMK/cs

103-of-406

STATE OF SOUTH CAROLINA

IN THE SOUTH CAROLINA
COURT OF APPEALS

COUNTY OF LEXINGTON

THE STATE,

RESPONDENT,

v.

JAMES JOSEPH PATTERSON, III,

APPELLANT.

APPELLATE CASE NO. 2023-001474

DROP
AFFIDAVIT

PERSONALLY appeared before me, James Joseph Patterson, III, who being duly sworn, deposes and says:

1. I am the appellant in the above captioned case.
2. A Lexington County grand jury indicted me in September 2022 for the offenses of murder and possession of a weapon during the commission of a violent crime (2022-GS-32-6146 and 2022-GS-32-6147). My case was called to trial September 5, 2023, before the Honorable Daniel D. Hall and a jury. On September 7, 2023, I was sentenced to thirty years' imprisonment for murder and a concurrent five-year term for the possession of a weapon during the commission of a violent crime.
3. On September 15, 2023, my retained trial counsel filed a Notice of Appeal.
4. The late Chief Appellate Defender Robert M. Dudek was assigned to perfect my direct appeal before the Court of Appeals.
5. Final Briefing was completed in my case on March 10, 2025, and my direct appeal is ready for consideration before the Court of Appeals
6. My case was reassigned to Appellate Defender Molly M. Keegan on July 3, 2025.
7. On September 29, 2025, I contacted Counsel Keegan via telephone asking her to amend the briefing in my case to raise other issues. I continued written and telephone correspondence with Counsel Keegan throughout November and December of 2025 and January of 2026 discussing my desires to amend the issues raised in this direct appeal or to alternatively

abandon my direct appeal in the interest of pursuing post-conviction relief (PCR).

8. In discussing the legal merits of my direct appeal, my attorney discussed that the late Chief Appellate Defender filed a merits brief on my behalf and the consequences of withdrawing my appeal at this time. I understand that by dropping my direct appeal, I may be deemed to have waived this issue and any other properly preserved issues that could be addressed on direct appeal.

9. I understand that I am entitled to an appeal of my conviction, and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense. I have been informed that if I drop my direct appeal that I will forever waive those issues that could be raised on direct appeal.

10. In light of the risks which have been explained to me, it is my desire that the South Carolina Office of Appellate Defense drop the appeal formally filed on my behalf.

11. I have made this decision on my own, with a full understanding of all the possible consequences of this action.

12. **I do not wish to appeal.**

James Joseph Patterson, III

SWORN TO before me this _____ day

of _____, _____.

_____(L.S.)

Notary Public for South Carolina

My Commission Expires: _____

STATE OF SOUTH CAROLINA

IN THE SOUTH CAROLINA
COURT OF APPEALS

COUNTY OF LEXINGTON

THE STATE,

RESPONDENT,

v.

JAMES JOSEPH PATTERSON, III,

APPELLANT.

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CONTINUE
AFFIDAVIT

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9. I understand that I am entitled to an appeal of my conviction, and that, because I am indigent, I am entitled to the assistance of an attorney from the South Carolina Office of Appellate Defense. I have been informed that if I drop my direct appeal that I forever waive those issues that could be raised.

10. In light of the risks which have been explained to me, it is no longer my desire that the South Carolina Office of Appellate Defense drop the appeal formerly filed on my behalf.

11. I have made this decision on my own, with a full understanding of all the possible consequences of this action.

12. **I do not wish to abandon my direct appeal.**

James Joseph Patterson, III

SWORN TO before me this _____ day

of _____, _____.

_____(L.S.)

Notary Public for South Carolina

My Commission Expires: _____

LEGAL ISSUES PRESENTED

(1) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE S.C. CONSTITUTION VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE TRIAL COURT'S JURISDICTION BEING MADE VOID FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTORIAL MISCONDUCT, AS WELL AS THE COURT VIOLATING THE SEPARATION OF POWERS CLAUSE REGARDING THIS ISSUE, BY THE TRIAL COURT NOT CONDUCTING A RULE 403 BALANCING ANALYSIS, AND BY ALLOWING DEFENSE WITNESS TAMARE HOWELL TO BE IMPEACHED IN VIOLATION OF THE STATUTE(S) WITH THE FACT THAT HE HAD BEEN CONVICTED OF A CRIME THAT CARRIED MORE THAN ONE YEAR'S IMPRISONMENT IN 2016, 2018 AND 2019 WHERE THE UNDERLYING CONVICTIONS WERE STRONG ARM ROBBERY AND POSSESSION OF LESS THAN ONE GRAM OF METHAMPHETAMINE OR COCAINE BASE IN 2016, FAILURE TO STOP FOR A BLUE LIGHT IN 2018, AND POSSESSION WITH INTENT TO DISTRIBUTE-FIRST OFFENSE IN 2019, AS THESE WERE NOT CRIMES OF DISHONESTY AND THEY SHOULD HAVE BEEN EXCLUDED UNDER RULE 609(a)(1), SCRE USING A RULE 403, SCRE, ANALYSIS GIVEN THEIR PROBATIVE VALUE WAS SUBSTANTIALLY OUTWEIGHED BY THEIR DANGER OF UNDUE PREJUDICE EVEN IN THE VAGUE BUT PREJUDICIAL MANNER THEY CONVEYED TO THE JURY?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON

2

THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

INSOMUCH, THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS WERE VIOLATED, THE APPLICANT'S 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL HEARING WAS VIOLATED, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WERE VIOLATED WHERE BY THE STATE'S ACTION THEY CONSPIRED UNDER COLOR OF STATE LAW TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION DISPROPORTIONATELY TARGETING THE APPLICANT AS AN AFRICAN AMERICAN (SEE BOOK MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW BY MICHELLE ALEXANDER), ALSO DESIGNED TO UNJUSTLY LABEL THE APPLICANT AS A FELON TO TAKE AWAY HIS RIGHT TO VOTE VIOLATING THE 15TH. AMENDMENT, WHERE SUCH ACTION WOULD SERVE TO VOID THE TRIAL COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, DUE TO THE COURT'S FAILURE TO CONDUCT THE REQUIRED RULE 403 BALANCING TEST AS IS STATED WITHIN THE CAPTION OF ISSUE NUMBER 1 ALSO VIOLATING THE STATUTES RELIED UPON. THE APPLICANT BRINGS THE COURT AND PARTIES ATTENTION TO THE "CASE HISTORY" CONTAIN AT THE BEGINNING OF THIS PCR APPLICATION. THIS ISSUE WAS PRESENTED UNDER THE APPLICANT'S DIRECT APPEAL UNDER CASE 2023-001474, BUT DUE TO THE ATTACHED MOTION TO RELIEVE COUNSEL IN THE FORM OF THE APPELLATE DEFENSE OFFICE. THE APPLICANT WAS SUBJECTED TO AN EXTREME AMOUNT OF PREJUDICE THAT PREVENTED AND OR INAPPROPRIATELY DELAYED THE HEARING OF THE ISSUE WHICH FORCED THE APPLICANT TO NOW FILE THIS PCR UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT (SEE THE DOCUMENT ENTITLED, "AFFIDAVIT OF SERVICE AND AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION FOR LEAVE TO RELIEVE COUNSEL; MOTION FOR LEAVE TO FILE BRIEF TO ARGUE AGAINST THE PRECEDENT PURSUANT TO RULES OF APPELLATE COURT PROCEDURE, RULE 217 AND OR IN THE ALTERNATE MOTION TO WITHDRAW AND MOTION TO

MOTION THEREFOR", [30] PAGES DATED FEBRUARY 21, 2026 WITH ITS ATTACHMENTS.).

IT IS THE APPLICANT'S POSITION THAT WHAT FURTHER ESTABLISHES THIS ISSUE AS AN EGREGIOUS DUE PROCESS VIOLATION, IS THAT THE TESTIMONY WAS ENTERED INTO THE COURT RECORD ALSO IN VIOLATION OF S.C. CODE ANN. §§ 19-1-80, 19-1-90 AND ITS SISTER STATUTE WHERE THE TRIAL COURT SUBTLY EXPANDED AND FORCE CONSTRUCTED THE APPLICABLE STATUTE BY THEIR ACTIONS. THE APPLICANT IS ARGUING AGAINST ANY ESTABLISHED PRECEDENT SETTING CASE THAT ADDRESSES THIS ISSUE. THERE WAS REQUIRED A RECEIPT BE SIGNED AND A COPY OF THE WITNESS STATEMENT BE GIVEN TO THEM BEFORE THE PERSON WAS TO BE PERMITTED TO TESTIFY OR BE EXAMINED OR CROSS EXAMINED AT THE PROCEEDINGS. IF TESTIMONY OR EXAMINATION BY TAMARE HOWELL IS ADMITTED WHERE IT VIOLATES BOTH RULE 403 (THE PREJUDICE RULE) AND SPECIFIC STATUTES GOVERNING THE ADMISSION OF STATEMENTS WHERE THE PLAIN LANGUAGE RULE OF THE STATUTE APPLIES REGARDING THE QUESTIONING DURING TRIAL PROCEEDINGS OF SUCH TESTIMONIAL EVIDENCE IS ALSO VIOLATED; IT BECOMES SELF EVIDENT THAT THIS IS AN EXTREMELY PREJUDICIAL ACTION AND CANNOT BE DEEMED AS HARMLESS.

WHEN EVIDENCE VIOLATES MULTIPLE RULES--BOTH THE GENERAL BALANCING TEST AND A SPECIFIC LEGISLATIVE MANDATE THE CASE FOR REVERSAL STRENGTHENS BASED ON THE FOLLOWING: SUBSTANTIAL RIGHTS VIOLATION; FOR AN ERROR TO BE PREJUDICIAL IT MUST AFFECT THE DEFENDANT'S "SUBSTANTIAL RIGHTS" SUCH AS VIOLATING THE APPLICABLE STATUTES OF 19-1-80 AND 19-1-90 DESIGNED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS REGARDING TESTIMONY AND CROSS EXAMINATIONS BASED THEREUPON AT TRIAL PROVIDES A STRONGER LEGAL BASIS FOR REVERSAL RATHER THAN A RULE 403 VIOLATION ALONE. THIS REDUCES JUDICIAL DISCRETION. WHILE RULE 403 GRANTS JUDGES BROAD DISCRETION TO BALANCE PROBATIVE VALUE AGAINST PREJUDICE, THESE SPECIFIC STATUTES POSSESS MANDATORY LANGUAGE MAKING IT UNCONSTITUTIONAL FOR SUBTLY EXPANDING OR FORCE CONSTRUCTING THE STATUTES VIOLATING THE SEPARATION OF POWERS CLAUSE WHICH VOIDS THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO

4
SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION. ADMITTING SUCH EVIDENCE IN DIRECT CONTRADICTION TO THE APPLICABLE STATUTES RELIED UPON WOULD BE SEEN AS "ARBITRARY" OR "IRRATIONAL" ACT, MEETING THE THRESHOLD FOR AN ABUSE OF DISCRETION.

AS IT RELATES TO THE "SUBTERFUGE" DOCTRINE, IF STATEMENTS AND OR TESTIMONY REGARDING THE SUBJECT IS ADMITTED UNDER A GENERAL RULE (LIKE RULE 403) SPECIFICALLY TO BYPASS A MORE RESTRICTIVE STATUTORY OR HEARSAY RULE, APPELLATE COURTS MAY REVIEW THIS AS A "SUBTERFUGE" TO AVOID THE LAW, MAKING IT AN ERROR MORE INHERENTLY PREJUDICIAL. IN REGARDS TO IMPEACHMENT, TRUSTWORTHINESS AND CORROBORATION, THE STATUTES RELIED UPON FOR STATEMENTS OR TESTIMONY CONTAINED THEREIN SUCH AS DECLARATIONS AGAINST INTERESTS, REQUIRE "CORROBORATING CIRCUMSTANCES" SUCH AS RECEIPTS SIGNED THE TIME IT WAS MADE AND COPY BEING GIVEN BEFORE QUESTIONING CAN OCCUR WHICH IS DIRECTLY ATTACHED TO THE RULE 403 ISSUE AND OR VIOLATION. IF THE STATEMENTS AND TESTIMONY OR EXAMINATION OR CROSS EXAMINATION LACKED THESE STATUTORY SAFEGUARDS AND IS SO HIGHLY INFLAMMATORY, IT POSSES AN EXTREMELY HIGH "RISK TO THE INTEGRITY OF THE FACT-FINDING PROCESS". RULE 403 IS DISCRETIONARY. IT USES WORDS LIKE "MAY EXCLUDE", WHICH MEANS APPELLATE COURTS WILL ONLY REVERSE IF THE JUDGE'S DECISION WAS "ARBITRARY OR IRRATIONAL". THE STATUTES RELIED UPON MAKE USE OF MANDATORY LANGUAGE LIKE "SHALL NOT BE ADMITTED" OR "MUST MEET [SPECIFIC CRITERION]". IF THE STATEMENTS, TESTIMONY AND OR QUESTIONING VIOLATES THESE STATUTORY REQUIREMENTS, WHICH IT DOES, THE TRIAL COURT HAS COMMITTED A "LEGAL ERROR", A "CONSTITUTIONAL DUE PROCESS ERROR", NOT JUST A "BAD CALL" ON A BALANCING TEST. IF THE CASE IS "EVENLY BALANCE" BY THE ANALYSIS, ANY STATEMENTS OR EXAMINATION OR CROSS EXAMINATION WHICH SHOULD HAVE BEEN EXCLUDED BY LAWS BASED UPON THE APPLICABLE STATUTES RELIED UPON IS CONSIDERED TO HAVE "IMPERMISSIBLY INFLUENCED THE JURY". THE APPLICANT'S "SUBSTANTIAL RIGHTS" WERE INDEED AFFECTED WHERE THESE STATUTES PROTECTIONS--INTENDED TO PREVENT UNRELIABLE OR COERCED EVIDENCE--IS IGNORED. BY THE APPLICANT'S RIGHTS OF DUE PROCESS AND "FUNDAMENTAL FAIRNESS", IF THE IMPROPERLY ADMITTED STATEMENT, TESTIMONY AND QUESTIONING IS SO INFLAMMATORY THAT IT VIOLATES RULE 403 PREJUDICE STANDARD AND ALSO VIOLATES THE APPLICABLE

5 STATUTES, IT WOULD RISE TO A CONSTITUTIONAL VIOLATION UNDER THE DUE PROCESS CLAUSE VOIDING THE LOWER COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION.

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON. THE CONVICTION MUST BE REVERSED AND VACATED.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT,

THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE RULE 403 VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING

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OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN v. CITY OF RIVERA BEACH, FLA. SUPRA.

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA.(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA.(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA.(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA.(UNCONSTITUTIONAL ACTION DONE

WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.(UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED. ADDITIONAL ,LITIGATION SUBMITTED IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT, "CASE 2023-001474" ATTACHED.

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EXHIBIT, "CASE 2023-001474".

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES J. PATTERSON, III

APPELLANT

APPELLATE CASE NO. 2023-001474

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the court erred, by not conducting a Rule 403 balancing analysis, and by allowing defense witness Tamare Howell to be impeached with the fact that he had been convicted of a crime that carried more than one year's imprisonment in 2016, 2018, and 2019 where the underlying convictions were strong arm robbery and possession of less than one gram of methamphetamine or cocaine base in 2016, failure to stop for blue lights in 2018, and possession with intent to distribute- first offense in 2019, as these were not crimes of dishonesty and they should have been excluded under Rule 609 (a)(1), SCRE using a Rule 403, SCRE, analysis given that their probative value was substantially outweighed by their danger of undue prejudice even in the vague but prejudicial manner they were conveyed to the jury?

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STATEMENT OF THE CASE

Appellant was indicted at the September 2022 term of the Lexington County grand jury for the offenses of murder and possession of a weapon during the commission of a violent crime. R. p. *. His case was called to trial on September 5, 2023, before the Honorable Daniel D. Hall and a jury. James M. Ervin represented appellant. Kinli Abee and Joel Kozak prosecuted the case for the Attorney General's Office. Tr. 1.

On September 7, 2023, the jury found appellant guilty of murder. Tr. 401, ll. 19-25. Judge Hall sentenced appellant to thirty-years' imprisonment for murder and a concurrent five-year term for the possession of a weapon during the commission of a violent crime. Tr. 412, ll. 13-23

This appeal follows.

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STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). “The admission of evidence concerning past convictions for impeachment purposes remains within the trial [court’s] discretion, provided the [trial court] conducts the analysis mandated by the evidence rules and case law.” State v. Dunlap, 346 S.C. 312, 324, 550 S.E.2d 889, 896 (Ct. App. 2001). “An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law.” State v. Douglas, 369 S.C. 424, 429-30, 632 S.E.2d 845, 848 (2006).

ARGUMENT

The court erred, by not conducting a Rule 403 balancing analysis, and by allowing defense witness Tamare Howell to be impeached with the fact that he had been convicted of a crime that carried more than one year's imprisonment in 2016, 2018, and 2019 where the underlying convictions were strong arm robbery and possession of less than one gram of methamphetamine or cocaine base in 2016, failure to stop for blue lights in 2018, and possession with intent to distribute- first offense in 2019, as these were not crimes of dishonesty and they should have been excluded under Rule 609 (a)(1), SCRE using a Rule 403, SCRE, analysis given their probative value was substantially outweighed by their danger of undue prejudice even in the vague but prejudicial manner they were conveyed to the jury

Introduction

Two state's witnesses, Kenyatta Strother and Albert Clark testified they saw appellant shooting on the night the decedent William Clark was shot and killed after the dice gambling game at Clark's house. Conversely, Tamare Howell testified he was present when the shooting occurred, and that Albert Clark was the shooter. Appellant also testified that Albert Clark was the shooter that evening, and not him.

Relevant facts

Kenyatta Strother was the long-time girlfriend of the decedent William Clark. The decedent was also the father of the youngest of her three children. Tr. 64, l. 11 - 65, l. 12. On November 9, 2020, "we had broken up but we were close." Strother was at the decedent's house on South Hampton Road in Red Bank that day and evening. There were "a lot of people there." Tr. 65, l. 4 - 71, l. 9.

Strother remembered that there was a lot of noise that evening because the men were playing dice and gambling. Strother maintained she stayed in the decedent's bedroom outside of the room where they were gambling. Tr. 71, ll. 4-22.

Strother maintained that she knew appellant was angry about someone allegedly having cheated him out of money during the dice game. She offered that appellant thought another man cheated him out of forty dollars. Tr. 72, l. 1 - 73, l. 14. Strother claimed that appellant walked up to a white Crown Vic outside of the house and that someone handed him a gun. Strother testified that appellant came back inside the house with the gun. "I see him just standing there nobody was around him. Like they had basically let it go. Nobody was around him and all of a sudden, he said 'don't push me...' nobody was around him when he said don't push me, that's when everybody jumped up like what are you talking about...he pulled the gun out and he shot it in the house." Tr. 75, l. 1 - 76, l. 9.

Strother said some of the other men got appellant out of the back door. Tr. 76, ll. 12-16. Strother apparently clarified: "I saw Joseph Patterson pacing back and forth and he jumped in the air, and he started shooting...he was shooting towards like the kitchen window...it was multiple shots." Tr. 79, ll. 6-20. On cross-examination, Strother claimed that only one gun was involved in the shooting that night. The following occurred on cross-examination of Strother:

Q. You don't recall stating to the prosecutor that there may have been another shooter that was with Mr. Patterson.

A. No.

Q. And you described that person as having wicks in his hair?

A. Hold up. Now I never said he was a shooter. I said he was with him.

Q. Okay. All right.

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A. I never said he was a shooter.

Tr. 88, ll. 13-21.

Lexington County crime scene investigator Cody Weyandt testified that a large package was located in the decedent's bedroom which contained marijuana, tobacco, and cell phones wrapped in black tape. Tr. 131, ll. 9-19. There would be other evidence of widespread drug use at the decedent's house that evening.

Dr. Presnell, the pathologist, testified that the decedent died of a gunshot wound to his hip. Tr. 148, ll. 8-12. He had cocaine and marijuana in his bloodstream and a blood alcohol reading of 0.134. Tr. 149, l. 11 - 150, l. 7.

Albert Clark, the decedent's brother, testified that he came to visit the decedent that day and when the decedent decided to go to bed, he started playing dice with the other men in the house. Tr. 161, ll. 3-23. Albert Clark said appellant was one of the men playing dice that evening. At one point, Albert left the decedent's house to go to his nearby home to get more money. Tr. 162, l. 11 - 165, l. 3.

When Albert returned minutes later, he said that he heard gunshots and he claimed he saw appellant "shooting directly across the yard towards my brother and I seen [saw] my brother fall to the ground and I parked my truck and ran up to him and then they were exiting." Tr. 165, l. 4 - 167, l. 13. Clark said he picked up the decedent and he and his cousin Donnie Clark drove him to the hospital where they left him. Clark claimed that they spoke to someone at the hospital where they dropped off the decedent before they left to return to the house. Tr. 167, l. 17 - 169, l. 1.

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Lexington County deputy Arcadues DuBard testified that he stopped Albert Clark's vehicle that evening after he left the hospital. The vehicle was searched and "we located a

holster, a weapon holster, some type of weapon holster, an empty magazine believed to be a nine-millimeter. We also located a duffle bag that had some clothing in it as well." The firearm was not in the vehicle at that time according to DuBard. Tr. 186, l. 3 - 188, l. 1.

On cross-examination, DuBard said the police received tips about the shooting and one said that: "William Clark was shot by his brother." DuBard said there was no way to "follow up on that information" about Albert Clark being the shooter. Tr. 222, ll. 4-15.

Proposed impeachment

Prior to the testimony of defense witness Tamare Howell, an in-camera hearing was held on the solicitor's desire to impeach Howell pursuant to Rule 609(a)(1), SCRE, with his strong-arm robbery and possession of less than one gram of meth or cocaine base convictions from 2016. In addition, the solicitor sought to impeach Howell with a 2018 conviction for failure to stop for a blue light and a possession with intent to distribute-first offense from 2019. Tr. 274, l. 10 - 275, l. 23.

Defense counsel argued under Rule 403, on the probative and prejudicial effect balancing test, that Howell's prior record amounted to prior bad acts and that they were irrelevant. "We're talking about a drug crime; we're talking about a theft crime that he could have been a co-defendant for. Had it been check fraud, had it been computer hacking, had it been stealing from the government, stealing food stamps, et cetera, I can totally see how that would come in, but under these circumstances, Judge, these are crimes of circumstance." Defense counsel Ervin maintained they were inadmissible after conducting a Rule 403 analysis. Tr. 276, l. 1 - 281, l. 14.

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The judge ruled that he was going to allow the state to impeach Howell with these crimes but that the solicitor would only be allowed to ask Howell: "Were you convicted of a crime that

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carried more than one year in 2016? Were you convicted of another crime in 2016? Were you convicted of a crime that carried more than one year in 2018?" Tr. 281, l. 15 - 282, l. 20.

The judge repeated that under Rule 609, the convictions carried more than one year and "I find in weighing those that goes to the probative value for the jury to determine his truthfulness." Tr. 283, l. 5 - 284, l. 1.

Tamare Howell then testified that he was with appellant that evening and that appellant had won one-thousand dollars from Albert Clark during the gambling with dice games. Tr. 288, l. 16 - 289, l. 5. Howell remembered that appellant quit playing the dice game because he was not happy with Albert Clark who he thought had cheated him. Howell said when appellant tried to leave, one of the men pushed him and he bumped into a table. The decedent's .45 caliber pistol fell off of the table and discharged. Tr. 289, l. 4 - 290, l. 8.

Howell said that while the men were leaving the house after the gun discharged, he went inside the house to get a bag that he had forgotten. When he came back outside of the house, he saw Albert Clark was shooting at the burgundy sedan he came to the decedent's house in with appellant. This burgundy car was parked by a fence. Tr. 290, l. 2 - 291, l. 19.

Howell further testified that Albert was the shooter that night, and that while he did not see Albert actually shoot the decedent, he knew that the decedent was shot during that time. period. Tr. 292, l. 4 - 294, l. 22. Howell ran down the street while these shots were being fired and appellant picked him up on the side of the road and took him home. Tr. 294, l. 18 - 296, l. 6. Howell said he was not aware anybody had been definitely shot until later. Tr. 296, ll. 5-6.

The impeachment

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The following occurred immediately on cross-examination with Howell:

Q. All right. Mr. Howell, before we get into what happened that night, I want to go over a couple of things. And without telling us

what they are, you have, in fact, been convicted of a crime in 2016 that carries more than a year imprisonment; is that right?

A. Yes, ma'am.

MR. ERVIN: Objection, Your Honor.

THE COURT: I note your objection. I overruled the objection.¹

BY MS. ABEE: I'm gonna ask that again. You were, in fact, convicted of a crime in 2016 that carried more than a year imprisonment, right, sir?

A. Yes, ma'am.

Q. Okay. And, again, in 2018, right?

A. 2018? Yes, ma'am.

Q. Okay. And, again, in 2019, right?

A. Yes, ma'am.

Tr. 299, l. 10 - 300, l. 12.

Appellant testifies in his own defense.

Appellant testified that at about noon on November 9, 2020, he borrowed his cousin Stephanie Glover's car. Appellant and Tamare Howell then drove Glover's burgundy Ford to the decedent's house on South Hampton Street in Red Bank. Tr. 316, ll. 3-22. Appellant parked the car on the side of the house by a fence. Appellant remembered Donny Clark's truck being parked there as well as a white Crown Vic. Tr. 317, ll. 13-23.

Appellant testified that a dice game started with two people, and more people then joined in. Albert Clark and Donnie Clark were drinking, snorting cocaine, and smoking marijuana at the time. They were also drinking Jim Beam. Tr. 319, ll. 3-17.

¹ Defense counsel timely objected to the impeachment although an additional objection was not required since the judge's ruling was not an *in limine* ruling since there was a break following the judge's ruling and Howell's testimony.

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While appellant did not drink, he admitted to smoking marijuana that night. Appellant said that the decedent was in his bedroom with the door closed when the gambling began. Albert Clark was beside appellant "the whole time. The living room wasn't so big." Tr. 319, l. 16 - 320, l. 7. Appellant identified a photograph of the decedent's bedroom, which had marijuana, cell phones, and tobacco "taped up." Tr. 320, ll. 11-23. Appellant said he was not shooting or rolling the dice, but he was engaged in side-betting with Albert Clark that evening. "We was [were] betting a hundred dollars every roll." Tr. 321, ll. 4-19.

Appellant was not happy about "a call" that he did not think was fair on a side-bet, so he decided he was not going to "side-bet with you [Albert] no more. I can't do it." Tr. 322, ll. 3-17. Appellant remembered getting a phone call from his cousin Stephanie Glover at about ten o'clock that evening that she was getting ready to get off work. Appellant said Albert Clark owed him two-hundred dollars at the time and appellant asked for his money. "I sat back and waited on my money." Tr. 322, l. 18 - 323, l. 5.

Appellant said Donnie Clark tried to give him the money that Albert Clark owed him, but he told Donnie: "I want my money from Albert, it's only fair." Tr. 323, l. 9 - 324, l. 9. Appellant said he was on his way out the door when Donnie Clark grabbed him. This knocked William Clark's gun off the of the table and it discharged. Tr. 324, l. 5 - 325, l. 24.

Appellant then left through the side door and walked towards his car. He sat in the car with the door open counting his money. Appellant remembered Howell telling him that Albert Clark was getting ready to shoot, and then he heard six gunshots, and he dove to the ground. Tr. 326, l. 11 - 327, l. 21. Appellant described how he crawled to the back of the car to shield himself from the bullets. Tr. 327, l. 22 - 328, l. 15.

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Appellant testified that he saw Albert Clark with a gun when he heard the gunshots, and when the shooting stopped, he jumped in his car and drove away. He picked up Howell on a nearby dirt road. Appellant described there were at least two bullet holes in his cousin's car that occurred before he was able to drive away. Tr. 330, l. 2 - 331, l. 12. Appellant testified he never had a gun that evening. Tr. 333, ll. 12-13.

The borrowed car witness

Stephanie Glover, appellant's cousin, testified that she worked at Prisma Health Baptist Hospital. Stephanie acknowledged she often allowed appellant to drive her vehicle, a burgundy Ford Focus. Tr. 347, ll. 8-24.

She let appellant to borrow the car again on November 9, 202. Stephanie remembered when appellant returned the car that it had a bullet hole in it. She could only remember one bullet hole, but she said "he was definitely honest when he brought the car back. He told me about it, and I was more concerned to make sure he was safe, if anything." Tr. 348, l. 15 - 349, l. 7; 350, ll. 22-24.

Closing arguments

In her closing argument, the solicitor said that Kenyatta Strother had testified that she saw appellant with a gun when the shooting began, and she also offered that Albert Clark said appellant was the shooter. The solicitor acknowledged the differing testimony of Tamare Howell about Albert Clark being the shooter and appellant's testimony also stating that Albert was the shooter. The solicitor urged the defense testimony was not credible. Tr. 359, l. 18 - 375, l. 19.

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Defense counsel acknowledged that the jury had heard "two theories of this case" and that appellant was not guilty since the state had failed to prove his guilt beyond a reasonable doubt. Tr. 377, l. 18 - 383, l. 7.

Discussion

None of the underlying convictions that led to key defense witness Howell being impeached were crimes of dishonesty pursuant to Rule 609(a)(2), SCRE. Consequently, under Rule 609 (a)(1), SCRE, the underlying crimes were only admissible for impeachment if they involved a criminal sentence of longer than one year, and after conducting a Rule 403, SCRE analysis, the trial judge found that their probative value was not substantially outweighed by their danger of undue prejudice. The judge conducted no Rule 403, SCRE analysis in this case. He only stated: "I find in weighing those that goes to the probative value for the jury to determine his truthfulness." Tr. 283, l. 5 -284, l. 1. That respectfully was not a weighing analysis, and appellant's conviction should be reversed for that reason.

"Although Colf² focused on the admission of prior convictions more than ten years old under Rule 609(b), our courts have also consistently applied these factors for purposes of a Rule 609(a)(1) analysis. See e.g., Bryant, 369 S.C. at 517 n.1, 633 S.E.2d at 155 n.1." State v. Robinson, 426 S.C 579, 594, 828 S.E.2d 203, 211 (2019). While the judge here conducted no analysis the underlying crimes had no impeachment value since they were not indicative of Howell's believability, and Howell's testimony was very important in this case.

Further, drug convictions, a failure to stop for a blue light conviction, and a strong-arm robbery conviction did not reflect upon Howell's credibility in any way. These convictions did not aid the jury in discerning the truth as to whether Howell should be believed because of his

² State v. Colf, 337 S.C. 622, 525 S.E.2d 246 (2000).

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past convictions. As our Supreme Court held in State v. Bryant, 369 S.C. 511, 517, 633 S.E.2d 152, 155-56 (2006): "Violations of narcotics laws are generally not probative of truthfulness. See State v. Cheeseboro, 346 S.C. 526, 552 S.E.2d 300 S.C. (2001) (citing State v. Aleksey, 343 S.C. 20, 538 S.E.2d 248 (2000)). Furthermore, a conviction for robbery, burglary, theft, and drug possession, beyond the basic crime itself, is not probative of truthfulness. United States v. Smith, 181 F.Supp.2d 904 (N.D.Ill.2002)." Similarly, appellant submits, a conviction for failure to stop for a blue light is not probative of Howell's credibility or his believability as a witness.

Defense counsel in this case noted that the convictions were more suited to simply get Howell's "prior bad acts" before the jury which would certainly be an improper reason for allowing them for impeachment. As this Court stated in State v. Broadnax, 414 S.C. 468, 478, 779 S.E.2d 789, 794 (2015), "ultimately the rule was designed to help the jury discern the truth. It is not a tool for the state to bolster its case against the criminal defendant for the mere fact that the defendant has engaged in prior criminal activity."

In State v. Broadnax, our Supreme Court held that the crime of armed robbery required a Rule 403, SCRE balancing test pursuant to Rule 609 (a)(1), SCRE before it could be used for impeachment. Howell's convictions for strong arm robbery, failure to stop for a blue light, and possession of methamphetamine or cocaine and another drug offense also mandated a Rule 403, balancing test that was not conducted on the record by the trial court.

In State v. Robinson, 426 S.C. 579, 597, 828 S.E.2d 203, 212 (2019), our Supreme Court noted that a strong-arm robbery conviction was not a crime of dishonesty or a false statement under Rule 609 (a)(2), SCRE, and therefore the trial court was required to conduct an analysis under Rule 609 (a)(1), SCRE.

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Although the convictions in this case were not more than ten years old, none of the convictions had a tendency to prove or show the witness's propensity for truthfulness or credibility. See State v. Black, 400 S.C. 10, 21, 732 S.E.2d 880, 886 (2012). Again, the purpose of impeachment is not to show the witness is a bad person, but rather to show background facts which indicate the witness's credibility is likely lacking. State v. Black, 400 S.C. at 22, 732 S.E.2d at 887.

In this case, the trial judge ruled that the state would be allowed to impeach Howell by asking whether he had been convicted of a crime that carried more than one year's imprisonment in 2016, 2018, and 2019. Appellant submits that procedure was equally if not more prejudicial to the defense than allowing impeachment of Howell with his underlying drug convictions, common law robbery, and failure to stop for a blue light conviction which were certainly not indicative of Howell's tendency or predictability to perjure himself or make false statements. Further, strong arm robbery under the reasoning of State v. Robinson also was not a crime of dishonesty or a false statement.

All of the underlying convictions should have been found to be unduly prejudicial after a proper Rule 403 analysis -- since their probative value was substantially outweighed by their unduly prejudicial effect -- and they only tended to show he was a criminal or a bad person which was impermissible under Rule 609(a)(1), SCRE by way of a Rule 403, SCRE analysis.

Again, however, the jury in this case was left to guess what the underlying crimes and convictions were that Howell was being impeached with given the manner of impeachment ordered by the trial court after deciding impeachment was proper. The jury was left to assume or guess that Howell had convicted of a violent offense or a criminal offense involving dishonesty or false statement. Permitting the jury to engage in such speculation about Howell's prior

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convictions from 2016, 2018, and 2019 was equally if not more prejudicial than improper impeachment for the underlying convictions would have been.

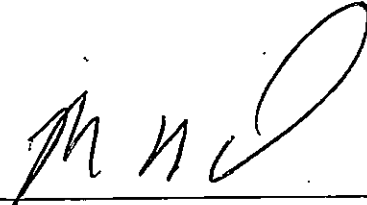
Regardless, however, none of the underlying convictions in this case were proper for impeachment. They did not aid the jury in assessing Howell's credibility. They consequently were gratuitous and unduly prejudicial.

Howell was unquestionably a critical witness for the defense. He testified that appellant was not the shooter in this case and that Albert Clark was the shooter. This also corroborated appellant's testimony. The solicitor in her closing argument chose to turn this case into a swearing contest between the decedent's girlfriend and the other suspect in this case, Albert Clark, against the testimony of Howell and appellant. The testimony of the decedent's girlfriend was strange, particularly where she claimed appellant "jumped in the air, and he started shooting..." Tr. 79, ll. 6-20.

Howell being improperly impeached under these circumstances impermissibly harmed a critical part of appellant's defense. Error is only harmless where it could not reasonably have affected the result of the trial. In re Harvey, 355 S.C. 53, 584 S.E.2d 893 (2003); State v. Bryant, supra. It cannot be said with any confidence that the evidence of appellant's guilt was overwhelming in this case or that this improper impeachment did not affect or contribute to the verdict, and appellant should therefore be granted a new trial.

CONCLUSION

By reason of the foregoing argument, appellant's convictions should be reversed, and this case remanded to the Lexington County Court of General Sessions for a new trial.

A handwritten signature in black ink, appearing to read 'M H D', is written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of September, 2024.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES J. PATTERSON, III

APPELLANT

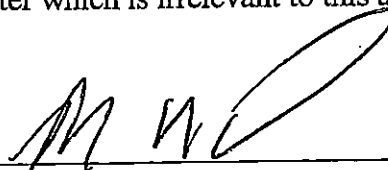
APPELLATE CASE NO. 2023-001474

**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments;
- (2) Cover page of transcript;
- (3) Tr. 52-91
- (4) Tr. 93-137;
- (5) Tr. 140-267;
- (6) Tr. 273-352;
- (7) Tr. 359-402;
- (8) Tr. 411-412.

I certify that this designation contains no matter which is irrelevant to this appeal.


Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

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ATTORNEY FOR APPELLANT

This 16th day of September, 2024.

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v. Aetna Life Ins. Co., 228 S.E.2d. 108; State v. Broad River Power Co., 177 S.C. 240, 180 S.E. 41; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings (Black Law Dictionary 8th. Edition).

By what is cited in Sandstrom v. Montana, 442 U.S. 510 at 520, 99 S.Ct. (2450) at 2457 (61 L.Ed.2d. 39) (1979), under (4) criminal law [west key] 324. The Supreme Court was unequivocal and unambiguous when it stated [v]erbatim:

"Conclusive presumptions conflict with the overriding presumption of innocence which the law endows the accused and which extends to every element of the crime charged, and they invade the fact-finding function which in a criminal case the law assigns the jury, Morissette supra, at 275, 72 S.Ct. at 255 United States Gypsum Co. supra, at 446, 98 S.Ct. at 2878. Indictments and complaint documents around the nation, with the exception of the few states that corrected this problem, if satisfied as to the facts that trigger the presumption to find intent unless the defendant offers evidence to the contrary. The indictments and complaints around the nation, which contain structural constitutional error and or procedural error, and or charge, mislead the jury, and we can understand why the jury, to believe the presumption was not limited to the defendant to satisfy the burden of production, the burden of production is to be consistently bored by the presumption. Although not conclusive, that has the effect that the burden of persuasion would suffer the same result. Illianey v. Wilbur, 421 U.S. 684, 138-of-406 508 (1975), even if its embodied within the indictment or criminal complaint.

720 To state by use of an indictment or criminal complaint within the (50) states that an individual "did" with intent, knowingly, malice, aforethought, and other such elements imply conclusive firsthand knowledge of the events pertaining to the accusation being brought before the court. To such knowledge the Grand Jury who swore to such indictments, "[c]annot" by all scientific reason and jurisprudence ascertain as being true under such circumstances, especially without a trial. It is universally recognized that every oath [o]ught and [m]ust be founded upon "[c]ertain [k]nowledge", meaning knowledge that is certain beyond a reasonable doubt as being true (OMNE SACRAMENTUM DEBET ESSE DE CERTA SCIENTIA). Inasmuch, the reality of this matter is that the issues in question, embodied in said indictments are allegations, they are accusations, not proven facts. So how could they be sworn by indictment as being true? Several other states have corrected this injustice. The State of South Carolina is one of the remaining states who have not.

It is the command of the U.S. Constitution that anything, to include any and all legislation, whether it be by statute, indictment or otherwise, that is contrary to its inherent, intrinsic and explicit presuppositions "[s]hall [n]ot [s]tand", and therefore should be abolished and or rendered [v]oid (Article IV S 2 U.S. Const.).

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"THE STATE MUST PROVE", I repeat, "THE STATE MUST PROVE", not the defendant, every single element that is charged, and that is crucial to the offense. It is not to be given to them in any way. They "[m]ust" first prove it before it can ever be declared. Every single time an indictment is sworn where it states clearly without ambiguity a defendant "did", etc., it immediately with destructive results tear down the commonwealth's constitutional Due Process right of being innocent until proven guilty, and automatically shift the burden of persuasion to the individual or commonwealth charged. It gives the false unconstitutional premise and or presumption that such has already been proven by a jury of one's peers, or even more possible, without a trial by a jury of one's peers in violation of Due Process Law. To have such unconstitutional presumption,

embodied within indictments and or criminal complaints that rely on such language is constitutionally infirm.

The appellant avers, in Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44 L.Ed.2d. 508, the court found as a violation of Due Process and Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d. 323(1970), an indictment that [p]resumed that a defendant acted with "[m]alice and [a]forethought", if it were found that the homicide was intentional and unlawful, the defendant then bore the burden of disproving the elements. Similar in Sandstrom, the jury was instructed in determining whether or not the defendant had the [p]rerequisite intent to commit murder [t]he law presumes that the person intended the ordinary consequences of his voluntary actions, thereby relieving the state of its burden on that element. The language and or charge in the indictment(s) do the same thing, taking away the presumption of innocence, and by what is written predetermine in advance the outcome of the proceedings and presumes that a person intends the ordinary consequences of his voluntary actions, thereby relieving the state of its burden on the elements crucial to the offense. What if the person was forced to commit the crime at gunpoint? Or was the victim of brainwashing by the induction of a chemically based mind controlling drug, and under such control he committed the crime? Or it simply was an accident occurring upon the crime charged? These are just a few reasons why such wording is impermissible, Moore v. Dempsey, 43 S.Ct. 261, 197 U.S. 542(1923).

Once the courts of South Carolina, New Jersey and the other states constructed an indictment or criminal complaint contrary to the laws of Due Process, the Attorney General telling the appellant that he is innocent or not guilty, or the Judge giving a curative instruction to the jury of the defendant being innocent or not guilty, or stating that the state or federal government has the burden and must prove every element, being the state or federal government, or stating the indictment is not evidence to the appellant or jury,

does "[n]ot" cure the Due Process problem created and presented by the structural constitutional error, defect and or charge in the indictment(s) and Complaint(s).

Constitutional Law [west key] 266(7), in situation where elements of offense and "so-called" "affirmative defense", pose same ultimate issue of shifting the burden of persuasion, the Due Process problem is "[n]ot" eliminated by including an instruction in a charge that the state has the ultimate burden of proving every element beyond a reasonable doubt, and we can add to this, stating the indictments or criminal complaints are not evidence by the courts. The teaching of these cases is that "[a]ny" presumption, even if its not conclusive, even if its embodied within the charge of an indictment or criminal complaint, that has the effect of shifting the burden of persuasion to the defendant on any element of the crime charged violates Due Process. (U.S.C.A. Const. Amend. 14) Humanik v. Beyers, 811 F2d. 432(3rd.Cir.1989).

Such is a substantive disadvantage and not merely procedural disadvantage to the defendant related to his rights of defense. If the indictments and or criminal complaints around which the case is tried, by their defect contained therein, require that the defendant prove he did not possess the "MENS REA" on any element of the alleged crime at trial and or before the jury. 421 U.S. at 684, 95 S.Ct. at 1888, it becomes clear the burden of proof is shifted.

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is recognized by requiring the defendant to prove the merits of said dispute, ID at 710, 95 S.Ct. at 1890. If we do the nation's indictments and criminal complaints actively shift the burden of proof to the defendant, the further likelihood of an erroneous conviction, due to the shifting of the burden of proof, from innocence, as implied by the language of the indictment(s) and criminal complaint(s). 421 U.S. at 707, 95 S.Ct. at 1890. Such serve

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to negate certain facts of the crime which the government is to prove to the jury in order to convict the defendant of a crime charged, 432 U.S. at 207, 97 S.Ct. at 2325. The Winship Rule is clear in which the defendant creates a reasonable doubt on any element of the offense(s) charged is entitled to an acquittal.

In such a situation the relevance of the subsidiary facts in this case are the same and the sole significance of the defendant's evidence and or testimony concerning the "so-called" "affirmative defense", is to create a reasonable doubt on the existence of an element of the offense, by the preponderance of evidence to counteract an unconstitutional presumption.

As stated in United States v. Clemens, 843 F2d. 741, 752(3rd.Cir.1988):

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"Justly put, merely labeling something as "affirmative defense", "a statutory procedure", and we can add to this, "an indictment or criminal complaint", does not mean that such constructed contrary to the laws of Due Process are constitutional. It appears that the aforementioned, as related thereto, do not delegate any element of the crime, and we can add to this the burden of persuasion, as the indictments and criminal complaints of this nation do", ID W. LaFave & Scott Criminal Law § 1.8 at 75(1986). see generally Sandstrom v. Montana supra. A defendant may be required to bear the burden of persuasion with respect to defenses such as showing alibi or excuse, but not with respect to those that operate by canceling out the existence of some required element of the crime, nor should his presumption of innocence be shifted. LaFave & Scott supra. at 71, 75. Accordingly, the constitutionality of an "affirmative defense", "a statutory procedure", and we can add to this, "an indictment or criminal complaint", etc., or any kind related thereto, even when the statute requires, is defined in terms of the nature of the offense that in effect,

each constituent element of the crime charged. If the indictments and criminal complaints around the nation already predetermine in advance of any proceeding that you "did" with malice, aforethought, intentionally, willfully, etc., the state has been relieved of proving it, see ID at 2.13 at 233. Also see Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923). By the structural constitutional error and or defect, its already given and no longer by the charge and or defect, have to be established. In order to contribute some significant burden, a rational trial juror's only option, and we can add, the defendant's only option, is to conclude that the indictments or criminal complaints are true, or are to be considered as true, because the language and or charge reflects such in depriving one of the presumption of innocence. It is clear from Martin v. Ohio, 480 U.S. 228, 107 S.Ct. 1098, 94 L.Ed.2d. 267(1987) and Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923), that this is constitutionally impermissible.

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Perhaps the 50 states of this nation would contend, that such is merely the conveying of information from witnesses 1, 2, 3 or more possibly, and upon this testimony such an oath is based. Even if one would adopt this premise still the indictments and criminal complaints of this nation "[c]annot" be deemed to be founded upon "[c]ertain [k]nowledge" (OMNE DEBET ESSE DE CERTA SCIENTIA), but it is founded upon hearsay and or secondhand knowledge. Notwithstanding has been recorded throughout history since the dawn of civilization that people do bear false witness in numbers depending upon their motivation. For example we have an unjust King and Queen, Ahab and Jezebel, who cause people to lie in a covert plot to steal the throne. In I Kings chapter 21. In the Book of Job where the members of his household bear false witness against him. In Christianity you have officials like the High Priests, Scribes and Pharisees, incite and accuse Jesus in the Gospel(s) Of Matthew, Mark, Luke and John against the Messiah. In Islamic law you have the Prophet Muhammad (PBUH), in Sahih Al-Bukhari Vol. 1, where he is accused of lying and or committing adultery.

9 Hadith No. 7086, prophesied how in these times there will hardly be a trustworthy person left in the world. The Spanish Inquisition of 1478 and The English Inquisition of 1518 found people unjustly burned at the stake and or hanged, due to unjust accusations by people in numbers for false claims of heresy. Adolph Hitler, and a group of people called "Nazis", brought numerous unjust claims against the Jews, falsely rooted in lies, in the holocaust of the 1930's. The Salem Witch Trials in the 17th. century, in Massachussett, found numerous men, women and children, burnt at the stake for false claims of practicing witchcraft, brought by groups of people in numbers ("The witch bitches as they were called). The Ku Klux Klan, throughout the South, brought unjust accusation against the innocent Post Civil War Era, and in the 1930's through 1960's. Judaism, Christianity, Islam, American History, European History, World History, "[a]ll" are filled with unspeakable atrocities originating in lies, perpetrated by people in numbers and in groups against the innocent. Our constitutional forefathers in their wisdom and jurisprudence saw this repeated pattern that like a poisonous, venomous snake, rose its head from the soils of society to fatally bite the commonwealth, and in their wisdom they set up "[b]ul-
"barriers" of protection for the American citizenry, held by us, all who enter our borders or territories, no circumstance, outside of an individual committing a crime, were to be torn down, because people in groups do bring false accusation against the innocent.

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back to the third situation here as illustrated in State v. Wilson, 108 N.J. 591, 532 A.2d. 199(1987) and State v. Wilson, 108 N.J. 384, 548 A.2d. 1022(1988), in inferring a mental element, whether the prerequisite intent and knowledge at the time of the crime. The Grand Jury, in its indictments and or criminal complaints around the time of the crime, by what was in a person's mind, nor by what was known to the knowledge of the facts related to the crime, do not have "[c]ertain [k]nowledge" (OMNE SCIENTIA). Thus, again the

very language and or structural constitutional error and or defect, and or charge of the indictment(s) and criminal complaints around the nation predetermine in advance before trial or plea an individual is guilty of the state of mind element(s) and forces a defendant, due to the shifting of the burden of persuasion, to prove his innocence by the preponderance of evidence and or testimony in violation of Due Process Law. This creates an instant double jeopardy issue showing that this is not a harmless error, Moore v. Dempsey supra., State v. Gordon, 588 S.E.2d. 105, 356 S.C. 143(S.C.2003); State v. Perry, 595 S.E.2d. 883, 358 S.C. 633(S.C.2004)..

In regard to a charge, and we can add to this, a charge in an indictment or criminal complaint, that constitutes a constitutionally impermissible charge/instruction, or contradicts the presumption of being innocent until proven guilty, even with a later instruction "BOILERPLATE" of being innocent until proven guilty by the courts or stating that the indictments or criminal complaints are not evidence by the courts, the [p]roblem is [n]ot [c]ured where there exist a reasonable likelihood that the jurors, and we can add in this case, that the defendant, may have considered the charge, and we can add to this, the indictments or criminal complaints around the [p]roblem, conveying an unconstitutional message in both state prosecutions, Francis v. Franklin, 471 U.S. 307, 55 S.Ct. 236, 43 L.Ed.2d. 344(1983)).

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presumptions intrinsically and explicitly established
 old off of "LADY JUSTICE" herself, and now,
 longer impartial, unbiased or fair; but now
 YOU, because its this particular crime
 or exposed to another, because you are charged
 is opposed to another, because you
 Statute as opposed to another, you
 will proven guilty and your constitu-
 tion invoked. Such presumptions destroy

the very metal of the shield of protection placed around the American citizenry, those who are held by us, and those who enter our borders or territories, and abolishes the very core integrity of the Due Process Clause our constitutional forefathers have died and shed their best blood to establish and preserve. The greater aspect of evil related to such action by the criminal complaints and or indictments around the entire nation, far and extremely outweigh the greater aspect of good that it sought to establish related thereto. If we as responsible citizens of the commonwealth allow individuals who are placed in positions of legislative authority, whether it be at town, city, state or federal level, whether it be intentional or unintentional, to initiate or place into effect legislation by statute or any other means, that deteriorate the very pillars of that which our Constitution was founded upon, then we no longer establish ourselves as a true democracy, where the good of the many outweigh the good of the few. We step more into the realm of monarchy, and set ourselves on a path of Constitutional destruction detrimental to the commonwealth that can only lead to anarchy creating the similarities that manifested themselves in the aforementioned Nazi Occupation, Salem Witch Trials, The Spanish Inquisition and the like. Where trials and criminal proceedings became an arbitrary action, an abusive and recreant fraudulently designed to rob the commonwealth of their liberty. This we cannot do!! It is our courts, our judges, and our Federal District Courts' inherent responsibility as guardians of the faith and integrity of our system. We are to protect the commonwealth from such a dark path of oppositions set forth by our constitutional principles. "E PLURIBUS UNUM", were one nation, under God, indivisible, with liberty and justice "FOR ALL", "FOR ALL", and "FOR ALL". We are not to be taken away simply because an individual fell victim to a particular statute of law as was charged in one particular state. The only exception to this sacred standard is an individual committed acts of High Treason against the government itself, which in some particular instances and criminal complaint documents

around the entire nation reflect, because they innately swear allegiance to that which sets itself at war, enmity and variance to the constitutional rights of all citizens of the commonwealth and all others who are subject to them. Therefore, they are a form of treason. The indictments and criminal complaints around the entire nation betray our Constitution. Henceforth they "[m]ust" be abolished and or reformed. They are intense espionage and diabolical sabotage and stands at war with the rights of this nation's commonwealth in violation of Due Process. They covertly with corrosive results steal away stealthily the fundamental truths by which the Constitution was founded upon and throw a monkey wrench into the mechanical works of justice and fairness by detonating explosive results that detrimentally tear down the bulwarks that were forthrightly established to protect the commonwealth against unjust prosecution. By the defect, language and or charge contained within the indictments and criminal complaint documents around the entire nation you have already surmised and ascertained without the total weight of evidence set forth before a jury an individual's guilt in violation of state and federal laws also pertaining to the U.S. Constitution, inferring the state of mind element(s), negating the burden of proof that by law was to be consistently bore in prosecution, Francis v. Franklin supra.; Moore v. Dempsey

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THE COURT HOLDS that a charge, and we can add to this,
an indictment or criminal complaint, which impart
power can add in this case, the defendant, an
understanding of the allegations, even more
of persuasion, and the presumption of inno-
reasonable likelihood that the jurors understood
we can add, that the defendant understood the
complaints and indictments, in an uncon-
other language in the complaints or
affirm language sufficiently to eliminate
such a reasonable possibility, we have
the defendant was [n]ot [c]onvicted,

and we can add, gave his guilty plea, on the basis of the unconstitutional charge, specifically the charge embodied within the indictments and complaints", Sandstrom, 442 U.S. at 526 (99 S.Ct. at 2460). For this reason it has been well settled since Stromberg v. California, 283 U.S. 359, 51 S.Ct. 532, 75 L.Ed. 117 (1931) that where there exist a reasonable likelihood and or possibility that the jury, and we can add, the defendant, relied upon an unconstitutional understanding of the law in reaching a verdict, and we can add, in giving his guilty plea, that verdict and or guilty plea must be set aside, Id. at 323n. 7, 105 S.Ct. at 1976 n. 7. We conclude that there is more than a reasonable likelihood that the jurors, and we can add, defendant(s), received an unconstitutional understanding of the situation pertaining to their tasks.

This is no way a mischaracterization of the law pertaining to the cases cited here. Even though some of the cases cited dealt with conclusive presumption(s) given by Judges in charges that have the effect of shifting the burden of persuasion to the defendant regarding the crucial elements, in this case we are dealing with a similar charge except this time its given by the Grand Jury in the form of an indictment or criminal complaint, that has the effect of shifting the burden of persuasion to the defendant regarding the crucial elements. The subsidiary effect of the shifting of the burden of persuasion to the defendant regarding the crucial elements and the inferring of the mind element(s) to the offenses are the same in all cases. Due to the defect in the construction of the indictments and criminal complaints nationally, the defendants' presumption of innocence is clearly taken away, also guilt of the offenses is illegally predetermined in advance by the state and federal government. The state and federal government do not have the power by state or federal law to violate the constitution to convict, due to the language contained therein, and the indictments and or complaints nationally serve to negate the burden of

mise the entire trial and or plea hearing proceedings. It requires reversal and or vacating as it involves deprivation of constitutional protection so basic, and so fundamental, that in its absence criminal trial and or plea proceedings "[c]annot" reliably serve its function as a vehicle for determination of guilt or innocence, and "[n]o" criminal punishment may be deemed or regarded as fundamentally fair, Robinson v. Arvonio, 27 F3d. 877 rehearing denied, cert. granted vacated 115 S.Ct. 1247, 513 U.S. 1186, 131 L.Ed.2d. 129. Such a structural constitutional error and or defect of this magnitude is "[n]ot" subject to the harmless error analysis. Structural constitutional errors and or defects not subject to the harmless error analysis are defects and or errors affecting framework, in which trial and or plea proceedings "[c]annot" reliably serve its function as a vehicle for determining guilt or innocence, involving deprivation of constitutional protection so basic, and so fundamental, that in its absence no trial or plea can be deemed reliable, nor any punishment fundamentally fair, Vines v. United States, 28 F3d. 1123 crim. law 1163(1), 1165(1). It is perspicuous that such a defect and or error does affect the framework of the proceedings, because the court(s) must constructively amend the indictments and criminal complaints around the nation on "MENS REA" crucial elements of the offense(s) to correct, to an attempt to correct the structural constitutional error or defect by giving a Judge's charge. The boundaries of law are clear and certain even as cited by Winship and Manick v. Beyers supra. Any conclusive presumption, that's placed before a jury to obtain a conviction, placed before a defendant to manipulate, mentally, psychologically coerce, and or force the defendant into unknowingly, involuntarily or unintelligently given that determines in advance a person's guilt, that of shifting the burden of persuasion to the defense the Process and is grounds for an acquittal, 149-of-406 rejected within an indictment or criminal complaint, Manick. Clearly there is nothing cited by law that these strict rules of court, and require law, be solely limited to a Judge's charge.

They apply to any charge that's placed before a jury to obtain a conviction, or a defendant in order to manipulate, mentally and or psychologically coerce, and or force him into a guilty plea. Such a heavy weight of shifting the burden of persuasion, and the taking away of one's presumption of innocence, by the indictments and criminal complaints of this entire nation, have been unjustly and unconstitutionally used against defendants in this nation, in this new Jim Crow and racial caste system, to mentally and or psychologically coerce, and or force them into plea bargains, and at their trials for far too long.

To elaborate on or bolster this proposition, if the honorable court would please take notice of the warrant(s) pertaining to the offense(s), as it is for every warrant in the nation. In the body of the warrant for most and or all states it reads:

"I further state that there is probable cause to believe that the defendant named above did etc.***"

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This is the language that explains the constitutionally infirm language and or charge. This is the language that aids in the maintaining of the presumption of innocence, and also confirms the specific job of the Grand Jury. The job of the Grand Jury is two prong. One--is to determine and ensure that a state and or federal official is not acting arbitrarily in the accusation against a citizen of this country. The second is to determine whether or not there is sufficient evidence to bring a defendant to trial, Stirone v. United States, 212 (1960); Ex Parte Bain, 121 U.S. 1 (1887); United States v. Calandra, 413 F.2d. 1061 (D.C.Cir.1969); The (50) United States v. Abrams, 539 F.Supp. 378, United States v. Calandra, 414 U.S. 338, 38 L.Ed.2d. 561, 568 (1974); Branzburg v. Hayes, 92 S.Ct. 2646, 33 L.Ed.2d. 626 (1972). The offense(s), to include the "MENS REA" or dispute, is a violation of the Grand Jury merely investigates authorized by Federal or State Consti-

tution, nor Federal and or State laws, to convict, Jenkins v. McKeithen, 395 U.S. at 430, 89 S.Ct. at 1853, 32 L.Ed.2d, at 422 (1969). The powers of the Grand Jury are not unlimited, and are subject to the supervisory of a judge. Grand juries may individually or collectively enjoy protections assertable in suits for deformation, but the privilege is not applicable to bar the petition of an appellant to remove language from the indictments and criminal complaints around the entire nation, Compare Pierson v. Ray, 386 U.S. 547, 87 S.Ct. 1213, 18 L.Ed.2d. 288, 294-95 (1967). When the Grand Jury goes beyond the scope of the power and authority given to them, it is indeed a violation of Due Process, United States v. Chadwick, CA9 (Nev.) 1977, 556 F2d. 450; United States v. Briggs, 514 F2d 794 (5th Cir. 1975). Yet, by the Structural Constitutional error, defect, language and or charge of the indictments and criminal complaints, both State and Federal around the nation, the Grand Jury adjudicated not only guilt of the offense(s) charged, but also the "MENS REA" related thereto. If such or similar language as aforementioned, is not embodied within the body of the charging instrument(s), then the indictments and or criminal complaints are not constitutionally sound and they violate Due Process. The that has developed from this, far and extremely out weigh the good it intended.

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... indictment or criminal complaint, whether it be in ... or detail, whether it be in the smallest of towns, ... of cities, whether it be within the boundaries ... of state, whether it be intentional or unintentional ... conducted in a fashion where it automatically ... of persuasion from the state or Federal government, ... takes away one's presumption of innocence, ... determines in advance the outcome of ... off an unconstitutional impression and ... for rights by the laws of Due Process, ... constitution "Island in the Sea". They ... rights under the 4th, 5th, 6th, 13th, ... back to unjustly deprive one of ... for this reason that the New ... such similar actions

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In those States, and on this same premise the same should be done for every state within this nation now. And yes, under these circumstances, it may be far more difficult for the prosecution to obtain said conviction or guilty plea. But it is far better that they endure the difficulty than the greater degree and or likelihood, for innocent men and women to be subject to an erroneous conviction and or guilty plea, that is not freely, knowingly, voluntarily or intelligently given, because it prejudice the individuals subjected to these criminal indictments and or complaints within this nation. Prosecutors must be made to know and understand, that such is "THE NATURE OF THE BEAST". The burden is theirs and we are to be presumed innocent in every detail until fairly and justly convicted. This goes with the professional territory at hand.

The following statement in relevant part was made by the court in Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963). It pertained to the suppression of evidence favorable to the defense, but the subsidiary facts related to Due Process violation have a bearing on these matters here. It has been slightly modified to paint a more true picture of this issue:

WE HOLD, that such presumptions violate Due Process of the good faith or bad faith of the prosecution. The issue here is not to punish society for such Due Process violations, but the misdeeds of the prosecuting body, but the issue is an unfair trial and or plea hearing to the accused. The system wins when the guilty are convicted, but when the trial and or plea hearings are fair; Our system of justice suffers when its citizens are treated unfairly in the courts. An inscription on the wall of The Department of Justice states the proposition candidly for the federal government to win its point whenever justice is done in the courts", Brady v. Maryland supra.; Cochran, 294 U.S. 103.

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... quotes that which is stated in United

States v. Walsh, 194 F3d. 37(2nd.Cir.1999) and United States v. Pirro, 212 F3d. 89(2nd.Cir.2000):

"The indictments do more than simply track the language of 18 U.S.C. § 242, which provides penalties for any person, who under color of any state or federal law, statute, ordinance, regulation, custom, and we can add to this, "an indictment or criminal complaint", willfully subjects any person,...to the deprivation of "[a]ny", "[a]ny", right, privileges, or immunities secured and protected by the U.S. Constitution and Laws of the United States***", and this was done in violation of the appellant's rights to Equal Protection of the laws, Screws v. United States, 325 U.S. 91, 65 S.Ct. 1031(1945); State v. Middleton, 207 S.C. 473, 36 S.E.2d. 742(1946); Eslinger v. Thompson, 340 F.Supp. 886(DSC.1972) Aff'd 476 F2d. 225(4th.Cir.1973); McLaughlin v. Florida, 379 U.S. 184, 85 S.Ct. 283, 13 L.Ed.2d. 222(1964); Dubinka v. Judges Of Superior Court Of The State Of Los Angeles, 23 F3d. 218; Jones v. Arkansas, 929 F2d. 275; Hicks v. Oklahoma, 447 U.S. 343, 346, 100 S.Ct. 2227, 2229, 65 L.Ed.2d. 175(1980); Dozier v. Loop College, City Of Chicago, 776 F2d 752; Lugar v. Edmondson Oil Co., 457 U.S. 922, 928-30, 72 L.Ed.2d 2744, 2749-50, 73 L.Ed.2d. 482(1982).

The structural constitutional error, defect, language, and error contained within the indictments and criminal complaints around the entire nation, the defendant(s) most basic fundamental right to be viewed as innocent until proven guilty have the state bear the burden of production and all elements of dispute has been clearly taken away. The price to pay for the sake of obtaining a con-

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one of these cases is that "[a]ny", "[a]ny", is not conclusive, even if its embodied an indictment or criminal complaint, that to obtain a conviction, and/or defendant to a guilty plea, that has the effect

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of shifting the burden of persuasion to the defendant on any element of the crime charged, or deprives him of the presumption of innocence, predetermining in advance the outcome of the proceedings, violates Due Process and is grounds for an acquittal", IN Re Winship supra.; Humanik v. Beyers supra.; Moore v. Dempsey supra.; It involves deprivation of constitutional protection so basic and so fundamental that in its absence criminal trials and or plea proceedings "[c]annot" reliably serve its function as a vehicle for the determination of guilt or innocence and no criminal punishment may be deemed or regarded as fundamentally fair because the structural constitutional error and or defect affect the framework of the proceedings and "[c]annot" be viewed as harmless, Robinson v. Arvonio supra.; Vines v. United States supra..

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The actions of the conspiring agents, both state and federal, produce fraud upon the court also in violation of 18 U.S.C. §§ 241 and 242. Fraud will vitiate any legal transaction which include criminal trials and or plea hearing where the indictments and proceedings are a form of contract. And any asserted title to property in the form of this modern day slavery by this broken judicial system, this so-called "debt to society" founded on it is void. The U.S. Constitution does not confer power or jurisdiction upon any state or federal government or courts within this nation to establish or legalize modern day slavery, which essentially is what the government has done here, state and federal as is defined in the definition for slavery under the C.A.T. Treaty ratified by Congress. Although documents such as, and or even indictments or criminal proceedings which themselves are a form of contract, which embelish modern day slavery and property of the states or federal government by criminal conviction are deemed prima facie evidence which they purport to state, they are open to challenge for fraud and a clear challenge to the courts to establish or legalize modern day slavery, Ex parte Millard, 111 U.S. 597, 2 Wheeler CC 597, 6 F. Cas. 1012 (C.C.D. S.C. 1819); The La Conception, 19 U.S. 249, 6 Wheat, 235 U.S.S.C. (Mar. 1819).

2006 A.M.C. 2955, 10 L.Ed. 826, U.S. Conn., January 1841; Chewing v. Ford Motor Company, 345 S.C. 72, 579 S.E.2d. 605(S.C.2003); Appling v. State Farm Mut. Auto Ins. Co., 340 F3d. 769, 780 (9th.Cir.2003); King v. First American Investigation Inc., 287 F3d. 91, 95(2nd.Cir.2002) cert. denied 537 U.S. 960, 123 S.Ct. 393, 154 L.Ed.2d. 314(2002); Brailsford, 669 S.E.2d. 342, 380 S.C. 433; Callon Petroleum Co. v. Frontier Ins. Co., 351 F3d. 204, 208(5th.Cir.2003). This fraud upon the court is endemic and compromises the system itself and institution set up to protect the commonwealth from unjust prosecution corrupting, irreparably, the entire judicial system as a whole warranting it be abolished and or reformed. The Grand Jury does not have the power to predetermine in advance the outcome of the proceedings and must refrain itself from making any opinion as to guilt or innocence. How much more egregious is it if they swear upon their oath a person's guilt or innocence before they have a trial or give a guilty plea? This "[c]annot" be deemed as a harmless error; United States v. Direct Sales Co., 40 F.Supp.917 D.C.S.C.(1941); United States v. Atlantic Commission Co., 45 F.Supp. 187 D.C.N.C.(1942); State v. Boyd, 2 Hill (S.C.) 288, 1834 WL 1573 S.C. App. L. & Esq. 1834; State v. Bramlett, 166 S.C. 323, 164 S.E. 873(S.C.1932); Beck v. Washington, 369 U.S. 541, 82 S.Ct. 955 U.S. Wash.(1962); State v. Tollin, 352 S.C. 235, 573 S.E.2d. 812(S.C.App.2002); Byers v. Reynolds, 2011 F.3d 3638, 8 B (DSC.2011); United States v. Jefferson, 546 F.3d 944 (Va.2008); In Re: Grand Jury Subpoena John Doe, 584 F3d. 175 CA4 (Va.2009); In Re: Grand Jury, 597 F3d. 189 CA4 (Va.2010).

and arguing violations of the Anti-Peonage Act of 1875. Under this provision of law no time bar, statute of limitations, or (3) strike provision, or successive statute of limitations can hold a man in

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Constitution Provides--"Neither slavery nor involuntary servitude, except as punishment for crimes where of (emphasis added) convicted, shall exist

within the United States, or any place subject to their jurisdiction".

The courts have repeatedly held that by the language of the 13th. Amendment, the 13th. Amendment does not apply to a person serving a sentence for a criminal conviction, Newell, 563 F.2d. 123; WL 1415149(2012); Cox v. U.S. Attorney General, F.Supp.2d, 2012 WL 1570110 DSC April 10, 2012; Gaddy v. South Carolina Supreme Court's District Of Columbia, S.C., 2013 WL 6150715 DSC November 21, 2013; Flood v. News & Courier Co., 71 S.C. 112, 50 S.E. 637(1905).

The courts in these previous cited cases abused their discretion in their determination because they are controlled by an error of law in their interpretation and or they failed to address a critical part of the language written in the 13th. Amendment.

An abuse of discretion occurs when the court(s) are controlled by an error of law, or when the order bases upon findings of fact is without evidentiary support or fact, Sharpes v. Sharpes, 535 S.E.2d. 913, 342 S.C. 71(2000).

None of the aforementioned legal authorities ever addressed whether or not the issue of slavery and violations of the 13th. Amendment have standing if the convicted person is not "duly" (emphasis added) convicted. Since none of the aforecited, or any similar, addressed the issue of whether the 13th. Amendment applies in cases where the party is [not "duly" (emphasis added) convicted. Which is indisputably in the language of the 13th. Amendment. Using or applying any of those citings, or any similar, would be misplaced if the citing does not address the issue of whether slavery applies or have standing when a person is [not "duly" (emphasis added) convicted. See S.C. Code Ann. § 17-25-10.

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"duly" is defined, as is 'right' and 'fitting'; 'properly' in accordance with legal requirements.

WITHIN THIS CASE. THE CONVICTION IS NOT RIGHT. IT IS NOT FITTING. THE CONVICTION IS NOT PROPER, NOR IS IT IN ACCORDANCE TO THE LEGAL REQUIREMENTS OF DUE PROCESS LAW. IT IS NOT CONSTITUTIONAL WHICH VOIDS THE GENERAL SESSIONS COURT'S JURISDICTION. THUS, I AM NOT "DULY" (EMPHASIS ADDED) CONVICTED, AND VIA THE FRAUD, THE 13th. AMENDMENT DOES HAVE STANDING. SEE S.C. CODE ANN. § 17-25-10. THE SENTENCES AND CONVICTIONS AROUND THE NATION, TO INCLUDE THE APPLICANT'S, MUST BE VACATED. I SEEK THAT THE STATE APPOINT AN ATTORNEY AND THAT ATTORNEY SEEK CLASS ACTION CERTIFICATION UNDER ARTICLE III SECTION 2 OF THE U.S. CONSTITUTION AND FEDERAL RULE 23 ARGUING PREEMPTION.

I GIVE THE COURT OF COMMON PLEAS JUDICIAL NOTICE THAT THIS LEAD ISSUE OF RELIGIOUS PROPHECY ARGUED WITHIN THIS CASE WHERE THE INDICTMENTS BY THEIR LANGUAGE PREDETERMINED IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, CREATING AN INSTANT DOUBLE JEOPARDY ISSUE, SHIFTING THE BURDEN OF PERSUASION UPON THE APPLICANT VIA THE MENS REA ELEMENTS OF THE OFFENSE AND INDISPUTABLY TAKING AWAY THE PRESUMPTION OF INNOCENCE. THE UNITED STATES SUPREME COURT HAS RECENTLY GAVE JUDICIAL REVIEW ON AN ESSENTIAL PART OF THIS ISSUE AND ARGUMENT THAT VOIDS THE COURT'S JURISDICTION DUE TO UNCONSTITUTIONAL ACTION UNDER THE CASE OF NELSON V. COLORADO, 137 S.Ct. 1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205 (U.S.2017). THE U.S. SUPREME COURT DETERMINED THAT THE PRESUMPTION OF INNOCENCE LIES AT THE FOUNDATION OF THE WHOLE CRIMINAL JUSTICE SYSTEMS MAKING IT A "STRUCTURAL ERROR" NOT SUBJECT TO THE HARMLESS ERROR DOCTRINE. THE U.S. SUPREME COURT FURTHER DETERMINED THE PRESUMPTION OF INNOCENCE IS A PRINCIPLE SO ROOTED IN THE CONSTITUTIONS AND CONSCIENCE OF THE PEOPLE AS TO BE FUNDAMENTAL. ANY DEPRIVATION OF SUCH AS THE INDICTMENTS DO, IS A VIOLATION OF THE CONSTITUTION AS UNCONSTITUTIONAL, WHICH VOIDS THE GENERAL SESSIONS COURT'S JURISDICTION. NORMALLY, THIS WOULD BE AN AUTOMATIC REVERSAL OF ERROR. BUT DUE TO THE ADDED COMPOUNDING FACTORS OF THE INDICTMENTS GOING BEYOND THE SCOPE OF THE POWER AND AUTHORITY OF THE COURT AND BY THE LANGUAGE CONVICTING US, SUBVERTING THE 13th. AMENDMENT AND MODERN DAY SLAVERY, TAKING AWAY OUR RIGHTS AND VIOLATION OF THE 15th. AMENDMENT VIA EGREGIOUS

ACTS OF FRAUD UPON THE COURT BY THESE VIOLATIONS. THEN YOU ADD THE ADDITIONAL COMPOUNDING FACTOR(S) OF CONTRUCTIVELY AMENDING THE INDICTMENTS ON THE "MENS REA" AND OTHER ESSENTIAL ELEMENTS, EVEN BY ATTEMPTED INSUFFICIENT CURATIVE INSTRUCTION "BOILERPLATE". THE AMOUNT OF PREJUDICE AND DUE PROCESS VIOLATION BECOMES SO EGREGIOUS IT REQUIRES THAT THE SENTENCE AND CONVICTION BE VACATED. A REVERSIBLE CONVICTION IS REVERSIBLE REGARDLESS OF THE REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL WHICH ADD TO PROVING THAT MONTGOMERY V. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599 WAS CORRECT ABOUT UNCONSTITUTIONAL ACTION VOIDING JURISDICTION EVEN IN CRIMINAL CASES, UNITED STATES V. LIBOUS, 858 F3d. 64 (2nd.Cir.2017); CITY OF LEBANNON V. MILBURN, 286 Or. App. 212, 398 P.3d. 486(2017). CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT, PEOPLE V. FIELDS, N.E.3d. 11. App. (1st.) 122012-UB; FARROW V. LIPETZKY, 2017 WL 1540637 (N.C.Cali.2017); UNITED STATES V. AJRAWAT, --Fed. Appx'--, 2018 WL 3045619 (4th.Cir.2018). TO ENSURE THAT THE COURT OF COMMON PLEAS DOES NOT ABUSE ITS DISCRETION AND MISREPRESENT THE FACTS IN ACTS OF FRAUD UPON THE COURT AND DETERMINE THAT THE U.S. SUPREME COURT CASE ONLY APPLY TO CASES WHEN A CONVICTION HAS BEEN VACATED. ALL ONE WOULD HAVE TO DO IS REVIEW THE CASES CITED AND SUBSEQUENT CASES THAT ADDRESS THIS MATTER AND IT WOULD BE PERSPICUOUS THAT SUPREME COURT'S DETERMINATION TO THE STRUCTURAL ERROR OF ALL CRIMINAL PROCEEDINGS FROM THE POINT OF ARREST DEFENDANT PLEAS OR A JURY DETERMINES GUILT, BEING A RIGHT, AND IT CANNOT BE STRIPPED BEFORE THAT PLEA OR CASES WHICH THE INDICTMENTS BY THEIR LANGUAGE DO. SEE MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 STATE V. THOMPSON, 2018 WL 1702406, * 6+ N.Va.7 UNITED STATES, 2018 WL 1626578, * 27 D.Md.; DIXON V. IDAHO, 2018 WL 15854406. REVENTIONED ISSUE, TO ENCLUDE ALL OTHERS THIS DOCUMENT. THE APPLICANT'S DUE PROCESS WITH STRUCTURAL CONSTITUTIONAL ERRORS THAT

VOID THE COURT(S) INVOLVED JURISDICTION UNDER THE DUE PROCESS/
 CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION, JOHNSON V.
SOUTH CAROLINA DEPT. OF PROBATION, PAROLE AND PARDON SERVICES,
372 S.C. 279, 641 S.E.2d. 895(S.C.App.2007); FIRST CITIZEN BANK
AND TRUST COMPANY, INC. V. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249
(S.C.2020); KOSCIUSKO V. PARHAM, 428 S.C. 481, 836 S.E.2d.
362(S.C.App.2019); SANDERS V. SAVANNAH HIGHWAY AUTOMOTIVE
COMPANY, --S.E.2d.--, 2020 WL 6154305 (S.C.App.2020). BEFORE A
 CONSTITUTIONAL STRUCTURAL ERROR CAN BE DEEMED HARMLESS. THE COURT
 MUST BE ABLE TO DECLARE IT WAS HARMLESS BEYOND A REASONABLE DOUBT
 WHICH BY THE FRAUD UPON THE COURT AND OTHER CLAIMS MADE, THE
 COURT CANNOT DO. THUS, THE SENTENCE AND CONVICTION "MUST" BE
 VACATED WHICH I SEEK, ALBERTO GONZALEZ FIGUEROA JR., PETITIONER
V. WARREN L. MONTGOMERY, U.S., 2019 WL 914128 (S.D.Cali.2019);
MURPHY V. WINN, 2019 WL 586095 (D.C.Mich.2019); PEOPLE V.
CALIAHAKI, 2018 WL 5084834, * 6+ GUAM TERR..

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SUBJECT MATTER JURISDICTION IS THE POWER TO DECLARE LAW, WHETHER IT BE UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION OR THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED. THUS, WHEN IT CEASE TO EXIST. THE ONLY THING LEFT FOR THE COURT TO DO IS TO ANNOUNCE THIS FACT AND DISMISS THE CAUSE OF CONVICTION AGAINST THE PETITIONER/APPLICANT. THIS CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN FOR THE FIRST TIME ON APPEAL, EVEN AFTER A FINAL JUDGMENT HAS BEEN ISSUED IN THE CASE, ESPECIALLY IN LIGHT OF THE FACT THAT WE HAVE FRAUD UPON THE COURT ATTACHED TO THE JURISDICTIONAL CLAIMS MADE. AGAIN, THE PETITIONER IS ARGUING HIS ISSUES UNDER THE DUE PROCESS/ CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, NOT THE STATUTORY (LEGISLATIVE) ELEMENT THAT THE STATE COURTS IN THE PAST, IN AN ABUSE OF DISCRETION AND FRAUD UPON THE COURT, ADJUDICATED SUCH ISSUES UNDER, SEBELIUS v. AUBURN REGIONAL MEDICAL CENTER, 133 S.Ct. 817, 184 L.Ed.2d. 627, 81 U.S.L.W. 4053 (U.S.2013); SIZWARD v. RIDDLE, F.Supp.2d., 2013 WL 707018 (DSC.2013); GRUPO DALAFLUX v. ATLAS GLOBAL L.P., 541 U.S. 567, 124 S.Ct. 192, 158 L.Ed.2d. 866(U.S.2004); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F.3d. 624 (4th.Cir.2016); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM INVEST v. NET ELEMENT INTERNATIONAL, INC., F.Supp., 2014 WL 12613282 (S.D.Fla.2014); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020). BY THE LEGAL ISSUES ARGUED EQUITABLE TOLLING ATTACHES DUE TO THE STATE PROSECUTOR AND THE S.C. SUPREME COURT'S INVOLVEMENT (THE GENTRY CASE) CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND FATAL INDICTMENT DEFECTS THAT STOOD IN CLEAR VIOLATION OF THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES ALL OVER THE PLACE, WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, WHICH GRAVELY EFFECTED THE TRIAL PROCESS SUBJECTING THE

PETITIONER/APPLICANT TO EXTREME PREJUDICE.

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S.C. CODE ANN. § 17-19-20 PROVIDE THAT EVERY INDICTMENT "MUST", "MANDATORY LANGUAGE" (EMPHASIS ADDED) BE DEEMED AND JUDGED AS GOOD. THE INDICTMENT(S) IS NOT "GOOD" BY THE PLAIN LANGUAGE RULE OF THE STATUTE AND ARTICLE 1 § 11 OF THE S.C. CONSTITUTION, WHERE THE GENTRY RULING ALLOWS THE S.C. COURTS TO SUBTLY EXPAND AND FORCE CONSTRUCT BOTH S.C. CODE ANN. § 17-19-10 AND 17-19-20 IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE, FURTHER ILLUSTRATING THE INJUSTICE THAT HAS OCCURRED BY THE GENTRY RULING. WHEN IT COMES TO THE S.C. SUPREME COURT HOLDING THOSE CASES IN VIOLATION OF BETTERMAN v. MONTANA 2016, SOME FOR ALMOST (7) YEARS TO ALLOW THEM TO GO ON A NATIONWIDE "FISHING EXPEDITION" TO FIND UNCONSTITUTIONALLY VAGUE AND OR SILENT CASE LAW THAT ONLY ADDRESSED THE ISSUE OF SUBJECT MATTER JURISDICTION UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION, TO CONCEAL THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, AND UNCONSTITUTIONAL ACTION (DUE PROCESS VIOLATIONS) UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION ALSO VOIDS JURISDICTION. THE CASES THE GENTRY COURT MADE USE OF, COTTON AND PARKHURST WERE CASES THAT WERE ADJUDICATED UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION AND ARE UNCONSTITUTIONALLY VAGUE, SILENT, ON WHETHER DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION. IN SOUTH CAROLINA WHEN A COURT KNOWINGLY IGNORES WELL ESTABLISHED U.S. SUPREME COURT HOLDINGS LIKE STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998) AND OTHER SIMILAR HOLDINGS, CIRCUMVENTING, FAILING TO ADDRESS THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, IT WOULD CONSTITUTE FRAUD UPON THE COURT BECAUSE IT DEFILES THE JUDICIAL MACHINERY ITSELF. IT OCCURS WHEN A COURT'S IMPARTIAL FUNCTIONS ARE DIRECTLY CORRUPTED, OFTEN BY AN OFFICER OF THE COURT (SUCH AS A JUDGE OR ATTORNEY). PURPOSELY CIRCUMVENTING THE NATION'S HIGHEST COURT'S HOLDINGS TO REACH A DESIRED OUTCOME--ESPECIALLY CONCERNING SUBJECT MATTER JURISDICTION--INTERFERES WITH THE COURT'S ABILITY TO "PERFORM IT'S NORMAL FUNCTION IN THE USUAL MANNER ITS IMPARTIAL TASKS. IT

26 INVOLVES DECEIT, LIES AND FALSE INFORMATION MAKING THE JUDGMENT VOID AB INITIO, AS THE COURT LACKED THE AUTHORITY TO ACT IN THE FIRST PLACE. WHEN A JUDGMENT IS VAGUE OR SILENT ON A SUBSTANTIAL CLAIM, IF THAT JUDGMENT IS SILENT (ie. WHETHER FATAL DEFECTS IN AN INDICTMENT VOID JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION AND VIOLATIONS OF THE APPLICABLE STATUTES BY THE LANGUAGE CONTAINED THEREIN), IT MAY NOT BE CONSIDERED A "FINAL JUDGMENT", ESPECIALLY IN THIS CASE WHEN WE HAVE FRAUD UPON THE COURT, THE GENTRY COURT PURPOSELY FAILING TO ADDRESS WHETHER SUBSTANTIAL DUE PROCESS VIOLATIONS RISE TO A LEVEL OF BEING UNCONSTITUTIONAL WHICH WOULD VOID OR MAKE VOIDABLE JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, ESTATE OF CUNNINGHAM v. MAYOR AND CITY COUNCIL OF BALTIMORE, 128 F.4TH. 238(4th.Cir.2025)(COURT DISMISSED APPEAL BECAUSE THE DISTRICT COURT OVERLOOKED AND FAILED TO RESOLVE CLAIMS ON TWO ISSUES. BECAUSE THE JUDGMENT WAS SILENT ON THE CLAIM, IT WAS NOT FINAL, APPEALABLE ORDER); ESCOBAR-SALMERON v. MOYER, 150 F.4TH. 360(4th.Cir.2025)(SILENCE ON A CLAIM PREVENTS FINALITY. THE COURTS MUST OBJECTIVELY RESOLVE ALL SUBSTANTIVE CLAIMS BEFORE A JUDGMENT IS FINAL); LOWY v. DANIEL DEFENSE, LLC., --F.4TH.--, 2026 WL 376731 (4th.Cir.2026)(WITHOUT EXPRESSED LANGUAGE SILENCE EQUAL NON FINALITY ALL CLAIMS MUST BE ADDRESSED); ALI v. HOGAN, 26 F.4TH. 587(4th.Cir.2022)(THIS CASE REINFORCES THAT THE COURT'S FAILURE TO PROPERLY ACCOUNT FOR CONSTITUTIONAL STANDING [A COMPONENT OF SUBJECT MATTER JURISDICTION] IS A FUNDAMENTAL ERROR. A KNOWING FAILURE TO DO SO BY A JUDGE WOULD ALIGN WITH THE DEFINITION OF CORRUPTING THE JUDICIAL MACHINERY); MONACO v. WV PARKWAYS AUTHORITY, 57 F.4TH. 185(4th.Cir.2023)(IN THIS CASE, THE 4TH. CIRCUIT ADDRESSED HOW SUBJECT MATTER JURISDICTION CAN BE "FORECLOSED" BY CONSTITUTIONAL IMMUNITIES THAT THE LOWER COURT MIGHT IMPROPERLY OVERLOOKED AND WOULD NOT BE ABLE TO EXERCISE JURISDICTION REGARDLESS OF THE MERITS OF THE CASE. IGNORING U.S. SUPREME COURT HOLDING THAT DEFINE BARRIERS WOULD CONSTITUTE "EXCESS OF JURISDICTION"); BIXBY v. STIRLING, 90 F.4TH. 140(4th.Cir.2024)(HIGHLIGHTING EXCESS OF JURISDICTION TO ADDRESS MERITS DUE TO FILING CONSTITUTING SECOND HABEAS CORPUS); FRAZIER

21 v. PRINCE COUNTY MARYLAND, 140 F.4TH. 566(4th.Cir.2025)(A COURT THAT LACKS JURISDICTION HAS NO AUTHORITY TO RULE ON THE MERITS); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023)(THE PLAIN LANGUAGE OF A STATUTE MUST BE ADHERED TO.). IF A DUE PROCESS ERROR IS SO FUNDAMENTAL IT REMOVES A CASE FROM THE "GENERAL CLASS" PROHIBITING THE COURT FROM HEARING IT. WHETHER YOU WANT TO USE THE PHRASE "VOID" OR "VOIDABLE" OR "ERRONEOUS" THE RESULT IS THE SAME REQUIRING REVERSAL AND OR VACATING OF JUDGMENT AND CONVICTION. THE GENTRY RULING COMPOUNDED BY FRAUD IN CONCEALING THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, IS INHERENTLY "VAGUE" OR "SILENT" ON WHETHER AN UNCONSTITUTIONAL ACT CAN BE SO EXTREME THAT IT VIOLATES THE "CONSTITUTIONAL" ELEMENT OF AUTHORITY. THE GENTRY CASE PRODUCES A CONSTITUTIONAL BLIND SPOT PURPOSELY SET IN PLACE TO DEFRAUD THE INMATES OF THIS STATE IN ARGUING THE FATAL DEFECTS WITHIN THEIR INDICTMENTS. THE PROBLEM WITH LABELLING ALL CONSTITUTIONAL ERRORS AS "PROCEDURAL" AS GENTRY DOES. THE RULING SUGGESTS THAT EVEN FLAGRANT DUE PROCESS VIOLATIONS--ONE THAT MIGHT EFFECTIVELY STRIP A COURT OF ITS LEGITIMATE POWER UNDER THE 14TH. AMENDMENT--DOES NOT VOID JURISDICTION. IF A COURT TAKES AN ACTION THAT IS EXPRESSLY PROHIBITED BY THE CONSTITUTION (AN UNCONSTITUTIONAL ACT LIKE SUBTLY EXPANDING AND FORCE CONSTRUCTING STATUTES SUCH AS S.C. CODE. ANN. §§ 17-19-10 AND 17-19-20 VIOLATING THE SEPARATION OF POWERS CLAUSE AND THE PLAIN LANGUAGE RULE AND OTHER DUE PROCESS VIOLATIONS INTENDED ARGUED IN THE PETITIONER'S APPLICATION), GENTRY DOES NOT CLEARLY EXPLAIN AT WHAT POINT THE ACTS STOPS BEING A "TRIAL ERROR" AND STARTS BEING AN "ILLEGAL EXERCISE OF POWER" THAT SHOULD VOID THE COURT'S AUTHORITY. GENTRY IS UNCONSTITUTIONALLY "VAGUE" BECAUSE IT ASSUMES A COURT'S POWER REMAINS CONSTANT REGARDLESS OF HOW IT IS EXERCISED. ROJAS DISSENT , MONTGOMERY AND STEEL CO. ARGUES AND PRESENT THE OPPOSITE, THAT A COURT'S POWER IS CONTINGENT ON FOLLOWING CONSTITUTIONAL REQUIREMENTS (LIKE STANDING AND DUE PROCESS) FURTHER ILLUSTRATING THAT GENTRY BY SUPPRESSION OF TRUTH AND FRAUDULENT CONCEALMENT OF JURISDICTIONAL FACTS CANNOT STAND.

IN REFERRING BACK TO THE ISSUE OF FATAL DEFECTS WITHIN AN

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INDICTMENT, IT IS THE BODY OF THE INDICTMENT THAT IS IMPORTANT. THE INDICTMENT FOR MURDER DOES NOT PROPERLY ALLEGE THE ESSENTIAL ELEMENTS OF "TIME AND PLACE" AND THE OTHER INDICTMENT(S) HAVE SIMILAR FATAL DEFECTS, VIOLATING THE PROVISIONS OF S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 AND ARTICLE 1 § 11 OF THE S.C. CONSTITUTION. TO COMPOUND THIS EGREGIOUS INJUSTICE, WITHIN THE BODY OF THE CHARGING INSTRUMENT(S), BY THE LANGUAGE CONTAINED THEREIN, THE GRAND JURY IN VIOLATION OF THEIR SHIELDING FUNCTION HAS SWORN UPON THEIR OATH GUILT AND ALREADY CONVICTED THE PETITIONER, APPLICANT, BEFORE HE EVER WENT TO TRIAL, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, TAKING AWAY THE PETITIONER'S PRESUMPTION OF INNOCENCE, SHIFTING THE BURDEN OF PERSUASION TO THE APPELLANT IN VIOLATION OF THEIR SHIELDING FUNCTION AND DUE PROCESS LAW. THE GRAND JURY BY THE LANGUAGE UTILIZED WITHIN THE BODY OF THE INDICTMENT DO NOT HAVE THE POWER OR AUTHORITY BY STATE OR FEDERAL LAW, OR BY STATE OR FEDERAL CONSTITUTION, TO CONVICT A PERSON WHICH IS NOT A HARMLESS ERROR. NOT ALL STATES INDICTMENTS ARE FRAMED LIKE THIS HAVING SUCH A FATAL CONSTITUTIONAL STRUCTURAL DEFECT. THEN IN ORDER TO ATTEMPT TO CURE THIS FATAL CONSTITUTIONAL DUE PROCESS STRUCTURAL ERROR, THE COURT(S) GIVE A CURATIVE INSTRUCTION STATING THAT THE INDICTMENT IS NOT EVIDENCE THAT THE DEFENDANT IS INNOCENT UNTIL PROVEN GUILTY. THE PROBLEM WITH THIS IS THAT ONCE THE BELL IS RUNG, IT CANNOT BE UNRUNG, AND IN ORDER TO GIVE THE CURATIVE INSTRUCTION, THE TRIAL COURT MUST CONSTRUCTIVELY AMEND THE INDICTMENT(S) ON THE ESSENTIAL MENS REA ELEMENTS OF THE OFFENSE(S) DEMONSTRATING THE OVERWHELMING PREJUDICE WHICH SUPPORTS THAT THIS IS NOT A HARMLESS ERROR. THE "BELL CANNOT BE UNRUNG" IS A CRITICAL SAFEGUARD FOR THE PRESUMPTION OF INNOCENCE. IF THE STATE OR PROSECUTOR PRODUCE "SKUNK LIKE" EVIDENCE OR DOCUMENTS INTO THE PRIVY OF THE TRIAL JURY WITHOUT ANY ASSESSMENT OF ASKING THE JURY IF THEY HAVE EVEN BEEN AFFECTED BY THE DOCUMENT, INFORMATION THAT STINKS UP THE JURY BOX REGARDLESS OF INSTRUCTION, IT SHIFTS THE JURY'S FOCUS FROM THE STATE'S DUTY TO PROVE THE FACTS BEFORE THEY CAN EVER BE ASSERTED. BECAUSE THE PRESUMPTION OF INNOCENCE IS A "CARDINAL PRINCIPLE" OF THE JUSTICE SYSTEM, SOUTH CAROLINA COURTS RECOGNIZED THAT HEARING OR SEEING

28 SUCH DOCUMENTS CAN SHIFT A JUROR'S MINDSET FROM DID THEY DO THIS CRIME, TO WELL THEY HAVE ALREADY BEEN FOUND GUILTY BY THE LANGUAGE COMING FROM THE GRAND JURY SO IT MUST BE TRUE. IN SOUTH CAROLINA LAW, IF A CURATIVE INSTRUCTION EFFECTIVELY RESULTS IN CONSTRUCTIVE AMENDMENT BY ALTERING ESSENTIAL ELEMENTS OF THE OFFENSE, IT CREATES A FATAL CONSTITUTIONAL, NOT PROCEDURAL ERROR AND CONFLICT. THE INDICTMENT(S) ALLEGE THAT THE PETITIONER-APPLICANT IS GUILTY WITH "MALICE AND AFORETHOUGHT" AND OR OTHER ESSENTIAL ELEMENTS, THE JUDGE'S CHARGE THE PETITIONER-APPLICANT IS INNOCENT UNTIL PROVEN GUILTY OF "MALICE AND AFORETHOUGHT" OR OTHER ESSENTIAL ELEMENTS, CHANGING THE VERY NATURE OF WHAT HAS BEEN RETURNED BY THE GRAND JURY. UNDER SOUTH CAROLINA CONSTITUTION, A DEFENDANT HAS A RIGHT TO BE TRIED ONLY ON THE CHARGES RETURNED BY THE GRAND JURY. THE GRAND JURY ALREADY BY THEIR LANGUAGE ADJUDICATED GUILT WHICH THEY DO NOT HAVE THE POWER OR AUTHORITY TO DO. THE COURT CANNOT THEN COME BACK AND SAY THE DEFENDANT IS INNOCENT UNTIL PROVEN GUILTY OF THE ESSENTIAL ELEMENTS CONTRADICTING WHAT IS DETERMINED BY THE GRAND JURY. THIS PRODUCES A POTENTIAL DOUBLE JEOPARDY CLAIM. THE STATE IS STRICTLY BOUND BY THE "SPECIFIC" LANGUAGE AND THEORIES PRESENTED TO THE GRAND JURY AND RETURNED BY THEM. THE COURT BY INSTRUCTION CANNOT SHIFT THE THEORY OF BEING ALREADY CONVICTED BY THE GRAND JURY'S SPECIFIC LANGUAGE. IF THE EVIDENCE OF THE JUDGE'S INSTRUCTION DEVIATE FROM THE INDICTMENT(S) ESSENTIAL ELEMENTS, ITS NOT "HARMLESS ERROR" THAT CAN BE CORRECTED BY CURATIVE INSTRUCTION. IF THE CURATIVE INSTRUCTION WOULD HAVE TO CHANGE THE LEGAL THEORY OF THE CASE (GRAND JURY INDICTMENT DETERMINATION OF GUILT) TO "FIX" A MISTAKE, THE COURT MUST INSTEAD GRANT DIRECT VERDICT OR ACQUITTAL OR MISTRIAL, AS THE BELL CANNOT BE "UNRUNG" WITHOUT BREAKING THE INDICTMENT ITSELF. IT WOULD CHANGE THE VERY NATURE OF THE ACCUSATION RETURNED BY THE GRAND JURY. A CURATIVE INSTRUCTION THAT LEADS TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT TRIGGERS A MULTI-LAYERED CONSTITUTIONAL CONFLICT. AT IT'S CORE, THIS CONFLICT PITS THE COURT'S "POWER" (JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT) TO "FIX" THE ERRORS AGAINST THE DEFENDANT'S FUNDAMENTAL DUE PROCESS RIGHT TO PROPER NOTICE WHERE THE GRAND JURY'S CHARGE VIOLATES ARTICLE 1 § 11 OF THE SOUTH CAROLINA CONSTITUTION, NELSON v. COLORADO, 137 S.Ct. 1249, 197

30 L.Ed.2d. 611, 85 U.S.L.W. 4205(U.S.2017)(REGARDING THE PRESUMPTION OF INNOCENCE); BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 (U.S.2016)(REGARDING THE PRESUMPTION OF INNOCENCE). THE PRINCIPLE THAT "ONCE THE BELL IS RUNG IT CANNOT BE UNRUNG" IS A CORNERSTONE OF SOUTH CAROLINA AND FEDERAL JURISPRUDENCE, PARTICULARLY CONCERNING CONSTRUCTIVE AMENDMENTS--WHERE TRIAL COURT'S INSTRUCTION EFFECTIVELY CHANGE THE GRAND JURY'S ORIGINAL INDICTMENT, STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(THE COURT REVERSED THE CONVICTION BECAUSE THE TRIAL COURT'S INSTRUCTION EXPANDED THE INDICTMENT'S SPECIFIC CHARGE); STATE v. ERB, 447 S.C. 84, 924 S.E.2d. 100(S.C.App.2025)(THE INSTRUCTION MUST SPECIFICALLY ALIGN WITH THE CHARGING DOCUMENT); STATE v. PHILLIPS, 430 S.C. 319, 844 S.E.2d. 651(S.C.App.2020)(CASE REVERSED DUE TO THE "ONCE BELL IS RUNG IT CANNOT BE UNRUNG" PRINCIPLE); UNITED STATES v. JOHNSON, Fed. Rptr., 2022 WL 17546916 (4th.Cir.2022); UNITED STATES v. BREWBAKER, 87 F.4TH. 563(4th.Cir.2023)(A CONSTRUCTIVE AMENDMENT OF AN INDICTMENT OCCURS WHEN THE COURT OR GOVERNMENT BROADENS THE POSSIBLE BASES FOR CONVICTION BEYOND THOSE STATED WITHIN THE INDICTMENT BY, FOR EXAMPLE, ASSERTING A SPECIFIC LEGAL THEORY IN THE INDICTMENT, BUT THEY RELY ON A DIFFERENT THEORY AT TRIAL; AND THIS IS IMPERMISSIBLE). THE 6TH. AMENDMENT PROMISES THAT ALL CRIMINAL PROSECUTIONS THE ACCUSED HAS A RIGHT TO A SPEEDY AND PUBLIC TRIAL; BY AN IMPARTIAL JURY; INHERING IN THAT GUARANTEE IS AN ASSURANCE THAT A GUILTY VERDICT WILL ISSUE "ONLY", "ONLY" (EMPHASIS ADDED) FROM A UNANIMOUS JURY, NOT THE GRAND JURY AS THE INDICTMENT INDISPUTABLY INDICATE HAS OCCURRED, PRODUCING UNCONSTITUTIONAL ACTION THAT VOIDS THE TRIAL COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. ONLY THE GRAND JURY CAN FIX THE CONSTITUTIONAL STRUCTURAL ERROR, NOT THE JUDGE BY ATTEMPTING A UNCONSTITUTIONAL CURATIVE INSTRUCTION, ERLINGER v. UNITED STATES, 602 U.S. 821, 144 S.Ct. 1840, 219 L.Ed.2d. 451(U.S.2024); SWEENEY v. GRAHAM, 2025 WL 800452 (4th.Cir.2025); SECURITIES AND EXCHANGE COMMISSION v. JARKESY, 603 U.S. 109, 144 S.Ct. 2117, 219 L.Ed.2d. 650(U.S.2024).

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DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 4th., 5th., 6th., 14th. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2, AND HIS DUE PROCESS RIGHTS VIOLATED, BY THE TRIAL COURT AND OR PROSECUTION, ENGAGING IN ACTS OF FRAUD UPON THE COURT AND SHAM LEGAL PROCESS, BY STAMPING THE INDICTMENTS "TRUE BILLED", ALLEGING A PROPER RETURN BY THE GRAND JURY, WHEN NO SUCH FAIR AND PROPER REVIEW BY THE GRAND JURY EVER OCCURRED?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8th. EDITION).

S.C. CODE ANN § 17-19-10 PROVIDES:

"ALL OFFENSES SHALL BE PROSECUTED BY GRAND JURY IN-

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~~_____~~
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"EVERY INDICTMENT SHALL BE DEEMED AND JUDGED AS GOOD AND SUFFICIENT IN LAW, WHICH IN ADDITION AS TO ALLEGATIONS AS TO TIME AND PLACE AS REQUIRED BY LAW, CHARGES THE CRIME SUBSTANTIALLY IN THE LANGUAGE OF THE COMMON LAW OF THE STATUTE, PROHIBITING THE CRIME AND SO PLAINLY THAT THE NATURE OF THE OFFENSE CHARGED MAY BE EASILY UNDERSTOOD***".

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739 F3d. 131 (4th.Cir.2014); BLUE SKY TRAVEL AND TOURS, LLC. v. AL TAYYAR,--Fed. Appx'--, 2015 WL 1451636 CA4 (Va.2015); BARLOW v. COLGATE PALMOLIVE CO., 772 F3d. 1001, 90 Fed. R. SERV.3d. 85 CA4 (Md.2014); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265 CA4 (N.C.2017); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th.Cir.2016); VAETH v. BOARD OF TRUSTEES, F.Supp.3d., 2016 WL 775386 (D.C.Md.2016).

I AM RESPECTFULLY SEEKING THE GRAND JURY MINUTES IN REGARD TO MY CASE TO ADDRESS THIS ISSUE DUE TO WHAT HAS NOW OCCURRED WITHIN MY CASE WHERE THE STATE GAVE A FALSE IMPRESSION, CONCEALING AND SUPPRESSING TRUTH WHEN THERE WAS A FIDUCIARY DUTY TO SPEAK IN ACTS OF FRAUD WHICH VITIATE THE ENTIRE CRIMINAL PROCEEDING DUE TO UNCONSTITUTIONAL ACTION, HAMER v. NEIGHBORHOOD HOUSING SERVICE OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 246(U.S.2017); WELLS FARGO BANK N.A. v. FARAG, 2016 WL 2944561(N.C.2016); U.S. v. KORN, F.Supp.2d., 2013 WL 2898056(W.D.N.Y.2013); TONEY v. COM., 1998 WL 684203(4th.Cir.1998); SEC v. FARMER, F.Supp.3d., 2015 WL 5838867(S.D.Tex.2015); U.S. v. MOSBERG, 866 F.Supp.2d. 275(D.N.J.2011).

THE STATE AND OR PROSECUTING BODY, ACTING UNJUSTLY, ARBITRARILY, CONSPIRING UNDER COLOR OF STATE LAW, HAS EGREGIOUSLY FAILED TO ADHERE TO NOT JUST THE CONSTITUTION, BUT ALSO TO THEIR OWN STATE LAWS, SERVING TO DENY THE PETITIONER THE EQUAL PROTECTION OF THE LAWS AGAINST UNJUST, ARBITRARILY PROSECUTION AND JUDICIAL ACTION IN ACT OF FRAUD UPON THE COURT, GREAT COASTAL EXP. INC. SUPRA., 675 F2d. 1349(4th.Cir.1982); U.S. v. BEGGERLY, 524 U.S. 38, 118 S.Ct. 1862, 141 L.Ed.2d. 32(U.S.1998); U.S. v. TEJADA, 445 Fed. Appx' 719, 2011 WL 3891825 CA4 (S.C.2011); SCREWS v. UNITED STATES, 325 U.S. 91, 65 S.Ct. 1031(1945); STATE v. MIDDLE, 207 S.C. 473, 36 S.E.2d. 742(1946); ESLINGER v. THOMPSON, 340 F.Supp. 886 (DSC.1972) AFF'D 476 F2d. 225

(4th.Cir.1973); McLAUGHLIN v. FLORIDA, 379 U.S. 184, 85 S.Ct.
283, 13 L.Ed.2d. 222(1964); DUBINKA v. JUDGE OF SUPERIOR COURT OF
THE STATE OF LOS ANGELES SUPRA.; GREENWOOD v. PEACOCK, (1966) 384
U.S. 808, 16 L.Ed.2d. 944,

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86 S.Ct. 1800; UNITED STATES v. OTHERON, (1980 CA9 Cal.) 637 F2d. 1276 CERT. DENIED (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; S.C. CODE ANN § 17-25-10. 41

THE REQUIREMENT OF THE INDICTMENT(S) LIMIT AND CONSTRAIN THE SUBJECT MATTER JURISDICTIONARY "[P]OWERS" OF BOTH THE PROSECUTION AND THE COURT BY LIMITING WHAT CAN BE PRESENTED AT TRIAL, CONVICTION AND SENTENCING. BY THIS CRIMINAL, ARBITRARY ACTION ALL CONSTITUTIONAL RESTRAINTS HAVE BEEN UNJUSTLY DENIED TO ME VIOLATING DUE PROCESS LAW VOIDING THE COURT'S JURISDICTION, UNITED STATES v. PROMISE, 255 F3d. 150 (4th.Cir.2001); STATE v. GUTHRIE, 352 S.C. 103, 572 S.E.2d. 309. IT IS THE COMMAND OF THE U.S. CONSTITUTION, THAT ANYTHING TO THE CONTRARY IS NOTWITHSTANDING, (ARTICLE IV § 2 U.S. CONST.); S.C. CODE ANN § 17-25-10.

WHEN AN OFFICER OF THE COURT AND OR STATE, SHALL USE THEIR POWER PURSUANT TO ARREST AND OR PROSECUTION IN EGREGIOUS ACTS OF PROSECUTIONAL MISCONDUCT, FRAUD UPON THE COURT AND MACHINATION, FOR ULTERIOR MOTIVES AND INCARCERATE AND OR PROSECUTE AN ACCUSED FOR THE PURPOSE OF ENGAGING IN MALICIOUS, ARBITRARY, FRAUDULENT AND CRIMINAL ACTS, WILLFULLY SUBJECTING THE APPLICANT TO DEPRIVATION OF ANY RIGHTS, IMMUNITIES OR PRIVILEGES SECURED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES WITHIN ANY STATE, DISTRICT OR TERRITORY. THEY SHALL BE SUBJECT TO STATE AND FEDERAL PENALTIES. BY WHAT HAS BEEN DONE HERE PRODUCING OVERWHELMING PREJUDICE AND RACIAL ANIMUS IN VIOLATION OF 18 U.S.C. §§ 1985(2), 1985(3) AND 1986. SUCH ACTION IS INDISPUTABLY DEPRIVATION OF RIGHTS, IMMUNITIES AND PRIVILEGES OF THE ACCUSED TO LIBERTY AND A VIOLATION OF 18 U.S.C. §§ 242 AND 1001. NEITHER THREAT, NOR VIOLENCE IS A NECESSARY INGREDIENT OF THE OFFENSE UNDER THESE CIRCUMSTANCES WHERE THE CONSPIRING INDIVIDUALS WERE CLEARLY ACTING ARBITRARILY UNDER COLOR OF STATE LAW FOR ULTERIOR MOTIVES GIVING A MOCK GRAND JURY PROCEEDINGS THAT NEVER EXISTED, ILLEGALLY TRUE BILLING INDICTMENTS ESTABLISHING AN ILLEGAL SEIZURE WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. THUS, THE SENTENCE AND CONVICTION MUST BE VACATED, ELDERBERRY OF WEBER CITY, LLC. v. LIVING CENTER-

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SOUTHEAST, INC., --F3d.--, 2015 WL 4430836 CA4 (Va.2015); PCS NITROGEN INC. v. FORD MOTOR CO., --F.Supp.3d.--, 2015 WL 6758983 (E.D.N.C.2015); APPLING v. STATE FARM MUT. INS. CO., 340 F3d. 769 (9th.Cir.2003); UNITED STATES v. BARTKO, 728 F3d. 377 (4th.Cir.2013); NAPUE v. PEOPLE OF THE STATE OF ILLINOIS, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d. 1217(U.S.1959).

HERE THE COURT WILL FIND ATTACHED: EXHIBIT, "COURT ADMINISTRATION". THIS IS THE LETTER DATED SEPTEMBER 17, 2018 FROM THE COURT ADMINISTRATION DEMONSTRATE THAT NO STATE GRAND JURY EVER MET IN RICHLAND COUNTY AT THE TIME INDICATED BY THIS INDIVIDUAL'S INDICTMENT. THE COURT PRODUCING NOTICE BY A GRAND JURY IS JURISDICTIONAL IN NATURE ADOPTED EVEN BY THE S.C. CONSTITUTION. BASED UPON THE NEW LANGUAGE COMING OUT OF THE U.S. SUPREME COURT WHICH OVERRULES EVEN THE GENTRY CASE. SUCH ACTION ON THE PART OF THE COURT IS A VIOLATION OF DUE PROCESS WHICH RENDERS THE CRIMINAL COURT'S JURISDICTION VOID FOR UNCONSTITUTIONAL ACTION. SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY TIME, AT ANY STAGE OF THE PROCEEDING, EVEN AFTER A FINAL DETERMINATION WAS MADE IN THE CRIMINAL COURT, CANNOT BE WAIVED BY ME AND THE COURT SHALL NOT FAIL TO ADDRESS WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, STEEL CO. v CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct.1003 (U.S.1998); TAMM v. CINCINNATI INSURANCE COMPANY, 2020 WL 60932 (S.D.N.Y.2020); CHASE v. ANDEAVOR LOGISTICS, L.P., 2019 WL 5847879 *2 W.D.Tex.; UNITED STATES v. VALLADARES, 2019 WL 4888629 *1 W.D.Tex.; S.C. DEPT. OF SOCIAL SERVICES v. TRAN, 418 S.C.. 308, 792 S.E.2d. 254(S.C.App.2016).

THIS ISSUE MUST FURTHER BE ACCEPTED BY THIS COURT OF APPEALS BECAUSE IT MUST BE DEEMED AS NEWLY DISCOVERED EVIDENCE OF SUCH A MAGNITUDE THAT IT CREATES A STRUCTURAL ERROR THAT IS SO EGREGIOUS THAT IT IS NOT SUBJECT TO THE HARMLESS ERROR DOCTRINE REQUIRING IMMEDIATE REVERSAL AND VACATING OF THE SENTENCE AND CONVICTION. THE TRUE IMPACT OF NEW EVIDENCE, BOTH AGGRAVATING AND

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MITIGATING, CAN ONLY BE UNDERSTOOD BY ASKING HOW THE JURY WOULD HAVE CONSIDERED THAT EVIDENCE IN LIGHT OF WHAT IT ALREADY KNEW. THE COURT HAD NO LEGAL NOTICE GIVEN TO THE PETITIONER ESTABLISHED TO HEAR THIS CASE. ANY COMPETENT JURY WOULD HAVE RAN FROM THESE ILLEGALLY CONDUCTED PROCEEDINGS AS QUICK AS THEIR FEET WOULD HAVE ALLOWED THEM, WHERE THESE PROCEEDINGS WERE UNCONSTITUTIONAL AND VOID, TREVINO v. DAVIS, 138 S.Ct. 1793, 201 L.Ed.2d. 1014 (U.S.2018); McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821 (U.S.2018)(APPOINTED COUNSEL CANNOT WAIVE THIS ISSUE); CLASS v. U.S., 138 S.Ct. 798, 200 L.Ed.2d. 37 (U.S.2018); U.S. v. BROCE, 488 U.S. 563, 109 S.Ct. 757, 102 L.Ed.2d. 927 (U.S.1989). BY THEIR ACTION THE COURT AND PROSECUTING BODY HAS DENIED THE PETITIONER THE EQUAL PROTECTION OF THE LAWS CONSPIRING UNDER COLOR OF STATE LAW, PAUL ADAMS v. CALIFORNIA INSTITUTION, 2016 WL 6464444; HOLLOWAY v. PERRY, 2016 WL 4074149.

TO FURTHER BOLSTER THIS CLAIM. THE APPELLANT ALSO SAW THE GRAND JURY MINUTES AND PANEL DOCUMENTS FROM SPARTANBURG COUNTY IN A RECENT CASE. BY THOSE DOCUMENTS IT ALLEGES THAT OVER (300) CRIMINAL CASES WENT BEFORE THAT COUNTY'S GRAND JURY WHERE THEY ALLEGEDLY INVESTIGATED AND REVIEWED OVER (300) CRIMINAL CASES ON ONE DAY, A THURSDAY, IN (2) HOURS. WE ALL KNOW THAT THIS IS IMPOSSIBLE. THE STATE OF SOUTH CAROLINA HAS BEEN DOING THIS FOR DECADES ENGAGING IN A FORM OF RACIAL GENOCIDE DISPROPORTIONATELY AFRICAN AMERICANS, LATINOS AND POOR WHITES BEHIND RACIAL HATRED ALSO TO BRAND AFRICAN AMERICANS AS FELONS TO DIMINISH THEIR POLITICAL VOICE BY DENYING THEM THEIR RIGHT TO VOTE DUE TO THE ALLEGED FELONIES; A REPUBLICAN TACTIC TO AID TO KEEP THIS STATE REPUBLICAN LED IN AN ALT RIGHT WHITE NATIONALIST AGENDA. THIS WOULD DEMONSTRATE THAT THE COURT, JUDGES AND PROSECUTION WERE COMPLETELY WITHOUT JURISDICTION. I WANT THE GRAND JURY MINUTES AND PANEL DOCUMENTS. BY THE SUBMITTING OF THIS NEWLY DISCOVERED JURISDICTIONAL DUE PROCESS EVIDENCE, THE BURDEN IS NOW ON THE STATE TO DISPUTE THESE FACTS.

GRAND JURY PANEL DOCUMENTS MAY BE RELEASED TO A DEFENDANT

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PRIOR TO TRIAL UPON TIMELY REQUEST OR TO A PETITIONER IN A FALSE IMPRISONMENT TORT, OR TO AN APPLICANT IN A POST CONVICTION RELIEF PROCEEDING. BUT WHERE IN THIS CASE WE ARE DEALING WITH THE DUE PROCESS CONSTITUTIONAL RIGHT TO NOTICE THAT MUST BE ISSUED BY A GRAND JURY AND WHERE IN THIS INSTANCE NO SUCH GRAND JURY EXISTED AT ALL, IN EGREGIOUS ACTS OF FRAUD UPON THE COURT. SUCH A JURISDICTIONAL RELEASE MUST NOW OCCUR BEFORE THIS COURT. SEE S.C. CODE ANN § 14-7-1770; EVANS v. STATE, 363 S.C. 495, 611 S.E.2d. 510 (S.C.App.2005); FOX EX REL FOX v. ELK RUN COAL CO. SUPRA..

S.C. CODE ANN § 17-19-10 PROVIDES:

"NO PERSON SHALL BE HELD TO ANSWER IN ANY COURT FOR AN ALLEGED OFFENSE, UNLESS UPON INDICTMENT BY A GRAND JURY." THEY HAVE BEEN ENGAGING IN THIS FORM OF RACIALLY MOTIVATED GENOCIDE FOR DECADES AND IT WAS NOT DISCOVERED UNTIL NOW, THOUGH MANY INMATES KNEW ABOUT IT SINCE AT LEAST 2004. THE PETITIONER RECENTLY FOUND OUT ABOUT THE OTHER INSTANCES REFERRED TO ABOUT THE TIME OF THE 5TH. CIRCUIT FILING. THE JURISDICTIONAL CLAIM IS TIMELY AND APPROPRIATELY PRESENTED.

THE INDICTMENT IS A FORMAL WRITTEN ACCUSATION OF A CRIME, MADE BY A GRAND JURY, AND PRESENTED TO THE COURT FOR PROSECUTION AGAINST AN ACCUSED PERSON, ALEXANDER v. WARDEN, ROSS CORRECTIONAL INST., F.Supp.2d., 2011 WL 1771114 (S.D.OHIO.2011); TYRE v. SETTLE, 168 F.Supp. 7 (W.D.MISSOURI.1958).

THERE IS NO TRIAL, CONVICTION, OR PUNISHMENT FOR A CRIME WITHOUT A FORMAL AND SUFFICIENT ACCUSATION (NOTICE DOCUMENT). THERE IS NO ACCUSATION WITHOUT AN INDICTMENT FROM A GRAND JURY; IN ABSENCE OF AN ACCUSATION THE COURT NOR JUDGES NOR PROSECUTION INVOLVED ACQUIRES NO JURISDICTION OR POWER WHATSOEVER RENDERING THEM COMPLETELY VOID OF JURISDICTION STRIPPING THEM OF IMMUNITY BECAUSE THEY ALL KNEW THIS WAS GOING ON FOR DECADES WHERE THIS ACTION ASSURES JURISDICTION, A TRIAL AND CONVICTION ARE A

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NULLITY, ROCKLE v. WARDEN, MD. PENETENTIARY, 333 F2d. 336
(4th.Cir.1964).

A DEFENDANT'S 5TH. AMENDMENT RIGHT, ADOPTED BY THE S.C. CONSTITUTION, TO HAVE A GRAND JURY, NOT THE JUDGES AND PROSECUTORS, ISSUE AN INDICTMENT ON ITS OWN JUDGMENT IS A SUBSTANTIAL RIGHT WHICH CANNOT BE TAKEN AWAY. THIS IS TO BE ADJUDICATED UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION, NOT THE LEGISLATIVE PRONG WHICH THE COURTS IN AN ABUSE OF DISCRETION HAVE ADJUDICATED THESE SUBSTANTIAL CONSTITUTIONAL VIOLATIONS UNDER IN THE PAST. THUS, THE SENTENCE AND CONVICTION "MUST" BE VACATED. SEE U.S. v. REQUEST DEVELOPMENT, LLC., 932 F.Supp.2d. 453 (W.D.N.Y.2013); STIRONE v. UNITED STATES, 361 U.S. 212, 80 S.Ct. 270 (U.S.1960); RUSSELL v. UNITED STATES, 369 U.S. 749, 82 S.Ct. 1038 (U.S.1962); U.S. v. WILLIAMS, 504 U.S. 36, 112 S.Ct. 1735 (U.S.1992); BAYLY v. STATE, 397 S.C. 290, 724 S.E.2d. 182 (S.C.App.2012); EVANS v. STATE, 363 S.C. 495, 611 S.E.2d. 510 (S.C.App.2005); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249 (S.C.2020); SWICEGOOD v. THOMPSON, 431 S.C. 130, 847 S.E.2d. 104 (S.C.2020); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); JONES v. ARKANSAS, 929 F2d. 275; LUGAR v. EDMONDSON OIL CO., 457 U.S. 922, 928-30, 102 S.Ct. 2744, 2749-50, 73 L.Ed.2d. 482 (1982).

THE COURT UNDER RICE v. PALE, F.Supp.3d., 2014 WL 8335449 (DSC.2014) DETERMINED COUNSEL WAS INEFFECTIVE WHERE THEY FAILED TO DO ANY PRETRIAL INVESTIGATION, AND FILE THE APPROPRIATE MOTIONS INCLUDING ALLOWING THE APPLICANT TO REVIEW THE STATE GRAND JURY PANEL DOCUMENTS WHICH IS PERMITTED TO DO PURSUANT TO S.C. CODE ANN. § 14-7-1770

S.C. CODE ANN. § 14-9-210 PROVIDE:

"INDICTMENTS FOR COUNTY COURT CASES BY GRAND JURY OF COURT OF GENERAL SESSIONS: THE SOLICITOR SHALL PREPARE AND, THROUGH THE PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS, SUBMIT TO THE GRAND JURY, WHILE IN ATTENDANCE UPON THE COURT OF GENERAL SESSIONS, BILLS OF INDICTMENT IN ALL CASES PENDING WITHIN THE COUNTY COURT IN WHICH THE PUNISHMENT MAY EXCEED A FINE OF \$100 OR IMPRISONMENT FOR (30) DAYS, WHEN SUCH CASES HAVE NOT PREVIOUSLY BEEN ACTED UPON BY THE GRAND JURY. THE GRAND JURY "SHALL" (MANDATORY, NOT PRODUCE A SHAM INDICTMENT) ACT THEREON AND REPORT ITS ACTION TO THE PRESIDING JUDGE OF THE COURT OF GENERAL SESSIONS AND SAID JUDGE "SHALL" DIRECT THE CLERK OF COURT OF GENERAL SESSIONS TO REPORT THE SAME TO THE PRESIDING JUDGE OF THE COUNTY COURT AT ITS NEXT ENSUING TERM. ALL CASES IN WHICH BILLS OF INDICTMENT ARE SO FOUND "SHALL" STAND FOR TRIAL BY THE COUNTY COURT AS THOUGH FOUND BY THE GRAND JURY WHILE IN ATTENDANCE (EMPHASIS ADDED NOT RUBBER STAMP INDICTMENTS) UPON THE COUNTY COURT".

ACCORDINGLY, S.C. CODE ANN. § 14-9-210 REQUIRES STRICT COMPLIANCE WITH ITS PROVISIONS, AND MANDATES THAT THE GRAND JURY MUST BE IMPANELED UNDER THE JURISDICTION OF THE COURT OF GENERAL SESSIONS BEFORE LAWFUL RETURN OF A TRUE BILL INDICTMENT CAN TAKE PLACE. THE STATE'S ACTION IMPLICATE THEY UNLAWFULLY IMPANELED ITS GRAND JURY OR NEVER TRULY IMPANELED THE GRAND JURY OUTSIDE THE JURISDICTION OF THE COURT OF GENERAL SESSIONS OF LEXINGTON COUNTY AND THEN WILLFULLY PRINTED AND PUBLISHED (RUBBER STAMPED) FALSE INFORMATION IN ACTS OF FRAUD UPON THE COURT IN ORDER TO KEEP SECRET THEIR VIOLATION OF STATUTORY LAW. FRAUD VITIATES EVERYTHING THAT IT ENTERS AND A JUDGMENT PROCURED BY FRAUD MAY BE COLLATERALLY ATTACKED FOR THAT FRAUD UPON THE COURT. THIS APPLIES TO ALL ORDERS, JUDGMENTS, DECREES AND ACTS OF ALL COURTS ON RECORD AND IS FREE OF PROCEDURAL LIMITATIONS. SUPPRESSION OF TRUTH WITH INTENT TO DECEIVE IS FRAUD. FRAUDULENT CONCEALMENT WITHOUT ANY MISREPRESENTATION, OR DUTY TO DISCLOSE WOULD CONSTITUTE FRAUD, INCLUDING ACTS TO CONCEAL, CREATE A FALSE

IMPRESSION AND DECEIVE, U.S. v. COTTON, 231 F.3d. 890(4th.Cir.2000); IN RE: DURAMAX DIESEL LITIGATION, --F.R.D.--, 2018 WL 949856 (E.D.Mich.2018); UNITED STATES v. PALIN, 874 F.3d. 418(4th.Cir.2017); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.Miss.2017); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265 CA4 (N.C.2017); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). ALSO SEE RELEVANT EXHIBIT ATTACHED IN SUPPORT OF THIS CLAIM.

IN THE APPLICANT'S CASE, THE STATE ASSERTS INDICTMENT(S) 2022-GS-32-6147 (MURDER) AND 2022-GS-32-6146 (WEAPON POSSESSION) TRUE BILL INDICTMENT PRINTS THAT THEY WERE RETURNED "AT THE COURT OF GENERAL SESSIONS CONVENED ON SEPTEMBER 12, 20022", THE GRAND JURORS OF LEXINGTON COUNTY PRESENT UPON THEIR OATHS EACH INDICTMENT SIGNED BY ATTORNEY GENERAL ALLEN WILSON AND GRAND JURY FOREMAN WITH TRUE BILL STAMPED (ABSENT DATE WHERE THE GRAND JURY CONVENED AND NO TIME STAMP WHEN IT WAS FILED WITH THE CLERK OF COURT. THE FACE OF THE INDICTMENT INDICATES THAT IT WAS PUBLISHED AT THE COURT OF GENERAL SESSIONS FOR LEXINGTON COUNTY TERM AS CONVENED ON SEPTEMBER 12, 2022 (SEE INDICTMENT UNDER EXHIBIT "COMMITMENT ORDER ATTACK"). HOWEVER, ACCORDING TO THE COURT OF GENERAL SESSIONS ORDER FOR LEXINGTON COUNTY GRAND JURY DOCKET (MEET) 2022 TERM, THE GRAND JURY NEVER CONVENED ON SEPTEMBER 12, 2022 TO LAWFULLY ISSUE A TRUE BILL INDICTMENT. WE ARE NOT TALKING ABOUT RULE 3(c) AS IT RELATES TO THE FILING WITH THE CLERK OF COURT. WE ARE TALKING ABOUT THE STATUTORY PROVISIONS OF S.C. CODE ANN. § 14-17-530 WHICH PROVIDE:

"FILINGS AND ENDORSEMENT OF PAPERS(CLERK REQUIRED STAMP): THE ORIGINAL PAPERS OF RECORDS IN EACH CAUSE WHEREIN JUDGMENT MAY BE SIGNED OR CONFESSED OR DECREE MAY BE ENTERED "SHALL" (MANDATORY) BE FILED ACCORDING TO THE NUMBER OF ENROLLMENT IN THE BOOK OF ABSTRACTS OF JUDGMENTS OR DECREES, PLACING ALL PAPERS IN EACH CAUSE TOGETHER. ORIGINAL PAPERS IN THE SEESIONS "SHALL" BE FILED ACCORDING TO THE TERM AT WHICH THEY WERE DISPOSED OF, ALPHABETICALLY ARRANGE FOR EACH TERM ACCORDING TO DEFENDANTS NAMES, ALL RELATING TO THE SAME CAUSE TOGETHER. OTHER PAPERS

BEING REQUIRED TO BE RETURNED OR KEPT IN THE OFFICE "SHALL" BE ENDORSED (STAMPED FILED BY CLERK) WITH THE CHARACTER, DATE OF FILING AND NUMBER ON FILE, NUMBERING EACH KIND FROM ONE ONWARD AND KEEPING ALL RELATED TO THE SAME MATTER TOGETHER UNDER THE SAME NUMBER, AND "SHALL" BE FILED ACCORDING TO THE DATE AND NUMBER IN APPROPRIATE BOXES WITH SUITABLE LABELS, PUT UP IN PACKAGES AND DATED ACCORDING TO THE YEAR IN WHICH THEY MAY BE FILED. UPON THE ENVELOPE OR CARD "SHALL" BE AN ENDORSEMENT (STAMPED BY CLERK) OF THE DESCRIPTION AND KIND OF PAPERS THEREIN...THE FOLLOWING ENDORSEMENTS (DOCUMENTS REQUIRED CLOCKED STAMPED) "SHALL" (MANDATORY) BE MADE UPON THE RECORD WHEN THE PROCEEDINGS WARRANT IT:....(2) ON BILLS OF INDICTMENT (EMPHASIS ADDED), THE DATE AND CHARACTER OF FILING BY GRAND JURY, NUMBER ON DOCKET, ARRAIGNMENT, VERDICT OR OTHER DISPOSITION....".

THEREFORE, RECOGNIZING THE LEGISLATIVE REQUIREMENT WHICH MAKE THE ACTIONS A MATTER OF DUE PROCESS AND WHERE FAILURE WOULD PRESENT A CHALLENGE TO THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, MANDATES THE ONLY PROCESS ALLOWED FOR IMPANELING THE GRAND JURY AND AFTER CONSIDERATION OF THE FACTS AND EVIDENCE PRESENTED AT TRIAL REGARDING THIS MATTER. IT BECOMES APPARENT THAT THE APPLICANT WAS ALLEGEDLY INDICTED OUTSIDE THE JURISDICTION OF THE COURT OF GENERAL SESSIONS FOR LEXINGTON COUNTY IN VIOLATION OF THE APPLICABLE STATUTES WHICH THE STATE AND COURT HAD NO AUTHORITY TO CHANGE OR ADOPT. WHEN LEGISLATIVE ENACTMENTS LIMIT THE MANNER IN WHICH SOMETHING MAY BE DONE, THE ENACTMENT ALSO EVIDENCE THEIR INTENT, THAT IT "SHALL NOT" BE DONE ANY OTHER WAY. THUS, SINCE THE COURT UTILIZED AN UNLAWFUL MODE OF DUE PROCESS PROCEDURAL REQUIREMENTS NOT ALLOWED UNDER THE APPLICABLE STATUTES RELIED UPON OR ARTICLE 1 § 11 OF THE S.C. CONSTITUTION, OR S.C. CODE ANN. §§ 17-19-10 AND 17-19-20, IT WOULD INVALIDATE THE INDICTMENT UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. THE STATE ACTORS COMMITTED AN ACT OF SHAM LEGAL PROCESS AND PERJURY AND OR SUBORDINATE PERJURY UNDER OATH IN THE STATE'S TRUE BILLED INDICTMENTS IN VIOLATION OF S.C. CODE ANN. § 16-9-10 WHICH PROVIDE: "IT IS UNLAWFUL FOR A PERSON TO WILLFULLY GIVE FALSE,

MISLEADING; OR INCOMPLETE INFORMATION ON A DOCUMENT RECORD REPORT OR FORM REQUIRED BY THE LAWS OF THIS STATE". THE S.C. ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021).

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON. THE CONVICTION MUST BE REVERSED AND VACATED.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT

TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE SHAM LEGAL PROCESS ARGUED VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS

TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN v. CITY OF RIVERA BEACH, FLA. SUPRA..

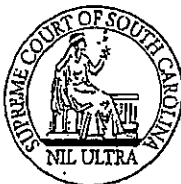
THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA.(HIGHLIGHTING BOTH ELEMENTS

OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA.(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA.(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA.(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.(UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED.

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EXHIBIT, "COURT ADMINISTRATION"



South Carolina Court Administration

South Carolina Supreme Court
Columbia, South Carolina

1220 SENATE STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

September 17, 2018

Justin G. Hunter #377111
Kirkland R&E Center
4344 Broad River Rd.
Columbia, SC 29201

Dear Mr. Hunter:

This is in response to your letter that we received on September 6, 2018, requesting information so that you might contact the Court Reporter who covered the April 12-13, 2016, meeting of the State Grand Jury. Please note that our records do not show that the State Grand Jury met that week, however, Judge Clifton Newman who you mention in your letter was in Richland County that week. His Court Reporter was Keshia Reed. Ms. Reed can be contacted at PO Box 12190, Florence, SC 29504-2190. As you requested, we have enclosed a copy of your letter to us.

Sincerely,

Staff Attorney/sdw

Enclosure as stated

(4) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~S.C.~~ CONSTITUTION VIOLATED, AS WELL AS THE SEPARATION OF POWERS CLAUSE VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTIONAL MISCONDUCT, AS WELL AS THE COURT'S JURISDICTION BEING MADE VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, BY THE TRIAL COURT ALLOWING INTO THE RECORD AT THE APPLICANT'S TRIAL STATEMENTS AND OR TESTIMONY BY THE VARIOUS WITNESSES THAT STOOD IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTES?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH A NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005). THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. BAILEY, S.E.2d., 2016 WL 635154 (S.C.App.2016); BANNISTER v. STATE, 333 S.C. 298, 509 S.E.2d. 807 (S.C.App.1998); STATE v. BUTLER, 277 S.C. 452, 290 S.E.2d. 1 (S.C.App.1982) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND FORCE CONSTRUCT THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 19-1-80, 19-1-90 AND ITS SISTER STATUTE RELATED TO THIS MATTER,

CHALLENGING THOSE COURTS RULINGS CONSTITUTIONALITY FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION PURSUANT TO APPELLATE COURT RULES OF PROCEDURE, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

INASMUCH, IF THE COURT AND PARTIES WOULD TAKE NOTICE OF THE COURT RECORD REGARDING THE STATEMENTS AND OR TESTIMONY GIVEN BY KENYATTA STROTHERS TT.PP. 38 LNS. 11-17; TT.PP. 39 LNS. 20-25; TT.PP. 40 LNS 9-19; TT.PP. 54 LNS. 1-18; TT.PP. 64-91; TT.PP. 73 LNS. 13-14; TT.PP. 82 LNS. 1-6; TT.PP. 83 LNS. 1-6; TT.PP. 85 LNS. 1-14; TT.PP. 87 LNS. 1-25; TT.PP. 88 LNS. 1-25; TT.PP. 89 LNS. 15-25. THE TESTIMONY AND STATEMENTS OF ALBERTA CLARK TT.PP. 171 LNS. 1-8 (TESTIFYING ABOUT THE STATEMENTS); TT.PP. 165 LNS. 23-25; TT.PP. 166 LNS. 14-25; TT.PP. 168 LNS. 17-25; TT.PP. 172 LNS. 5-17; TT.PP. 173 LNS. 22-25; THE TESTIMONY BY ARCADEUS DUBARD TT.PP. 201 LNS. 1-25 (SPEAKING ON STATEMENT BY DONNIE WILLIAMS); TT.PP. 209 LNS. 1-25; TT.PP. 217 LNS. 1-25; TT.PP. 190 LNS. 17-25; TT.PP. 191 LNS. 1-25. THE TESTIMONY OF MR. FOULKS TT.PP. 197 LNS. 1-25; TT.PP. 198 LNS. 1-25; TT.PP. 199 LNS. 1-25; TT.PP. 200 LNS. 15-25; TT.PP. 217 LNS. 1-25. THE TESTIMONY OF TAMARE HOWELL TT.PP. 289 LNS. 1-25; TT.PP. 297 LNS. 1-25; TT.PP. 309 LNS. 1-25 AND EVEN THE APPLICANT'S TESTIMONY SEEN ON TT.PP. 315-346. ALL OF THESE STATEMENTS AND OR TESTIMONY ENTERED INTO THE COURT RECORD STOOD IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTES SINCE THE GOVERNMENT NEVER GAVE THE PARTIES A COPY OF THE STATEMENTS AT THE TIME THEY WERE MADE, NOR WAS THERE ANY RECEIPT SIGNED FOR THEIR TAKING AS THE PLAIN LANGUAGE OF THE STATUTE REQUIRED BEFORE THEY COULD EVER BE INTRODUCED INTO EVIDENCE OR EXAMINED OR CROSS EXAMINED WITHIN ANY TRIAL AS THE MANDATES OF THE STATUTES REQUIRE. THE RECORD IS POLLUTED WITH EGREGIOUS VIOLATIONS OF THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS WHICH WOULD VOID THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR THAT DUE PROCESS VIOLATION. THIS VIOLATED THE APPLICANT'S 5TH. AND

14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION AND VIOLATED THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENT BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THIS PUTS THE RULE 403 VIOLATION ON STEROIDS DEMONSTRATING THE AMOUNT OF PREJUDICE HAS EXTREMELY INCREASED WARRANTING REVERSAL AND VACATING OF THE CONVICTION. THUS THIS IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021).

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 122 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION,

427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON. THE CONVICTION MUST BE REVERSED AND VACATED.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE SHAM LEGAL PROCESS ARGUED VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS

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STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY

ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN v. CITY OF RIVERA BEACH, FLA. SUPRA..

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY

EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA.(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA.(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA.(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA.(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.(UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED. ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS CLAIM IS SEEN IN EXHIBIT, "UNCONSTITUTIONAL STATEMENTS" ATTACHED. SOME OF THE CLAIMS IN THE EXHIBIT SLIGHTLY DIFFER FROM THE APPLICANT. BUT THE SUBSIDIARY FACTS REGARDING ADMITTING STATEMENTS AND OR TESTIMONY IN VIOLATION OF THE APPLICABLE STATUTES APPLY DIRECTLY TO THE APPLICANT AS WELL.

EXHIBIT, "UNCONSTITUTIONAL STATEMENTS"

DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS HIS DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID FOR VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE, VIOLATIONS OF DUE PROCESS AND UNCONSTITUTIONAL ACTION, DUE TO THEY ALLOWING THE ADMISSION OF STATEMENTS AND TESTIMONY IN VIOLATION OF THE APPLICABLE STATUTES?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. NOT ONLY BY THIS DOCUMENT IS THE APPLICANT ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.2005). THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. BAILEY, S.E.2d., 2016 WL 635154 (S.C.App.2016); BANNISTER v. STATE, 333 S.C. 298, 509 S.E.2d. 807 (S.C.App.1998); STATE v. BUTLER, 277 S.C. 452, 290 S.E.2d. 1 (1982) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO EXPAND THE APPLICABLE STATUTES RELATED TO THIS MATTER CHALLENGING THOSE RULINGS CONSTITUTIONALITY PURSUANT TO APPELLATE COURT RULES, RULE

217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

INASMUCH, IF THE COURT AND PARTIES WOULD TAKE NOTICE WITHIN THE COURT RECORD AT THE TESTIMONY AND STATEMENTS ALLEGED TO HAVE BEEN MADE AND OR GIVEN BY ROBIN SIMMONS TTPP 159-197; DAYTON SIMMONS TTPP. 219-227; ANTOINE DRAKE TTPP. 227-282; SHAQUANDULYN CHANEY TTPP. 282-290; THE STATEMENT ALLEGED TO HAVE BEEN MADE TO AGENT JOHNSON TTPP. 201-217; MICHAEL TAYLOR TTPP. 397-416; JANEIKA DUPONT TTPP. 416-427; JACOBIE GRANT TTPP. 428-432; DAVID WILLIAMS TTPP. 432-434 REGARDING BRYON SINGLETON'S STATEMENT; BRYON SINGLETON TTPP. 435-459; ROHAIME JAMAR HOPKINS TTPP. 579-604. ALL THESE STATEMENTS AND ALL TESTIMONY SUBMITTED INTO EVIDENCE RELATED THERETO STANDS IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTES WHERE THERE WAS NO COPY GIVEN TO THOSE WHO ALLEGEDLY MADE THEM NOT WAS THERE A RECEIPT SIGNED FOR THE TAKING THEREOF FOR JUST ABOUT (3) YEARS IN VIOLATION OF THE APPLICANT'S 5TH. AND 14TH. AMENDMENT DUE PROCESS RIGHTS, HIS 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL AND HIS 14TH. AMENDMENT RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE WHERE THE COURTS CONSPIRED UNDER COLOR OF STATE LAW TO ILLEGALLY EXPAND THE APPLICABLE STATUTES.

S.C. CODE ANN § 19-1-80 PROVIDE:

"NO WITNESS IN ANY PRELIMINARY HEARING OR IN ANY CRIMINAL JUDICIAL PROCEEDING OF ANY KIND OR NATURE SHALL BE EXAMINED OR CROSS-EXAMINED BY ANY EXAMINER, SOLICITOR, LAWYER OR PROSECUTING OFFICER CONCERNING A WRITTEN STATEMENT FORMERLY MADE AND GIVEN TO ANY PERSON EMPLOYED BY THE STATE, OR ANY COUNTY, CITY OR MUNICIPALITY THEREOF, OR ANY PART OF ANY SUCH GOVERNING BODY, UNLESS IT BE FIRST SHOWN THAT AT THE TIME OF THE MAKING OF

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THE STATEMENT THE WITNESS WAS GIVEN AN EXACT COPY OF THE STATEMENT, AND THAT BEFORE HIS EXAMINATION OR CROSS-EXAMINATION THE WITNESS WAS GIVEN A COPY OF THE STATEMENT AND ALLOWED A REASONABLE TIME IN WHICH TO READ IT".

S.C. CODE ANN § 8-15-50 PROVIDE:

"WHENEVER ANY PERSON EMPLOYED BY THE STATE, OR ANY COUNTY, CITY, OR MUNICIPALITY THEREOF, OR ANY PART OF ANY SUCH GOVERNING BODY, SHALL TAKE A WRITTEN STATEMENT IN ANY INVESTIGATION OF ANY KIND OR NATURE FROM ANY PERSON, THE PERSON RECEIVING OR TAKING THE WRITTEN STATEMENT SHALL GIVE TO THE PERSON MAKING THE STATEMENT A COPY THEREOF AND SHALL OBTAIN FROM THE PERSON MAKING THE STATEMENT A SIGNED RECEIPT FOR THE COPY SO DELIVERED".

S.C. CODE ANN § 19-1-90 PROVIDE:

"UNLESS THE PROVISIONS OF SECTIONS 8-15-50 AND 19-1-80 HAVE BEEN COMPLIED WITH, NO STATEMENT SUCH AS REFERRED TO IN THOSE SECTIONS SHALL BE ADMISSIBLE IN EVIDENCE IN ANY CASE, NOR SHALL ANY REFERENCE BE MADE TO IT IN THE TRIAL OF ANY CASE".

INSOMUCH, THE STATE OF SOUTH CAROLINA HAS BEEN GETTING AWAY WITH THIS FRAUD UPON THE COURT AND EGREGIOUS INJUSTICE FOR FAR TOO LONG. WITH EACH RULING THE COURTS EXPANDED AND EXPANDED AND EXPANDED THE STATUTE UNTIL THERE IS ESSENTIALLY NOTHING LEFT OF THIS LEGISLATIVE PROVISION CLEARLY VIOLATING THE SEPARATION OF POWERS CLAUSE. THE COURTS OF SOUTH CAROLINA, CONSPIRING UNDER COLOR OF STATE LAW, TOOK ADVANTAGE OF THE INMATES OVER THE YEARS LACK OF EDUCATION AND UNDERSTANDING OF LAW TO THE PREJUDICE OF EVERY SINGLE INMATE WITHIN THIS STATE TO WHICH THIS ISSUE HAS RELEVANCE PRODUCING MANIFEST INJUSTICE AND UNCONSTITUTIONAL ACTION. DUE TO RECENT LAW NOW COMING OUT OF THE 4TH AND OTHER CIRCUITS NATIONALLY, AS WELL AS THE U.S. SUPREME COURT ADDRESSING SUCH CLEAR VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE,

VIOLATING THE APPLICANT'S DUE PROCESS RIGHTS UNDER THE 5TH. AND 14TH. AMENDMENTS, HIS 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL AND HIS 14th. AMENDMENT RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE. THIS EGREGIOUS MISCARRIAGE OF JUSTICE CAN NOW BE REVISITED BY THE COURTS TO CORRECT THE ILLEGAL EXPANSION OF THESE APPLICABLE STATUTES. SUBJECT MATTER JURISDICTION IS THE POWER TO DECLARE LAW AND IT CAN BE RAISED AT ANY TIME, AT ANY STAGE, CANNOT BE WAIVED OR FORFEITED, CAN BE RAISED EVEN AFTER A FINAL ORDER HAS BEEN ISSUED (COMMITMENT ORDER) AND THE COURT SHALL NOT FAIL TO TAKE NOTICE, BANK MARKAZI v. PETERSON SUPRA.; U.S. v. BASTON SUPRA.; 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; HENDERSON EX REL HENDEERSON v. SHINSEL SUPRA.; SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; MONTGOMERY v. LOUISIANA SUPRA..

THE WISDOM OF THE STATUTE, SUCH AS THE ONES PREVIOUSLY CITED WHERE "[S]HAL" IS MANDATORY, IS NOT THE CONCERN OF THE COURTS; IF THE CHALLENGED OR ASSERTED STATUTE RELIED UPON DOES NOT VIOLATE THE CONSTITUTION?, WHICH IN THIS CASE IT DON'T, THESE PROVISIONS MUST STAND AND BE SUSTAINED MAKING THE PROVISIONS OF LAW RELATED TO THE ADMISSIBILITY OF THE STATEMENTS AND TESTIMONY COMING UNDER SCRUTINY HERE "MANDATORY", "DRACONIAN" AND JURISDICTION IN NATURE SINCE YOU VIOLATED THE SEPARATION OF POWERS CLAUSE, HODGE v. RAINEY SUPRA.; BESSINGER v. R-N-M BUILDERS & ASSOCIATES, LLC. SUPRA.; MARSHALL v. DODDS SUPRA.; I.N.S. v. CHADHA SUPRA.; MILLER v. DAVIS SUPRA.; STATE EX REL. BIAFORE v. TOMBLIN SUPRA.; MEJIA v. TIME WARNER CABLE INC. SUPRA.; SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; NATIONSTAR MORTG., LLC. v. MEISNER SUPRA.; FIRST CITIZEN BANK AND TRUST COMPANY, INC. v. TAYLOR SUPRA..

THE PREJUDICE AND DAMAGE BY THIS ILLEGAL ACTION ON THE PART OF THE SOUTH CAROLINA COURTS ARE CLEAR. THE S.C. STATE COURTS HAVE VIOLATED THE APPLICANT'S CONSTITUTIONAL DUE PROCESS

RIGHTS UNDER THE 5TH., 6TH. AND 14TH. AMENDMENTS OF DUE PROCESS, A FAIR AND IMPARTIAL TRIAL AND RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE, VIOLATING THE SEPARATION OF POWERS CLAUSE WHERE THEY HAVE ILLEGALLY AND INAPPROPRIATELY. IN AN ABUSE OF DISCRETION CONSPIRING UNDER COLOR OF STATE LAW EXPANDED THE APPLICABLE STATUTES RENDERING THE PROCEEDINGS UNCONSTITUTIONAL WHICH IS TO BE ADJUDICATED UNDER THE CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION ENTERING INTO EVIDENCE STATEMENTS AND TESTIMONY, STRIPPING FROM THE APPLICANT DUE PROCESS PROTECTIONS THAT HAVE BEEN PLACED UPON HIM BY THE S.C. LEGISLATORS. MEMBERS OF THE COURT ARE INVESTED WITH THE AUTHORITY TO INTERPRET THE LAW, BUT THEY POSSESS NEITHER THE EXPERTISE NOR THE PREROGATIVE TO MAKE POLICY JUDGMENTS SUCH AS THE WAY THEY DID IN THESE CASES ILLEGALLY EXPANDING THE STATUTES IGNORING THE PLAIN MEANING RULE THAT ATTACHES TO THESE PROVISIONS OF LAW IN QUESTION WATERING DOWN AT EVERY TURN GIVING WAY TO SUBTLE AND OR FORCED CONSTRUCTION OF THE STATUTES IN QUESTION. THESE DECISIONS ARE ENTRUSTED TO THE LEGISLATURE WHO DECIDED ONCE A STATEMENT WAS MADE TO ANY EMPLOYEE OF THE STATE, COUNTY, CITY ETC., A COPY OF THE STATEMENT WAS TO BE GIVEN IMMEDIATELY TO THE INDIVIDUAL MAKING THE STATEMENT AND A RECEIPT WAS TO BE SIGNED FOR DELIVERING IT TO THEM AT THAT TIME. NOT 3 YEARS LATER AS OCCURRED IN THE APPLICANT'S CASE RELATED TO ALL OF THESE STATEMENTS. SOME WERE SKIRTED BY THE INVESTIGATOR TALKING ABOUT HE INITIATED SOME KIND OF MEMORANDUM REPORT WHEN THE LAW REQUIRED THAT A STATEMENT BE WRITTEN AND HE GIVE THEM A COPY THE TIME THEY MADE IT OR THE STATEMENT OR ANY TESTIMONY RELATED TO IT CANNOT BE ADMITTED INTO EVIDENCE. "SHALL" IS MANDATORY WITHIN THESE PROVISIONS OF LAW UNLESS THERE IS SOME LANGUAGE WITHIN THESE PROVISIONS OF LAW THAT WOULD DETERMINE OTHERWISE WHICH THERE IS NOT. THE INJUSTICE, PREJUDICE AND DUE PROCESS VIOLATIONS ARE OVERWHELMING REQUIRING THE CONVICTION TO BE RENDERED UNCONSTITUTIONAL AND THE COURT'S JURISDICTION BE MADE VOID FOR THIS UNCONSTITUTIONAL ACTION. THE APPLICANT MOVES FOR SUCH, NATIONAL FEDERATION OF INDEPENDENT BUSINESS v. SEBELIUS SUPRA.; STEGALL v. T.M.C. MULTI-STATE

INTER-GOVERNMENT EMPLOYEE BENEFITS POOLS. INC. SUPRA.; IN RE: BORDER INFRASTRUCTURE ENVIRONMENT LITIGATION SUPRA.; U.S. v. RON PAIR ENTERPRISES INC. SUPRA.; IN RE: ARGON CREDIT, LLC. SUPRA.; UNITED STATES v. STE-BRI ENTERPRISES INC. SUPRA..

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. UNITED STATES, 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334 (U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6 D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S..

THE APPLICANT IS ARGUING AGAINST ANY PRECEDENT CASE THAT STATES THE CONTRARY. THE STATE OF SOUTH CAROLINA HAS BEEN GETTING AWAY WITH THIS MANIFEST INJUSTICE FOR FAR TOO LONG. WHEN A STATUTE DISTINGUISHES BETWEEN "MAY" AND "SHALL" IT IS GENERALLY CLEAR THAT "SHALL" IMPOSES A MANDATORY DUTY, SUPERMUS PHARMACEUTICALS, INC. v. IANCU, 913 F3d. 1351, 1359 Fed.Cir.(Va.); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069 (U.S.2018); JENNINGS v. RODRIQUEZ, 138 S.Ct. 830, 200 L.Ed.2d. 122, 86 U.S.L.W. 4094(U.S.2018). THUS, THE SENTENCE AND CONVICTION MUST BE VACATED AND THE STATE MUST BE DEEMED IN FORFEITURE ON THE CAUSE OF CONVICTION RELATED TO THESE ILLEGALLY ADMITTED STATEMENTS AND OR TESTIMONY. THE APPLICANT MOVES FOR SUCH.

(5) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~S.C~~ CONSTITUTION VIOLATED, AS WELL AS THE SEPARATION OF POWERS CLAUSE VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTIONAL MISCONDUCT, AS WELL AS THE COURT'S JURISDICTION BEING MADE VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, BY THE TRIAL COURT ALLOWING INTO THE RECORD AT THE APPLICANT'S TRIAL DRUGS AND OR TESTIMONY RELATED TO THOSE DRUGS WHEN THERE WAS NOT A PROPER CHAIN OF CUSTODY ESTABLISHED THAT STOOD IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTES?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH A NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005). THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. HATCHER, 392 S.C. 86, 798 S.E.2d. 750(S.C.App.2011); STATE v. SWARINGEN, 446 S.C. 16, 916 S.E.2d. 343 (S.C.App.2025). THE APPLICANT MAKES USE OF OWENS v. STIRLING. 443 S.C. 246, 904 S.E.2d. 580 (S.C.App.2024)(STANDARD OF DECISION WHEN CONSIDERING THE CONSTITUTIONALITY OF A STATUTE REQUIRES THAT COURT PRESUME STATUTE IS CONSTITUTIONAL; COURT MUST

UPHOLD STATUTE UNLESS IT FINDS BEYOND A REASONABLE DOUBT IT DOES NOT CONFORM TO THE CONSTITUTION) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND FORCE CONSTRUCT THE APPLICABLE STATUTES OF S.C. CODE ANN. § 73-80 DUTIES OF SEIZING OFFICER RELATED TO THIS MATTER, CHALLENGING THOSE COURTS RULINGS CONSTITUTIONALITY FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION PURSUANT TO APPELLATE COURT RULES OF PROCEDURE, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

INASMUCH, S.C. CODE ANN. § 73-80 PROVIDE:

(A) THE SEIZING OFFICER "SHALL" CAUSE TO BE CREATED AT HIS OR HER EMPLOYING LAW ENFORCEMENT AGENCY A WRITTEN RECORD OF ANY CONTROLLED SUBSTANCE(S) OR SUSPECTED CONTROLLED SUBSTANCE(S) OR PARAPHERNALIA THAT SHALL COME INTO HIS OR HER POSSESSION (FORM(S) A, B, & C ESTABLISHED BY THIS PROVISION).

(B) THE WRITTEN RECORD OF SEIZED CONTROLLED SUBSTANCE(S) "SHALL" BE CREATED AS SOON AS PRACTICAL BUT NOT MORE THAN 72 HOURS THEREAFTER UNLESS:

(1) THE SEIZING OFFICER BECOMES PHYSICALLY INCAPACITATED;

(2) CREATION OF A WRITTEN RECORD WOULD JEOPARDIZE THE CRIMINAL INVESTIGATION;

(3) THE SEIZING OFFICER RECEIVES PERMISSION FROM HIS OR HER SUPERIOR TO DELAY CREATION OF THE WRITTEN RECORD.

(C) THE WRITTEN RECORD "SHALL" CONTAIN AT LEAST THE FOLLOWING:

(1) NAME OF THE SEIZING OFFICER.

(2) NAME OF LAW ENFORCEMENT AGENCY EMPLOYING THE SEIZING OFFICER.

(3) DATE OF SEIZURE.

(4) NAME OF PERSON FROM WHOM OR SPECIFIC LOCATION FROM WHICH CONTROLLED SUBSTANCE(S) WAS SEIZED (IF KNOWN).

(5) STATE WHETHER SEIZURE WAS SUBJECT TO WARRANT, LAWFUL ARREST, OR OTHERWISE.

(6) PLACE WHERE THE CONTROLLED SUBSTANCE WAS SEIZED.

(7) DESCRIPTION OF THE SUBSTANCE(S) OR CONTAINER(S) INCLUDING THE STATE DELIVERED, THE NAME OF THE PERSON TO WHOM DELIVERED, THE LAW ENFORCEMENT AGENCY EMPLOYING THAT PERSON, AND THE SIGNATURE OF THE SEIZING OFFICER.

(D) THE SEIZING OFFICER "SHALL" CREATE OR CAUSE TO BE CREATED AN "INITIAL CUSTODY FORM". (FORM A). THIS INITIAL CUSTODY FORM "SHALL" CONTAIN THE FOLLOWING INFORMATION:

(1) NAME OF SEIZING OFFICER.

(2) NAME OF LAW ENFORCEMENT AGENCY EMPLOYING THE SEIZING OFFICER.

(3) DATE OF SEIZURE.

(4) NAME OF PERSON FROM WHOM OR SPECIFIC LOCATION FROM WHICH CONTROLLED SUBSTANCE(S) WAS SEIZED (IF KNOWN).

(5) STATE WHETHER SEIZURE WAS SUBJECT TO WARRANT,

LAWFUL ARREST, OR OTHERWISE.

(6) PLACE WHERE THE CONTROLLED SUBSTANCE(S) WAS SEIZED.

(7) DESCRIPTION OF THE SUBSTANCE(S)....

(E) IF AND WHEN IT IS NECESSARY TO TRANSFER CUSTODY OF THE CONTROLLED SUBSTANCE(S) EVIDENCE TO A EVIDENCE CUSTODIAN, THE SEIZING OFFICER WILL COMPLETE THE INITIAL CUSTODY FORM (FORM B) BY FILLING IN OR CAUSING TO BE FILLED IN THE FOLLOWING:

(1) THE DATE WHEN THE SEIZING OFFICER DELIVERED THE CONTROLLED SUBSTANCE TO THE EVIDENCE CUSTODIAN.

(2) THE NAME OF THE EVIDENCE CUSTODIAN TO WHOM THE CONTROLLED SUBSTANCE(S) WILL BE DELIVERED TO BY THE SEIZING OFFICER.

(3) THE LAW ENFORCEMENT AGENCY EMPLOYING THE EVIDENCE CUSTODIAN TO WHOM THE CONTROLLED SUBSTANCE(S) WILL BE DELIVERED TO.

(4) A STATEMENT BY THE SEIZING OFFICER THAT THE CONTROLLED SUBSTANCE(S) IS IN SUBSTANTIALLY THE SAME CONDITION AS WHEN HE RECEIVED IT.

(5) IF THE CONTROLLED SUBSTANCE(S) WAS ALTERED IN ANY WAY WHILE IN THE POSSESSION OF THE SEIZING OFFICER, THE SEIZING OFFICER SHALL IN WRITING FULLY DESCRIBE THE NATURE AND EXTENT OF THE ALTERATION. THE WRITTEN RECORD OF ALTERATION TO THE CONTROLLED SUBSTANCE(S) EVIDENCE MUST BE KEPT WITH THE CHAIN OF CUSTODY RECORD....

(F) THE SEIZING OFFICER "SHALL" DELIVER THE COMPLETED INITIAL CUSTODY FORM (FORM A) TOGETHER WITH THE CONTROLLED SUBSTANCE EVIDENCE TO THE EVIDENCE CUSTODIAN....

S.C. CODE ANN. § 44-53-120 PROVIDE:

THE STATE LAW ENFORCEMENT DIVISION "SHALL":

(2) COORDINATE AND COOPERATE IN TRAINING PROGRAMS ON CONTROLLED SUBSTANCE LAW ENFORCEMENT AT THE LOCAL AND STATE LEVELS;

(5) PROMULGATE REGULATIONS TO PROVIDE UNIFORM PROCEDURES FOR THE SEIZING, INVENTORY, REPORTING, AUDITING, HANDLING, TESTING, STORAGE, PRESERVATION FOR EVIDENTIARY USE, AND DESTRUCTION OR OTHER LAWFUL DISPOSITION OF CONTROLLED SUBSTANCES BE SEIZED, INVENTORIED, REPORTED, HANDLED ECT. PURSUANT TO PROCEDURES PROMULGATED PURSUANT TO THIS SECTION. ALSO SEE S.C. CODE ANN. § 44-53-485.

THIS ALSO PRODUCES A BRADY VIOLATION THAT DEFIES U.S. SUPREME COURT HOLDINGS UNDER WEARRY v. CAIN, 577 U.S. 385, 136 S.Ct. 1002, 194 L.Ed.2d. 78(U.S.2016)(THE SUPPRESSION OF EVIDENCE FAVORABLE TO THE ACCUSED UPON REQUEST VIOLATES DUE PROCESS WHERE THE EVIDENCE IS MATERIAL EITHER TO GUILT OR TO PUNISHMENT, IRRESPECTIVE OF THE GOOD FAITH OR BAD FAITH OF THE PROSECUTION). THIS FAILURE AT DISCOVERY TO RELEASE THE FORMS THAT WERE REQUIRED BY THE STATUTE PREVENTED THE APPLICANT IN CHALLENGING THE ENTERING OF THIS UNCONSTITUTIONAL EVIDENCE INTO THE RECORD BY THE CHAIN OF CUSTODY REQUIREMENT, SAFAR v. TINGLE, 859 F.3d. 241(4th.Cir.2017)(THE FAILURE TO DISCLOSE THE FORMS TO ESTABLISH THE CHAIN OF CUSTODY DEPRIVED THE APPLICANT OF RIGHT TO FAIR TRIAL). WHERE IN THE RECORD DID THE STATE SUBMIT THE REQUIRED DOCUMENTED FORM(S) A, B ETC. THAT WERE REQUIRED BY THE STATUTE BEFORE THIS PREJUDICIAL EVIDENCE OF MARIJUANA WAS ENTERED INTO THE COURT RECORD AT TRIAL? WHERE IS THE SIGNATURE ON THE INITIAL FORM OF THE OFFICER WHO SUPPOSEDLY FOUND THE DRUGS AT THE SCENE TO ENSURE THAT THE EVIDENCE WAS NOT PLANTED OR TAMPERED WITH WHICH EXTREMELY PREJUDICED THE APPLICANT STANDING IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTE(S) GIVING WAY TO SUBTLE EXPANSION AND OR FORCE CONSTRUCTION OF THE STATUTE VIOLATING THE

SEPARATION OF POWERS CLAUSE? THE RECORD IS POLLUTED WITH EGREGIOUS VIOLATIONS OF THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS WHICH WOULD VOID THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR THAT DUE PROCESS VIOLATION. THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION AND VIOLATED THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENT BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THE COURTS CANNOT ESTABLISH THE CHAIN OF CUSTODY BY TESTIMONY ALONE IN VIOLATION OF THE STATUTE DEMONSTRATING THE AMOUNT OF EXTREME PREJUDICE THAT THE APPLICANT WAS SUBJECT TO WARRANTING REVERSAL AND VACATING OF THE CONVICTION. THUS THIS IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021).

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C.

177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON. THE CONVICTION MUST BE REVERSED AND VACATED. "TIME PRACTICABLE BUT WITHIN 72 HOURS" IS CLEAR AND UNAMBIGUOUS LANGUAGE REQUIRING THE PRODUCING OF THE DOCUMENTED FORMS AS THE STATUTE REQUIRES AND PURSUANT TO CONSTITUTIONALLY PROTECTED RIGHT OF DISCOVERY TO ALLOW THE APPLICANT TO CHALLENGE ANY DEFICIENCIES IN THE CHAIN OF CUSTODY.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER

SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE SHAM LEGAL PROCESS ARGUED VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN v. CITY OF RIVERA BEACH, FLA. SUPRA...

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW

MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA. (HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA. (REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA. (REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA. (UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA. (UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED.

(6) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~U.S.~~ CONSTITUTION VIOLATED, AS WELL AS THE SEPARATION OF POWERS CLAUSE VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS RULES OF COURT AND CRIMINAL PROCEDURE VIOLATED, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTIONAL MISCONDUCT, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND THEY WERE PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS OF [A]UTHORITY" DUE TO THE "[P]ROCEDURAL [D]EFFECT" BASED UPON THE "CLAIM PROCESSING RULE" IN THAT THERE WAS NO "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE OBTAINED PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH A NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE V. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005). THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE V. LANGFORD, 400 S.C. 421 735 S.E.2d 471(S.C.App.2012). THE APPLICANT MAKES USE OF OWENS V.

STIRLING, 443 S.C. 246, 904 S.E.2d. 580 (S.C.App.2024)(STANDARD OF DECISION WHEN CONSIDERING THE CONSTITUTIONALITY OF A STATUTE REQUIRES THAT COURT PRESUME STATUTE IS CONSTITUTIONAL; COURT MUST UPHOLD STATUTE UNLESS IT FINDS BEYOND A REASONABLE DOUBT IT DOES NOT CONFORM TO THE CONSTITUTION) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND FORCE CONSTRUCT THE APPLICABLE STATUTES OF ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION THAT STATE ALL PROVISIONS ATTACHED TO THE S.C. CONSTITUTION ARE MANDATORY UNLESS THERE IS SOME LANGUAGE WITHIN THE PROVISION THAT SAYS THAT IT IS NOT, CHALLENGING ANY COURT(S) RULINGS THAT NEGATES THIS MANDATE FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION PURSUANT TO APPELLATE COURT RULES OF PROCEDURE, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

THE APPLICANT BRINGS THE COURT AND PARTIES ATTENTION TO EXHIBIT, "NO ORDERS OF CONTINUANCE". THIS IS A COPY OF THE COVER LETTER SENT TO THE COURT DATED FEBRUARY 22, 2026 AND THE LEXINGTON COUNTY CLERK OF COURT'S RESPONSE DATED FILED MARCH 3, 2026. THE COURT AND PARTIES WILL ALSO FIND ATTACHED TO THIS ISSUE EXHIBIT(S), "PROCEDURAL PROCESSING RULE" AND "(180) DAY RULE/(365) DAY RULE". ALL CLAIMS, ISSUES AND DEFENSES ARGUED WITHIN THESE ATTACHMENTS ARE BEING ARGUED WITHIN THE APPLICANT'S CURRENT PCR APPLICATION FOR THIS PARTICULAR ISSUE DUE TO THE SAME MANIFEST INJUSTICE OCCURRING IN THE APPLICANT'S CASE. THE WARRANT(S) WERE SERVED ON THE APPLICANT NOVEMBER 13, 2020. YET, THE CASE WAS NOT CONCLUDED UNTIL SEPTEMBER 7, 2023. THE GENERAL SESSIONS COURT HAD (365) DAYS UNTIL NOVEMBER 13, 2021 TO CONCLUDE THE APPLICANT'S DUE PROCESS MATTERS OR OBTAIN AN ORDER OF CONTINUANCE. THE STATE ACTORS IN ACTS OF MALICIOUS PROSECUTION AND PROSECUTIONAL MISCONDUCT AS WELL AS FRAUD UPON THE COURT ARE (2) YEARS, (9) MONTHS AND (25) DAYS PAST THE TIME FRAME SET IN PLACE UNDER ARTICLE V § 4 OF THE S.C. CONSTITUTION WHICH IS MADE

JURISDICTIONAL BY LEGISLATIVE INTENT PURSUANT TO ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION WHERE NO ORDER OF CONTINUANCE WAS FILED WITHIN THE PROCEEDINGS WHATSOEVER TO ALLOW THE GENERAL SESSIONS COURT TO PROCEED ANY FURTHER PAST THE JURISDICTIONAL DEADLINE. SUCH ACTION VIOLATE'S THE APPLICANT'S DUE PROCESS RIGHTS, THE S.C. CONSTITUTION AND PRODUCES A SEPARATION OF POWERS CLAUSE VIOLATION. SINCE THIS CLAIM IS INDEED JURISDICTIONAL IN NATURE AS ADJUDICATED UNDER UNITED STATES v. WHEELER 4TH. CIRCUIT AND FORT BEND COUNTY, TEXAS v. DAVIS OUT OF U.S. SUPREME COURT. IT CAN BE RAISED AT ANY TIME EVEN AFTER A FINAL JUDGMENT (COMMITMENT ORDER) HAS BEEN ISSUED IN THE CASE MAKING THE ASSERTING OF THIS SUBSTANTIAL DUE PROCESS RIGHT TIMELY. WHEN THE LEGISLATURE ALSO VIA THE S.C. CONSTITUTION UNDER ARTICLE V § 4 AND ARTICLE 1 § 23, IT MARKS THE BOUNDS OF A COURT'S POWER, AND THE GOVERNMENT'S FAILURE TO FOLLOW THE REQUIREMENTS DEPRIVES THE COURT OF AUTHORITY (JURISDICTION) TO HEAR THE CASE, SO A COURT "MUST" (MANDATORY) ENFORCE THE REQUIREMENT EVEN IF NO PARTY HAS RAISED IT, AND A COURT "MUST" ADHERE TO THE REQUIREMENT EVEN IF EQUITABLE CONSIDERATIONS WOULD SUPPORT EXCUSING ITS VIOLATION, HARROW v. DEPT. OF DEFENSE, 601 U.S. 480, 144 S.Ct. 1178, 218 L.Ed.2d. 502(U.S.2024); SANTOS-ZACARIA v. GRARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023)(A JURISDICTIONAL PRESCRIPTION SETS THE BOUNDS OF A COURT'S ADJUDICATORY AUTHORITY. COURTS CANNOT GRANT EQUITABLE EXCEPTIONS TO JURISDICTIONAL RULES, BECAUSE THEY ARE NOT ABLE TO EXCEED THE LIMITS OF THEIR ADJUDICATIVE AUTHORITY); MOAC MALL HOLDINGS LLC. v. TRANSFORM HOLDCO LLC, 598 U.S. 288, 143 S.Ct. 927, 215 L.Ed.2d. 262(U.S.2023). THE ACTION OF THE COURT WHICH EXTREMELY PREJUDICED THE APPLICANT STANDING IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTE(S) GIVING WAY TO SUBTLE EXPANSION AND OR FORCE CONSTRUCTION OF THE STATUTE VIOLATING THE SEPARATION OF POWERS CLAUSE? THE RECORD IS POLLUTED WITH EGREGIOUS VIOLATIONS OF THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS WHICH WOULD VOID THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR THAT DUE PROCESS VIOLATION. THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL,

THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION AND VIOLATED THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENT BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THE COURTS CANNOT ESTABLISH THE CHAIN OF CUSTODY BY TESTIMONY ALONE IN VIOLATION OF THE STATUTE DEMONSTRATING THE AMOUNT OF EXTREME PREJUDICE THAT THE APPLICANT WAS SUBJECT TO WARRANTING REVERSAL AND VACATING OF THE CONVICTION. THUS THIS FRAUD UPON THE COURT AND MANIFEST INJUSTICE IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021); MYLES v. DOMINOS PIZZA, LLC, 2027 WL 238436(D.C.Miss.2027); HAMER v. NEIGHBORHOOD HOUSING SERVICE OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 249(U.S.2017); UNITED STATES v. WHEELER, 886 F.3d. 415(4th.Cir.2018); FORTBEND COUNTY, TEXAS v. DAVIS, 139 S.Ct. 1843(U.S.2019).

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605

U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON. THE CONVICTION MUST BE REVERSED AND VACATED. "HOWEVER THE COURT MAY IF..." IS CLEAR AND UNAMBIGUOUS LANGUAGE REQUIRING THAT THE APPLICANT DUE PROCESS MATTERS BE CONCLUDED WITHIN (365) DAYS OR OBTAIN AN ORDER OF CONTINUANCE TO ALLOW THE CASE TO PROCEED FURTHER AS THE STATUTE REQUIRES AND PURSUANT TO CONSTITUTIONALLY PROTECTED RIGHT OF THE S.C. CONSTITUTION UNDER ARTICLE V § 4.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL

ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE SHAM LEGAL PROCESS ARGUED VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN v. CITY OF RIVERA BEACH, FLA. SUPRA...

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THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND

UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA.(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA.(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA.(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA.(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.(UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED.

EXHIBIT, "NO ORDERS OF CONTINUANCE"

JAMES JOSEPH PATTERSON
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

2026 MAR -3 AM 10:19

LEXINGTON
CLERK OF COURT
LEXINGTON SC

IN RE: CASE INDICTMENT NUMBER(S) 2022-GS-32-6146 AND
2022-GS-32-6147 FOR MURDER AND POSSESSION OF A WEAPON DURING A
VIOLENT CRIME.

TO: THE LEXINGTON COUNTY CLERK OF COURT,

MA'AM, THIS IS MY SECOND REQUEST. MY FIRST REQUEST WAS
SENT TO YOU DATED FEBRUARY 4, 2026. CAN YOU PLEASE LOOK IN YOUR
FILES IN THE ABOVE CAPTIONED MATTERS AND TELL ME ARE THERE ANY
"WRITTEN" ORDERS OF CONTINUANCES FILED IN THE CASES AND IF THERE
IS PLEASE SEND ME COPY AND OR NOTIFY ME THAT NO SUCH ORDERS OF
CONTINUANCES EXIST IN THE CASE? ALSO PLEASE SEND ME A COPY OF ALL
WARRANTS, INDICTMENTS AND SENTENCING SHEETS REGARDING THE
MATTERS. I THANK YOU IN ADVANCE FOR YOUR CONTINUED KIND
ASSISTANCE IN THESE MATTERS. STILL REMAIN,

RESPECTFULLY,

JAMES J. PATTERSON

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FEBRUARY ²² 2026

COUNTY OF LEXINGTON
ELEVENTH JUDICIAL CIRCUIT

LEXINGTON COUNTY JUDICIAL CENTER
205 EAST MAIN STREET
LEXINGTON, S.C. 29072

GENERAL SESSIONS
FAMILY COURT
COMMON PLEAS

TELEPHONE: 803-785-8212

FAX: 803-785-8314

Lisa M. Comer
CLERK OF COURT

*Your request was
mailed out on 2-10-21*

We have received your inquiry:

Your charge is: Pending Dismissed Bench Warranted A Conviction

Your charge(s) on file here have been faxed to SCDC; they clear up detainers.

Your motions must be filed through your attorney

A copy of all enclosed has been forwarded to:

Your Attorney The Solicitor's Office The Public Defender's Office
Please contact that office or your attorney to inquire about your case.

For matters concerning PCR's, please contact the Attorney General's Office at:
(803) 734-3737.

In order to obtain a transcript, write to SC Court Administration at 1015 Sumter Street,
Suite 200, Columbia, SC 29201. You will need to have the case number, judge's name,
and the date of the trial. If you have any questions you will need to call: (803) 734-1800.

This office cannot help you in this matter.

SCDC calculates credit for time served.

This office does not provide legal advice or legal forms.

There is no record of warrant # _____ for _____
on file in this office. You will need to contact the arresting agency.

You need to contact the charging agency to get pending warrants served on you.

Please speak to your attorney.

Other Please speak to your attorney about
a Orders of Continuance. we don't have
any on record 216-of-406

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EXHIBIT, "PROCEDURAL PROCESSING RULE"

~~Q~~ DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS HIS DUE PROCESS RIGHTS VIOLATED, AS WELL AS RULES OF COURT AND RULES OF CRIMINAL PROCEDURE, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, WHICH ALSO HAVE A DIRECT IMPACT ON ANY FINAL ORDER AND RULING MADE UNDER THE PCR CASE NUMBER ~~201-000000~~ AND THEY WERE PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS" DUE TO THE "[P]ROCEDURAL [D]EFFECT" IN THAT THERE WAS NO "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE OBTAINED PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE HEARD BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. NOT ONLY BY THIS DOCUMENT IS THE APPLICANT ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.2005). THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. LANGFORD, 400 S.C. 421, 735

S.E.2d. 471(S.C.2012) PURSUANT TO APPELLANT COURT RULES, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

INSOMUCH, THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. HERE YOU WILL FIND ATTACHED: EXHIBIT, "NO ORDER OF CONTINUANCE". THIS IS A COPY OF THE LETTER SENT TO THE APPLICANT FROM THE GREENVILLE COUNTY CLERK OF COURT DATED OCTOBER 7, 2020 INDICATING THAT THERE WERE NO WRITTEN ORDERS OF CONTINUANCE FILED WITHIN THIS CASE ALLOWING THE COURT TO GO PAST THE PROSCRIBED DEADLINE SET IN PLACE BY THE S.C. LEGISLATURE AND THE S.C. CONSTITUTION. THUS, THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE U.S. CONST. AND HIS DUE PROCESS RIGHTS WERE VIOLATED, AS WELL AS RULES OF COURT, RULES OF CRIMINAL PROCEDURE, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, WHICH HAS A DIRECT IMPACT ON THE FINAL ORDER ISSUED IN THE PCR COURT UNDER CASE ~~XXXXXXXXXX~~, AND OR THEY WERE PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS" DUE TO THE "[P]ROCEDURAL [D]EFFECT" IN THAT THERE WAS NO "[W]ITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE OBTAINED PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION. DUE TO THE COURT AND STATE SOLICITOR AND OR PROSECUTOR'S INVOLVEMENT IN NOT JUST THIS PARTICULAR ISSUE, BUT WITHIN THE ISSUES IN THEIR TOTALITY ARGUED WITHIN THIS DOCUMENT. SUCH UNCONSTITUTIONAL ACTION ON THE PART OF THE COURT AND PROSECUTOR ALSO ESTABLISHES EQUITABLE TOLLING FOR THE APPLICANT TO ALLOW HIM TO ADDRESS THESE INJUSTICES AT ALL LEVELS. STATE AND FEDERAL BODMAN v. STATE 403 S.C 60, 742 S.E.2d. 363(S.C.2013); MARSHALL v. CITY OF ROCK

HILL, S.E.2d., 2015 WL 3884258(S.C.App.2015); TURNER v. DANIELS, 404 S.C. 430, 746 S.E.2d. 40 (S.C.2013); BENTON v. BURNS, 2017 WL 491251 (D.C.Md.2017); PEGG v. HEARNBERGER, 845 F3d. 112 (4th.Cir.2017); GRAHAM v. GAGNON, 831 F3d. 176 (4th.Cir.2016); JONES v. WEAVER, 2019 WL 3034672 (N.D.Va.2019); WATTS v. STEPHON, 2019 WL 3017058 (DSC.2019); U.S v HARE, 820 F3d 93 (4th.Cir.2016); PAUL ADAMS v. CALIFORNIA INSTITUTION, 2016 WL 6464444.

ONE OF THE EGREGIOUS INJUSTICE THAT HAS MANIFESTED ITSELF PRODUCED BY THE HOLDINGS MADE UNDER THE LANGFORD CASE. THE STATE PROSECUTOR, SUPPORTED BY AN ABUSE OF DISCRETION ON THE PART OF THE STATE COURT(S) INVOLVED, HAVE INTERPRETED THE PROSECUTOR'S RIGHT TO CONTROL HIS DOCKET TO MEAN THAT THEY CAN VIOLATE AND OR DIMINISH AND OR WATER DOWN CONSTITUTIONAL DUE PROCESS PROTECTIONS PLACED UPON THE DEFENDANT(S) BY THE STATE LEGISLATORS IN CLEAR VIOLATION OF THE SEPARATION OF POWERS CLAUSE, RENDERING ALL STATE ACTION AND PROCEEDINGS ATTACHED TO THIS INJUSTICE A VIOLATION OF DUE PROCESS, UNCONSTITUTIONAL AND VOIDS THE COURTS INVOLVED JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION WHICH VIOLATES ARTICLE 12 § 2 AND ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION WHICH PROVIDE:

"THE PROVISIONS OF THE SOUTH CAROLINA CONSTITUTION "[S]HALL" (EMPHASIS ADDED) BE TAKEN, DEEMED AND CONSTRUED TO BE MANDATORY AND OR PROHIBITORY AND NOT MERELY DIRECTORY, EXCEPT WHERE MADE DIRECTORY OR PERMISSORY BY ITS OWN TERMS".

ONCE THE SOUTH CAROLINA SUPREME COURT ATTACHED THESE SPECIFIED PROVISIONS OF LAW TO THE SOUTH CAROLINA CONSTITUTION BY THEIR VOLUNTARY AND DISCRETIONARY ARTICLE V ACTION; LEGISLATIVE INTENT THEREUPON ATTACHED TO THE PROVISIONS OF LAW IN QUESTION. THE STATE LEGISLATURE. INDISPUTABLY DETERMINED THAT ONCE ATTACHED TO THE S.C. CONSTITUTION, ALL PROVISIONS OF DUE PROCESS LAW, THEREUPON ATTACHED, THE PROVISIONS OF LAW IN QUESTION ADHERENCE BECOMES "MANDATORY", "DRACONIAN" IN NATURE, CREATING A

"[J]URISDICTIONAL [C]HALLENGE" AND OR "[J]URISDICTIONAL [D]EFFECT" FOR FAILURE TO BE IN COMPLIANCE THERETO. THE APPLICANT WAS ARRESTED AND OR THE WARRANT WAS SERVED UPON HIM ON OR ABOUT MARCH 12, 2009. THIS GAVE THE COURT OF GENERAL SESSIONS AND STATE PROSECUTOR UNTIL MARCH 12, 2010 TO CONCLUDE THE APPLICANT'S DUE PROCESS MATTERS. YET THE CASE WAS NOT CONCLUDED UNTIL JUNE 23, 2011 OVER (460) DAYS PAST THE PROSCRIBED DEADLINE SET IN PLACE BY THE S.C. SUPREME COURT AND THE S.C. LEGISLATURE PURSUANT TO ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION. FOR THE PROSECUTOR AND COURTS INVOLVED TO ALLOW THE LANGFORD CASE IN ACTS OF FRAUD UPON THE COURT AND IN AN ABUSE OF DISCRETION TO BE PERMITTED TO BE CONSTRUED THAT THEY ARE ALLOWED TO BLATANTLY IGNORE THE CONSTITUTIONAL DUE PROCESS PROTECTIONS PLACED UPON INMATES BY THE STATE LEGISLATURE, RENDERS ALL PROCEEDINGS IN QUESTION, THOSE SUBSEQUENTLY ATTACHED AND THE CONVICTION(S) RELATED THERETO UNCONSTITUTIONAL, A VIOLATION OF THE SEPARATION OF POWERS CLAUSE, A VIOLATION OF DUE PROCESS AND VOIDS THE COURT(S) INVOLVED JURISDICTION WHERE THESE MATTERS ARE TO BE ADJUDICATED UNDER "THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION". THUS, THE COURT(S) BEING GIVEN JURISDICTION BY LEGISLATIVE PROVISIONS OR THE ABUSE OF DISCRETION PRODUCED BY THE STATE v. GENTRY CASE WOULD NOT PREVENT THE ISSUES FROM BEING HEARD UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION. DUE TO THE FAILURE TO CONCLUDE THE CASE IN THE GENERAL SESSIONS COURT BY THE TIME FRAME SET IN PLACE BY THE S.C. LEGISLATURE VIA THE LAW BEING ATTACHED TO THE S.C. CONSTITUTION. THE FAILURE TO BE IN COMPLIANCE PLACES THE STATE IN FORFEITURE ON THE CAUSE(S) OF CONVICTION AND ANY DETERMINATION TO THE CONTRARY WOULD VIOLATE THE SEPARATION OF POWERS CLAUSE, THE U.S. CONSTITUTION AND DUE PROCESS LAW. THE SEPARATION OF POWERS PROTECTIONS AND THE PLAIN MEANING RULES PROTECTIONS ALSO PURSUANT TO ARTICLE 1 § 23 ARE TRIGGERED, BANK MARKAZI v. PETERSON, 136 S.Ct. 1310, 194 L.Ed.2d. 463, 84 U.S.L.W. 4222 (U.S.2016); U.S. v. BASTON, 818 F3d. 651 (11th.Cir.2016); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th Cir 2016); STAR

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ATHLETICA, LLC. v. VARSITY BRANDS, INC., 137 S Ct 1002, 197 L.Ed.2d. 354, 85 U.S.L.W. 4139 (U.S.2017); ENCINO MOTOR CARS, LLC. v. NAVARRO, 136 S.Ct. 2117, 195 L.Ed.2d. 382, 84 U.S.L.W. 4424. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT. REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL, WHICH OF COURSE, INCLUDES THE LEGAL ISSUES SUCH AS THOSE PRESENTED BY THIS PCR APPLICATION, PEOPLE v. FIELDS, N.E.3d., IL. App. (1st.) 122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cali.2017); UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619 (4th.Cir.2018); HENDERSON EX REL HENDERSON v. SHINSEL, 131 S.Ct. 1197. 1198+ U S BURGESS v. UNITED STATES 2019 WL 7293400, * 1 D.Md.; SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTATE MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM INVEST v. NET ELEMENT INTERNATIONAL, INC., F.Supp., 2014 WL 12613282 (S.D.Fla.2014); KOSCIUSKO v. PARHAM, 428 S.C 481, 836 S.E.2d. 362 (S C 2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249 (S.C.App.2020).

ANY JUDGMENT, CONVICTION OR JUDICIAL DETERMINATION THAT IS CONTRARY TO THE CONSTITUTION AND DUE PROCESS LAW IS VOID AND CANNOT BECOME LAW OR STAND AS LAW, WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C., LLC 859 F3d. 295 (4th.Cir.2017); MOSELY v. UNITED STATES, 2018 WL 1187778 (W.D.N.C.2018); MILFORD v. MIDDLETON, 2018 WL 348059 (DSC.2018).

THE UNITED STATES SUPREME COURT MADE EFFORTS TO ADDRESS SIMILAR MATTERS UNDER BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 (U.S.2016). THE U.S. SUPREME COURT DETERMINED THAT A PERSON DOES HAVE A RIGHT TO A SPEEDY TRIAL PRIOR TO CONVICTION. BUT THIS IS NOT WHAT THE APPLICANT IS ARGUING SINCE THE PROVISION OF LAW IN QUESTION CLEARLY STATES AT ITS CONCLUSION, "THIS DOES

NOT DEFINE THE RIGHT TO A SPEEDY TRIAL". STILL, THE U.S. SUPREME COURT MADE EFFORTS TO ADDRESS THE VARIOUS STATES HAVING THESE VARIOUS TIME FRAMES AND DUE PROCESS PROVISIONS IN PLACE VIA THEIR VARIOUS STATE(S) CONSTITUTION(S). EVEN THOUGH THE U.S. SUPREME COURT DID NOT SPECIFICALLY ADDRESS THE ISSUE IN FULL DETAIL BECAUSE THE APPELLANT INVOLVED DID NOT PROPERLY PLACE IT BEFORE THE COURT. NONETHELESS, THE U.S. SUPREME COURT DID DETERMINE THAT THE DEFENDANT MAY INDEED HAVE A 5TH. AND 14TH. AMENDMENT CONSTITUTIONAL REMEDY AVAILABLE. THIS IS ONLY ONE OF THE PROVISIONS OF LAW THAT THE APPLICANT IS ARGUING THIS ISSUE UNDER. THE APPLICANT IS ALSO ARGUING THIS ISSUE AS A SEPARATION OF POWERS VIOLATION CLAIM THAT COMPOUNDS THE INJUSTICE THAT WAS NEVER ADDRESSED IN THE BETTERMAN CASE. THE APPELLANT IN THE BETTERMAN CASE MAY HAVE FAILED TO PROPERLY SUBMIT THE CLAIM, BUT THE APPLICANT IN THIS CASE DOES NOT FAIL TO PROPERLY PRESENT THE CLAIM. THE APPLICANT IS MASTER TO DECIDE WHAT LAW HE WILL RELY UPON AND THE LAW RELIED UPON IN THIS CASE IS DUE PROCESS, SUBJECT MATTER JURISDICTION, PROSECUTORIAL MISCONDUCT, 5TH. AND 14TH. AMENDMENT VIOLATIONS, FRAUD UPON THE COURT, VIOLATION OF THE SEPARATION OF POWERS CLAUSE VIA ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION AND ANY OTHER PROVISIONS OF LAW CITED WITHIN THIS AMENDED PCR APPLICATION TO ADDRESS THIS AND ALL OTHER ISSUES OF CONCERN, THE FAIR v. KOHLER DIE & SPECIALTY CO., 228 U.S. 22, 33 S.Ct. 410 (U.S.1913); CATERPILLAR INC. v. WILLIAMS, 482 U.S. 386, 107 S.Ct. 2425 (U.S.1987); LANCASTER v. KAISER FOUNDATION,... 958 F.Supp. 1137 (E.D.Va.1997); POWERS v. SOUTH CENTRAL UNITED FOODS & COMMERCIAL WORKERS,..., 719 F2d. 760 (5th.Cir.1983). THE STATE OF SOUTH CAROLINA, ITS PROSECUTORS AND ITS COURT(S) HAVE BEEN CONCEALING AND CIRCUMVENTING CORRECTING THIS INJUSTICE IN ONE FORM OR THE OTHER EVEN PRIOR TO ITS ADJUDICATION OF THE LANGFORD AND GENTRY CASES IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE, FRAUD UPON THE COURTS INVOLVED AND DUE PROCESS LAW. THIS INJUSTICE MUST BE CORRECTED NOW. IT IS WELL SETTLED IN LAW THAT WILLFUL BLINDNESS AND CONSCIOUS AVOIDANCE IS THE LEGAL EQUIVALENT TO KNOWLEDGE, GLOBAL-TECH APPLIANCES, INC.

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v. S.E.B., S.A., 563 U.S. 754, 131 S.Ct. 2060, 179 L.Ed.2d. 1167
(U.S.2011); U.S. v. FERGUSON, 676 F3d. 260 (2nd.Cir.2011); U.S.
v. TOFANAH 765 F3d 141 (2nd.Cir.2014); UNITED STATES v.
VALBRUN, 877 F3d. 440, 105 Fed. R. EVID. SERV. 207(1st.Cir.2017);
U.S. v. JINWRIGHT, 683 F3d. 471 (4th.Cir.2012).

SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY STAGE, AT ANY TIME, EVEN FOR THE FIRST TIME ON APPEAL, EVEN AFTER A FINAL ORDER AND OR JUDGMENT HAS BEEN ENTERED BEFORE ANY OF THE COURT(S) INVOLVED RELATED TO THIS ISSUE, CANNOT BE WAIVED OR FORFEITED BY THE DEFENDANT AND THE COURT(S) SHALL NOT FAIL TO TAKE NOTICE. THIS APPLIES TO ALL OF THE ISSUES ARGUED WITHIN THIS DOCUMENT, HILL v. S.C. DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL, 389 S.C. 1, 698 S.E.2d. 602(S.C.2010); GURNEY v. CONAN, LIEBOWITZ & LATMAN P.C., F.Supp.3d., 2015 WL 4460868 (S.D.N.Y.2015); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003 (U.S.1998); TAMM v. CINCINNATI INSURANCE COMPANY, 2020 WL 60932(S.D.N.Y.2020); CHASE v. ANDEAVOR LOGISTICS L.P., 2019 WL 5847879, * 2 W.D.Tex.; UNITED STATES v. VALLADARES, 2019 WL 4888629 * 1 W.D.Tex.; ARBAUGH v. Y & H CORP., 546 U.S. 500, 126 S.Ct. 1235(U.S.2006); STEVENS E. HECKER, PLAINTIFF v. THE STATE OF WASHINGTON, DEFENDANT, 2020 WL 134168 (Fed.Cl.2020); HICKS v. HEART OF HOSPICE, LLC., 2019 WL 6255496 (N.D.Miss.2019); KRIKORIAN v. FORD MOTOR COMPANY, 2019 WL 7042939(S.D.Ala.2019); HENDERSON v. SHINSEL, 131 S.Ct. 1197, 1198+ U.S.; BURGESS v. UNITED STATES 2019 WL 7293400 * 1 D.Md.; BARNES v. GIVENS, 2019 WL 5579543, * 3, W.D.Tex.; WALLS v. BOEING COMPANY, 2019 WL 4931365, * 2 DSC.; JEFFERS v. J.P. MORGAN CHASE & CO., 2019 WL 6255311, * 1, S.D.Tex.; ANTHONY W. HALL, PLAINTIFF v. FRENKEL, LAMBERT, ..., 2020 WL 136658, * 2, E.D.N.Y.; DAVIS v. PALUMBO, 2019 WL 6915949, * 1 W.D.MO.; SORRINGWIND ENERGY, LLC. v. CATIC U.S.A. INCORPORATED, --F.3d.--, 5TH. Cir.(Tex.); 460 S. LAKE AVENUE, LTD. v. APPLETON, 2019 WL 7184737, * 1 C.D.Cal.; SLAYTON v. JOHNSON AND JOHNSON, 2019 WL 7208414, * 1 C.D.Cal.; SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; NATIONSTAR MORTG., LLC v. MEISNER SUPRA.; OOO-RM INVEST v. NET ELEMENT

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FOR INORDINATE DELAY AS A PRETRIAL DETAINEE THE SPEEDY TRIAL PROVISION DOES APPLY, BUT THIS IS NOT WHAT THE APPLICANT IS ARGUING. IN THIS SITUATION AS IT RELATES TO THE MATTERS IN THEIR TOTALITY, A DEFENDANT POTENTIALLY HAVE OTHER RECOURSE, INCLUDING, IN APPROPRIATE CIRCUMSTANCES, TAILORED RELIEF UNDER THE DUE PROCESS CLAUSE OF THE 5TH. AND 14TH. AMENDMENTS. THE UNITED STATES SUPREME COURT HAS FOUND THAT THE DUE PROCESS CLAUSE ALSO PROTECTS THE DEFENDANTS RIGHT TO DIRECT AND OR COLLATERAL APPEAL WHEN THE RIGHT IS GUARANTEED BY THE STATE, EVEN THOUGH THE CONSTITUTION DOES NOT REQUIRE STATES TO GRANT THE RIGHT, SEE E.G. EVITT, 469 U.S. AT. 393, 105 S.Ct. AT. 834. DUE PROCESS REQUIRES THAT A RIGHT TO APPEAL BE A RIGHT TO "AN ADEQUATE AND EFFECTIVE APPEAL", WHICH THE APPEAL CANNOT BE DEEMED "ADEQUATE AND EFFECTIVE", IF THE COURT AND PROSECUTOR ARE PERMITTED TO STRIP FROM THE DEFENDANT "MANDATORY", "DRACONIAN" DUE PROCESS PROTECTIONS SET IN PLACE BY THE STATE LEGISLATURE RELATED TO TIME LINES OF INITIATING OF TIMELY APPEAL, WHICH IS MORE THAN A "MEANINGLESS RUTUAL" ID AT 393, 394, 105 S.Ct. AT. 834 QUOTING GRIFFIN V. ILLINOIS, 351 U.S. 12, 18, 76 S.Ct. 585, 590, 110 L.Ed. 891(1956) AND DOUGLAS V. CALIFORNIA, 372 U.S. 353, 359, 83 S.Ct. 814, 817, 9 L.Ed.2d. 811(1963). DUE PROCESS FURTHER PROTECTS NOT ONLY THE RIGHT "TO OBTAIN A FAVORABLE DECISION", BUT ALSO THE RIGHT "TO OBTAIN A DECISION ON ALL MERITS OF THE CASE", EVITTS, 469 U.S. AT. 395n. 6, 105 S.Ct. AT. 835n. 6 (EMPHASIS ADDED). IN SHORT, A CONVICTED DEFENDANT HAS A RIGHT TO KNOW WHAT THE SENTENCE OR FINAL DISPOSITION OF HIS PCR APPLICATION OR THE MERITS OF HIS CLAIMS IS TO BE, AND TO PROCEED WITH A DIRECT AND OR COLLATERAL APPEAL WITHIN THE TIME FRAME SET IN PLACE BY THE S.C. SUPREME COURT AND OR STATE LEGISLATURE BY THE PROVISIONS OF LAW PRESENTLY ARGUED BEFORE THIS COURT WHICH CANNOT BE ILLEGALLY EXPANDED OR THERE IS CLEAR VIOLATION OF THE SEPARATION OF POWERS CLAUSE AND DUE PROCESS CLAUSE WHICH WOULD RENDER THE COURT(S)

INVOLVED JURISDICTION VOID FOR UNCONSTITUTIONAL ACTION.

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THE SUPREME COURT HAS BEEN CLEAR IN ITS REASONS FOR EXTENDING THE MEANINGFUL PROCEDURAL PROTECTION OF DUE PROCESS TO APPEALS, WHICH THE PROSECUTORS AND COURTS HAVE BLATANTLY IGNORED BY ALLOWING THE PROSECUTOR TO GO BEYOND THE (180) DAY AND OR (365) DAY MANDATE SET IN PLACE BY THE STATE LEGISLATURE PURSUANT TO ARTICLE V § 4 AND ARTICLE 1 § 23 OF THE SOUTH CAROLINA CONSTITUTION, DIRECT OR COLLATERAL, AS A RIGHT. BY DECIDING THAT AN APPEAL IS SO IMPORTANT THAT IT MUST BE AVAILABLE AS A MATTER OF RIGHT, AND THIS HAS BEEN COMPOUNDED AND SUPPORTED BY THE SOUTH CAROLINA SUPREME COURT VIA THE ARTICLE V § 4 ORDER ATTACHING IT TO THE SOUTH CAROLINA CONSTITUTION AND THE STATE LEGISLATURE'S INTENT PURSUANT TO ARTICLE 1 § 23 OF THE S.C. CONSTITUTION PRODUCING SPECIFIED AND CLEAR TIME TABLES, WHERE A STATE HAS, MADE THE APPEAL THE FINAL STEP IN THE ADJUDICATION OF GUILT OR INNOCENCE OF THE INDIVIDUAL, ID AT. 404, 105 S.Ct. AT. 840; BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L-Ed.2d. 723, 84 U.S.L.W. 4293 (U.S.2016); UNITED STATES v. JAMES, 712 Fed. Appx. 154, 161+ 3rd.Cir.(N.J.).

IN REFERRING BACK TO THE ISSUE OF THE PROVISION OF LAW IN QUESTION BEING MADE "MANDATORY", "DRACONIAN". ONCE THE S.C. SUPREME COURT BY ITS DISCRETIONARY ARTICLE V POWER ENSURED THE LAW WAS ATTACHED TO THE S.C. CONSTITUTION SUPPORTED BY ARTICLE 1 § 23. IN CONSTRUING STATUTES, WORDS MUST BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE AS THE COURTS DID HERE REGARDING THE LANGFORD CASE, EVEN IF IT WOULD BE FOR ONLY ONE DAY. TO EXPAND IT FOR "ONE DAY" IN CONTRADICTION OF WHAT WAS SET IN PLACE BY THE LEGISLATURE WOULD VIOLATE THE SEPARATION OF POWERS CLAUSE. ONCE IT IS REQUIRED THAT THE DEFENDANT'S DUE PROCESS MATTERS BE CONCLUDED WITHIN (180) DAYS AND OR (365) DAYS REVISED IN 2013 FOR PRETRIAL MATTERS, AND OR (365) DAYS FOR PCR AND CIVIL MATTERS, WHETHER PRETRIAL OR PCR OR CIVIL WHICHEVER IS APPLICABLE, IT IS REQUIRED THAT A TIMELY FILED ORDER OF

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CONTINUANCE EXIST AND OR BE OBTAINED, TO GO BEYOND THE PROSCRIBED TIME FRAME SET IN PLACE BY THE S.C. SUPREME COURT AND OR STATE LEGISLATURE. THE COURT AND PROSECUTORS CANNOT SUBTLY OR FORCIBLY EXPAND THE STATUTE UNDER THE FRAUDULENT, MISREPRESENTING GUISE OF THE PROSECUTOR BEING PERMITTED TO CONTROL HIS DOCKET ALLOWING HIM TO NEGATE, DIMINISH, OR WATER DOWN OTHER SUBSTANTIAL, CLEARLY ESTABLISHED CONSTITUTIONAL AND DUE PROCESS PROTECTIONS, EVEN THOSE SET IN PLACE BY THE S C LEGISLATURE, SUCH AS THE ONES MENTIONED WITHIN THIS CASE. IT WOULD AUTOMATICALLY VIOLATE THE SEPARATION OF POWERS CLAUSE, VIOLATE THE DUE PROCESS CLAUSE PRODUCING UNCONSTITUTIONAL ACTION VOIDING THE COURT(S) INVOLVED JURISDICTION FOR THAT UNCONSTITUTIONAL ACTION WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION WHERE THE COURT(S) BEING GIVEN JURISDICTION UNDER THE LEGISLATIVE PRONG WOULD BE NO DEFENSE ON THE PART OF THE COURT(S), PROSECUTOR(S) AND STATE ACTORS, STATE v. LOCKLAIR, 341 S.C. 352, 535 S.E.2d. 420(S.C.2000); HINTON v. SOUTH CAROLINA DEPT. OF PROBATION, PAROLE AND PARDON SERVICES, 357 S.C. 327, 592 S.E.2d. 335 (S.C.2004); ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429 (S.C.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.2018); LOUMIET v. UNITED STATES, 65 F.Supp.3d. 19 (2014); WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C., LLC., 859 F3d 295(4th.Cir.2017); MILFORD v. MIDDLETON, 2018 WL 348059 (DSC.2018); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599 (U.S.2016); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624(4th.Cir.2016). THE SENTENCE AND CONVICTION MUST BE VACATED.

THE WISDOM OF THE STATUTE, SUCH AS ARTICLE 1 § 23 AND OR ARTICLE 12 § 2 OR ANY OTHERS REFERRED TO IN THIS CASE, WHERE "[S]HALL" IS MANDATORY, IS NOT THE CONCERN OF THE COURTS; IF THE CHALLENGED STATUTE OR THAT LAW RELIED UPON DOES NOT VIOLATE THE CONSTITUTION IT MUST STAND AND BE SUSTAINED MAKING THE PROVISION OF LAW THAT HAS COME UNDER SCRUTINY HERE "MANDATORY", "DRACONIAN", HODGES v. RAINEY, 341 S.C. 79, 533 S.E.2d. 578

(S.C.App.2000); BESSINGER v. R-N-M BUILDERS & ASSOCIATES, LLC., 421 S.C. 349, 806 S.E.2d. 731(S.C.App.2017); MARSHALL v. DODDS, 417 S.C. 196, 789 S.E.2d. 88 (S.C.App.2016); I.N.S. v. CHADHA, 462 U.S. 919, 103 S.Ct. 2764, 77 L.Ed.2d. 317(U.S.1983); MILLER v. DAVIS, 56 Kan. App.2d. 39, 423 P.3d. 1044 (Kan.2018); STATE EX REL. BIAFORE v. TOMBLIN, 236 W.Va. 528, 782 S.E.2d. 223 (2016); MEJIA v TIME WARNER CABLE INC . 2017 WL 3278926(S.D.N.Y.2017); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY SUPRA.; NATIONSTAR MORTG., LLC. v. MEISNER SUPRA.; FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR SUPRA..

MEMBERS OF THE COURT ARE INVESTED WITH THE AUTHORITY TO INTERPRET THE LAW, BUT THEY POSSESS NEITHER THE EXPERTISE NOR THE PREROGATIVE TO MAKE POLICY JUDGMENTS SUCH AS THE PROSECUTION BEING ABLE TO CONTROL THEIR DOCKETS BY VIOLATING CLEAR LEGISLATIVE INTENT IGNORING THE PLAIN MEANING RULE THAT ATTACHES TO THESE PROVISIONS OF LAW IN QUESTION GIVING WAY TO SUBTLE OR FORCED CONSTRUCTION OF THE STATUTES IN QUESTION. THESE DECISIONS ARE ENTRUSTED TO THE LEGISLATURE WHO DECIDED ONCE ATTACHED TO THE SOUTH CAROLINA CONSTITUTION THE PROVISIONS OF LAW THAT ARE AT THE HEART OF THE MATTERS HERE NOW BECOME "MANDATORY", "DRACONIAN", UNLESS THERE IS SOME SPECIFIC LANGUAGE CONTAINED WITHIN THE PROVISIONS OF LAW THAT WOULD DICTATE OTHERWISE. THE INJUSTICE, PREJUDICE AND DUE PROCESS VIOLATIONS ARE OVERWHELMING REQUIRING THE CONVICTION TO BE RENDERED UNCONSTITUTIONAL AND THE COURT(S) INVOLVED JURISDICTION BE MADE VOID FOR THIS UNCONSTITUTIONAL ACTION. THE STATE IS IN FORFEITURE. THE APPLICANT MOVES FOR SUCH BY THE RELIEF RESPECTFULLY DEMANDED, NATIONAL FEDERATION OF INDEPENDENT BUSINESS v. SEBELIUS, 567 U.S. 519, 132 S.Ct. 2566, 183 L.Ed.2d. 450(U.S.2012); STEGALL v. T.M.C. MULTI-STATE INTER-GOVERNMENTAL EMPLOYEE BENEFITS POOLS, INC., 2019 WL 4855226, S.W. Rptr. (Tex.2019); IN RE: BORDER INFRASTRUCTURE ENVIRONMENTAL LITIGATION, 284 F.Supp.3d. 1092(S.D.Cali.2018); U.S. v. RON PAIR ENTERPRISES INC. 489 U.S. 235, 109 S.Ct. 1027, 103 L.Ed.2d. 290(U.S.1989); IN RE: ARGON CREDIT, LLC., --B.R.--, 2017 WL 4404269 (2017); UNITED STATES v. STE-BRI ENTERPRISES,

THE ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT(S), "NO ORDER OF CONTINUANCE" AND "(180) DAY RULE/ (365) DAY RULE" HEREWITH ATTACHED.

THE APPLICANT GIVES THE COURT AND PARTIES ADDITIONAL JUDICIAL NOTICE. EVEN THOUGH SOME OF THE DATES REFERRED TO IN EXHIBIT, "(180) DAY RULE/ (365) DAY RULE" MAY BE A LITTLE OFF RELATED TO THE DATES ATTRIBUTED TO THE APPLICANT'S CASE. THE SUBSIDIARY FACTS RELATED TO THIS ISSUE APPLY TO THE APPLICANT'S CASE ALONG WITH THE VARIOUS CITING OF LAW LISTED WITHIN THE EXHIBIT IN QUESTION.

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EXHIBIT, "(180) DAY RULE/ (365) DAY RULE"

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67 To warrant reversal, a jury charge must be erroneous and prejudicial. In light of the unjust denial of stand your ground rights by the fraud, conspiracy and machination, by failing to produce a final written order to establish Res Judicata and preclusive effect and other outrageous acts which occurred. Such is indeed prejudicial. Errors, including erroneous jury instructions are subject to the harmless error analysis. Since we have the State procuring the conviction by perjured testimony, blocking the required severance of the case, constructively amending the indictments all over the place, taking away the presumption of innocence, denying the right of immunity defense by failing to produce a final written order in support of the oral determination because the trial Judge knew fully well that the State did not meet its burden of proving the appellant was not entitled to the immunity defense. This is not a harmless error, State v. Belcher, 385 S.C. 597, 611, 685 S.E.2d. 802, 809(2009).

The South Carolina Legislature required the State to prove specific intent to commit murder as an essential element of attempted murder, and therefore the trial court erred by charging the jury that attempted murder is a general intent crime. Thus, the judgment must be vacated and reversed. I motion for such, State v. King, 412 S.C. 403, 772 S.E.2d. 189(S.C.App. 2015); State v. Sutton, 348 S.C. 383, 397, 532 S.E.2d. 283, 285(2000); State v. Thompson, 374 S.C. 257, 262, 647 S.E.2d. 702, 705(Ct.App.2007); United States v. Hernandez-Montes, 831 F3d. 284 (5th.Cir.2016).

() Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process Rights violated, as well as Rules Of Court, Rules Of Criminal Procedure, as well as the court's jurisdiction being made void for Due

68 Process violation, and or they were prohibited from enacting and or invoking and or continuing their Subject Matter Jurisdictionary "[p]owers" due to the "[p]rocedural [d]efect" in that there was no "[w]ritten" (emphasis added) order of continuance obtained pursuant to Article V § 4 of The South Carolina Constitution?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules of Evidence, Rule 201(a).

The appellant gives the court judicial notice. Not only by this document am I arguing against the precedent established by States v. Gentry, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.2005). The appellant is also arguing against the precedent established by State v. Langford, 400 S.C. 421, 735 S.E.2d. 471(S.C.2012), Joseph v. South Carolina Dept. Of Labor, Licensing And Regulation, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); Stokes--Carven Holding Corp. v. Robinson, 416 S.C. 517, 787 S.E.2d. 485(S.C. App.2016); Johnson v. Johnson, S.E.2d., 2014 WL 2721680(S.C. App.2014).

The petitioner humbly contends, in pursuant to Article V § 4 of The South Carolina Constitution:

"IT IS ORDERED, THAT ALL CRIMINAL CASES IN THE STATE OF SOUTH CAROLINA "[s]hall" BE DISPOSED OF WITHIN (180) DAYS FROM THE DATE OF THE DEFENDANT'S ARREST. Provided, however, the Circuit Court may continue a criminal case beyond the (180) days by "[w]ritten" order (emphasis added), if the court determines that exceptional circumstances exist in the case. This order does not create or define a right to a speedy trial", (See S.C. Rules Of Court 2003 Edition on page 652 and S.C. Rules Of Court 2004 Edition on page 659). 232-of-406

69 Article V Privileges, Rule 501 General Rule Provides:

"Except as required by The South Carolina Constitution, by The Constitution Of The United States, or by South Carolina statute, the privileges of a witness, person, or the government (emphasis added) shall be governed by the principles of the common law as they may be interpreted by the courts in light of reason and experience. This Rule modifies the Federal Rule to refer to the South Carolina Constitution".

Article V provisions in this case makes it mandatory, draconian, requiring any interpretation of this provision to be referred to the South Carolina Constitution as a primary rule and or first choice, and not to the U.S. Constitution or common law or state law as it pertains to normal administrative matters, especially in light of the fact that we are dealing with a judicial order issued by the S.C. Supreme Court under Article V of the South Carolina Constitution, not the U.S. Constitution. Not only by judicial order, but also, the provisions of the South Carolina constitution are to be deemed and construed as mandatory unless there is some language contained therein that would dictate otherwise.

This order has never been rescinded until 2013. Nonetheless, I am challenging that rescinding which will be elaborated on further. This order was issued by the South Carolina Supreme Court in 1980, renewed in 1999 making it draconian, mandatory, being applicable to every criminal court within the state, and every PCR Court in the state regarding the (365) day provision. The (180) day provision was amended by the S.C. Supreme Court in 2013 to require that all criminal cases be concluded within (365) days. But the appellant falls under the (180) provision via collateral estoppel emerging from case ~~_____~~ where the issues are sought class action review and the S.C. Attorney General, The S.C. Court Of Appeals and The S.C. Supreme Court are parties to the default.

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The S.C. Supreme Court's intent, judicial or otherwise should be ascertained from the plain language of this provision of law. The language must also read in a sense which harmonizes with its subject matter and accords with its general purpose. Once the S.C. Supreme Court has made a choice, there is no room for the court to impose a different judgment based upon their own notions. If the provision of law's language is unambiguous and clear, there is no need to employ the rules of statutory and or common law construction, even pursuant to the court's actions, the court has no right to look for or impose another meaning. Where the language of this provision of law is clear and explicit, the court "[c]annot" rewrite the provision of law and interject matters in the S.C. Supreme Court's language. Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous provision of law, Bass v. Isochem, 617 S.E.2d. 369(S.C.App.2005); State v. Brannon, 666 S.E.2d. 272(S.C.App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. Second Inquiry Fund, 611 S.E.2d. 297(S.C.App.2005).

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The revision by the S.C. Supreme Court which occurred in 2013 must be deemed void because it was initiated behind a class based invidiously discriminatory animus in the form of racial hatred, surreptitiously done, to disproportionately effect African Americans and minority populations within this state. Thus, the 2013 amendment runs afoul of Ex Parte Virginia, 100 U.S. 339(1880). When they realized that the inmates of this state discovered how to properly argue this issue which is seen in cases ~~_____~~ in the Richland County Court Of Common Pleas, to which collateral estoppel attaches barring the S.C. Court Of Appeals from challenging this issue since they are, along with the S.C. Supreme Court, parties to the default. The S.C. Supreme Court in acts of racial hatred amended the provision conspiring under color of state law, a provision existing unchanged for over (35) years to "defang" this provision of law. The Article V powers given to the S.C. Supreme Court do not permit them to abrogate, dilute, ~~_____~~ ~~_____~~ 234-of-406

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waterdown or negate the protections established by Ex Parte Virginia. Thus, the 2013 revision must be deemed void, also due to fraud and Due Process violation. See McCulloch, 17 U.S. at 423; 1997 WL 10291 U.S. (Appellate Brief) Brief Of U.S. Senators Orin G. Hatch et. al.,. The revision is restrictive and runs afoul of Ex Parte Virginia. The same restrictions that apply to the powers of Congress, applies to the powers of the S.C. Supreme Court, to include the powers given to the S.C. Court Of Appeals.

To further bolster the proposition that this Rule, order or provision is mandatory, draconian in nature, the defendant brings the court's attention to South Carolina Rules Of Court 2005 Edition, pages 296, 297, 303 and 304. They state:

Pursuant to Article V § 4 Of The South Carolina Constitution:

"IT IS ORDERED, that upon the filing of a post trial motion under Rules 50, 52, 59 or 60(a) S.C.R.C.P., by a party in any jury or non jury action, the party "[s]hall" within (10) days provide a copy of the motion to the Judge.

IT IS FURTHER ORDERED,****the Chief Judge for administrative purposes in each Circuit shall ensure compliance with this order, also see S.C. Rules Of Court 2013 Edition".

It is perspicuous that if the lower court is not in compliance to Rules 50, 52, 59 or 60(a) by these judicial orders issued from the South Carolina Supreme Court, the higher Court(s) cannot entertain jurisdiction, and must remand for further adjudication by the lower court(s) in question if the motions are not ruled on when timely submitted in accordance to these judicial orders, making this Article V § 4 provision and or order(s) draconian, mandatory in nature. On this premise, the criminal court under the (180) day provision, and or The Court Of Common Pleas under the (365) day provision, "[c]annot" continue to invoke and or enact their "[p]owers" of Subject Matter Jurisdic-
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tion if they fail to be in compliance to this order and jurisdictional requisite, even though they do indeed possess such power by legislative statute. They stand in egregious violation of the Due Process Prong to Subject Matter Jurisdiction.

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Additional proof that this provision of law is draconian, mandatory in nature, attached the court and parties will find a copy of a similar Article V § 4 order issued from the South Carolina Supreme Court related to placing cases within the Court Of Common Pleas on the complex case docket. Please note the words that are specifically circled by me related to this order. It is perspicuous that by the language of this particular order, the actions of the court are made discretionary by the language contained therein. Note that the language of the Article V § 4 order relied upon for this particular issue is significantly, materially, distinctly different demonstrating that this provision of law is draconian, mandatory in nature.

Pursuant to the government blatantly disobeying this order issued by the South Carolina Supreme Court, in the appropriate case, "the trial court and or other relevant court, shall not hesitate to grant relief, default or a mistrial where its rulings, and or in this case, the orders of The South Carolina Supreme Court, were violated to the prejudice of those they were designed and or intended to protect", Toyota Of Florence Inc. v. Lynch, 314 S.C. 257, 442 S.E.2d. 611, 615(1994); S.C. Rules Of Court annotated, 2006 Edition, pg. 270; Panas v. Panas, S.E.2d., 2010 WL 10088164(S.C.App.2010); Ex Parte Cannon, 385 S.C. 643, 685 S.E.2d. 814(S.C.App.2009); United States v. Peoples, 698 F3d. 185 CA4 (S.C.2012); Holmes v. Holmes, S.E.2d., 2014 WL3369006(S.C.App.2014); IN RE: Joshua R.L., S.E.2d., 2013 WL 8538696(S.C.App.2013); United States v. Boston, 539 Fed. Appx' 209 CA4 (N.C.2013); Sun v. Sun, S.E.2d., 2014 WL 7778971 (S.C.App.2014); IN RE: McDonald, 497 B.R. 489 Bkrtcy (DSC.2013); Ex Parte Lipscomb, 398 S.C. 463, 730 S.E.2d. 320(2012).

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To make use of the holdings in State v. Gentry related

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to Subject Matter Jurisdiction would be misplaced. That case dealt with indictment defects and it was adjudicated under a cloud of fraud upon the court. The precedent set by State v. Gentry as well as State v. Langford are being challenged Pursuant to S.C.R.A.P., Rule 217. I am arguing against these precedent cases. There is also a default claim emerging from case ~~XXXX~~ ~~XXXX~~ to which the S.C. Court Of Appeals is party to that default which bars the court from challenging this issue by collateral estoppel. Nonetheless, this issue has absolutely nothing to do with indictment defects. To make use of the holdings made in State v. Culebreth regarding Rule 3(c) would be misplaced. Rule 3(c) is totally administrative. If the honorable court would take notice of the bottom of the page of 652 and 659 as it relates to this mandate. You will see that the administrative factors related to this provision of law have been rescinded. Further, there are two material and distinct differences between Rule 3(c) and this requirement of Due Process Law. Rule 3(c) is not tied to the provisions of The South Carolina Constitution. This requirement of criminal and or civil procedure is. Secondly, Rule 3(c) is not a judicial order issued by the South Carolina Supreme Court. This requirement of Criminal and or Civil Procedure for the General Sessions Court and or Court Of Common Pleas is. This has absolutely nothing to do with a speedy trial issue. I, we, would adamantly object to that notion. A speedy trial is not what the appellant is arguing. This is simply a matter of judicial order; "STARE DECISIS ET NON QUIENTA MOVERE"; South Carolina Rules Of Court; South Carolina Rules Of Criminal and or Civil Procedure (for PCR's) and Due Process Law. Once this provision of law was issued as a judicial order then tied to the provisions of the South Carolina Constitution pursuant to Article V § 4, its observance became mandatory by the provisions contained therein making it draconian in nature.

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I, we, are not arguing that the prosecution does not have the right to control his case load. What I am arguing,

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S.C. Code Ann. §§ 1-7-730, 17-13-150 and 17-25-10 require that the prosecution and or prosecuting body "[s]hall" fulfill and see that all duties, requirements, and Rules Of Criminal Procedure related to Due Process and The S.C. Constitution are adhered to and completed within the court.

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S.E.2d. 369(S.C.App.2005); State v. Brannon, 666 S.E.2d. 272(S.C. App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. S.C. Second Injury Fund, 611 S.E.2d. 297(S.C. App.2005).

Article 1 § 23 Of The South Carolina Constitution dictates:

"The provisions of The South Carolina Constitution shall be taken, deemed and construed to be mandatory and or prohibitory and not merely directory, except where made directory or permissive by its own terms".

Since the appellant is arguing the claim of default and collateral estoppel emerging from case [REDACTED], which binds the S.C. Court of Appeals who are party to that default. The appellant would fall under the old Article V § 4 order before the 2013 revision where the original cases subjudice to [REDACTED] are [REDACTED] demonstrating that the issue was before that court since 2006. This also applies since the 2013 revision was an act of machination on the part of the S.C. Supreme Court, conspiring with the S.C. Attorney General under color of state law, who had control over Judge Jean Toal due to her past DUI arrests and or troubles producing fraud upon that court via her influence. This was also done behind a class based invidiously discriminatory animus, in the form of race. Once the parties realized that the predominately minority inmates discovered how to properly argue the issue via case [REDACTED]. The S.C. Supreme Court conspiring with the S.C. Attorney General revised the Article V § 4 order to water down the S.C. Constitution Due Process requirement to dilute the protections set in place by Ex Parte Virginia, 100 U.S. 339(1880), to place into effect an Article V § 4 determination that they knew beforehand would disproportionately affect African Americans and other minorities within this state, in retaliation, because the minority inmates now figured out

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how to properly argue this issue. Just like in cases such as, 74
Edward Kennedy, 2000 WL 35763420(2000); City Of Rome v. United States, 446 U.S. 156(1980); South Carolina v. Katzenbach, 383 U.S. 301(1966); Plaut v. Spendthrifts Farms, Inc., 115 S.Ct. 1447(1995); The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024, 2006 A.M.C. 2955, 10 L.Ed. 826(1841). Their actions produce a result that is not given to them via their Article V powers and or privileges, nor by the S.C. Constitution and serve to aid in establishing a form of modern day slavery as is defined in the C.A.T. Treaty that Congress signed off on and ratified, which voids their jurisdiction for Due Process violation. Due to this, to include the claim of default and collateral estoppel emerging from case ~~_____~~. The appellant falls under the old provision of law before the fraudulent 2013 revision which runs afoul of the protections established by Ex Parte Virginia.. Also see 1997 WL 10291 U.S. (Appellate Brief) Brief Of U.S. Senators Orin G. Hatch, Strom Thurmond et. al.; Oregon v. Mitchell, 400 U.S. 112(1971); Croson, 488 U.S. at 490; McCulloch, 17 U.S. at 423. Just like Congress would be prohibited from initiating such action, so would the S.C. Supreme Court, Mississippi Univ. For Women v. Hogan, 458 U.S. 718, 732(1982); Adarand Contractors Inc. v. Pena, 115 S.Ct. 2097(1995).

Therefore, it can be factually stated, that not only by the provisions of Article V § 4 of The South Carolina Constitution, also by judicial order issued by the South Carolina Supreme Court. It is mandatory that the appellant's Due Process matters be disposed of before the criminal court within (180) days of his arrest. If the court would take notice of the arrest warrants and or indictments as they pertain to these matters. The court will see that the appellant was arrested on July 31, 2013. If the court would take notice of the sentencing sheet and or trial transcript. The court would see that the appellant's Due Process matters were not disposed of until March 17, 2016. By the date of arrest this means that the appellant's Due Process matters should have been disposed of by January 31, 2014. Yet they were not disposed of until March 17, 2016 approximately

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over (3) years past the (180) days prescribed by judicial order⁷⁵ and the provisions of The South Carolina Constitution. Even if the court would assess the time via the fraudulent 2013 revision. The conspiring parties would still be (1½) years past the (365) day revision. This voids the trial court's jurisdiction for Due Process violation. There is no "[w]ritten" (emphasis added) order of continuance filed with the Clerk of Court before the (180) day period, or even the (365) day period expired, or that was served on the defendant. Such an order of continuance ~~by the defendant's rights of Due Process~~ and pursuant to judicial order issued by the S.C. Supreme Court "[c]annot" be obtained after the fact because without this essential jurisdictional requisite. Jurisdiction would be made void for Due Process violation on that date of failure to be in compliance, which include any act done beyond the prescribed time period. This includes the trial itself and the signing of the commitment order derived from it. The "[w]ritten" order of continuance "[m]ust" be obtained before the (180) and or (365) day time period expires. To go beyond the prescribed time period and or deadline without a "[w]ritten" (emphasis added) order of continuance creates a "[p]rocedural and [j]urisdictional [d]efect", which "[v]oids" the trial court's "[p]owers" of Subject Matter Jurisdiction and or their "[p]ower" and or "[a]bility" to enact and or invoke and or continue its "[p]owers" of Subject Matter Jurisdiction in compliance to judicial order issued from the South Carolina Supreme Court, Rules Of Court and Due Process Law to adjudicate the appellant's trial. This is to be adjudicated under the Due Process Prong To Subject Matter Jurisdiction as was defaulted on by this state to which the S.C. Court Of Appeals is party to the default.

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The appellant places forth this issue in a straightforward fashion and want to make certain that there is no misunderstanding as to the specific claims and or question that is placed before the court. The defendant is not arguing whether or not the criminal court has Subject Matter Jurisdiction to hear and

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determine cases of "[t]his" general class to which the proceedings in question belong. The appellant concedes this fact. The appellant in this context agrees with all (3) Gentry, Cotton and Parkhurst court(s) when they determined that the criminal courts do have Subject Matter Jurisdiction to hear cases of this nature and class. This is not the issue or is it what the appellant is arguing. What the appellant is indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton or Parkhurst court(s) is this. Despite the fact that the criminal court does have Subject Matter Jurisdiction to hear cases of this general class to which the proceedings in question belong via State legislative statutes and or Congressional intent. Do their egregious, blatant failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites", at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process; which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction. Do their their blatant, egregious failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or [j]urisdictional [r]equisites" at various phases of, or at the commencement of the Subject Matter Jurisdictionary,halt, check, constrain, restrain, limit, arrest, stop or void the continuance of the Subject Matter Jurisdiction "[p]ower" before the court, which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction, even though the court without a doubt do indeed possess such "[p]ower" by state legislative statute and or Congressional intent? This is a crucially, materially, distinctly different question related to Subject Matter Jurisdiction that was never answered by any of the (3) three courts involved pursuant to Gentry. This is a new question of law and fact, a challenge to the precedent set by the Gentry case. Thus, making use of the holdings made in the Gentry court would be misplaced. Such a new question of law and fact is not barred in seeking relief for, does relate to Subject Matter jurisdiction, "[c]annot" be waived by the appellant, can be raised at "[a]ny"

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time, including for the first time on appeal, and the court 77
"[s]hall [n]ot" fail to take notice. No timely objection is
needed to preserve this issue. This is being argued under the
Due Process prong to Subject Matter Jurisdiction, Grupo Dala-
flux v. Atlas Global, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158
L.ED.2d. 866(2004); Loumiet v. United States, 65 F.Supp.3d.
19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014
WL 1266240; White v. Manis, 2014 WL 1513280(DSC.2014); U.S.
v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); Hunt v. United States
, F.Supp.2d., WL 5131716(DSC.2007); Brown v. United States,
2014 WL 2871398(DSC.2014).

The trial court, and or prosecuting body, acting arbi-
trarily, conspiring under color of state law, in blatant defiance
to Rules of Court; S.C. Supreme Court judicial order, and the
provisions of the South Carolina Constitution has failed to
be in compliance to their own state laws in violation of the
appellant's substantial Federal Constitutional rights of Due
Process under the 6th. and 14th. amendment(s). Then to conceal
this injustice. The S.C. Attorney General, due to Judge Toal's
legal matters, compromises that court and get them to make effort
to water down this provision in the 2013 revision behind a class
based invidiously discriminatory animus in the form of race
in violation of the holdings made in Ex Parte Virginia. Thus,
the Article V § 4 order before the revision must stand, especial-
ly in light of the fact that the state defaulted on this issue
in case ~~to which~~ to which the S.C. Court Of Appeals
is also party to that default. This voids the trial court's
jurisdiction for Due Process violation as well as for violations
of 18 U.S.C. §§ 242 and 1001, United States v. Walsh, 194 F3d.
37(2nd.Cir.1999); United States v. Pirro, 212 F3d. 89(2nd.Cir.
2000); Screws v. United States supra.; State v. Middleton supra.;
Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Du-
binka v. Judges Of Superior Court Of The State Of California,
For The County Of Los Angeles supra.; Jones v. State Of Arkansas
supra.; Hicks v. Oklahoma Supra.; Dozier v. Loop College, City
Of Chicago supra.; Lugar v. Edmondson Oil Co. supra.

Subject Matter Jurisdiction is the "[p]ower" to hear and determine cases of a general class to which the proceedings in question belong, Bell v. Monsanto Corp., 579 S.E.2d. 325 S.C. 553(S.C.2003). Inasmuch, Subject Matter Jurisdiction does not only cover and or involve whether or not the matter resides in a proper court of jurisdiction to hear and determine it. This is specifically, only, the first prong to Subject Matter Jurisdiction. The court's "[p]ower" to hear and determine a case, is also defined as the court's "[a]bility" to hear and determine a case. Thus, Subject Matter Jurisdiction also involves any issue or matter that may "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to act in accordance to Rules Of Court, Rules Of Criminal Procedure and Due Process Law. This is clearly established by the Due Process Prong to Subject Matter Jurisdiction, which is the second prong. Such matters can be raised at "[a]ny" time, "[c]annot" be waived by the appellant, and the court "[s]hall [n]ot" fail to take notice, Mathis v. State, 355 S.C. 87, 584 S.E.2d. 366(S.C.App.2003); State v. Browning, 320 S.C. at 368, 46 S.E.2d. at 359; State v. Munn, 357 S.E.2d. 461(S.C.1987); Brown v. United States, 2014 WL 2871398(DSC.2014); Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007).

Without a "[w]ritten"(emphasis added) order of continuance filed with the Clerk Of Court issued before the (180) and or (365) days expired within the trial court, jurisdiction is made void for Due Process violation, to include any act done thereafter which includes the signing of any commitment order and or sentencing sheet. The trial court and prosecutor were prohibited from continuing the cause. Thus, the sentence and conviction must be reversed and vacated. The Appellant motions for such.

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(8) Did the trial court err, and was the appellant's 5th., 6th., 14th. Amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights

(7) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~U.S.~~ CONSTITUTION VIOLATED, AS WELL AS THE SEPARATION OF POWERS CLAUSE VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS RULES OF COURT AND CRIMINAL PROCEDURE VIOLATED, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND THEY WERE PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS OF [A]UTHORITY" DUE TO THE FATAL INDICTMENT DEFECTS ARGUED IN THIS PCR APPLICATION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH A NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005). THE APPLICANT MAKES USE OF OWENS v. STIRLING. 443 S.C. 246, 904 S.E.2d. 580 (S.C.App.2024)(STANDARD OF DECISION WHEN CONSIDERING THE CONSTITUTIONALITY OF A STATUTE REQUIRES THAT COURT PRESUME STATUTE IS CONSTITUTIONAL; COURT MUST UPHOLD

STATUTE UNLESS IT FINDS BEYOND A REASONABLE DOUBT IT DOES NOT CONFORM TO THE CONSTITUTION) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND FORCE CONSTRUCT THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 17-19-10, 17-19-20 AND 17-19-100 AND ARTICLE 1 § 11 OF THE SOUTH CAROLINA CONSTITUTION THAT STATE IT IS UNCONSTITUTIONAL TO VIOLATE THE SEPARATION OF POWERS CLAUSE PROVISIONS ATTACHED TO THE S.C. CONSTITUTION UNLESS THERE IS SOME LANGUAGE WITHIN THE PROVISION THAT SAYS THAT IT IS NOT, CHALLENGING ANY COURT(S) RULINGS THAT NEGATES THIS MANDATE FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION PURSUANT TO APPELLATE COURT RULES OF PROCEDURE, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

THE APPLICANT BRINGS THE COURT AND PARTIES ATTENTION BACK TO ISSUE NO. 1 IN THIS PCR APPLICATION AND THE DOCUMENTS FILED IN EXHIBIT, "COMMITMENT ORDER ATTACK". SUCH ACTION VIOLATE'S THE APPLICANT'S DUE PROCESS RIGHTS, THE S.C. CONSTITUTION AND PRODUCES A SEPARATION OF POWERS CLAUSE VIOLATION. SINCE THIS CLAIM IS INDEED JURISDICTIONAL IN NATURE AS ADJUDICATED UNDER S.C. CODE ANN. §§ 17-19-10, 17-19-20, 17-19-100, ARTICLE 1 § 11 OF THE S.C. CONST, AND STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(INDICTMENT FACIALLY CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED) CAN BE RAISED AT ANY TIME EVEN AFTER A FINAL JUDGMENT (COMMITMENT ORDER) HAS BEEN ISSUED IN THE CASE MAKING THE ASSERTING OF THIS SUBSTANTIAL DUE PROCESS RIGHT TIMELY. WHEN THE LEGISLATURE ALSO VIA THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11, IT MARKS THE BOUNDS OF A COURT'S POWER, AND THE GOVERNMENT'S FAILURE TO FOLLOW THE REQUIREMENTS DEPRIVES THE COURT OF AUTHORITY (JURISDICTION) TO HEAR THE CASE, SO A COURT "MUST" (MANDATORY) ENFORCE THE REQUIREMENT EVEN IF NO PARTY HAS RAISED IT, AND A COURT "MUST" ADHERE TO THE REQUIREMENT EVEN IF

EQUITABLE CONSIDERATIONS WOULD SUPPORT EXCUSING ITS VIOLATION, HARROW v. DEPT. OF DEFENSE, 601 U.S. 480, 144 S.Ct. 1178, 218 L.Ed.2d. 502(U.S.2024); SANTOS-ZACARIA v. GRARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023)(A JURISDICTIONAL PRESCRIPTION SETS THE BOUNDS OF A COURT'S ADJUDICATORY AUTHORITY. COURTS CANNOT GRANT EQUITABLE EXCEPTIONS TO JURISDICTIONAL RULES OR STATUTES, BECAUSE THEY ARE NOT ABLE TO EXCEED THE LIMITS OF THEIR ADJUDICATIVE AUTHORITY); MOAC MALL HOLDINGS LLC. v. TRANSFORM HOLDCO LLC, 598 U.S. 288, 143 S.Ct. 927, 215 L.Ed.2d. 262(U.S.2023). THE ACTION OF THE COURT WHICH EXTREMELY PREJUDICED THE APPLICANT STANDING IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTE(S) GIVING WAY TO SUBTLE EXPANSION AND OR FORCE CONSTRUCTION OF THE STATUTE VIOLATING THE SEPARATION OF POWERS CLAUSE? THE RECORD IS POLLUTED WITH EGREGIOUS VIOLATIONS OF THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS WHICH WOULD VOID THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR THAT DUE PROCESS VIOLATION.

WHILE GENTRY MADE IT HARDER TO CLAIM "VOID" CONVICTION BASED ON MERE TECHNICALITIES, COURT THAT CONSTRUCTIVELY AMENDS ESSENTIAL ELEMENTS TO FIT A FORCED STATUTORY CONSTRUCTION HAS EXCEEDED ITS CONSTITUTIONAL AUTHORITY. THIS RESULT IS A VOID JUDGMENT BECAUSE THE COURT HAS EFFECTIVELY CREATED AND TRIED A "NEW" CHARGE THAT NEVER RECEIVED GRAND JURY APPROVAL. IF THE INDICTMENT ADDS ESSENTIAL ELEMENTS OF THE OFFENSE(S) NOT APPROVED BY THE GRAND JURY (TIME AND PLACE OF DEATH) AND THE INDICTMENT'S LANGUAGE ALREADY SUPPORTS A CONVICTION BUT THE COURT AMENDS IT IN A WAY BY JURY INSTRUCTION CHANGING THE NATURE OF THE OFFENSE AND OR LEGAL THEORY ALLEGED IN THE INDICTMENT (HE IS INNOCENT UNTIL PROVEN GUILTY) CONTRARY TO THE INDICTMENT, THE COURT LOSSES JURISDICTION RENDERING ANY RESULTING CONVICTION VOID, EVEN IF THE DEFENDANT APPEARED "GUILTY" OF THE ORIGINAL CHARGE. UNDER S.C. CODE ANN. § 17-19-20 THE INDICTMENT "MUST" BE DEEMED GOOD. THE STATUTORY LANGUAGE IS CLEAR AND UNAMBIGUOUS. S.C. CODE ANN. § 17-19-100 ANY AMENDMENT THAT CHANGES THE NATURE OF THE OFFENCE RETURNED BY THE GRAND JURY WHO IN THIS CASE HAS ILLEGALLY CONVICTED HIM. IF THE AMENDMENT ADDS A NEW ELEMENT (TIME AND

PLACE OF DEATH), CHANGES THE THEORY (THE INDICTMENT PREDETERMINE GUILT AND CONVICTS BUT THE JUDGE CHARGES DIFFERENTLY) OF THE CRIME, IT IS "MATERIAL" CHANGE THAT EXCEEDS THE COURT'S CONSTITUTIONAL AUTHORITY. WHEN THE COURT "CONSTRUCTIVELY AMENDS" AN INDICTMENT--EFFECTIVELY CHANGING THE CHARGE THROUGH JURY INSTRUCTION OR BY ALLOWING EVIDENCE OF ESSENTIAL ELEMENTS NOT PASSED UPON BY THE GRAND JURY--IT VIOLATES THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11. THE ESSENTIAL ELEMENTS OF "TIME AND PLACE" ARE NOT PROPERLY ALLEGED FOR THE MURDER AND THE APPELLANT IS ALREADY FOUND GUILTY BY THE GRAND JURY WHO TOOK AWAY HIS PRESUMPTION OF INNOCENCE. EVEN IF THE DEFENDANT IS "GUILTY" OF THE ORIGINAL CONDUCT, THE COURT LOSES THE POWER TO HEAR THE CASE THE MOMENT THE INDICTMENT IS AMENDED TO A DIFFERENT NATURE. THIS IS BECAUSE THE CIRCUIT COURT'S JURISDICTION IS "TRIGGERED" BY THE "SPECIFIC" INDICTMENT RETURNED BY THE GRAND JURY MAKING THE TRIAL PROCEEDING ESSENTIALLY AN ACT OF POTENTIAL DOUBLE JEOPARDY. THE GRAND JURY DOES NOT HAVE THE POWER TO CONVICT. IF THE COURT AMENDS AN INDICTMENT TO CHANGE THE NATURE OF THE OFFENSE, IT VIOLATES THE CONSTITUTIONAL REQUIREMENT OF PRESENTMENT TO THE GRAND JURY. THIS IS NOT A PROCEDURAL MISTAKE; IT IS A "JURISDICTIONAL DEFECT" THAT MAKES THE CONVICTION VOID, REGARDLESS OF DEFENDANT'S PERCEIVED GUILT ON THE ORIGINAL CHARGE, STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909(S.C.App.2025)(THE INDICTMENT DEFECTS ARE SO FUNDAMENTALLY FLAWED THEY PRODUCE CONSTITUTIONAL STRUCTURAL ERROR THAT VOIDS JURISDICTION). THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION AND VIOLATED THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENT BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THE COURTS CANNOT ESTABLISH TRIAL AND OR PCR PROCEEDINGS IN VIOLATION OF THE STATUTE AND S.C. CONSTITUTION

DEMONSTRATING THE AMOUNT OF EXTREME PREJUDICE THAT THE APPLICANT WAS SUBJECT TO WARRANTING REVERSAL AND VACATING OF THE CONVICTION. THUS THIS FRAUD UPON THE COURT AND MANIFEST INJUSTICE IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY GENERAL IS IMBUE BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021); MYLES v. DOMINOS PIZZA, LLC. 2027 WL 238436(D.C.Miss.2027); HAMER v. NEIGHBORHOOD HOUSING SERVICE OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 249(U.S.2017); STATE v. DENT SUPRA.; STATE v. SWEAT SUPRA..

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE

FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON AND IGNORED THE PROVISIONS OF THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11. THE CONVICTION MUST BE REVERSED AND VACATED. "NO PERSON CAN BE HELD UNLESS BY GRAND JURY INDICTMENT; EVERY INDICTMENT MUST BE DEEMED GOOD; A COURT MAY ONLY AMEND AN INDICTMENT IF THE CHANGE DOES NOT CHANGE THE NATURE OF THE OFFENSE" IS CLEAR AND UNAMBIGUOUS LANGUAGE REQUIRING THAT THE APPLICANT'S CONVICTION BE MADE VOID FOR DUE PROCESS VIOLATION R UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AS THE STATUTE(S) REQUIRES AND PURSUANT TO CONSTITUTIONALLY PROTECTED RIGHT OF THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE EGREGIOUS DUE PROCESS VIOLATION ARGUED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION

COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.;
SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE
COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS
STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY
ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN
PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR
JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S
COUNTY SUPRA.; KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA
SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER
BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE
EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE
EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT
TO SUBJECT MATTER JURISDICTION. CREATING A "CONSTITUTIONAL
BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS
AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL
ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID"
FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY
THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS
TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT
ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE
CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE
COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF
ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE
OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING
OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED
TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO SUPRA.; LOZMAN
v. CITY OF RIVERA BEACH, FLA. SUPRA..

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW
MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND
UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE
AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL. NO MATTER WHAT
JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO
"CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS
(WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE

PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA.(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA.(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA.(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA.(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.(UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED. ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT, INDICTMENT DEFECTS" ATTACHED. EVEN THOUGH SOME OF THE ELEMENTS ARGUED WITHIN THE ATTACHMENT MAY SLIGHTLY DIFFER FROM THE APPLICANT. THE SUBSIDIARY FACTS RELATED TO FATAL INDICTMENT DEFECTS APPLY DIRECTLY TO THE APPLICANT.

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EXHIBIT, "INDICTMENT DEFECTS"

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DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS HIS DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID FOR SUCH DUE PROCESS VIOLATIONS, FRAUD UPON THE COURT AND UNCONSTITUTIONAL ACTION, WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION, DUE TO THE INDICTMENT FOR MURDER BEING FATALY DEFECTIVE IN THAT IT DOES NOT PROPERLY AND OR SUFFICIENTLY ALLEGE THE ESSENTIAL ELEMENTS OF "[T]IME AND [P]LACE" OF THE ASSAULT AND DEATH IN THE BODY OF THE CHARGING INSTRUMENT GIVING WAY TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S)?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

INSOMUCH, THE APPLICANT'S 5TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION PURSUANT TO THE DUE PROCESS CLAUSE WERE VIOLATED, HIS 6TH. AMENDMENT RIGHTS TO A FAIR AND IMPARTIAL TRIAL WERE VIOLATED, AS WELL AS HIS RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE WERE VIOLATED, TO INCLUDE THE TRIAL COURT'S JURISDICTION BEING MADE VOID FOR THIS UNCONSTITUTIONAL ACTION

ARGUED, IN THAT THE INDICTMENT FOR MURDER IS FATALY DEFECTIVE IN THAT IT DOES NOT PROPERLY AND OR SUFFICIENTLY ALLEGE IN THE BODY OF THE CHARGING INSTRUMENT THE "[T]IME AND [P]LACE" OF THE ASSAULT AND OR DEATH WHICH HAVE BEEN MADE ESSENTIAL ELEMENTS OF THE OFFENSE OF MURDER. IF THE ALLEGED ASSAULT AND OR DEATH OCCURRED ON NOVEMBER 12, 2014 AND THE STATE KNEW TO "[S]PECIFICALLY" ALLEGED THIS EXACT DATE ALL THROUGH THE PROCEEDINGS AS IS CLEARLY SEEN WITHIN THE TRIAL TRANSCRIPT? IT IS PERSPICUOUS THAT THEY KNEW THEY WERE REQUIRED BY THE APPLICANT'S CONSTITUTIONAL RIGHTS OF DUE PROCESS TO ALLEGED AND OR ASSERT THE SAME IN THE INDICTMENT RETURNED AGAINST THE ACCUSED BY THE GRAND JURY AND THE EXACT TIME OF AVERMENTS BE PASSED UPON BY THEM. FOR EXAMPLE, THE INDICTMENT ALLEGES THE TERM "ON OR ABOUT" NOVEMBER 12, 2014. THIS CAN BE NOVEMBER 6TH., 7TH, 8TH, 9TH, 10th, 13TH., 14TH., 15TH., 16TH., ALL THESE DATES ARE "ON OR ABOUT" NOVEMBER 12, 2014 CREATING AN ENIGMA AS TO WHAT EXACT "TIME" THE ASSAULT AND MURDER SUPPOSEDLY OCCURRED. IN STATE V. PIERCE SUPRA., WHICH IS A MURDER PRECEDENT. THAT CASE MAKES USE OF AN EXACT DATE AND OR TIME WHICH WAS WITHIN THE APPLICANT'S CONSTITUTIONAL DUE PROCESS RIGHTS TO HAVE AN "EXACT" DATE OF THE ASSAULT AND OR DEATH PASSED UPON BY THE GRAND JURY. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY AS TO KNOW IF IT MEANT ANY OF THE OTHER DATES THE APPLICANT JUST MENTIONED AS OPPOSED TO THE SPECIFIC DATE ASSERTED DURING THE TRIAL. THE PREJUDICES THAT OCCURRED FROM THIS IS ASSERTED WITHIN THE ATTACHED EXHIBITS. THE SAME HOLDS TRUE FOR THE "[P]LACE" OF THE ASSAULT AND DEATH AS WELL.

THE APPLICANT IS ARGUING AGAINST THE PRECEDENT SET IN PLACE BY THE CASE OF STATE v. GENTRY 2005, WHICH WAS ADJUDICATED UNDER A CLOUD OF OUTRAGEOUS, OVERWHELMING, FRAUD UPON THE COURT INVOLVING THE STATE SUPREME COURT ITSELF PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217. TO ASSERT THAT INDICTMENT DEFECTS HAVE ABSOLUTELY NOTHING TO DO WITH SUBJECT MATTER JURISDICTION IS AN ABUSE OF DISCRETION AND AN ACT OF FRAUD UPON THE COURTS

INVOLVED LEAVING EVERY COURT WITHIN THIS STATE THAT ADOPTS THIS POSITION OPEN TO COLLATERAL ATTACK FOR CONSPIRACY, OBSTRUCTION OF JUSTICE, FRAUD UPON THE COURT, VIOLATIONS OF THE EQUAL PROTECTION OF THE LAWS CLAUSE, VIOLATIONS OF 18 U.S.C. §§ 242 AND 1001 AND A PLETHORA OF OTHER DUE PROCESS AND CONSTITUTIONAL VIOLATIONS ARGUED WITHIN THESE MULTI-DISTRICT LITIGATION CASES. WHAT TIES THE INDICTMENT(S) TO SUBJECT MATTER JURISDICTION IS THAT IF YOU TAKE A FATAALLY DEFECTIVE INDICTMENT, TAKING AWAY THE PRESUMPTION OF INNOCENCE, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS BY THE LANGUAGE CONTAINED THEREIN AND OTHER DEFECTS CITED, AND BRING IT BEFORE A CRIMINAL COURT, WHETHER AT STATE OR FEDERAL LEVEL, FOR THE PURPOSE OF FRAUDULENTLY PROCURING A CONVICTION, DEPRIVING THE DEFENDANT OF FAIR AND PROPER NOTICE OF THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION(S) BEING LEVIED AGAINST HIM, DENYING HIM OF THE CONSTITUTIONAL DUE PROCESS RIGHT TO KNOW EXACTLY WHAT IT IS THAT HE IS CALLED UPON TO MEET AND DEFEND, CONSTRUCTIVELY AMENDING THE INDICTMENT(S) ALL OVER THE PLACE ON ESSENTIAL ELEMENTS OF THE OFFENSE(S). THEN YOU COUPLE THIS WITH THE OTHER EGREGIOUS DUE PROCESS VIOLATIONS ARGUED WITHIN THIS DOCUMENT PRODUCING OVERWHELMING PREJUDICE? SUCH ACTION ON THE PART OF THE PROSECUTOR, COURT AND STATE DONE WITHIN THE PROCEEDINGS IN QUESTION, CONSPIRING UNDER COLOR OF STATE LAW AND OR AUTHORITY WHICHEVER IS APPLICABLE IN SUCH CASES, RENDERS THE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THAT COURT'S JURISDICTION, WHETHER IT BE AT STATE OR FEDERAL LEVEL, WHICH IS TO BE ADJUDICATED UNDER THE "DUE PROCESS/ CONSTITUTIONAL PRONG" TO SUBJECT MATTER JURISDICTION, NOT THE LEGISLATIVE PRONG THE COURTS, BOTH STATE AND FEDERAL, IN ACTS OF FRAUD UPON THE COURTS, MISTAKINGLY, PREVIOUSLY ADJUDICATED THIS ISSUE UNDER. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY THE GENTRY CASE. AN ACT OF CONGRESS AND OR THE COURTS THAT ARE CONTRARY TO DUE PROCESS AND THE UNITED STATES CONSTITUTION CANNOT BECOME LAW OR STAND AS LAW AND IS VOID, WHICH INCLUDE THE ACTS OF FRAUD UPON THE COURT, CRIMINAL CONSPIRACY AND OBSTRUCTION OF JUSTICE ATTACHED TO ANY SUCH JUDGMENT OR CONVICTION THUS

PROCURED, VOIDING THE CONVICTION ITSELF, EVANCHO v. PINE-RICH AND SCHOOL DISTRICT, 237 F.Supp.3d. 267, 301(W.D.Pa.2017); TAYLOR v. U.S., 136 S.Ct. 2074, 195 L.Ed.2d. 456, 84 U.S.L.W. 4462(U.S.2016); KLAYMAN v. OBAMA, 142 F.Supp.3f. 172 (D.D.C.2015); ZIVOTOFSKY EX REL ZIVOTOFSKY v. KERRY, 135 S.Ct. 2076, 192 L.Ed.2d. 83, 83 U.S.L.W. 4391(U.S.2015); WELLS FARGO BANK N.A. v. FARAG, 2016 WL 2944561(N.C.2016); MOSELY v. UNITED STATES, 2018 WL 1187778(W.D.N.C.2018); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th.Cir.2016). A CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT. REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL, WHICH INCLUDE ALL MATTERS RELATED TO THIS PRESENTLY SUBMITTED PCR APPLICATION, PEOPLE v. FIELDS, N.E.3d., ILL. App. (1st.) 122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cal.2017); UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619 (4th.Cir.2018); WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C., LLC., 859 F3d. 295 (4th.Cir.2017); MILFORD v. MIDDLETON, 2018 WL 348059 (DSC.2018); 460 S. LAKE AVENUE, LTD. v. APPLETON, 2019 WL 7184737, * 1 C.D.Cal.; SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES v. TRAN, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); M.D.C. INNOVATIONS LLC. v. NORTHERN,--Fed. Appx'--, 2018 WL 1129607 (4th.Cir.2018); BLUE SKY TRAVEL AND TOURS, LLC. v. AL TAYYAR,--Fed. Appx'--, 2015 WL 1451636 CA4 (Va.2015); IN RE: GENESYS DATA TECHNOLOGIES INC., 204 F3d. 124 (4th.Cir.2000); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516(S.C.App.2016).

ADDITIONAL LITIGATION IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT(S), "INDICTMENT DEFECTS #'s 1 AND 2". EVEN THOUGH SOME OF THE ELEMENTS AND OR INDICTMENT DEFECTS ARGUED MAY BE SLIGHTLY DIFFERENT. THE SUBSIDIARY FACTS AND CASES CITED RELATED TO

190 INDICTMENT DEFECTS APPLY TO THE APPLICANT'S CASE.

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Motion for severance is addressed to sound discretion of the trial court. Which in this case that discretion was not sound due to trial court engaging in acts of fraud upon the court, criminal conspiracy, machination under color of state law. The trial court's ruling will not be disturbed on appeal absent an abuse of discretion which conspicuously occurred here. Criminal cases may be tried together where they (1) arise out of a single chain of circumstances, (2) are proved by the same evidence, (3) are of the same general nature, and (4) no real right of the defendant has been prejudiced. All (4) (emphasis added) of these elements must exist before the appellant and his codefendant can be tried together, not (3) or (2). The Appellant's constitutional Due Process rights pursuant to notice, being properly apprised as to the cause and nature of the accusations or offenses, having crucial, essential elements and or averments passed upon by the Grand Jury, to call the codefendant to testify, to establish potential alibi and not have the indictments constructively amended throughout the proceedings were violated producing extreme prejudice where the prosecution sought to conceal all of this by trying us both together. Thus, the conviction must be vacated and reversed, State v. Caldwell, 378 S.C. 288, 662 S.E.2d. 474 (S.C.App.2008); State v. Tyre, S.E.2d., 2013 WL 8538730 (2013); State v. Butts, S.E.2d., 2014 WL 2586521 (2014); DeLuna v. United States, 308 F2d. 140 (5th.Cir. 1962); United States v. Kahn, 366 F2d. 259, 263-264 (2nd.Cir.) cert. denied, 389 U.S. 1013, 88 S.Ct. 591, 19 L.Ed.2d. 661 (1967); 454 F2d. 772 (1971); State v. Rocheville, 425 S.E.2d. 32 (S.C. 1993); State v. Kelsey, 502 S.E.2d. 63 (S.C.1998); State v. Beekman, 415 S.C. 632, 785 S.E.2d. 202 (2016); State v. McDonald, 412 S.C. 133, 771 S.E.2d. 840 (S.C.App.2015).

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(8) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated by the indictment(s) for attempted murder's failure to allege what weapon was allegedly used and who it was the

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appellant supposedly acted in concert with, in the same vein, 93
the indictment for conspiracy's failure to allege who it was
that the appellant conspired with, in the body of the charging
instrument?

Judicial notice takes place of proof. It simply means
that the court will admit into evidence and consider, without
proof of facts, matters of common and general knowledge, Moss
v. Aetna Life Ins. Co. supra.; Broad River Power Co. supra.;
31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule
201(a).

This is a manifest constitutional error. An error on
the part of the trial court that has an identifiably negative
impact on the proceedings to such a degree, that the constitu-
tional rights of the party are compromised. A manifest constitu-
tional error can be reviewed by a court of appeals even if the
appellant did not object at the proceedings, (Black Law Diction-
ary 8th. Edition).

The appellant did not object to these defects and or
errors at the time of his trial and or before he gave his guilty
plea, but the defect(s) and or error(s) serve to render the
indictment(s) wholly invalid. Defects in an indictment that
are of such a fundamental character as to render an indictment
wholly invalid are not subject to waiver by the defendant, 41
Am. Jurs.2d Indictments And Information § 299(1968); State v.
Munn supra.

16 It is universally recognized that an indictment "[m]ust"
contain certain [s]pecification of [a]cts and [c]ircumstances
as well as on its [f]ace fix and determine the identity of the
offense with such [p]articularity, that it will enable the defen-
dant to know with sufficient [c]ertainty what he has to face
at trial to give him or her a fair opportunity to prepare his
defense to avail him or herself of conviction, or acquittal
as a bar to further prosecution arising out of the same facts,

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State v. Rallo, 403 S.E.2d. 653(1991); State v. Hardee, 279 94
S.C. 409, 308 S.E.2d. 521(1983); Locke v. State, 341 S.C. 54,
533 S.E.2d. 324(2000); IN RE: Jason T., 340 S.C. 455, 531 S.E.2d.
544(S.C.App.2000); State v. Parker, 344 S.C. 250, 543 S.E.2d.
255(S.C.App.2001).

S.C. Code Ann § 17-19-10 Provides:

"All offenses shall be prosecuted by Grand Jury indictment(s). Thus, no person shall be held to answer in any court for any alleged crime or offense unless upon indictment by a Grand Jury".

S.C. Code Ann § 17-19-20 Provides:

"Every indictment shall be deemed and judged as good and sufficient in law, which in addition as to allegations as to time and place as required by law, charges the crime substantially in the language of the common law of the statute, prohibiting the crime and so plainly that the nature of the offense charged may be easily understood***".

Insomuch, it is the body of the indictment which is the [v]ital part of the charging instrument, State v. Tate, 345 S.C. 577, 549 S.E.2d. 601(S.C.2001), and it "[c]annot" be so cryptic or the wording so loose, vague and ambiguous as to fail to comply with the basic right of the accused to be "[f]ully" informed as to the "[c]ause and [n]ature" of the accusation being levied against them, which is one of the most basic, fundamental and universally recognized rights of Due Process, Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572(1941); State v. Tabory, 262 S.C. 136, 141, 202 S.E.2d. 852(1974)(Holding that the state may not support a conviction * 334 for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment).

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Subject to certain minor exceptions not present, jurisdic-

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tion is made void for Due Process violation, and the trial court is prohibited from enacting and or invoking and or continuing its Subject Matter Jurisdictionary "[p]owers" to convict a defendant for an offense, when there is no indictment charging him with that offense when the jury is sworn, and or before he gives his guilty plea even though the court does possess such "[p]ower" given to them by legislative statute, State v. Beachum, 288 S.C. 325, 342 S.E.2d. 597(1986); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014-WL-126640; White v. Manis, 2014-WL-1513280(DSC.2014).

Federal Rules of Procedure, Rule 7(c) requires that an indictment contain a "[p]lain", "[c]oncise" and "[d]efinite" written statement of essential elements and or allegations constituting the offense charged. The indictment Clause of the 5th. Amendment require that the indictments contain some amount of factual particularity to ensure that the prosecution will not fill in elements of his case with facts other than those considered by the Grand Jury, United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982).

If the court will please take notice of the indictment(s) for attempted murder. They read: "That in ~~_____~~ County, South Carolina,****~~_____~~****, while acting in concert with codefendant, discharged a firearm at the victim,****".

The indictment for conspiracy reads:

"That in ~~_____~~ County,****the defendant ~~_____~~, did combine, conspire, confederate, agree or have tacit understanding with another, for the purpose of committing a crime, to wit, attempted murder.*****".

10 These are the generic terms of the statute for conspiracy. Inasmuch, the indictment(s) are to vague and cryptic. The attempted murder indictment(s) do not say what weapon was supposedly used, and both the attempted murder and conspiracy in-

dictment(s) do not allege who it was the appellant conspired with. The court and prosecution did add these elements and or aggravating factors that were not passed upon by the Grand Jury. Did the appellant possess a handgun, a slingshot, a dirk, a machete, an uzi, an AKA-47 or a rocket launcher? The indictments do not say. Did the appellant allegedly conspire with "Sponge Bob", "Barrack Obama", Donald Duck Trump and the alt right", Bugs Bunny" or "Michael Jackson" who came back from the dead? The indictment(s) do not say. This is why they conspired under color of State law, in acts of prosecutorial misconduct as well as in acts of fraud upon the court and denied the motion for severance, which extremely prejudiced the appellant, permitting them to constructively amend the indictments before the court. This extreme prejudice caused actual substantive disadvantage where these material averments were not passed upon by the Grand Jury in the body of the charging instrument. This act led to said constructive amendment and denial of the motion for severance by fraud, depriving the appellant of proper notice giving way to arbitrary judicial action in violation of Due Process law, voiding jurisdiction for Due Process violation. This issue is also preserved for appellate review where the attorney for the defense argued that the State did not prove the indictments or elements of the motions for dismissal, direct verdict and severance, Castillo v. Holder, ---F3d.---, 2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C. 526, 713 S.E.2d. 591(S.C.2011).

The language in the indictment(s) is so vague, so loose, so cryptic and ambiguous it is almost impossible for the appellant to know what he is called upon to meet and defend. What weapon was the appellant in possess of? As far as the appellant can tell, it must have been a ~~surface~~ to air missile or rocket launcher. As far as the appellant can tell, in whom it was that he allegedly conspired with. It could have been Napoleon Bonapart after he battled at Waterlou or Genghis Khan after he left the Asian Continent, where these people were resurrected from the dead. No one can say what was in the mind of the Grand Jury.

19 This "[c]annot" be deemed as reasonable notice, which is why



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the court denied the motion for severance, to constructively 97
amend the indictments where the jury would have been able to
only speculate had this not been done. The indictments cannot
be deemed as sufficient if the prosecution is permitted to prove
all these materially different sets of facts, to include any
other set of facts not passed upon by the Grand Jury, subjecting
the appellant to "Indictment Ambush" at the onset of the pro-
ceedings, voiding their jurisdiction for Due Process violation,
State v. Keith, 283 S.C. 597, 598, 325 S.E.2d. 325, 326(1985);
State v. Bullock; United States v. Masotto, 73 F3d. 1233 cert.
denied 117 S.Ct. 54, 136 L.Ed.2d. 18; Castillo v. Holder, ---
F3d. ---, 2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C.
526, 713 S.E.2d. 591(S.C.2011); S.C. Code Ann § 17-25-10.

The requirement of the indictment(s) limit and constrain
the Subject Matter Jurisdictionary "[p]owers" of both the prose-
cution and the court by limiting what can be presented at trial,
conviction and sentencing, United States v. Promise, 255 F3d.
150(4th.Cir.2001); State v. Guthrie, 352 S.C. 103, 572 S.E.2d.
309. It is the command of the U.S. Constitution, that anything
to the contrary is notwithstanding, (Article IV § 2 U.S. Const.);
S.C. Code Ann § 17-25-10.

The State and or prosecuting body, acting unjustly, ar-
bitrarily, conspiring under color of law, has egregiously failed
to adhere to their own state laws, serving to deny the appellant
the Equal Protection of the Laws against unjust, arbitrary pro-
secution and judicial action in acts of fraud upon the court,
Great Coastal Exp. Inc. supra., 675 F2d. 1349(4th.Cir.1982);
Fox Ex. Rel. Fox v. Elk Run Coal Co. Inc., 739 F3d. 131(4th.
Cir.2014); U.S. v. Beggerly, 524 U.S. 38, 118 S.Ct. 1862, 141
L.Ed.2d. 32(U.S.1998); Blue Sky Travel and Tours, LLC v. Al
Tayyer, ---Fed. Appx'---, 2015 WL 1451636 CA4 (Va.2015); Barlow
v. Colgate Palmolive Co., 772 F3d. 1001, 90 Fed. R. Serv.3d.
85 CA4 (Md.2014); U.S. v. Tejada, 445 Fed. Appx' 719, 2011 WL
3891825 CA4 (S.C.2011); Screws v. United States supra.; State
v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin

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v. Florida supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Hicks v. Oklahoma supra.; Jones v. Arkansas supra.; Lugar v. Edmondson Oil Co. supra.; Greenwood v. Peacock, (1966) 384 U.S. 808, 16 L.Ed.2d. 944, 86 S.Ct. 1800; United States v. Otherson, (1980 CA9 Cal.) 637 F2d. 1276 cert. denied (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; S.C. Code Ann § 17-25-10. 90

In United States v. Hooker, 841 F2d. 1225, 1227(4th.Cir. 1988)(EN BANC) and in Russell v. United States, 82 S.Ct. 1047 (1962), the court held:

"It is an elementary principle where the definition of the offense(s) charged, whether it be at common law or statute, include generic terms, it is "[n]ot" sufficient that the charging should be in the same generic terms of the statute, but it "[m]ust" descend to "[p]articulars".

WE HOLD, a mere citation of the statute of which the defendant is charged with violating is insufficient to cure the failure of the indictment(s) to charge each essential element and or allegation of the offense because a mere citation alone does not ensure that the Grand Jury considered and found the crucial elements and or facts of the offense". The appellant also cannot be subjected to language that violate his rights to double jeopardy protection.

Hence, by the Doctrine of "STARE DECISIS ET NON QUIENTA MOVERE", and indictment "[m]ust" properly set forth all essential elements of the offense. By Hamling v. United States, 418 U.S. 87, 94 S.Ct. 2887(1974), it is well established and recognized under American Jurisprudence: That if an indictment fails to charge all the necessary elements, it fails to charge the offense . If it fails to charge the offense or subject a person to double jeopardy, such violates the appellant's 5th., 6th. 14th. Amendment rights of the U.S. Constitution, as well as Article IV § 2, and his rights of Due Process, voiding the court's jurisdic- 28

89 tion for Due Process violation. Thus, the conviction "[m]ust' 99
be set aside, United States v. Cabrera-Teron, 168 F3d. 141(5th.
Cir.1999); United States v. Pupo, 841 F2d at 1239(4th.Cir.1988)
(EN BANC); United States v. Hooker, 841 F2d. 1225(4th.Cir.1988);
United States v. Daniels, 973 F2d. 272(4th.Cir.1992); Elderberry
Of Weber City, LLC v. Living Center--Southeast, Inc., ---F3d.--
--, 2015 WL 4430836 CA4 (Va.2015); Norbrega v. Hinkle, 576 Fed.
Appx' 224 CA4 (Va.2014); Manis v. White, 2014 WL 1513280(DSC.
2014); Robinson v. Cohen, F.Supp.2d., 2009 WL 789882(DSC.2009);
United States v. Gomez, 690 F3d. 194 CA4 (Md.2012); Carr v.
United States, 560 U.S. 438, 130 S.Ct. 2229(U.S.2010); United
States v. Robare, 2011 WL 10583565 (N.D.N.Y.2011) Castillo v.
Holder supra.; State v. Brandt supra.

~~(4) Did the trial court err, and was the appellant's
5th., 6th., 14th. Amendment rights violated, as well as Article
IV § 2 and his Due Process rights violated, voiding the court's
jurisdiction for Due Process violation, due to the court's
failure to issue a final written order in the appellant's stand
your ground hearings.~~

Judicial notice takes place of proof. It simply means
that the court will admit into evidence and consider, without
proof of facts, matters of common and general knowledge, Moss
v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co.
supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence,
Rule 201(a).

12 This is also a manifest constitutional error. An error
on the part of the trial that has an identifiably negative impact
on the proceedings to such a degree, that the constitutional
rights of the party are compromised. A manifest constitutional
error can be reviewed by a court of appeals even if the appellant
did not object at the proceedings (Black Law Dictionary 8th. 29
Edition).

90 (9) Did the trial court err, and was the appellant's 100
5th., 6th., 14th. amendment rights of the U.S. Constitution
violated, as well as Article IV § 2, and his Due Process rights
violated, by the indictment(s) for attempted murder's failure
to properly and or sufficiently apprise the appellant of the
"[t]ime" of assault(s), in the body of the charging instrument,
as "[t]ime" is recognized by law?

The appellant did not object to this defect and or error
at the time of his trial and or before he gave his guilty plea,
but the defect and or error serves to render the indictment
wholly invalid. Defects and or errors in an indictment that
are of such a fundamental character as to render an indictment
wholly invalid are not subject to waiver by the defendant, 41
Am. Jurs.2d. Indictments and Information § 299(1968); State
v. Munn supra.. Subject to certain minor exceptions not present,
the trial court is prohibited from enacting and or invoking
its subject Matter jurisdictionary "[p]ower" given to them by
state statutes to convict a defendant for an offense, when there
is no indictment charging him with that offense when the jury
is sworn, and or before he gives his guilty plea, where such
an action would "[v]oid" the court's jurisdiction for Due Process
violation, State v. Beachum, 288 S.C. 325, 342 S.E.2d. 597(1986);
Grupo Dalaflex v. Atlas Global Group L.P., 541 U.S. 567, 124
S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); Loumiet v. United States,
65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.
3d. 582, 2014 WL 1266240.

Judicial notice takes place of proof. It simply means
that the court will admit into evidence and consider, without
proof of facts, matters of common and general knowledge, Moss
v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co.
supra. 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence,
Rule 201(a).

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This is also a manifest constitutional error. An error
on the part of the trial court that has an identifiably negative
impact on the proceedings to such a degree, that the constitu-

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~~REDACTED~~

81 tional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition). 101

The appellant humbly contends his 5th., 6th., 14th. amendment rights of the U.S. Constitution were violated, as well as Article IV § 2, and his Due Process rights were violated for the charge in question, because the charging instrument, in the body of the indictment does "[n]ot" state the exact time and or date of the alleged assault(s) as time is recognized by law, which is a necessary and requisite element of the offense for murder and or attempted murder, being made a part of the critical elements of the offense. For example, in State v. Rector, 158 S.C. 212, 155 S.E. 385(1930), the Supreme Court [s]pecifically and [u]nequivocally, with [c]larity and [p]articularity, stated in Haec [V]erba:

"The State "[m]ust" prove not only the assault and death occurring from it, but also the "[t]ime" of the assault and the "[t]ime" of the death, as "[t]ime" is recognized by law. In addition the state "[m]ust" prove the "[p]lace" of the assault, and the "[p]lace" of death*****".

These necessary elements of the crime "[m]ust" not only be proven before a person may be lawfully convicted, but they "[m]ust" be alleged within the body of the charging instrument, be passed upon by the Grand Jury in the indictment returned against the defendant in accordance to the constitutional rights of the accused(emphasis added).

Assault And Battery With The Intent To Kill embraces the whole of attempted and visa versa. The elements to prove the crimes are the same as it is for murder with the exception of the death ensuing from it, State v. Sutton, 340 S.C. 393, 397, 532 S.E.2d. 283, 285(2000).

Inasmuch, it is the body of the indictment(s) that is the [v]ital part of the charging instrument, State v. Tate, 345 S.C. 577, 549 S.E.2d. 601(S.C.2001), and it "[c]annot" be so cryptic or the wording so loose, vague and ambiguous as to fail to comply with the basic right of the accused to be fully informed as to the "[c]ause and [n]ature" of the accusation being levied against him, which is one of the defendant's most basic, fundamental, and universally recognized rights of Due Process, Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572(1941); State v. Tabory, 262 S.C. 136, 141, 202 S.E.2d. 852(1974)(holding that the state may not support a conviction * 334 for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment). Also see S.C. Code Ann § 17-25-10; United States v. Masotto, 73 F3d. 1233 cert. denied 117 S.Ct. 54, 136 L.Ed.2d. 18; Castillo v. Holder, ---F3d.---, 2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C. 526, 713 S.E.2d. 591(S.C.App.2011).

Insomuch, the statutory text of S.C. Code Ann §§ 17-19-20 and 17-19-30 also as a fact of "[W]ritten [L]aw", require that the "[t]ime" of the offenses be stated in the body of the charging instrument of the indictment. The language in the charging in the charging instrument for attempted murder in question alleges that the assault occurred "ON OR ABOUT" July 28, 2013. Could this mean July 29th., 30th., August 1st., 2nd., 3rd. 4th., 7th., 10th., 13th., July 27th., 25th., 23rd., 20th., 19th., 15th.? All of these dates can be considered as "ON OR ABOUT" July 28, 2013. The State knew and could have easily allege the exact date of the supposed assault(s). This means that this failure to assert the exact time of the assault(s) was an arbitrary judicial action. Murder is a composite crime. Thus, they, by not alleging an exact time of assault have in some respects destroyed the identity of the Corpus delicti. This cannot be deemed reasonable notice. It is the appellant's contention that this is "[n]ot" a proper or sufficient "[t]ime" of assault, which is made part of the essential elements of the offense, which must be alleged within the body of the charging instrument,

93 passed upon by the Grand Jury and returned against the accused in accordance to the Constitutional Due Process rights of the defendant. This produces substantial prejudice, denying the defendant his right to proper and or sufficient notice, and serve to deny him the Equal Protection of the Laws.

The appellant contends, that a panel of jurors that embodied the Grand Jury upon their oaths aforesaid, stated the mortal blow and or assault occurred "ON OR ABOUT" July 28, 2013. This is not an exact time of assault. Thus, it becomes a false and invalid oath, tainting this oath producing fraud and misrepresentation requiring that the indictment(s) be quashed. It is universally recognized that every oath "[m]ust" be founded upon "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE CERTA SCIENTIA). The reality is that such oath was not founded upon certain knowledge where the Grand Jury who swore to such indictments, did not discover as they supposed that the exact "[t]ime" of the assault had not been alleged in the indictment. Failing to properly state the time of assault of the alleged crime are clear grounds that would demand that such a judgment be reversed, especially in light of the overwhelming prejudice to the appellant's Due Process rights. By this injustice the appellant was denied opportunity to make claims of alibi or actual innocence where the State would be permitted to assert the assault occurred on the numerous days afore claimed by alleging "ON OR ABOUT". The law is clear on this issue. No one can say what was in the mind of the Grand Jury which allowed the trial jury to speculate that the Grand Jury intended the time to be exactly July 28, 2013 where by making use of the term "ON OR ABOUT" such is not clear, or is it an exact asserted time of assault. This also denied the appellant his Due Process right to meet the charge by being able to call specific witnesses who could have clearly proven the assault did not occur on all those vague "ON OR ABOUT" dates the appellant previously listed. It is truly unnecessary to cite authority to the fact that it is absolutely essential in an indictment for murder, and in this case, attempted murder, that the exact "[t]ime" of assault and or death of the decess 33

charged to have been committed is '[n]ot' material".

On the other side of the spectrum of this language, the "[p]recise [t]ime" at which the offense is said to have been committed "[i]s" material if "[t]ime" is of the essence or gist of the offense as it is in this case.

Inasmuch, to be "ON POINT", in State v. Pierce, 207 S.E.2d 414, which is a murder precedent, the indictment charged that ~~the offense and or crime occurred on a certain date, and does~~ "[n]ot" charge "ON OR ABOUT". The State knew the exact time of assault and also knew that "time" was an essential element of the offense. But they figured since they thought they got away with that Gentry fraud. They continued the arbitrary act and disregarded the appellant's Due Process rights.

Hence, by the Doctrine of "STARE DECISIS ET NON QUIENTA MOVERE", an indictment "[m]ust" properly set forth all the essential elements of the offense. By Hamling v. United States, 418 U.S. 87, 94 S.Ct. 2887 (1974), it is well established and recognized under American Jurisprudence: That if an indictment fails to charge all necessary elements, it fails to charge the offense. If it fails to charge the offense, such violates the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution, as well as Article IV § 2, and his rights of Due Process which "[v]oids" the trial court's jurisdiction for Due Process violation. Thus, the sentence and conviction "[m]ust" be vacated, United States v. Masotto supra.; Castillo v. Holder supra.; State v. Brandt supra.; United States v. Cabrera-Teron, 168 F3d. 141 (5th.Cir.1999); United States v. Pupo, 841 F2d. at 1239(4th.Cir.1988)(En Banc); United States v. Hooker, 841 F2d. 1225(4th.Cir.1988); U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240; White v. Manis, 2014 WL 1513280(DSC. 2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007); Brown v. U.S., 2014 WL 2871398(DSC.2014). 272-of-406

STATUTES OF S.C. CODE ANN. §§ 17-19-10, 17-19-20 AND 17-19-100 AND ARTICLE 1 § 11 OF THE SOUTH CAROLINA CONSTITUTION THAT STATE IT IS UNCONSTITUTIONAL TO VIOLATE THE SEPARATION OF POWERS CLAUSE PROVISIONS ATTACHED TO THE S.C. CONSTITUTION UNLESS THERE IS SOME LANGUAGE WITHIN THE PROVISION THAT SAYS THAT IT IS NOT, CHALLENGING ANY COURT(S) RULINGS THAT NEGATES THIS MANDATE FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION PURSUANT TO APPELLATE COURT RULES OF PROCEDURE, RULE 217, JOSEPH v. SOUTH CAROLINA DEPT. OF LABOR, LICENSING AND REGULATION, 417 S.C. 436, 790 S.E.2d. 763(S.C.App.2016); STOKES-CRAVEN HOLDINGS CORP. v. ROBINSON, 416 S.C. 517, 787 S.E.2d. 485(S.C.App.2016); JOHNSON v. JOHNSON, S.E.2d., 2014 WL 2721680(S.C.App.2014).

THE APPLICANT BRINGS THE COURT AND PARTIES ATTENTION BACK TO TT.PP 8 LNS. 20-25; TT.PP. 47 LNS. 1-13; TT.PP. 65 LNS. 13-14; TT.PP. 97 & 98; TT.PP. 108 LNS. 8-25; TT.PP. 155 LNS. 20-21; TT.PP. LNS. 159 LNS 20-23; TT.PP. 183 LNS 8-9; TT.PP. 189 LNS. 21-25; TT.PP. 189 LNS. 19-25; TT.PP. 213 LNS. 17-23; TT.PP. 214 LNS. 16-25; TT.PP. 215 LNS. 1-25; TT.PP. 285 LNS. 16-25; TT.PP. 286 LNS. 1-25; TT.PP. 308 LNS. 17-20; TT.PP. 309 LNS. 1-25; TT.PP. 316 LNS. 3-25; TT..PP. 347 LNS. 21-23; TT.PP. 349 LNS. 22-25; TT.PP. 350 LNS. 12-13; TT.PP. 355 LNS. 11 (PRESUMPTION OF INNOCENCE CHARGE); TT.PP. 359 LNS. 18-25; TT.PP. 360 LNS. 21-25; TT.PP. 361 LNS. 1-12; TT.PP. 370 LNS. 10-21; TT.PP. 388 LNS. 9-25(CURATIVE INSTRUCTION); TT.PP. 389 LNS. 1-19(CURATIVE INSTRUCTION CONSTRUCTIVE AMENDMENT). THE RECORD IS POLLUTED WITH EGREGIOUS ACTS ON CONSTRUCTIVE AMENDMENT OF THE INDICTMENT ALL OVER THE PLACE SUBJECTING THE APPLICANT TO EXTREME PREJUDICE IN THE EXERCISE OF HIS DUE PROCESS MATTERS. CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE 5TH. AMENDMENT IF IT EFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE, BUT ONCE PREJUDICE IS CLEARLY SHOWN AS IT IS IN THIS CASE, OVERWHELMINGLY, THE SENTENCE AND CONVICTION MUST BE VACATED FOR DUE PROCESS VIOLATION WHICH IS TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, STATE v.

CONVICTION. THUS THIS FRAUD UPON THE COURT AND MANIFEST INJUSTICE IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY GENERAL IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS BE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468 (S.C.App.2021); MYLES v. DOMINOS PIZZA, LLC. 2017 WL 238436(D.C.Miss.2017); HAMER v. NEIGHBORHOOD HOUSING SERVICE OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 249(U.S.2017); STATE v. DENT SUPRA.; STATE v. SWEAT SUPRA..

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74(4th.Cir.2025). IN CONSTRUING STATUTES, WORD "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULTS ARE THE SAME DUE TO THE FACT THAT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES RELIED UPON AND IGNORED THE PROVISIONS OF THE S.C. CONSTITUTION UNDER ARTICLE 1 §

(8) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE S.C. CONSTITUTION VIOLATED, AS WELL AS THE SEPARATION OF POWERS CLAUSE VIOLATED, AS WELL AS THE APPLICANT'S DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE PROSECUTOR ENGAGING IN ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, BY THE TRIAL COURT ALLOWING CONSTRUCTIVE AMENDMENT OF THE INDICTMENTS AT THE APPLICANT'S TRIAL?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH A NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT GIVES THE COURT AND PARTIES JUDICIAL NOTICE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005). THE APPLICANT MAKES USE OF OWENS v. STIRLING. 443 S.C. 246, 904 S.E.2d. 580 (S.C.App.2024) (STANDARD OF DECISION WHEN CONSIDERING THE CONSTITUTIONALITY OF A STATUTE REQUIRES THAT COURT PRESUME STATUTE IS CONSTITUTIONAL; COURT MUST UPHOLD STATUTE UNLESS IT FINDS BEYOND A REASONABLE DOUBT IT DOES NOT CONFORM TO THE CONSTITUTION) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND FORCE CONSTRUCT THE APPLICABLE

GUTHRIE, 352 S.C. 103, 572 S.E.2d. 309; ARTICLE IV § 2 U.S. CONST.; UNITED STATES v. COYNE, 4 F.3d. 100 (2nd.Cir.1993); UNITED STATES v. MORGENSTEIN, 933 F.2d. 1108, 1115(2nd.Cir.1991); WILSON v. LINDLER, 995 F.2d. 1256; STIRONE v. UNITED STATES, 361 U.S. 212 (U.S.1960); GAITHER v. UNITED STATES, 413 F.2d. 1061 (D.C.Cir.1969); DOUGLAS v. STATE OF ALABAMA, 380 U.S. 407, 85 S.Ct. 1074(1965); DECH v. MISSOURI, 544 U.S. 622, 125 S.Ct. 2007, 161 L.Ed.2d. 953, 73 U.S.L.W. 4370(U.S.2005); UNITED STATES v. WHITFIELD, 695 F.3d. 288 CA4 (Va.2012); UNITED STATES v. MILLS, 555 Fed. Appx' 241 CA4 (Va.2014); UNITED STATES v. NAIDU, 480 Fed. Appx' 180 CA4 (Md.2012). THE APPLICANT TOUCHED ON THIS CONCERN IN THE PREVIOUS ISSUE REGARDING INDICTMENT DEFECTS. BUT INDICTMENT DEFECTS AND CONSTRUCTIVE AMENDMENT OF AN INDICTMENT THOUGH AT TIMES OVERLAP ARE TWO DISTINCT ISSUES. THEREFORE, IN AN ABUNDANCE OF CAUTION THE APPLICANT IS ARGUING EACH ISSUE INDEPENDENT OF EACH OTHER TO ENSURE EACH CLAIM IS PROPERLY PRESERVED IN THE RECORD.

SUCH ACTION VIOLATE'S THE APPLICANT'S DUE PROCESS RIGHTS, THE S.C. CONSTITUTION AND PRODUCES A SEPARATION OF POWERS CLAUSE VIOLATION. SINCE THIS CLAIM IS INDEED JURISDICTIONAL IN NATURE AS ADJUDICATED UNDER S.C. CODE ANN. §§ 17-19-10, 17-19-20, 17-19-100, ARTICLE 1 § 11 OF THE S.C. CONST, AND STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(INDICTMENT FACIALLY CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED) CAN BE RAISED AT ANY TIME EVEN AFTER A FINAL JUDGMENT (COMMITMENT ORDER) HAS BEEN ISSUED IN THE CASE MAKING THE ASSERTING OF THIS SUBSTANTIAL DUE PROCESS RIGHT TIMELY. * WHEN THE LEGISLATURE ALSO VIA THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11, IT MARKS THE BOUNDS OF A COURT'S POWER, AND THE GOVERNMENT'S FAILURE TO FOLLOW THE REQUIREMENTS DEPRIVES THE COURT OF AUTHORITY (JURISDICTION) TO HEAR THE CASE, SO A COURT "MUST" (MANDATORY) ENFORCE THE REQUIREMENT EVEN IF NO PARTY HAS RAISED IT, AND A COURT "MUST" ADHERE TO THE REQUIREMENT EVEN IF EQUITABLE CONSIDERATIONS WOULD SUPPORT EXCUSING ITS VIOLATION, HARROW v. DEPT. OF DEFENSE, 601 U.S. 480, 144 S.Ct. 1178, 218 L.Ed.2d. 502(U.S.2024); SANTOS-ZACARIA v. GRARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215

L.Ed.2d. 375(U.S.2023)(A JURISDICTIONAL PRESCRIPTION SETS THE BOUNDS OF A COURT'S ADJUDICATORY AUTHORITY. COURTS CANNOT GRANT EQUITABLE EXCEPTIONS TO JURISDICTIONAL RULES OR STATUTES, BECAUSE THEY ARE NOT ABLE TO EXCEED THE LIMITS OF THEIR ADJUDICATIVE AUTHORITY); MOAC MALL HOLDINGS LLC. v. TRANSFORM HOLDCO LLC, 598 U.S. 288, 143 S.Ct. 927, 215 L.Ed.2d. 262(U.S.2023). THE ACTION OF THE COURT WHICH EXTREMELY PREJUDICED THE APPLICANT STANDING IN EGREGIOUS VIOLATION OF THE APPLICABLE STATUTE(S) GIVING WAY TO SUBTLE EXPANSION AND OR FORCE CONSTRUCTION OF THE STATUTE VIOLATING THE SEPARATION OF POWERS CLAUSE? THE RECORD IS POLLUTED WITH EGREGIOUS VIOLATIONS OF THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS WHICH WOULD VOID THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR THAT DUE PROCESS VIOLATION. *

WHILE GENTRY MADE IT HARDER TO CLAIM "VOID" CONVICTION BASED ON MERE TECHNICALITIES, COURT THAT CONSTRUCTIVELY AMENDS ESSENTIAL ELEMENTS TO FIT A FORCED STATUTORY CONSTRUCTION HAS EXCEEDED ITS CONSTITUTIONAL AUTHORITY. THIS RESULT IS A VOID JUDGMENT BECAUSE THE COURT HAS EFFECTIVELY CREATED AND TRIED A "NEW" CHARGE THAT NEVER RECEIVED GRAND JURY APPROVAL. IF THE INDICTMENT ADDS ESSENTIAL ELEMENTS OF THE OFFENSE(S) NOT APPROVED BY THE GRAND JURY (TIME AND PLACE OF DEATH) AND THE INDICTMENT'S LANGUAGE ALREADY SUPPORTS A CONVICTION BUT THE COURT AMENDS IT IN A WAY BY JURY INSTRUCTION CHANGING THE NATURE OF THE OFFENSE AND OR LEGAL THEORY ALLEGED IN THE INDICTMENT (HE IS INNOCENT UNTIL PROVEN GUILTY) CONTRARY TO THE INDICTMENT, THE COURT LOSSES JURISDICTION RENDERING ANY RESULTING CONVICTION VOID, EVEN IF THE DEFENDANT APPEARED "GUILTY" OF THE ORIGINAL CHARGE. UNDER S.C. CODE ANN. § 17-19-20 THE INDICTMENT "MUST" BE DEEMED GOOD. THE STATUTORY LANGUAGE IS CLEAR AND UNAMBIGUOUS. S.C. CODE ANN. § 17-19-100 ANY AMENDMENT THAT CHANGES THE NATURE OF THE OFFENCE RETURNED BY THE GRAND JURY WHO IN THIS CASE HAS ILLEGALLY CONVICTED HIM. IF THE AMENDMENT ADDS A NEW ELEMENT (TIME AND PLACE OF DEATH), CHANGES THE THEORY (THE INDICTMENT PREDETERMINE GUILT AND CONVICTS BUT THE JUDGE CHARGES DIFFERENTLY) OF THE CRIME, IT IS "MATERIAL" CHANGE THAT EXCEEDS THE COURT'S

CONSTITUTIONAL AUTHORITY. WHEN THE COURT "CONSTRUCTIVELY AMENDS" AN INDICTMENT--EFFECTIVELY CHANGING THE CHARGE THROUGH JURY INSTRUCTION OR BY ALLOWING EVIDENCE OF ESSENTIAL ELEMENTS NOT PASSED UPON BY THE GRAND JURY--IT VIOLATES THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11. THE ESSENTIAL ELEMENTS OF "TIME AND PLACE" ARE NOT PROPERLY ALLEGED FOR THE MURDER AND THE APPELANT IS ALREADY FOUND GUILTY BY THE GRAND JURY WHO TOOK AWAY HIS PRESUMPTION OF INNOCENCE. EVEN IF THE DEFENDANT IS "GUILTY" OF THE ORIGINAL CONDUCT, THE COURT LOSES THE POWER TO HEAR THE CASE THE MOMENT THE INDICTMENT IS AMENDED TO A DIFFERENT NATURE. THIS IS BECAUSE THE CIRCUIT COURT'S JURISDICTION IS "TRIGGERED" BY THE "SPECIFIC" INDICTMENT RETURNED BY THE GRAND JURY MAKING THE TRIAL PROCEEDING ESSENTIALLY AN ACT OF POTENTIAL DOUBLE JEOPARDY. THE GRAND JURY DOES NOT HAVE THE POWER TO CONVICT. IF THE COURT AMENDS AN INDICTMENT TO CHANGE THE NATURE OF THE OFFENSE, IT VIOLATES THE CONSTITUTIONAL REQUIREMENT OF PRESENTMENT TO THE GRAND JURY. THIS IS NOT A PROCEDURAL MISTAKE; IT IS A "JURISDICTIONAL DEFECT" THAT MAKES THE CONVICTION VOID, REGARDLESS OF DEFENDANT'S PERCEIVED GUILT ON THE ORIGINAL CHARGE, STATE v. SWEET, 446 S.C. 356, 919 S.E.2d. 909(S.C.App.2025)(THE INDICTMENT DEFECTS ARE SO FUNDAMENTALLY FLAWED THEY PRODUCE CONSTITUTIONAL STRUCTURAL ERROR THAT VOIDS JURISDICTION). THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT 6TH. AMENDMENT RIGHT TO A FAIR AND IMPARTIAL TRIAL, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY BY MASS INCARCERATION AND VIOLATED THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENT BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THE COURTS CANNOT ESTABLISH TRIAL AND OR PCR PROCEEDINGS IN VIOLATION OF THE STATUTE AND S.C. CONSTITUTION DEMONSTRATING THE AMOUNT OF EXTREME PREJUDICE THAT THE APPLICANT WAS SUBJECT TO WARRANTING REVERSAL AND VACATING OF THE

11. THE CONVICTION MUST BE REVERSED AND VACATED. "NO PERSON CAN BE HELD UNLESS BY GRAND JURY INDICTMENT; EVERY INDICTMENT MUST BE DEEMED GOOD; A COURT MAY ONLY AMEND AN INDICTMENT IF THE CHANGE DOES NOT CHANGE THE NATURE OF THE OFFENSE" IS CLEAR AND UNAMBIGUOUS LANGUAGE REQUIRING THAT THE APPLICANT'S CONVICTION BE MADE VOID FOR DUE PROCESS VIOLATION ~~Q~~ UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AS THE STATUTE(S) REQUIRES AND PURSUANT TO CONSTITUTIONALLY PROTECTED RIGHT OF THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11.

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, THE CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW, THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS OR VACATE THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE SUPRA.; B.R. v. F.C.S.B. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; al-SUYID v. HIFTER SUPRA.; MERE CLAIM THAT RIGHTS EXIST UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS SUFFICIENT TO ARGUE THE EGREGIOUS DUE PROCESS VIOLATION ARGUED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION SINCE IT WAS ALSO DONE SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES WHERE THE APPLICANT IS ALSO ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY 2005 AND STATE v. LANGFORD 2012, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N SUPRA.; WESTMINSTER NURSING CENTER v. COHEN SUPRA.; SANTOS-ZACARIA v. GARLAND SUPRA.; FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY SUPRA. (THE U.S. SUPREME COURT HAS

STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES V. PRINCE GEORGE'S COUNTY SUPRA.; KOKKONEN V. GUARDIAN LIFE INS. CO. OF AMERICA SUPRA. (COURTS, ALL COURTS, STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURTS JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION CREATING A "CONSTITUTIONAL BLINDSPOT" AS TO AT WHAT POINT DO THE COURT VIOLATING DUE PROCESS AMOUNT TO AN ILLEGAL EXERCISE OF POWER UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION AND MUST BE DEEMED "VOID" FOR "VAGUENESS". DUE TO THE FRAUD UPON THE COURT PERPETRATED BY THE GENTRY COURT CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, RES JUDICATA WOULD NOT ATTACH TO THIS CLAIM NOR DO PROCEDURAL LIMITATIONS ATTACH TO THE CLAIM. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE. THE APPLICANT MOTIONS FOR A HEARING AND THE APPOINTING OF LEGAL COUNSEL. THE STATE BY DUE PROCESS LAW WOULD BE REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES V. RAIMONDO SUPRA.; LOZMAN V. CITY OF RIVERA BEACH, FLA. SUPRA..

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS PRESENTED WITHIN THIS CURRENT PCR APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED

AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING THE STATUTES OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENTS (PRONGS) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID. AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C. SUPRA.; THE CITY OF OCALA, FLORIDA v. ROJAS SUPRA. (HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES SUPRA. (REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN SUPRA. (REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA SUPRA. (UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOID JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA. (UNCONSTITUTIONAL ACTION UNDER BOTH THE CONSTITUTIONAL AND STATUTORY ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION). THUS, THE CONVICTION IN FUNDAMENTAL FAIRNESS TO THE APPLICANT MUST BE REVERSED AND VACATED. ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT(S), "CONSTRUCTIVE AMENDMENT #'S 1 & 2. ATTACHED. EVEN THOUGHT SOME OF THE ELEMENTS ARGUED WITHIN THE ATTACHMENT MAY SLIGHTLY DIFFER FROM THE APPLICANT. THE SUBSIDIARY FACTS RELATED TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENTS APPLY DIRECTLY TO THE APPLICANT.

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DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS HIS DUE PROCESS RIGHTS VIOLATED, AS WELL AS THE GENERAL SESSIONS COURT'S JURISDICTION BEING MADE VOID FOR SUCH DUE PROCESS VIOLATIONS, FRAUD UPON THE COURT AND UNCONSTITUTIONAL ACTION, WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION, DUE TO THE TRIAL AND OR PLEA COURT ALLOWING CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) AT THE APPLICANT'S TRIAL AND OR PLEA HEARING?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

INSOMUCH, THE APPLICANT'S 5TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION PURSUANT TO THE DUE PROCESS CLAUSE WERE VIOLATED, HIS 6TH. AMENDMENT RIGHTS TO A FAIR AND IMPARTIAL TRIAL WERE VIOLATED, AS WELL AS HIS RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE WERE VIOLATED, TO INCLUDE THE TRIAL COURT'S JURISDICTION BEING MADE VOID FOR THIS UNCONSTITUTIONAL ACTION ARGUED, IN THAT THE INDICTMENT FOR MURDER IS FATALY DEFECTIVE IN THAT IT DOES NOT PROPERLY AND OR SUFFICIENTLY ALLEGE IN THE BODY

103 OF THE CHARGING INSTRUMENT THE "[T]IME AND [P]LACE" OF THE ASSAULT AND OR DEATH WHICH HAVE BEEN MADE ESSENTIAL ELEMENTS OF THE OFFENSE OF MURDER, GIVING WAY TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) BEFORE THE COURT LEADING TO AN UNFAIR AND PARTIAL TRIAL. THIS DOES NOT EVEN TAKE INTO ACCOUNT THE CONSTRUCTIVE AMENDMENT OF THE INDICTMENT THAT OCCURRED RELATED TO ISSUE NUMBER ONE WITHIN THIS DOCUMENT WHERE THE COURT CONSTRUCTIVELY AMENDED THE INDICTMENT IN AN ATTEMPTED CURATIVE INSTRUCTION IN EFFORTS TO CURE THE CONSTITUTIONAL STRUCTURAL ERROR WHERE THE INDICTMENTS TAKE AWAY THE PRESUMPTION OF INNOCENCE AND SHIFT THE BURDEN OF PERSUASION TO THE DEFENDANT.

THE APPLICANT IS ARGUING AGAINST THE PRECEDENT SET IN PLACE BY THE CASE OF STATE V. GENTRY 2005, WHICH WAS ADJUDICATED UNDER A CLOUD OF OUTRAGEOUS, OVERWHELMING, FRAUD UPON THE COURT INVOLVING THE STATE SUPREME COURT ITSELF PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217 FOR THIS ISSUE AS WELL. TO ASSERT THAT INDICTMENT DEFECTS AND EVEN CONSTRUCTIVE AMENDMENT OF THE INDICTMENTS HAVE ABSOLUTELY NOTHING TO DO WITH SUBJECT MATTER JURISDICTION IS AN ABUSE OF DISCRETION AND AN ACT OF FRAUD UPON THE COURTS INVOLVED LEAVING EVERY COURT WITHIN THIS STATE THAT ADOPTS THIS POSITION OPEN TO COLLATERAL ATTACK FOR CONSPIRACY, OBSTRUCTION OF JUSTICE, FRAUD UPON THE COURT, VIOLATIONS OF THE EQUAL PROTECTION OF THE LAWS CLAUSE, VIOLATIONS OF 18 U.S.C. §§ 242 AND 1001 AND A PLETHORA OF OTHER DUE PROCESS AND CONSTITUTIONAL VIOLATIONS ARGUED WITHIN THESE MULTI-DISTRICT LITIGATION CASES. WHAT TIES THE INDICTMENT(S) TO SUBJECT MATTER JURISDICTION OR THE CONSTRUCTIVE AMENDMENT RELATED THERETO, IS THAT IF YOU TAKE A FATAALLY DEFECTIVE INDICTMENT, TAKING AWAY THE PRESUMPTION OF INNOCENCE, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS BY THE LANGUAGE CONTAINED THEREIN AND OTHER DEFECTS CITED, AND BRING IT BEFORE A CRIMINAL COURT, WHETHER AT STATE OR FEDERAL LEVEL, FOR THE PURPOSE OF FRAUDULENTLY PROCURING A CONVICTION, DEPRIVING THE DEFENDANT OF FAIR AND PROPER NOTICE OF THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION(S) BEING LEVIED

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AGAINST HIM, DENYING HIM OF THE CONSTITUTIONAL DUE PROCESS RIGHT TO KNOW EXACTLY WHAT IT IS THAT HE IS CALLED UPON TO MEET AND DEFEND, CONSTRUCTIVELY AMENDING THE INDICTMENT(S) ALL OVER THE PLACE ON ESSENTIAL ELEMENTS OF THE OFFENSE(S). THEN YOU COUPLE THIS WITH THE OTHER EGREGIOUS DUE PROCESS VIOLATIONS ARGUED WITHIN THIS DOCUMENT PRODUCING OVERWHELMING PREJUDICE? SUCH ACTION ON THE PART OF THE PROSECUTOR, COURT AND STATE DONE WITHIN THE PROCEEDINGS IN QUESTION, CONSPIRING UNDER COLOR OF STATE LAW AND OR AUTHORITY WHICHEVER IS APPLICABLE IN SUCH CASES, RENDERS THE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THAT COURT'S JURISDICTION, WHETHER IT BE AT STATE OR FEDERAL LEVEL, WHICH IS TO BE ADJUDICATED UNDER THE "DUE PROCESS/ CONSTITUTIONAL PRONG" TO SUBJECT MATTER JURISDICTION, NOT THE LEGISLATIVE PRONG THE COURTS, BOTH STATE AND FEDERAL, IN ACTS OF FRAUD UPON THE COURTS, MISTAKINGLY, PREVIOUSLY ADJUDICATED THIS ISSUE UNDER. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY THE GENTRY CASE. AN ACT OF CONGRESS AND OR THE COURTS THAT ARE CONTRARY TO DUE PROCESS AND THE UNITED STATES CONSTITUTION CANNOT BECOME LAW OR STAND AS LAW AND IS VOID, WHICH INCLUDE THE ACTS OF FRAUD UPON THE COURT, CRIMINAL CONSPIRACY AND OBSTRUCTION OF JUSTICE ATTACHED TO ANY SUCH JUDGMENT OR CONVICTION. THUS PROCURED, VOIDING THE CONVICTION ITSELF, EVANCHO v. PINE-RICH AND SCHOOL DISTRICT, 237 F.Supp.3d. 267, 301(W.D.Pa.2017); TAYLOR v. U.S., 136 S.Ct. 2074, 195 L.Ed.2d. 456, 84 U.S.L.W. 4462(U.S.2016); KLAYMAN v. OBAMA, 142 F.Supp.3d. 172 (D.D.C.2015); ZIVOTOFSKY EX REL ZIVOTOFSKY v. KERRY, 135 S.Ct. 2076, 192 L.Ed.2d. 83, 83 U.S.L.W. 4391(U.S.2015); WELLS FARGO BANK N.A. v. FARAG, 2016 WL 2944561(N.C.2016); MOSELY v. UNITED STATES, 2018 WL 1187778(W.D.N.C.2018); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th.Cir.2016). A CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT. REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL, WHICH INCLUDE ALL MATTERS RELATED TO THIS PRESENTLY SUBMITTED PCR APPLICATION,

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PEOPLE v. FIELDS, N.E.3d., ILL. App. (1st.) 122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cal.2017); UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619 (4th.Cir.2018); WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C., LLC., 859 F3d. 295 (4th.Cir.2017); MILFORD v. MIDDLETON, 2018 WL 348059 (DSC.2018); 460 S. LAKE AVENUE, LTD. v. APPLETON, 2019 WL 7184737, * 1 C.D.Cal.; SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES v. TRAN, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); M.D.C. INNOVATIONS LLC. v. NORTHERN,--Fed. Appx'--, 2018 WL 1129607 (4th.Cir.2018); BLUE SKY TRAVEL AND TOURS, LLC. v. AL TAYYAR,--Fed. Appx'--, 2015 WL 1451636 CA4 (Va.2015); IN RE: GENESYS DATA TECHNOLOGIES INC., 204 F3d. 124 (4th.Cir.2000); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516(S.C.App.2016).

ADDITIONAL LITIGATION IN SUPPORT OF THIS ISSUE IS SEEN IN EXHIBIT(S), "CONSTRUCTIVE AMENDMENT #'s 1 AND 2". THOUGH SOME OF THE ELEMENTS AND OR INDICTMENT DEFECTS ARGUED GIVING WAY TO THE CONSTRUCTIVE AMENDMENT MAY BE SLIGHTLY DIFFERENT. THE SUBSIDIARY FACTS AND CASES CITED RELATED TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) APPLY IN THE APPLICANT'S CASE ALSO.

~~SEE TTPP 629 INS. 19-25, TTPP~~

~~630 INS. 1-14.~~

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110 A

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107 ANATHEMA TOWARDS THE DEFENDANTS OF THIS STATE THAT YOU WOULD
ENGAGE IN THESE OUTRAGEOUS ACTS OF OBSTRUCTION OF JUSTICE,
CRIMINAL CONSPIRACY VIOLATIONS OF 18 U.S.C. §§ 242 AND 1001,
CONCEALING MATERIAL FACTS, CONSPIRING UNDER COLOR OF STATE LAW,
VIOLATING YOUR OATHS OF OFFICE, IN EGREGIOUS ACTS OF FRAUD UPON
THE COURTS INVOLVED? THIS MANIFEST INJUSTICE GOING ON SINCE 2005
HAS CAUSE OVERWHELMING, IRREPARABLE DAMAGE TO INMATES DUE PROCESS
MATTERS AS IT DID TO THE APPLICANT'S CASE, TO SUBSTANTIAL
CONSTITUTIONAL RIGHTS WHICH VOIDS THE COURTS INVOLVED
JURISDICTION FOR UNCONSTITUTIONAL ACTION WHICH IS TO BE
ADJUDICATED UNDER THE DUE PROCESS/ CONSTITUTIONAL PRONG TO
SUBJECT MATTER JURISDICTION, NOT THE LEGISLATIVE PRONG. 98% OF
THE INMATES PRESENTLY INCARCERATED WITHIN THIS STATE WOULD BE
HOME BY NOW HAD NOT THIS OUTRAGEOUS INJUSTICE AND ACTS OF
"KIDNAPPING", "FALSE IMPRISONMENT" OCCURRED. THE S.C. SUPREME
COURT CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY
GENERAL'S OFFICE ESTABLISHING EQUITABLE TOLLING, KNEW GOOD AND
WELL THE CRIMINAL OBSTRUCTION, LAWLESSNESS AND RACIAL ANIMUS THEY
WERE ENGAGING IN FROM THE GENTRY CASE'S ONSET. LIKE THE PREVIOUS
ISSUE(S). THE ISSUE OF CONSTRUCTIVE AMENDMENT OF THE
INDICTMENT(S) IS "[J]URISDICTIONAL" IN NATURE ALSO IN THAT SUCH
UNJUST UNCONSTITUTIONAL ACTION VOIDS THE CRIMINAL COURT'S
JURISDICTION FOR THAT UNCONSTITUTIONAL ACTION. THERE ARE
ESSENTIALLY "[T]WO [P]RONGS" TO SUBJECT MATTER JURISDICTION, THE
"LEGISLATIVE PRONG" (STATE AND FEDERAL), AND THE "DUE PROCESS/
CONSTITUTIONAL PRONG" (STATE AND FEDERAL). THE GENTRY COURT,
PURPOSELY, FRAUDULENTLY, CONSPIRING UNDER COLOR OF STATE LAW
ADJUDICATED THE ISSUE OF CONSTRUCTIVE AMENDMENT OF THE
INDICTMENT(S), LIKE THE OTHER ISSUES OF CONCERN, UNDER THE
INCORRECT PRONG WHICH WILL BE FURTHER ELABORATED ON IN THE
SUBSEQUENT ISSUE ATTACHED TO THIS DOCUMENT. IF YOU TAKE A
"[F]ATALLY [D]EFFECTIVE" INDICTMENT AND BRING IT BEFORE A CRIMINAL
COURT WITH THE CLEAR INTENT TO CONSTRUCTIVELY AMEND THE
INDICTMENT(S) ON ESSENTIAL ELEMENTS OF THE OFFENSE(S), DEPRIVING
THE DEFENDANT OF PROPER AND FAIR NOTICE AS WELL AS DEPRIVING HIM
OF KNOWING THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION(S) BEING

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LEVIED AGAINST HIM AND OF EXACTLY WHAT IT IS THAT HE IS CALLED UPON TO MEET AND DEFEND. SUCH ACTION ON THE PART OF THE COURT(S) AND PROSECUTOR VIOLATES THE 5TH. AMENDMENT INDICTMENT CLAUSE, HIS 6TH. AMENDMENT RIGHT TO FAIR AND PROPER NOTICE AND TO A FAIR AND IMPARTIAL TRIAL. IT ALSO VIOLATES THE APPLICANT'S CONSTITUTIONAL RIGHTS UNDER THE 14TH. AMENDMENT DUE PROCESS CLAUSE AND EQUAL PROTECTION OF THE LAWS CLAUSE. THE ACTION ALSO VIOLATES THE SOUTH CAROLINA AND UNITED STATES CONSTITUTION(S) AND RENDERS THE PROCEEDINGS ON THE PART OF THE COURT AND PROSECUTOR A CLEAR VIOLATION OF DUE PROCESS, MAKING THE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THE COURTS INVOLVED JURISDICTION, WHICH INCLUDE THE CRIMINAL CONVICTION(S) ATTACHED THERETO. THESE ISSUES PRESENT, BY DUE PROCESS LAW, WERE TO BE ADJUDICATED UNDER THE "DUE PROCESS PRONG" TO SUBJECT MATTER JURISDICTION WHERE BY EGREGIOUS ACTS OF FRAUD, CRIMINAL CONSPIRACY AND OBSTRUCTION OF JUSTICE THE SOUTH CAROLINA COURTS HAVE BEEN GETTING AWAY WITH THESE ACTS OF "KIDNAPPING" SINCE 2005. SINCE WE ARE DEALING WITH A COLLATERAL ATTACK FOR THIS FRAUD UPON THE COURT COUPLED BY THE PROSECUTIONAL MISCONDUCT INVOLVED. SUCH AN ATTACK IS FREE OF ALL PROCEDURAL LIMITATIONS AS IS ARGUED WITHIN THIS DOCUMENT. SINCE WE ARE ALSO DEALING WITH ISSUES OF SUBJECT MATTER JURISDICTION? SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY TIME, CANNOT BE WAIVED OR FORFEITED BY THE APPLICANT, CAN BE RAISED AT ANY STAGE AND THE COURTS SHALL NOT FAIL TO TAKE NOTICE. I AM ARGUING AGAINST THE PRECEDENT. ANY JUDGMENT, CONVICTION OR JUDICIAL DETERMINATION THAT IS CONTRARY TO THE CONSTITUTION AND DUE PROCESS LAW IS VOID, WELLS FARGO BANK N.A. v. H.M.H.ROMAN TWO N.C., LLC. SUPRA.; MOSELY v. UNITED STATES SUPRA.; MILFORD v. MIDDLETON SUPRA.; HILL v. S.C. DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL SUPRA.; GURNEY v. CONAN, LIEBOWITZ & LATMAN P.C. SUPRA.; STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT SUPRA.; CHASE v. ANDEAVOR LOGISTICS L.P. SUPRA.; STEVENS E. HECKER, PLAINTIFF v. THE STATE OF WASHINGTON, DEFENDANT SUPRA.; HICKS v. HEART OF HOSPICE, LLC. SUPRA.; KRIKORIAN v. FORD MOTOR COMPANY SUPRA.; HENDERSON v. SHINSEL SUPRA.; BURGESS v. UNITED STATES SUPRA.; BARNES v. GIVENS SUPRA.; WALLS v. BOEING COMPANY SUPRA.; JEFFERS v. J.P. MORGAN CHASE &

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CO. SUPRA.; ANTONY W. HALL, PLAINTIFF v. FRENKEL, LAMBERT, ... SUPRA.; DAVIS v. PALUMBO SUPRA; SORRINGWIND ENERGY, LLC. v. CATIC U.S.A. INCORPORATED SUPRA.; 460 S. LAKE AVENUE, LTD. v. APPLETON SUPRA.; SLAYTON v. JOHNSON AND JOHNSON SUPRA..; KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.2019); FIRST CITIZENS BANK AND TRUST COMPANY INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY, --S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516(S.C.App.2016).

THE REQUIREMENT OF THE INDICTMENT(S) LIMIT AND CONSTRAIN THE SUBJECT MATTER JURISDICTIONARY "[P]OWERS" OF BOTH THE PROSECUTION AND COURT, BY LIMITING WHAT CAN BE PRESENTED AT TRIAL, PLEA, CONVICTION AND SENTENCING, UNITED STATES v. PROMISE, 255 F3d. 150 (4TH.Cir.2001); STATE v. GUTHRIE SUPRA.. IT IS THE COMMAND OF THE UNITED STATES CONSTITUTION THAT ANYTHING TO THE CONTRARY IS NOTWITHSTANDING (ARTICLE IV § 2 U.S. CONST.).

CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE 5TH. AMENDMENT IF IT EFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE, BUT ONCE PREJUDICE IS CLEARLY SHOWN AS IT IS IN THIS CASE, OVERWHELMINGLY, THE SENTENCE AND CONVICTION MUST BE VACATED FOR DUE PROCESS VIOLATION WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, STATE v. GUTHRIE, 352 S.C. 103, 572 S.E.2d. 309; ARTICLE IV § 2 U.S. CONST.; UNITED STATES v. COYNE, 4 F3d. 100 (2nd.Cir.1993); UNITED STATES v. MORGENSTEIN, 933 F2d. 1108, 1115(2nd.Cir.1991); WILSON v. LINDLER, 995 F2d. 1256; STIRONE v. UNITED STATES, 361 U.S. 212 (1960); GAITHER v. UNITED STATES, 413 F2d. 1061 (D.C.Cir.1969); DOUGLAS v. STATE OF ALABAMA, 380 U.S. 407, 85 S.Ct. 1074(1965); DECH v. MISSOURI, 544 U.S. 622, 125 S.Ct. 2007, 161 L.Ed.2d. 953, 73 U.S.L.W. 4370(U.S.2005); UNITED STATES v. WHITFIELD, 695 F3d. 288. CA4 (Va.2012); UNITED STATES V. MILLS, 555 Fed. Appx' 241 CA4 44

110 (Va.2014); UNITED STATES v. NAIDU, 480 Fed. Appx' 180 CA4
(Md.2012).

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INASMUCH, THE APPLICANT'S INDICTMENT(S) POSSESS THE CONSTITUTIONAL STRUCTURAL ERROR WHERE BY THE LANGUAGE HIS PRESUMPTION OF INNOCENCE IS TAKEN AWAY AND THE COURT ATTEMPTS TO MAKE AN INSUFFICIENT CURATIVE INSTRUCTION "BOILERPLATE" IN EFFORTS TO CURE THIS INJUSTICE BUT ONCE THAT "BELL IS RUNG, IT CANNOT BE UNRUNG", AND THE INDICTMENT(S) FOR TRAFFICKING DO NOT ALLEGE WHO IT WAS THAT THE APPLICANT ALLEGEDLY CONSPIRED WITH TO TRAFFIC DRUGS WITHIN THIS STATE WHICH IS WHY THE STATE PROSECUTOR AND COURT CONSPIRING IN ACTS OF FRAUD UPON THE COURT COMPROMISED THE APPLICANT'S ATTORNEY TO PREVENT THE APPLICANT FROM DISCOVERING THAT HE COULD HAVE SOUGHT TO HAVE THE TRIAL SERVERED, CONCEALING THIS MATERIAL FACT, IN VIOLATION OF DUE PROCESS LAW. THE INDICTMENT CANNOT BE DEEMED SUFFICIENT AND OR TO PROPERLY APPRISE THE APPLICANT OF THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION OR OF WHAT HE IS CALLED UPON TO MEET AND DEFEND IF THE STATE IS PERMITTED TO ENGAGE IN FRAUD AND PROVE BOTH THESE MATERIALLY AND DISTINCTLY DIFFERENT SETS OF FACTS CONSTRUCTIVELY AMENDING THE INDICTMENT(S) ALL OVER THE PLACE, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, SHIFTING THE BURDEN OF PERSUASION TO THE DEFENDANT ON ESSENTIAL ELEMENTS OF THE OFFENSE(S). THEN AFTER FAILING TO ESTABLISH PROPER FOUNDATION AND CHAIN OF CUSTODY FOR THESE DRUGS, THEY BRING THE APPLICANT BEFORE THE COURT IN ACTS OF FRAUD AND MISREPRESENTATION VIOLATING THE SEPARATION OF POWERS CLAUSE IN LIGHT OF SUCH DUE PROCESS VIOLATIONS. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY AS TO WHETHER THE APPLICANT CONSPIRED WITH BARACK OBAMA OR DONALD TRUMP. IT WAS PROBABLY TRUMP SINCE HE IS A CRIMINAL, BUT WHO CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY TO INCLUDE THE GRAND JURY'S POTENTIAL INTENT TO ADJUDICATE GUILT BEFORE ANY TRIAL COMMENCED IN VIOLATION OF THEIR SHIELDING FUNCTION AND DUE PROCESS, RENDERING THE CASE UNCONSTITUTIONAL VOIDING THE COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION. A REVERSIBLE CONVICTION IS REVERSIBLE NO MATTER WHAT THE REASON, AND AN

UNCONSTITUTIONAL CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT, STATE v. KEITH, 283 S.C. 597, 325 S.E.2d. 325 (S.C.1985); PEOPLE v. FIELDS, N.E.3d., ILL. App. (1st.) 122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cali.2017); UNITED STATES v. AJRAWAT, --Fed. Appx'--, 2018 WL 3045619 (4th.Cir.2018); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th.Cir.2016); BETTERMAN v. MONTANA, 136 S.Ct. 1609 (U.S.2016); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718 (U.S.2016).

ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS ISSUE IS SEEN IN BOTH EXHIBIT(S) "CONSTRUCTIVE AMENDMENT #'s 1 AND 2" HEREWITH ATTACHED. EVEN THOUGH SOME OF THE ELEMENTS ARGUED MAY BE DIFFERENT. THE SUBSIDIARY FACTS RELATED TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT ON ESSENTIAL ELEMENTS OF THE OFFENSE APPLY IN THE APPLICANT'S CASE.



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EXHIBIT, "CONSTRUCTIVE AMENDMENT # 2"

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~~REDACTED~~
~~REDACTED~~

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103 violated, by the trial court and or plea court allowing constructive amendment of the indictment(s) at the appellant's trial and or plea hearing? 117

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

Subject Matter Jurisdiction can be raised at "[a]ny" time, "[c]annot" be waived by the appellant, can be raised for the first time on appeal and the court shall not fail to take notice, Grupo Dalaflex v. Atlas Global Group, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240; South Carolina Department Of Social Services v. Tran, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); McCain v. Brightharp supra..

It is the body of the indictment which is the [v]ital part of the charging instrument, State v. Tate supra., and it "[c]annot" be so cryptic or the wording so loose and ambiguous as to fail to comply with the basic right of the accused to be fully informed as to the "[c]ause and [n]ature" of the accusation being levied against him, which is one of his most basic, fundamental, and universally recognized rights of Due Process, Smith v. O'Grady supra.; State v. Tabory supra.. Reliance upon 40

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a caption to bolster a fatally defective indictment is therefore contrary to the constitutional mandate that for most offenses, a defendant may only be required to answer an indictment of a Grand Jury that is deemed good, S.C. Const. Article 1 § 11; cf. State v. Tabor supra. (holding that the state may not support a conviction for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment).

Insomuch, the indictment(s) for attempted do not properly and or sufficiently apprise the appellant of the "[c]ause and [n]ature" of the offense, or of what he is called upon to meet and defend because they do not allege an exact time of assault as time is recognized by law. The wording is too loose, and vague making use of the term "ON OR ABOUT". Such deprives the appellant of the right to call witnesses to defend the cause because he cannot establish an exact date. It deprives him of the right to establish alibi not being certain of said exact date. "ON OR ABOUT" July 28, 2013 can be any day within a (3) month radius before or after that date. The material fact in murder are the mortal blow and the subsequent death occurring from it being a composite crime and the death "[m]ust" appear upon the record or indictment as having occurred within a year and a day of each other, (ei. when the mortal blow was given). The averment then of each of these material facts [m]ust under well established Rules of Criminal pleading be accompanied by an allegation of a certain time and or place to include not alleging "ON OR ABOUT" as it pertains to time. Assault and Battery With Intent To Kill embraces the whole of attempted murder and visa versa. The elements to prove the crimes are the same as it is for murder with the exception of the death ensuing from it. The indictment(s) for attempted murder also do not allege who it was that the appellant conspired with as is the same as the conspiracy indictment(s). The Attempted murder indictment(s) do not allege what weapon it was that was allegedly used in the crime. No one can say what was in the mind of the Grand Jury as to what exact date of the assault was to be adjudi-

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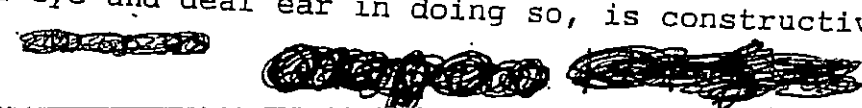
~~CONFIDENTIAL~~

105 cated, being an essential element of the offense. The indictments 119
don't say who it was that the appellant conspired with. As far
as the appellant can tell, the indictment asserts that he went
back in a time machine and brought back Napoleon Bonapart,
Genghis Khan, John Wayne and Julius Ceasar and conspired with
them. As far as the appellant can tell from the indictment(s)
he was in possession of a M-60 machine gun or a surface to air
rocket launcher. No one can say what was in the mind of the
Grand Jury. The language is too vague, subjecting the appellant
to arbitrary judicial action and process. The language is so
cryptic, loose and vague it creates an enigma as to what the
appellant is called upon to meet and defend setting the appellate
up for "INDICTMENT AMBUSH" at the onset of his proceedings.
The indicments cannot be deemed sufficient if the prosecution
is permitted to prove all these different material sets of facts.
The indictments in question do not descend to an exact time
and or who it was the appellant conspired with or what weapon
was used. These crucial elements and or averments must be passed
upon by the Grand Jury in accordance to the constitutional rights
of the accused. To not allege these crucial elements and or
allegations in the body of the charging instrument returned
against the accused, having them passed upon by the Grand Jury,
then, thereafter the trial court and or plea court and or prose-
cuting body adds or modifies these material averments in one
form or the other, to assert these crucial elements and or aver-
ments, not confirmed or passed upon by the Grand Jury within
the proceedings, and allow a trial and or plea hearing to go
forward, where such were not passed upon by the Grand Jury,
is constructive amendment of the indictment(s). No one can say
what was in the mind of the Grand Jury, See S.C. Code Ann. §§
17-19-10, 17-19-20, 17-19-30, 17-25-10; State v. Hardee supra.;
State v. Rallo supra.; State v. Parker supra.; Locke v. State
supra.; State v. Tate supra.; State v. Taborry supra.; United
States v. Abrams supra.; State v. Keith supra.; State v. Rector
supra.; Smith v. O'Grady supra.; United States v. Masotto supra.;
Castillo v. Holder supra.; State v. Brandt supra.; State v.
Blakeney supra.; State v. Stewart supra.; Ball v. United States

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supra.; State v. Platt supra.; State v. Kennedy supra.; State v. Ham supra.; State v. Pierce supra.; Hamling v. United States supra.; United States v. Hooker supra.; United States v. Pupo supra.; U.S. v. \$41,320 U.S. Currency supra.; State v. Sutton, 340 S.C. 393, 397, 532 S.E.2d. 283, 285(2000). 120

In regard to the constitutional structural error and or defect in the indictment(s), as constructed in all (33) states that make use of an indictment, also the remaining (17) states that make use of a criminal complaint, and all (50) states that make use of an indictment under Federal captivity, taking away the presumption of innocence and automatically shifting the burden of persuasion, predetermining in advance the outcome of the proceedings by the language contained therein. According to the findings and or language of the indictment(s) produced by The Grand Jury, under the plain language Rule, the appellant is already found guilty and convicted. The Grand Jury does not have the power and authority by State and or Federal Law, or by State and or Federal Constitution to convict a defendant. The law is clear. The Grand Jury "[m]ust" refrain from even making an "[o]pinion" as to a person's guilt. How much more egregious and criminal where they swear upon their "[o]ath" (emphasis added) our guilt? This is an egregious violation of their shielding function. This serves to aid in establishing modern day slavery which too, they do not have the power or authority to do, where we can no longer be deemed "DULY"--meaning "PROPERLY" convicted in violation of S.C. Code Ann § 17-25-10, Due Process Law and the provisions of the 13th. amendment. For the Grand Jury to produce indictments that state, adjudicate and or charge that the defendant is not only guilty of the crimes charged, to include the "MENS REA" elements related to the offenses; then, thereafter, the court alters the charge(s) of the indictment(s), to include the "MENS REA" elements, and charge that the defendant is innocent until proven guilty, and the State court or Federal government or prosecuting agents aid them, conspiring under color of state law and or authority, turning the blind eye and deaf ear in doing so, is constructive 51

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amendment of the indictment(s), and changes the very nature of the allegations returned by the Grand Jury. This too creates an instant double jeopardy issue. To accept a guilty plea, and or to take a defendant to trial on charges in an indictment for which he has already been found guilty of, violates Due Process and is double jeopardy. No one can say what was in the mind of the Grand Jury as to whether or not they intended to illegally take upon themselves the role of the trial jury and determine guilt of the offenses not allowing any subsequent adjudication to occur rendering any subsequent proceeding "[v]oid" for Due Process violation. This means that this is an error which can only be corrected by the Grand Jury and not the trial jury, prosecutor or court. Even the Gentry court could not adjudicate that case where it was prematurely determined by the Grand Jury. This produces a Subject Matter Jurisdiction issue under the Double Jeopardy Clause and law, which is to be adjudicated under the Due Process violation prong to Subject Matter Jurisdiction. This further serves to validate that the structural constitutional error and or defect affect the framework of the proceedings and cannot be viewed as harmless, because the court "must" constructively amend the indictment(s) on the "MENS REA" element(s) of the offense(s) to correct, or in an effort to correct the structural constitutional error in acts of fraud upon the court and modern day slavery, The Amistad supra.; State v. Easler, (S.C.1997) 327, 121, 489 S.E.2d. 617; State v. Lewis, (S.C.App.1996) 321 S.C. 146, 147 S.E.2d. 265; Sandstrom v. Montana supra.; Morisette supra.; United States Gypsum Co. supra.; Humanik v. Beyers supra.; United States v. Clemens supra.; Martin v. Ohio supra.; Robinson v. Arvonio supra.; United States v. Briggs supra.; United States v. Chadwick supra.; Compare Pierson v. Ray supra.; Jenkins v. McKeithen supra.; Branzburg v. Hayes supra.; Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923); United States v. Direct Sales Co., 40 F.Supp. 917 D.C.S.C.(1941); United States v. Atlantic Commission Co., 45 F.Supp. 187 D.C.N.C.(1942); State v. Boyd, 2 Hill (S.C.) 288, 1834 WL 1573 S.C. App. L. & Esq. 1834; State v.

Bramlett, 166 S.C. 323, 164 S.E. 873(S.C.1932); Beck v. Washington, 369 U.S. 541, 82 S.Ct. 955 U.S. Wash. (1962); State v. Tollin, 352 S.C. 235, 573 S.E.2d. 812(S.C.App.2002); Byers v. Reynolds, 2011 WL 7063638, * 8 (DSC.2011); United States v. Jefferson, 546 F3d. 300 CA4 (Va.2008); IN RE: Grand Jury Subpoena John Doe, No. 05GJ1318, 584 F3d. 175 CA4 (Va.2009); IN RE: Grand Jury Subpoena (T-112), 597 F3d. 189 CA4 (Va.2010); United States v. Umana, 750 F3d. 320 CA4 (N.C.2014); United States v. Dinkins, 691 F3d. 358 CA4 (Md.2012); Dickerson v. Warden Of Lieber C.I., 2013 WL 4500048(DSC.2013); James v. Reynolds, 2014 WL 2624431 (DSC.2014); Clark v. Arizona, 548 U.S. 735, 126 S.Ct. 2709, 165 L.Ed.2d. 842, 74 U.S.L.W. 4560(U.S.2006); 130 S.Ct. 2896; S.C. Code Ann § 17-25-10.

Constructive amendment of an indictment is a per se violation of the provisions of the 5th. amendment if it affects an essential element of the offense. Such a violation requires reversal of the conviction, even without a showing of prejudice, but once prejudice is clearly shown, the sentence and conviction must be vacated for Due Process violation which must be adjudicated under the Due Process Prong to Subject Matter Jurisdiction, State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309; Article IV § 2 U.S. Const.; United States v. Coyne, 4 F3d. 100 (2nd.Cir. 1993); United States v. Morgenstein, 933 F2d. 1108, 1115(2nd.Cir. 1991); Wilson v. Lindler, 995 F2d. 1256; Stirone v. United States, 361 U.S. 212(1960); Gaither v. United States, 413 F2d. 1061 (D.C.Cir.1969); Douglas v. State Of Alabama, 380 U.S. 407, 85 S.Ct. 1074(1965); Dech v. Missouri, 544 U.S. 622, 125 S.Ct. 2007, 161 L.Ed.2d. 953, 73 U.S.L.W. 4370(U.S.2005); United States v. Whitfield, 695 F3d. 288 CA4 (N.C.2012); United States v. Mills, 555 Fed. Appx' 241 CA4 (Va.2014); United States v. Naidu, 480 Fed. Appx' 180 CA4 (Md.2012).

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Inasmuch, constructive amendment of the indictment(s) did occur and the unconstitutional amendment prejudiced the appellant at his proceedings leading to an unfair and partial trial and or guilty plea that was not knowingly, freely, volun-

tarily or intelligently given, depriving the appellant of reasonable notice and of his right to have material averments passed upon by the Grand Jury in egregious violation of the appellant's substantial rights of Due Process. This occurred when the charging terms of the indictment were altered literally and or constructively in the manner aforementioned. S.C. Code Ann § 17-19-100(1985) permit amendment of an indictment provided the nature of the offense charged is [n]ot changed. If (A) there is a defect in form in any indictment. or (B) on the trial of any case there shall appear to be any variance between the allegations of the indictment(s) and evidence offered in proof thereof, the court before which the trial may be had may amend the indictment(s) according to the proof, if the amendment be because of variance, if such amendment does "[n]ot" change the "[n]ature" of the offense charged. After such amendment the trial and or plea hearing should proceed in all respects and with the same consequences as if the indictments had originally been returned as so amended, unless such amendment shall operate as to surprise the defendant, in which case the defendant shall be entitled upon demand to a continuance of the cause.

A variance between pleadings and proof is [n]ot material where matter alleged is [n]ot an [e]lement of the offense, State v. Hiott, 276 S.E.2d. 163.

On the other side of the spectrum of this language, a variance between pleadings and proof "[i]s" material where matter alleged "[i]s" an element of the offense; and furthermore, such an amendment cannot be had if such amendment changes the "[n]ature" of the offense, Hope v. State, 328 S.C. 78, 492 S.E.2d. 76; State v. Grainger, 507 S.E.2d. 322(S.C.1998); United States v. Naidu, 480 Fed. Appx' 180 CA4 (Md.2012); United States v. Allmendinger, 706 F3d. 330 CA4 (Va.2013); State v. Green, 406 S.C. 589, 753 S.E.2d. 259(S.C.App.2014).

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Once the nature of the elements became altered in the manner aforementioned, the indictment(s) were no longer to be considered the indictment(s) returned against the appellant.

120 A defendant is entitled to be tried and or give his guilty plea on charges that are properly set forth in an indictment and such properly set forth charges must be passed upon by the Grand Jury, S.C. Code Ann § 17-19-10(1976). The true test of the sufficiency of an indictment is whether or not it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he is called upon to meet and defend. The essential elements and or allegations in this instance are not alleged. The indictments for attempted murder do not allege an exact date to the extreme prejudice of the appellant. "ON OR ABOUT" can reasonably be considered to be any of the days asserted expanding at minimum (3) months in either direction of July 28, 2013. The indictments in question do not allege who it was the appellant supposedly consired with or what weapon was used in the alleged crime. The indictment(s) are too vague and do not descend to these particulars. Further, by the language and or charge of the indictment(s) as constructed, via the structural error, it informs the appellant that he is called upon to meet the burden of production on the critical elements of dispute related to the offenses. By the mandates of Due Process law, the appellant is not, by State or Federal Constitution, nor by State or Federal law, called upon to meet the burden of production on the critical elements of dispute related to the offense(s). The indictment(s) inform the appellant that his guilt is illegally predetermined in advance under "[o]ath"(emphasis added) and the appellant is being subjected to another proceeding on the same charges, which produce an instant Double Jeopardy claim, and fraud upon the court, misrepresentation and modern day slavery due to this fraud, Brown v. State supra.; Mathis v. State supra.; Francis v. Franklin supra.; United States v. Abrams supra.; Martin v. Ohio supra.; IN RE: Winship supra.; Mullaney v. Wilbur supra.; Humanik v. Beyers supra.; Moore v. Dempsey supra.; The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Appling v. State Farm Mut. Auto Ins. Co. supra.; King v. First American Investigators Inc. supra.; S.C. Code Ann § 17-25-10.

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What's worse than this, the indictment(s) not only by

their very nature already prematurely in advance convict the appellant of all charges made and or laid before the court, denying the appellant the presumption of innocence, but it also creates this egregious, blatant, outrageous violation of Due Process where the indictment(s) by the structural constitutional error and or defect, has denied the appellant the right to a trial by a jury of one's peers; denied the appellant the right to confront his accusers or cross-examine witnesses; denied the appellant the right to call witnesses in his defense or to present expert testimony; denied the appellant the right to take the stand and testify at his proceedings; denied the appellant the right to place forth evidence that would vindicate him at trial; denied the appellant the right to counsel of choice, way before a trial jury was sworn, not this illegal trial jury in the form of the Grand Jury who swore upon their "[o]ath" the appellant's guilt, way before a trial commenced satisfying these essential constitutional requirements of Due Process law; or way before he voluntarily, freely, intelligently or knowingly gave them up if we are dealing with a guilty plea, also way before he hired counsel or way before the court appointed legal counsel to assist the appellant. With the existence of the structural error and or defect, the court has attempted to close the barn door far after the time the horses have already been released and or escaped. The Grand Jury being duly sworn, in clear violation of their shielding function has taken upon themselves the role of the trial jury, and has already convicted the appellant of the crimes charged under "[o]ath"(emphasis added). To permit the appellant to obtain counsel of choice after this egregious injustice, or to appoint counsel after the appellant has already been illegally convicted by the Grand Jury, and deny the appellant the previous mentioned constitutional rights involve deprivation of constitutional protection so basic and so fundamental that in their absence no criminal trial and or proceeding can be deemed reliable as a vehicle for the determination of guilt or innocence, and no criminal punishment can be regarded as fundamentally fair, because such action has prematurely, criminal, stripped the appellant of

his inalienable rights of Due Process, also in violation of The Taking Clause of the 5th. amendment. The State acting unjustly, arbitrarily under color of State law, causing extreme prejudice to the appellant's proceedings, in violation of 18 U.S.C. §§ 241, 242, 1001, have blatantly failed to adhere to their own State laws and has denied the appellant the Equal Protection Of the Laws. Since the appellant's guilt was already, unjustly, arbitrarily determined and or adjudicated by the structural constitutional error and or defect via the Grand Jury indictments and or criminal complaints nationally under "[o]ath" in acts of fraud upon the court; this serves to make any other subsequent proceeding initiated "[v]oid", "[n]ullified", "[a]rrested" and a violation of the 5th. and 6th. amendments also the appellant's rights of Due Process, to include his right to Double Jeopardy protection. How can the court be allowed and or permitted to have a trial and or accept a guilty plea for an offense the Grand Jury who swore upon their "[o]ath", have already found the appellant guilty of? This "[c]annot" be cured by an instruction that constructively amends the indictments on the "MENS REA" elements. By their actions and fraud upon the court they have essentially established modern day slavery, branding us as felons, taking away our right to vote in violation of the 15th. amendment and Voting Rights Act. Congress confers no power or authority upon any court, State or Federal the right to establish modern day slavery of any kind in violation of the not being "DULY" (emphasis added) convicted provisions of the 13th. amendment and Anti-Peonage Act, depriving them of jurisdiction, or voiding their jurisdiction, or prohibiting them from entertaining jurisdiction from the cases' onset, demonstrating that they inappropriately entertained jurisdiction rendering all action done void, stripping all judges and courts of immunity. The Structural constitutional error and or defect does affect the proceedings and "[c]annot" be deemed as harmless. The framework is essentially abolished. The extreme prejudice is obvious and need not be debated any further, The Amistad supra.; Chewing v. Ford Motor Company supra.; Appling v. State

Farm Mut. Auto Ins. Co. supra.; State v. Easler, (S.C.App.1997) 327 S.C. 121, 489 S.E.2d. 617; State v. Lewis, (S.C.App.1996), 321 S.C. 146, 147 S.E.2d. 265; State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309; Vines v. United States, 28 F3d. 1123 Crim. Law 1116(1), 1156(1); State v. Reddick, 348 S.C. 631, 635, 560 S.E.2d. 441, 443(Ct.App.2002); State v. Padgett, 354 S.C. 268, 271, 580 S.E.2d. 159, 161(Ct.App.2003); State v. Honey, 344 S.C. 85, 97, 544 S.E.2d. 30, 36(2001); Griswald v. State of Connecticut, 381 U.S. 481, 85 S.Ct. 1678(1965); Carter v. State, 329 S.C. 355, 362, 495 S.E.2d. 773, 777(1998); 28 U.S.C.A. § 1654; Turner v. American Bar Ass'n, D.C. Tex. 1975, 407 F.Supp. 457 Aff'd 539 F2d. 715 Aff'd 542 F2d. 56; Faretta v. California, 422 U.S. at 835n. 46, 95 S.Ct. at 2541, 45 L.Ed.2d. 562, 592 (1975); Wiggins v. Estelle, 681 F2d. 266(1982); United States v. Gonzales-Lopez, 548---U.S.---2006; Chaplin & Drysdale Charter-ed v. United States, 491 U.S. 617, 624-625(1989); Rodriguez v. Chandler, 382 F3d. 675, 676 (CA 7 2004) cert. denied 543 U.S. 1156(2005); Stirone v. United States supra.; United States v. Silverman, 30 F2d. 106, 110 (2nd.Cir.) listing these functions modified 439 F2d. 198(2nd.Cir.1970), 91 S.Ct. 1619(1971); Martin v. Ohio supra.; Francis v. Franklin supra.; Mathis v. State supra.; United States v. Abrams supra.; Moore v. Dempsey supra.; Roberts v. State, 408 S.C. 123, 757 S.E.2d. 744(S.C.App.2014); Eppenger v. McFadden, 2014 WL 4198862(DSC.2014); Blanding v. Warden McCormick C.I., 2014 WL 3809656(DSC.2014)..

The requirement of the indictment(s) limit and constrain the Subject Matter Jurisdictionary "[p]owers" of both the prosecution and the court, by limiting what can be presented at trial, conviction and sentencing, United States v. Promise, 255 F3d. 150(4th.Cir.2001); State v. Guthrie supra.. It is the command of The United States Constitution, that anything to the contrary is notwithstanding (Article IV § 2 U.S. Const.).

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Again, the State and or prosecuting body, acting unjustly, arbitrarily, conspiring under color of state law, has failed to adhere to their own state laws, in egregious violation of

124 the appellant's substantial Federal Constitutional rights of Due Process, serving to deny the appellant the Equal Protection Of The Laws against unjust and arbitrary prosecution, also in violation of 18 U.S.C. §§ 241, 242 and 1001, Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Jones v. State Of Arkansas supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Dozier v. Loop College, City Of Chicago supra.; Hicks v. Oklahoma supra.; Lugar v. Edmondson Oil Co. Supra.; Williams v. United States supra.; Greenwood v. Peacock supra.; United States v. Otherson supra..

In Wilson v. Lindler, 995 F2d. at 1256, it was held that constructive amendment of an indictment, sometimes referred to as fatal variance, denies the criminal defendant the fundamental guarantee of notice of the charges pending against him. This right is safely guarded and embodied within the 6th. amendment, the 5th. amendment Indictment Clause, and the appellant's 14th. amendment rights of Due Process, as well as pursuant to the appellant's right to equal protection of the laws against arbitrary prosecution and these requirements must be adhered to and not denied. Therefore, due to the enormous amount of prejudice experienced by the appellant, the sentence and conviction must be vacated, State v. Daniels, 401 S.C. 251, 737 S.E.2d. 473(S.C.App.2012); United States v. Kirby, 547 Fed. Appx' 363 CA4 (N.C.2013); Placencia v. McFadden, 2014 WL 2199984(DSC.2014); Sullivan v. Cartledge, 2014 WL 994237(DSC.2014); Van de Kamp v. Goldstein, 555 U.S. 355(2009); Dennis v. Wetzel, 966 F.Supp.2d 489(ED.Pa.2013); Kaley v. United States, 134 S.Ct. 1090(U.S.2014); United States v. Direct Sales Co. supra.; United States v. Atlantic Commission Co. supra.; State v. Boyd supra.; State v. Bramlette supra.; Roberts v. State, 408 S.C. 123, 757 S.E.2d. 744(S.C.App.2014); State v. Green, 406 S.C. 589, 753 S.E.2d. 259(S.C.App.2014); S.C. Code Ann § 17-25-10; U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); White v. Manis, 2014 WL 1513280 (DSC.2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240. 305-of-406

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(9) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~S.C.~~ CONSTITUTION VIOLATED, AS WELL AS LEGAL COUNSEL VIOLATING THE APPLICANT'S CONSTITUTIONALLY PROTECTED RIGHTS OF AUTONOMY, AS WELL AS THE COURT'S JURISDICTION BEING MADE VOID FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, BY THE DEFENDANT'S COUNSEL FAILING TO CALL FOR TRIAL TWO WITNESSES WHO WERE TO GIVE MATERIAL AND FAVORABLE TESTIMONY?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005)(REGARDING SUBJECT MATTER JURISDICTION). INASMUCH, THE APPLICANT MADE IT CLEAR TO THE ATTORNEY HIS REQUEST AND DESIRE TO CALL TWO SPECIFIC WITNESSES WHO POSSESSED MATERIAL AND FAVORABLE TESTIMONY THAT WOULD MORE THAN POTENTIALLY INFLUENCED THE OUTCOME OF THE JURORS DECISION BUT WAS DENIED THE COMPULSION OF THE TWO WITNESSES FROM MAKING THE REQUIRED APPEARANCE AS DUE PROCESS LAW REQUIRED. THE RIGHT TO DEFEND IS PERSONAL, AND THE DEFENDANT'S CHOICE IN EXERCISING THAT RIGHT MUST BE HONORED OUT OF RESPECT FOR THE INDIVIDUAL WHICH IS THE LIFE BLOOD OF LAW. A VIOLATION OF AUTONOMY IS COMPLETE WHEN THE

COURT ALLOWS COUNSEL, TO USURP CONTROL OVER AN ISSUE WITHIN THE APPLICANT'S SOLE PREROGATIVE, SUCH AS THE CALLING OF WITNESSES WITH MATERIAL AND FAVORABLE TESTIMONY THAT IS NOT CUMULATIVE IN NATURE. WHEN PRESENT, SUCH AN ERROR IS NOT SUBJECT TO HARMLESS ERROR REVIEW, McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821, 86 U.S.L.W. 4271 (U.S.2018); MARTINEZ v. RYAN, 556 U.S. 1, 132 S.Ct. 1309, 182 L.Ed.2d. 272(U.S.2012); WILLIAMS v. UNITED STATES, 2018 WL 4656231 (D.Conn.2018); UNITED STATES v. COBBLE, 2018 WL 4283063 (M.D.Ga.2018).

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UNDER THE SIXTH AMENDMENT, CRIMINAL DEFENDANTS HAVE THE RIGHT TO THE GOVERNMENT'S ASSISTANCE IN COMPELLING THE ATTENDANCE OF FAVORABLE WITNESSES AT TRIAL AND THE RIGHT TO PUT BEFORE A JURY EVIDENCE THAT MIGHT INFLUENCE THE DETERMINATION OF GUILT, STATE v. BROCKMEYER, 406 S.C. 324, 751 S.E.2d. 645(S.C.App.2013); BROOKS v. TENNESSEE, 406 U.S. 605, 92 S.Ct. 189, 132 L.Ed.2d. 358(U.S.1972); STATE v. NELSON, 431 S.C. 287, 847 S.E.2d. 480 (S.C.App.2020)(THE RIGHT TO OFFER THE TESTIMONY OF WITNESSES, AND TO COMPEL THEIR ATTENDANCE, IF NECESSARY, IS IN PLAIN TERMS THE RIGHT TO PRESENT A DEFENSE, THE RIGHT TO PRESENT THE DEFENDANT'S VERSION OF THE FACTS AS WELL AS THE PROSECUTOR'S TO THE JURY SO IT MAY DECIDE WHERE THE TRUTH LIES. A DEFENDANT'S CONSTITUTIONAL RIGHT TO COMPULSORY PROCESS MAY BE VIOLATED IF THE DEFENDANT IS FORCED TO FORWARD IN A TRIAL WITHOUT THE PRESENCE OF THE MATERIAL WITNESS); UNITED STATES v. KAIXIANG ZHU, 854 F.3d. 247 (4th.Cir.2017)(THE RIGHT TO COMPULSORY PROCESS GUARANTEED BY THE SIXTH AMENDMENT SUGGESTS THAT MORE THAN THE MERE ABSENCE OF TESTIMONY IS NECESSARY TO ESTABLISH A VIOLATION OF THE RIGHT; INDEED, THE SIXTH AMENDMENT DOES NOT BY ITS TERMS GRANT TO A CRIMINAL DEFENDANT THE RIGHT TO SECURE THE ATTENDANCE OF TESTIMONY OF ANY AND ALL WITNESSES, IT GUARANTEES HIM COMPULSORY PROCESS FOR OBTAINING WITNESSES THAT ARE MATERIAL AND IN HIS FAVOR). THE WITNESSES WERE WITNESSES THAT WOULD HAVE GIVEN MATERIAL TESTIMONY IN THE APPLICANT'S FAVOR WHICH REQUIRED THAT THEY SHOULD HAVE BEEN CALLED BY THE APPLICANT'S ATTORNEY WHO ALSO VIOLATED THE APPLICANT'S CONSTITUTIONALLY PROTECTED RIGHT OF AUTONOMY. THE TESTIMONY THAT WAS SOUGHT TO BE GIVEN WAS NOT

CUMULATIVE, UNITED STATES v. ARTHUR, 2023 WL 8295927 (4th.Cir.2023). THE UNITED STATES SUPREME COURT HAS EXPLAINED THAT A DEFENDANT'S SIXTH AMENDMENT RIGHT TO COMPULSORY PROCESS IS VIOLATED WHEN THE EXCLUDED TESTIMONY "WOULD HAVE BEEN BOTH MATERIAL AND FAVORABLE TO HIS DEFENSE". THE APPLICANT ALSO BRINGS THIS ISSUE AS A CHALLENGE TO THE CRIMINAL COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION. THUS THE SENTENCE AND CONVICTION MUST BE REVERSED AND THE APPLICANT BE GIVEN A NEW TRIAL DUE TO THIS BEING A REVERSIBLE ERROR, UNITED STATES v. VALENZUELA-BERNAL, 458 U.S. 858, 867 (U.S.1982); UNITED STATES OF AMERICA, PLAINTIFF v. JESSEE NATHAN METCALF, DEFENDANT, 2026 WL 737471 (E.D.N.C.2026); FARRIS v. UNITED STATES, 2026 WL 237283, * 3, W.D.N.C.; BROCKMEYER v. STIRLING, 2023 WL 11956311 (DSC.2023). THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT'S 6TH. AMENDMENT RIGHTS TO A FAIR AND IMPARTIAL TRIAL PROCEEDINGS, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT, THE STATE COMPROMISING THE APPOINTED ATTORNEY, CONSPIRING UNDER COLOR OF STATE LAW, THEIR INTENT WAS TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY AND RACIAL CASTE SYSTEM BY MASS INCARCERATION, AND VIOLATE THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENTED BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW".

REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, IT IS ILLEGAL AND VOID UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT SUPRA.; PEOPLE v. FIELDS SUPRA.; FARROW v. LIPETSKY SUPRA.. JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT

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(10) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH., 6TH., 13TH., 14TH., 15TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~U.S.~~ CONSTITUTION VIOLATED, AS WELL AS THE COURT'S JURISDICTION BEING MADE VOID FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, BY THE COURT ALLOWING INTO EVIDENCE AT TRIAL TESTIMONY THAT STOOD IN EGREGIOUS VIOLATION OF THE CONFRONTATION CLAUSE?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201.

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS SUCH AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE v. GENTRY, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.App.2005)(REGARDING SUBJECT MATTER JURISDICTION). INSOMUCH, IF THE COURT AND PARTIES WILL TAKE NOTICE OF TT.PP. 211 LNS. 1-25; TT.PP. 217 LNS. 1-25 (FOULKS WITNESS AND THAT PRODUCED REGARDING "DONNIE" TT.PP. 201 LNS. 15-25). THERE IS NO VIOLATION REGARDING THE TESTIMONY GIVEN BY MR. FOULKS. BUT THEN THE PROSECUTION IN ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT, SLIPS TESTIMONY BY "DONNIE" INTO THE COURT RECORD WITHOUT THIS PARTICULAR WITNESS BEING CALLED TO TESTIFY ABOUT THAT ILLEGALLY SUBMITTED TESTIMONIAL EVIDENCE IN VIOLATION OF THE 6TH. AMENDMENT CONFRONTATION CLAUSE. IT WAS AS THOUGH THE PROSECUTION WAS SUBMITTING THIS UNCONSTITUTIONALLY ADMITTED TESTIMONIAL EVIDENCE IN REGARDING "DONNIE" IN SUPPORT OF THE TESTIMONY GIVEN BY MR. FAULK. THIS IS IMPERMISSIBLE SUBJECTING THE APPLICANT TO EXTREME PREJUDICE IN VIOLATION OF HIS CONSTITUTIONALLY PROTECTED DUE PROCESS RIGHTS WHICH ALSO SERVE TO DENY THE APPLICANT THE EQUAL PROTECTION OF THE LAW IN VIOLATION OF THE 14TH. AMENDMENT. "DONNIE" DID NOT APPEAR IN VIOLATION OF THE CONFRONTATION CLAUSE DEPRIVING THE APPLICANT OF THE DUE PROCESS RIGHT OF CROSS-EXAMINATION. THIS IS CHALLENGE TO THE TRIAL COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION. FOR EVIDENCE TO BE ADMISSIBLE IN TRIAL COURT, EVIDENCE MUST SATISFY BOTH RULES OF COURT AND THE CONFRONTATION CLAUSE, UNITED STATES v. CONTRERAS, 149 F.4TH. 349 (4th.Cir.2025). THE CONFRONTATION CLAUSE, PROVIDING THAT ACCUSED HAS RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES AGAINST HIM, APPLIES NOT ONLY TO IN COURT TESTIMONY, BUT ALSO TO OUT-OF-COURT STATEMENTS INTRODUCED AT TRIAL, REGARDLESS OF ADMISSIBILITY OF THE STATEMENTS UNDER LAWS OF EVIDENCE, CRAWFORD v. WASHINGTON, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d. 177(U.S.2004); STATE v. DOLEN, 252 W.VA. 465 (2025); UNITED STATES v. PAHLAWAN, 2025 WL 447714 (E.D.Va.2025)(THE CONFRONTATION CLAUSE REQUIRES A "FULL AND FAIR OPPORTUNITY TO PROBE AND EXPOSE" INFIRMITIES OF A WITNESS'S STATEMENTS THROUGH "MEANINGFUL" AND "EFFECTIVE" CROSS-EXAMINATION).

THE SIXTH AMENDMENT CONFRONTATION CLAUSE GUARANTEES THE DEFENDANT A FACE-TO-FACE MEETING WITH WITNESSES APPEARING BEFORE THE TRIAL COURT'S FINDERS OF FACT (THE JURY), PITTS v. MISSISSIPPI, 607 U.S.--, 146 S.Ct. 413, 223 L.Ed.2d. 151 (U.S.2025); STATE OF OHIO v. CHADWICK JOHNSON, 2026 WL 706970, * 5+ OHIO. App. 2 Dist.; UNITED STATES OF AMERICA v. DEON BLAIR, 2026 WL 604731, * 4 3rd.Cir.(PA).

THE ADMISSIBILITY OF OUT-OF-COURT ORAL OR WRITTEN STATEMENTS, OFFERED TO PROVE AN ESSENTIAL ELEMENT OR ALLEGATION OF A CRIME OR CONNECT A DEFENDANT DIRECTLY WITH THE COMMISSION OF A CRIME, ARE DETERMINED BY FIRST DECIDING IF THEY ARE TESTIMONIAL OR NON-TESTIMONIAL, AND THUS, WHETHER THE CONFRONTATION CLAUSE APPLIES TURNS ON WHETHER THE CHALLENGED STATEMENT OR EVIDENCE IS TESTIMONIAL, WHICH IN THIS CASE IT IS. THE PURPOSE OF THE CONFRONTATION CLAUSE, IN OUT-OF-COURT STATEMENT, INCLUDING WRITTEN REPORTS, IS CONSIDERED "TESTIMONIAL" WHEN ITS PRIMARY PURPOSE IS TO SERVE AS EVIDENCE OR AN OUT-OF-COURT SUBSTITUTE FOR TRIAL TESTIMONY AS HAS OCCURRED HERE IN THE APPLICANT'S TRIAL PROCEEDINGS, STATE v. ENGLISH, 443 S.C. 49, 902 S.E.2d. 385(S.C.App.2024). RULES OF EVIDENCE LIMIT EVIDENCE OFFERED BY THE GOVERNMENT AND DEFENDANT ALIKE, BUT THE CONFRONTATION CLAUSE APPLIES TO EVIDENCE OFFERED AGAINST THE ACCUSED. THIS MANIFEST INJUSTICE COMPROMISES THE RECORD SUBJECTING THE APPLICANT TO OVERWHELMING PREJUDICE IN PROTECTING HIS DUE PROCESS MATTERS AND SUBSTANTIAL RIGHTS. THE GOVERNMENT MAY NOT SIDE STEP THE SIXTH AMENDMENT PROBLEMS CREATED BY A WITNESS OFFER TESTIMONY THAT IS BASED ON A NON TESTIFYING PARTY. THE ABILITY TO EXAM SOMEONE ELSE IS INSUFFICIENT TO AVOID A CONFRONTATION PROBLEM. MR. FAULK CANNOT TESTIFY ABOUT THE STATEMENTS SUBMITTED BY "DONNIE" WHICH CLEARLY VIOLATES THE CONFRONTATION CLAUSE DENYING THE APPLICANT RIGHTS ALSO UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE, UNITED STATES v. SEWARD, 135 F.4TH. 161 (4th.Cir.2025).

THE SIXTH AMENDMENT CONFRONTATION CLAUSE GUARANTEES THE RIGHT TO CONFRONT AND CROSS-EXAMINE WITNESSES IS ESSENTIAL TO A FAIR TRIAL, IN THAT IT PROMOTES RELIABILITY IN CRIMINAL TRIALS

AND ENSURES THAT CONVICTIONS WILL NOT RESULT IN TESTIMONY OF INDIVIDUALS WHO CANNOT BE CHALLENGED AT TRIAL, STATE v. CLARK, 444 S.C. 606, 910 S.E.2d. 481 (S.C.App.2024).

THE SIXTH AMENDMENT ALSO GUARANTEES A DEFENDANT THE RIGHT "TO BE CONFRONTED WITH THE WITNESS AGAINST HIM" IN ALL CRIMINAL PROCEEDINGS, U.S. CONST. AMEND. IV. THE RIGHT OF CONFRONTATIONS "MEANS MORE THAN BEING ALLOWED TO CONFRONT THE WITNESS PHYSICALLY", DAVIS v. ALASKA, 415 U.S. 308, 315, 94 S.Ct. 1105, 39 L.Ed.2d. 347 (U.S.1974). INDEED, THE SUPREME COURT STATED, "THE MAIN AND ESSENTIAL PURPOSE OF CONFRONTATION IS TO SECURE FOR THE OPPONENT THE OPPORTUNITY TO CROSS-EXAMINE WHICH DID NOT OCCUR REGARDING THE TESTIMONIAL EVIDENCE ENTERED INTO THE COURT RECORD PURSUANT TO "DONNIE", UNITED STATES OF AMERICA v. TREITEKH, 114 F.4TH. 292 (4th.Cir.2024). THIS VIOLATED THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS OF DUE PROCESS, THE APPLICANT'S 6TH. AMENDMENT RIGHTS TO A FAIR AND IMPARTIAL TRIAL PROCEEDINGS, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT, THE STATE COMPROMISING THE APPOINTED ATTORNEY, CONSPIRING UNDER COLOR OF STATE LAW, THEIR INTENT WAS TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY AND RACIAL CASTE SYSTEM BY MASS INCARCERATION, AND VIOLATE THE APPLICANT'S 15TH. AMENDMENT RIGHTS WHERE THIS CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENTED BY THE PROMINENT LAW PROFESSOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW".

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(11) WAS COUNSEL APPOINTED AND OR HIRED TO REPRESENT THE APPLICANT INEPT AND CONSTITUTIONALLY INEFFECTIVE IN VIOLATION OF THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS ARTICLE IV § 2 OF THE ~~U.S.~~ CONST., AND THE APPLICANT'S DUE PROCESS RIGHTS, PRODUCING UNCONSTITUTIONAL ACTION THAT VOIDS THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION WHICH LED TO AN UNFAIR AND PARTIAL TRIAL CREATING AN EGREGIOUS MISCARRIAGE OF JUSTICE AND EXTREME PREJUDICE IN ADDRESSING THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS?

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A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL. TO DETERMINE INEFFECTIVE ASSISTANCE, A APPLICANT MUST SHOW, PURSUANT TO THE TWO PRONG TEST ENUNCIATED IN STRICKLAND v. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674(U.S.1984), THAT (1) HIS COUNSEL WAS DEFICIENT IN HIS REPRESENTATION AND (2) THE APPLICANT WAS PREJUDICED AS A RESULT, ID. AT. 687. ALSO SEE WILLIAMS v. TAYLOR, 529 U.S. 362, 391, 120 S.Ct. 1495, 146 L.Ed.2d. 389(U.S.2000)(STATING THAT THE STRICKLAND TEST PROVIDES SUFFICIENT GUIDANCE FOR RESOLVING VIRTUALLY ALL INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS).

TO SATISFY THE FIRST PRONG OF STRICKLAND, AN APPLICANT

MUST SHOW THAT THE TRIAL COUNSEL'S ERRORS WERE SERIOUS ENOUGH THAT HIS PERFORMANCE FELL WELL BELOW THE OBJECTIVE STANDARD OF REASONABLENESS GUARANTEED BY THE 6TH. AMENDMENT OF THE U.S. CONSTITUTION. WITH REGARD TO THE SECOND PRONG OF STRICKLAND, THE APPLICANT MUST SHOW THAT THERE IS A REASONABLE POSSIBILITY THAT, BUT FOR COUNSEL'S PERFORMANCE AND UNPROFESSIONAL ERRORS, THE RESULTS OF THE PROCEEDINGS WOULD HAVE BEEN DIFFERENT, STRICKLAND, 446 U.S. AT. 694.

THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED, HIS DUE PROCESS RIGHTS WERE VIOLATED, AS WELL AS ARTICLE IV § 2 OF THE ~~S.C.~~ CONST. WERE VIOLATED, ALSO THE APPLICANT'S RIGHTS UNDER ARTICLE 1 § 10 OF THE S.C. CONSTITUTION WERE VIOLATED, HIS DUE PROCESS RIGHTS WERE VIOLATED AND HE WAS DENIED THE EQUAL PROTECTION OF THE LAWS, IN THAT THE APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE GUARANTEED BY THE 6TH. AND 14TH. AMENDMENTS OF THE U.S. CONSTITUTION AS WELL AS IN VIOLATION OF ARTICLE 1 §§ 3 AND 14 OF THE S.C. CONSTITUTION.

THE APPLICANT BRINGS THE COURT'S ATTENTION TO ISSUE(S) NO.(S) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 AND 12 SEEN WITHIN THIS PCR APPLICATION. IF THE APPLICANT CAN DETERMINE BY THE CLEAR LANGUAGE OF THE INDICTMENT THAT HE WAS ALREADY ILLEGALLY FOUND GUILTY OF THE CRIME BEFORE THE TRIAL OCCURRED, SO COULD THE APPOINTED LEGAL COUNSEL. IF THE APPLICANT CAN EASILY DETERMINE THAT THE RULE 403 VIOLATION POSSESSED A JURISDICTIONAL DYNAMIC TO IT UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, SO COULD HAVE THE APPOINTED COUNSEL. COUNSEL FAILED TO INVESTIGATE THE VALIDITY OF THE GRAND JURY PROCESS AS IS SEEN WITHIN ISSUE NO. 3. COUNSEL ALLOWED THE ADMITTING OF STATEMENTS AND OR TESTIMONY INTO THE COURT RECORD IN VIOLATION OF S.C. CODE ANN. §§ 19-1-90, 19-1-80 AND ITS SISTER STATUTE WHERE BY THE PLAIN LANGUAGE OF THE STATUTE THIS WAS NOT PERMISSIBLE AND HE SHOULD HAVE ARGUED BY PAST DETERMINATION THE COURTS SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE APPLICABLE STATUTES TO DO SO IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE. COUNSEL ALLOWED THE SUBMISSION OF

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DRUG EVIDENCE WITHIN THE COURT RECORD WHEN IT WAS SUBMITTED IN VIOLATION OF THE APPLICABLE STATUTE PURSUANT TO S.C. CODE ANN. § 73-80 FAILING TO CHALLENGE THE CHAIN OF CUSTODY RELATED THERETO WHICH IS ALSO A JURISDICTIONAL CLAIM. COUNSEL FAILED TO PRESERVE AND ARGUE THE APPLICANT'S DUE PROCESS RIGHTS THAT WERE ESTABLISHED BY CLEAR JURISDICTIONAL CLAIM PROCESSING RULES ALSO IN VIOLATION OF ARTICLE V § 4 OF THE S.C. CONSTITUTION ALSO SUPPORTED BY FORTBEND COUNTY, TEXAS v. DAVIS, 139 S.Ct. 1843(U.S.2019) AND OTHER U.S. SUPREME COURT CASES THAT SUPPORT THIS CLAIM. COUNSEL FAILED TO ARGUE THE FATAL DEFECTS WITHIN THE INDICTMENT WHICH VIOLATED ARTICLE 1 § 11 OF THE S.C. CONSTITUTION AND VIOLATED THE PROVISIONS OF S.C. CODE ANN. §§ 17-~~18~~¹⁹-10 AND 17-~~18~~¹⁹-20 WHERE THE GENTRY CASE IS UNCONSTITUTIONALLY VAGUE AND THAT COURT IN ACTS OF FRAUD UPON THE COURT CONCEALED THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND FATAL DEFECTS IN AN INDICTMENT WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, NOT THE STATUTORY ELEMENT THAT COTTON, PARKHURST AND GENTRY ARE CLEARLY ADJUDICATED UNDER TO DEFRAUD THE INMATES OF THIS STATE. COUNSEL ALLOWED THE TRIAL COURT TO CONSTRUCTIVELY AMEND THE INDICTMENTS ALL OVER THE PLACE VIOLATING THE CONSTITUTIONAL REQUIREMENT OF PRESENTMENT TO THE GRAND JURY CREATING A "NEW" CHARGE THAT WAS NEVER APPROVED BY THE GRAND JURY SEEN IN ISSUE NO. (8) ESPECIALLY IN LIGHT OF THE FACT THAT THE GRAND JURY BY THEIR LANGUAGE VIOLATED THEIR SHIELDING FUNCTION AND ALREADY CONVICTED THE APPLICANT BEFORE THE TRIAL COMMENCED AND THE JUDGE GIVES A CURATIVE INSTRUCTION THAT VIOLATES S.C. CODE ANN. § 19-19-110 VIOLATING ARTICLE 1 § 11 OF THE S.C. CONSTITUTION VOIDING THE COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. COUNSEL FAILED TO CALL TWO CRUCIAL WITNESSES WHOSE TESTIMONY WAS NOT CUMULATIVE AND WAS IN FAVOR OF THE APPLICANT SUBJECTING THE APPLICANT TO EXTREME PREJUDICE IN ADDRESSING HIS RIGHT TO A FAIR AND IMPARTIAL TRIAL. SEE ISSUE (9). COUNSEL ALLOWED OUT-OF-COURT STATEMENTS AND OR TESTIMONY INTO THE RECORD IN VIOLATION OF DUE PROCESS PROTECTIONS ESTABLISHED BY CRAWFORD v. WASHINGTON CONFRONTATION CLAUSE UNDER THE 6TH. AMENDMENT. COUNSEL FAILED TO CHALLENGE THE FRAUD PERPETRATED BY THE STATE v. GENTRY COURT WHEN

THERE IS A PLETHORA OF CASE LAW COMING OUT OF THE 4TH. CIRCUIT COURT OF APPEALS AND UNITED STATES SUPREME COURT THAT WOULD HAVE REQUIRED THAT HE MAKE THE EFFORT. COUNSEL WAS NOTIFIED BY THE COURT THAT JUROR NUMBER 164, TAYLOR PEACE, WENT TO SCHOOL WITH THE DEPUTY ATTORNEY GENERAL AND WERE STILL CLOSE FRIENDS AT THE TIME OF TRIAL AND YET THE APPLICANT'S COUNSEL DURING THE PREEMPTIVE STRIKE PHASE DIDN'T EVEN MOVE TO STRIKE THIS INDIVIDUAL FROM THE JURY PANEL SUBJECTING THE APPLICANT TO REVIEW BY A POSSIBLY TAINTED JUROR WHEN THERE IS NO TELLING WHAT KIND OF INFLUENCE THIS SPECIFIC PERSON MAY HAVE HAD ON THE OTHER JURORS. CASES LIKE STRICKLAND v. WASHINGTON, 466 U.S. 668 (U.S. 1984); STATE v. THOMPSON, 288 S.C. 13, 339 S.E.2d. 505 (S.C.App. 1986); ETHIER v. FAIRFIELD MEMORIAL HOSPITAL, 431 S.C. 336 (S.C.App. 2020); STATE v. ROWELL, 409 S.C. 146 (S.C.App. 2014). THESE CASES SUPPORT THE FAILURE TO STRIKE A VISIBLY BIAS JUROR WHERE ANY COMPETENT COUNSEL WOULD HAVE STRICKEN A JUROR WITH A CLOSE FRIENDSHIP WITH THE PROSECUTOR MEETS THE STRICKLAND STANDARD. COUNSEL FAILED TO PROTECT THE APPLICANT'S SUBSTANTIAL DUE PROCESS RIGHTS. COUNSEL FAILED TO RAISE OBVIOUS JURISDICTIONAL CLAIMS. COUNSEL FAILED TO MOVE TO QUASH THE INDICTMENTS. COUNSEL FAILED TO OBJECT TO ENSURE THAT THE CLAIMS WERE PROPERLY PRESERVED FOR ANY INTENDED APPELLATE REVIEW. COUNSEL FAILED TO CONDUCT THE APPROPRIATE INVESTIGATION INTO THESE ISSUES AND FACTS TO ALLOW THEM TO BE PROPERLY DEVELOPED WITHIN THE COURT RECORD. COUNSEL SHOULD HAVE SOUGHT THE GRAND JURY PANEL DOCUMENT FOR THE PURPOSE OF CONDUCTING THE INVESTIGATION. BY THE AFOREMENTIONED COUNSEL FELL WELL BELOW THE STANDARD OF LEGAL COUNSEL APPOINTED IN THESE MATTERS. HAD IT NOT BEEN FOR COUNSEL'S INEPT AND CONSTITUTIONALLY INEFFECTIVE ASSISTANCE OF COUNSEL IT BECOMES PAINFULLY OBVIOUS THAT THE RESULTS OF THE TRIAL WOULD HAVE WITHOUT A DOUBT BEEN DIFFERENT WHICH SUBJECTED THE APPLICANT TO OVERWHELMING PREJUDICE IN ADDRESSING HIS TRIAL AND DUE PROCESS MATTERS.

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ADDITIONAL LITIGATION SUBMITTED IN SUPPORT OF THIS CLAIM IS SEEN IN EXHIBIT(S) "INEFFECTIVE ASSISTANCE #'S 1 AND 2. SOME OF THE CLAIMS MADE WITHIN THE ATTACHED EXHIBIT(S) SLIGHTLY DIFFER

FROM THAT OF THE APPLICANT. BUT THE CASE LAW AND SUBSIDIARY FACTS RELATED TO INEFFECTIVE ASSISTANCE OF COUNSEL DO INDEED APPLY DIRECTLY TO THE APPLICANT. THE APPLICANT SEEKS THAT THE COURT APPLY THAT WITHIN THE EXHIBITS THAT RELATE TO THE APPLICANT AND DISREGARD ANYTHING THAT IS NOT RELEVANT TO THE APPLICANT.

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EXHIBIT, "INEFFECTIVE ASSISTANCE # 1"

~~CONFIDENTIAL~~

ISSUE NUMBER 4:

WAS COUNSEL APPOINTED AND OR HIRED TO REPRESENT THE APPLICANT INEPT AND CONSTITUTIONALLY INEFFECTIVE IN VIOLATION OF THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS ARTICLE IV§2, AND HIS DUE PROCESS RIGHTS WHICH LED TO AN UNFAIR AND PARTIAL TRIAL CREATING AN EGREGIOUS MISCARRIAGE OF JUSTICE RENDERING THE PROCEEDINGS UNCONSTITUTIONAL WHICH VOIDS THE TRIAL COURT'S JURISDICTION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS.CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL. TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF COUNSEL, A PETITIONER MUST SHOW, PURSUANT TO THE TWO PRONG TEST ENUNCIATED IN STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674(1984), THAT (1) HIS COUNSEL WAS DEFICIENT IN HIS REPRESENTATION AND (2) HE WAS PREJUDICED AS A RESULT, ID AT 687; ALSO SEE WILLIAMS V. TAYLOR, 529 U.S. 362,

391, 120 S.Ct. 1495, 146 L.Ed.2d. 389(2000)(STATING THAT THE STRICKLAND TEST PROVIDES SUFFICIENT GUIDANCE FOR RESOLVING VIRTUALLY ALL INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS).

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TO SATISFY THE FIRST PRONG OF STRICKLAND, A PETITIONER MUST SHOW THAT TRIAL COUNSEL'S ERRORS WERE SERIOUS ENOUGH THAT HIS PERFORMANCE FELL WELL BELOW THE OBJECTIVE STANDARD OF REASONABLENESS GUARANTEED BY THE 6TH. AMENDMENT OF THE U.S. CONSTITUTION. WITH REGARD TO THE SECOND PRONG OF STRICKLAND, THE APPLICANT MUST SHOW THAT THERE IS A REASONABLE POSSIBILITY THAT, BUT FOR COUNSEL'S PERFORMANCE AND UNPROFESSIONAL ERRORS, THE RESULTS OF THE PROCEEDINGS WOULD HAVE BEEN DIFFERENT, STRICKLAND, 446 U.S. AT 694.

THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED, AS WELL AS ARTICLE IV§2, ALSO HIS RIGHTS UNDER ARTICLE 1§10 OF THE S.C. CONSTITUTION WERE VIOLATED, HIS DUE PROCESS RIGHTS WERE VIOLATED AND HE WAS DENIED THE EQUAL PROTECTION OF THE LAWS, IN THAT THE APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE 6TH. AND 14TH. AMENDMENTS OF THE U.S. CONSTITUTION AS WELL AS IN VIOLATION OF ARTICLE 1 §§ 3 AND 14 OF THE S.C. CONSTITUTION.

AMONG OTHER THINGS, COUNSEL WAS INEFFECTIVE FOR FAILING TO INVESTIGATE AND OR OBJECT TO THE ISSUES ARGUED WITHIN THIS DOCUMENT TO ENSURE THAT THEY WERE ESTABLISHED WITHIN THE COURT RECORD AND PRESERVED FOR APPELLATE REVIEW. AN OBJECTION WAS REQUIRED TO PRESERVE THE ISSUES PLACING HIM IN A POSITION WHERE HE FELL FAR BELOW THE STANDARD OF COUNSEL APPOINTED IN THESE CIRCUMSTANCES PRODUCING OVERWHELMING PREJUDICE AIDING TO DENY ME THE EQUAL PROTECTION OF THE LAW CONSPRING UNDER COLOR OF STATE LAW WITH THE PROSECUTOR TO THROW ME UNDERNEATH THE BUS. THIS DENIED ME FAIR, PROPER AND TIMELY REVIEW ON DIRECT APPEAL HAD THESE ISSUES BEEN TIMELY OBJECTED TO AND PRESERVED. THIS TOO DEMONSTRATE THE PREJUDICE.

YES, THE INEFFECTIVENESS OF THE ASSISTANCE OF COUNSEL

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BY HIS FAILURE TO TIMELY OBJECT AND PRESERVE THESE ISSUES EVEN
HINDERED REVIEW UPON DIRECT APPEAL, BUT THE FRAUD ARGUED FREES
THE APPLICANT OF ALL PROCEDURAL LIMITATIONS WHICH THE STATE
CAN POSSIBLY ASSERT IN THIS PRESENTLY SUBMITTED POST CONVICTION
RELIEF APPLICATION. THUS, RES JUDICATA NOR COLLATERAL ESTOPPEL
ATTACHES TO ANY CLAIM THAT I MAY HAVE HAD OR ATTEMPTED TO HAVE
HEARD IN ANY PRIOR PROCEEDING WOULD HINDER MY ABILITY TO HAVE
ALL MATTERS HEARD WITHIN THIS PRESENT ACTION. THIS INCLUDE ANY
CLAIM THAT I MAY HAVE ADDITIONAL ACTION ALSO PENDING. THESE
WOULD BE PROCEDURAL LIMITATIONS WHERE THIS ACTION IS FILED UNDER
THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT. THE STATE
MAKING SUCH ASSERTION WOULD NOT HAVE MERIT UNDER THESE CIRCUM-
STANCES. TO CONSPIRE TO TAKE AWAY REMEDY BY THE UNCONSTITUTIONAL
ACTIONS ARGUED WITHIN THIS DOCUMENT, REMEDY GIVEN TO ME FOR
THE ENFORCEMENT OF CONSTITUTIONALLY PROTECTED RIGHTS, IS TO
TAKE AWAY THE DUE PROCESS RIGHT ITSELF. SUCH WOULD NOT BE WITHIN
THE POWER OR DISCRETION OF THE STATE OR THIS COURT. UNDER FEDERAL
LAW, WHICH IS APPLICABLE TO THE STATES, THAT IF A COURT OR PAR-
TIES IS "WITHOUT AUTHORITY", SUCH AS DUE TO FRAUD UPON THE COURT
AND THE STRUCTURAL ERRORS ARGUED WITHIN THIS CASE, CONSPIRING
TO BE SILENT ON THESE CLAIMS, WHICH ARE ALL UNCONSTITUTIONAL
VIOLATING DUE PROCESS, ITS JUDGMENTS AND OR ACTS AND OR ORDERS
ARE REGARDED AS NULLITIES. THEY ARE NOT VOIDABLE, BUT SIMPLY
VOID, AND FORM NO BAR TO RECOVERY SOUGHT, EVEN PRIOR TO REVERSAL
IN OPPOSITION OF THEM. THEY CONSTITUTE NO JUSTIFICATION, AND
ALL PERSONS CONCERNED IN EXECUTING SUCH ACTS OR JUDGMENTS OR
SENTENCES ARE CONSIDERED IN LAW AS "TRESPASSERS OF THE LAW".
THE FRAUD EFFECTS EVEN THE MOST SOLEMN ACTS OR JUDGMENTS OR
DECREES. LABEO DEFINES FRAUD AS ANY CUNNING DECEPTION OR ARTICLE
USED TO CIRCUMVENT OR DECEIVE ANOTHER. MR. WELLS, IN HIS VERY
WORK ON RES JUDICATA SAYS SEC. 499, "FRAUD VITIATES EVERYTHING",
ELLIOTT v. PIERSOL, 1 PET. 328, 340, 26 U.S. 328, 340(U.S.1828);
NUDD v. BURROWS, 91 U.S. 667-683(U.S.1875); U.S. v. THROCKMORTON,
98 U.S. 61-67(U.S.1871); WELLS FARGO BANK N.A. v. FARAG, 2016
WL 2944561(2016); 24 SENATORIAL DISTRICT REPUBLICAN COMMITTEE
v. ALCORN, 820 F3d. 624(4th.Cir.2016); TRINSEY v. PAGLIARO,
229 F.Supp. 647(D.C.Pa.1964); MYLES v. DOMINOS PIZZA, LLC.,
2017 WL 238436(D.C.Miss.2017); NELSON v. COLORADO, 137 S.Ct.

1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205(U.S.2017); BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723(U.S.2016). ALSO SEE STATE v. DUNBAR, 356 S.C. 138, 142, 587 S.E.2d. 691, 693-94(2003)(IN ORDER FOR AN ISSUE TO BE PRESERVED FOR APPELLATE REVIEW, IT MUST HAVE BEEN RAISED TO AND RULED UPON BY THE TRIAL JUDGE. ISSUES NOT RAISED AND RULED UPON IN THE TRIAL COURT WILL NOT BE CONSIDERED ON APPEAL.); STATE v. SMITH, 337 S.C. 27, 32, 522 S.E.2d. 598, 600(1999)(A RULING IN LIMINE IS NOT FINAL UNLESS AN OBJECTION IS MADE AT THE TIME THE EVIDENCE IS OFFERED AND A FINAL RULING PROCURED, THE ISSUE IS NOT PRESERVED FOR REVIEW.); STATE v. ROGERS, 361 S.C. 178, 183, 603 S.E.2d. 910, 912-913(Ct.App.2004); I'O'R', LLC. v. TOWN OF MT. PLEASANT, 338 S.C. 406, 422, 526 S.E.2d. 716, 724(2000); STATE v. SIMPSON, 325 S.C. 37, 42, 479 S.E.2d. 57, 60(1996); STATE v. SHUMPERT, 312 S.C. 502, 507, 435 S.E.2d. 859, 862(1993); STATE v. GRIFFIN, 339 S.C. 74, 77, 528 S.E.2d. 668, 669(2000); HOLROYD v. REQUA, 361 S.C. 43, 603 S.E.2d. 417(2006); U.S. v. HALL, 858 F3d. 254 (4th.Cir.2017).

INASMUCH, COUNSEL THAT WAS HIRED BY THE APPLICANT AND OR WAS APPOINTED BY THE STATE TO REPRESENT THE APPLICANT WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE FOR THE FOLLOWING REASONS:

(A) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN THE INDICTMENTS POSSESSED A STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT, BY THE LANGUAGE AND OR CHARGE CONTAINED THEREIN, TOOK AWAY THE APPLICANT'S PRESUMPTION OF INNOCENCE, AND AUTOMATICALLY SHIFTED THE BURDEN OF PERSUASION TO THE DEFENDANT, COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S). COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW IN ACTS OF PROSECUTORIAL MISCONDUCT AND IN VIOLATION OF THE CODE OF PROFESSIONAL ETHICS TO COMMENCE WITH AND OR BRING THE APPLICANT TO TRIAL ON OFFENSES THE GRAND JURY BEING DULY SWORN, ILLEGALLY TAKING UPON THEMSELVES THE ROLE OF THE TRIAL JURY AND BY THEIR LANGUAGE, GOING BEYOND THE SCOPE OF THE POWER AND

AUTHORITY GIVEN TO THEM BY EITHER STATE AND OR FEDERAL LAW OR STATE AND OR FEDERAL CONSTITUTION, ALREADY, PREMATURELY, UPON THEIR OATHS ADJUDICATED AND DETERMINED IN ADVANCE THE OUTCOME OF THE PROCEEDINGS AND THE APPLICANT'S GUILT IN CLEAR VIOLATION OF THEIR SHIELDING FUNCTION, ALSO THE APPLICANT'S RIGHT TO DOUBLE JEOPARDY PROTECTION, THE EQUAL PROTECTION OF THE LAWS AND DUE PROCESS. THIS PRODUCES SHAM LEGAL PROCESS, FRAUD UPON THE COURT AND THE ESTABLISHING OF MODERN DAY SLAVERY. THIS CANNOT BE DEEMED REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY IN THAT THE REALITY CLEARLY EXIST, BY THE LANGUAGE OF THE INDICTMENT PRESENTED, THAT THEY NEVER INTENDED ANY SUBSEQUENT PROCEEDING TO OCCUR. THE BURDEN OF PERSUASION IS CLEARLY SHIFTED IN VIOLATION OF DUE PROCESS LAW. A CURATIVE INSTRUCTION "BOILER PLATE" DO NOT CURE THE DUE PROCESS PROBLEM. THIS PREJUDICED THE APPLICANT LEADING TO AN UNFAIR AND PARTIAL TRIAL.

(B) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE PROSECUTORS OF BERKELEY COUNTY CONTINUED IN THEIR CONSISTENT BEHAVIOR OF CLOCK STAMPING INDICTMENTS PRETENDING THAT THERE WAS A FAIR AND PROPER GRAND JURY REVIEW AND INVESTIGATION WHEN NO SUCH PROPER REVIEW AND OR INVESTIGATION OCCURRED. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. OVER (70) DEFENSE ATTORNEYS IN YORK COUNTY THE WEEK OF AUGUST 9, 2018 CAUGHT THE FRAUD AND MISCARRIAGE OF JUSTICE AND TIMELY CHALLENGED IT. IT IS OBVIOUS THAT THE ATTORNEY INVOLVED IN THIS CASE COULD HAVE DONE THE SAME THING. COUNSEL SHOULD HAVE DONE AN ADEQUATE AND PROPER INVESTIGATION HIMSELF INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW IN ACTS OF FRAUD UPON THE COURT WITH THE TRIAL COURT AND STATE PROSECUTOR. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE ON THE COURT RECORD AND SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S) THE SAME WAY THE OTHER ATTORNEYS DID IN YORK COUNTY THE WEEK OF AUGUST 9, 2018.

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(C) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE TRIAL COURT WENT BEYOND THE (180) DAY DEADLINE MANDATE AS PRESCRIBED BY JUDICIAL ORDER ISSUED BY THE

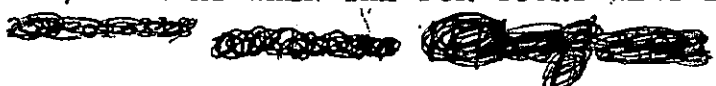
~~REDACTED~~ ~~REDACTED~~ ~~REDACTED~~

S.C. SUPREME COURT PURSUANT TO THE PROVISIONS OF ARTICLE V §. 4 OF THE S.C. CONSTITUTION. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. THE COURT WAS PROHIBITED FROM CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY POWERS. THE APPLICANT SHOULD BE HOME BY NOW. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE AND MOTIONED FOR DEFAULT AND JUDGMENT. COUNSEL SHOULD HAVE MOTIONED FOR A MISTRIAL. COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR CREATING AND OR INITIATING AN ILLEGAL CRIMINAL PROCEEDING IN ACTS OF PROSECUTORIAL MISCONDUCT AND FRAUD UPON THE COURT WHICH STOOD IN BLATANT DEFIANCE TO JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT WHICH THEY ATTACHED TO THE S.C. CONSTITUTION MAKING MANDATORY BY THE LANGUAGE CONTAINED THEREIN. THIS EXTREMELY PREJUDICED THE APPLICANT'S DUE PROCESS MATTERS PRODUCING A TRIAL THAT SHOULD NOT EXIST. I AM ARGUING AGAINST THE PRECEDENT SET IN PLACE BY STATE v. LANGFORD SUPRA. AND STATE v. GENTRY SUPRA. VIA RULES OF APPELLATE PROCEDURE, RULE 217. THE UNITED STATES SUPREME COURT ADDRESSED MATTERS SUCH AS THIS UNDER THE CASE OF BETTERMAN v. MONTANA, 136 S.Ct. 1609 (2016) WHERE THE COURT DETERMINED THAT VARIOUS STATES HAVE SUCH TIMELINES AND WHEN THEY FAIL TO ADHERE TO THEIR OWN STATE LAWS MADE MANDATORY BY THEIR STATES CONSTITUTIONS, SUCH IS A VIOLATION OF DUE PROCESS UNDER THE 5TH. AND 14TH. AMENDMENTS. THE TRIAL COURT CANNOT BE PERMITTED TO COMMENCE WITH A PROCEEDING, IN FUNDAMENTAL FAIRNESS TO THE APPLICANT, THAT STANDS IN DEFIANCE TO DUE PROCESS LAW. WITHOUT AN ESSENTIALLY NEEDED "[W]RITTEN" (EMPHASIS ADDED), ORDER OF CONTINUANCE TIMELY FILED WITHIN THE TRIAL COURT PRIOR TO THE EXPIRATION OF THE (180) DAY DEADLINE, THE TRIAL COURT WAS PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR "[P]OWERS OF SUBJECT MATTER JURISDICTION EVEN THOUGH THEY DO INDEED POSSESS SUCH POWER BY STATUTE. THEY VIOLATED DUE PROCESS. IF IT VIOLATES DUE PROCESS IT IS UNCONSTITUTIONAL. IF IT IS UNCONSTITUTIONAL IT VOIDS THE CRIMINAL COURT'S JURISDICTION. THUS, THE SENTENCE AND CONVICTION MUST BE VACATED.

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(D) COUNSEL FOR THE PAST PCR WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, EVEN PURSUANT TO MARTINEZ v. RYAN, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS UNDER CASE 2015-CP-08-2692, IN THAT WHEN THE PCR COURT WENT BEYOND

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THE (365) DAY DEADLINE MANDATE AS PRESCRIBED BY JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT PURSUANT TO THE PROVISIONS OF ARTICLE V § 4 OF THE S.C. CONSTITUTION. THE COURT AND PARTIES ENGAGED IN EGREGIOUS ACTS OF FRAUD UPON THE COURT. IT WAS THE COURT'S FIDUCIARY DUTY TO SPEAK. THEIR SILENCE ON THIS INJUSTICE EQUATE VIOLATING DUE PROCESS LAW. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. THE PCR COURT WAS IN FORFEITURE AND WAS PROHIBITED FROM CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY POWERS. THE ATTACK ON THIS ISSUE FOR FRAUD UPON THE COURT IS FREE OF ALL PROCEDURAL LIMITATIONS. THE APPLICANT SHOULD BE HOME BY NOW. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE AND MOTIONED FOR DEFAULT AND JUDGMENT. COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR CONTINUING WITHIN AN ILLEGAL PCR PROCEEDINGS THAT WAS UNCONSTITUTIONAL DUE TO DUE PROCESS VIOLATION ENGAGING IN FRAUD UPON THE COURT WHICH STOOD IN BLATANT DEFIANCE TO JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT WHICH THEY ATTACHED TO THE S.C. CONSTITUTION MAKING IT MANDATORY BY THE LANGUAGE CONTAINED THEREIN. THIS EXTREMELY PREJUDICE THE APPLICANT'S DUE PROCESS MATTERS PRODUCING A PCR PROCEEDINGS THAT WAS IN FORFEITURE THAT WAS CONCEALED FROM THE APPLICANT. I AM ARGUING AGAINST THE PRECEDENT SET IN PLACE BY STATE V. LANGFORD SUPRA. AND STATE V. GENTRY SUPRA. VIA RULES OF APPELLATE PROCEDURE, RULE 217. THE UNITED STATES SUPREME COURT ADDRESSED MATTERS SUCH AS THIS UNDER THE CASE OF BETTERMAN V. MONTANA, 136 S.Ct. 1609 (U.S.2016) WHERE THE COURT DETERMINED THAT VARIOUS STATES HAVE SUCH TIMELINES AND WHEN THEY FAIL TO ADHERE TO THEIR OWN STATE LAWS MADE MANDATORY BY THEIR OWN STATES CONSTITUTIONS, SUCH IS A VIOLATION OF DUE PROCESS UNDER THE 5TH. AND 14TH. AMENDMENTS. THE PCR COURT CANNOT BE PERMITTED TO CONCLUDE A PROCEEDING TO WHICH THEY ARE IN FORFEITURE, IN FUNDAMENTAL FAIRNESS TO THE APPLICANT, THAT STANDS IN BLATANT DEFIANCE TO DUE PROCESS LAW. WITHOUT AN ESSENTIALLY NEEDED "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE TIMELY FILED WITHIN THE PCR COURT UNDER CASE 2015-CP-08-2692 PRIOR TO THE EXPIRATION OF THE (365) DAY DEADLINE, THE PCR COURT WAS PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWER" EVEN, 13
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VIOLATED DUE PROCESS. IF IT VIOLATES DUE PROCESS IT IS UNCONSTITUTIONAL. IF IT IS UNCONSTITUTIONAL IT VOIDS THE PCR COURT'S JURISDICTION. THUS, THE STATE MUST BE DEEMED IN FORFEITURE ON ALL ISSUES THAT WERE HEARD UNDER CASE 2015-CP-08-2692 AND THE SENTENCE AND CONVICTION MUST BE VACATED. 139

(E) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE PROSECUTOR AND COURT CONSPIRED UNDER COLOR OF STATE LAW IN VIOLATION OF DUE PROCESS TO HAD THE FORENSIC SUPERVISOR TESTIFY ABOUT A FORENSIC REPORT SHE HERSELF NEVER CONDUCTED AND THE STATE FAILED TO RELEASE DISCOVERY TO THE APPLICANT IN THE FORM OF NOTIFICATION INFORMING THE APPLICANT THAT THEY INTENDED TO DO SO. COUNSEL DID A PISS POOR JOB IN TRYING TO SECURE THE APPLICANT'S DUE PROCESS RIGHTS RELATED TO THIS ISSUE. THE SUPPRESSION BY THE PROSECUTION OF EVIDENCE FAVORABLE TO THE DEFENSE SUCH AS THEIT INTENT TO HAVE SOMEONE TESTIFY ABOUT A REPORT AND OR FORENSIC TEST THAT WAS NOT CONDUCTED BY THEM, OR THAT ALL STATEMENTS AND TESTIMONY TAKEN FROM THE VARIOUS WITNESSES SUBMITTED BY THEM WERE FRAUDULENTLY OBTAINED, UPON REQUEST VIOLATES DUE PROCESS WHERE THIS EVIDENCE IN QUESTION IS MATERIAL EITHER TO GUILT OR PUNISHMENT, IRRESPECTIVE OF THE GOOD FAITH OR BAD FAITH OF THE PROSECUTION, WEARRY v. CAIN, 136 S.Ct. 1002, 194 L.Ed.2d. 78(U.S.2016).

(F) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCEES RIGHTS, IN THAT WHEN THE COURT, STATE AND PROSECUTION, IN ACTS OF FRAUD UPON THE COURT WHERE THE COURT WAS PRIVY TO IT, CONCEALED THE FACT THAT ALL STATEMENTS AND TESTIMONY OF THE WITNESSES WERE ADMITTED INTO EVIDENCE IN VIOLATION OF THE APPLICABLE STATUTES. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE. COUNSEL SHOULD HAVE CROSS EXAMINED THE WITNESSES TO ENSURE THAT THEIR STATEMENTS AND TESTIMONY WAS INDEED BEING GIVEN AND PLACED INTO EVIDENCE BEING IN COMPLIANCE WITH THE APPLICABLE STATUTES. THE APPLICANT WAS EXTREMELY PREJUDICED BY THIS. WITHOUT THIS TESTIMONY ILLEGALLY OBTAINED. THE STATE AND PROSECUTOR WOULD HAVE NEVER BEEN ABLE

TO MEET ITS BURDEN ON THE CHARGES THAT WERE BEFORE THE COURT. THE APPLICANT WAS EXTREMELY PREJUDICED. I WOULD BE HOME BY NOW HAD THIS LAWLESSNESS HAD OCCURRED. COUNSEL SHOULD HAVE DID A BETTER JOB INVESTIGATING AND ENSURED THAT THE STATEMENTS WERE TAKEN IN COMPLIANCE WITH THE APPLICABLE STATUTES. 140

(G) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE DID NOT PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE INDICTMENT FAILED TO PROPERLY AND OR SUFFICIENTLY LISTE THE "[T]IME" OF THE ASSAULT IN THE BODY OF THE CHARGING INSTRUMENT OF THE INDICTMENT. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE. COUNSEL SHOULD HAVE MOVED TO QUASH THE INDICTMENT INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW TO ENGAGE WITH THE COURT AND PROSECUTOR IN ACTS OF FRAUD UPON THE COURT. TIME AND PLACE ARE MADE ARE PART OF THE ESSENTIAL ELEMENTS IN THE CRIME OF MURDER.

(H) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE FAILED TO PROTECT THE APLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN CONSTRUCTIVE AMENDMENT OF THE INDICTMENT OCCURRED BEFORE THE TRIAL COURT. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE AT LEAST OBJECTED TO PRESERVE THIS ISSUE IN THE COURT RECORD FOR PURPOSES OF APPEAL. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENTS BASED UPON THE STATE'S INABILITY TO PROVE ALL THE VARIOUS ELEMENTS, ESPECIALLY IN LIGHT OF THE FACT THAT THE STATEMENTS WERE ILLEGALLY, FRAUDULENTLY OBTAINED. INSTEAD THE ATTORNEY CONSPIRED UNDER COLOR OF STATE LAW IN EGREGIOUS ACTS OF FRAUD UPON THE COURT AND VIOLATIONS OF DUE PROCESS LAW DENYING ME THE EQUAL PROTECTION OF THE LAWS. CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE 5TH. AMENDMENT WHEN SUCH AMENDMENT EFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE. BUT ONCE PREJUDICE IS CLEARLY SHOWN, ALONG WITH THE FRAUD UPON THE COURT THAT OCCURRED IN THIS CASE, THE SENTENCE AND CONVICTION MUST BE VACATED.

(I) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT ANY COMPETENT ATTORNEY, JUST AS I DID, COULD SEE THAT THE S.C. SUPREME COURT ENGAGED IN ACTS OF FRAUD UPON THE COURT, MODERN DAY SLAVERY AND ABUSED THEIR DISCRETION IN THEIR HOLDINGS. COUNSEL SAID NOTHING. NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE MOTIONED TO DISMISS THE CHARGES AND OR CASE BEFORE THE COURT. IN EGREGIOUS ACTS OF FRAUD UPON THE COURT THE S.C. SUPREME COURT CRIMINALLY CHANGED LAW STANDING UNCHALLENGED FOR WELL OVER 100 YEARS. THERE ARE TWO PRONGS TO SUBJECT MATTER JURISDICTION. THE S.C. SUPREME COURT IN ACTS OF FRAUD UPON THE COURT BEHIND RACIAL HATRED, BECAUSE THE ACT DISPROPORTIONATELY TARGET THE AFRICAN AMERICANS OF THIS STATE, AND THEY PURPOSELY, MALICIOUSLY ADJUDICATED THE ISSUES UNDER THE INCORRECT PRONG. IF YOU MAKE USE OF A FATALLY DEFECTIVE INDICTMENT IN CRIMINAL PROCEEDINGS, THOSE CRIMINAL PROCEEDINGS BECOME UNCONSTITUTIONAL AND VIOLATE DUE PROCESS LAW. ANYTHING THAT IS UNCONSTITUTIONAL IS VOID. BY THIS UNCONSTITUTIONAL ACTION THEIR JURISDICTION IS MADE VOID AND IS AS IF THERE WERE NO CONVICTION OR JUDICIAL DETERMINATION MADE AT ALL. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE FOR APPELLATE REVIEW INSTEAD OF CONSPIRING UNDER OF STATE LAW WITH THE ATTORNEY GENERAL'S OFFICE AND THE S.C. SUPREME COURT AFTER THE FACT FOR THE PURPOSE OF ENGAGING IN EGREGIOUS ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT WHERE THE TRIAL COURT WAS ALSO PRIVY TO THESE INJUSTICES, CONCEALING MATERIAL FACTS IN VIOLATION OF 18 U.S.C. §§ 242 AND 1001 AS WELL AS IN VIOLATION OF STATE AND FEDERAL LAW TO LEAVE US IN ACTS OF KIDNAPPING AND TO OBTAIN AN ILLEGAL, CORRUPTED AND TAINTED CONVICTION. SEE S.C. CODE ANN § 17-25-10. BY SUCH ACTION THE APPLICANT WAS ALSO DENIED HIS RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE. COUNSEL FAILED TO FULFILL HIS FIDUCIARY DUTY WHERE THE AFOREMENTIONED RENDERS THE ENTIRE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THE TRIAL COURT'S JURISDICTION FOR UNCONSTITUTIONAL ACTION COUNSEL'S ACTIONS ALONG WITH THE S.C. SUPREME COURT AND OTHER STATE ACTORS VIOLATE THEIR OATH OF OFFICE TO UPHOLD BOTH THE STATE AND FEDERAL CONSTITUTIONS.

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INASMUCH, THE APPLICANT WAS DENIED TO HAVING EFFECTIVE ASSISTANCE OF COUNSEL WHERE TRIAL COUNSEL FAILED TO ADEQUATELY, SUFFICIENTLY AND PROPERLY INVESTIGATE THE CASE AND PREPARE FOR TRIAL AND DISCOVERED THESE ISSUES ARGUED AND EXCULPATORY DOCUMENTARY EVIDENCE AS AFORESAID HEREIN. HE WOULD HAVE KNOWN THE STATES WITNESSES WHO WERE ALLEGEDLY AT THE SCENE WERE SOLICITED STATEMENTS AND OR TESTIMONY THAT STOOD IN BLATANT DEFIANCE TO THE APPLICABLE STATUTES AND WAS INADMISSIBLE, CORRUPTING THE ENTIRE PROCEEDINGS AND THE ATTORNEY, THE PROSECUTOR AND COURT ITSELF WAS ENGAGING IN EGREGIOUS ACTS OF FRAUD UPON THE COURT. IF COUNSEL WOULD HAVE CORRECTED THIS AND SHOWN SUFFICIENT PERFORMANCE IN RAISING OF OF THESE ISSUES OF CONCERN AT THE TRIAL. THE OUTCOME WOULD HAVE INDEED BEEN DIFFERENT, STRICKLAND v. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674 (U.S. 1984); LOUNDS v. STATE SUPRA.; KOLLE v. STATE SUPRA.; ARD v. CATOE SUPRA.; CANNEDY v. ADAMS, 106 F3d. 1148(2013)(COUNSEL'S FAILURE TO INTRODUCE EXCULPATORY EVIDENCE CONTRADICTING PROSECUTION'S STAR WITNESS TESTIMONY CREATE A REASONABLE PROBABILITY OF DIFFERENT TRIAL RESULTS); LOUND SUPRA, 670 S.E.2d. 646(S.C. 2008); GENTRY v. SEVIER, 597 F3d. 838, 851-52(7th.Cir.2010); CULLEN v. PINHOLSTER, 131 S.Ct. 1388, 1403 (2011); KALEY v. U.S., 134 S.Ct. 1090 (2014); WIGGINS v. SMITH, 539 U.S. 510 (2003); ELMORE v. OZMINT, 661 F3d. 783, 869-70(4th.Cir.2011); MARTINEZ v. RYAN, 132 S.Ct. 1309 (U.S.2012); FUSI v. O'BRIEN, 621 F3d. 1, 9-10 (1st.Cir.2010); VAUGH v. STATE, 607 S.E.2d. 72(2004); DRAYTON v. EVATT, 312 S.C. 4, 430 S.E.2d. 517(1983); HARRINGTON v. RICTER, 131 S.Ct. 770, 178 L.Ed.2d. 624(2011); STATE v. DUNBAR, 356 S.C. 138, 142, 587 S.E.2d. 691, 693-94 (2003)(IN ORDER FOR AN ISSUE TO BE PRESERVED FOR APPELLATE REVIEW, IT MUST HAVE BEEN RAISED TO AND RULED UPON BY THE TRIAL JUDGE. ISSUES NOT RAISED AND RULED UPON IN THE TRIAL COURT WILL NOT BE CONSIDERED ON APPEAL); STATE v. SMITH, 337 S.C. 27, 32, 522 S.E.2d. 598, 600(1999)(A RULING IN LIMINE IS NOT FINAL UNLESS AN OBJECTION IS MADE AT THE TIME THE EVIDENCE IS OFFERED AND A FINAL RULING IS PROCURED. UNTIL THEN THE ISSUE IS NOT PRESERVED FOR REVIEW); STATE v. ROGERS, 361 S.C. 178, 183, 603 S.E.2d. 910, 912-913(Ct.App.2004); I'ON, LLC. v. TOWN OF MT. PLEASANT, 1338 S.C. 406, 422, 526 S.E.2d. 716, 724(2000); STATE v. SIMPSON,

325 S.C. 37, 42, 479 S.E.2d. 57, 60(1996); STATE v. SCHUMPERT,
312 S.C. 502, 507, 435 S.E.2d. 859, 862(1993); STATE v. GRIFFIN,
339 S.C. 74, 77, 528 S.E.2d. 668, 669(2000); HOLROYD v. REQUA,
361 S.C. 43, 603 S.E.2d. 417(2006); STATE v. FORRESTER, 343 143
S.C. 637, 642, 541 S.E.2d. 837, 840(2001); STATE v. WILES, 383
S.C. 151, 156-157, 679 S.E.2d. 172, 175(2009); U.S. v. HALL,
858 F3d. 254(4th.Cir.2017).

INSOMUCH, BY POINTS "A" THROUGH "I" PERTAINING TO THIS
ISSUE, COUNSEL FELL WELL BELOW THE STANDARD OF COUNSEL APPOINTED
IN SUCH MATTERS. IT IS PERSPICUOUS THAT THE OUTCOME OF THE PRO-
CEEDINGS WOULD HAVE BEEN DIFFERENT HAD THESE INJUSTICES NOT
OCCURRED AND THEY WERE PROPERLY AND TIMELY CHALLENGED BY THE
DEFENSE COUNSEL INSTEAD OF HE CONSPIRING UNDER COLOR OF STATE
LAW WITH THE ATTORNEY GENERAL'S OFFICE IN EGREGIOUS ACTS OF
PROSECUTIONAL MISCONDUCT, CRIMINAL CONSPIRACY, FRAUD UPON THE
COURT AND OBSTRUCTION OF JUSTICE IN THEIR EFFORTS TO CONCEAL
MATERIAL FACTS IN VIOLATION OF 18 U.S.C. §§ 242 AND 1001 AS
WELL AS IN VIOLATION OF BOTH STATE AND FEDERAL LAW WHICH RENDER
THE ENTIRE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THE TRIAL
COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION. IT IS
A REQUIREMENT THAT CANNOT BE DEEMED SATISFIED BY MERE NOTICE
IF THE STATE HAS CONTRIVED A CONVICTION THROUGH THE PRETENSE
OF A TRIAL WHICH IN TRUTH DEFIES JUSTICE AND FAIRNESS AND IS
USED AS A MEANS TO DEPRIVE A DEFENDANT OF LIBERTY THROUGH THE
DELIBERATE DECEPTION OF THE JURY AND APPLICANT PRODUCED BY FRAUD
UPON THE COURT, MODERN DAY SLAVERY AND IS INCONSISTENT WITH
THE TRUE FACTUAL REQUIREMENTS OF DUE PROCESS, VIOLATING CLEAR
STATUTORY PROVISIONS AND THE U.S. CONSTITUTION. SUCH CONTRIVANCE
BY A STATE TO PROCURE THE CONVICTION AND IMPRISONMENT OF A DEFEN-
DANT IS INCONSISTENT WITH THE RUDIMENTARY DEMANDS OF JUSTICE,
HAY GROUP MANAGEMENT INC. v. SCHNEIDER SUPRA.; MDC INNOVATIONS,
LLC. v. NORTHERN SUPRA.; HAMER v. NEIGHBORHOOD HOUSING SERVICES
OF CHICAGO SUPRA.; DUBINKA v. JUDGES OF SUPERIOR OF THE STATE
OF LOS ANGELES, 23 F3d. 218; HICKS v. OKLAHOMA, 447 U.S. 343,
346, 100 S.Ct. 2227, 2229, 65 L.Ed.2d. 175(1980); NELSON v.
COLORADO, 137 S.Ct. 1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205
(U.S.2017); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d.
599; WHITE v. MANIS, 2014 WL 1513280(DSC.2014); BLUE SKY TRAVEL

AND TOURS, LLC. v. AL TAYYAR, --Fed. Appx'--, 2015 WL 1451636
CA4 (Va.2015); WILLIAMS v. UNITED STATES, CA5 (FLA.) 1950, 179
F2d. 656 CERT. GRANTED 71 S.Ct. 341 U.S. 97, 95 L.Ed. 774; BROWN
v. UNITED STATES, CA6 (TENN.) 1953, 204 F2d. 512 CERT. DENIED
85 S.Ct. 649, 375 U.S. 972, 13 L.Ed.2d. 564. 144

BY THIS FRAUD AND CONSPIRING UNDER COLOR OF STATE LAW,
THE APPLICANT WAS DENIED THE EQUAL PROTECTION OF THE LAWS. THE
GOVERNMENT "[M]UST [A]LWAYS" BE HELD ACCOUNTABLE TO JUDICIARY
FOR A MAN'S IMPRISONMENT, AND THE RESTRAINTS ON LIBERTY IF THE
IMPRISONMENT DOES NOT CONFORM TO THE BASIC REQUIREMENTS OF DUE
PROCESS LAW. BY THE INJUSTICES ASSERTED WITHIN THIS CASE. IT
IS AS IF THE APPLICANT WITNESS TO TRIAL WITH NO COUNSEL AT ALL.
THEREFORE, THE SENTENCE AND CONVICTION MUST BE REVERSED AND
VACATED IN FUNDAMENTAL FAIRNESS TO THE APPLICANT, SHELTON v.
CICCONI, CA8 (MO.) 1978, 578 F2d. 1241; EVITT v. LUCY, 469 U.S.
AT 387, 105 S.Ct. 830, 83 L.Ed.2d. 831(1985); GRAY, 800 F2d.
AT 646; POWELL v. ALABAMA, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed.
158(1932); STRICKLAND v. WASHINGTON, 466 U.S. 668, 104 S.Ct.
2052, 80 L.Ed.2d. 674(1984); MARTINEZ v. RYAN, 132 S.Ct. 1309
(U.S.2012); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.
Miss.2017); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265
CA4 (N.C.2017); PCS NITROGEN INC. v. ROSS DEVELOPMENT CORP.,
126 F.Supp.3d. 611(DSC.2015); YATES v. FORD MOTOR CO., --F.Supp.3d.
-- , 2015 WL 6758983(E.D.N.C.2015); JOHNSON v. UNITED STATES,
--S.Ct.--, 2015 WL 2473450(U.S.2015). BEFORE A STRUCTURAL ERROR
CAN BE DEEMED HARMLESS THE COURT MUST BE ABLE TO DECLARE IT
WAS HARMLESS BEYOND A REASONABLE DOUBT, WHICH IN THIS CASE THE
COURT CANNOT DO RENDERING THE TRIAL PROCEEDINGS THAT OCCURRED
IN THIS CASE UNCONSTITUTIONAL VOIDING THE TRIAL COURT'S JURIS-
DICTION, ALBERTO GONZALEZ-FIGUEROA JR., PETITIONER v. WARREN
L. MONTGOMERY, 2019 WL 914128(S.D.Cali.2019); MURPHY v. WINN,
2019 WL 586095(D.C.Mich.2019); PEOPLE v. CALIALIAK, 2018 WL
5084834, * 6+ GUAM TERR.

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EXHIBIT, "INEFFECTIVE ASSISTANCE # 2"

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(§) DID THE TRIAL COURT ERR, AND WAS COUNSEL APPOINTED AND OR HIRED TO REPRESENT THE APPLICANT INEPT. AND CONSTITUTIONALLY INEFFECTIVE IN VIOLATION OF THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS IN VIOLATION OF ARTICLE IV § 2, AND HIS DUE PROCESS RIGHTS WHICH LED TO AN UNFAIR AND PARTIAL TRIAL AND OR GUILTY PLEA THAT WAS NOT KNOWINGLY, VOLUNTARILY AND OR INTELLIGENTLY GIVEN CREATING AN EGREGIOUS MISCARRIAGE OF JUSTICE RENDERING THE PROCEEDINGS UNCONSTITUTIONAL WHICH VOIDS THE GENERAL SESSIONS COURT'S JURISDICTION FOR THAT UNCONSTITUTIONAL ACTION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS v. AETNA LIFE INS. CO. SUPRA.; STATE v. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH. EDITION.).

THE 6TH. AMENDMENT MANDATES THAT STATE BEAR RISK OF CONSTITUTIONALLY DEFICIENT ASSISTANCE OF COUNSEL. GUARANTEE OF EFFECTIVE ASSISTANCE OF COUNSEL DOES NOT BELONG SOLELY TO THE INNOCENT AND DOES NOT ATTACH ONLY TO MATTERS AFFECTING DETERMINATION OF ACTUAL INNOCENCE, CORNEJO v. LIZARRAGA, 2018 WL 1567821, * 2 E.D.Cal.; GREEN v. JOHNSON, 2006 WL 3746138, * 12+ E.D.Va.; LAFLEER v. COOPER, 556 U.S. 156, 132 S.Ct. 1376, 182 L.Ed.2d. 398 (U.S.2012).

THE CHOICE OF WHETHER TO REPRESENT YOURSELF IS NOT ALL OR

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NOTHING, AS TO GAIN ASSISTANCE, A DEFENDANT NEED NOT SURRENDER CONTROL ENTIRELY TO COUNSEL; FOR THE SIXTH AMENDMENT, IN GRANTING THE ACCUSED "PERSONALLY" (EMPHASIS ADDED) THE RIGHT TO MAKE HIS DEFENSE SPEAKS OF THE "ASSISTANCE" OF COUNSEL, AND AN ASSISTANT, HOWEVER EXPERT, IS STILL AN ASSISTANT. THUS, THESE JURISDICTIONAL ISSUES SHOULD HAVE NEVER BEEN ILLEGALLY ATTEMPTED TO BE WAIVED OR FORFEITED BY PRIOR COUNSEL CONSPIRING UNDER COLOR OF STATE LAW WITH THE PROSECUTOR AND COURT, AND IT DOESN'T MATTER WHERE ANYONE MAY CLAIM THAT THE PETITIONER GOTTEN THE ISSUES FROM. THIS INCLUDES THIS PRESENT PCR PROCEEDINGS. IF THE APPLICANT COLLECTIVELY RESEARCHED THEM AFTER BEING MADE AWARE OF THEM AND THE APPLICANT PERSONALLY DETERMINES THAT THE ISSUES PRESENTED DIRECTLY AFFECT THE APPLICANT'S CONVICTION, AND THE APPLICANT BY HIS CONSTITUTIONAL DUE PROCESS RIGHT OF AUTONOMY DECIDE TO PLACE THEM BEFORE THE COURT IN HIS DEFENSE? IT DOESN'T MATTER IF THE PROSECUTOR AND OR COURT CLAIMS THE LEGAL ISSUES COME FROM "BARACK OBAMA", "SADAM HUSSAIN", "MICHAEL JACKSON", OR ANOTHER INMATE ei. "LAWRENCE CRAWFORD" WHO MAY HAVE ASSISTED ME IN THE RESEARCH AND DEVELOPMENT OF THE LEGAL ISSUES, OR THEY CAME FROM "THE INCREDIBLE HULK", OR "IRON MAN" OR "SPIDERMAN". THIS AND ANY PRIOR PCR ARE THE APPLICANT'S CASE(S) AND THE APPLICANT BY HIS RIGHT OF AUTONOMY HAVE A CONSTITUTIONAL DUE PROCESS RIGHT TO PERSONALLY SUBMIT WHAT LEGAL ISSUES HE SEES FIT AND HE HAS A CONSTITUTIONAL DUE PROCESS RIGHT TO DEFEND BY ANY MEANS NECESSARY THAT IS PERMITTED BY LAW. THESE LEGAL ISSUES ARE PRESENTED EXERCISING THAT CONSTITUTIONAL DUE PROCESS RIGHT OF AUTONOMY, BROADNAX v. STATE, 2019 WL 1450399 (TENN.2019); DAWN v. UNITED STATES, 411 F.Supp.3d. 90, 98 D.Mass.; MCCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821(U.S.2018): A VIOLATION OF AUTONOMY IS COMPLETE WHEN THE COURT WOULD ALLOW STATE APPOINTED COUNSEL, PAST OR FUTURE, OR THE PROSECUTOR OR THE COURT ITSELF TO USURP CONTROL OF THE PETITIONER PLACING FORTH ISSUES THAT ARE WITHIN THE PETITIONER'S SOLE PREROGATIVE, SUCH AS THE ISSUES THE PETITIONER NOW SEEKS TO PLACE BEFORE THIS COURT. SUCH AN ERROR IS NOT SUBJECT TO HARMLESS ERROR REVIEW, WILLIAMS v. UNITED STATES, 2018 WL 4656231 (D.CONN.2018); UNITED STATES v. COBBLE, 2018 WL 339-of-406

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~~22~~ A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL. TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF COUNSEL, A PETITIONER MUST SHOW, PURSUANT TO THE TWO PRONG TEST ENUNCIATED IN STRICKLAND v. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674(1984), THAT (1) HIS COUNSEL WAS DEFICIENT IN HIS REPRESENTATION AND (2) HE WAS PREJUDICED AS A RESULT AS THE PETITIONER DID WITHIN THIS DOCUMENT ID. AT. 687; ALSO SEE WILLIAMS v. TAYLOR, 529 U.S. 362, 391, 120 S.Ct. 1495, 146 L.Ed.2d. 389(2000)(STATING THAT THE STRICKLAND TEST PROVIDES SUFFICIENT GUIDANCE FOR RESOLVING VIRTUALLY ALL INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS).

TO SATISFY THE FIRST PRONG OF STRICKLAND, A PETITIONER MUST SHOW THAT TRIAL AND OR PLEA COUNSEL'S ERRORS WERE SERIOUS ENOUGH THAT HIS PERFORMANCE FELL WELL BELOW THE OBJECTIVE STANDARD OF REASONABLENESS GUARANTEED BY THE 6TH. AMENDMENT OF THE U.S. CONSTITUTION. WITH REGARD TO THE SECOND PRONG OF STRICKLAND, THE APPLICANT MUST SHOW THAT THERE IS A REASONABLE POSSIBILITY THAT, BUT FOR COUNSEL'S PERFORMANCE AND UNPROFESSIONAL ERRORS, LIKE HE CONSPIRING UNDER COLOR OF STATE LAW WITH THE COURT AND PROSECUTOR TO "THROW THE APPLICANT UNDER THE BUS", THE RESULTS OF THE PROCEEDINGS WOULD HAVE BEEN DIFFERENT, STRICKLAND, 446 U.S. AT. 694.

THE APPLICANT'S 5TH., 6TH., 14TH. AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED, AS WELL AS ARTICLE IV § 2, ALSO HIS RIGHTS UNDER ARTICLE 1 § 10 OF THE S.C. CONSTITUTION WERE VIOLATED, AS WELL AS HIS DUE PROCESS RIGHTS WERE VIOLATED AND HE WAS DENIED THE EQUAL PROTECTION OF THE LAWS, IN THAT THE APPLICANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE 6TH. AND 14TH. AMENDMENT(S) OF THE U.S. CONSTITUTION AS WELL AS IN VIOLATION OF ARTICLE 1 §§ 3 AND 14 OF THE S.C. CONSTITUTION.

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~~21~~ AMONG OTHER THINGS, COUNSEL WAS INEFFECTIVE FOR FAILING TO


INVESTIGATE THE LEGAL ISSUES PRESENTED AND OR OBJECT TO THE ISSUES ARGUED WITHIN THIS DOCUMENT TO ENSURE THAT THEY WERE ESTABLISHED WITHIN THE COURT RECORD AND TO PRESERVE THEM FOR APPELLATE REVIEW. AN OBJECTION WAS REQUIRED TO PRESERVE THE ISSUES PLACING HIM IN A POSITION WHERE HE FELL FAR BELOW THE STANDARD OF COUNSEL APPOINTED IN THESE CIRCUMSTANCES PRODUCING OVERWHELMING PREJUDICE AIDING TO DENY ME THE EQUAL PROTECTION OF THE LAWS CONSPIRING UNDER COLOR OF STATE LAW WITH THE PROSECUTOR TO THROW THE APPLICANT UNDERNEATH THE BUS. THIS DENIED ME FAIR, PROPER AND TIMELY REVIEW ON DIRECT APPEAL AS THEY DONE ON COLLATERAL REVIEW, HAD THESE ISSUES BEEN TIMELY INVESTIGATED, OBJECTED TO AND PRESERVED. THIS TOO DEMONSTRATE THE PREJUDICE.

YES, THE INEFFECTIVENESS OF THE ASSISTANCE OF COUNSEL BY HIS FAILURE TO INVESTIGATE THE CLAIMS AND TIMELY OBJECT AND PRESERVE THESE ISSUES EVEN HINDERED REVIEW UPON DIRECT AND OR COLLATERAL APPEAL, BUT THE "FRAUD UPON THE COURT" INVOLVED WHERE THE COURT WAS PRIVY TO THE INJUSTICE, FREES THE APPLICANT OF ALL PROCEDURAL LIMITATIONS WHICH THE STATE, COURT AND PARTIES CAN POSSIBLY ASSERT IN THIS PRESENTLY SUBMITTED POST CONVICTION RELIEF APPLICATION. THUS, RES JUDICATA NOR COLLATERAL ESTOPPEL ATTACHES TO ANY CLAIM THAT THE APPLICANT MAY HAVE HAD OR ATTEMPTED TO HAVE HEARD IN ANY PRIOR PROCEEDING WOULD HINDER MY ABILITY TO HAVE ALL MATTERS HEARD WITHIN THIS PRESENT ACTION, ESPECIALLY IN LIGHT OF THE FACT THAT THE ISSUES ARE ALSO JURISDICTIONAL IN NATURE BY THE LITIGATION PRESENTED. THIS INCLUDE ANY CLAIM THAT THE APPLICANT MAY HAVE ADDITIONAL ACTION ALSO PENDING, SUCCESSIVE OR STATUTE OF LIMITATIONS CLAIMS. THESE WOULD BE PROCEDURAL LIMITATIONS WHERE THIS ACTION IS FILED UNDER THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT. THE STATE MAKING THESE PROCEDURAL LIMITATION ASSERTIONS WOULD NOT HAVE MERIT UNDER THESE CIRCUMSTANCES. TO CONSPIRE TO TAKE AWAY REMEDY BY THE UNCONSTITUTIONAL ACTIONS ARGUED WITHIN THIS DOCUMENT, REMEDY GIVEN TO THE APPLICANT FOR THE ENFORCEMENT OF CONSTITUTIONALLY PROTECTED RIGHTS, IS TO TAKE AWAY THE DUE PROCESS RIGHT ITSELF. SUCH WOULD NOT BE WITHIN THE POWER OR

DISCRETION OF THE STATE OR THIS COURT. UNDER FEDERAL LAW, WHICH IS APPLICABLE TO THE STATES, THAT IF A COURT OR PARTIES IS "WITHOUT AUTHORITY", SUCH AS DUE TO THE JURISDICTIONAL CLAIMS MADE OR DUE TO THE FRAUD UPON THE COURT AND THE STRUCTURAL CONSTITUTIONAL ERRORS ARGUED WITHIN THIS CASE, CONSPIRING TO CONCEAL MATERIAL FACTS AND BE SILENT ON THESE CLAIMS, WHICH ARE ALL UNCONSTITUTIONAL VIOLATING DUE PROCESS LAW; ITS JUDGMENTS AND OR ACTS AND OR ORDERS AND OR DECREES ARE REGARDED AS NULLITIES. THEY ARE NOT VOIDABLE, BUT SIMPLY VOID, AND FORM NO BAR TO RECOVERY SOUGHT, EVEN PRIOR TO REVERSAL IN OPPOSITION OF THEM. THEY CONSTITUTE NO JUSTIFICATION, AND ALL PERSONS CONCERNED IN EXECUTING SUCH ACTS OR JUDGMENTS OR SENTENCES OR CONVICTIONS ARE CONSIDERED IN LAW AS "TRESPASSERS OF THE LAW". THE FRAUD ARGUED EFFECTS EVEN THE MOST SOLEMN ACTS OR JUDGMENTS OR DECREES. LABEO DEFINES FRAUD AS ANY CUNNING DECEPTION OR ARTICLE USED TO CIRCUMVENT OR DECEIVE ANOTHER. MR. WELLS, IN HIS VERY WORK ON RES JUDICATA SAYS SEC. 499, "FRAUD VITIATES EVERYTHING", ELLIOTT v. PIERSOL, 1 PET. 328, 340, 26 U.S. 328, 340(U.S.1828); NUDD v. BURROWS, 91 U.S. 667-683(U.S.1875); U.S. v. THROCKMORTON, 98 U.S. 61-67(U.S.1871); WELLS FARGO BANK N.A. v. FARAG, 2016 WL 2944561 (2016); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624(4th.Cir.2016); TRINSEY v. PAGLIARO, 229 F.Supp. 647(D.C.Pa.1964); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.Miss.2017); NELSON v. COLORADO, 137 S.Ct. 1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205(U.S.2017); BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723(U.S.2016). ALSO SEE STATE v. DUNBAR, 356 S.C. 138, 142, 587 S.E.2d. 691, 693-94(2003)(IN ORDER FOR AN ISSUE TO BE PRESERVED FOR APPELLATE REVIEW, IT MUST HAVE BEEN RAISED TO AND RULED UPON BY THE TRIAL JUDGE. ISSUES NOT RAISED AND RULED UPON IN THE TRIAL COURT WILL NOT BE CONSIDERED ON APPEAL.); STATE v. SMITH, 337 S.C. 27, 32, 522 S.E.2d. 598, 600(1999)(A RULING IN LIMINE IS NOT FINAL UNLESS AN OBJECTION IS MADE AT THE TIME THE EVIDENCE IS OFFERED AND A FINAL RULING PROCURED, THE ISSUE IS NOT PRESERVED FOR REVIEW.); STATE v. ROGERS, 361 S.C. 178, 183, 603 S.E.2d. 910, 912-913(Ct.App.2004); I'O'R', LLC. v. TOWN OF MT. PLEASANT, 338 S.C. 406, 422, 526

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S.E.2d. 716, 724(2000); STATE v. SIMPSON, 325 S.C. 37, 42, 479
S.E.2d. 57, 60(1996); STATE v. SHUMPERT, 312 S.C. 502, 507, 435
S.E.2d. 859,862(1993); STATE v. GRIFFIN, 339 S.C. 74, 77, 528
S.E.2d. 668, 669(2000); HOLROYD v. REQUA; 361 S.C. 43, 603
S.E.2d. 417(2006); U.S. v. HALL, 858 F3d. 254 (4th.Cir.2017):

INASMUCH, COUNSEL THAT WAS HIRED BY THE APPLICANT AND OR WAS APPOINTED BY THE STATE TO REPRESENT THE APPLICANT WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE FOR THE FOLLOWING REASONS:

(A) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN THE INDICTMENT(S) POSSESSED A STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT, WHERE BY THE LANGUAGE AND OR CHARGE CONTAINED THEREIN, IT, THEY, TOOK AWAY THE APPLICANT'S PRESUMPTION OF INNOCENCE, PREDETERMINED IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, WHERE THE GRAND JURY BY THEIR LANGUAGE TOOK UPON THEMSELVES THE ROLE OF THE TRIAL JURY AND ADJUDICATED GUILT IN VIOLATION OF THEIR SHIELDING FUNCTION, AND AUTOMATICALLY SHIFTED THE BURDEN OF PERSUASION TO THE DEFENDANT BY SUCH LANGUAGE AND OR CHARGE. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE. ANY RUDIMENTARY ATTORNEY KNOWS THE THE PRESUMPTION OF INNOCENCE BLANKETS THE DEFENDANT BEFORE HE IS CONVICTED BY A TRIAL OR HE PLEAS GUILTY. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S). COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW IN ACTS OF PROSECUTIONAL MISCONDUCT AND IN VIOLATION OF THE CODE OF PROFESSIONAL ETHICS WITH THE PROSECUTOR TO COMMENCE WITH AND OR BRING THE APPLICANT TO TRIAL AND OR TO MANIPULATE THE APPLICANT INTO GIVING A GUILTY PLEA THAT WAS NOT KNOWINGLY, VOLUNTARILY OR INTELLIGENTLY GIVEN ON OFFENSES THE GRAND JURY BEING DULY SWORN, ILLEGALLY TAKING UPON THEMSELVES THE ROLE OF THE TRIAL JURY AND BY THEIR LANGUAGE, GOING BEYOND THE SCOPE OF THE POWER AND AUTHORITY GIVEN TO THEM BY EITHER STATE AND FEDERAL LAW AND OR STATE AND FEDERAL CONSTITUTION(S),

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~~302~~ ALREADY, PREMATURELY, UPON THEIR OATH, AN ILLEGAL OATH, ADJUDICATED AND DETERMINED IN ADVANCE THE OUTCOME OF THE PROCEEDINGS AND THE APPLICANT'S GUILT IN CLEAR VIOLATION OF THEIR SHIELDING FUNCTION; ALSO THE APPLICANT'S RIGHT TO DOUBLE JEOPARDY PROTECTION, THE EQUAL PROTECTION OF THE LAWS AND DUE PROCESS MAKING THE PROCEEDINGS UNCONSTITUTIONAL VOIDING THE COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION. THIS PRODUCES SHAM LEGAL PROCESS, FRAUD UPON THE COURT, PROSECUTORIAL MISCONDUCT AND THE ESTABLISHING OF MODERN DAY SLAVERY AND VIOLATION OF THE VOTING RIGHTS ACT WHERE DUE TO THE ILLEGAL CONVICTION THE STATE HAS TAKEN AWAY OUR RIGHT TO VOTE. THEN THE COURT CONSTRUCTIVELY AMEND THE INDICTMENT(S) ON THE "MENS REA" ELEMENTS IN AN ILLEGAL ATTEMPT TO CURE THE MANIFEST INJUSTICE. THIS CANNOT BE DEEMED REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY IN THAT THE REALITY EXIST, BY THE LANGUAGE CONTAINED WITHIN THE INDICTMENT(S) PRESENTED, THAT THE GRAND JURY NEVER INTENDED ANY SUBSEQUENT TRIAL PROCEEDINGS TO OCCUR. DOUBLE JEOPARDY BY THE ILLEGAL LANGUAGE ATTACHES. THE BURDEN OF PERSUASION IS CLEARLY SHIFTED IN VIOLATION OF DUE PROCESS LAW. A CURATIVE INSTRUCTION "BOILERPLATE" DO NOT CURE THE DUE PROCESS PROBLEM. THIS PREJUDICED THE APPLICANT LEADING TO AN UNFAIR AND PARTIAL TRIAL AND OR LED TO A GUILTY PLEA THAT WAS NOT KNOWINGLY, VOLUNTARILY OR INTELLIGENTLY GIVEN.

(B) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE PROSECUTORS OF THE COUNTY INVOLVED HERE CONTINUED IN THEIR CONSISTENT BEHAVIOR OF CLOCK STAMPING INDICTMENTS PRETENDING THAT THERE WAS A LEGITIMATE, FAIR AND PROPER GRAND JURY REVIEW AND INVESTIGATION WHEN NO SUCH PROPER REVIEW AND OR INVESTIGATION OCCURRED. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. OVER (70) DEFENSE ATTORNEYS IN YORK COUNTY THE WEEK OF AUGUST 9, 2018 CAUGHT THESE INDIVIDUALS "RED HANDED" IN THESE EGREGIOUS ACTS OF MANIFEST INJUSTICE AND ACTS OF FRAUD UPON THE COURT WHERE THE COURTS WERE

PRIVY TO IT AND THEY TIMELY CHALLENGED IT. THIS INEPT AND CONSTITUTIONALLY INEFFECTIVE ATTORNEY COULD HAVE DONE THE SAME THING. COUNSEL SHOULD HAVE DONE AN ADEQUATE AND PROPER INVESTIGATION HIMSELF INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW IN ACTS OF FRAUD UPON THE COURT WITH THE TRIAL COURT AND STATE PROSECUTOR IN ACTS OF PROSECUTORIAL MISCONDUCT IN VIOLATION OF THE CODE OF PROFESSIONAL ETHICS. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE ON THE COURT RECORD AND SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S) THE SAME WAY THE OTHER ATTORNEYS DID IN YORK COUNTY THE WEEK OF AUGUST 9, 2018. THE COURT DETERMINED COUNSEL WAS INEFFECTIVE WHERE THEY FAILED TO DO ANY PRETRIAL INVESTIGATION, AND FILE THE APPROPRIATE MOTIONS INCLUDING ALLOWING THE APPLICANT TO REVIEW THE STATE GRAND JURY PANEL DOCUMENTS WHICH IS PERMITTED TO DO PURSUANT TO S.C. CODE ANN. § 14-7-1770, RICE v. PALE, F.Supp.3d., 2014 WL 8335449 (DSC.2014).

(C) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE TRIAL COURT WENT BEYOND THE (180) DAY AND OR (365) DAY DEADLINE, WHICHEVER IS APPLICABLE, MANDATE AS PROSCRIBED BY JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT PURSUANT TO THE PROVISIONS OF ARTICLE V § 4 OF THE S.C. CONSTITUTION, WHERE SUCH BECAME DRACONIAN SINCE THE S.C. SUPREME COURT BY ITS DISCRETIONARY POWER ATTACHED THE PROVISION TO THE S.C. CONSTITUTION VIA ARTICLE 1 § 23 PRODUCING LEGISLATIVE INTENT. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. ONCE THE PROVISION WAS ATTACHED TO THE S.C. CONSTITUTION IT BECAME MANDATORY PURSUANT TO ARTICLE 1 § 23. THE COURTS AND PROSECUTOR CANNOT SUBTLY OR FORCIBLY EXPAND THE STATUTE SET IN PLACE BY THE S.C. LEGISLATORS. SUCH WOULD PRODUCE AN EGREGIOUS VIOLATION OF THE SEPARATION OF POWERS CLAUSE RENDERING THE ACTS OF THE COURT AND PROSECUTOR A VIOLATION OF DUE PROCESS PRODUCING UNCONSTITUTIONAL ACTION WHICH WOULD VOID THE COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION. THE COURT WAS PROHIBITED FROM

~~202~~ ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS". THE APPLICANT SHOULD BE HOME BY NOW. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE AND MOTIONED FOR FORFEITURE, DEFAULT AND JUDGMENT. COUNSEL SHOULD HAVE EVEN MOTIONED FOR A MISTRIAL AND OR TO INVALIDATE THE PLEA. COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR CREATING AND OR INITIATING AN ILLEGAL CRIMINAL PROCEEDING IN ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT WHERE THE COURT WAS PRIVY TO IT WHICH STOOD IN BLATANT DEFIANCE TO JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT AND LEGISLATIVE INTENT WHERE THE SUPREME COURT ATTACHED THIS PROVISION TO THE S.C. CONSTITUTION MAKING IT "MANDATORY", "DRACONIAN" BY THE LANGUAGE CONTAINED THEREIN AND ARTICLE 1 § 23. I AM ARGUING AGAINST THE PRECEDENT SET IN PLACE BY STATE v. LANGFORD SUPRA. AND STATE v. GENTRY SUPRA. VIA RULES OF APPELLATE COURT PROCEDURE, RULE 217. THE UNITED STATES SUPREME COURT ADDRESSED MATTERS SUCH AS THIS UNDER THE CASE OF BETTERMAN v. MONTANA, 136 S.Ct. 1609 (U.S. 2016) WHERE THE COURT DETERMINED THAT THE VARIOUS STATES HAVE SUCH TIMELINES AND WHEN THEY FAIL TO ADHERE TO THEIR OWN STATE LAWS MADE MANDATORY BY THEIR STATES CONSTITUTIONS, SUCH A VIOLATION OF DUE PROCESS LAW WOULD OPEN THE DOOR TO TAILORED RELIEF UNDER THE 5TH. AND 14TH. AMENDMENTS AMONG OTHER POTENTIAL RELIEF THAT SHOULD BE GIVEN. THE TRIAL COURT CANNOT BE PERMITTED IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE TO SUBTLY OR FORCIBLY EXPAND THE STATUTORY PROVISIONS THAT DICTATE ONCE THE PROVISIONS OF LAW IN QUESTION ARE ATTACHED TO THE S.C. CONSTITUTION ITS ADHERENCE BECOMES MANDATORY. THE TRIAL COURT CANNOT BE PERMITTED TO COMMENCE WITH A PROCEEDING, IN FUNDAMENTAL FAIRNESS TO THE APPLICANT, THAT STANDS IN BLATANT DEFIANCE TO DUE PROCESS LAW. WITHOUT AN ESSENTIALLY NEEDED "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE TIMELY FILED WITHIN THE TRIAL COURT AND OR PCR COURT IF RELEVANT, FILED WITHIN THE COURTS IN QUESTION PRIOR TO THE EXPIRATION OF THE (180) DAY AND OR (365) DAY DEADLINE WHICHEVER IS APPLICABLE, THE TRIAL COURT AND OR PCR COURT IF RELEVANT WERE PROHIBITED FROM ENACTING

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~~AND~~ AND OR INVOKING AND OR CONTINUING THEIR "[P]OWERS" OF SUBJECT MATTER JURISDICTION EVEN THOUGH THEY DO INDEED POSSESS SUCH POWER GIVEN TO THEM BY STATUTE. THEY VIOLATED DUE PROCESS. IF IT VIOLATES DUE PROCESS IT IS CONSTITUTIONAL. IF IT IS UNCONSTITUTIONAL IT VOIDS THE CRIMINAL COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. THIS IS NOT ROCKET SCIENCE. ITS NOT COMPLICATED TO UNDERSTAND. THUS, THE SENTENCE AND CONVICTION MUST BE VACATED.

(D) COUNSEL FOR THE PAST PCR APPLICATION WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, EVEN PURSUANT TO MARTINEZ V. RYAN, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS UNDER CASE 2017-CP-10-2656, IN THAT WHEN THE COURT OF GENERAL SESSIONS WENT BEYOND THE (365) DAY DEADLINE MANDATED AND PROSCRIBED BY JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT PURSUANT TO THE PROVISIONS OF ARTICLE V § 4 WHICH IS COMPOUNDED BY S.C. LEGISLATIVE INTENT PURSUANT TO ARTICLE 1 § 23 OF THE S.C. CONSTITUTION AND ALL THE OTHER SUBSTANTIAL DUE PROCESS VIOLATIONS AND JURISDICTIONAL CLAIMS ARGUED OCCURRED IN THIS CASE. THE COURT AND PARTIES ENGAGED IN EGREGIOUS ACTS OF FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE TO CONCEAL THESE MATERIAL FACTS VIOLATING 18 U.S.C. §§ 241 AND 1001 CAUSING A DIRECT IMPACT ON THE PROCEEDINGS STILL PENDING UNDER CASE 2019-000398. THE UNCONSTITUTIONAL ACTION ARGUED RENDERS THE FINAL ORDER ISSUED UNDER CASE 2017-CP-10-2656 UNCONSTITUTIONAL AND VOIDS THAT PCR COURT'S JURISDICTION FOR THE UNCONSTITUTIONAL ACTS PRODUCED BY THE ISSUES PRESENTED. THE FINAL ORDER ISSUED IN CASE 2017-CP-10-2656 IS A "[J]URISDICTIONAL [P]REREQUISITE" TO THE S.C. SUPREME COURT ENTERTAINING JURISDICTION UNDER CASE 2019-000398 CREATING AN AUTOMATIC DIRECT CHALLENGE TO THE S.C. SUPREME COURT'S JURISDICTION, VOIDING THAT JURISDICTION UNDER CASE 2019-000398 FOR THE UNCONSTITUTIONAL ACTION ARGUED. IT WAS THE COURTS INVOLVED FIDUCIARY DUTY TO SPEAK ESPECIALLY IN LIGHT OF THE FACT THAT WE ARE DEALING WITH "JURISDICTIONAL" CHALLENGES

WHICH CANNOT BE WAIVED AND OR FORFEITED BY THE APPLICANT. THEIR AND THE COURT'S SILENCE ON THESE ISSUES OF CONCERN EQUATE WITH FRAUD VIOLATING DUE PROCESS LAW. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. THE PCR COURT IS IN FORFEITURE ALSO DUE TO THE OBSTRUCTION AND EFFORTS TO CONCEAL THESE MATERIAL FACTS AND THEY WERE PROHIBITED FROM ENACTING AND OR INVOKING AND OR CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY "[P]OWERS". THE ATTACK ON THESE ISSUES FOR FRAUD UPON THE COURT IS FREE OF ALL PROCEDURAL LIMITATION ESPECIALLY IN LIGHT OF THE FACT THAT THEY ARE ALSO JURISDICTIONAL IN NATURE BY THE LITIGATION PRESENTED. THE APPLICANT SHOULD BE HOME BY NOW DEMONSTRATING OVERWHELMING PREJUDICE. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS AND THE OTHER ISSUES AND MOTIONED FOR DEFAULT AND JUDGMENT. COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR CONTINUING TO THROW THE APPLICANT UNDERNEATH THE BUS IN ESSENTIALLY AN ILLEGAL PCR PROCEEDINGS THAT WAS UNCONSTITUTIONAL DUE TO THE DUE PROCESS VIOLATIONS ARGUED, ENGAGING IN FRAUD UPON THE COURT WHICH STOOD IN BLATANT DEFIANCE TO JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT WHICH THEY ATTACHED TO THE S.C. CONSTITUTION MAKING IT MANDATORY BY THE PROVISIONS OF ARTICLE 1 § 23 OF THE S.C. CONSTITUTION AND THE OTHER LEGAL ISSUES ARGUED CONTAINED WITHIN THIS DOCUMENT. THIS EXTREMELY PREJUDICED THE APPLICANT'S DUE PROCESS MATTERS PRODUCING A PCR PROCEEDING THAT WAS LEGALLY IN FORFEITURE BY THE ISSUES PRESENTED THAT WERE CONCEALED FROM THE APPLICANT. I AM ARGUING AGAINST THE PRECEDENT SET IN PLACE BY STATE V. LANGFORD SUPRA. AND STATE V. GENTRY SUPRA. VIA RULES OF APPELLATE PROCEDURE, RULE 217. THE PRIOR ISSUE IS SIMILAR IN NATURE. THE COURTS AND STATE ACTORS CANNOT BE PERMITTED TO VIOLATE THE SEPARATION OF POWERS CLAUSE BY THE SUBTLE AND OR FORCIBLE EXPANSION OF THE STATUTES IN QUESTION ESTABLISHING LEGISLATIVE INTENT. THUS, THE STATE MUST BE DEEMED IN FORFEITURE ON ALL ISSUES THAT WERE HEARD AND OR THAT ARE ARGUED UNDER BOTH CASES 2017-CP-10-2656 AND 2019-000398 AND THE SENTENCE AND CONVICTION

MUST BE VACATED WHICH THE APPLICANT SEEKS.

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(E) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE COURT AND OR PROSECUTING BODY FAILED TO APPRISE THE APPLICANT OF THE ESSENTIAL, CRUCIAL ELEMENTS OF THE OFFENSES, OR THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION TO WHICH HE WAS TO GO TO TRIAL AND OR GIVE HIS GUILTY PLEA, "ON THE COURT RECORD", HAVING TWO DIFFERENT CHARGES IN THE INDICTMENT(S). COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL LIED IN VIOLATION OF THE CODE OF PROFESSIONAL ETHICS. THE COURT WAS SPECIFIC WHEN IT INQUIRED OF THE STATE APPOINTED ATTORNEY DID SHE APPRISE THE APPLICANT OF HIS DUE PROCESS RIGHTS BEFORE HE PLED. THE STATE APPOINTED COUNSEL WAS FULLY AWARE OF HER DUTY NOT TO MERELY GIVE SOME VAGUE AFFIRMATION. ANY ADEQUATE ATTORNEY KNEW FULLY WELL THAT SUCH ADVISING OF THESE SPECIFIC RIGHTS, NAMELY, BE APPRISED OF THE ELEMENTS OF THE OFFENSES "[M]UST" BE DONE "ON THE COURT RECORD" WHICH IS PERSPICUOUS SUCH DID NOT OCCUR IN THE APPLICANT'S CASE VIOLATING HIS SUBSTANTIAL RIGHTS OF DUE PROCESS RENDERING THE PROCEEDINGS UNCONSTITUTIONAL VOIDING THE COURT'S JURISDICTION FOR THE UNCONSTITUTIONAL ACTION ARGUED.

(F) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHEN THE INDICTMENT CHARGED TWO MATERIALLY DIFFERENT AND DISTINCT OFFENSES OF "MURDER" AND "ATTEMPTED MURDER" IN THE BODY OF THE CHARGING INSTRUMENT WHERE NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY AS TO WHETHER THEY INTENDED THAT THE APPLICANT PLEA OR BE BROUGHT TO TRIAL FOR ATTEMPTED MURDER AS OPPOSED TO MURDER. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE AT LEAST OBJECTED TO PRESERVE THIS ISSUE IN THE COURT RECORD FOR PURPOSES OF APPEAL. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S) BASED UPON THE STATE'S INABILITY TO PROVE ALL THE VARIOUS ELEMENTS AND OR ALLEGATIONS WITHIN THE INDICTMENT(S) INSTEAD OF CONSPIRING UNDER COLOR OF

STATE LAW WITH THE PROSECUTOR TO DENY THE APPLICANT THE EQUAL PROTECTION OF THE LAWS ENGAGING IN ACTS OF FRAUD UPON THE COURT WHERE THE COURT WAS PRIVY TO THIS INJUSTICE. IF YOU TAKE A FATALLY DEFECTIVE INDICTMENT AND BRING IT BEFORE THE CRIMINAL COURT FOR THE PURPOSE OF OBTAINING AN ILLEGAL CONVICTION DEPRIVING THE DEFENDANT OF FAIR AND PROPER NOTICE CONSTRUCTIVELY AMENDING THE INDICTMENT ALL OVER THE PLACE. THOSE CRIMINAL PROCEEDINGS BECOME A VIOLATION OF DUE PROCESS PRODUCING UNCONSTITUTIONAL ACTION WHICH VOIDS THE COURTS INVOLVED JURISDICTION FOR THAT UNCONSTITUTIONAL ACTION. THIS IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. THUS, THE COURTS BEING GIVEN JURISDICTION BY LEGISLATIVE INTENT WOULD GIVE THE COURTS NO DEFENSE. THE APPLICANT IS ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE V. LANGFORD SUPRA. AND STATE V. GENTRY SUPRA. VIA RULES OF APPELLATE COURT PROCEDURE, RULE 217. SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY TIME, EVEN AFTER A FINAL ORDER OR DETERMINATION IS ISSUED WITHIN THE COURTS OF CONCERN AND CANNOT BE WAIVED OR FORFEITED BY THE APPLICANT. THE CONVICTION AND SENTENCE MUST BE VACATED WHICH THE APPLICANT MOVES FOR.

(G) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) OCCURRED BEFORE THE TRIAL COURT. COUNSEL SHOULD HAVE AT LEAST OBJECTED TO PRESERVE THIS ISSUE IN THE COURT RECORD FOR THE PURPOSE OF APPEAL. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S) BASED UPON THE STATE'S FAILURE TO GIVE THE APPLICANT FAIR AND PROPER NOTICE OF THE ALLEGATIONS BEING LEVIED AGAINST HIM AND OF WHAT THE APPLICANT IS TRULY CALLED UPON TO MEET AND DEFEND. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY. COUNSEL SHOULD HAVE MOVED TO QUASH THE INDICTMENT(S) BASED UPON THE STATE'S INABILITY TO PROVE ALL THE ESSENTIAL ELEMENTS AND MATERIALLY DIFFERENT SET OF FACTS, ESPECIALLY IN LIGHT OF THE FACT THAT WE HAVE TWO MATERIALLY DIFFERENT AND DISTINCT OFFENSES.

INSTEAD THE ATTORNEY CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTION AND COURT IN EGREGIOUS ACTS OF FRAUD UPON THE COURT, OBSTRUCTION OF JUSTICE, AND VIOLATIONS OF DUE PROCESS LAW DENYING THE APPLICANT THE EQUAL PROTECTION OF THE LAWS DID NOTHING VOIDING THE COURT'S JURISDICTION FOR UNCONSTITUTIONAL ACTION. CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE 5TH. AND 6TH. AMENDMENT WHEN SUCH AMENDMENT EFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE DEPRIVING THE APPLICANT OF NOTICE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE. BUT ONCE PREJUDICE IS CLEARLY SHOWN, ALONG WITH THE FRAUD UPON THE COURT THAT OCCURRED IN THIS CASE, THE SENTENCE AND CONVICTION MUST BE VACATED.

(H) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT ANY COMPETENT ATTORNEY, JUST AS THE APPLICANT DID, COULD SEE THAT THE S.C. SUPREME COURT ENGAGED IN ACTS OF FRAUD UPON THE COURT, MODERN DAY SLAVERY, VIOLATIONS OF THE VOTING RIGHTS ACT AND ABUSED THEIR DISCRETION IN THEIR HOLDINGS UNDER THE STATE v. GENTRY CASE. IT IS PERSPICUOUS THAT THERE ARE TWO PRONGS TO SUBJECT MATTER JURISDICTION AND THE S.C. SUPREME COURT PURPOSELY IN ACTS OF FRAUD UPON THE COURT ADJUDICATED THE ISSUE UNDER THE INCORRECT PRONG TO SUBJECT MATTER JURISDICTION. THESE JURISDICTIONAL CHALLENGES CANNOT BE WAIVED OR FORFEITED, CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN AFTER A FINAL ORDER HAS BEEN ENTERED. COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE AND ARGUE AGAINST THE PRECEDENT. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT(S) AND SOUGHT TO DISMISS THE CHARGES AND OR CASE BEFORE THE TRIAL AND OR PLEA COURT. IN EGREGIOUS ACTS OF FRAUD UPON THE COURT THE S.C. SUPREME COURT CRIMINALLY CHANGED FEDERAL LAW MADE APPLICABLE TO THE STATES STANDING UNCHALLENGED FOR WELL OVER 100 YEARS. THERE HAS ALWAYS BEEN ESSENTIALLY TWO PRONGS TO SUBJECT MATTER JURISDICTION AND THEY KNEW IT. THE S.C. SUPREME COURT ACTED IN CLEAR ACTS OF FRAUD UPON THE COURT BEHIND RACIAL HATRED AND OR ANIMUS, BECAUSE THEIR ACTIONS

DISPROPORTIONATELY TARGET THE AFRICAN AMERICANS AND OTHER MINORITIES OF THIS STATE, AND THEY PURPOSELY, KNOWINGLY, MALICIOUSLY TO OBSTRUCTED JUSTICE AND CONCEAL MATERIAL FACTS, ADJUDICATING THE ISSUE UNDER THE INCORRECT PRONG. IF YOU MAKE USE OF A FATALLY DEFECTIVE INDICTMENT IN CRIMINAL PROCEEDINGS THEN THE STATE AND COURT CONSTRUCTIVELY AMEND THE INDICTMENT(S) ALL OVER THE PLACE ON ESSENTIAL ELEMENTS OF THE OFFENSES CHARGED, THOSE CRIMINAL PROCEEDINGS BECOME UNCONSTITUTIONAL AND VIOLATE DUE PROCESS. ANYTHING THAT IS CONTRARY TO THE UNITED STATES CONSTITUTION IS VOID. BY THIS EGREGIOUS UNCONSTITUTIONAL ACTION PRODUCING OVERWHELMING PREJUDICE THE COURTS INVOLVED JURISDICTION IS MADE VOID AND IS AS IF THERE WERE NO CONVICTION OR JUDICIAL DETERMINATION MADE AT ALL. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE FOR APPELLATE REVIEW INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE AND THE S.C. SUPREME COURT AFTER THE FACT FOR THE PURPOSE OF ENGAGING IN EGREGIOUS ACTS OF PROSECUTIONAL MISCONDUCT AND FRAUD UPON THE COURT WHERE THE TRIAL COURT WAS ALSO PRIVY TO THESE INJUSTICES, CONCEALING MATERIAL FACTS IN VIOLATION OF 18 U.S.C. §§ 242 AND 1001 AS WELL AS IN VIOLATION OF STATE AND FEDERAL LAW TO LEAVE THE INMATES IN THIS STATE AND THE APPLICANT ESSENTIALLY "KIDNAPPED" IN THE GRIPS OF A CONVICTION THAT WAS CORRUPTED, TAINTED AND ILLEGALLY OBTAINED IN CLEAR VIOLATION OF ALSO S.C. CODE ANN. § 17-25-10. BY SUCH ACTION THE APPLICANT WAS ALSO DENIED THE EQUAL PROTECTION OF THE LAWS. THE APPLICANT SHOULD BE HOME BY NOW. THE PREJUDICE THE APPLICANT WAS SUBJECT TO IS INDISPUTABLE. COUNSEL FAILED TO FULFILL HIS FIDUCIARY DUTY WHERE THE AFOREMENTIONED RENDERS THE ENTIRE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THE TRIAL COURT'S JURISDICTION FOR UNCONSTITUTIONAL ACTION. COUNSEL'S ACTIONS ALONG WITH THE S.C. SUPREME COURT AND OTHER STATE ACTORS ACTIONS WERE ILLEGAL AND VOID WHERE BY SUCH ACTION THEY VIOLATED THEIR OATH OF OFFICE TO UPHOLD BOTH THE STATE AND FEDERAL CONSTITUTIONS.

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INSOMUCH, BY POINTS "A" THROUGH "H" PERTAINING TO THIS ISSUE, COUNSEL FELL WELL BELOW THE STANDARD OF COUNSEL APPOINTED

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IN SUCH MATTERS. IT IS PERSPICUOUS THAT THE OUTCOME OF ANY PROCEEDINGS HERE PLACED BEFORE THE COURT WOULD HAVE COME OUT DIFFERENTLY AND HAD THESE INJUSTICES BEEN ADDRESSED AND OR THE APPLICANT HAD KNOWLEDGE OF THEM, THE APPLICANT WOULD HAVE NEVER PLED GUILTY BUT WOULD HAVE INSISTED UPON GOING TO TRIAL. THESE INJUSTICES WERE NEVER TIMELY OR PROPERLY CHALLENGED BY THE DEFENSE COUNSEL INSTEAD OF HE CONSPIRING UNDER COLOR OF STATE LAW WITH THE STATE ATTORNEY GENERAL'S OFFICE IN EGREGIOUS ACTS OF PROSECUTIONAL MISCONDUCT, CRIMINAL CONSPIRACY, FRAUD UPON THE COURT AND OBSTRUCTION OF JUSTICE IN THEIR EFFORTS TO CONCEAL MATERIAL FACTS IN VIOLATION OF 18 U.S.C. §§ 242 AND 1001 AS WELL AS IN VIOLATION OF BOTH STATE AND FEDERAL LAW WHICH RENDERS THE ENTIRE PROCEEDINGS UNCONSTITUTIONAL AND VOIDS THE TRIAL COURT'S JURISDICTION FOR THIS UNCONSTITUTIONAL ACTION. IT IS A REQUIREMENT THAT CANNOT BE DEEMED SATISFIED BY MERE NOTICE IF THE STATE HAS CONTRIVED A CONVICTION THROUGH THE PRETENSE OF A TRIAL AND OR PLEA HEARING WHICH IN TRUTH DEFILES "JUSTICE AND FAIRNESS" AND IS USED AS A MEANS TO DEPRIVE A DEFENDANT OF LIBERTY THROUGH THE DELIBERATE DECEPTION OF THE JURY AND OR APPLICANT PRODUCED BY FRAUD UPON THE COURT, MODERN-DAY SLAVERY, VIOLATIONS OF THE VOTING RIGHTS ACT AND IS INCONSISTENT WITH THE TRUE FACTUAL REQUIREMENTS OF DUE PROCESS, VIOLATING CLEAR STATUTORY PROVISIONS (STATE AND FEDERAL) AND THE U.S. CONSTITUTION. SUCH CONTRIVANCE BY A STATE TO PROCURE THE CONVICTION AND IMPRISONMENT OF A DEFENDANT IS INCONSISTENT WITH THE RUDIMENTARY DEMAND OF JUSTICE, HAY GROUP MANAGEMENT INC. v. SCHNEIDER SUPRA.; MDC INNOVATIONS, LLC. v. NORTHERN SUPRA.; DUBINKA v. JUDGES OF SUPERIOR COURT OF THE STATE OF LOS ANGELES, 23 F3d. 218; HICKS v. OKLAHOMA, 447 U.S. 343, 346, 100 S.Ct. 2227, 2229, 65 L.Ed.2d. 175(1980); NELSON v. COLORADO, 137 S.Ct. 1249, 197 L.Ed.2d. 611, 85 U.S.L.W. 4205 (U.S.2017); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193 L.Ed.2d. 599; WHITE v. MANIS, 2014 WL 1513280(DSC.2014); BLUE SKY TRAVEL AND TOURS, LLC. v. AL TAYYAR, --Fed. Appx'--, 2015 WL 1451636 CA4 (Va.2015); WILLIAMS v. UNITED STATES, CA5 (FLA.) 1950, 179 F2d. 656 CERT. GRANTED 71 S.Ct. 341 U.S. 97, 95 L.Ed. 774; BROWN v. UNITED STATES, CA6 (TENN.) 1953, 204 F2d. 512 CERT.

BY THIS FRAUD AND CONSPIRING UNDER COLOR OF STATE LAW, THE APPLICANT WAS DENIED THE EQUAL PROTECTION OF THE LAWS. THE GOVERNMENT "[M]UST [A]LWAYS" BE HELD ACCOUNTABLE TO JUDICIARY FOR A MAN'S IMPRISONMENT, AND THE RESTRAINTS ON LIBERTY IF THE IMPRISONMENT DOES NOT COMPORT WITH THE BASIC REQUIREMENTS OF DUE PROCESS LAW. BY THE INJUSTICES ASSERTED WITHIN THIS CASE. THE CONVICTION DOES NOT COMPORT WITH THE BASIC REQUIREMENTS OF DUE PROCESS LAW, AND IT IS AS IF THE APPLICANT WENT TO TRIAL AND OR GAVE HIS GUILTY PLEA WITH NO COUNSEL APPOINTED AT ALL. THEREFORE, THE SENTENCE AND CONVICTION MUST BE REVERSED AND VACATED IN FUNDAMENTAL FAIRNESS TO THE APPLICANT, SHELTON v. CICCONE, CA8 (MO.) 1978, 578 F2d. 1241; EVITT v. LUCY, 469 U.S. AT. 387, 105 S.Ct. 830, 83 L.Ed.2d. 831(1985); GRAY, 800 F2d. AT. 646; POWELL v. ALABAMA, 287 U.S. 45, 53 S.Ct. 55, 77 L.Ed. 158(1932); STRICKLAND v. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d. 674(1984); MARTINEZ v. RYAN, 132 S.Ct. 1309 (U.S.2012); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436 (D.C.Miss.2017); UNITED STATES v. CONRAD, 675 Fed. Appx' 263, 265 CA4 (N.C.2017); PCS NITROGEN INC. v. ROSS DEVELOPMENT CORP., 126 F.Supp.3d. 611(DSC.2015); YATES v. FORD MOTOR CO., --F.Supp.3d.--, 2015 WL 6758983(E.D.N.C.2015); JOHNSON v. UNITED STATES, --S.Ct.--, 2015 WL 2473450(U.S.2015). BEFORE A STRUCTURAL ERROR CAN BE DEEMED HARMLESS THE COURT MUST BE ABLE TO DECLARE IT WAS HARMLESS BEYOND A REASONABLE DOUBT, WHICH. IN THIS CASE, THE COURT CANNOT DO RENDERING THE TRIAL AND OR PLEA PROCEEDING THAT OCCURRED IN THIS CASE UNCONSTITUTIONAL VOIDING THE CRIMINAL COURT'S JURISDICTION WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. ANY JUDGMENT OR ACT OR CONVICTION OR JUDICIAL DETERMINATION THAT IS CONTRARY TO THE U.S. CONSTITUTION AND DUE PROCESS LAW IS VOID. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW IS NOT MERELY ERRONEOUS, BUT IT IS ILLEGAL AND VOID, AND CANNOT BE A LEGAL CAUSE OF IMPRISONMENT. REVERSAL IS REVERSAL, REGARDLESS OF REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL, PEOPLE v. FIELDS, N.E.3d., IL. App. (1st.).

122012-UB; FARROW v. LIPETZKY, 2017 WL 1540637 (N.C.Cali.2017);
UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619
(4th.Cir.2018); WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C.,
LLC., 2018 WL 1187778 (W.D.N.C.2018); ALBERTO GONZALEZ-FIGUEROA
JR., PETITIONER v. WARREN L. MONTGOMERY, 2019 WL
914128(S.D.Cali.2019); MURPHY v. WINN, 2019 WL
586095(D.C.Mich.2019); PEOPLE v. CALIALIAK, 2018 WL 5084834, * 6+
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(()) Did the S.C. Supreme Court in State v. Gentry supra. err, engaging knowingly, intentionally in acts of fraud upon the court, in their efforts to essentially establish modern day slavery in violation of the Anti-Peonage Act, and abused their discretionary "[p]owers", which they even conspired to take away our right to vote, and or done so surreptitiously, in violation of the Voting Rights Act. And in such, the court's jurisdiction was made void for Due Process violation, and the court was prohibited from enacting and or invoking and or continuing its Subject Matter-Jurisdictionary "[p]owers"; even though they do indeed possess such "[p]ower" via state legislative statute and or Congressional intent, due to the indictment defects and or errors contained and argued within this document, in violation of the appellant's 4th., 5th., 6th., 13th., 14th., 15th. Amendment rights of the U.S. Constitution, as well as Article IV § 2, also 42 U.S.C. §§ 1983, 1985(2), 1985(3), 1986; 18 U.S.C. §§ 241, 242, and the laws of Due Process?

The appellant did not object to these defects and or errors at the time of his trial and or before he gave his guilty plea, but the defects and or errors serve to render the indictments wholly invalid. Defects in an indictment that are of such a fundamental character as to render an indictment wholly invalid are not subject to waiver by the defendant, 41 Am. Jurs.2d. Indictments and Information § 299(1968); State v. Munn supra..

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge. We are arguing against the precedent established by State v. Gentry pursuant to S.C. Appellate Court Rule 217, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra. 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error, fraud and machination on the part of the South Carolina Supreme Court that has an identifiably negative impact on all proceedings to such a degree, that the constitutional rights of all defen-

dants within this state, including the appellant's are compromised. A manifest constitutional error, violations of the Anti-Peonage Act and fraud upon the court of this magnitude cannot be waived, is not subject to any time limits, and can be reviewed by a court of appeals even if the appellant did not object at the proceedings, especially in light of the fact that the court's decision and fraudulent actions disproportionately effect African Americans and all other inmates within this state and potentially around the nation, (Black Law Dictionary 8th. Edition); The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Digital Equip. Corp. v. Desktop Direct Ins., 511 U.S. 863, 868, 114 S.Ct. 1992, 1996, 128 L.Ed.2d. 842(1994); Chewing v. Ford Motor Company supra.; Appling v. State Farm Mut. Auto Ins. Co. supra.; King v. First American Investigators Inc., 287 F3d. 91, 92(2nd.Cir.2002) cert. denied 537 U.S. 960, 123 S.Ct. 393, 154 L.Ed.2d. 314(2002); The Anti-Peonage Act Of The 13th. Amendment; The Rico Act; Ex Parte Virginia, 100 U.S. 339, 346, 25 L.Ed. 676(1880).

The appellant contends, that the indictment(s) for attempted murder do not properly allege the "[t]ime" of the assault which is an essential element of the offense. The indictment(s) for attempted murder or the conspiracy indictment allege who it was that the appellant supposedly conspired with. The attempted murder indictment(s) do not allege what weapon the appellant was supposedly in possession of. None of these essential elements and or allegations are alleged within the body of the charging instrument. This prejudiced the appellant when it came time to seek a direct verdict which is why the court and parties conspiring under color of state law, in acts of fraud upon the court denied the motion for severance, violating the appellant's Due Process rights voiding their jurisdiction for Due Process violation. These actions placed the appellant at a substantial disadvantage, which is why the state in acts of conspiring under color of state law tried the appellant and his co-defendant together to conceal these fatal deficiencies, knowing fully well the indictments were extremely vague setting the appellant

up for "Indictment Ambush" at the onset of his proceedings. The indictments "[c]annot" be deemed sufficient if the state is permitted to prove all these materially different sets of facts. The indictment(s) do not descend to the essential particulars. All the aforementioned "[m]ust" be alleged in the body of the charging instrument and passed upon by the Grand Jury in the indictments returned against the accused in accordance to the constitutional Due Process rights of the defendant. This cannot be deemed as reasonable notice. No one can say what was in the mind of the Grand Jury, State v. Pierce supra.; State v. Sutton supra.; State v. Platt supra.; State v. Rector supra.; State v. Blakeney supra.; State v. Munn supra.; State v. Rallo supra.; State v. Tate supra.; State v. Tabor supra.; State v. Keith supra.; State v. Hardee supra.; Locke v. State supra.; State v. Wilkes supra.; United States v. Daniels supra.; United States v. Abrams supra.; United States v. Hooker supra.; Russell v. United States supra.; Hamling v. United States supra.; United States v. Pupo supra.; Castillo v. Holder supra.; State v. Brandt supra.; Robinson v. Cohen supra.; United States v. Cohen supra.; United States v. Gomez supra.; Carr v. United States supra.; United States v. Robare supra.; United States v. Umana supra.; United States v. Dinkins supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Dech v. Missouri supra.; Clark v. Arizona supra.; United States v. Whitfield supra.; United States v. Mills supra.; United States v. Naidu supra.; United States v. Allmendinger supra.; State v. Green supra.; Roberts v. State supra.; Eppenger v. McFadden supra.; Blanding v. Warden McCormick Correctional Institution supra.; State v. Daniels supra.; United States v. Kirby supra.; Van de Kamp v. Goldstein supra.; Dennis v. Wetzel supra.; Plecencia v. McFadden supra..

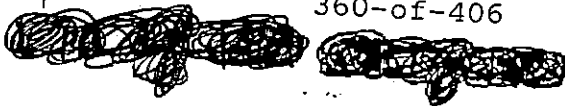
The appellant further contends, that the indictment(s) do [n]ot properly and or sufficiently apprise the appellant of the "[c]ause and [n]ature" of the accusation(s), or of what he is called upon to meet and defend, because the structural constitutional error, defect, language and or charge embodied within the indictment(s) and criminal complaints around the

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nation indicate and or inform the appellant, that the burden of production belongs to the appellant and not the government. By such the indictments also violate S.C. Code Ann §§ 17-19-10, 17-19-20 and 17-25-10. The language and or charge in the indictments indicate and inform the appellant that he is called upon to meet the burden of production on the critical elements of dispute, in violation of the appellant's 6th. amendment rights, the relevant statutes, and Due Process Law. They also violate the appellant's 4th. amendment rights to illegal seizure, his 5th. amendment rights to double jeopardy protection, because they predetermine in advance the outcome of the proceedings, taking away our presumption of innocence, and they inform the appellant that for a second time he is made to plea and or go to trial on a prior conviction for the same offense which produces fraud upon the court, modern day slavery in violation of The Anti-Peonage Act because you force us to work once convicted to up keep these institutions. Then you take away our right to vote once convicted in violation of the 13th. 15th. amendments and the Voting Rights Act, The Rico Act, and the holdings made in Ex Parte Virginia, 100 U.S. 339(1880). They infringe upon the appellant's 14th. Amendment right to Equal Protection of the Laws against unjust, arbitrary judicial action and prosecution behind a class based invidiously discriminatory animus because the action disproportionately effect African Americans and other minorities in violation of the holdings made in Ex Parte Virginia. The Grand Jury "[m]ust" refrain from even making an "[o]pinion" (emphasis added) as to our guilt. Yet, here these Knuckleheads swear an "[o]ath", under "[o]ath" mind you, our guilt foreclosing legally any subsequent adjudication. The Grand Jury by State or Federal law, or State or Federal Constitution, do "[n]ot" have the power to convict. This cannot be deemed reasonable notice. No one can say what was in the mind of the Grand Jury as determining whether or not they intended any subsequent adjudication to occur once they themselves determined guilt. Due to the structural constitutional error and or defect in the construction of the indictment(s) and or criminal complaints around the nation, they do "[n]ot" properly,

sufficiently or fully apprise the appellant of the "[c]ause and [n]ature" of the accusation being brought against him, or of what he is called upon to meet and defend, State v. Lewis supra.; State v. Easler supra.; Mathis v. State supra.; Brown v. State supra.; State v. Browning supra.; State v. Munn supra.; Moore v. Dempsey supra.; The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Digital Equip Corp. v. Desktop Direct Ins. supra.; United States v. Direct Sales Co. supra.; United States v. Atlantic Commission Co. supra.; State v. Boyd supra.; State v. Bramlett supra.; Beck v. Washington supra.; State v. Tollin supra.; Byers v. Reynolds supra.; United States v. Jefferson supra.; In Re: Grand Jury Subpoena John Doe, No. 05GJ1318 supra.; In Re: Grand Jury Subpoena (T-112) supra.; United States v. Umana supra.; United States v. Dinkins supra.; Dickerson v. Warden Of Lieber C.I. supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Clark v. Arizona supra.; Deck v. Missouri supra.; Skilling v. United States supra.; Kaley v. United States supra.; Placencia v. McFadden supra.; Jeandron v. Board Of Regents Of University System Of Maryland supra.; United States v. Whitfield supra.; United States v. Mills supra.; United States v. Naidu supra.; Roberts v. State supra.; State v. Green supra.; United States v. Kirby supra.; United States v. Allendinger supra..

This is how this thing went. The inmates of South Carolina were basically getting out of prison by arguing the defects within their indictments. The inmates convicted for murder discovered that there was a fatal flaw in the murder indictments related to "time and place", being essential elements of the offense. The South Carolina Supreme Court, in efforts to stop the inmate exodus from prison, engaged in acts of fraud upon the court in efforts to establish modern day slavery behind racial hatred, even with the black overseer type judges, came up with a plot, plan and scheme to defraud the inmates of this state in their acts of machination in violation of the holding



made in the U.S. Supreme Court case Ross v. Blake, 136 S.Ct. 1850(2016). They knew that beforehand in order to make a fair determination regarding the issue of Subject Matter Jurisdiction. It was required that the court review Ex Parte Bain, Russell, Stirone and Gaither collectively, but they purposely did not do so in order to hatch their plan. If you do not review them together, they knew you can make a fraudulent determination and no one would be the wiser. So, the judges of the South Carolina Supreme Court, conspiring under color of law behind a class based invidiously discriminatory animus, placed the numerous, voluminous pending criminal cases on hold, staying them, many for as long as over (4) or (5) years to allow them to go on a "FISHING EXPEDITION" in search of case law that was vague and ambiguous enough to allow them to enact their acts of fraud and machination. After this exhaustive search for (5) or more years, criminally holding these inmates cases in limbo. The conspiring judges found Cotton and Parkhurst, that would permit them to circumvent the holdings made in Stirone, Gaither and Russell via this fraudulent "FISHING EXPEDITION", due to these newly found cases being adjudicated under the incorrect prong to subject Matter Jurisdiction, Mitchell v. Conseco Life Ins., F.Supp.2d., 2013 WL 2407129(DSC.2013); J & J Sports Productions Inc. v. Wofford, 2014 WL 2980250(DSC.2014); United States v. McDonald, 444 Fed. Appx' 710 CA4 (Va.2011); Gindi v. Strategic Outsourcing, Inc., F.Supp.2d., 2012 WL 7761543(DSC.2012); State v. Jones, 364 S.C. 51, 610 S.E.2d. 846(S.C.App.2005).

This is what the S.C. Supreme Court judges specifically wanted. They wanted these specific cases to permit them to perpetrate the fraud and machination even though they knew there were other U.S. Supreme Court cases that gave greater clarity, which is why Plecones, honorable soul that he is, jumped ship. He knew what they were doing. They knew Ex Parte Bain, U.S. v. Cotton and Parkhurst were vague and ambiguous in that these cases found via the "FISHING EXPEDITION" never addressed the "[j]urisdictional [p]rerequisite" Due Process element, aspect or requirement of the indictment and adjudicated this clear

Due Process issue under the incorrect prong to Subject Matter Jurisdiction. U.S. v. Cotton used "word play", "verbal voodoo", "word winx" to evade the essential question related specifically to the "[p]rerequisite" aspect and requirement of the indictment as it relates to jurisdiction, which is a Due Process claim that "[v]oid" jurisdiction for Due Process violation. Please note that nothing in U.S. v. Cotton stated that they were overruling Stirone, Gaither or Russell,...why? Its because we are dealing with two separate and independent questions related to Subject Matter Jurisdiction, essentially two prongs. One being certain courts jurisdiction itself. The second being the "[p]rerequisites" and or "[r]equisites" that are attached to that jurisdiction, which is a Due Process claim that "[v]oids" jurisdiction for Due Process violation, the corrupt devils that they are, Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.supp.3d. 582, 2014 WL 1266240 (2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); White v. Manis, 2014 WL 1513280(DSC.2014).

The S.C. Supreme Court judges, in acts of fraud upon the court and machination, only reviewed Ex Parte Bain because it was vague on the "[p]rerequisite" and or "[r]equisite" Due Process issue itself, then added Cotton and Parkhurst because they knew these cases were adjudicated in the same vein, which did not address the prerequisite Due Process requirement of the indictment, which must be adjudicated under the Due Process prong to Subject Matter Jurisdiction, they came up with the State v. Gentry case, in acts of fraud upon the court and machination to halt the pending inmate exodus. Conspiring under color of state law in violation of 42 U.S.C. §§ 1983, 1985(2), 1985(3), 1986; 18 U.S.C. §§ 241, 242, 1001, by order of stay, they held Gentry and the massive number of pending cases in limbo, many for over (5) years, until they were time barred from seeking review in the S.C. U.S. District Court. The S.C. U.S. District Court Judges conspiring with them, under color of authority and or law, were privy to this aided the conspiring state judges, courts and actors such as the S.C. Attorney General; knowing

fully well the vast number of inmates whose cases were criminally held in limbo, many for over (5) years, lacked the intelligence to argue past the successive or statute of limitations placed upon them via PLRA and or AEDPA provisions, warranting the recusal and or disqualification of the S.C. U.S. District Court and 4th. Circuit and all these cases in total be transferred to the State Of New Jersey District Court pursuant to 28 U.S.C. §§ 1404 and 1407. We motion for such.

Similar acts were done with intelligence test during reconstruction to deny minorities the right to vote. "How many jelly beans are in this jar?" "How do you get past the Statute of limitations or successive issues placed upon you by PLRA or AEDPA provisions?" It is a similar criminal act argued in Ex Parte Virginia, 100 U.S. 339(1880), in their white racial bonding. This produces fraud upon the court, machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850 (2016), demonstrating that we do not have to exhaust. It establishes a form of modern day slavery by that fraud and machination as is defined within The Convention Against Torture Treaty that Congress signed off on and ratified binding this nation and all states contained therein, where you force us to work to up keep these institutions and other forced labor while in captivity. Then you take away our right to vote by conspiring under color of state law and or authority to keep us labelled as felons and kill our political in what you white nationalist call , "establishing good government" as Senator Cole Blease Of South Carolina once said. It becomes an illegal seizure by this fraud and machination in violation of the 4th. amendment, as well as stand in violation of The Rico Act, the holdings made in Ex Parte Virginia, as well as the 5th., 6th., 8th., 13th., 14th., and 15th. amendments, also 18 U.S.C. §§ 241, 242 and 1001, Moore v. Dempsey supra.; The Amistad supra.; Digital Equip. Corp. v. Desktop Direct Ins. Co. supra.; State v. Means, 367 S.C. 374, 626 S.E.2d. 348(S.C.2006)(Where they applied this criminal act retroactively); Screws v. United States supra.; United States v. Kozminski, (1988) 487 U.S. 931, 101 L.Ed.2d. 788, 108 S.Ct. 2751, 46 C.C.H. E.P.D. ¶ 38067 on remand (1988 CA6 Mich.) 852 F2d 1288; Greenwood v. Peacock, (1966) 384 U.S. 336-340, 163-164, 165-166, 167-168, 169-170, 171-172, 173-174, 175-176, 177-178, 179-180, 181-182, 183-184, 185-186, 187-188, 189-190, 191-192, 193-194, 195-196, 197-198, 199-200, 201-202, 203-204, 205-206, 207-208, 209-210, 211-212, 213-214, 215-216, 217-218, 219-220, 221-222, 223-224, 225-226, 227-228, 229-230, 231-232, 233-234, 235-236, 237-238, 239-240, 241-242, 243-244, 245-246, 247-248, 249-250, 251-252, 253-254, 255-256, 257-258, 259-260, 261-262, 263-264, 265-266, 267-268, 269-270, 271-272, 273-274, 275-276, 277-278, 279-280, 281-282, 283-284, 285-286, 287-288, 289-290, 291-292, 293-294, 295-296, 297-298, 299-300, 301-302, 303-304, 305-306, 307-308, 309-310, 311-312, 313-314, 315-316, 317-318, 319-320, 321-322, 323-324, 325-326, 327-328, 329-330, 331-332, 333-334, 335-336, 337-338, 339-340, 341-342, 343-344, 345-346, 347-348, 349-350, 351-352, 353-354, 355-356, 357-358, 359-360, 361-362, 363-364, 365-366, 367-368, 369-370, 371-372, 373-374, 375-376, 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2309-2310, 2311-2312, 2313-2314, 2315-2316, 2317-2318, 2319-2320, 2321-2322, 2323-2324, 2325-2326, 2327-2328, 2329-2330, 2331-2332, 2333-2334, 2335-2336, 2337-2338, 2339-2340, 2341-2342, 2343-2344, 2345-2346, 2347-2348, 2349-2350, 2351-2352, 2353-2354, 2355-2356, 2357-2358, 2359-2360, 2361-2362, 2363-2364, 2365-2366, 2367-2368, 2369-2370, 2371-2372, 2373-2374, 2375-2376, 2377-2378, 2379-2380, 2381-2382, 2383-2384, 2385-2386, 2387-2388, 2389-2390, 2391-2392, 2393-2394, 2395-2396, 2397-2398, 2399-2400, 2401-2402, 2403-2404, 2405-2406, 2407-2408, 2409-2410, 2411-2412, 2413-2414, 2415-2416, 2417-2418, 2419-2420, 2421-2422, 2423

808, 16 L.Ed.2d. 944, 86 S.Ct. 1800; United States v. Ramey, (1964 CA4 W.Va.) 336 F2d. 512 cert. denied (1965) 379 U.S. 972, 13 L.Ed.2d. 564, 85 S.Ct. 649; United States v. Otherson, (1980) CA9 Cal., 637 F2d 1276 cert. denied (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; Means v. Wilson, CA8 (S.D.) 1975, 522 F2d. 833 cert. denied 96 S.Ct. 1436, 424 U.S. 958, 47 L.Ed.2d 364; Berg v. Obama, E.D. Pa. 2008, 574 F.Supp.2d. 509; United States v. Figuerca, CA3 (N.J.) 2013, 729 F3d. 267; Ex Parte Virginia supra.; The Compendium Of United Nations Standards And Norms In Crime Prevention And Criminal Justice ISBN 978-92-1-133765-5.

This is not a situation where the state court simply held a view different its own, when the precedent from the U.S. Supreme Court is, at best ambiguous. They criminally conspired under color of state and stayed, held, all pending cases most for (5) years or more while they and the S.C. Attorney General purposely, maliciously, criminally went on a "FISHING EXPEDITION" in search for a vague, ambiguous U.S. Supreme Court case and the Parkhurst case, to allow them to engage in machination and acts of fraud upon the court when there were other clearly established U.S. Supreme Court cases that gave greater clarity and that were not ambiguous to defraud the inmates of this state. Thus, using the holdings made in cases like Green v. Fisher, 132 S.Ct. 38, 43(2011) would be misplaced due to the criminal and fraudulent intent that conspicuously exist, Barlow v. Colgate Palmolive Co., 772 F3d. 1001, 90 Fed. R. Serv.3d. 85(Md.2014).

Perhaps the court(s) of South Carolina would further contend that Subject Matter Jurisdiction, and the sufficiency of an indictment are, and have been combined in the various cited cases, that the indictment is merely a "notice document" and that Subject Matter Jurisdiction is the court's "[p]ower" to hear and determine a matter, and each should be viewed as separate and distinct from one another and the insufficiency of an indictment does "[n]ot" take away from or "[a]ffect" and or "[h]inder" a "[c]riminal" court's "[p]ower" and or "[a]bility" to hear "[t]his" general class of cases, to which the proceedings

in question belong, State v. Gentry, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.2005) citing United States v. Cotton, 535 U.S. 625, 122 S.Ct. 1781, 152 L.Ed.2d. 860(2002); State v. Parkhurst, 845 S.W.2d. 31(MO.1992). The court(s) has misinterpreted its citings and are in error, and they have abused their discretionary "[p]owers" in their determination of this matter, and they did this purposely in acts of fraud upon the court and machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850(2016). An abuse of discretion occurs when the court(s) are controlled by an error of law, or when the order based upon findings of fact is without evidentiary support or fact. The error of law that they are controlled by is that there are two concepts in question, essentially two prongs to Subject Matter Jurisdiction. One--the courts powers of jurisdiction given to them via state legislative statutes and or congressional intent for federal courts. Secondly---the Due Process jurisdictional "[p]rerequisites" and or "[r]equisites" that are attached to that jurisdiction, which were never properly addressed by the courts involved, which were required to be addressed under the Due Process prong to Subject Matter Jurisdiction, Sharpes v. Sharpes, 535 S.E.2d. 913, 342 S.C. 71(2000).

The State Of South Carolina, by this ludicrous piece of legislation or law, in an egregious abuse of discretionary "[p]ower", acting arbitrarily, unjustly, under color of "state law", in defiance to fundamental fairness and judicial integrity, in violation of the appellant's federal constitutional rights of Due Process, also in violation of 18 U.S.C. §§ 241, 242 and 1001, has either altered, amended, modified, and or deleted, and or diminished and or eradicated, just about every single right and privilege secured and protected by the 4th., 5th., 6th., 13th., 14th., 15th. amendments of the U.S. Constitution, as well as the South Carolina Constitution, as it pertains to the "[p]rerequisite" Due Process requirement and use of an indictment in criminal proceedings, in blatant defiance to the appellant's rights to Equal Protection of the Laws, producing fraud upon the court, machination, essentially establishing

modern day slavery in violation of The C.A.T. Treaty, conspiring under color of state law to disenfranchise us, branding African Americans and other minorities who are disproportionately effected as felons to deny them the right to vote and kill their political voice, creating a racial caste system, See Book Entitled, "Mass Incarceration During The Age Of Colorblindness, the New Jim Crow, by Michelle Alexander; Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Jones v. State Of Arkansas supra.; Dozier v. Loop College , City Of Chicago supra.; Hicks v. Oklahoma supra.; Lugar v. Edmondson Oil Co. supra.; Williams v. United States supra.; Brown v. United States supra.; United States v. Ramey supra.; United States v. Kozminski supra.; Greenwood v. Peacock supra.; United States v. Otherson supra.

Insomuch, the 5th. amendment Indictment Clause has not been held applicable to the states, or the federal concept of a Grand Jury binding on the federal courts under the 5th. amendment are obligatory to the states. Nevertheless, by their own state(s) Constitution(s), the State of South Carolina, New Jersey , Kentucky, Georgia, New York and (28) other states adopt the federal provisions. requirements, Due Process "[p]rerequisites" and or "[r]equisites", standards and mandates pertaining to the use of an indictment, and the remaining (17) states that make use of a criminal complaint document possess the structural error argued where the Grand Jury by the language presented, adjudicated guilt of the offenses as well. In further resolving the conflict, the Federal courts have held by the "BILL OF RIGHTS", many rights guaranteed by the first (8) amendments of The United States Constitution, have been made applicable to the several states through the Due Process Clause of the 14th. amendment and Supremacy Clause of Art. 6 cl. 2 of The U.S. Constitution, State v. Watts, 465 S.E.2d. 359; Henry v. City Of Rock Hill, 376 U.S. 776, 84 S.Ct. 1042, 12 L.Ed.2d. 79(1964); Also see South Carolina Constitution Art. 1 § 11; Ex Parte Bain, 121 U.S. 1 (1887); Costello v. United States,

350 U.S. 359; Russell v. United States, 369 U.S. 749, 82 S.Ct. 1038(1962); Woods v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.Ed.2d. 569(1962); Frisbee v. United States, 157 U.S. 160, 15 S.Ct. 586, 39 L.Ed. 652 (1895); Hale v. Henkel, 201 U.S. 43, 26 S.Ct. 370, 50 L.Ed. 652(1906); Duncan v. Louisiana, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d. 491(1968); Hurtado v. California, 110 U.S. 516, 538, 4 S.Ct. 111, 122, 28 L.Ed. 232(1884); Powell v. State Of Alabama, 287 U.S. 45, 67, 53 S.Ct. 55, 63, 77 L.Ed. 682(1948); Gideon v. Wainwright, 372 U.S. 335, 342-344, 83 S.Ct. 792, 796, 4 L.Ed.2d. 799(1963).

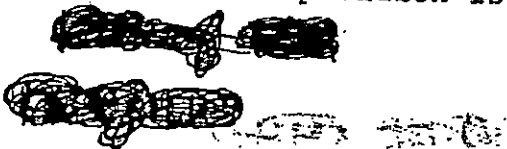
Yes, the indictment is a "notice document", but being a "notice document" is one of the many purposes and functions the indictment was created for. The Honorable Judge Plecones in the Gentry court, was the only one with enough judicial integrity and insight to see clear to the truth of this matter in part, and did not agree to the fraud and machination.

Yes, Subject Matter Jurisdiction is the "[p]ower" to hear and determine cases of a general class to which the proceedings in question belong, Bell v. Monsanto Corp., 579 S.E.2d. 325 S.C. 553(S.C.2003). Insomuch, the court's "[p]ower" to hear and determine a case, is also defined as the court's "[a]bility" to hear and determine a case. Inasmuch, Subject Matter Jurisdiction does not only cover and or involve whether or not the matter resides in a proper court of jurisdiction to hear and determine it. This is only the first prong. It also involves any issue that may "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to act in accordance to Rules Of Court, Rules Of Procedure and Due Process Law. This is the second prong that "[v]oids" jurisdiction for Due Process violations. Such matters can be raised at "[a]ny" time, "[c]annot" be waived by the defendant, and the court "[s]hall [n]ot [f]ail" to take notice, Mathis v. State supra.; Brown v. State supra.; State v. Munn supra.; Browning v State supra.; U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240; Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007). 367-of-406



Subject to certain minor exceptions not present, the trial court's jurisdiction is made void, and or they are prohibited from enacting, and or invoking and or continuing its Subject Matter Jurisdictionary "[p]owers" to convict a defendant for Due Process violation, even though they have such jurisdiction by state legislative statute and or congressional intent, when there is no indictment charging him with that offense when the jury is sworn, or when he gives his guilty plea, and we can add, or when he has already been unjustly convicted by the Grand Jury, illegally acting as the trial jury, being duly sworn and swearing upon their "[o]ath" the appellant's guilt, predetermining in advance the outcome of the proceedings, in violation of their shielding function, also in violation of the appellant's right to double jeopardy protection and Due Process Law, establishing fraud upon the court, modern day slavery, machination, taking away our right to vote conspiring to kill our political voice behind a class based invidiously discriminatory animus in the form of race in violation of the holdings made in Ex Parte Virginia supra. Also see State v. Lewis supra.; State v. Easler supra.; Moore v. Dempsey supra.; The Amistad supra.; United States v. Umana supra.; United States v. Dinkins supra.; Dickerson v. Warden Of Lieber C.I. supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Clark v. Arizona supra.; Deck v. Missouri supra.; Skilling v. United States supra.; State v. Beachum, 288 S.C. 325, 324 S.E.2d. 572(1986); S.C. Code Ann § 17-25-10.

The Gentry court misinterpreting its citings are in error in their determination of the matter in acts of fraud upon the court and machination. What gives the court in "[c]riminal" cases and or proceedings the "[a]bility" to hear and determine cases of "[t]his" general class to which the proceedings in question belong, and allow it to enact and or invoke and or continue its Subject Matter Jurisdictionary "[p]owers" in these type of cases, placing those "[p]owers" in operation is "an indictment". 368-of-406



S.C.R.C.P., Rule 3(c) Provides:

"Disposition on arrest warrant(s):

The solicitor shall take action on the warrant(s) within (90) days by preparing 'an indictment' for presentment to the Grand Jury". In turn said indictment is to be passed on to the trial court to allow it to enact and or invoke and or continue its "[p]owers" of Subject Matter Jurisdiction, Sharpe v. Johnson, 107 F3d. 282(foot notes)(5th.Cir.1997); Santos v. State, 843 S.W.2d. 953, 956(Tex.App.1992); Studer v. State, 799 S.W.2d. 263(Tex.App.1990); Williams v. Morris, 320 S.C. 196, 464 S.E.2d. 97(1995).

The indictment is also the legal document that confirms the "[c]riminal" court's "[p]ower" and or "[a]bility" to hear the particular case, by stating and documenting the class of case, or alleged offense, and the statute of the offense charged, stating the offense in the language of the statute, further validating that the matter(s) reside in the proper court of jurisdiction to hear and determine the matter. These indisputable facts make the indictment more than merely a "notice document". It is the vehicle in "[c]riminal" cases and or proceedings which invest and or attach the "[c]riminal" court the Due Process mechanism and right to act, and or confirms that right to act, which is an intrinsic part of the Due Process Prong To Subject Matter Jurisdiction in these cases; Thereby making them inter-linked, inter-locked and inter-dependent upon the viability of each other. To determine that without the indictment(s), it does "[n]ot" "[a]ffect" and or "[h]inder" a "[c]riminal" court's "[p]ower" and or "[a]bility" to hear and determine cases of "[t]his" general class to which the proceedings in question belong, is an error of law, and is like stating not having a "soul", "consciousness", or "life force", do "[n]ot" "[a]ffect" or "[h]inder" a man's "[p]ower" or "[a]bility" to be a man. Without a "soul" or "life force", by the laws of reason you will still have a "man", but the total truth of the matter is that

you will have a "[d]ead man", whose worth to society is useless; the same way the "[c]riminal" court's "[p]ower" and or "[a]bility" to hear and determine "[t]his" particular class of case is useless without the essentially needed vehicle in the form of the indictment(s). The Sufficiency of an Indictment is a "[j]urisdictional [p]rerequisite" in cases of "[t]his" general class, to which the proceedings in question belong, and for which an indictment is needed and or required even though the courts do indeed have jurisdiction via state legislative statute and or via congressional intent. See Indictment sufficiency, 70 Column L. Rev. 876, 888(1970); United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982); Stirone v. United States, 361 U.S. 212 (1960); Gaither v. United States, 413 F2d. 1061(D.C. Cir.1969); Also see S.C. Constitution Art. 1 § 11; S.C. Code Ann § 17-25-10.

The Gentry court, by it misinterpreting its citings changed Federal law made applicable to the state(s) by they adopting such via their own state(s) Constitution(s) standing unchallenged for well over (100) years. For the Gentry court by it misinterpreting its citings, in acts of fraud upon the court and machination in violation of Ross v. Blake, 136 S.Ct. 1850(2016), to view the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment as being combined, when Federal law adopted by their own state(s) constitution(s), dictate that the Sufficiency of an Indictment is a "[j]urisdictional [p]rerequisite" to Subject Matter Jurisdiction in a "[c]riminal" court, which is a Due Process claim, is an error of law. Nothing in United States v. Cotton or State v. Parkhurst addressed and or adjudicated the "[p]rerequisite" Due Process aspect of the indictment. Nor did anything in those cases say that Abrams, Stirone, Russell and Gaither are overruled. If they are no officially overruled by The U.S. Supreme Court, then the [p]rerequisite Due Process aspect of the indictment is still controlling law. The Abrams, Stirone, Russell and Gaither court(s) intent should be ascertained from the plain language of these citings of law as is adjudicated by those

courts. The language must read in a sense that harmonizes with its subject matter and accords with its general purpose. Once these precedent setting courts have made a choice, there was no room for the Gentry court to impose a different meaning or judgment based upon their own misguided notions. If the provisions of law language is clear, there was no need to employ the rules of statutory and or common law construction, and the Gentry court had no right to go on a "FISHING EXPEDITION" holding those cases in limbo for (5+) years to force the inmates past the statute of limitations to prevent review in another higher court to which they were void of all jurisdiction in acts of fraud upon the court and machination. Also, due to they imposing another meaning to this prescribed law, in their efforts to essentially establish modern day slavery in violation of the C.A.T. Treaty, to which congress confers upon no court the "[p]ower" to establish slavery of any kind. Their jurisdiction is void from the onset, even making it an administrative function stripping them of immunity due to the fraudulent intent. These were the same such acts that were at the heart of the issues sought remedied in Ex Parte Virginia in 1880. The convictions are not "DULY" established. Where the language of the afore mentioned citings of law are clear and explicit, the Gentry court "[c]annot" go on a "FISHING EXPEDITION" to purposely search for a vague, ambiguous provision of law that did not address the "[j]urisdictional [p]rerequisite" Due Process aspect and requirement of the indictment to criminally, in acts of fraud upon the court and machination, rewrite the provisions of the law in and inject matters into the holdings which are not in the language found in Russell, Stirone, Abrams and Gaither. Under the plain meaning rule, it is not the Gentry court's place to change the meaning of clear and unambiguous provisions of law by citing of a law that is ambiguous and vague, to disproportionately affect African Americans and other minorities within this state and water down the protections established under Ex Parte Virginia. The law clearly states that the two concepts are not combined, but one is a "[j]urisdictional [p]rerequisite" of the other which "[m]ust" be adjudicated under the Due Process Prong of Subject Matter Jurisdiction. The law clearly states

that yes, the courts have jurisdiction via state legislative statutes and or congressional intent, but with that jurisdiction there are "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites" that "[m]ust" be adhered to related to Due Process which void jurisdiction for lack of compliance. If these two concepts are to be viable and operate in the fullness and purpose for which they were established and created, they are not to be viewed and or separated in the manner reasoned by the Gentry court misinterpreting the holdings made in the Cotton and Parkhurst courts, Mitchell v. Conseco Life Ins. supra.; J & J Sports Productions Inc. v. Wofford supra.; United States v. McDonald supra.; Gindi v. Strategic Outsourcing, Inc. supra.; State v. Jones supra.; Bass v. Isochem, 617 S.E.2d. 369(S.C.App. 2005); State v. Brannon, 666 S.E.2d. 272(S.C.App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. S.C. Second Injury Fund, 611 S.E.2d. 297(S.C.App.2005).

Further, the indictment(s) serve as a "[s]afeguard" to protect the American citizenry, all those who are held by us, and those who enter our borders or territories, from violations of their inalienable constitutional rights. Rule 7(c) requires that the indictment(s) contain a "[p]lain", "[c]oncise", and "[d]efinite" written statement of essential elements and or allegations constituting the offense charged. This requirement performs three constitutionally required functions: It fulfills the 6th. amendment right to be informed as to the "[c]ause and [n]ature" of the accusation (notice document); Yet, more than this, it prevents a person from being subject to double jeopardy as required by the 5th. amendment. It also serves the 5th. amendment protection against crimes based upon evidence not presented to the Grand Jury (constructive amendment of the indictment claim), State v. Lewis supra.; State v. Easler supra.; United States v. Silverman, 30 F2d. 106, 110(2nd.Cir.) listing these functions, modified 439 F2d. 198(2nd.Cir.1970) cert. denied 402 U.S. 953, 91 S.Ct. 1619, 29 L.Ed.2d. 123(1971). The Indictment Clause of the 5th. amendment requires that the indictment(s) contain some amount of factual particularity, to ensure that the prosecution will not fill in elements of his case with facts

other than those considered by the Grand Jury (constructive amendment of the indictment issue), United States v. Abrams supra.

The judges in State v. Gentry supra.; United States v. Cotton supra.; and State v. Parkhurst supra., in their determination, it is perspicuous that they have "[n]ot" given "[f]ull" weight to the total requirements and purpose of S.C. Code Ann §§ 17-19-10, 17-19-20, 17-19-30 and 17-25-10, or the "[j]urisdictional [p]rerequisite" Due Process aspect and requirement of the indictment. It is for the reasons aforementioned, in relevant part, and Federal Rules Of Criminal Procedure, Rule 7(c), that the requirements of the mentioned statutes are in effect, to ensure that the indictment(s) comply with Federal and State Rules of Criminal Procedure, The U.S. Constitution, The S.C. Constitution, and the Laws of Due Process, which make them more than merely a "notice document".

In addition to this, the indictment(s) aid in instructing the jury of the circumstances of the crime, and the incidentals, as well as the elements of the offense, that they are to confirm, or reject the confirmation of, by the preponderance of evidence presented before them by the prosecution and or defense in reaching a verdict. This too, makes them more than merely a "notice document", United States v. Abrams supra.; United States v. Silverman supra. This requirement that the offense be stated**** specifying in detail each element of the crime was seen as providing assurance that both the Grand Jury understood what was necessary to establish the offense, not convict, and that the trial jury did not engage in unanticipated extensions of the substance of the offense, which is a constructive amendment of the indictment claim proving these are Due Process arguments which are to be adjudicated under the Due Process prong to Subject Matter Jurisdiction.

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Lastly, the requirement of the indictment(s) limit and constrain the "[p]owers" of Subject Matter Jurisdiction of both

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the prosecution and the court, by limiting what can be presented at trial, conviction and sentencing. This too, is potentially a constructive amendment of an indictment claim which demonstrate the deficiencies within the indictment(s) produce Due Process challenges that void jurisdiction for Due Process violation, United States v. Promise, 255 F3d. 150(4th.Cir.2001); State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309. It is the command of The U.S. Constitution that anything to the contrary is notwithstanding, (Article IV § 2 U.S. Const.).

The appellant places forth this issue in a straightforward fashion and want to make certain that there is no misunderstanding as to the specific claim(s) and or question that is placed before the court. The appellant is not arguing whether the criminal court has jurisdiction to hear and determine cases of "[t]his" general class to which the proceedings in question belong. The appellant concedes this fact. The appellant in this context agrees with all (3) Gentry, Cotton and Parkhurst court(s) when they determined that the criminal court does have Subject Matter Jurisdiction to hear cases of this general class and nature via state legislative statute and or congressional intent, this is not the issue. What the appellant is indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton or Parkhurst court(s) is this. Despite the fact that the criminal court does have Subject Matter Jurisdiction to hear cases of "[t]his" general class to which the proceedings in question belong via state legislative statutes and or congressional intent. Do their egregious, blatant failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites" at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process before the court, which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction. Do the State and or Federal government and or courts' egregious, blantant failure to be in compliance to these said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]uris-

dictional [r]equisites" at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process, which is a Due Process issue. Do that failure halt, check, constrain, restrain, limit, arrest, stop or void the continuance of the court's Subject Matter Jurisdictionary "[p]owers" before the court for Due Process violation (ei vagueness in the indictment), even though the court do indeed possess such "[p]ower" by state legislative statute and or congressional intent? See Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.supp.3d. 582, 2014 WL 1266240 (2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md. 2010); White v. Manis, 2014 WL 1513280(DSC.2014).

This is a crucially, materially, distinctly different question related to Subject Matter Jurisdiction that was never answered by any of the courts involved pursuant to the Gentry case. This is why Judge Plecones in the South Carolina Supreme Court refuse to be a part of the arbitrary, unjust acts of the S.C. Supreme Court and conspiring parties handling of the Ezekial Hayes case. The highest court had opportunity to deal with the issue and instead chose to engage in further acts of fraud. Thus, even by this act the exhaustion and equitable tolling requirement is satisfied. This is a jurisdictional challenge to the Federal Courts as well. For if the federal courts fail to take notice they would be conspiring in acts created for the purpose of establishing modern day slavery. Congress confers no "[p]ower" on the State or Federal Courts to establish modern day slavery which would strip all of immunity. The Court would also be in violation of the C.A.T. Treaty(Convention Against Torture Treaty) where the definition for slavery is found that Congress signed off on. It becomes a jurisdictional duty of the Federal Courts to act. Thus, using the holdings made in the Gentry case would be misplaced, especially in light of the fact that it has been adjudicated under a cloud of fraud upon the court and machination where they went on a "FISHING EXPEDITION" to find a vague, ambiguous citing of law that did not address the Due Process "[j]urisdictional [p]rerequisite" aspect

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of the indictment(s). Such a new question of law and fact is not barred from seeking relief for, does relate to Subject Matter Jurisdiction, "[c]annot" be waived by the appellant, and the court "[s]hall [n]ot" fail to take notice, Grupo Dalaflex v. Atlas Global Group, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); South Carolina Department Of social Services v. Tran, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); McCain v. Brightharp supra.; Loumiet v. United States, 65 F.Supp. 3d. 19(2014); The Amistad supra.; Nezirovic v. Holt, 779 F3d. 233 CA4 (Va.2015); Kwai Fun Wong, 135 S.Ct. 1625, 191 L.Ed.2d. 533, 83 U.S.L.W. 4258(U.S.2015).

Insomuch, Rules of Criminal Procedure, the Sufficiency of an Indictment, Subject Matter Jurisdiction, and Due Process Law are inter-locked and inter-linked in these matters. Yes, Subject Matter Jurisdiction and the Sufficiency of an indictment are two distinct concepts, but the indictment(s) in "[c]riminal" cases and or pleadings is the Due Process required vehicle upon which the Due Process aspect of Subject Matter Jurisdiction is conferred upon the "[c]riminal" court, and or is that which enable the "[c]riminal" court the "[a]bility" and or "[p]ower", and or right or means to enact, and or invoke, and or continue its Subject Matter Jurisdictionary "[p]owers". It is not so much that they are combined or that the court does not have jurisdiction to hear these types of cases via state legislative statute and or congressional intent. The sufficiency of an Indictment is a Due Process "[j]urisdictional [p]rerequisite" in cases of "[t]his" general class to which the proceedings in question belong, and for which an indictment is needed and or required as Due Process demands. English 101 and English 102 are two separate and distinct English courses, but "[b]oth" make up one English program towards one single College degree. English 101 is a "[p]rerequisite" to English 102. You "[m]ust" have and or take English 101, before you can have and or take English 102. Its a simple concept. Its not hard. You "[m]ust" have and or take a sufficient, not vague(emphasis added) Indictment, passed upon by the Grand Jury, before you can enact and or invoke and or continue the court's Subject Matter Jurisdic-

tionary "[p]owers" given to a "[c]riminal" court, even thought that court do indeed possess such "[p]owers" via state legislative statute and or Congressional intent. To view the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment as being mistakingly combined, when, by Federal law made applicable to the States through the Due Process Clause and or South Carolina, New Jersey, Kentucky, Georgia, New York or other (28) relevant State(s) Constitution(s), dictate that one is a Due Process "[j]urisdictional [p]rerequisite" of the other is an error of law, fraud upon the court and machination. To determine that failure to be in compliance to Due Process "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites" do not affect the court's "[p]ower" to hear and determine a case is an error of law, fraud upon the court and machination. This question was circumvented by the courts involved conspiring under color of state law, and must now be answered in fundamental fairness to the appellant(s).

Even if you separate the two concepts aforementioned from one another, the "[e]ffect" and or "[o]utcome" on the trial court's "[p]owers" of Subject Matter Jurisdiction are the same. Due to the deficiency in the "[j]urisdictional [p]rerequisite" pursuant to the presentment of the fatally defective indictments, it "[n]ullifies", "[v]oids" the Subject Matter Jurisdictionary action, which must be adjudicated under the Due Process Prong to Subject Matter Jurisdiction, even though the "[c]riminal" court do indeed possess such "[p]ower" via state legislative statute and or congressional intent. They are distinct from one another the same way the inner-makings are distinct from the bread of a "sandwich", but "[b]oth" make the "sandwich". They are distinct from one another the same way a man's soul is distinct from his body, but "[b]oth" make the man. The "[c]riminal" court can have Subject Matter Jurisdiction all day long, but without the indictment(s), when indictments are needed and or require in this instance by Due Process Law, that "[p]ower" is useless. The lack thereof do "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to hear and determine cases

of "[t]his" general class to which the proceedings in question belong. To determine otherwise is an egregious error of law, machination, an act of fraud upon the court and conspiracy to establish modern day slavery in violation of 18 U.S.C. §§ 241, 242, 1001 and The Anti-Peonage Act as well as in violation of The Rico Act to include the holdings made in Ex Parte Virginia designed to disenfranchise us of our right to vote in violation of the 15th. amendment.

In comparison, you can have two pieces of bread all day long, but without the inner-makings you will never have a "sandwich". Being a "notice document" is only one of the numerous purposes and functions that the indictment serves. These numerous purposes and functions cannot be viewed and or work separately and independently of each other without affecting the "[t]rue" nature and purpose for which the indictment was created. To do so would be an error of law, see Herman Winns v. State, memo No. 2000 Mo-078 Daniel F. Piper Judge.

Insomuch, what the honorable court(s) in Gentry, Cotton and Parkhurst failed to see, is that the "[c]onfusion" that the Gentry court spoke of is "[n]ot" coming from our modern day courts mixing the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment together. The "[c]onfusion" that the Gentry court spoke of, is coming from our modern day court(s) and system of jurisprudence losing vision and insight of that which is laid and set before us by our Constitutional Forefathers in the establishing of our judicial system, that by all jurisprudence was not meant to be tampered with. That being a system of checks and balances, within a system of checks and balances. You have issues of Subject Matter Jurisdiction, jurisdictional prerequisites and or requisites, rules of criminal procedure, sufficiency of indictment issues, and issues of Due Process Law pertaining to the U.S. Constitution, as well as the South Carolina, New Jersey, New York, Kentucky, Georgia and remaining states constitutions, overlapping each other, and checking each other, as a "[s]afeguard" to ensure that the

U.S. citizen, those who are held by us, and those who enter our borders or territories, inalienable rights to a fair and impartial trial and or plea hearing are preserved. Our Constitutional forefathers purposely meant and designed for them to be viewed as a whole unit, inter-locked and inseparable though independent to themselves as an integral part of the overall judicial machine, so that if one part fails, the other parts would pick up and kick in. Thus, remaining true to the very nature of [l]egal "system". A system is comprised of various components, nevertheless, it is still to be considered as one. As the appellant mentioned in one of the previous issues. Our Constitutional forefathers in their wisdom and jurisprudence set up "[b]ulwarks", "[b]arriers" of protection forthrightly established to protect the American citizenry, those who are held by us, and those who enter our borders or territories, from unjust, arbitrary prosecution, that outside of an individual committing acts of treason were "[n]ot" meant to be torn down. These are those sacred "[b]ulwarks", "[b]arriers" of protection. To view them as separate and independent in the manner viewed by the Gentry court(s), as they relate to each other, or to determine that they do not affect the criminal court's "[p]ower" to hear and determine "[t]his" class of case, goes against the rightly established pattern and design of our judicial system, is fraud upon the court and machination, an act of establishing modern day slavery by forcing us to work once convicted, and is an error of law. It is a form of treason. It is the very epitome of betrayal to our Constitution, and sets itself at war and enmity to the substantial rights of the commonwealth, and seek to eradicate the very core integrity of the rights, immunities, and privileges of all citizens, those who are held by us, and those who enter our borders or territories, our Constitutional forefathers have died and sacrificed their best blood to establish and preserve. These sacred "[b]ulwarks" aid to ensure that "[L]ady [J]ustice" remains blindfolded, and the defendant's inalienable rights to a fair and impartial trial and or plea hearing remain secure and are never taken away. Such actions produce fraud upon the court, machination, modern day slavery vitiating all convictions, The Amistad supra.; Ex

Parte Virginia, 100 U.S. 339, 348-349, 25 L.Ed. 676(1880); Pul-
liam v. Allen, 466 U.S. 522, 536-543, 104 S.Ct. 1970, 1977-1982,
80 L.Ed.2d. 565(1984); Mireles v. Waco, 502 U.S. 9, 112 S.Ct.
286(U.S.Cal.1991); Schmidt v. Degen, Ed. Pa. 1974, 376 F.Supp.
664; 18 U.S.C. §§ 241, 242, 1001; S.C. Code Ann § 17-25-10.

Insomuch, these very issues were at the heart of the
matters that existed, in relevant part, during the time of Ex
Parte Bain in 1887, and still vividly, with all certainty, exist
now via Due Process within our modern day courts and system
of jurisprudence, and by the constitutional rights of every --
citizen, of those who are held by us, and those who enter our
borders or territories, these issues "[c]annot" be ignored.
These issues of Due Process secured and protected by the rulings
made in Ex Parte Bain in 1887, as well as in Gaither, Russell,
Stirone and many other such holdings in other similar cases,
still apply today and are protected by The U.S. Constitution
and the laws of the United States. These concepts are designed
to overlap in these matters to ensure a more true court of juris-
prudence to its citizens, those who are held by us, and those
who enter our borders or territories, for the sake of "justice
and fairness".

In regard to State v. Gentry supra.; we are dealing with
a "state law", in such a way designed, crafted, drafted, initi-
ated, and set into place, that is egregiously contrary to the
U.S. Constitution's inherent, intrinsic, and explicit presupposi-
tions that by its very nature is intense espionage and diabolical
sabotage, and stands in defiance to the rights of the common-
wealth in violation of Due Process Law, establishing fraud upon
the court, machination, modern day slavery behind a class based
invidiously discriminatory animus in the form of racial hatred,
surreptitiously done, because it disproportionately affect and
harm the African Americans and minorities of the state and or
nation. It creates the similarities seen in trials and or plea
hearings that manifested themselves during the Nazi Occupation,
the English Inquisition of 1518, the Spanish Inquisition of
1478, the Salem Witch Trials of the 17th. Century, the trials

and or hearings prior and during the Civil Rights Era, and the like; where trial and or plea hearings became an arbitrary action, a mere hollow and deceptive formality and or mechanism, utilized to snatch from the commonwealth their inalienable rights, and rob them of their God given liberty. The Judges of the Gentry court and defendants involved in these cases across the nation entered themselves into a deliberate plot and scheme to directly subvert the judicial process. The fraud in these cases is so broad that it involves far more than injury to a single litigate, but was rather a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot be complacently tolerated consistently with the good order of society Id at 246, 64 S.Ct. 997. This plot and fraud not only involved an intentional scheme to deceive the judiciary and any future subsequent higher court, but also touch on the public interest in a way that fraud between individual parties generally does not. These parties have enacted and or attempted a more egregious form of subversion of the legal process, one that was specifically designed to prevent us from being heard on the issue. Those forms of subversion that we cannot necessarily expect to be exposed by the normal adversarial process. No timely objection is necessary to address this issue. It can be raised at any time, even for the first time on appeal, creates extraordinary circumstances, manifest injustice, tolls the time of appeal and the court shall not fail to take notice, Fox Ex Rel Fox v. Elk Run Coal Co., Inc., 739 F3d. 131 CA4(2014); Massi v. Walgreen Co., 2013 WL 5410810 (DSC.2013); DeVeaux v. United States, F.Supp.2d., 2010 WL 8738108 (DSC.2010); Arata v. Village West Owners Ass'n Inc., S.E.2d., 2011 WL 11735004(S.C.App.2011); Chritianson v. M.B.N.A. American Bank N.A., S.E.2d., 2013 WL 8507850(S.C.App.2013); Ge-Zhang v. Promontery Interfinacial Network LLC, ---Fed. Appx'---, 2015 WL 75360 CA4 (Va.2015); Baccus v. Merchant, 2014 WL 1330984(DSC. 2014); McKissick v. Warden Evans C.I., 2013 WL 4585613(DSC.2013); Conyers v. Virginia Housing Development Authority, 585 Fed. Appx' 66 CA4 (Va.2014); Rogers v. Carr, S.E.2d., 2014 WL 2721025 (S.C.Ap..2014); Inglesias v. Wal-Mart Stores East L.P., 542

Fed. Appx' 295 CA4 (Va.2013); Simmons v. Bailum, S.E.2d., 2013 WL 8482376(S.C.Ap..2013); Davis v. Davenport, 2013 WL 6840473 (DSC.2013); Burris v. Ware, 2014 WL 4293805(DSC.2014); United States v. Denedo, 556 U.S. 904, 129 S.Ct. 2213, 173 L.Ed.2d. 1235, 77 U.S.L.W. 4466, 09 Cal. Daily Op. Serv. 7069, (2009); McCann v. Brightharp, 399 S.C. 240, 730 S.E.2d. 916(S.C.App.2012) ; United States v. Boston, 539 Fed. Appx' 209 CA4 (N.C.2013); The Amistad supra., 40 U.S. 518, 15 Pet. 518, 1841 WL 5024, 2006 A.M.C. 2955, 10 L.Ed. 826, U.S. Conn. January 1841; Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 543; United States v Umana, 750 F3d. 320 CA4 (N.C.2014).

Inasmuch, the issues here go far beyond that of dealing with indictment defects, which are to be quashed by motion before a jury is sworn, or acknowledged, and or objected to before a guilty plea is given. The matters here in crucial part, do not have to necessarily be preserved for appellate review by a timely objection, but only need to be considered as a matter brought, conducted and or presented before the court in some fashion. The government "[m]ust [a]llways" be held accountable to judiciary for a man's imprisonment, and the restraints on liberty if the imprisonment does not conform to the basic requirements of Due Process Law. For the sake of "justice and judicial fairness", the appellant should not be penalized and made to suffer an onerous conviction, because hired counsel, and or counsel that the state appointed to represent him, was so inept and constitutionally ineffective, and or conspired under color of state law with the prosecution to cause irreparable harm to his proceedings, that he or she could not even see, or refuse to see the overwhelmingly obvious defects in an indictment presented before the court. Thereupon, the appellant, who later after conviction, or the fraud produced by the Gentry case, previously having no knowledge of law, and little to no access to legal books or materials before his trial and or plea hearing, later discovers the Gentry fraud and these "[p]lain", "[c]lear", "[e]gregious", Subject Matter Jurisdiction and Due Process issues and or errors producing manifest injustice should not in all fairness be barred from calling these matters

to the attention of the courts in order to seek relief, Shelton v. Ciccone supra.; Evitts v. Lucy supra.; Gray supra.; Powell v. Alabama supra.; United States v Promise supra.. The issues disproportionately effect and harm African American and other minorities.

CONCLUSION:

Insomuch, there were no holdings made in the Gentry, Cotton and Parkhurst cases that would justify and or serve to detach from the indictment(s) the 4th., 5th., 6th., 13th., 14th. and 15th. Amendment issues aforementioned within this document made applicable to states by they adopting such via their states Constitutions and or via the Supremacy Clause of the U.S. Constitution. Likewise, there were no holdings made in those cases that would justify and or serve to detach from the indictment the Due Process issues aforementioned within this document.

By the holdings made in the Gentry case. That court essentially took the position that the court's powers of Subject Matter Jurisdiction are "[a]bsolute" via state legislative statutes or Congressional statutes or enactments of law, and at "[n]o" time can that "[p]ower" be divested and or voided. The Gentry court essentially claimed there can be no situation that can divest or void jurisdiction. This is a ludicrous and criminal position to take which will be proven by judicial determinations made after the Gentry case was established.

There are essentially (2) prongs to Subject Matter Jurisdiction. One (1) is where the courts "[l]ack" Subject Matter Jurisdiction (ei. where a Family Court would attempt to try a criminal case, or a Probate Court would attempt to try a Military Tribunal case.). Of course in these situations those courts would "[l]ack" Subject Matter Jurisdiction.

This is essentially what the Cotton court was saying which is the reason why the litigant in that case did not prevail. By state and Federal statutes or Congressional enactments, specific courts have jurisdiction to hear cases of a general class (ei. criminal courts have jurisdiction to hear criminal cases). But (2) There is a second prong to Subject Matter Jurisdiction where jurisdiction is made void because of Due Process violation despite any existing state statute or federal law. So the Cotton court was essentially saying was that the litigant, by the language he presented. He was arguing his claim under the incorrect prong. More specific, the litigant should have asserted that jurisdiction is made void due to a particular Due Process violation, see U.S. v. \$41,320 U.S. Currency supra.; Hunt v. United States supra.; White v. Manis supra.; U.S. v. Aladekcha supra.; Brown v. U.S. supra..

The Gentry court knew the Cotton court was vague on this issue and went on a "FISHING EXPEDITION" to find Cotton and Parkhurst so that they could adjudicate the Gentry case under the same incorrect prong to defraud the inmates of this state in acts of machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850(2016). Like the Article V § 4 orders leading to the claims of default and collateral estoppel in these cases emerging from case 2013-CP-400-0084 in the Richland Court Of Common Pleas. The Sufficiency of an indictment is a "[j]urisdictional [p]rerequisite" and Due Process claim that voids jurisdiction as opposed to the other prong where the Family Court would attempt to try a criminal case and would "[l]ack" Subject Matter Jurisdiction. The Due Process Prong is what we are arguing the Article V § 4 orders, the claim of default and collateral estoppel, to include the structural constitutional error of religious prophesy pertaining to the indictments predetermining in advance the outcome of the proceedings, taking away our presumption of innocence, convicting us before we plea or go to trial, disenfranchising us of our right to vote, establishing modern day slavery in violation of the C.A.T. Treaty under. Congress confers upon no court the power to esta-

blish modern day slavery, The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024.

When the constitutionality of a ruling is in doubt (ei. The Cotton and Gentry cases). The court has an obligation to interpret the Cotton case as it relates to Gentry, Abrams, Gaither, Stirone, Russell and the voiding of jurisdiction for Due Process violation under the Due Process Prong, not the other. "STARE DECISIS ET NON QUIENTA MOVERE". Once this was decided the courts should have never moved from it. Certain violations of Due Process void jurisdiction when they give way to arbitrary judicial action. See S.C. Code Ann § 17-25-10 and 9 F.Supp.3d. 582.

If a criminal case is appealed, but no trial transcript is produced, what occurs? The trial transcript is a "[j]urisdictional" requirement in the appeals court. The court must remand for a new trial and or reconstruction hearing. If a case is in the state court, and a petition to remove is filed, what occurs? The state court's jurisdiction is divested and that court cannot proceed until remand order is issued or the federal case is dismissed, State v. Ladson, 373 S.C. 320, 644 S.E.2d. 271(S.C.App.2007); Lovett v. Deutsche Bank Nat' Trust Co., F.Supp 2d., 2013 WL 841679(DSC.2013). A case is in the lower court. A motion is filed where adverse ruling is given. The person appeals it, what occurs? The higher court cannot hear it without the "[j]urisdictional [p]rerequisite" final order, see Fortmill v. Fitzgerald, S.E.2d., 2014 WL 7339453(S.C.App.2014). In civil cases parties must be in compliance to all the rules of constructive service. Compliance is "[j]urisdictional [p]rerequisite". If step is omitted (comparingly a sufficient indictment is omitted) decree or ruling is void, see Caldwell v. Winguist, 402 S.C. 565, 741 S.E.2d. 583(S.C.App.2013). Where case is filed in the U.S. District Court, but parties file a second to subvert the District Court's jurisdiction in the state court. This act would void the state court's jurisdiction. Thus, jurisdiction is "[n]ot" absolute despite legislative statute or state or federal law, see Ackerman v. Exxon Mobil Corp., 734 F3d. 237

CA4 (Md.2013). Money amounts are jurisdictional in Wills, Probate and Estates, see Dickerson v. Alexander Hospital, 177 F2d. 876 CA4 (Va.1949); Aladeckcha, 2010 WL 4054267(2010).

When a conviction fails to comport with Due Process if statute under which it is obtained, and we can add to this, an indictment fails to comport to Due Process and fails to provide a person of ordinary intelligence "fair" notice or other essential requirements of Due Process (ei. Double jeopardy protection, presumption of innocence) jurisdiction is void. If the court fails to act in a manner consistent with Due Process and authorizes and or engages in or encourages arbitrary and discriminatory judicial or other practices (ei. Deny us the Equal Protection of the Laws, constructively amending indictments on essential elements, taking away our presumption of innocence, predetermining in advance the outcome of the proceedings by indictment language, spoliating documents and or evidence, illegally seizing evidence and or Foreign Sovereigns, engaging in acts of machination, fraud upon the court, essentially establishing modern day slavery where we are not "DULY" convicted, disenfranchising us of the right to vote behind racial animus, depriving us of proper notice in violation of S.C. Code Ann § 17-25-10, the 4th., 5th., 6th., 8th., 13th., 14th., 15th. amendment(s), producing arbitrary judicial action. Jurisdiction is made void for Due Process violation, Gentry Technology Of S.C. Inc. v. Baptist Health South Florida,...2015 WL 1219251 (DSC.2015); Yates Estate Of Yates, 2014 WL 2579917(S.C.App.2014); Ware v. Ware, 404 S.C. 1, 743 S.E.2d. 817(S.C.App.2013); Orlando Residence Ltd. v. Hilton Head Hotel Investors, F.Supp.2d., 2013 WL 1103027(DSC.2013); Federal Land Bank Ass'n Of Asheville N.C. v. C.I.R., 573 F2d. 179 CA4 (1978); Al Shimani v. C.A.C.I. Inter. Inc., 679 F3d. 205 CA4(Md.2012). The use of United States v. Cotton, Parkhurst and Gentry must be deemed misplaced and or overruled due to vagueness, Johnson v. United States,---S.Ct.--,2015, WL 2473450(U.S.2015); U.S. v. McKee, 506 F3d. 225, 229-232(3rd.Cir.2007); U.S. v. Huet, 665 F3d. 588(3rd.Cir.2008);

Ingram v. Phillips, 36 S.C. L. 200, 1850 WL 2857 S.C. App. Law 1850; Lewis-Murray v. Murray, S.E.2d., 2005 WL 7084812(S.C.App. 2005); Bankers v. South Carolina, F.Supp.2d., 2010 WL 558580 (DSC.2010); Lampman v. Demolff Boberg & Associates Inc., 319 Fed. Appx' 293 CA4 (S.C.2009); United Student Aid Funds Inc. v. Espinosa, 559 U.S. 260, 130 S.Ct. 1367(U.S.2010); Arata v. Village West Owners Ass'n Inc., S.E.2d. 2011 WL 11735004(S.C.App. 2011); Elderberry Of Weber City, LLC v. Living Centers Southeast Inc., ---F3d.---, 2015 WL 4430836 CA4(Va.2015). The judgment in the appellant(s) case and these other cases (ei. Gentry et.al.,) are effected by fundamental infirmities. These infirmities may be raised after any judgment becomes final. Thus, the appellant(s) motion that the conviction and sentence be vacated, that an order issue expunging my record and the other inmates records due to seeking of class action certification and all monies that were paid out (ei. restitution etc.) be returned, United States Aid Funds, Inc. v. Espinosa supra.; Vose v. Hanahan, 10 Rich 465, 1857 WL 3239 S.C. Err. 1857; Norberger v. Hinkle, 576 Fed. Appx' 224 CA4(Va.2014); Jones v. Sternheimer, 387 Fed. Appx' 366, 2010 WL 2711305 CA4(Va.2010); U.S. v. Watson, ---F3d.---, 2015 WL 4385697 CA4(Va.2015); Harley v. South Carolina Dept. Of Corrections, 2013 WL 5428585(DSC.2013); People v. Rogers F.Supp.2d., 2010 WL 424201(DSC.2010); Gentry Technologies Of S.C. Inc. v. Baptist Health South, Florida Inc., 2015 WL 1219251 (DSC.2015).

The S.C. Attorney General and The United States are both parties to the default and claims of Res Judicata and or collateral estoppel emerging from case ~~Case No. 2015-0287~~ in the Richland County Court Of Common Pleas as they relate to these issues presented despite their efforts at fraud, machination and criminal conspiracy. Jurisdictional bar to challenge attaches, In RE: Variant Enterprise Inc., 81 F3d. 1310(4th.Cir. 1996); Bashnight, 551 S.E.2d. 274; Reot v. County Of Fairfax, 541 Fed. Appx' 333(4th.Cir.2013); Wells Fargo Bank, N.A. v. Farag, 2016 WL 2944561(2016). 387-of-406

THE APPLICANT MENTION THAT HE IS ARGUING AGAINST THE PRECEDENT PURSUANT TO RULES OF APPELLATE COURT PROCEDURE, RULE 217. THE APPLICANT IS WELL AWARE THAT THIS RULE APPLIES WITHIN THE HIGHER COURTS. THE APPLICANT IS JUST SETTING THE STAGE IF THE PCR COURT FAILS IN ACKNOWLEDGING THESE LEGAL PRECEDENT(S) ~~ARE~~ ARE ALREADY ESTABLISHED BY 4TH. CIRCUIT COURT OF APPEALS AND U.S. SUPREME COURT CURRENT RULING THAT WOULD SERVE TO SUPERSEDE THE GENTRY CASE RENDERING THAT DECISION INVALID OR NO LONGER RELEVANT WHERE STATE LAW CANNOT BE PERMITTED TO SUPERSEDE OR OVERRIDE FEDERAL LAW OR RULINGS OUT OF THE 4TH. CIRCUIT COURT OF APPEALS AND U.S. SUPREME COURT. THE APPLICANT MAKES USE OF OWENS v. STIRLING, 443 S.C. 246, 904 S.E.2d. 580 (S.C.App.2024) (STANDARD OF DECISION WHEN CONSIDERING THE CONSTITUTIONALITY OF A STATUTE REQUIRES THAT THE COURT PRESUME STATUTE IS CONSTITUTIONAL; COURT MUST UPHOLD STATUTE UNLESS IT FINDS BEYOND A REASONABLE DOUBT IT DOES NOT CONFORM TO THE CONSTITUTION ie. ARTICLE 1 § 11) AND ANY OTHER CASE ADJUDICATED WITHIN THE STATE OF SOUTH CAROLINA THAT SAYS THAT IT IS PERMISSIBLE TO SUBTLY EXPAND AND OR FORCE CONSTRUCT THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 17-19-10, 17-19-20, 17-19-100, ARTICLE 1 § 11, ARTICLE V § 4 AND ARTICLE 1 § 23 RELIED UPON OF THE S.C. CONSTITUTION THAT STATE IT IS UNCONSTITUTIONAL TO VIOLATE THE SEPARATION OF POWERS CLAUSE PROVISIONS ATTACHED TO THE S.C. CONSTITUTION UNLESS THERE IS SOME LANGUAGE WITHIN THE PROVISION THAT SAYS OR IMPLICATE THAT IT IS NOT, CHALLENGING ANY COURT(S) RULING THAT NEGATES THIS MANDATE FOR DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE 5TH. AMENDMENT IF IT EFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE, BUT ONCE PREJUDICE IS CLEARLY SHOWN AS IT IS IN THIS CASE, OVERWHELMINGLY, THE SENTENCE AND CONVICTION MUST BE VACATED FOR DUE PROCESS VIOLATION WHICH IS TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, STATE v. GUTHRIE, 352 S.C. 103, 572 S.E.2d. 309; ARTICLE IV § 2 U.S. CONST.; UNITED STATES v. COYNE, 4 F.3d. 100 (2nd.Cir.1993); UNITED STATES v. MORGENSTEIN, 933 F.2d. 1108, 1115(2nd.Cir.1991);

WILSON v. LINDLER, 995 F.2d. 1256; STIRONE v. UNITED STATES, 361 U.S. 212 (U.S.1960); GAITHER v. UNITED STATES, 413 F.2d. 1061 (D.C.Cir.1969); DOUGLAS v. STATE OF ALABAMA, 380 U.S. 407, 85 S.Ct. 1074(U.S.1965); DECH v. MISSOURI, 544 U.S. 622, 125 S.Ct. 2007, 161 L.Ed.2d. 953, 73 U.S.L.W. 4370(U.S.2005); UNITED STATES v. WHITFIELD, 695 F.3d. 288 CA4 (VA.2012); UNITED STATES v. NAIDU, 480 Fed. Appx' 180 CA4 (Md.2012); UNITED STATES v. MILLS, 555 Fed. Appx' 241 CA4 (Va.2014); UNITED STATES v. BANKS, 29 F.4TH. 168 (4th.Cir.2022); UNITED STATES v. LASSITER, 96 F.4TH. 629(4th.Cir.2024); UNITED STATES v. LEGINS, 34 F.4TH. 304 (4th.Cir.2022).

SUCH ACTION VIOLATES THE APPLICANT'S DUE PROCESS RIGHTS, THE S.C. CONSTITUTION AND PRODUCES A SEPARATION OF POWERS CLAUSE VIOLATION. SINCE THE CLAIM IS INDEED JURISDICTIONAL IN NATURE AS DETERMINED UNDER S.C. CODE ANN. §§ 17-19-10, 17-19-20, 19-19-100, ARTICLE 1 § 11, ARTICLE 1 § 23, ARTICLE V § 4 OF THE S.C. CONSTITUTION REGARDING THE ISSUES PRESENTED, AND STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(INDICTMENT FACIALLY CHARGES A COMPLETE OFFENSE AND THE STATE PRESENTS EVIDENCE WHICH CONVICTS UNDER A DIFFERENT THEORY THAN THAT ALLEGED) CAN BE RAISED AT ANY TIME EVEN AFTER A FINAL JUDGMENT (COMMITMENT ORDER/SENTENCING SHEET) HAS BEEN ISSUED IN THE CASE MAKING THE ASSERTING OF THIS SUBSTANTIAL DUE PROCESS RIGHT TIMELY UNDER THE POST CONVICTION RELIEF STATUTES OR EVEN PURSUANT TO SEEKING HABEAS CORPUS. WHEN THE S.C. LEGISLATURE ALSO VIA THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11 OR ARTICLE V § 4, IT MARKS THE BOUNDS OF A COURT'S POWER, AND THE GOVERNMENT'S FAILURE THE REQUIREMENTS DEPRIVES THE COURT OF AUTHORITY (JURISDICTION) TO HEAR THE CASE, SO A COURT "MUST" (MANDATORY) ENFORCE THE REQUIREMENT EVEN IF NO PARTY HAS RAISED IT, AND THE COURT "MUST" ADHERE TO THE REQUIREMENT EVEN IF EQUITABLE CONSIDERATIONS WOULD SUPPORT EXCUSING ITS VIOLATION, HARROW v. DEPT. OF DEFENSE, 601 U.S. 480, 144 S.Ct. 1178, 218 L.Ed.2d. 502(U.S.2024); SANTOS-ZACARIA v. GARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023)(A JURISDICTIONAL PRESCRIPTION SETS THE BOUNDS OF A COURT'S ADJUDICATORY AUTHORITY [JURISDICTION]. COURTS CANNOT GRANT EQUITABLE EXCEPTIONS TO JURISDICTIONAL RULES OR

STATUTES, BECAUSE THEY ARE NOT ABLE TO EXCEED THE LIMITS OF THEIR ADJUDICATIVE AUTHORITY); MOAC MALL HOLDINGS LLC. v. TRANSFORM HOLDCO LLC., 598 U.S. 288, 143 S.Ct. 927, 215 L.Ed.2d. 262(U.S.2023). SUCH CLAIMS ARE COGNIZABLE UNDER THE S.C. POST CONVICTION RELIEF ACT OR PURSUANT TO SEEKING HABEAS CORPUS PROVISIONS.

WHILE GENTRY MADE IT HARDER TO CLAIM "VOID" CONVICTION BASED ON MERE TECHNICALITIES, COURT THAT CONSTRUCTIVELY AMENDS ESSENTIAL ELEMENTS TO FIT A FORCED STATUTORY CONSTRUCTION HAS EXCEEDED ITS "CONSTITUTIONAL" AUTHORITY (JURISDICTION) UNDER ARTICLE 1 § 11 OF THE S.C. CONSTITUTION AND U.S. CONSTITUTION FOR DUE PROCESS VIOLATION. THIS RESULTS IN A "VOID" JUDGMENT BECAUSE THE COURT HAS EFFECTIVELY CREATED AND TRIED A "NEW" CHARGE THAT NEVER RECEIVED GRAND JURY APPROVAL VIOLATING ARTICLE 1 § 11. IF THE INDICTMENT ADDS ESSENTIAL ELEMENTS OF THE OFFENSE(S) NOT APPROVED BY THE GRAND JURY (TIME AND PLACE OF ASSAULT OR DEATH) AND THE INDICTMENT(S) LANGUAGE ALREADY SUPPORTS A CONVICTION, DEPRIVING OF THE PRESUMPTION OF INNOCENCE, BUT THE COURT AMENDS IT IN A WAY BY JURY INSTRUCTION CHANGING THE NATURE OF THE OFFENSE AND OR LEGAL THEORY ALLEGED IN THE INDICTMENT (HE IS INNOCENT UNTIL PROVEN GUILTY CONTRARY TO THE LANGUAGE WHERE THE GRAND JURY ALREADY CONVICTS WHICH THEY DO NOT HAVE THE POWER OR AUTHORITY TO DO), A JURY INSTRUCTION CONTRARY TO THE INDICTMENT, THE COURT LOSES JURISDICTION RENDERING ANY RESULTING CONVICTION "VOID", EVEN IF THE DEFENDANT APPEARED "GUILTY" OF THE ORIGINAL CHARGE. UNDER S.C. CODE ANN. § 17-19-20 THE INDICTMENT "MUST" BE DEEMED GOOD....., THE STATUTORY LANGUAGE IS CLEAR AND UNAMBIGUOUS. S.C. CODE ANN. § 17-19-100 PROVIDE ANY AMENDMENT THAT CHANGES THE NATURE OF THE OFFENSE RETURNED BY THE GRAND JURY, WHO IN THIS CASE HAS ILLEGALLY CONVICTED HIM. IF THE AMENDMENT ADDS A NEW ELEMENT (TIME AND PLACE OF THE ASSAULT OR DEATH), CHANGES THE THEORY (THE INDICTMENT PREDETERMINE GUILT AND CONVICTS BEFORE ANY TRIAL COMMENCES BUT THE JUDGE CHARGES DIFFERENTLY DIRECTLY EFFECTING THE MENS REA ELEMENTS) OF THE CRIME, IT IS "MATERIAL" CHANGE THAT EXCEEDS THE COURT'S "CONSTITUTIONAL" AUTHORITY (JURISDICTION) AND IS COGNIZABLE UNDER THE POST CONVICTION RELIEF ACT AND EVEN HABEAS CORPUS. WHEN THE COURT "CONSTRUCTIVELY

AMENDS" AN INDICTMENT--EFFECTIVELY CHANGING THE CHARGE THROUGH JURY INSTRUCTION OR BY ALLOWING EVIDENCE OF ESSENTIAL ELEMENTS NOT PASSED UPON BY THE GRAND JURY--IT VIOLATES THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11 AND THE U.S. CONSTITUTION UNDER THE 5TH. AND 14TH. AMENDMENT DUE PROCESS CLAUSE, AND THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE ESSENTIAL ELEMENT(S) OF "TIME AND PLACE" ARE NOT PROPERLY ALLEGED FOR THE MURDER, OR ESSENTIAL ELEMENTS FOR OTHER OFFENSE(S), AND THE APPLICANT IS ALREADY FOUND GUILTY BY THE GRAND JURY ON THE FACE OF THE INDICTMENT WHO TOOK AWAY HIS PRESUMPTION OF INNOCENCE WHICH IS A SUBSTANTIAL, FUNDAMENTAL, DUE PROCESS RIGHT BY BOTH THE STATE AND FEDERAL CONSTITUTION(S). EVEN IF THE DEFENDANT IS "GUILTY" OF THE ORIGINAL CONDUCT, THE COURT LOSES THE POWER TO HEAR THE CASE THE MOMENT THE INDICTMENT IS AMENDED A DIFFERENT NATURE AND OR THEORY. THIS IS BECAUSE THE CIRCUIT COURT'S JURISDICTION IS "TRIGGERED" BY THE "SPECIFIC" INDICTMENT RETURNED BY THE GRAND JURY MAKING THE TRIAL PROCEEDINGS ESSENTIALLY AN ACT OF POTENTIAL DOUBLE JEOPARDY. THE GRAND JURY DOES NOT HAVE THE POWER BY STATE OR FEDERAL LAW OR BY STATE OR FEDERAL CONSTITUTION TO CONVICT. IF A COURT AMENDS THE INDICTMENT(S) TO CHANGE THE NATURE OF THE OFFENSE(S) OR THE THEORY PASSED UPON BY THE GRAND JURY, IT VIOLATES THE "CONSTITUTIONAL" REQUIREMENT OF PRESENTMENT TO THE GRAND JURY UNDER ARTICLE 1 § 11. THIS IS NOT A PROCEDURAL MISTAKE; IT IS A "JURISDICTIONAL DEFECT" THAT MAKES THE CONVICTION "VOID", REGARDLESS OF DEFENDANT'S PERCEIVED GUILT OF THE ORIGINAL CHARGE, WHICH IS COGNIZABLE UNDER THE POST CONVICTION RELIEF STATUTES AND HABEAS CORPUS STATUTES, STATE V. SWEET, 446 S.C. 356, 919 S.E.2d. 909(S.C.App.2025)(THE INDICTMENT DEFECT(S) ARE SO FUNDAMENTALLY FLAWED THEY PRODUCE CONSTITUTIONAL STRUCTURAL ERROR THAT IS NOT HARMLESS AND THAT "VOIDS" JURISDICTION). THIS VIOLATES THE APPLICANT'S 5TH. AND 14TH. AMENDMENT RIGHTS UNDER THE DUE PROCESS CLAUSE, THE APPLICANT'S 6TH. AMENDMENT RIGHTS TO A FAIR AND IMPARTIAL TRIAL PROCEEDING, THE APPLICANT'S 13TH. AMENDMENT RIGHTS WHERE BY THIS PROSECUTIONAL MISCONDUCT THE STATE ACTORS CONSPIRING UNDER COLOR OF STATE LAW SOUGHT TO ESTABLISH A NEW FORM OF MODERN DAY SLAVERY AND RACIAL CASTE SYSTEM AND VIOLATED THE APPLICANT'S 15TH.

AMENDMENT RIGHTS WHERE THE CONSPIRACY WAS ALSO DESIGNED TO LABEL THE APPLICANT AS A FELON TO DENY HIM THE RIGHT TO VOTE AS DOCUMENTED BY THE PROMINENT STANFORD LAW PROFESSOR AND INDEPENDENT INVESTIGATOR, MICHELLE ALEXANDER IN HER BOOK ENTITLED, "MASS INCARCERATION DURING THE AGE OF COLORBLINDNESS, THE NEW JIM CROW". THE COURTS CANNOT ESTABLISH TRIAL AND OR PCR PROCEEDINGS IN VIOLATION OF THE APPLICABLE STATUTES AND THE S.C. CONSTITUTION DEMONSTRATING THE AMOUNT OF EXTREME PREJUDICE THAT THE APPLICANT WAS SUBJECT TO WARRANTING THE REVERSAL AND VACATING OF THE CONVICTION. THUS, THIS FRAUD UPON THE COURT AND MANIFEST INJUSTICE IS NOT A CONCLUSORY CLAIM. THE UNCONSTITUTIONAL ACTION ALSO VIOLATE THE APPLICANT'S RIGHTS UNDER THE 14TH AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE. THE S.C. ATTORNEY IS IMBUED BY THE STATE CONSTITUTION WITH SUBSTANTIAL AUTHORITY AND DUTY OVER THE PROSECUTION OF CRIMINAL CASES; AND TO THAT END, THE ATTORNEY GENERAL HAS A CONSTITUTIONAL DUTY TO SUPERVISE ALL CRIMINAL PROSECUTIONS AND ENSURE ALL LAWS ARE FAITHFULLY EXECUTED AS WELL AS THE STATUTORY DUTY TO DIRECT THE STATE'S SOLICITORS, STATE v. HARRISON, 432 S.C. 448, 854 S.E.2d. 468(S.C.App.2021); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436(D.C.Miss.2017); HAMER v. NEIGHBORHOOD HOUSING SERVICE OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 249(U.S.2017); STATE v. DENT SUPRA.; STATE v. SWEET SUPRA..

UNLIKE THE WORD "MAY" WHICH IMPLIES DISCRETION THE WORD "SHALL" IN A STATUTE USUALLY CONNOTES A REQUIREMENT, KINGDOMWARE TECHNOLOGIES, INC. v. U.S., 579 U.S. 162, 136 S.Ct. 1969, 195 L.Ed.2d. 334(U.S.2016); CRETE CARRIER CORP. v. SULLIVAN & SONS, INC., 2021 WL 2685253, * 6+ D.Md.; MAINE COMMUNITY HEALTH OPTIONS v. UNITED STATES, 140 S.Ct. 1308, 1320+ U.S.; DUKE ENERGY CORPORATION v. SOUTH CAROLINA DEPARTMENT OF REVENUE, 445 S.C. 499, 914 S.E.2d. 873(S.C.App.2025); THOMPSON v. KILLIAN, 447 S.C. 177, 924 S.E.2d. 606(S.C.App.2025); MARTIN v. UNITED STATES, 605 U.S. 395, 145 S.Ct. 1689, 222 L.Ed.2d. 54(U.S.2025); VALLADARES v. RAY, 130 F.4TH. 74 (4th.Cir.2025). IN CONSTRUING STATUTES, THEIR WORDS "MUST" BE GIVEN THEIR PLAIN AND ORDINARY MEANING WITHOUT RESORT TO SUBTLE EXPANSION OR FORCED CONSTRUCTION IN AN

ATTEMPT TO EXPAND THE STATUTE(S), ODOM v. TOWN OF McBEE ELECTION COMMISSION, 427 S.C. 305, 831 S.E.2d. 429(S.C.App.2019); HUCK v. OAKLAND WINGS, LLC., 422 S.C. 430, 813 S.E.2d. 288 (S.C.App.2018); MURPHY v. SMITH, 138 S.Ct. 784, 200 L.Ed.2d. 75, 86 U.S.L.W. 4069(U.S.2018). WHETHER THE COURT WISHES TO MAKE USE OF THE PHRASE "VOID" OR "VOIDABLE" THE RESULT IS THE SAME DUE TO THE FACT BY THE ACTION THE COURT ALSO SUBTLY EXPANDED AND OR FORCE CONSTRUCTED THE APPLICABLE STATUTE(S) RELIED UPON AND IGNORED THE PROVISIONS OF THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11, ARTICLE 1 § 23 AND ARTICLE V § 4 RELATED TO THE VARIOUS ISSUES ARGUED IN THIS CASE ALSO AS THEY RELATE TO TIMELY SOUGHT EXERCISED RIGHTS UNDER SPECIFIED CLAIM PROCESSING RULES, COSTELLO v. U.S. 350 U.S. 359, 76 S.Ct. 406, 100 L.Ed.2d. 397(U.S.1956)(AN INDICTMENT RETURNED BY A LEGALLY CONSTITUTED AND UNBIASED GRAND JURY [THE GRAND JURY IS NOT UNBIASED IF BY THEIR LANGUAGE THE APPLICANT ALREADY STAND CONVICTED]...); U.S. v. RESENDIZ-PONCE, 549 U.S. 102, 127 S.Ct. 782, 166 L.Ed.2d. 591(U.S.2007)(INDICTMENT MUST SET FORTH EACH ELEMENT OF CRIME CHARGED. THERE ARE TWO "CONSTITUTIONAL" (EMPHASIS ADDED) REQUIREMENTS FOR AN INDICTMENT [PROOF INDICTMENT ARE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION]: FIRST, THAT IT CONTAINS THE ELEMENTS OF THE OFFENSE CHARGED AND FAIRLY INFORMS THE DEFENDANT OF THE CHARGE AGAINST WHICH HE MUST DEFEND, AND, SECOND, THAT IT ENABLES DEFENDANT TO PLEAD AN ACQUITTAL OR CONVICTION IN BAR OF FUTURE PROSECUTION FOR THE SAME). HOW IS THE CURRENT INDICTMENTS IN QUESTION ENABLES THE APPLICANT TO PLEAD BAR OF FUTURE PROSECUTION IF HE IS ALREADY CONVICTED BY THE GRAND JURY AND LANGUAGE CONTAINED THEREIN BEFORE ANY TRIAL COMMENCES? THIS "CONSTITUTIONAL STRUCTURAL ERROR" IS NOT HARMLESS SUBJECTING THE APPLICANT TO EXTREME PREJUDICE UNDER THE "CONSTITUTIONAL ELEMENT" TO SUBJECT MATTER JURISDICTION, STATE v. BROWN, 436 S.C. 505 (S.C.App.2022). THE CONVICTION MUST BE REVERSED AND VACATED. "NO PERSON SHALL BE MADE TO ANSWER ANY CRIMINAL OFFENSE, UNLESS IT BE BY GRAND JURY INDICTMENT"; "EVERY INDICTMENT 'MUST' BE DEEMED AND JUDGED AS GOOD"; "A COURT MAY ONLY AMEND AN INDICTMENT (BY JURY INSTRUCTION OR OTHERWISE) IF THE CHANGE DOES NOT CHANGE THE

NATURE OF THE OFFENSE". THE PLAIN LANGUAGE OF THE APPLICABLE STATUTE(S) IS CLEAR AND UNAMBIGUOUS REQUIRING THAT IT BE ADHERED TO AND THE APPLICANT'S CONVICTION BE MADE "VOID" FOR DUE PROCESS VIOLATION UNDER THE "CONSTITUTIONAL ELEMENT" TO SUBJECT MATTER JURISDICTION. THE STATUTES AS WELL AS THE S.C. CONSTITUTION UNDER ARTICLE 1 § 11 AND THE U.S. CONSTITUTION UNDER THE 5TH. AND 14TH. AMENDMENTS REQUIRES SUCH. THE PRESUMPTION OF INNOCENCE LANGUAGE THAT APPEARS ON THE WARRANTS MUST APPEAR ON THE "FACE" OF THE ACTUAL INDICTMENT BECAUSE THE LAW IS CLEAR. "IT IS THE BODY OF THE INDICTMENT THAT IS IMPORTANT". THE BODY OF THE INDICTMENT WITHOUT LANGUAGE TO EXPLAIN THE UNCONSTITUTIONAL CHARGE "CONVICTS" INVALIDATING THE INDICTMENT UNDER ARTICLE 1 § 11 OF THE S.C. CONSTITUTION AND U.S. CONSTITUTION PURSUANT TO DUE PROCESS.

REVERSAL IS REVERSAL, REGARDLESS OF THE REASON, AND AN INVALID CONVICTION IS NO CONVICTION AT ALL. A CONVICTION UNDER AN UNCONSTITUTIONAL LAW AND OR JUDICIAL PROCESS IS NOT MERELY ERRONEOUS, BUT ILLEGAL AND "VOID" UNDER THE "CONSTITUTIONAL ELEMENT" TO SUBJECT MATTER JURISDICTION, AND CANNOT BE A LEGAL CAUSE TO CONTINUE THE IMPRISONMENT, UNITED STATES v. AJRAWAT,--Fed. Appx'--, 2018 WL 3045619, 738 Fed. Appx' 136(4th.Cir.2018); PEOPLE v. FIELDS, N.E.3d., IL. App. (1st.) 122012-UB; FARROW v. LIPETSKY, 2017 WL 1540637 (N.C.Cal.2017). JURISDICTION REFERS TO THE COURT'S STATUTORY OR "CONSTITUTIONAL" (EMPHASIS ADDED) POWER TO ADJUDICATE A CASE. WITHOUT JURISDICTION, A COURT, A CRIMINAL COURT IN PARTICULAR, CANNOT PROCEED AT ALL. JURISDICTION IS THE POWER TO DECLARE LAW. THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED AND WHEN IT CEASE TO EXIST, THE ONLY THING LEFT FOR THE COURT TO DO IS ANNOUNCE THIS FACT AND DISMISS THE CAUSE OF CONVICTION AGAINST THE APPLICANT, HENSELEY v. CITY OF CHARLOTTE, 2023 WL 2533083 (W.D.N.C.2023); B.R. v. F.C.S.B., 17 F.4TH. 485(4th.Cir.2021); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998); al-SUYID v. HIFTER, 139 F.4TH. 368 (4th.Cir.2025). MERE CLAIM THAT RIGHTS EXIST UNDER THE

39 CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION IS

SUFFICIENT TO HAVE THESE MATTERS HEARD UNDER THE POST CONVICTION RELIEF ACT OR PURSUANT TO HABEAS CORPUS DUE TO THE OUTRAGEOUS CONDUCT INVOLVING THE STATE OF SOUTH CAROLINA WHERE THE GENTRY RULING IS UNCONSTITUTIONALLY "VAGUE", "SILENT" REGARDING THIS ISSUE AND PURSUANT TO CHALLENGING STATE v. LANGFORD OF 2012 REGARDING CLAIM PROCESSING RULES BASED UPON RECENT JUDICIAL DETERMINATION COMING OUT OF BOTH THE 4TH. CIRCUIT COURT OF APPEALS AND U.S. SUPREME COURT, WHERE THE LOWER COURT WENT BEYOND THE (365) DAYS ESTABLISHED BY THE PROVISION TO RESOLVE THE CASE, AND THE CLAIM PROCESSING RULE IS JURISDICTIONAL IN NATURE BEING ATTACHED TO THE S.C. CONSTITUTION UNDER ARTICLE(S) V § 4 AND 1 § 23 AS IS ARGUED IN THIS PCR APPLICATION, STOP RECKLESS ECONOMICS INSTABILITY CAUSED BY DEMOCRATS v. FEDERAL ELECTION COMM'N, 814 F.3d. 221 (4th.Cir.2016); WESTMINSTER NURSING CENTER v. COHEN, 2017 WL 5632661 (E.D.N.C.2017); SANTOS-ZACARIA v. GARLAND, 598 U.S. 411, 143 S.Ct. 1103, 215 L.Ed.2d. 375(U.S.2023); FIRST PROTECTION INSURANCE COMPANY v. LEWIS EDWARD O'LEARY, 2025 WL 1936566 (4th.Cir.2025)(THE U.S. SUPREME COURT HAS STATED IN NO UNCERTAIN TERMS THAT COURTS ARE NOT FREE TO SIMPLY ASSUME THAT THEY POSSESS SUBJECT MATTER JURISDICTION AND THEN PROCEED TO DECIDE THE MERITS OF THE ISSUES BEFORE THEM WHEN THEIR JURISDICTION REMAINS IN DOUBT); JEFFERIES v. PRINCE GEORGE'S COUNTY, 2025 WL 590433 (D.Md.2025); KOKKONEN v. GUARDIAN LIFE INS. CO. OF AMERICA, 114 S.Ct. 1673(U.S.1994)(COURTS, ALL COURTS, BOTH STATE AND FEDERAL, ONLY POSSESS POWER BY "CONSTITUTION" (EMPHASIS ADDED) AND STATUTE WHICH IS NOT TO BE EXPANDED BY JUDICIAL DECREE. THE GENTRY COURT BY JUDICIAL DECREE EXPANDED THE COURT(S) JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION BY ACTS OF FRAUD UPON THE COURT. IT IS PRESUMED THAT THE CAUSE LIES OUTSIDE, BEYOND, THE COURT'S "CONSTITUTIONAL" JURISDICTION, AND THE BURDEN OF ESTABLISHING THE CONTRARY IS ON THE RESPONDENT TO PROVE OTHERWISE, NOT THE PCR COURT BEFORE THE STATE IS REQUIRED TO RESPOND, COPER BRIGHT ENTERPRISES v. RAIMONDO, 603 U.S. 369, 144 S.Ct. 2244 (U.S.2024); LOZMAN v. CITY OF RIVERA BEACH, FLA., 133 S.Ct. 735(U.S.2013).

40 THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW

MADE THE ISSUE OF SUBJECT MATTER JURISDICTION CLEAR AND UNAMBIGUOUS FOR ALL COURTS AROUND THE NATION, AT BOTH THE STATE AND FEDERAL LEVEL. THAT COURT DETERMINED:

"COURTS (BOTH STATE AND FEDERAL NO MATTER WHAT JURISDICTION IS GIVEN TO THEM BY A PARTICULAR STATUTE) HAVE NO "CONSTITUTIONAL" AUTHORITY (JURISDICTION) TO PASS ON THE MERITS (WHICH INCLUDE THE CRIMINAL COURT DUE TO ALL THE SUBSTANTIAL DUE PROCESS VIOLATIONS RESENTED NOW IN THIS PCR APPLICATION AND PURSUANT TO S.C. CODE ANN. § 17-19-80 THE RESPONDENT IS REQUIRED TO ADDRESS EACH ISSUE PRESENTED IN THE APPLICATION) OF A CASE BEYOND THEIR JURISDICTION (THE EGREGIOUS ACTS OF FRAUD UPON THE COURT, EVEN BY THE GENTRY COURT AND LOWER COURT ARGUED, DUE PROCESS VIOLATIONS, PROSECUTIONAL MISCONDUCT, AND VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE SUBTLY EXPANDING AND OR FORCE CONSTRUCTING STATUTE(S) OUT OF EXISTENCE PLACES THE CONVICTION BEYOND THE STATE'S ABILITY TO MAINTAIN AND OR LEAVE IN PLACE)---"TO DO SO IS, BY VERY DEFINITION FOR THE COURT(S) TO ACT ULTRA VIRES", 523 U.S. AT. 102, 118 S.Ct. 1003. MUCH MORE THAN MERE NICETIES ARE AT STAKE HERE. THE STATUTORY (LEGISLATIVE PRONG) AND "(ESPECIALLY)" CONSTITUTIONAL ELEMENT (PRONG) OF JURISDICTION (SUBJECT MATTER JURISDICTION) ARE AN ESSENTIAL INGREDIENT OF SEPARATION AND EQUILIBRATION OF POWERS, RESTRAINING THE COURTS FROM ACTING AT CERTAIN TIMES, AND EVEN RESTRAINING THEM FROM ACTING PERMANENTLY REGARDING CERTAIN SUBJECTS", ID AT. 101, 118 S.Ct. 1003. "THIS TENET IS AS OLD AS THE BEDROCK AND ALMOST AS OLD AS THE COURT ITSELF", DEMONSTRATING RETROACTIVE IMPLICATIONS, CROSS-SOUND FERRY SERV., INC. v. I.C.C., 834 F.3d. 327, 339 (C.A.D.C.1991); THE CITY OF OCALA, FLORIDA v. ROJAS, 598--U.S.--, 2023 WL 2357328 (U.S.2023)(HIGHLIGHTING BOTH ELEMENTS OF SUBJECT MATTER JURISDICTION AND THE VOIDING OF JURISDICTION IN THE DISSENT); WILKINS v. UNITED STATES,--S.Ct.--, 2023 WL 2655449 (U.S.2023)(REGARDING CLAIM PROCESSING RULES AND THE VOIDING OF JURISDICTION); UNITED STATES v. BROWN,--F.4TH.--, 2023 WL 3214545 (4th.Cir.2023)(REGARDING THE REQUIREMENT TO PLACE PROPER ELEMENTS WITHIN AN INDICTMENT AND THE VOIDING OF JURISDICTION); MONTGOMERY v. LOUISIANA, 136 S.Ct. 718, 193

L.Ed.2d. 599(U.S.2016)(UNCONSTITUTIONAL ACTION DONE WITHIN CRIMINAL CASES VOIDS JURISDICTION); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998)(UNCONSTITUTIONAL ACTION UNDER BOTH THE STATUTORY AND CONSTITUTIONAL ELEMENTS TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION); HAMER v. NEIGHBORHOOD SERVICES OF CHICAGO, 583 U.S. 17, 138 S.Ct. 13(U.S.2017)(ADDRESSING CLAIM PROCESSING RULES AND FRAUD UPON THE COURT VOIDING JURISDICTION).

THE ACTION OF THE S.C. COURTS PRODUCING THESE FUNDAMENTALLY FLAWED AND FATALLY DEFECTIVE INDICTMENT THAT STAND IN EGREGIOUS VIOLATION OF ARTICLE 1 § 11 SERVE TO PRODUCE TRIALS THAT WERE SIMILAR TO THOSE CONDUCTED BY THE NAZI OCCUPATION IN EUROPE, AS THOSE CONDUCTED DURING THE SALEM WITCH TRIAL AND THIS NATION'S CIVIL RIGHTS ERA. OUR CONSTITUTIONAL FOREFATHERS IN THEIR WISDOM AND JURISPRUDENCE SAW THIS REPEATED PATTERN THAT LIKE A VENOMOUS SNAKE, ROSE ITS HEAD FROM THE SOILS OF SOCIETY TO FATALLY BITE THE COMMONWEALTH. IN THEIR WISDOM THEY SET UP "[B]ULWARKS", [B]ARRIERS" OF PROTECTION FOR THE AMERICAN CITIZENRY, ALL THOSE WHO ARE HELD BY US, ALL THOSE WHO ENTER OUR BORDERS OR TERRITORIES, THAT UNDER NO CIRCUMSTANCE, OUTSIDE OF AN INDIVIDUAL COMMITTING AN ACT OF TREASON, WERE TO BE TORN DOWN, BECAUSE PEOPLE IN GROUPS AND IN NUMBERS BRING FALSE ACCUSATIONS AGAINST THE INNOCENT. SUCH PRESUMPTIONS CONTAINED WITHIN THE INDICTMENT(S) DESTROY THE VERY METAL OF THE SHIELD OF PROTECTION OUR CONSTITUTIONAL FOREFATHERS DIED AND SACRIFICED THEIR BEST BLOOD TO ESTABLISH AND PRESERVE. THE INDICTMENT(S) ARE A FORM OF TREASON BECAUSE THEY BETRAY OUR CONSTITUTION AND MUST BE ABOLISHED AND RENDERED UNCONSTITUTIONAL AND "VOID" INCLUDING THE CONVICTION ATTACHED THERETO.

SUBJECT MATTER JURISDICTION IS THE POWER TO DECLARE LAW, WHETHER IT BE UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION OR THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION. THEREFORE, IT CANNOT BE WAIVED AND OR FORFEITED. THUS, WHEN IT CEASE TO EXIST. THE ONLY THING LEFT FOR THE COURT TO DO IS TO ANNOUNCE THIS FACT AND DISMISS THE CAUSE OF CONVICTION AGAINST THE PETITIONER/APPLICANT. THIS CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN FOR THE FIRST TIME ON APPEAL, EVEN AFTER A FINAL JUDGMENT HAS BEEN ISSUED IN THE CASE, ESPECIALLY IN LIGHT OF THE FACT THAT WE HAVE FRAUD UPON THE COURT ATTACHED TO THE JURISDICTIONAL CLAIMS MADE. AGAIN, THE PETITIONER IS ARGUING HIS ISSUES UNDER THE DUE PROCESS/ CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, NOT THE STATUTORY (LEGISLATIVE) ELEMENT THAT THE STATE COURTS IN THE PAST, IN AN ABUSE OF DISCRETION AND FRAUD UPON THE COURT, ADJUDICATED SUCH ISSUES UNDER, SEBELIUS v. AUBURN REGIONAL MEDICAL CENTER, 133 S.Ct. 817, 184 L.Ed.2d. 627, 81 U.S.L.W. 4053 (U.S.2013); SIZWARD v. RIDDLE, F.Supp.2d., 2013 WL 707018 (DSC.2013); GRUPO DALAFLUX v. ATLAS GLOBAL L.P., 541 U.S. 567, 124 S.Ct. 192, 158 L.Ed.2d. 866(U.S.2004); 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F.3d. 624 (4th.Cir.2016); SANDERS v. SAVANNAH HIGHWAY AUTOMOTIVE COMPANY,--S.E.2d.--, 2020 WL 6154305 (S.C.App.2020); NATIONSTAR MORTG., LLC. v. MEISNER, S.E.2d., 2016 WL 1700516 (S.C.App.2016); OOO-RM INVEST v. NET ELEMENT INTERNATIONAL, INC., F.Supp., 2014 WL 12613282 (S.D.Fla.2014); KOSCIUSKO v. PARHAM, 428 S.C. 481, 836 S.E.2d. 362(S.C.App.2019); FIRST CITIZENS BANK AND TRUST COMPANY, INC. v. TAYLOR, 431 S.C. 149, 847 S.E.2d. 249(S.C.App.2020). BY THE LEGAL ISSUES ARGUED EQUITABLE TOLLING ATTACHES DUE TO THE STATE PROSECUTOR AND THE S.C. SUPREME COURT'S INVOLVEMENT (THE GENTRY CASE) CONCEALING THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION AND FATAL INDICTMENT DEFECTS THAT STOOD IN CLEAR VIOLATION OF THE APPLICABLE STATUTES OF S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 SUBTLY EXPANDING AND FORCE CONSTRUCTING THE STATUTES ALL OVER THE PLACE, WERE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION AND UNCONSTITUTIONAL ACTION, WHICH GRAVELY EFFECTED THE TRIAL PROCESS SUBJECTING THE

PETITIONER/APPLICANT TO EXTREME PREJUDICE.

S.C. CODE ANN. § 17-19-20 PROVIDE THAT EVERY INDICTMENT "MUST", "MANDATORY LANGUAGE" (EMPHASIS ADDED) BE DEEMED AND JUDGED AS GOOD. THE INDICTMENT(S) IS NOT "GOOD" BY THE PLAIN LANGUAGE RULE OF THE STATUTE AND ARTICLE 1 § 11 OF THE S.C. CONSTITUTION, WHERE THE GENTRY RULING ALLOWS THE S.C. COURTS TO SUBTLY EXPAND AND FORCE CONSTRUCT BOTH S.C. CODE ANN. § 17-19-10 AND 17-19-20 IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE, FURTHER ILLUSTRATING THE INJUSTICE THAT HAS OCCURRED BY THE GENTRY RULING. WHEN IT COMES TO THE S.C. SUPREME COURT HOLDING THOSE CASES IN VIOLATION OF BETTERMAN v. MONTANA 2016, SOME FOR ALMOST (7) YEARS TO ALLOW THEM TO GO ON A NATIONWIDE "FISHING EXPEDITION" TO FIND UNCONSTITUTIONALLY VAGUE AND OR SILENT CASE LAW THAT ONLY ADDRESSED THE ISSUE OF SUBJECT MATTER JURISDICTION UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION, TO CONCEAL THE FACT THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, NOT ONE, AND UNCONSTITUTIONAL ACTION (DUE PROCESS VIOLATIONS) UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION ALSO VOIDS JURISDICTION. THE CASES THE GENTRY COURT MADE USE OF, COTTON AND PARKHURST WERE CASES THAT WERE ADJUDICATED UNDER THE STATUTORY ELEMENT TO SUBJECT MATTER JURISDICTION AND ARE UNCONSTITUTIONALLY VAGUE, SILENT, ON WHETHER DUE PROCESS VIOLATION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION VOIDS JURISDICTION. IN SOUTH CAROLINA WHEN A COURT KNOWINGLY IGNORES WELL ESTABLISHED U.S. SUPREME COURT HOLDINGS LIKE STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003(U.S.1998) AND OTHER SIMILAR HOLDINGS, CIRCUMVENTING, FAILING TO ADDRESS THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, IT WOULD CONSTITUTE FRAUD UPON THE COURT BECAUSE IT DEFILES THE JUDICIAL MACHINERY ITSELF. IT OCCURS WHEN A COURT'S IMPARTIAL FUNCTIONS ARE DIRECTLY CORRUPTED, OFTEN BY AN OFFICER OF THE COURT (SUCH AS A JUDGE OR ATTORNEY). PURPOSELY CIRCUMVENTING THE NATION'S HIGHEST COURT'S HOLDINGS TO REACH A DESIRED OUTCOME--ESPECIALLY CONCERNING SUBJECT MATTER JURISDICTION--INTERFERES WITH THE COURT'S ABILITY TO "PERFORM IT'S NORMAL FUNCTION IN THE USUAL MANNER ITS IMPARTIAL TASKS. IT

INVOLVES DECEIT, LIES AND FALSE INFORMATION MAKING THE JUDGMENT VOID AB INITIO, AS THE COURT LACKED THE AUTHORITY TO ACT IN THE FIRST PLACE. WHEN A JUDGMENT IS VAGUE OR SILENT ON A SUBSTANTIAL CLAIM, IF THAT JUDGMENT IS SILENT (ie. WHETHER FATAL DEFECTS IN AN INDICTMENT VOID JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION FOR DUE PROCESS VIOLATION AND VIOLATIONS OF THE APPLICABLE STATUTES BY THE LANGUAGE CONTAINED THEREIN), IT MAY NOT BE CONSIDERED A "FINAL JUDGMENT", ESPECIALLY IN THIS CASE WHEN WE HAVE FRAUD UPON THE COURT, THE GENTRY COURT PURPOSELY FAILING TO ADDRESS WHETHER SUBSTANTIAL DUE PROCESS VIOLATIONS RISE TO A LEVEL OF BEING UNCONSTITUTIONAL WHICH WOULD VOID OR MAKE VOIDABLE JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION, ESTATE OF CUNNINGHAM v. MAYOR AND CITY COUNCIL OF BALTIMORE, 128 F.4TH. 238(4th.Cir.2025)(COURT DISMISSED APPEAL BECAUSE THE DISTRICT COURT OVERLOOKED AND FAILED TO RESOLVE CLAIMS ON TWO ISSUES. BECAUSE THE JUDGMENT WAS SILENT ON THE CLAIM, IT WAS NOT FINAL, APPEALABLE ORDER); ESCOBAR-SALMERON v. MOYER, 150 F.4TH. 360(4th.Cir.2025)(SILENCE ON A CLAIM PREVENTS FINALITY. THE COURTS MUST OBJECTIVELY RESOLVE ALL SUBSTANTIVE CLAIMS BEFORE A JUDGMENT IS FINAL); LOWY v. DANIEL DEFENSE, LLC., --F.4TH.--, 2026 WL 376731 (4th.Cir.2026)(WITHOUT EXPRESSED LANGUAGE SILENCE EQUAL NON FINALITY ALL CLAIMS MUST BE ADDRESSED); ALI v. HOGAN, 26 F.4TH. 587(4th.Cir.2022)(THIS CASE REINFORCES THAT THE COURT'S FAILURE TO PROPERLY ACCOUNT FOR CONSTITUTIONAL STANDING [A COMPONENT OF SUBJECT MATTER JURISDICTION] IS A FUNDAMENTAL ERROR. A KNOWING FAILURE TO DO SO BY A JUDGE WOULD ALIGN WITH THE DEFINITION OF CORRUPTING THE JUDICIAL MACHINERY); MONACO v. WV PARKWAYS AUTHORITY, 57 F.4TH. 185(4th.Cir.2023)(IN THIS CASE, THE 4TH. CIRCUIT ADDRESSED HOW SUBJECT MATTER JURISDICTION CAN BE "FORECLOSED" BY CONSTITUTIONAL IMMUNITIES THAT THE LOWER COURT MIGHT IMPROPERLY OVERLOOKED AND WOULD NOT BE ABLE TO EXERCISE JURISDICTION REGARDLESS OF THE MERITS OF THE CASE. IGNORING U.S. SUPREME COURT HOLDING THAT DEFINE BARRIERS WOULD CONSTITUTE "EXCESS OF JURISDICTION"); BIXBY v. STIRLING, 90 F.4TH. 140(4th.Cir.2024)(HIGHLIGHTING EXCESS OF JURISDICTION TO ADDRESS MERITS DUE TO FILING CONSTITUTING SECOND HABEAS CORPUS); FRAZIER

v. PRINCE COUNTY MARYLAND, 140 F.4TH. 566(4th.Cir.2025)(A COURT THAT LACKS JURISDICTION HAS NO AUTHORITY TO RULE ON THE MERITS); STATE v. PRICE, 441 S.C. 423, 895 S.E.2d. 633(S.C.App.2023)(THE PLAIN LANGUAGE OF A STATUTE MUST BE ADHERED TO.). IF A DUE PROCESS ERROR IS SO FUNDAMENTAL IT REMOVES A CASE FROM THE "GENERAL CLASS" PROHIBITING THE COURT FROM HEARING IT. WHETHER YOU WANT TO USE THE PHRASE "VOID" OR "VOIDABLE" OR "ERRONEOUS" THE RESULT IS THE SAME REQUIRING REVERSAL AND OR VACATING OF JUDGMENT AND CONVICTION. THE GENTRY RULING COMPOUNDED BY FRAUD IN CONCEALING THAT THERE ARE TWO ELEMENTS TO SUBJECT MATTER JURISDICTION, IS INHERENTLY "VAGUE" OR "SILENT" ON WHETHER AN UNCONSTITUTIONAL ACT CAN BE SO EXTREME THAT IT VIOLATES THE "CONSTITUTIONAL" ELEMENT OF AUTHORITY. THE GENTRY CASE PRODUCES A CONSTITUTIONAL BLIND SPOT PURPOSELY SET IN PLACE TO DEFRAUD THE INMATES OF THIS STATE IN ARGUING THE FATAL DEFECTS WITHIN THEIR INDICTMENTS. THE PROBLEM WITH LABELLING ALL CONSTITUTIONAL ERRORS AS "PROCEDURAL" AS GENTRY DOES. THE RULING SUGGESTS THAT EVEN FLAGRANT DUE PROCESS VIOLATIONS--ONE THAT MIGHT EFFECTIVELY STRIP A COURT OF ITS LEGITIMATE POWER UNDER THE 14TH. AMENDMENT--DOES NOT VOID JURISDICTION. IF A COURT TAKES AN ACTION THAT IS EXPRESSLY PROHIBITED BY THE CONSTITUTION (AN UNCONSTITUTIONAL ACT LIKE SUBTLY EXPANDING AND FORCE CONSTRUCTING STATUTES SUCH AS S.C. CODE. ANN. §§ 17-19-10 AND 17-19-20 VIOLATING THE SEPARATION OF POWERS CLAUSE AND THE PLAIN LANGUAGE RULE AND OTHER DUE PROCESS VIOLATIONS INTENDED ARGUED IN THE PETITIONER'S APPLICATION), GENTRY DOES NOT CLEARLY EXPLAIN AT WHAT POINT THE ACTS STOPS BEING A "TRIAL ERROR" AND STARTS BEING AN "ILLEGAL EXERCISE OF POWER" THAT SHOULD VOID THE COURT'S AUTHORITY. GENTRY IS UNCONSTITUTIONALLY "VAGUE" BECAUSE IT ASSUMES A COURT'S POWER REMAINS CONSTANT REGARDLESS OF HOW IT IS EXERCISED. ROJAS DISSENT , MONTGOMERY AND STEEL CO. ARGUES AND PRESENT THE OPPOSITE, THAT A COURT'S POWER IS CONTINGENT ON FOLLOWING CONSTITUTIONAL REQUIREMENTS (LIKE STANDING AND DUE PROCESS) FURTHER ILLUSTRATING THAT GENTRY BY SUPPRESSION OF TRUTH AND FRAUDULENT CONCEALMENT OF JURISDICTIONAL FACTS CANNOT STAND.

46 IN REFERRING BACK TO THE ISSUE OF FATAL DEFECTS WITHIN AN

INDICTMENT, IT IS THE BODY OF THE INDICTMENT THAT IS IMPORTANT. THE INDICTMENT FOR MURDER DOES NOT PROPERLY ALLEGE THE ESSENTIAL ELEMENTS OF "TIME AND PLACE" AND THE OTHER INDICTMENT(S) HAVE SIMILAR FATAL DEFECTS, VIOLATING THE PROVISIONS OF S.C. CODE ANN. §§ 17-19-10 AND 17-19-20 AND ARTICLE 1 § 11 OF THE S.C. CONSTITUTION. TO COMPOUND THIS EGREGIOUS INJUSTICE, WITHIN THE BODY OF THE CHARGING INSTRUMENT(S), BY THE LANGUAGE CONTAINED THEREIN, THE GRAND JURY IN VIOLATION OF THEIR SHIELDING FUNCTION HAS SWORN UPON THEIR OATH GUILT AND ALREADY CONVICTED THE PETITIONER, APPLICANT, BEFORE HE EVER WENT TO TRIAL, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, TAKING AWAY THE PETITIONER'S PRESUMPTION OF INNOCENCE, SHIFTING THE BURDEN OF PERSUASION TO THE APPELLANT IN VIOLATION OF THEIR SHIELDING FUNCTION AND DUE PROCESS LAW. THE GRAND JURY BY THE LANGUAGE UTILIZED WITHIN THE BODY OF THE INDICTMENT DO NOT HAVE THE POWER OR AUTHORITY BY STATE OR FEDERAL LAW, OR BY STATE OR FEDERAL CONSTITUTION, TO CONVICT A PERSON WHICH IS NOT A HARMLESS ERROR. NOT ALL STATES INDICTMENTS ARE FRAMED LIKE THIS HAVING SUCH A FATAL CONSTITUTIONAL STRUCTURAL DEFECT. THEN IN ORDER TO ATTEMPT TO CURE THIS FATAL CONSTITUTIONAL DUE PROCESS STRUCTURAL ERROR, THE COURT(S) GIVE A CURATIVE INSTRUCTION STATING THAT THE INDICTMENT IS NOT EVIDENCE THAT THE DEFENDANT IS INNOCENT UNTIL PROVEN GUILTY. THE PROBLEM WITH THIS IS THAT ONCE THE BELL IS RUNG, IT CANNOT BE UNRUNG, AND IN ORDER TO GIVE THE CURATIVE INSTRUCTION, THE TRIAL COURT MUST CONSTRUCTIVELY AMEND THE INDICTMENT(S) ON THE ESSENTIAL MENS REA ELEMENTS OF THE OFFENSE(S) DEMONSTRATING THE OVERWHELMING PREJUDICE WHICH SUPPORTS THAT THIS IS NOT A HARMLESS ERROR. THE "BELL CANNOT BE UNRUNG" IS A CRITICAL SAFEGUARD FOR THE PRESUMPTION OF INNOCENCE. IF THE STATE OR PROSECUTOR PRODUCE "SKUNK LIKE" EVIDENCE OR DOCUMENTS INTO THE PRIVY OF THE TRIAL JURY WITHOUT ANY ASSESSMENT OF ASKING THE JURY IF THEY HAVE EVEN BEEN AFFECTED BY THE DOCUMENT, INFORMATION THAT STINKS UP THE JURY BOX REGARDLESS OF INSTRUCTION, IT SHIFTS THE JURY'S FOCUS FROM THE STATE'S DUTY TO PROVE THE FACTS BEFORE THEY CAN EVER BE ASSERTED. BECAUSE THE PRESUMPTION OF INNOCENCE IS A "CARDINAL PRINCIPLE" OF THE JUSTICE SYSTEM, SOUTH CAROLINA COURTS RECOGNIZED THAT HEARING OR SEEING

SUCH DOCUMENTS CAN SHIFT A JUROR'S MINDSET FROM DID THEY DO THIS CRIME, TO WELL THEY HAVE ALREADY BEEN FOUND GUILTY BY THE LANGUAGE COMING FROM THE GRAND JURY SO IT MUST BE TRUE. IN SOUTH CAROLINA LAW, IF A CURATIVE INSTRUCTION EFFECTIVELY RESULTS IN CONSTRUCTIVE AMENDMENT BY ALTERING ESSENTIAL ELEMENTS OF THE OFFENSE, IT CREATES A FATAL CONSTITUTIONAL, NOT PROCEDURAL ERROR AND CONFLICT. THE INDICTMENT(S) ALLEGE THAT THE PETITIONER-APPLICANT IS GUILTY WITH "MALICE AND AFORETHOUGHT" AND OR OTHER ESSENTIAL ELEMENTS, THE JUDGE'S CHARGE THE PETITIONER-APPLICANT IS INNOCENT UNTIL PROVEN GUILTY OF "MALICE AND AFORETHOUGHT" OR OTHER ESSENTIAL ELEMENTS, CHANGING THE VERY NATURE OF WHAT HAS BEEN RETURNED BY THE GRAND JURY. UNDER SOUTH CAROLINA CONSTITUTION, A DEFENDANT HAS A RIGHT TO BE TRIED ONLY ON THE CHARGES RETURNED BY THE GRAND JURY. THE GRAND JURY ALREADY BY THEIR LANGUAGE ADJUDICATED GUILT WHICH THEY DO NOT HAVE THE POWER OR AUTHORITY TO DO. THE COURT CANNOT THEN COME BACK AND SAY THE DEFENDANT IS INNOCENT UNTIL PROVEN GUILTY OF THE ESSENTIAL ELEMENTS CONTRADICTING WHAT IS DETERMINED BY THE GRAND JURY. THIS PRODUCES A POTENTIAL DOUBLE JEOPARDY CLAIM. THE STATE IS STRICTLY BOUND BY THE "SPECIFIC" LANGUAGE AND THEORIES PRESENTED TO THE GRAND JURY AND RETURNED BY THEM. THE COURT BY INSTRUCTION CANNOT SHIFT THE THEORY OF BEING ALREADY CONVICTED BY THE GRAND JURY'S SPECIFIC LANGUAGE. IF THE EVIDENCE OF THE JUDGE'S INSTRUCTION DEVIATE FROM THE INDICTMENT(S) ESSENTIAL ELEMENTS, ITS NOT "HARMLESS ERROR" THAT CAN BE CORRECTED BY CURATIVE INSTRUCTION. IF THE CURATIVE INSTRUCTION WOULD HAVE TO CHANGE THE LEGAL THEORY OF THE CASE (GRAND JURY INDICTMENT DETERMINATION OF GUILT) TO "FIX" A MISTAKE, THE COURT MUST INSTEAD GRANT DIRECT VERDICT OR ACQUITTAL OR MISTRIAL, AS THE BELL CANNOT BE "UNRUNG" WITHOUT BREAKING THE INDICTMENT ITSELF. IT WOULD CHANGE THE VERY NATURE OF THE ACCUSATION RETURNED BY THE GRAND JURY. A CURATIVE INSTRUCTION THAT LEADS TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT TRIGGERS A MULTI-LAYERED CONSTITUTIONAL CONFLICT. AT IT'S CORE, THIS CONFLICT PITS THE COURT'S "POWER" (JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT) TO "FIX" THE ERRORS AGAINST THE DEFENDANT'S FUNDAMENTAL DUE PROCESS RIGHT TO PROPER NOTICE WHERE THE GRAND JURY'S CHARGE VIOLATES ARTICLE 1 § 11 OF THE SOUTH CAROLINA CONSTITUTION, NELSON v. COLORADO, 137 S.Ct. 1249, 197

L.Ed.2d. 611, 85 U.S.L.W. 4205(U.S.2017)(REGARDING THE PRESUMPTION OF INNOCENCE); BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 (U.S.2016)(REGARDING THE PRESUMPTION OF INNOCENCE). THE PRINCIPLE THAT "ONCE THE BELL IS RUNG IT CANNOT BE UNRUNG" IS A CORNERSTONE OF SOUTH CAROLINA AND FEDERAL JURISPRUDENCE, PARTICULARLY CONCERNING CONSTRUCTIVE AMENDMENTS--WHERE TRIAL COURT'S INSTRUCTION EFFECTIVELY CHANGE THE GRAND JURY'S ORIGINAL INDICTMENT, STATE v. DENT, 446 S.C. 121, 919 S.E.2d. 394(S.C.App.2025)(THE COURT REVERSED THE CONVICTION BECAUSE THE TRIAL COURT'S INSTRUCTION EXPANDED THE INDICTMENT'S SPECIFIC CHARGE); STATE v. ERB, 447 S.C. 84, 924 S.E.2d. 100(S.C.App.2025)(THE INSTRUCTION MUST SPECIFICALLY ALIGN WITH THE CHARGING DOCUMENT); STATE v. PHILLIPS, 430 S.C. 319, 844 S.E.2d. 651(S.C.App.2020)(CASE REVERSED DUE TO THE "ONCE BELL IS RUNG IT CANNOT BE UNRUNG" PRINCIPLE); UNITED STATES v. JOHNSON, Fed. Rptr., 2022 WL 17546916 (4th.Cir.2022); UNITED STATES v. BREWBAKER, 87 F.4TH. 563(4th.Cir.2023)(A CONSTRUCTIVE AMENDMENT OF AN INDICTMENT OCCURS WHEN THE COURT OR GOVERNMENT BROADENS THE POSSIBLE BASES FOR CONVICTION BEYOND THOSE STATED WITHIN THE INDICTMENT BY, FOR EXAMPLE, ASSERTING A SPECIFIC LEGAL THEORY IN THE INDICTMENT, BUT THEY RELY ON A DIFFERENT THEORY AT TRIAL; AND THIS IS IMPERMISSIBLE). THE 6TH. AMENDMENT PROMISES THAT ALL CRIMINAL PROSECUTIONS THE ACCUSED HAS A RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY; INHERING IN THAT GUARANTEE IS AN ASSURANCE THAT A GUILTY VERDICT WILL ISSUE "ONLY", "ONLY" (EMPHASIS ADDED) FROM A UNANIMOUS JURY, NOT THE GRAND JURY AS THE INDICTMENT INDISPUTABLY INDICATE HAS OCCURRED, PRODUCING UNCONSTITUTIONAL ACTION THAT VOIDS THE TRIAL COURT'S JURISDICTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION. ONLY THE GRAND JURY CAN FIX THE CONSTITUTIONAL STRUCTURAL ERROR, NOT THE JUDGE BY ATTEMPTING A UNCONSTITUTIONAL CURATIVE INSTRUCTION, ERLINGER v. UNITED STATES, 602 U.S. 821, 144 S.Ct. 1840, 219 L.Ed.2d. 451(U.S.2024); SWEENEY v. GRAHAM, 2025 WL 800452 (4th.Cir.2025); SECURITIES AND EXCHANGE COMMISSION v. JARKESY, 603 U.S. 109, 144 S.Ct. 2117, 219 L.Ed.2d. 650(U.S.2024).

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, JAMES JOSEPH PATTERSON III #368709, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

James Patterson
Applicant

SWORN or affirmed to and subscribed before me this
18 day of February, 2026.

Pariche Outlaw
Notary Public

My Commission Expires: 2/28/34

19. State clearly the relief you seek in filing this application:

SENTENCE AND CONVICTION VACATED; NAME AND DNA REMOVED
FROM ANY DEROGATORY FILES; ORDER EXPUNGING RECORD.

20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA)

County of LEXINGTON)

VERIFICATION

I, JAMES JOSEPH PATTERSON III #368709, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

James Patterson

SWORN to and subscribed before me this 18
day of February, 2020

Sarah Oulter (L.S.)
Notary Public

My Commission Expires: 01/28/34

A TRUE COPY

IN THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUL 16 2026

SC Court of Appeals

CASE DOCKET NO. _____

APPEAL AND PETITION FROM THE S.C. COURT OF APPEALS
UNDER CASE DOCKET NO. 2023-001474

APPEAL FROM LEXINGTON COUNTY GENERAL SESSIONS
UNDER INDICTMENT NO.(S) 2022-GS-32-6146, 6147

JOSEPH JAMES PATTERSON III,

PETITIONER

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF SERVICE

I, JOSEPH JAMES PATTERSON III, DO HEREBY CERTIFY, THAT I
HAVE MAILED AND OR SERVED A COPY OF A PETITION TO INVOKE THE
SOUTH CAROLINA SUPREME COURT'S ORIGINAL JURISDICTION AND IN THE
ALTERNATIVE PETITION FOR WRIT OF MANDAMUS TO SUBSTITUTE FOR

CONFLICT-FREE LEGAL COUNSEL PRODUCING CONSTITUTIONAL STRUCTURAL
ERRO; PETITION FOR WRIT OF PROHIBITION AND MOTION TO MOTION
THEREFOR (THE COPY OF THE 401 PAGE PCR IS FILED WITH THE S.C.
COURT OF APPEALS. ALL PARTIES CAN REVIEW THAT DOCUMENT ON LINE),
AND OTHER ATTACHMENTS ON THE SOUTH CAROLINA SUPREME COURT P.O.
BOX 11330 COLUMBIA, S.C. 29211, THE S.C. COURT OF APPEALS P.O.
BOX 11629 COLUMBIA, S.C. 29211, THE S.C. INDIGENT DEFENSE OFFICE
1330 LADY STREET SUITE 401 COLUMBIA, S.C. 29201, THE S.C.
ATTORNEY GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29221 AND ALL
OTHER INVOLVED PARTIES, BY U.S. MAIL POSTAGE PREPAID BY
DEPOSITING IT IN THE INSTITUTION MAILBOX OR BY PDF ON JULY 2,
2026.

RESPECTFULLY,

JOSEPH J. PATTERSON III

A handwritten signature in cursive script that reads "James Patterson". The signature is written in black ink and is positioned below the typed name "JOSEPH J. PATTERSON III".

JULY 2, 2026

JOSEPH JAMES PATTERSON III
#368709 F3B. RM. 230
EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

IN RE: FILING A PETITION TO INVOKE THE S.C. SUPREME COURT'S
ORIGINAL JURISDICTION, SEEKING PETITION FOR WRIT OF MANDAMUS AND
PROHIBITION.

RECEIVED

JUL 16 2026

SC Court of Appeals

TO: THE S.C. SUPREME COURT,

ATTACHED ARE PLEADING SENT TO YOU TO INITIATE AN
ACTION BEFORE THE SUPREME COURT REGARDING MATTERS CURRENTLY
PRESENTING THEMSELVES WITHIN THE S.C. COURT OF APPEALS UNDER CASE
NO. 2023-001474. PLEASE FILE THE PLEADING AND ASSIGN A CASE
NUMBER. THANK YOU IN ADVANCE.

TO: THE S.C. COURT OF APPEALS,

THE ATTACHED PLEADING IS TO BE FILED UNDER CASE
2023-001474. THANK YOU IN ADVANCE.

RESPECTFULLY,
JOSEPH J. PATTERSON

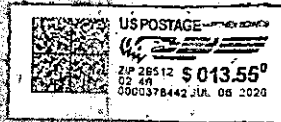
JULY 2, 2026

Joseph Patterson

368 709 F3B Rm 230

Evans Ct. 610 Hwy 9 West

Bennettsville SC 29512



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JUL 16 2020

SC Court of Appeals

SC Court of Appeals

P.O. Box 11629

Columbia, SC 29211