State OF South Carolina
In the Supreme Court



Appeal From Orangeburg County
Edgar Dickson, Circuit Court Judge

2014-000690

Frederick L. Howell, #310890 — Appellant

v.

State OF South Carolina — Respondent

The Above named Appellant will Now Show by the Record That he do have A Arguable basis For An Appeal From his previous PCR (2013-CP-0183) As Required by Rules 203(d)(1)(B) And 243 of the South Carolina Appellate Court Rules And The Dismissal of the PCR Application, As Determinied by Judge Dickson, was "improper."

Appellant Initially Filed A Writ of Habeas Corpus in the Circuit Court And Raised the Following Claims; (I) Ineffective Assistance of Trial/Plea Counsel: (A) Guilty Plea Not Knowingly Intelligent And Voluntary. Obtained by the use of Falsified And Fabricated evidence, Fraud upon the Court; (II) Denial of effective Assistance of PCR Counsel in presenting Valid Claims of Ineffective Assistance of Trial/Plea Counsel in 1st Collateral Attack proceeding (PCR); (III) PCR Judge decision To dismiss 2nd PCR Application As Successive And Time barred

... is error and claims are cognizable for PCR relief. (Exh-A) (State Habeas Corpus) The Respondent construed it as a PCR application and treated it as such and counsel was appointed.

In the conditional order of dismissal, that the Judge signed, the Respondent states; "In his current application for PCR relief the Appellant alleges he is being held in custody unlawfully for the following reasons:

1) PCR Counsel Failed to File And Serve Notice of Appeal
2) Appeal was not knowingly and intelligently waived
3) Ineffective assistance of PCR Counsel

(See Cond. Order - Exh-B)

As the Record Reflects, The Respondent takes A "part" of One issue (State Hab. - Argument II - Exh(A)) And misrepresent to The Court that Appellant *Only Alledged* such And totally Negated The rest, knowing that's not what was Raised And the PCR Judge, without reviewing the Pleadings before him, Agreed To such (see Exh.-B)

In PCR Attorney's Response to Conditional order of dismissal (See Exh-C) He Negates Appellants Claims As well And Only Raises Counsel (The Plea) was ineffective for Failure to Appeal the denial of Previous PCR Application.

In the Signed Final order (Exh-D) The PCR Judge Agreed that under 17-27-90 Appellant has not a "Sufficient Reason" warranting a successive PCR Application for Ineffective Assistance of PCR Counsel; has shown no reason why this issue could not have been Raised in prior PCR Application or within the statute of limitation under 17-27-45; The Court Found he did not have proper grounds to seek Review on His original 2007 PCR Application (*No Court has *ever* Ruled such)

; And Applicant does NOT provide Any evidence which would support His Claim FOR INEFFECTIVE ASSISTANCE OF Counsel (Exh1-D-pg 2 OF 3) At NO Time HAS Appellant waived the Right to Raised All Available grounds listed in the Initial Filing (Exh-A) And did object To Such (See Exh-D-pg 2 OF 3 FootNote #2)

Appellant will Now Satisfy the Requirements OF Rule 203(d)(1)(B) And 243 OF the South CAROLINA Appellate Court Rules As to All his "initially listed" Claims (Exh-A)

# ARGUMENT

17-27-90 provides That:

"All grounds FOR Relief AVAILABLE TO An Application ... must be Raised in the original, supplemental or Amended Application ... Any ground Finally Adjudicated or NOT so Raised ... MAY NOT be The BASIS FOR A Subsequent Application, UNLESS the Court Finds A ground FOR Relief Asserted which FOR "Sufficient Reason" was "not Asserted OR was inadequately Raised" in the original, Supplemental or Amended Application"

TO Reinforce 17-27-90 And legislative Intent, ~~THE~~ S.C Rule 50(5) And 71.1(d) make it mandatory that PCR Counsel make sure "All Available grounds" ARE Raised in the PCR Proceeding And "Any Amendments" To the Application must be made by Counsel. After A pro se litigant have been given Court Appointed Counsel. (See 71.1(d) SCRCP; State v Sanders 269 S.C 215, 237 SE2d 53; Foster v State 298 S.C 306, 379 S.E2d 907; Kwan v Clare 338 S.C 423, 527 SE2d 357 - PCR Petitioner, Represented by Counsel, did NOT have ANY Right to hybrid Representation) Therefore, by law Counsel must do SO And IF PCR Counsel do NOT Raise All AVAILABLE grounds FOR Relief And do NOT Amend the PCR Application to Reflect Such, The Applicant HAS NO WAY to have

"All Available grounds" For Relief Raised and Heard. Our Courts has Sanctioned Attorney's For Not doing such. (In the day 360 S.C 169, 600 SE2d 66 - Failed to prepare order For PCR hearing; In the Gibin 388 S.C 436, 697 SE2d 572 - Did not work on PCR case; In the Davis 352 S.C 29, 572 SE2d 285 And In the wooden 349 S.C 281, 562 SE2d 649 - Failed to comply with the clients Requests)

Not Asserted or was inadequately Raised.
"Sufficient Reason" - 17-27-90

Ground (Argument-I); Ineffective Assistance of Trial/Plea Counsel - Obtained Plea by use of Falsified and Fabricated Evidence, Fraud upon the Court. Plea Not knowingly, Voluntary.
(Initial Filing) (Exh-A)

In Tilley the Court has "Clearly and Plainly" Defined "Sufficient Reason" means that the Ground "could not" have been Raised in a previous Application (1st PCR Application 2007-CP-38-690) (See Tilley v State 511 SE2d 689) (17-27-90)

In Ground/Argument I (see Exh-A beginning on page 10 of 30) Appellant "Clearly and plainly" stated; "June 9, 2009 During petitioner's PCR hearing, under oath, Plea Counsel stated that the Evidence Against petitioner was A Video Tape that shows petitioner in Two-Rooms Removing property ... A Fingerprint Analysis that positively Identify petitioner As the owner of The prints found Inside the Crime Scene ... Prior to this hearing, For Four(4) year, Nobody or No Record that pertains To this Case (Discovery, Plea Trans., etc) has Ever mentioned such ... During his Testimony, under oath, is the First (1st) Time petitioner or Any Court ever heard of this "Evidence" that

PLACES petitioner "inside" the crime scene." (See Exh-A page 10-12 of 30 with Exhibits) Appellant goes and shows *by the record* before the PCR Court (Trans., Exhibits, Disc, ect.) that this "Evidence" Counsel stated is *overwhelming* against Appellant *did not exist prior* to the June, 2009 PCR hearing And *Nobody* (Appellant, Court, Solicitor, Attorney General, ect.) *ever* knew of its "existence" from 2005-2009 until *Counsel* Reveal such *under oath!* At the PCR hearing (See Entire Record before the Court-PCR). At *No Time* has the Respondent ever *Conclusively Refuted* by the Record that this "Evidence" existed prior to the June 2009 PCR hearing (McCoy v State 401 SC 363, 737 SE2d 623 - where PCR Applicant Alleges Facts that would establish An exception to either the Statute of limitations or.. Successive Applications And those FACTS are NOT "Conclusively Refuted" by the Record before the Trial Court, A question of FACT is Raised which can *Only* be Resolved by A hearing) Appellant will now Demonstrate. Again, he *could not* Raise this Ground/Argument in A previous Application (1st PCR Application - 2007-CP-38-690) because it was unknown to him until Four (4) years later And Satisfy the "Sufficient Reason" Standard in 17-27-90

(A) Video Tape Footage - Claim/Argument I (Exh-A)

In "2005 during the Guilty Plea Proceedings," in pertinent part, The Solicitor Stated; "... The defendant is seen on that Video Tape walking Around. He's got gloves on, He's got Sort of A Coverall Out Fit on. He's Flashing A Flashlight Into the windows. You *never* See him go inside the house..." (See Exh-B page 16 lines 18-22, 24, 25 And page 18 line 4) But *most importantly*, he states; "He's been broken in several Times so he has Video equipment

out on the porch. Now (date of Plea) he has video equipment "inside and outside" because his place has been broken in so many times, but back then (date of crime) he just had it on the outside..." (see exh-E page 16 lines 14-18)

This version is also supported by the Incident Report (see Exh-F) written by the Responding OFFICER, who clearly stated; "... the victim stated that the unknown subject was caught by the exterior camera's walking around the Residence... The Footage shows.. And shining a Flashlight into the Residence. when he noticed the camera's he destroyed one by knocking it off the mount and simply realigned the others... The Exterior camera's captured the incident until the Subject realigned them..."

The Record before the Court clearly shows that in 2005 the video Footage only shows the subject on the outside and no camera's was on the inside until after this crime. The Exterior Cameras captured the incident as well as the video Footage never show him go inside the house. Everything before the Appellant and the State, in 2005, show's the only video evidence places the subject outside the Residence because he's Flashing a Flashlight into the Residence and never inside. Nobody knew of this "Evidence".

In 2009, "Four (4) years later" during the PCR hearing (1st) Trial/Plea Counsel stated, under oath, and in pertinent Part; "... I remember what the video Tape depicted.. I remember that very clearly... what i Recall was what was videoTaped From Camera's Inside the structure Primarily.. I think it was the Front Two Rooms... The video Tapes on the video Camera's .. were inside the structure ... It showed A young gentleman .. walking through the Residence ... removing some Items From the walls ... It was Two (2) Cameras From different Angles inside the structure ..." (see Exh-G page 34-35; 43-46)

The Record *Clearly Establishes* That Appellant NOR the Courts Knew OF OR was made AWARE OF this "Evidence" that NOT ONLY Shows Appellant ON the *inside* but shows him Removing property And it's *Fully Videotaped* (See Exh-E page 21 lines 16-22) UNTIL *FOUR(4) years later* At the PCR hearing during his testimony. Appellant *could not* have raised this Claim in A previous PCR Application because he NOR the Respondent knew OF this Claim (Evidence) until JUNE 9, 2009 because he And the Respondent was then UNAWARE OF SUCH Claim, SATISFYING the "SUFFICIENT REASON" Standard defined in Tilley. (Tilley v State 511 SE2d 689 - "SUFFICIENT REASON" MEANS that the GROUND *Could not* have been RAISED in the previous Application) the ORDER denying Appellants Application AS SUCCESSIVE is NOT Supported by evidence OF probative Value (Webb v State, SUPRA) And his ORDER is BASED ON FACTUAL CONCLUSIONS That are without evidentiary support (Abuse OF discretion; Tri County ICE And Fuel CO. v Palmetto ice CO 303 S.C 237, 399 SE2d 779, 782; Bennett v Dobbs House, inc 275 S.C 562, 274 SE2d 290; Mitchell Supply CO. v Gaffney 297 S.C 160, 375 SE2d 321)

(B) Finger print ANALYSIS - Claim / ARGUMENT I (Exh-A)

In *2005* during the guilty PLEA PROCEEDINGS, in pertinent part, The SOLICITOR States; "... He's got gloves on..." (See Exh-E page 16 lines 19-20) In the incident Report (EXH-F) it States; "... the SCENE WAS PROCESS And I WAS Able to obtain A partial print FROM A CHAIR which WAS UNDER the destroyed CAMERA ..."

The Record before the Court *Clearly shows* that A partial print WAS Found *outside* UNDER A CAMERA, ON A CHAIR, because the FACTS (Evidence, Records, TRANSCRIPTS) PROVES that when this CRIME WAS Committed, there WAS ONLY CAMERA'S *outside* the Residence

So the print (Partial) that was recovered from a chair under the Destroyed Camera was located outside the Crime Scene, NOT inside. (See Exh-E, page 16 lines 14-18)

On June 9, 2009, Four (4) years later At the PCR hearing Trial/Plea Counsel, under oath, in pertinent part states; "... they had prints.. All i know is they had some prints. They had His prints in the house... They were Analyzed... they did have them... (But it came back as a positive identification?) Yes, ma'am. That was something that they used in identifying.. That my Client was the .. Culprit... They said they were his And they were From the Structure..." (See Exh-G pages 36-38)

Again, the Record before the Court Conclusively shows that For Four (4) years Appellant nor Respondent knew of or was made Aware of this "positive Fingerprint Analysis" or it's existence until Counsel, under oath, revealed such And stated that Appellant Prints was Found Inside the Crime Scene And A "positive Analysis" States such.

Appellant could not have raised this Claim As well in a previous PCR Application because He did not know of this Claim until June 2009 At the PCR hearing And was unaware of such Claim because Any and All Records before the June 2009 hearing, that was Available to him And the Respondent Clearly shows that NO prints was Found inside the Crime Scene, But outside on A Chair And most importantly, According to the Respondent, Appellant had Gloves on (Exh-A page 16 lines 19-20) And it was determined by the Responding Officer (Exh-F), "... I was unable to locate prints on Any other items..." So the prints lifted And placed into Evidence that's Reposted in Exhibit-F Are the ONLY prints that both Appellant And Respondent know of And they were Found

outside, not inside And this "Positive Fingerprint Analysis" of Prints Found "inside" the Crime Scene that "Positively Identify" Appellant was not known to Appellant nor the Respondent until June 2009, Four (4) years later. Because the Record Before the Court *Clearly Establishes* Appellant could not Raise this Claim in a previous Application because this information was withheld from him, satisfying the "Sufficient Reason" standard defined in Tilley (Tilley v State 511 SE2d 689) And 17-27-90 which allows A Subsequent Application upon PROOF OF SUCH AS Proven in the instant case. The order denying Appellants Application AS successive under Both standards (Tilley; 17-27-90) is not Supported by the Record (Evidence) of probative value (Webb v State, supra) And the Order is based on Factual Conclusions without evidentiary support (Abuse of discretion; Tri County Ice & Fuel Co. v Palmetto Ice Co. 303 S.C 237, 399 SE2d 779, 782; Kennedy v Dobbs House, inc. 275 S.C 562, 274 SE2d 290; Mitchell Supply Co v Gaffney 297 S.C 160, 375 SE2d 321)

Appellant will Now satisfy the Statute of limitations Requirement And Exception Commonly known AS the *discovery Rule* (17-27-45(C)) And Coats v State 575 SE2d 557) AS it applies TO this Claim/Argument Presented in the initial (Exh-A) Pleadings.

## Newly discovered Evidence
## 17-27-45(C)

Ground/Argument - I; Ineffective Assistance of Trial/Plea Counsel - obtained Plea by use of "Falsified and Fabricated Evidence", Fraud upon the Court. Plea not knowingly and Voluntary.
(Initial Filing - Exh-A)

S.C Code Ann. §17-27-45(C), discovery rule Exception States;
"IF Applicant Contends that there is evidence OF material FACTS not previously presented and heard that requires VACATION OF Conviction or sentence, the Application must be Filed under this Chapter within one(1) year AFTER the date OF Actual discovery OF the FACTS by the Applicant or AFTER the date when the FACTS could have been ASCERTAINED by the exercise OF REASONABLE diligence."
(17-27-45(C)

In Coats (discovery rule) he Pled guilty and thought he would be eligible FOR parole, in which upon learning that he would not be eligible AFTER the one(1) year statute OF limitations had expired. The South CAROLINA Supreme Court Reversed holding that Coats Claim Fell within the discovery rule (Coats v State 575 SE2d 557) because Coats Filed His Claim within one(1) year AFTER discovering his TRIAL ATTORNEY'S ERROR, his petition WAS timely AND he WAS entitled TO AN evidentiary hearing to determine IF his TRIAL Counsel WAS in FACT ineffective. (Id. at 559) Appellant is in the same position AS Coats, IF NOT, more CLEARER.

ON JANUARY 6, 2010 Appellants FIRST (1st) PCR Application WAS dismissed with prejudice. ON JANUARY 28, 2010 Appellant FILED A SECOND PCR APPLICATION AND RAISED the FOLLOWING Claims; (1) INEFFECTIVE ASSISTANCE OF PCR Counsel; (2) Newly discovered Evidence AND FRAUD upon the Court (FALSIFIED AND FABRICATED Evidence (See Exh1-B AND EXH-H)

Appellants PCR hearing WAS held JUNE 9, 2009 AND ON that DATE he became AWARE OF the Claims he presented in his SECOND (2ND) PCR APPLICATION, SEVEN(7) MONTHS AFTER these Claims WAS brought to His AND the Respondents ATTENTION AND

Twenty-Two(22) days after his First(1st) application was Denied, well within the Statute of limitations for filing a PCR Application pursuant to 17-27-45(C) he Filed the Second PCR Application. The one(1) year limitation for these claims expired June 2010. The Application was Filed January 2010. Appellant and the Record before the Court conclusively shows that he indeed has shown why these issue's could not have been Raised in his prior PCR Application (did not know of) and within the Statute of limitations (17-27-90; 17-27-45(C)).

Therefore this Honorable Court has been shown, by the Record why his current claims should not be dismissed and the order should not become Final because Appellant has established an exception to Statute 17-27-90 (Sufficient Reason) and 17-27-45(C) (Filed 7 months after becoming Aware of Claims).

Ground/Argument II - Ineffective Assistance of PCR Counsel in presenting (not) Valid Claims of Ineffective Assistance of Trial Counsel in First(1st) Collateral Attack (PCR)
(Initial Filing - Exh-A)

Appellant concedes that this Honorable Court has Rejected the Argument that a Claim was not Raised or inadequately Raised in the Original petition, because PCR Counsel Ineffectively Failed to Raise it, stating that the Court "will not engage in an exploration of why the grounds were not Raised, it is sufficient that they could have been Raised, but were not." (Rice, 409 SE2d at 394) yet, this court has yet to expound on a PCR Counsel's Total Abandonment of the petitioner and All his Claims for Relief. And

it's Relation to the mandates *Clearly Defined* in the Court Rules (71.1(d)) prescribed by this Honorable Court And the Courts position As to what *must* be done when PCR Counsel was ineffective under the Standards of Strickland. (U.S.C.A Const. Amend 6°; Strickland v Washington 4166 U.S 668; 104 S.Ct 2052, 80 LED 2d 674)

This Honorable Court has *Plainly And Clearly* held in 71.1(d) And Stated; "71.1(d) make it *mandatory* that PCR Counsel make sure that All Available grounds Are Raised in the PCR Proceeding ... Any Amendments TO his application *must* be made by Counsel because After Filing A Pro SE Application And being given *Court Appointed* Counsel A Pro SE litigant *Cannot* there After File Any Further Pleadings. (Rule 50(5); 71.1(d); State v Sanders 269 S.C 215, 237 SE2d 53; Foster v State 298 S.C 306, 379 SE2d 907; Koon v Clare 338 S.C 423, 527 SE2d 357) when Rules, Statutes And Regulations Contain A Certain language OF *mandatory Nature* (Shall, will, must) they Are interpreted As Creating A protectable liberty Interest. (Green-holtz v. Inm. of Neb. Penal and Code, 422 U.S 1, 11-12, 99 S Ct 2100, 2105-06; Hewit v Helms 459 U.S 460, 471-72, 103 S.Ct 864, 871) this Claim/Argument pivots on the *mandates* OF S.C Rule OF Civil Procedure 71.1(d). A-

As previously mentioned, this Honorable Court has previously Sanctioned PCR Attorney's FOR NOT Adhering TO the mandates OF 71.1(d). (In RE day 360 S.C 69, 600 SE2d 66 - Failed to Amend PCR Application; In RE Davis 352 SC 29, 572 SE2d 285 - Failed to Prepare An order FOR PCR hearing; In RE Ginn 388 SC 436, 697 SE 2d 572 - Did NOT work on PCR case And In RE Wooden 394 S.C 281 362 SE2d 649 - Failed to Comply with Clients Requests) But what has not been mentioned is what form OF Relief is warranted FOR A Obvious Abridgment OF A State Created Right when it is

shown to have *seriously* prejudiced and denied the Appellant His Constitutional (State) Right to His "one bite of the Apple". (Rice v State 305 SC 448, 452, 409 SE2d 392, 395) To hold PCR Applicants *Fully Accountable* for the *Gross ineffectiveness* of a State Appointed PCR Attorney who has *in no way* acted as his Agent in Any meaning Full Sense of the word is a *gross miscarriage* of Justice, especially when the Applicant is prevented (prohibited) by State Statute And our Courts (Highest) Rulings, which *Plainly And Clearly* deny the PCR Applicant the Right to Submit Anything in his own behalf when he has been Appointed Counsel. (See 71.1(d); Knon v. Clare 338 S.C 423, 527 SE2d 357 - PCR Petitioner, Represented by Counsel, did not have Any Right to "Hybrid Representation") Therefore, if PCR Counsel Do not protect His Clients State And Federal Constitutional Rights, The Applicant, by State law And Statute, has *no way* to protect them himself during the *mandated* State proceeding, thereby violating the equal protection Clause of the Federal Constitution And in All likelihood-lost his one And only Chance to obtain Relief And have all his meritorious issue's heard And Ruled on.

The Record before the Court *Conclusively shows* Appellants PCR Attorney *totally Abandoned* Applicant And After *Numerous* Attempts For Two (2) years To get PCR Counsel To Follow And Comply with her Clients wishes (In Re Wooden 394 S.C 281, 562 SE2d 649) And Raise *All Available Claims* along with the Supporting Evidence, Failed To do Such. (See Exh-A pages 16-18 of 30)

Lastly, the Right to Seek Appellate Review of the denial of PCR is *expressly Authorized* by State law. (S.C Code Ann 17-27-100, Sup. Court Rule 50(9)). The Court previously stated; "while we are Aware the Constitutional Right to Counsel does not extend to discretionary Appeals on Collateral Attack, we have Ruled that

Anders v California 386 U.S 738, 87 S.Ct 1396, 18 LEd 2d 493 *Shall Continue to Apply* in PCR matters. (Austin v. State 305 S.C 453, 409 S.E 2d 395; Pennsylvania v. Finley 481 U.S 551, 107 SCt 1990, 95 LEd 2d 539) Anders Require on PCR Assistance in Seeking Review of the denial of the PCR.

Under Austin, A defendant can Appeal A denial of A PCR Application After the Statute of limitations has expired if the defendant either Request and was denied An opportunity To seek Appellate Review or did not knowingly And Intelligently waive the Right to Appeal. (Austin v. State 305 S.C 453, 409 SE2d 395; King v State 308 SC 348, 417 SE2d 868) The South Carolina Supreme Court has Allowed Successive PCR Applications where the Applicant has been denied Complete Access to the Appellate process. Under the PCR Rules, An Applicant is entitled To A Full Adjudication on the merits or "one bite At the Appl" And this bite includes An Applicants Right to Appeal the denial of A PCR Application And the Right to Assistance of Counsel in that Appeal.

In Austin, the defendant Never Recieved A Full procedural "bite At the Apple" because he was prevented From Seeking Any Review of the denial of his PCR. Austin Appeals Are Considered Belated Appeals And Are used to rectify Unjust procedural defects such As when An Attorney does not File An Appeal. (Odom v State 523 SE2d 753; Dennison v State 639 SE2d 35; Hope v State 328 SC 78, 492 SE2d 76; Rule 227(c) And 71.1(d)(9))

Appellants PCR Counsel *Never* Filed And Serve Notice of Appeal As Required by the Supreme Court And As the Record before the Court establishes, the Respondent has not produced A waiver of that Right, which the law Requires

Ground/Argument III – PCR Judge decision to dismiss 2nd PCR as successive and Time barred is Contrary To Clearly established State and Federal law and Claims are Cognizable for PCR Relief. Judge erred.

(Initial Filing – Exh-A)

As to Ground/Argument – I, Appellant has presented to this Honorable Court a meritorious Argument and Citation to our States Highest Court legal Authority, showing by the Record before the Court, that the dismissal of Appellants PCR Application is Contrary To the PCR Act (17-27-90; 17-24-45(C)) and was improper. The PCR Act Recognizes the Abridgment of a State Created right (17-27-20(A)) specifically; (1) The Conviction was in violation of the Constitution of the United States and South Carolina State law (obtained by the use of Falsified and Fabricated Evidence by Applicants own Counsel) And (4) There is evidence of material facts, not previously presented and heard that requires Vacation of the Conviction in the Interest of Justice. (17-27-20(A)(1)-(6))

It is Recognized by this Court that when a Attorney "Advice" To his Client is based upon Inadequate Research, Investigation, erroneous Advice on States Evidence against his own Client and those highly prejudicial errors leads to plea, that plea is not Voluntary and Knowingly (Berry v State 675 SE2d 425; Turner v State 517 SE2d 442; Jackson v State 535 SE2d 926) In Trial Counsel's own words (Exh-G) he "Advised" his Client, as to what is the "Evidence" against him and the Overwhelming weight of it, Knowing that by the Record

Before Him ( Exh-F ) That the "Evidence" he stated to his own Client, do not exist ( See Exh-A ).

The Record before the Trial Judge (PCR) clearly and plainly shows that it is Appellants Trial / Plea Counsel who places Appellant inside the Crime Scene, Not the Facts (Evidence). It was Trial / Plea Counsel who stated, under oath! that the State also had a positive Fingerprint Analysis that Identifies his Client, knowing it's not True (Exh1-A pages 9-12 of 30 and Exh-G, F) And also do not Exist. To Deny that this illegal and Blatant Violations of the laws of this land, State and Rules that govern his Actions (Rule 407, 413) would deny Reality and Condone his conduct in which it is clearly understood is illegal, un-ethical and forbidden by this Court and every Court (State and Federal) in the United States (Miller v Pate 386 U.S 28, 87 SCt 785; Hilton Head Chr. of Srvs. v Public serv. Comm. 249 S.C 9, 11, 362 SE2d 176, 177; S.C Const. Art I sect 3, Art I sect 14, Art 5 sect 25; 17-23-60 17-17-170, 16-9-10)

Counsel, "As the Record Conclusively Shows And in his own words" went From A Advocate of his Clients Rights to A Advocate of the State Against his Client And that in And of itself do not Conform to the Strickland standard that All Attorney's must meet (Strickland v Washington 466 U.S 668, 104 SCt 2052, 80 LEd 2d 674)

Therefore, the PCR Judge erred in the dismissal of the Application As to this Ground because it is not Supported on Factual Conclusions And is without evidentiary Support.

As To Ground / Argument - II Appellant has also

presented A meritorious Argument And Citation to our States legal Authority As to PCR Counsel's Ineffectiveness And the states Highest Courts Sanctions imposed upon them For such.

Respectfully Submitted

J. Howell