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IN RE: TO THE S.C. COURT OF APPEALS LETTER DATED JULY 21, 2026
RELATED TO OBTAINING THE TRIAL TRANSCRIPTS FOR THIS APPEAL UNDER
CASE 2025-001856 AND THE OTHER RELATED MATTERS OF CONCERN.

RECEIVED

Jul 31 2026

SC Court of Appeals

TO: THE S.C. COURT OF APPEALS CLERK,
THE S.C. COURT OF APPEALS,
THE S.C. OFFICE OF INDIGENT DEFENSE, ATTORNEY WANDA H.
CARTER,
THE S.C. ATTORNEY GENERAL'S OFFICE MARK REYNOLDS
FARTHING,
THE S.C. OFFICE OF COURT ADMINISTRATION ET.AL.,

PEOPLE I AM GOING TO DO EVERYTHING IN MY POWER TO SPEAK AS
CIVILLY AS I CAN TO YOU UNDER THE CURRENT CIRCUMSTANCES OF
EGREGIOUS ACTS OF FRAUD UPON THE COURT, COLLUSION, CONSPIRACY AND
OBSTRUCTION OF JUSTICE THAT CONTINUOUSLY MANIFEST ITSELF WITHIN
THIS APPEAL. WITH ALL DUE RESPECT, WHAT THE "JUMPIN' JEHOSEPHAT"
DO YOU DEVILS HAVE GOING ON NOW! WHAT IN THE WORLD ARE YOU
CONSPIRING UNDER COLOR OF STATE LAW, UNSCRUPULOUS INDIVIDUALS
DOING SENDING ME THIS "FRAUD UPON THE COURT", "MISREPRESENTATION

OF THE FACTS" CORRESPONDENCE? THE REASON THE COURT HASN'T RECEIVED THE TRIAL TRANSCRIPT IS BECAUSE THE COURT OF APPEALS WORKING IN COLLUSION WITH THE S.C. ATTORNEY GENERAL'S OFFICE AND THE OFFICE OF INDIGENT DEFENSE HAS COMPROMISED THE SOUTH CAROLINA OFFICE OF COURT ADMINISTRATION. I CONTACTED THE OFFICE OF COURT ADMINISTRATION SEVERAL TIMES ONLY TO BE IGNORED IN THEIR CONSPIRING UNDER COLOR OF STATE LAW WITH THE S.C. ATTORNEY GENERAL'S OFFICE, INDIGENT DEFENSE OFFICE AND THIS COURT, AND HAS FAILED TO RESPOND TO THE REPEATED, NUMEROUS REQUEST FOR THE TRIAL TRANSCRIPT IN QUESTION.

WHY DO YOU THINK THAT THE S.C. OFFICE OF COURT ADMINISTRATION NEVER SOUGHT AN EXTENSION OF TIME TO PRODUCE THE TRIAL TRANSCRIPT? IT WAS BECAUSE THEY WERE OPERATING UNDER THE DIRECT INSTRUCTION OF THE S.C. ATTORNEY GENERAL'S OFFICE AND INVOLVED STATE ACTORS, IN ACTS OF FRAUD UPON THE COURT, COLLUSION AND OBSTRUCTION OF JUSTICE, TO IGNORE THE REPEATED REQUEST MADE BY THE APPELLANT, JUST SO THIS CORRUPT, COMPROMISED COURT CAN ATTEMPT THE VERY STUNT THAT ITS TRYING TO DO THIS VERY MINUTE BY THE FRAUD PRODUCED CORRESPONDENCE, AND THAT'S ATTEMPTING IN ACTS OF FRAUD UPON THE COURT, COLLUSION AND CRIMINAL CONSPIRACY, TRY TO MAKE IT LOOK LIKE IT WAS THE APPELLANT WHO FAILED IN HIS OBLIGATIONS TO MEET THE DEMANDS OF THE COURT TO HAVE THIS APPEAL UNLAWFULLY DISMISSED. I OBJECT!!! TO THIS LAWLESS, CRIMINAL, UNSCRUPULOUS, UNETHICAL, OBSTRUCTIVE BEHAVIOR ON THE PART OF THE CONSPIRING STATE ACTORS AND PARTIES. THESE DEVILS COMPROMISED THE S.C. OFFICE OF COURT ADMINISTRATION TO THWART THE RELEASE OF THE TRANSCRIPT IN ACTS OF TACTICAL FRAUD TO MANIPULATE THE APPELLATE COURT RULES TO ILLEGALLY FORCE THE APELLANT INTO AN UNCONSTITUTIONAL DEFAULT. I AM GIVING YOU ALL NOTICE, ALL YOU SNAKES AND SCORPIONS INVOLVED, THAT I AM IN THE PROCESS OF FILING A MOTION TO COMPEL THE INDIGENT DEFENSE OFFICE (MS. WANDA H. CARTER), AND PETITION FOR WRIT OF MANDAMUS (TO THE S.C. OFFICE OF COURT ADMINISTRATION) TO REQUIRE THE RELEASE OF THAT BLASTED TRANSCRIPT AND STOP THIS UNLAWFUL, CRIMINAL ACTS OF FRAUD UPON THE COURT, COLLUSION AND OBSTRUCTION OF JUSTICE. YOU PEOPLE DON'Y BLUSH IN YOUR WICKEDNESS. YOU PEOPLE ARE GOING TO BUST THE

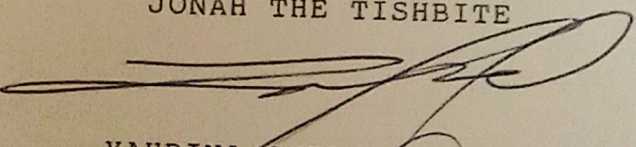
HELLFIRE WIDE OPEN, ACTING LIKE GOD DOES NOT SEE YOUR CURRENT EVILS, AND AT ONE POINT, WILL NOT BRING YOU INTO ACCOUNT.

FURTHER, AS FOR ANY CLAIM THAT THE COURT HAS NOT RECEIVED MY INITIAL BRIEF, THIS IS A LIE AND DISTORTION OF TRUTH FROM THE DEVIL HIMSELF. ATTACHED IS A COPY OF A LETTER DATED SEPTEMBER 29, 2025 CLEARLY DEMONSTRATING THAT THE APPELLANT'S INITIAL BRIEF WAS INDEED SENT TO THAT COURT BUT APPARENTLY INDICATIONS POINT TO THE COURT OF APPEALS IN ADDITIONAL ACTS OF FRAUD UPON THE COURT STRUCK IT OR CRIMINALLY PREVENTED ITS FILING. STOP THE FRAUD AND CRIMINAL ACTIVITY. A COPY OF THE RECORD ON APPEAL IS ATTACHED TO THIS CORRESPONDENCE ALONG WITH A COPY, AGAIN, OF EXHIBIT 5 "CONSTITUTIONAL STRUCTURAL ERROR" AS ONE OF THE ISSUES BEING ARGUED ON THIS APPEAL ALSO FOR THE PURPOSE OF ARGUING AGAINST THE PRECEDENT ESTABLISHED BY THE STATE v. GENTRY CASE OF 2005 REGARDING THE CONCEPT OF SUBJECT MATTER JURISDICTION WHICH CAN BE RAISED FOR THE FIRST TIME ON APPEAL PURSUANT TO APPELLATE COURT RULE 217 IN WHICH I DO NOT NEED THE COURT'S PERMISSION TO DO.

ADDITIONALLY, ATTORNEY WANDA H. CARTER, YOU WERE SPECIFICALLY ORDERED BY THE COURT OF APPEALS, THE VERY SAME ORDER THAT ACKNOWLEDGED THAT I AM TO ACT PRO SE BEFORE THIS COURT, THAT YOU, BY COURT OF APPEALS ORDER, WAS REQUIRED TO ASSIST ME IN GETTING THAT TRIAL TRANSCRIPT. WOMAN, WHERE THE HECK ARE YOU? YOU ARE CLEARLY MISSING IN ACTION IN VIOLATION OF COURT ORDER. I RESPECTFULLY REQUEST THAT YOU GET OFF YOUR RUMP AND BE IN COMPLIANCE WITH THE COURT'S ORDER. YOU ARE REQUIRED TO ASSIST ME IN OBTAINING THAT TRIAL TRANSCRIPT INSTEAD OF ENGAGING IN EGREGIOUS ACTS OF FRAUD UPON THE COURT, CONSPIRACY AND OBSTRUCTION OF JUSTICE TO AID THE S.C. ATTORNEY GENERAL TO MANIPULATE THE PROCEDURAL RULES TO UNLAWFULLY, UNCONSTITUTIONALLY FORCE THE APPELLANT INTO DEFAULT. I OBJECT, MADAM, GET OFF YOUR RUMP AND BE IN COMPLIANCE WITH THE COURT'S SPECIFIC ORDER INSTRUCTING YOU TO ASSIST ME IN OBTAINING THAT TRIAL TRANSCRIPT. YOU ARE IN CLEAR VIOLATION OF THE CODE OF PROFESSIONAL ETHICS AND YOUR OATH OF OFFICE TO UPHOLD THE SOUTH CAROLINA AND U.S.

CONSTITUTIONS. A MOTION TO COMPEL AND TO SEEK MANDAMUS IS FORTHCOMING. LET'S STOP THE FRAUD AND COLLUSION AND LETS GET TO WORK PLEASE. THE FAULT DOES NOT LIE WITH THE APPELLANT. IT LIES WITH THESE DEVIL STATE ACTORS ABUSING THE JUDICIAL PROCESS ENGAGING IN ACTS OF FRAUD UPON THE COURT, COLLUSION AND OBSTRUCTION OF JUSTICE, COMPROMISING THE S.C. OFFICE OF COURT ADMINISTRATION TO PREVENT CHALLENGE TO THE STATE v. GENTRY CASE PURSUANT TO RULES OF APPELLATE PROCEDURE, RULE 217. THIS STATE FRAMED ME BEHIND RELIGIOUS AND RACIAL HATRED AND YOU SHALL NOT ESCAPE JUDGMENT BECAUSE I KNOW HOW TO PROVE IT. I WANT THAT DNA AND SLED INVESTIGATIVE FILE NOW ATTORNEY GENERAL. ITS OBVIOUS TO ME THAT YOU LAWLESS INDIVIDUALS THINK THAT THIS IS A GAME. WELL LETS PLAY!!! YOU DEVILS DESTROYED MY WHOLE LIFE BEHIND A LIE!!! THE APPELLANT DID NOT FAIL TO PROSECUTE THIS APPEAL. YOU DEVILS ARE OBSTRUCTING THE PROCESS IN ACTS OF FRAUD UPON THE COURT AND COLLUSION. RELEASE THAT TRANSCRIPT IMMEDIATELY PLEASE. ATTORNEY GENERAL YOU FAILED TO PROSECUTE THAT BOY FOR THE SEXUAL ASSAULT OF MY CHILD FOR OVER 25 YEARS!!! THERE IS NO STATUTE OF LIMITATIONS ON SEXUAL ASSAULT WITH A MINOR. YOU NEED TO HANDLE THIS BEFORE IT BLOWS UP IN YOUR FACE MORE THAN ITS ABOUT TO. ANOTHER COPY OF THE INITIAL BRIEF (AGAIN), MOTION TO COMPEL AND PETITION FOR WRIT OF MANDAMUS IS FORTHCOMING. STILL REMAIN,

DEDICATED TO THE CAUSE,
JONAH THE TISHBITE


YAHDINA OVERSTREET-U-DEEN

JULY 31, 2026

CC: THE S.C. U.S. DISTRICT COURT
YAHDINA OVERSTREET-U-DEEN

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

CASE DOCKET NO. 2025-001856

APPEAL FROM THE COUNTY OF KERSHAW
IN THE COURT OF GENERAL SESSIONS

APPLICATION FOR FORENSIC DNA TESTING
CASE NO. 2004-GS-28-00385

LAWRENCE L. CRAWFORD AKA JONAH GABRIEL JAHJAH T. TISHBITE ET.
AL.,

APPELLANTS-PETITIONERS

Vs.

THE STATE OF SOUTH CAROLINA; THE COUNTY OF KERSHAW,

RESPONDENTS-APPELLEES

RECORD ON APPEAL

LAWRENCE L. CRAWFORD
#300839 F3B. RM. 148

EVANS C.I. 610 HWY. 9 WEST
BENNETTSVILLE, S.C. 29512

APPELLANT

THE S.C. ATTORNEY GENERAL
P.O. BOX 11549
COLUMBIA, S.C. 29211
RESPONDENT

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(1) EXHIBIT "CRAWFORD NO. 1". THIS IS A COPY OF THE DOCUMENT ENTITLED, "AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION TO FILE OBJECTIONS IN OPPOSITION TO THE RESPONDENT'S RESPONSE; MOTION TO STRIKE THE RESPONSE DUE TO IT BEING UNTIMELY SUBMITTED IN VIOLATION OF THE STATUTE WHERE THE RESPONDENT FAILED TO ESTABLISH CAUSE OR EXCUSE FOR THE DELAY AND MOTION TO MOTION THEREFOR", [24] PAGES DATED JULY 8, 2025.

(2) EXHIBIT, "CRAWFORD NO. 2". THIS IS A COPY OF THE AFFIDAVIT OF SERVICE AND RULE 56 AFFIDAVIT SUBMITTED IN OPPOSITION TO MOTION FOR SUMMARY DISMISSAL OF APPLICATION FOR FORENSIC DNA TESTING; MOTION TO FILE OBJECTIONS TO ANY EFFORT TO THE ATTEMPTS AT SUMMARY DISMISSAL RENEWING THE PREVIOUS FILED MOTION TO FILE OBJECTIONS IN OPPOSITION TO THE RESPONDENT'S RESPONSE DUE TO IT BEING UNTIMELY SUBMITTED IN VIOLATION OF THE STATUTE WHERE THE RESPONDENT FAILED TO ESTABLISH CAUSE FOR THE DELAY AND MOTION TO MOTION THEREFOR, [24] PAGES DATED JULY 8, 2025", THIS [23] PAGE DOCUMENT IS DATED NOTARIZED JULY 24, 2025 ALONG WITH A COPY OF THE LETTER FROM THE S.C. SUPREME COURT DATED JULY 2, 2025.

(3) EXHIBIT, "CRAWFORD NO. 3". THIS IS A COPY OF THE COVER LETTER DATED AUGUST 5, 2025 AND DOCUMENT ENTITLED, "AFFIDAVIT OF SERVICE AND AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION TO DISQUALIFY SLED AND THE STATE OF SOUTH CAROLINA ENTITIES FROM CONDUCTING THE DNA ANALYSIS SEEKING TO HAVE IT DONE BY AN INDEPENDENT SOURCE AND OR ENTITY DUE TO CONFLICT OF INTEREST AND MOTION TO MOTION THEREFOR", [5] PAGES DATED AUGUST 5, 2025. WHATEVER ORDER COMES OUT OF THE S.C. COURT OF APPEALS. THE APPELLANT WANTS IT TO INCLUDE AN ORDER REQUIRING THAT THE SOUGHT DNA TESTING BE DONE BY A NEUTRAL, IMPARTIAL ENTITY OUTSIDE OF THE STATE OF SOUTH CAROLINA.

(4) EXHIBIT, "CRAWFORD NO. 4". THIS IS A COPY THE AFFIDAVIT OF SERVICE AND RULE 56 AFFIDAVIT FILED IN OPPOSITION TO SUMMARY DISMISSAL; MOTION TO RENEW THE PREVIOUS FILED AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION TO CHALLENGE THE KERSHAW

COUNTY GENERAL SESSIONS COURT JURISDICTION TO HOLD A MERITS HEARING ON SEPTEMBER 2, 2025 DUE TO VIOLATIONS OF THE SEPARATION OF POWERS CLAUSE AND UNCONSTITUTIONAL ACTION AND MOTION TO MOTION THEREFOR, (4) PAGES DATED JULY 28, 2025; NOTICE OF PENDENT JURISDICTION UNDER § 1983; MOTION TO ESTABLISH RIGHTS UNDER THE F.S.I.A.", [8] PAGES DATED NOTARIZED AUGUST 25, 2025. EXHIBITS CRAWFORD 1-4 WERE FILED BEFORE THE S.C. SUPREME COURT IN SEEKING TO INVOKE THAT COURT'S ORIGINAL JURISDICTION. THE COURT DECLINED TO HEAR THE MATTERS IN THEIR ORIGINAL JURISDICTION. THE DENIAL OF ACCEPTANCE WITHIN THE S.C. SUPREME COURT'S ORIGINAL JURISDICTION IS NOT A RULING ON THE MERITS OF THE CLAIMS SUBMITTED WITHIN THESE EXHIBITS. THEREFORE, SINCE THEY WERE ALSO FILED BEFORE THE LOWER COURT WHICH WAS RULED ON BY THE COMPROMISED JUDGE NEWMAN. THEY ARE NOW SOUGHT ADJUDICATION ON THE MERITS BEFORE THE S.C. COURT OF APPEALS BY THE APPELLANT'S RIGHTS OF DUE PROCESS LAW.

(5) EXHIBIT, "CONSTITUTIONAL STRUCTURAL ERROR". THIS IS A COPY OF THE LITIGATION HIGHLIGHTING HOW THE INDICTMENT(S) BY THE LANGUAGE CONTAINED THEREIN, PREDETERMINE THE OUTCOME OF THE PROCEEDING AND TAKE AWAY THE APPELLANT'S PRESUMPTION OF INNOCENCE AND SHIFT THE BURDEN OF PERSUASION TO THE DEFENDANT. THIS WAS DONE IN THE APPELLANT'S CASE IN VIOLATION OF DUE PROCESS LAW PRODUCING UNCONSTITUTIONAL ACTION.

(6) EXHIBIT, "SHAM LEGAL PROCESS". THIS IS A COPY OF THE LITIGATION THAT ARGUES THAT THE STATE OF SOUTH CAROLINA AND COUNTY OF KERSHAW ON THE DAY OF TRIAL RUBBER STAMPED AN INDICTMENT IN ACTS OF FRAUD UPON THE COURT GIVING THE FALSE IMPRESSION THAT THE INDICTMENT WAS PASSED UPON BY THE GRAND JURY WHEN NO SUCH GRAND JURY REVIEW OCCURRED AT ALL WHICH IS WHY THEY SOUGHT TO DISMISS THE CASE TO PREVENT THE GRAND JURY PANEL DOCUMENTS FROM ENTERING THE CASE BY DISCOVERY. THIS WAS DONE IN THE APPELLANT'S CASE VIOLATING DUE PROCESS LAW PRODUCING UNCONSTITUTIONAL ACTION.

(7) EXHIBIT, "180 DAY RULE/ 365 DAY CLAIM PROCESSING

RULE". THIS IS THE LITIGATION SUBMITTED IN SUPPORT OF THE CLAIMS OF DEFAULT, FORFEITURE AND WAIVER BASED UPON THE CLAIM PROCESSING RULE WHOSE RIGHTS WERE TIMELY INVOKED WITHIN THE KERSHAW COUNTY GENERAL SESSIONS COURT AT THE ONE YEAR MARK OF THE DNA APPLICATION BEING FILED BEFORE THE COURT. CASE LAW COMING OUT OF THE 4TH. CIRCUIT AND U.S. SUPREME COURT ADJUDICATE THAT THE RIGHT WAS MANDATORY WHEN TIMELY INVOKED, WHERE THIS PROVISION IS ALSO ATTACHED TO THE S.C. CONSTITUTION UNDER ARTICLE 1 § 23 WHICH ALSO VOIDS THE LOWER COURT'S JUDGMENT FOR THIS VIOLATION OF DUE PROCESS PRODUCING UNCONSTITUTIONAL ACTION.

(8) EXHIBIT, "INDICTMENT DEFECTS". THIS IS A COPY OF THE LITIGATION SUBMITTED TO ARGUE THE FATAL DEFECTS IN THE APPELLANT'S INDICTMENT WHICH FAILED TO PLACE THE PROPER ELEMENTS OF "TIME AND PLACE" HAVING THESE ELEMENTS PASSED UPON BY THE GRAND JURY IN ACCORDANCE TO THE DUE PROCESS RIGHTS OF THE ACCUSED. SOME OF THE ELEMENTS ARGUED IN THE EXHIBIT SLIGHTLY DIFFER FROM THE APPELLANT. BUT THE SUBSIDIARY FACTS RELATED TO DUE PROCESS VIOLATION BASED UPON FATALLY DEFECTIVE INDICTMENTS APPLY TO THE APPELLANT'S CASE. THE INDICTMENT CLAIMS SHE DIED ON THE 25TH. IN KERSHAW COUNTY WHEN SHE DIED ON THE 26TH. IN RICHLAND COUNTY AND THE APPELLANT PRESERVED THIS CLAIM AT TRIAL WHERE DISMISSAL OF THE CONVICTION WAS SOUGHT DUE TO THE STATE FAILING TO PROVE THE ELEMENTS OF THE OFFENSE. THIS WAS DONE AT THE APPELLANT'S CASE VIOLATING DUE PROCESS LAW PRODUCING UNCONSTITUTIONAL ACTION.

(9) EXHIBIT, "CONSTRUCTIVE AMENDMENT OF THE INDICTMENT". THIS IS THE LITIGATION SUBMITTED TO ARGUE THE CRIMINAL COURT CONSTRUCTIVELY AMENDING THE INDICTMENT ON THE ESSENTIAL ELEMENTS OF THE OFFENSE. THIS WAS DONE IN THE APPELLANT'S CASE IN VIOLATION OF DUE PROCESS LAW PRODUCING UNCONSTITUTIONAL ACTION.

(10) EXHIBIT, "GENTRY FRAUD". THIS IS A COPY OF THE LITIGATION SUBMITTED AT ARGUE AGAINST THE PRECEDENT RELATED TO THE ISSUE OF SUBJECT MATTER JURISDICTION EMERGING FROM THE SOUTH CAROLINA SUPREME COURT. SUBJECT MATTER JURISDICTION CANNOT BE

WAIVED AND OR FORFEITED, CAN BE RAISED AT ANY TIME, AT ANY STAGE, EVEN IF A FINAL JUDGMENT WAS ISSUED IN THE CASE, EVEN FOR THE FIRST TIME ON APPEAL. ALL JURISDICTIONAL ISSUES WERE RULED ON AND DENIED BY THE KERSHAW GENERAL SESSIONS COURT PRESERVING THE ISSUES FOR APPEAL. THIS INJUSTICE EFFECTED MY DIRECT APPEAL IN 2004 WHICH SHOULD HAVE BEEN VACATED FOR THE UNCONSTITUTIONAL ACTION UNDER THE CONSTITUTIONAL ELEMENT TO SUBJECT MATTER JURISDICTION.

(11) EXHIBIT, "STATEMENT FRAUD". THIS IS THE LITIGATION SUBMITTED TO ARGUE AGAINST THE PRECEDENT WHERE THE STATE OF SOUTH CAROLINA IN VIOLATION OF DUE PROCESS LAW AND IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE, SUBTLY EXPAND AND OR FORCED CONSTRUCT THE STATUTES OF S.C. CODE ANN. §§ 19-1-80 AND 19-1-90 ESSENTIALLY OUT OF EXISTENCE. THIS IS ALSO A JURISDICTIONAL CLAIM. BASED UPON NEW CASE LAW COMING OUT OF THE S.C. SUPREME COURT, THE 4TH. CIRCUIT COURT OF APPEALS AND THE UNITED STATES SUPREME COURT, THE APPELLANT IS ARGUING AGAINST THE PRECEDENT OF ANY EXISTING S.C. CASE THAT IS AT ISSUE HERE WHERE THOSE COURTS SUBTLY EXPANDED AND OR FORCED CONSTRUCTED THE LANGUAGE OF THE STATUTE IN VIOLATION OF THE PLAIN LANGUAGE RULE AND IN VIOLATION OF THE SEPARATION OF POWERS CLAUSE. THIS WAS DONE IN THE APPELLANT'S CASE BY MAKING USE OF A FRAUD PRODUCED STATEMENT THE SOLICITOR STATED WAS MADE BY THE APPELLANT WHEN NO SUCH THING OCCURRED AND THE STATEMENT WAS NOT EVEN SIGNED BY THE APPELLANT, OR WAS HE GIVEN A COPY OF IT AT THE TIME IT WAS ALLEGEDLY MADE TO HIS EXTREME PREJUDICE AS ALL THE AFOREMENTIONED ACTS PRODUCED DO AS WELL. THIS WAS DONE AT THE APPELLANT'S TRIAL IN VIOLATION OF DUE PROCESS LAW PRODUCING UNCONSTITUTIONAL ACTION.

JULY 30, 2026

NOTICE: THIS IS THE SECOND TIME THIS DOCUMENT WAS SENT TO THIS COURT. IT WAS INITIALLY SENT SEPTEMBER 29, 2025 AS THE ATTACHED LETTER PROVES.

EXHIBIT: 5

EXHIBIT, "CONSTITUTIONAL STRUCTURAL ERROR"

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(1) Did the trial court err, and was the appellant's 5th., 6th., 13th., 14th. 15th. amendment rights of the U.S. Constitution, as well as Article IV § 2, and his Due Process rights violated, regarding the indictment(s) as constructed, by the language or charge contained therein, which did create and or form conclusive presumption(s), that took away the appellant's presumption of innocence, and automatically shift the burden of persuasion to the defendant, in regard to the crucial elements of dispute?

The appellant humbly contends, it is well established by the U.S. Constitution, the 5th., 6th., 14th. amendment(s), and The Bill Of Rights, that when an individual is brought before a court of jurisprudence upon accusation, that the individual alleged thereupon, is innocent, until proven by a jury of his peers, guilty of aforesaid accusation being brought before the court. This is the defendant's most basic, and most fundamental right by Federal and State laws pertaining to Due Process. Because the indictment(s) possess a structural constitutional error and or defect, in that the language and or charge contained therein, in constructed to produce conclusive presumption(s), that immediately shift the burden of persuasion to the defendant in regards to the crucial elements of the offense(s), the indictment(s) and or complaint documents violate Due Process as well as the 13th. and 15th. amendments.

The appellant did not object to this defect and or error at the time he gave his guilty plea, and or before he went to trial, but the defect and or error serve to render the indictment 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(1986); State v. Munn, 357 S.E.2d. 461(S.C.1987).

1 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.

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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 55 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, Morisette supra, at 275, 72 S.Ct. at 255 and United States Gypsum Co. supra., at 446, 98 S.Ct. at 2878. The indictment and complaint documents around the nation, with the exception of the few states that corrected this problem, require the jury, 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, by their structural constitutional error and or defect, language and or charge, mislead the jury, and we can add the defendant, to believe the presumption was not limited to requiring the defendant to satisfy the burden of production, when the burden of production is to be consistently bored by the state. A presumption although not conclusive, that has the effect of shifting the burden of persuasion would suffer the same similar infirmities", Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44 L.Ed.2d. 508(1975), even if its embodied within the charge of an indictment or criminal complaint.

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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 § 2 U.S. Const.).

"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 specific, without a trial by a jury of one's peers in violation of Due Process Law. To have such unconstitutional

embodied within indictments and or criminal complaints that
only in 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 viola-
tion 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 defen-
dant 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 presump-
tion 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 some chemically based mind controlling drug, and under such
control he committed the crime? Or it simply was an accident
depending upon the crime charged? These are just a few reasons
why such wording is impermissible, Moore v. Dempsey, 43 S.Ct.
265, 67 L.Ed. 542(1923).

Once the courts of South Carolina, New Jersey and the
remaining (48) states constructed an indictment or criminal
complaint contrary to the laws of Due Process, the Attorney
for the appellant telling the appellant that he is innocent
until proven guilty, or the Judge giving a curative instruction
to the appellant and or jury of the defendant being innocent
until proven guilty, or stating that the state or federal govern-
ment has the ultimate burden and must prove every element, being
given to the appellant and or jury, or stating the indictment
or criminal complaint is not evidence to the appellant or jury,

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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 Due Process. If the indictments and or criminal complaints around the nation, by their defect contained therein, require that the defendant prove he did not possess the "MENS REA" on any element pertaining to the alleged crime at trial and or before a guilty plea, 421 U.S. at 684, 95 S.Ct. at 1888, it becomes obvious that the burden of proof is shifted.

The Court recognized by requiring the defendant to prove the critical elements of said dispute, ID at 710, 95 S.Ct. at 1890, the Maine Rule, as do the nation's indictments and criminal complaints, affirmatively shift the burden of proof to the defendant(s), thus creating a further likelihood of an erroneous conviction and or guilty plea, due to the shifting of the burden of persuasion to prove one's innocence, as implied by the language and or charge in the indictment(s) and criminal complaint(s), ID at 421 U.S. at 701, 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 must appear that the aforementioned, as related thereto, do [n]ot [n]egate any element of the crime, and we can add to this, shift the burden of persuasion, as the indictments and or criminal complaints of this nation do", ID W. Lafave & Scott Substantive 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 justification or excuse, but not with respect to those that negate guilt by canceling out the existence of some required element of the crime, nor should his presumption of innocence be deprived, W. Lafave & Scott supra. at 71, 75. Accordingly, accessing the constitutionality of an "affirmative defense", "a statutory procedure", and we can add to this, "an indictment or criminal complaint", etc., of any kind related thereto, even by terms of that which the statute requires, is defined in terms of fact so central to the nature of the offense that in effect, the prosecution has been freed of the burden of establishing

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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.

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 as that which is founded upon "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE DE CERTA SCIENTIA), but it is founded upon the basis of hearsay and or secondhand knowledge. Notwithstanding, it has been recorded throughout history since the earliest stages of civilization that people do bear false witness in groups and in numbers depending upon their motivation. For example, you have an unjust King and Queen, Ahab and Jezebel, coercing several people to lie in a covert plot to steal the land of a righteous man in I Kings chapter 21. In the Book of Micah, a man's closest members of his household bear false witness against a Prophet Of God. In Christianity you have officials who were in power, Saducees, Scribes and Pharisees, incite and pay groups of people in the Gospel(s) Of Matthew, Mark, Luke and John to bear false witness against the Messiah. In Islamic Prophecy the Prophet Muhammad(PBUH), in Sahih Al Bakhari Vol.

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]ulwarks", "[b]arriers" of protection for the American citizenry, all who are held by us, all 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 do bring false accusation against the innocent. 8

Referring back to the third situation here as illustrated by State v. Breakiron, 108 N.J. 591, 532 A.2d. 199(1987) and State v. Zola, 112 N.J. 384, 548 A.2d. 1022(1988), in inferring the state of mind element, whether the prerequisite intent and or purpose was present at the time of the crime. The Grand Jury, in the form of the indictments and or criminal complaints around the nation, "[c]annot" say what was in a person's mind, nor do they have first hand knowledge of the facts related to the incident charged. They do not have "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE DE CERTA SCIENCTIA). Thus, again the

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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 charge in the indictments or criminal complaints around the nation as conveying an unconstitutional message in both state and federal prosecutions, Francis v. Franklin, 471 U.S. 307, 105 S.Ct. 1965, 85 L.Ed.2d. 344(1983).

Such presumptions intrinsically and explicitly established snatch the blind fold off of "LADY JUSTICE" herself, and now, not only is she no longer impartial, unbiased or fair; but now she says because its you, because its this particular crime or alleged action as opposed to another, because you are charged in this particular state as opposed to another, because you fall under this particular statute as opposed to another, you are no longer innocent until proven guilty and your constitutional rights are hereby revoked. 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 process, fraudulently designed to rob the commonwealth of their God given liberty. This we cannot do!!! It is our courts, our Supreme Courts, and our Federal District Courts' inherent responsibility as guardians of the faith and integrity of our system of jurisprudence to protect the commonwealth from such a dark demise. The Presuppositions set forth by our constitutional forefathers "E PLURIBUS UNUM", were one nation, under God, indivisible, with liberty and justice "FOR ALL", "FOR ALL", and was not to be taken away simply because an individual fell victim to accusation, or fell under a particular statute of law as compared to another, or was charged in one particular state as opposed to another. The only exception to this sacred standard and trust was to be if an individual committed acts of High Treason against our government itself, which in some particularity is what the indictments and criminal complaint documents

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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. Hencetofore 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 stealthly 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 by the prosecution, Francis v. Franklin supra.; Moore v. Dempsey supra.

THE COURT HOLDS that a charge, and we can add to this, a charge in an indictment or criminal complaint, which impart to the jury, and we can add in this case, the defendant, an unconstitutional understanding of the allegations, even more specific, the burden of persuasion, and the presumption of innocence, creates a reasonable likelihood that the jurors understood the charge, and we can add, that the defendant understood the charge, in the criminal complaints and indictments, in an unconstitutional manner unless other language in the complaints or indictments explain the infirm language sufficiently to eliminate this possibility. If such a reasonable possibility, "we have no way of knowing that [t]he 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 facts related to the shifting of the burden of persuasion to the defendant regarding the crucial elements and the inferring the state of mind element(s) to the offenses are the same in these matters. 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 offense(s) is illegally predetermined in advance by the Grand Jury who do not have the power by state or federal law or state or federal constitution to convict, due to the language and or charge contained therein, and the indictments and or criminal complaints nationally serve to negate the burden of proof.

This creates a structural constitutional error and or defect. Structural Constitutional errors and or defects compro-

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mise the entire trial and or plea hearing proceedings. It re-
quires 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 depriva-
tion 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
the "MENS REA" crucial elements of the offense(s) to correct,
rather, in an attempt to correct the structural constitutional
error and or defect by giving a Judge's charge. The boundaries
cited by law are clear and certain even as cited by Winship
Rule and Humanik v. Beyers supra.. Any conclusive presumption,
of any kind, that's placed before a jury to obtain a conviction,
or we can add, placed before a defendant to manipulate, mentally
and or psychologically coerce, and or force the defendant into
an unfreely, unknowingly, involuntarily or unintelligently given
guilty plea, that determines in advance a person's guilt, that
has the effect of shifting the burden of persuasion to the defen-
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dant, violates Due Process and is grounds for an acquittal,
even if its embodied within an indictment or criminal complaint,
Moore v. Dempsey supra.. Clearly there is nothing cited by law
that would mandate that these strict rules of court, and require-
ments of Due Process law, be solely limited to a Judge's charge.

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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.*****".

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 which confirms the specific job of the Grand Jury. The job of the Grand Jury is two prong. One--is to determine and ensure that some state and or federal official is not acting arbitrarily in bringing accusation against a citizen of this country. The second---is to determine whether or not there is sufficient probable cause to bring a defendant to trial, Stirone v. United States, 361 U.S. 212(1960); Ex Parte Bain, 121 U.S. 1 (1887); Gaither v. United States, 413 F2d. 1061(D.C.Cir.1969); The (50) States Constitutions; United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982); United States v. Calandra, 414 U.S. 338, 342-343, 98 S.Ct. 613, 617, 38 L.Ed.2d. 561, 568(1974); Branzburg v. Hayes, 408 U.S. 665, 92 S.Ct. 2646, 33 L.Ed.2d. 626(1972). To determine guilt of the offense(s), to include the "MENS REA" on the crucial elements of dispute, is a violation of the Grand Jury's shielding function. A Grand Jury merely investigates and reports. They are not 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 defamation, 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 evil that has developed from this, far and extremely out weigh the original good it intended.

Any indictment or criminal complaint, whether it be in the smallest of detail, whether it be in the smallest of towns, or the largest of cities, whether it be within the boundaries of any county or state, whether it be intentional or unintentional, that's constructed in a fashion where it automatically shift the burden of persuasion from the State or Federal government to the defendant, takes away one's presumption of innocence, and by the language predetermines in advance the outcome of the proceedings, giving off an unconstitutional impression and understanding of his or her rights by the laws of Due Process, contrary to the U.S. Constitution "[s]hall [n]ot [s]tand". They violate the appellant's rights under the 4th., 5th., 6th., 13th., 14th., 15th. amendments and seek to unjustly deprive one of life, liberty and property. It is for this reason that the New Jersey and Maine Supreme Courts overthrew such similar actions