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SC Court of Appeals

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. 16

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 irrespective of the good faith or bad faith of the prosecution. The principle here is not to punish society for such Due Process violations, or the misdeeds of the prosecuting body, but the avoidance of an unfair trial and or plea hearing to the accused. Society not only wins when the guilty are convicted, but when criminal trials and or plea hearings are fair; Our system of administration 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 Domain: The United States wins its point whenever justice is done its citizens in the courts", Brady v. Maryland supra.; citing Mooney v. Holohan, 294 U.S. 103. 16

The appellant humbly quotes that which is stated in United

17

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); Mc Laughlin 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, 102 S.Ct. 2744, 2749-50, 73 L.Ed.2d. 482(1982).

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

"The teaching of these cases is that "[a]ny", "[a]ny", presumption, even if its not conclusive, even if its embodied within the charge of an indictment or criminal complaint, that placed before a jury to obtain a conviction, and or defendant to coerce him or her into a guilty plea, that has the effect

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..

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 court within this nation to establish or legalize modern day slavery which essentially is what the government has done here, both state and federal as is defined in the definition for slavery under the C.A.T. Treaty ratified by Congress. Although public documents such as, and or even indictments or criminal complaints, which themselves are a form of contract, which embellish this modern day slavery and property of the states or federal government by criminal conviction are deemed prima facie evidence of facts which they purport to state, they are open to be impugned for fraud and a clear challenge to the courts nationally "[p]ower" to establish or legalize modern day slavery, The Conception, Brunn, Coll. C. 497, 2 Wheeler CC 597, 6 F. Cas. 359 No. 3137 (C.C.D. S.C. 1819); The La Conception, 19 U.S. 235, 1821 WL 2188, 5 L.Ed. 249, 6 Wheat, 235 U.S.S.C. (Mar. 8, 1821); The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 3024,

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 proceed-
 ings 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
 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).

We are arguing violations of the Anti-Peonage Act of
 The 13th. Amendment. Under this provision of law no time bar,
 or statute of limitations, or (3) strike provision, or successive
 bar, which all are statute of limitations can hold a man in
 Peonage.

19

The 13th. Amendment Provides---"Neither slavery nor invo-
 luntary servitude, except as punishment for crimes where of
 the party is "duly" (emphasis added) convicted, shall exist

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

20

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 F2d. 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 afore citings, or any similar, addressed the issue of whether the 13th. Amendment applies in cases where the party is [n]ot "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 [n]ot "duly" (emphasis added) convicted. See S.C. Code Ann § 17-25-10.

"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 CERTIFI-
CATION UNDER ARTICLE III SECTION 2 OF THE U.S. CONSTITUTION
AND FEDERAL RULE 23 ARGUING PREEMPTION. 21

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 AD-
VANCE THE OUTCOME OF THE PROCEEDINGS, CREATING AN INSTANT DOUBLE
JEOPARDY ISSUE, SHIFTING THE BURDEN OF PERSUASION UPON THE APPLI-
CANT 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 JURISDIC-
TION 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 PRESUMP-
TION OF INNOCENCE LIES AT THE FOUNDATION OF THE WHOLE CRIMINAL
PROCEEDINGS MAKING IT A "STRUCTURAL ERROR" NOT SUBJECT TO THE
HARMLESS ERROR DOCTRINE. THE U.S. SUPREME COURT FURTHER DETER-
MINED THE PRESUMPTION OF INNOCENCE IS A PRINCIPLE SO ROOTED
IN THE TRADITIONS AND CONSCIENCE OF THE PEOPLE AS TO BE FUNDA-
MENTAL AND TO DEPRIVE SUCH AS THE INDICTMENTS DO, IS A VIOLATION
OF DUE PROCESS, IS UNCONSTITUTIONAL, WHICH VOIDS THE GENERAL
SESSIONS COURT'S JURISDICTION. NORMALLY, THIS WOULD BE AN AUTO-
MATIC REVERSIBLE ERROR. BUT DUE TO THE ADDED COMPOUNDING FACTORS
SUCH AS THE GRAND JURY GOING BEYOND THE SCOPE OF THE POWER AND
AUTHORITY GIVEN TO THEM AND BY THE LANGUAGE CONVICTING US, SUB-
JECTING US TO A FORM OF MODERN DAY SLAVERY, TAKING AWAY OUR
RIGHT TO VOTE IN VIOLATION OF THE 15th. AMENDMENT VIA EGREGIOUS
21

22

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. IL. 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). 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 THE U.S. SUPREME COURT'S DETERMINATION TO THE STRUCTURAL FOUNDATION OF ALL CRIMINAL PROCEEDINGS FROM THE POINT OF ARREST UNTIL THE DEFENDANT PLEAS OR A JURY DETERMINES GUILT, BEING A FUNDAMENTAL RIGHT, AND IT CANNOT BE STRIPPED BEFORE THAT PLEA OR CONVICTION OCCURS WHICH THE INDICTMENTS BY THEIR LANGUAGE DO. SEE BETTERMAN v. MONTANA, 136 S.Ct. 1609, 194 L.Ed.2d. 723 (U.S.2016); STATE v. THOMPSON, 2018 WL 1702406, * 6+ W.Va.; MARTIN v. UNITED STATES, 2018 WL 1626578, * 2, D.Md.; DIXON v. KORDY, 2018 WL 1526006, * 5 D.IDAHO.

BY THE AFOREMENTIONED ISSUE, TO INCLUDE ALL OTHERS UNMENTIONED WITHIN THIS DOCUMENT. THE APPLICANT'S DUE PROCESS RIGHTS ARE RIDDLED 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..

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) ~~AND~~ 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 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).

THE UNITED STATES SUPREME COURT BY RECENT RULINGS HAVE NOW

32

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 FATALY 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 FATALY 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

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.

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



90

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).

