

The Supreme Court of South Carolina

Vartasha White #313878

2011-CP-26-8793

VS

Petition for Rehearing
Pursuant to S.C.R.C.P. Rule 224

The State of South Carolina

Proof of Service

The Appellant files this Petition, in the above court, for Rehearing on the order of Dismissal of the P.C.R. Appeal. The (Appellant) states that it could be prejudiced to her, if the Court does not order rehearing after a complete showing of evidence, which would alter the judgement to dismiss the Appeal. The evidence is a photo copy of the order of Conditional order respond brief.

RECEIVED

JUN 23 2014

S.C. SUPREME COURT

Vartasha White

Sworn to and Subscribe before me,

on This 16th Day of June 2014

Notary public for the state of South Carolina.

Julia J. Williams

My Commission Expires. August 25, 2015

RECEIVED

JUN 23 2014

The Supreme Court of South Carolina

S.C. SUPREME COURT

Vartasha White # 313878
VS

Motion for Rehearing
Pursant to S.C.R.C.P Rule 221
and S.C.R.C.P Rule 224

The State of South Carolina

A
2
The Appellant files this petition for rehearing pursuant to S.C. Rules of Appellate practice rule 221. The Appellant Argues. The respond to Conditional order, was filed with Supreme Court along with all other Documents. After Supreme Court denied the Appeal. The Appellant wrote to the lower court for a photo copy of all her motions and exhibits, relating to the conditional order and final order of P.C.R. Claim. The Supreme Court denied the appeal based on the appellant's alleged failure to respond to the conditional order. The appellant moves upon the court to have her appeal ~~reinstated~~ (REINSTATED)

The Supreme Court of South Carolina

Vartasha White # 313878

2011-CP-26-8793

VS

Motion TO Re~~te~~state the Appeal

The State of South Carolina

Pursuant to S.C.R.C.P rules 221
and 224(c)

A
3
Based on the material evidence, that she has be submitted
to the court. It evidence is of a GENUINENESS and
material fact, that lays strongly on the Issues of the
Courts order to Dismissed the appeal. Such evidence
Will change the courts order or ruling. The appellants
prays that this court will order the remittitur to be
re-called and rehear the appeal

Sworn to and subscribe before me Vartasha White
on this 16th Day of June 2014

Notary public for the state of South Carolina
Julia J. Willms

My Commission Expires August 25, 2015

B
The Supreme court of South Carolina

Vartasha White # 313878

V/S

The State of South Carolina

Appellate # 2011-CP-26-8793

Proof of Service

I declare under penalty of perjury that, I have submitted a complete photo copy of the P.C.R Conditional order along with final order and all exhibits filed by me in response to both orders. Enclosed is a complete copy of the lower courts record: which was sent to me on June 13, 2014 by the clerk of Court attached is the envelope to confirmed these documents

Respectfully Submitted

Vartasha MFC. White

Sworn to and subscribe before me

on This 16th Day of June 2014

Amelia J. Williams

Notary Public for the state of South Carolina

my Commission expires

August 25, 2015

The Supreme Court of South Carolina

Vartasha White #313878

VS

The State of South Carolina

Appellate NO 2011-CP-26-8793

Proof of Service

I Certify under Penalty of Perjury that I have served a petition for rehearing pursuant to S.C.R. CP Rule 224 on the Supreme Court clerk, Mr. Daniel E. Shareas, attached are P.C.R. Notice record, from the lower courts office date June 13, 2014

Respectfully
Vartasha White #313878

Sworn to and Subscribe before me

on this Day 16th June 2014

Notary Public for the State of South Carolina

Julia J. Williams

My Commission Expires

August 25, 2015

The Supreme Court of South Carolina

Yartashai White #313878

VS
The State of South Carolina

Appellate No #2011-CP-26-8793

Proof of Service

D I certify under Penalty of Perjury that, I have served the
Atty Gen. Ms. Catoe at her office P.O. Box 11549 Columbia, SC
29211. A photo copy of the lower courts records of the
P.C.R. record, motions, pleading and memos on the
merits of appeal being re-instated.

Respectfully

Yartashai White #313878

Sworn to and subscribe before me
on this day 16th June 2014

Notary Public for the State of South Carolina
Chelise J. Williams

My Commission Expires August 25, 2015



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

March 23, 2011

Vertasha McCullough White, # 313878
Graham Correctional Institution
4450 Broad River Road
Columbia, SC 29210

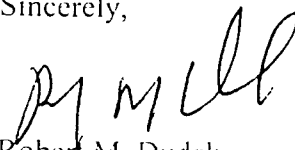
Re: Your case

Dear Ms. White:

This letter is to inform you that Ms. Celia Robinson is no longer with our office. Please be advised that a check of our records shows that Ms. Robinson's petition for writ of certiorari from the denial of PCR on your behalf was denied on August 20, 2009. Upon review of all of our open files from Ms. Robinson, it appears that you have not been notified of this decision, you need **to include that fact** in your application for a writ of habeas corpus in the United States District Court which is your next avenue of relief from the denial of PCR. I have included an habeas application for you to fill out and file. This application needs to be filed **very quickly** if you are going to assert equitable tolling against the one year statute of limitations for lack of notice from Ms. Robinson.

I hope this is not the situation but if you have not filed for federal habeas you need to do so very quickly. Should you have any questions, please do not hesitate to contact me but **do not let contacting me delay filing this application in any way.**

Sincerely,


Robert M. Dudek
Chief Appellate Defender

RMD:lec

enclosure

are



MELANIE HUGGINS- WARD

CLERK OF COURT
1301 2ND AVENUE
CONWAY, SC 29526
(843) 915-5080 • Fax: (843) 915-6081

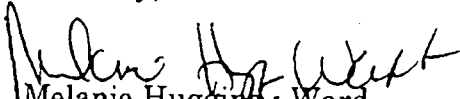
May 10th 2014

Ms. White

We received your letter requesting us to send you copies . I have enclosed those for you.

If we can be of any further assistance, please do not hesitate to let us know.

Sincerely,


Melanie Huggins- Ward

MHW/ac

2011- 8793

June 4, 2014

To whom it may concern:
I'm requesting to have a copy of the
reply brief to the Conditional, which I
filed. I'm also requesting to have a photo
copy of all the responses, made by the
Attorney General pursuant to S.C.R.P.
rule 71. This request is being made in
order for me, to perfect my appeal for
re-instating my appeal.

Thank you in this matter

#313878
Vartasha White

FILED
JOHNS COUNTY
2014 JUN - 9 AM 9:00
MELANIE HUGGINS-WARD
CLERK OF COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari To Horry County

Steven H. John, Circuit Court Judge

Yartasha McCullough White #313878

v.

State of South Carolina

Petition For writ of Certiorari

HORRY COUNTY
14 MAY - 1 PM '88
CLERK OF COURT

Yartasha McCullough White #313878

CAGC.I, W-1-B

4450 Broad River Road

Columbia, SC 29210

(3) Copies

Atty. Gen. M.S. Catoe

S.C. Supreme Court

Melanie H. Ward (clerk of court)

Designation of Matter

- B9. P.C.A. Application Exhibit + Brief
- C1. final Order of Dismissal
- D1. Letter from Appellate Defence Director
- A1 Notice of Intent to Appeal Brief
- A1 Notice of Intent to appeal motion
- A2 Affidavit of service, Clerk of Court
- A1 Affidavit of service to Atty. General.

HURON COUNTY
14 MAY - 1 PM '89
JULIAN J. BROWN, CLERK OF COURT

CCSE# 2011-CP-26-08793

CCSE# 2011-CP 26-8793

State of South Carolina
In the Supreme Court
Appeal from Horry County
Court of Common Pleas
The Honorable:

HORRY COUNTY
14 MAY - 1 PM 4-38
CLERK OF COURT

Vartasha McCulbough White 313878
V.S.

The State of South Carolina - Respondent

State of South Carolina
In the Supreme Court
Appeal from Horry County
Court of Common Pleas

A11

Certificate of Service

The (appellant) hereby certify under penalty of perjury, that a true copy of the notice of ~~motion~~ ^{appeal} to appeal in the above referenced case has been served upon opposing counsel, by delivering same this 30 Day of ~~April~~ ^{May} 2013 at the office of the Atty. General P.O. Box 11349, Columbia SC 29211. The appellant appeals the final order of Dismissal

7-28-12

S.C. Supreme Court

P.O. Box 11330

Columbia, SC 29

Yarkisha MRC White 313878

~~6600 1-150 Broad River Rd~~

~~Columbia SC 29210~~

Atty General

P.O. Box 11349

Columbia SC 29

IN THE SOUTH CAROLINA SUPREME COURT
VARTASHA McCULLOUGH WHITE #313878
vs
THE STATE OF SOUTH CAROLINA

NOTICE OF INTENT
TO APPEAL UNDER
S.C.A.C.R. Rule 203
Pursuant to Rule 227
P.C.R. No#

A21

The Appellant files this Notice of Intent to Appeal,
the final order of Dismissal of her (P.C.R.) claim.
P.C.R. denied with prejudice by the Honorable
Steven H. John

HANCOCK COUNTY
APR 1 2008
CLERK OF COURT
WARD

A-31

Procedural History

The Applicant was tried in Horry Court General Session Court

Direct appeal Jury Trial

Denied Date -

P.C.B. file dismissed / Appealed dismissed, Appellate Defense Counselor failed to inform the (Appellant) that P.C.B. Appeal was denied

After discovered the evidence, Chief Director Mr. Robert M. Duden informed (appellant) that Ms. Robinson left the office over 1 1/2 ago her case was found among the records, no notice ever sent to her. Encourage the (appellant) to a P and P.C.B. was filed on October 20, 2011, denied

Evidentiary hearing. Did not know I could've appealed because I never received an evidentiary hearing. Knowledge of belated appeal was discovered today

CLERK OF COURT
HARRIS COUNTY
MAY - 1 11 AM '11

IN THE SOUTH CAROLINA SUPREME COURT
IN RE) WHITE-VS-THE STATE | P.C.R. NO# 9011-CP-26-8793

A41

STATEMENT OF THE CASE

The (APPELLANT) was in the State of North Carolina when her (child) became missing. The N.C. Police conducted a search and investigation. The N.C. Police Department Rule out foul play. The (Appellate) was granted to leave and return to South Carolina, her home state.

The (Appellant) was charged with this crime once she return to South Carolina without any Physical and Scientific evidence to show that a crime was committed.

The state was in violation of 18. U.S.C. A 1503, and under Article VI clause 2, to the 16th.

Amend. U.S. The State convicted the (Appellant) with false evidence, hearsay evidence F.R.C.P. 801 (A) (1). The (Applicant) was convicted without any D.N.A findings and absent a body.

HOPKINS COUNTY
14 MAY - 1 PM '93
CLERK OF COURT

Issues Raise for Review

- 1) Whether Trial Judge had subject-matter jurisdiction to impose sentence on the (Appellant) Pursuant to Article III & 17 (ACT. 83) Unconstitutional statute. Whether Trial Judge erred, When he failed to charge the jury on (16-25-90) Criminal D.V. ACT Pursuant to chapter 13 and 21 of TITLE 24 which would grant her parole after serving 1/4 of her time and will qualify her for parole review every year. The conviction of plea of guilty of any household member. (Whether Judge erred in)
- 2) When he charge the Jury on child Abuse by Homicide by child Abuse in lieu Unlawful neglect of a child and Infliction of Great Bodily Injury on a child. Absent any physical Evidence DNA contrary.
- 3) Motion to Alter the judgement pursuant to F.R.C.P. 59 To throw out the conclusion of the jury. Tainted conviction. Prosecution misconduct. No DISCOVERY EVIDENCE harsh evidence on Theory of prosecution. was the direct and approximate cause of the (APPELLANT'S) conviction.
- 4) Whether the (APPELLANT) was prejudice by the Trial Judge prosecution and Defense counsel who aided the prosecution in the Unlawful conviction.

DEPT. COUNTY
14 MAY - 1 PM 4:33
CLERK OF COURT

Statement of Fact

The issue of subject-matter-Jurisdiction:

A Court's jurisdiction over subject-matter- Depends on Authority granted to it by constitution and laws of this state, and in fundamental and objection to such jurisdiction. May be made at any time during the action and cannot be waived or conferred by consent. This is to say that The lower court could not and did in violation imposed a sentence under a statute that is unconstitutional. Quoting Hollman, 60 S.E. 1911908. Holding that an unconstitutional statute is void and not law. Hence, the judge is without jurisdiction to impose it. Nevertheless, Trial Judge cannot sentence the (APPELLANT) in this case at bars that did not happen in the State of South Carolina. The Alleged crime happen in North Carolina. North Carolina police Dept. and grand jury ruled out foul place. The (Appellant) returned back home which is South Carolina. This state arrested the (Appellant) absent any DNA evidence or a body and tried for an untimely death of her daughter. Again. No body, NO DNA, NO Autopsy, physical evidence of CBC, DNA, no evidence ect... was offered into evidence. The (Appellant) was convicted on Hearsay evidence in violation of the 14th and 18th U.S.C.A Const. Amendment.

40-12-1 COUNTY
14 MAY -1 PM 4:34
CLERK OF COURT

Table of Authorities

CLERK OF COURT
14 MAY - 1 PM 15 34
CLERK OF COURT

A 61

5th Amendment U.S.C.A. / Indicted on fraud

6th Amendment U.S.C.A. / Defect Representation

18th Amendment U.S.C.A. / Illegally Arrested / Venue

14th Amendment U.S.C.A. / Prejudice / Denied Due Process

Quoting Case Laws of Presedent Value

1) SCRIP, 513 U.S. 315, 115 S.Ct. 851. Id. At 316 115.

S.Ct. 851, citing → Murray - V - Carrier, 777 U.S.

478, 496, 104 S.C. 2639, 91 LEO 2d, 397 (1984) IN

Both cases the SUPREME COURT RULED LACK OF
evidence. Exculpatory, Scientific evidence

Critical, physical evidence that was not presented
at trial, Nor was any evidence presented on Appeal
in this case at bar against the (Appellant) Id. At

F.N. 32 513 U.S. at 324 115 S.Ct. 851

2) State - V - Passmore, 363 S.C. 568, 611 S.E. 2d 273,

281 (Court of Appeals 2008) IN - Passmore - V - State

The Supreme Court Ruled that Passmore was

entitled to seek relief because she was unable

to argue this issue on direct appeal. The applicant

in the case at bar cannot be Procedural bar

from raising these issues on appeal for the state.

Using false Testmones (Quoting - Gibson - V - State,

3) Griffin - V - U.S. 405 U.S. 150, 153, 92 S.C.T. 763, 766

(1992) Prosecution deliberate deception of a court

and Jurors by the Presentation of known F-A-L-S-E

Evidence is in an pritable with Rudimentary

Demands of justice (Quoting - Riddle, 369 S.C. 47

631 S.E. 2d at 75

4) Napue-V-Illinois, 360 U.S. 264, 269, 79 S. Ct. 1173, 1177 (1959)

The Supreme Court held that the principle that a state may not knowingly use false evidence to obtain a tainted conviction implicit in any concept of ordered liberty, does not cease to apply, merely because the false evidence testimony of the state. Citing Brady-V-Maryland

5) Hollman, 405 E.19 (1908) Trial Judge cannot impose a sentence under a statute that is unconstitutional. See expert in Hollman. The judge in this case at bar, the issue of venue and subject-matter jurisdiction is the key factor in this case at bar. The appellant did not commit a crime in South Carolina, yet the state prosecuted her because she resided in SC and was a citizen although (child) wasn't missing in SC, but became missing in North Carolina.

Meritoria is appeal. There are issues that are appealable.

Strickland v. Washington, 104 S.Ct. 2052 (1984) was reversed by a second judge.

1) proper standard for attorney performance is that reasonably effective

2) counsel, strategy or sentencing hearing was unreasonable

3) Assuming challenged court conduct counsel was unreasonable, defendant suffered insufficient prejudice "reversed"

Rule 1.3 Rule 407 S.C.A.C.R., which is South Carolina rules of court 2008

A lawyer shall act with reasonable diligence and promptness in representing a client.

Adopted effective September 1, 1990

Amended effective October 1, 2005

A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf.

In Anonymous member of S.C. Bar 552.5.E and 10
1. Attorney disciplinary - make reasonable efforts even if
he or she did not know of supervised attorney
inappropriate

2. Zealous and advocacy

Gallmunt-State 414 se ad 780

Supreme court finney J granted certiorari and
held that defense counsels - failure to object to
comments ineffective assistance of counsel.
Reversed and Remanded.

FOR A POST-CONVICTION RELIEF APPEAL WE NEED THE FOLLOWING:

1. Original trial conviction transcript;
2. Application for post-conviction relief and amended application(s), if any;
3. True-billed indictment(s);
4. Final signed written Order of the judge denying post-conviction;
5. Copy of the Notice of Intent to Appeal with proof of service on opposing counsel, and date of filing with the Court;
6. State's Return and Motion to Dismiss and all attachments and any amended return;
7. Order or letter of Appointment, or Affidavit of Indigency and signed Order of Indigency; and
8. Names and addresses of all court reporters and hearing dates.

FOR A DIRECT APPEAL WE NEED THE FOLLOWING:

1. True-billed indictments, arrest warrants and accompanying affidavits and statements;
2. Copy of the Notice of Intent to Appeal with proof of service and date of filing with the Court;
3. Name and address of Court Reporter(s) (including trials in absentia, pretrial, motions, post-trial, etc.);
4. Copy of any voir dire requests, written motions or requests to charge or memoranda that you made at the time of trial;
5. Copies of any and all written Exhibits introduced at trial and any and all motions filed by the defense or prosecution; and
6. Order or letter of Appointment, or Affidavit of Indigency and signed Order of Indigency.

NOTE: We cannot meaningfully review the transcript to ascertain errors unless we have your requests to charge and requested voir dire questions which were denied. Please send these with the above information.



ALAN WILSON
ATTORNEY GENERAL

December 2, 2011

The Honorable Melanie Huggins-Ward
Horry County Clerk of Court
Common Pleas Division (PCR)
Post Office Box 677
Conway, South Carolina 29528

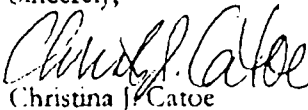
RE: Vartasha McCullough White, # 313878, v. State of South Carolina
2011-CP-26-8793

Dear Mrs. Huggins-Ward:

Enclosed please find, for filing in your office, the State's **Return and Motion to Dismiss**, along with a **Certificate of Service**, in the above-referenced PCR matter.

Thank you for your assistance in this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,


Christina J. Catoe

Assistant Attorney General

Enclosures:

Return and Motion to Dismiss & Certificate of Service

cc: Vartasha McCullough White
Graham Correctional Institution
4450 Broad River Road
Columbia, SC 29210

The State of South Carolina	Courts of Common Pleas
The County of Horry	Indidment no# 2011 CP-26-8793
Yartasha McCullough White #313878	
VS	AFFIDAVIT OF SERVICE
The State of South Carolina	

HURRY COUNTY
SEP-4 PM 1:34
JELANIE HUGGINS-WARD
CLERK OF COURT

#313878, Yartasha McCullough White, certify under penalty of perjury that, I've submitted the following documents in the above said courts as supporting documents and evidence of a material and untruthfulness of fact in relation to the PC R application, Exhibits A, B, C, D, E, F, G, H, I, J, K and L

Yartasha White
#313878 Yartasha McC. White
August-29, 2011

Sworn to and subscribe before me
on this 30th day of August, 2012

Notary Public for the State of South Carolina Peggy Kife Lyle
My Commission Expires 11-23-12 14 PM

State of South Carolina

County of Horry

Yvonne M. Scullough White #313878

Y/S

The State of South Carolina

Courts of Common Pleas

2011-CP-26-8793

Motion for Re-instate the
P.C.B. application based on
Fed. R.C. Proc. Rule 401

PROOF OF SERVICE

HORRY COUNTY
12 SEP - 4 PM 1:30
MELANIE HUGHES-WARD
CLERK OF COURT

The applicant submits this notice to have her P.C.
instated based on a Guininesses of fact. The applicant can
show the following facts in support of her motion. For a first
Defense: The applicant responded to the state motion and order
of dismissal on December, 2011. For a second defense: Postal
check form: CCSI billed my account or extracted money
for payment to clerk of court and payment to Atty. Ms.
Christina J. Carloe, on December, 2011, for the third defense:
Ms. Peggy Yobs notarized these document on December, 2011
for a fourth defense: The applicant is entitled to a re-hearing
in the merits, that she personally appeared before Ms. Peggy
Yobs, and Ms. Barnes. The Postal clerk for CCSI on
December, 2011

Yvonne White 313878

Yvonne White

I, [Signature] do hereby subscribe before me
on this 30th August, 2012 P.M.

Notary Public for the State of South Carolina

[Signature]

My Commission Expires 11/23/14 P.M.

State of South Carolina

County of Horry

Varlinda McCullough White #313878
VS

The State of South Carolina

In Court of Common Pleas

Exhibit (A)

Motion for a Fast and Speedy
Trial within (120) days
after Receipt of this Notice

The above caption "Petitioner" hereby moves on my own accord, Petitioning the above courts to enter an "Order granting my motion for a Fast and Speedy Trial on this (2nd) Second P.E.R application. In support of this motion the "Petitioner" states the following facts...

(Ground 1) The Issue of subject matter Jurisdiction to prosecute me for the charge is "INVALID" meaning the States of South Carolina did not have (legally) Authority to prosecute me for this alleged offense. Under the United States constitutional Law and Under S.C. Constitution. The Laws of this state clearly states that "if" a person commits a crime he/she must be punished for the crime in the State of where the crime was committed. The alleged crime is believed to have occurred in North Carolina, however South Carolina prosecuted me for this crime because I was a legal citizen of the state of South Carolina in Lieu of my exiting North Carolina after the alleged crime was believed to have occurred in North Carolina. The State of North Carolina conducted an investigation of the alleged crime and was inconclusive to connect me with any wrongful acts or the crime in which I was convicted of, absence any physical or scientific proof of evidence. The conviction is illegal and unlawfull.

(Ground 2) The petitioner has been in the S.C.D.C. for over a period of (5½) years, held illegally as a hostage against my will. (Ground 3) There is **no** Physical Scientific evidence of the crime no documentary evidence of any X-rays, plate and autopsy, photographs and no CBS blood work, to show that, I committed a crime as well as "No Body"

(Ground 4) The rights to a speedy trial is provided for by the 6th and 14th amendment to the U.S. constitution. The South Carolina Constitution art 14, citing case law (Doggett - vs - U.S. 112 S Ct 2486 (U.S. 1992) State vs - Chapman, 344 S.E. 2nd. 611 (SC 1986) and applicable federal case law... Now, therefore, the "petitioner" moves that this court order my release, if a trial cannot be held within the prescribe time frame of the (120) days not to exceed (180) days set by the U.S. constitution... The "petitioner" further moves that, this case be tried pursuant to state law, and if the solicitor fails to call the case for trial during such period, that the case be dismissed with prejudice by the court and that the order contained that the state cannot at any later date to pursue any other charges arising from the arrest and the unlawful conviction of the "petitioner" of the alleged crime.

State of South Carolina
County of Horry
Vartasha McCullough White #313878
vs

The State of South Carolina

In the Court of Common Pleas

(Exhibit B)

Motion to reopen the States
evidence discovery data.

The "petitioner" states that a motion to re-opened the states evidence is highly unusually, but it can be granted as long as the evidence tending to prove lies strongly on the foundation of Jury's finding. When a jury issues a verdict absent any physical evidence, such as police report, search warrants, blood work, X-rays, slides, photographs, Pathologists, autopsys reports, arrest warrants, death certificates, Indictment etc... When conviction is based on Theory of the solicitors corrupt persuing influence of the jury.

County of Horry
Yartasha MISCutough White #313878
VS

The State of South Carolina

The Petitioner's Brief of Facts
and Issues raise for Review
for the Grant of (2nd) PCR.
(Exhibit C1)

The "petitioner" states that this is a prima facie case. I am innocent of the alleged crime, while said Victim, has not been found as to this date. The conviction was based on no physical evidence and no scientific evidence, but was based on the solicitor's inaction of the case persuading the jury to believe, that they had a body and evidence that can be seen, touched and documented, physical evidence has never enter the court. The burden of proof which furnishes "evidence" of existence. The Re-opening of the states evidence is to secure the "petitioners" conviction under evidence rule 401. citing case law Benchoff vs Morgan, 394 SE2d 19, 1990 SC App P. In Benchoff, the court ruled that, in action at law on appeal of case tried by jury. Jurisdiction of reviewing courts extends to "correction of the evidence" Errors of law "factual finding will not be Disturbed" Unless review of records "Discloses no evidence" which reasonable supports a jury finding citing following case applied to support this case law, whereas in above case law. No evidence was in the presence of the jury and was never presented to the "States" Grand jury could not possible have issued an indictment against "petitioner" on any charge yet I was indicted on (3) charges arising out of one element of an alleged crime whereas there was no expert witness to testify about this issues. page 4

(Exhibit C2)

The "Petitioner" further states that; denial for a motion of a new trial in this case at bar, would be a manifest injustice citing case law. Vinson vs. Haricy, 477 SC 2d 715, 324 SC 389 SC APP. 1996 case law. Trial judge must grant new trial absolutely if amount of verdict is grossly, inadequate or excessive so as to (shock the conscious) of the court and clearly indicates that figure reached was result of passion, caprice, prejudice, partiality corruption or some other improper motives failures. if trial judge to grant New Trial absolutely and or appeal Court will grant New Trial absolutely citing case Patterson v. Reid, 456 SC 2d, 436, 318 SC 183. In Blanchard vs Rist, 426 SC 2d 802, 310 SC 375, The grant of a new trial is left to the trial judge and would not be disturbed on appeal. Citing case SC APP. Elder vs Gaffey Lagen. Inc. 511 SC 2d 384 333. SC 651

State of South Carolina

County of Horry

Vorlasha McCullough White #B13878

VS

The State of South Carolina

In the Court of Common Pleas

Motion for an Appeal

Bond, upon the deposition
of the order granting of me
a jury trial

Proof of services

(Exhibit D)

The "petitioner" hereby moves in the said court on her own accord for a grant of an appeal. The "petitioner" states that (she) is entitled to relief because she is innocent of the alleged crime in which she was convicted. Under the 14th Amendment U.S.C Equal protection clause. She "Petitioner" is entitled to released from judgement on her conviction, under due process of law..

State of South Carolina
County of Horry
Vartasha McCollough White #313878
vs

The State of South Carolina

The "Petitioner" files this motion
Under the 5th and 14th Amendment
U.S.C.

Motion to Exhume the Body
(Exhibit E)

The "Petitioner" files this motion for exhumation of the alleged deceased body of alleged victim. The "Petitioner" is demanding that the body, physical evidence be presented in court for inspection because the petitioner was convicted absconded any physical evidence but was based on the Solicitors theory as well as the corrupt evidence that was spoken of, yet never surface in court, was a Manifest Injustice and one of the most Unbelievable events in this state history. The Law states that a (Body) must be visible in order to charged a person for murder. The missing Link in this case is the Body. The "Petitioner" is demanding a released within (30) thirty days of receipt of this motion.

State of South Carolina
County of Horry
Vartashna McCullough White #313878
VS
The State of South Carolina

Motion to Compell
CDC Blood work X-Rays
Autopsy, Photos, Death
Certificate
FED. R. Evidence Rule 803(9)

(Exhibit F)

The "Petitioner" hereby moves on her own accord under the federal Rule of evidence code 401. and under federal Rule Civil Procedure, Rule 16. to compell The Autopic evidence of the alledge crime in which I have been falsely accused and convicted of I further contend that "If the attorney ^{General} ~~General~~ do not present the evidence that, the case be dismissed against me with Prejudice as a matter of law.

The county of Harry
Vartasha McCallagh Whit
#313878

The state vs of South Carolina

Affidavit of Service

(Exhibit G)

The applicant "Petitioner" raise the following grounds or facts and claims of Constitutional legal Technical Errors
(Ground 1) Miscarriage of justice / Prejudice

(Ground 2) Entrapment statute

(Ground 3) Ineffective assistance of counsel and appellate counsel.

(Ground 4) False imprisonment

Citing case law. McKines Eyes vs Bonner, 1 Bailey 113
in this case the court's finding was based on the
Palpably evidence that the courts will set aside
the finding of a jury's verdict when it is so palpably
against the evidence, as to leave no doubt but that
it is erroneous, that the courts will interfere with
the decision of a jury were mistaken or well upon
question of fact. When the courts recognizes that, the
jury were mistaken or were influence by passion,
prejudice or corruption, contrary to evidence. A new
Trial will be granting and the jury's finding will be
set aside citing case law: Cochfield vs Daniel I. Mill
const. 193. State vs Sims 2 Bailey 29.

The county of Horry
Yorktown, Medburg, White
#313878
vs
State of South Carolina

Affidavit of Services
(Exhibit H)

The "Petitioner" files this motion under the 5th Amendment to the U.S. Const. of due process of Law. The "petitioner" is being held in prison, unlawfully and as a hostage, she is being deprived of her freedom, based on a miscarriage of justice. The "petitioner" begs the courts under Fed. Rule Civil procedure (Rule P. 46) to throw out the ruling of the original trial courts judge and jury finding of guilt in the above case. The decree of S.C. objection or the ruling of trial court, special exception / Challenge objection states that South Carolina Decree. The decree of the circuit judge upon the facts is equivalent to the "verdict" of a jury whereas in the summary process jurisdiction, he assumes the place of a jury citing Law Ramey and Tiggant vs McBride Speasey 4. Strobl 2.

County of Harry
vs Vartanjan McCallum White
#33878

Affidavit of Service

State of South Carolina

(Exhibit I)

The "Petitioner" raises the 6th Amendment rights violation U.S.C.A Defense Attorneys and Appellate Counsels on record of appeal. Obstructed the course of justice and aided the state in a cover up by falsary representing the "Petitioner" and was granted permission to conceal and cover-up the illegal arrest and conviction of the "Petitioner" by the S.C. state courts, and the courts of Common Pleas in addition with the S.C. Supreme court. The evidence introduce at trial was insufficient to support the "Jurys" finding of guilt. It was based on heresay of an alleged death, without an official document issued by register of death or some other public official, which certifies that a person has (died) which give specific cause of death and is required to be signed by the attending or an examining physician, under death certificate, see federal Rule of evidence (803)(9) heresay for death, citing case Ezell vs. State, 345 S.C. 312, 548 S.E. 2nd, 852 (2001). The Supreme court found that the appropriate remedy for ineffective assistance of appellate counsel. A New Trial. Solicitor The defense atty. Limine the state's evidence

STATE OF SOUTH CAROLINA
County of Horry
Vartashina McQuillan White
#313878

VS
The State of South Carolina

In the Court of
Table of Authorities
The State of South Carolina
(Exhibit J1)

The "Petitioner" raise the facts and issues, why (she) should be granted this (2nd) P.C.R. Although successive applications (P.C.R) is not allowed under S.C. Code Ann. 17-27-90. However, the Supreme court has (carved) out an exception to the Rule when there is procedural irregularities and a LEGAL question of law. The courts must realize at some point in order to achieve a semblance of effectiveness in dispensing justice. When the system has failed a "defendant" and where to continue the "Defendants" Imprisonment without review would amount to a gross miscarriage of justice. The applicant in this case at bar, is entitled to this request of exception for her (P.C.R) claim to be heard in the above court, citing case law. Washington vs the state. 342 S.C. 232, 478 S.E. 2nd 833. The United State Supreme court held that, it would not uphold a conviction when there is evidence visible on the face of the record, of prosecution misconduct and there is a legal question of law in addition with venue vs jurisdiction over the defendants and subject matter jurisdiction absence of arrest or absence of an indictment of that courts Law within its jurisdiction. The applicant raises the defense of After Discovered evidence. (Grand 1) The conviction and sentence is in violation of the constitution of the United States and the constitution and laws of this state. (Grand 2) The court was without jurisdiction to impose sentence.

(Exhibit J1)

(Ground 3) The evidence of material facts not previously presented and heard was (Limine out of court and that would constitute or require vacation of the conviction or sentence in the interest of justice,

(Ground 4) The conviction ^{is subject} ~~or determination~~ to collateral attack upon any ground of alleged error, heretofore under common Law Statutory or any other petition under this chapter of after - Discovered - Evidence

County of Horry
Vartashna McCollough White
#313878

VS

State of South Carolina

Table of Authorities

The State of South Carolina

(Exhibit J2)

The "Petitioner" states that under the Doctrine of Respondent Superior, and the 6th Amendment U.S.C.A VI Clause 2, to the U.S.C.A The solicitor and Atty. General in acting over the case can be Stripped of their official Representative Capacity and that the 'State' has no power To prevent them from being stripped when they knew, or ~~should~~ should have known or had knowledge of the wrong done in this case at bar and when they each agreed to continue to (opposed) the "petitioner" of her rights to be free from the unknowfull conviction in ^{which} she is held illegally and unknowfully. Absent any physical proof that (she) committed the crime in addition with the crime not being in this state. The state Symbolizes power and it used that power to obtained a police report from North Carolina Police Dept. to illegally bring the "Petitioner" in there courts merely because the (Applicant) petitioner is a legal citizen of the State of South Carolina. Note that North Carolina had no evidence Yet South Carolina spoke of evidence ~~nowhere~~ but failed to present evidence spoken of, for the jury to examine or inspect. There is no Autopic "Evidence" in this case only (ASSUMPT TAY) and (FALSE) statements used to "Entrap" the "petitioner" in this case at bar. Citing case Law 18 U.S.C.A. 1503, 1504 Smith vs the STATE, 66 GA. App 609, 19, S.E. 2d 168, 169 see also Capps vs Wealth, 294 Ky, 793 S.W. 2d 110, 611 Model Penal ~~code~~ 241.2 false swearing with ~~perjury~~ purpose to deceived Under 18 U.S.C.A. 1503 The act of attempting to (Influence) ~~perjury~~

(Exhibit J2)

A "Juror" Corruptly by persuasions of belief and or any other means Except the production of evidence in open court. Such act is a criminal offense. Knowledge of untruth Tampering with the jury. Under model Penal Code § 224.4 18. U.S.C. A 1501, 2071 and 2073 falsifying model Penal code It is a crime under State and Federal Statute, for a person knowingly that he has no privilege to do so to falsify to counterfeit or forge to make something false, otherwise tamper with Public Records with the purpose to deceive or injure anyone or to conceal a wrong doing. The falsification occurred with the State of South Carolina Solicitor's office and was executed by the solicitor's and Atty. General and appellate Defense they all agreed to cover-up and lie.

County of +orry
Yartasha McCallough White
#313878

VS

State of South Carolina

Table of Authorities

The State of South Carolina

(Exhibit J3)

The "Petitioner" raises the "Entrapment Statute" The "Petitioner" was question without the presence of Counsel in and or during interrogations and Questioning by the Police Dept. The State used information gained from the "Petitioner" while the "petitioner" was cooperating in the going in - vestigation In violation of the 6th, 14th amendments citing case Law U.S. vs. Abaya, 864 F. 2d 1324. The "Petitioner" further states that "Jurisdiction is the key factor in - this case at bar. The court Lacked Subject matter - jurisdiction. The Indictment was a nullity violating Article 1, Section 11, of the constitution. The States Grand Jury never had jurisdiction over the petitioner. NEVER had jurisdiction over the alleged offenses The offenses never transpired or had significance in two or more counties The act of a court with respect to matter as to which it has no jurisdiction is - VOID. After discovery violation by the prosecution in violation of Brady - vs - Maryland, 373 U.S. 83 (1963) for failure to disclose impeachment - evidence. The defense attorney, failed to obtained any of the states evidence and or the discovery data connecting to the alleged crime in which the "Petitioner" was being tried for. Defense attorney failed to file a motion for impeachment of the states evidence Yet, Defense attorney assisted in the prosecution of the "petitioner" and demanded that "petitioner" and her father provided more money, if they wanted him

(Exhibit 33)

to represent (her) on record of appeal. The Act of the Defense attorney and the attorney general as well as the appellate court counsel on record of appeal. Deprived the "petitioner" of life, liberty and due process of law under the U.S.C.A 5, 14th Amendment to the U.S. const. The "petitioner" states that the solicitor and defense attorney "Limine" out-of-court to excluded (evidence) by granting a motion in Limine. The trial judge E out all the states alleged evidence out-of-court and out-of-the-jury's eyes for proof or for inspection. This was a manifested unjustifiable Act. Strickland-v-washington. Id at 488, citing clark v. state 436 S.E. 151, 155. S.E. 2nd. 260 (2001)

County of -Horry
Varlona McCollough White
#313818

vs
State of South Carolina

Table of Authorities

The State of South Carolina

(Exhibit J4)

The "Petitioner" attorney failed to call any expert witnesses. Defense attorney failed to request a jury instruction on a motion for judgement not withstanding the verdict. Which is a "judicial" decision to throw out the conclusion of the jury. It is used when "Judges" believes the evidence is clearly insufficient to support the conviction. It is a decision that cannot be appealed by the stat and it is therefor a final decision. The "Petitioner" did not find out the Supreme's court ruling on the merits of her (P.C.R) until March of 2011. March 23rd 2011. Appellate defense attorney "Ms Celia Robinson on record as counsel for the "Petitioner" in this case at bar, resigned for the office in 2009 and failed to notify the "(Petitioner)" of the courts ruling, which was prejudice to the "Petitioner" the (appellant) because the petitioner was deprived of a right to (opposed) the courts opinion in opposition of the order. The "petitioner" respectfully prays that the above courts would schedule an exjunction RELIEF motion in Lieu of a hearing for a personal recognizante bond. That the "Petitioner" sentence be set aside and granted bail until the courts can schedule her motion for a jury trial in addition with the states order to search The Archives for all the Discovery Data that was presented to the State -Grady Jury and for the preliminary Hearing citing case law *Fraiser v State* 306 S.C. 158, 410 S.E. 2nd 372 (1991 case)

County of Horry
Vantasha McCollough White
#313878

VS
State of South Carolina

In the Court of Common Pleas

Affidavit of Service

(Exhibit J5)

The "Petitioner" is entitled to this 2nd PCB application. The "Petitioner" Attorney "prejudiced her defense by concealing crucial evidence from the jury, that the State did not have any physical evidence to bring his Client into the courts. Defense Attorney failed to inform the jury of the following and or failed to instruct the jury on charges of the following: 1, Defense attorney failed to instruct the jury to bring back a motion not withstanding the verdict of not guilty. A motion for a direct verdict of not guilty. Defense atty. failed to explained to the jury the issue of subject matter jurisdiction, whereas the above courts, did not have legal subject-matter jurisdiction to prosecute the "Petitioner" because the alleged crime happen in another state. There was an official investigation by the state, and the finding was inconclusive, the defense was allowed to return to South Carolina. There is no body and the state of South Carolina has no ~~body~~ matter of evidence.

County of Horry
Vartisha McCollough White
#313878

vs
State of South Carolina

Warrent No. 2002003189

The Petitioner brief
(Exhibit K)

(1) The "Petitioner" argues the Indictment and the evidence presented to the State's Grand Jury citing case law. S.C. Code Ann. § 17-19-90 (2003) In State vs Gentry, 303 S.C. 610 S.E. 2d 444 (2005) U.S. vs Cotton 535 U.S. 625 122 S.Ct. 1781 (2002) The Indictment is a notice document and any challenges to its sufficiency must be made with S.E. Code Ann. Law. 17-19-90 (2003) The issue of subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. The state, however in this case at bar has failed to overcome many hurdles before the "Petitioner" was found guilty of the charge in this case at bar. For example, The state did not acquire Pre-trial evidentiary Hearing whereas the state must produce its evidence prior to the Magistrate issuing of its warrent to arrest the "Petitioner" in this case. (2) The magistrate Judge in North Carolina refused to issue a warrent while the "Petitioner" was in there jurisdiction in Lieu of the investigation that the "Petitioner" cooperated in. (3) North Carolina grand jury refused to Indict the "Petitioner" because there was no physical or scientific proof that the "Petitioner" committed any wrong doing. (4) South Carolina "Trial judge committed REVERSABLE errors when (he) issued a ruling in the sentencing of the "Petitioner" and failed to instruct the Jury to bring back a charge of a motion not withstanding

The verdict "because the state has failed to produce any physical evidence against the "Petitioner" A motion for a direct verdict to find the "Petitioner" not guilty as a matter of law. In conjunction without issue.

Trial Judge failed to instruct the jury on the law and principle of the law absent any physical evidence. The "Petitioner" is entitled to a second P.C.R. ~~claim~~ because, the state has violated her ~~un~~ amendment rights to Equal Protection Law and to the 5th Amendment's right

A right to be indicted by a State Grand Jury before the issuance of a warrant for her arrest. The state built its case on a "Kallidescope" confusion as to who did what, when, where or why, yet there is no evidence that a crime was committed and the "Petitioners" daughter is still UNFOUNDED.

State of South Carolina
The County of Horry
Vartasha McCollough White
#313878

State of South Carolina

In the Court of Common Pleas

Table of Authorities

The State of South Carolina

(Exhibit L)

I Vartasha McCollough White #313878 certify under Penalty of perjury that, I submitted the following documents to the courts of Common Pleas along with my post conviction relief application. I'm requesting that the clerk of courts, stamp date and file all additional papers with the P.C.R application. I'm also requesting to have a ci returned to me within (5) five days of receipt of this notice.

Exhibits enclosed are in a chronological order A-L, also pages 1-22 on this attached P.C.R application.

Peggy K. L. L. 8/30/12
Notary Public

Comm. Sep 11/23/14 PKY

Vartasha White 8/30/12

HORRY COUNTY
12 SEP - 4 PM 1:35
MELANIE HUGHES-HARD
CLERK OF COURT

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Vartasha McCullough White, # 313878,

2011-CP-26-8793

Applicant,

v.

State of South Carolina,

Respondent.

FINAL ORDER OF DISMISSAL

12 JUL 2012 PM 1:59
CLERK OF COURT - WARD

This matter comes before the Court by way of an Application for post-conviction relief filed October 20, 2011, by Vartasha (a.k.a. "Vertasha") McCullough White. Respondent made a Return and Motion to Dismiss on December 2, 2011, requesting that the Application be summarily dismissed. Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Court issued a Conditional Order of Dismissal filed December 15, 2011, provisionally denying and dismissing the action, while giving the Applicant twenty days from the date of service of the Order in which to show why the conditional dismissal should not become final. The Applicant was personally served with a copy of the Conditional Order of Dismissal on January 4, 2012, at Graham Correctional Institution.

The Applicant has not submitted a response following the Conditional Order of Dismissal. Therefore, the conditional dismissal must become final.

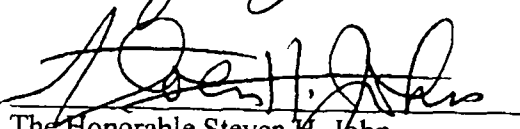
IT IS THEREFORE ORDERED that, for the reasons set forth above and in the Court's Conditional Order of Dismissal, the Application for PCR is hereby **DENIED** and **DISMISSED with prejudice**.

This Court hereby directs the Applicant's attention to Rules 203 and 243, South Carolina Appellate Court Rules, for the appropriate procedures to be followed in order to commence an

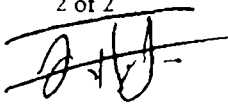
182
A. H. J.

appeal from this Order. A Notice of Appeal must be served **within thirty (30) days** of the service of this Order to secure appellate review. But see Edith v. State 369 S.C. 408, 632 S.E.2d 844 (2006) (failure to file a response to a conditional order of dismissal will preclude an appeal after final order is issued).

AND, IT IS SO ORDERED this 16th day of July, 2012.


The Honorable Steven H. John
Chief Administrative Judge
Fifteenth Judicial Circuit

Conway, South Carolina



① The State of South Carolina
The County of Horry
Yantasha McCullough Wh. #313878

V/s

The State of South Carolina (Exhibit A)

The Court of Common Pleas

2011-CP-26-8793

Under 18 U.S.C.A. F.R.C.P. Rule 5a
Rule 16

Motion to Compell the Discovery
documents pursuant to F.R.C.P. Rule 16

The applicant files this notice, pursuant to F.R.C.P. Rule #14 in the above said Court demanding the State to bring forth The Discovery Documents Pursuant to F.R.C.P. 18 U.S.C.A. R 5a. The applicant states that her case is Prima Facie case and the State do not have subject-matter-jurisdiction over her. The State's notice to ~~stop~~ suspension of discovery should not be granted under Rule 12 B or 12C or 5a. The filing of such a motion in this case at bar shall not be granted. The State desire to stayer suspension of discovery cannot be granted on THEORY of a good cause or on a notice for extension of time based on misplaced of the file or lost records in the States Archives citing case law. *Baimo-v-U.S. 24 Cl Ct (1992 opse)* *Theon-v-U.S. CA Fed (1985) 7.45 F 2d 1110.*

2011 DEC 19 PM 4:51
MELANIE HUGGINS-WARD
CLERK OF COURT

The Court of Common Pleas
2011-CP-268793

(Exhibit B)

The "Applicant" Response to the
Summary Judgement motion
To dismiss 2nd P.C.R. claim

I, Vartasha ~~Mc~~Callough White #313878 Certify under Penalty of Perjury that I have served atty General Mrs. Christina J. Catae a response brief in opposition to (her) motion for dismissal and Summary - Judgement order

Grand 1. Summary Judgement should be denied under F.R.C.P. 12 lack of jurisdiction over the ~~person~~ subject of matter

2. Lack of jurisdiction over the program

3. Actual Innocence - after - Discovery evidence

4. False imprisonment / no evidence / prima facie case

5. Venue vs - jurisdiction cannot pass from state to state

(Exhibit C)

Table of Authorities.

~~Offered~~ Offered - Discovered Evidence F.E.D. RCP Rule 16, Entrapment
Defense
Illegal Imprisonment / Subject-matter-Jurisdiction
Indictment. 18 U.S.C.A. 1503 Tampering with the jury (model Penal Code 224.4
Brandy-v-maryland, 373, U.S. 83.Ct 1194 101 L. Ed 2d 215 (1983)
5th Amendment U.S.C.A miranda Warning Violation 6th Amendment U.S.C.A
False Representation of Trial Counsel Ineffect Assistance of Appellate
counsel 14th Amendment U.S.C.A Equal Protection under the law.
Precedent Table of case laws and other Statutes
Federal Rule Civil Procedure (Rule 16) Fed. RCP (Rule 401)
U. S.-v-Agurs 427 U.S. 97, 94 S.Ct 2392 49 L. Ed 2d 342
Mack-v-Riley, 314 S.E. 2d 731, 282 S.C. 100 certiorari granted
326 S.E. 2d 650, 284, S.C. 364, 330 S.E. 2d 285 S.C. 457 (1990 case)
Benchoff-v-morgan 394 S.E. 2d 19 (1990) S.C.A.P.P.
Wright-v-Strickland 410 S.E. 2d 594, 306 S.C. 187
Townsend-v-Townsend 471 S.E. 2d 424, 323 S.C. 309
Payton-v-Rears 410 S.E. 2d 220, 319 S.C. 188 Reversed 495 S.C. 2d 205
329 S.C. 51 Issue of appeal and error Ruling on admissible evidence
18 U.S.C.A model Penal Code 241.2 False swearing code.
Smith-v-State 60 GA App. 609, 19 S.E. 2d 108, 109
Strickland-v-Washington 466 U.S. 668 Id. AT 685. Id at 688

The Courts of Common Pleas
2011-CP-26-8793

(Exhibit D)

The Applicant Brief of law in
opposition of the state's
Summary Judgement motion

The "applicant" submits this brief of law in reference to the state
motion for summary-judgement.
This Brief is as follows

Ground 1: The state's argument on Subject-matter jurisdiction is
contrary to the 5th Amendment U.S.C.A 1191. The state said the subject
matter jurisdiction is legal and the Henry County Grand Jury indicted
the "applicant" for the charge of homicide by child abuse cited case law
as precedent was state-vs-Gentry. In opposition to the case law, the
"applicant" can show the following facts. First under the 5th amendment
U.S.C.A 18 the U.S. Const. passed this law, whereas it states a "person"
must (personally) have committed a crime before (he) can be (indicted)
by a state (Grand Jury) There must be physical fact-finding's evidence, such
as Blood samples, Autopsy photos, graphs crime scene evidence such as
a gun, knife, poison, a blot object and a body to connect the (accused)
with a crime. There must be (Autopic) evidence. The (Autopic) evidence
is one which does not need any testimony accompanying its presentation.
This is the Type of evidence presented in court and is offered as fact
finding evidence, which the judge and jury can see and inspect. This is the
real evidence as contrasted with testimony to be the contract itself.

(Exhibit D2)

The Court of Common Pleas

2011-CP-26-8793

For a second defense: Under Fed R.C.P. Rule 16 The state is required to produce the evidence for the State Grand Jury before the "Applicant" in this case at bar, can be bound over to the General Session court or be tried for this offense which (she) allegedly had committed. The "Applicant" has placed the "Attorney General's Office" on notice the City General in acting over the case file on record in this (Ms. Christina J. Caroe) of her motion to "compell" and a motion to Re-opened the states evidence under Federal Rule Civil Procedure (Rule 16) (a) (6) to produce the tangible evidence under F.R.C.P Rule 5a 18 U.S.C.A citing case laws US-V-Agurs, 427 U.S. 979, 50 S. CT. 2392, 49 L.E. 2d 342. The Supreme court held that a (Defendant) in a criminal case is entitled to evidence in possession or control of the "Government" if such evidence tends to indicate (his) or (her) innocence or tends to mitigate his (criminality) if he demands it and if the (failure) to (disclose) it results in a denial of a fair trial. ~~Under Federal Rule~~ under disclosure of evidence by the Government by F.R.C.P (Rule 16) In Brady-V-Maryland 373 U.S. 83, 83 S. CT. 1194 101 L.E.D 2d 215 (1963) under Federal Rule of Evidence Code (401) The expert evidence. The testimony given in relation to some scientific technical or professional matter by experts, person (qualified) to speak as (Authoritatively) by reason of their special training, skill or familiarity with subject. There must be inculpatory evidence tending to show a persons involvement in a crime evidence having any tendency to make the existence of any fact, that is of consequence to the determination of the action more probable than it would be without the evidence. Evidence including evidence relevant to the credibility of a witness or hearsay declarant having any tendency in reason to prove or disprove any disputed fact, that is of consequences to the (determination) of the action.

The Court of Common Pleas
(Exhibit D3) 2011-CP-26-8793

The evidence which bears a logical relationship to the issues in a trial material evidence which can (bear) witness to the logical explanation made by anyone sitting in the witness box. Because the state witness of the (Pathologist) Dept gave open court testimony about a (death) of the alleged (deceased) absent any physical, scientific proof of X-rays, photos etc. absent a live or dead body is one of the most horrible acts that has been committed by the state, to purposely, submit false statements to bring about an arrest and to complete the fraud on the court, with a co-conspiracy to prefigure the death and to agree to set the (applicant) up for a murder, that she didn't commit in itself. The state failed to produce a body, DNA or other tangible evidence which must be presented before the (applicant) can be arrested and brought into the state courts See also 18 U.S.C.A. 1503, 1504, Model Penal Code 12.2.4, 1506, 2071, 2073

For a third defense Prosecution misconduct lack of evidence The (applicant) can show that her conviction should be reversed based on the following facts of legal technical and constitutional errors. The applicant states that under 18 U.S.C.A. 1503, 1504 Solicitor influence the jury corruptly by persuasions of belief and failed to produce physical, scientific proof or evidence in court to prove a crime had been committed to publicly make a false statement in the courts is a federal offense to swear to a (state Grand Jury) under oath is a crime in itself see Article VI cl 2 U.S.C.A. The chief solicitor and solicitor as well as the City General in acting over the case can be (stripped) and deprived of their official representative character of the court and barred from acting as an alter ego of the state and from practicing law. The state has no right to import immunity to these solicitors and City General in this case at bar.

(Exhibit D4)

The Court of Common Pleas
2011-CP-26-8793

Because the (Atty. Gen's) office is seeking a motion for a summary Judgment order of dismissal. It is my belief that the "Atty. General" should be ordered to bring in the (outgoing) evidence in court in which the State used to entrap her. There must be physical scientific evidence because of the state witness (Doctor) Pathologist testified or gave an open court testimony and because the solicitor stated and presented to the State Grand Jury that a murder had been committed and because it also charged the applicant with inflicting serious bodily harm on the alleged (deceased). In retrospect to the ~~state~~ issue, There is no concrete evidence to support the medical opinion and or to support the state Grand Jury's finding. The State (Atty. Gen.) "Limine-out-of-court" all the North Carolina crime scene reports, investigations report and North Carolina final conclusion of dismissal of case against the applicant in this case at bar. Citing Case Strickland v- Washington Id at 685, an accused is entitled to be assisted by an atty who shall ensure the (accused) a fair trial. Id at 688. When an atty. fails to meet these standards the atty fails in his profession and is said to have rendered deficient performance. Under prevailing norms and atty. prejudiced the (applicant) trial. The applicant is entitled to this and P.C.R. citing case law, In Washington v- State Id at 324, SC at 237, 478 SE 2d 835. The (applicant) defense counsel on record of appeal submitted a defective appeal left the state, failed to notify the applicant that case was denied (applicant) discovery of the courts denial (18) months later. The Statute of limitation had expired in which to file a Habeas Corpus in the Fed. Court and her time had expired whereas she could've filed a notice of intent to appeal the courts decision or to file a motion or notice for rehearing citing case law Ezell v- state ineffective assistance of appeal counsel renders a New Trial when counsel fails to submit an issue that is arguable before the courts.

(Exhibit 125)

The Court of Common Pleas
2011-CP-26-8793

Affidavit of Service

Grand 4. Successive application is not allowed under S.C. Code Ann. Law Section 17-27-40; However, under section 8th of the act The rarest of exception must be presented to the court, by the "Applicant", to show that New Grand raised in this 2nd P.C.R. was based on after discovered evidence of Ineffective assistance of trial Counsel's deficient performance over the case and atty's ~~General~~ ~~Goss~~ Negligence in his presentation and representation ~~in his~~ ~~disposition~~ of the applicant during her jury trial and negligent performance in his disposition on the record of appeal. Attorneys did not submit an arguable issue on record of appeal, but submitted a defeated appeal brief all those atty's who had possession of the case use a blind fold to prevent the applicants from being released from the unlawful conviction. The attorney's did aid the state in covering up the fact that there is no evidence to prove that the alleged murder existed, nobody to prove the case NO DNA or CBC. Evidence this is entrapment.

(Exhibit E)

The Court of Common Pleas
2011 CP-24-8193

I Vartasha McCullough White #313878 certify under Penalty of perjury that I have served atty. Gen. Ms. Christina J. Caboe Responsive brief in opposition to her motion to Dismiss and her motion for Summary Judgement in above case. Responsive brief sent also to the Court of Common Pleas.

Vartasha McCullough White 12/16/11

Notary:
Peggy K. Kephah
Comm Exp. 11/23/14

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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Vartasha McCullough White, # 313878,)

2011-CP-26-8793

Applicant,)

v.)

CONDITIONAL ORDER OF DISMISSAL
(Successive and Statute of Limitations)

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of an Application for post-conviction relief filed October 20, 2011, by Vartasha (a.k.a. "Vertasha") McCullough White. Respondent made a Return and Motion to Dismiss on December 2, 2011, requesting that the Application be summarily dismissed. Incorporated herein by reference are the Horry County Clerk of Court records regarding the convictions and the Applicant's prior post-conviction relief file (2007-CP-26-0090).

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to the orders of commitment of the Horry County Clerk of Court. The Applicant was indicted at the December 2005 term of the Horry County Grand Jury for homicide by child abuse (2005-GS-26-3822) unlawful neglect of a child (2005-GS-26-4282), and intentional infliction of great bodily injury upon a child (2005-GS-26-4283). The Applicant was represented by Ralph J. Wilson, Esquire, on the charges. The Applicant proceeded to trial on February 6-10, 2006, pursuant to which she was found guilty. The Honorable Edward B. Cottingham sentenced her to twenty years on the homicide by child abuse charge, ten years, concurrent, on the unlawful neglect charge, and five years, concurrent, on the great bodily injury to a child charge. A notice

of appeal was timely filed but the appeal was dismissed on March 30, 2006, and remitted to the circuit court on April 17, 2006.

The Applicant filed her first PCR Application on January 8, 2007 (2007-CP-26-0090), raising the following allegations:

- (1) Ineffective assistance of counsel;
- (2) Lack of evidence; and
- (3) Prejudice.

An evidentiary hearing was held on April 30, 2008, before the Honorable Steven H. John. Judge John issued an order denying relief on May 15, 2008. A timely notice of appeal was filed, and M. Celia Robinson, Esquire, represented the Applicant in her PCR appeal. The South Carolina Supreme Court denied the Applicant's Petition for Writ of Certiorari on August 20, 2009. The matter was remitted to the circuit court on September 8, 2009.

Allegations and Relief Sought

In her current Application, Ms. White raises the following allegations:

- (1) Lack of subject matter jurisdiction over the offense;
- (2) Entrapment statute/obstruction of justice;
- (3) False imprisonment – held illegally as a hostage; and
- (4) 5th, 6th, 14th Amendments, U.S.C.A.

The Applicant states she is seeking to be released from judgment, appeal bond until trial is set, fast and speedy trial with 120 days, emergency injunction relief action.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the pleadings and all relevant supporting documents. Pursuant to S.C. Code Ann. § 17-27-70(b), the Court makes the following findings of fact and conclusions of law:

This Court first finds that the Applicant's allegation #1, lack of subject matter jurisdiction over the offense, is without merit as a matter of law. It is clear from the record that the circuit

court judge, sitting in general sessions court in Horry County, did have subject matter jurisdiction to try an indictment true-billed by the Horry County Grand Jury. See State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (circuit courts obviously have subject matter jurisdiction to try criminal matters). Therefore, this claim is without merit as a matter of law and must be dismissed.

This Court also finds that allegations 2, 3, and 4 must be summarily dismissed because they are procedurally barred. First, they are impermissibly successive to the first Application. The Uniform Post Conviction Procedure Act provides that:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, 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.

S.C. Code Ann. § 17-27-90 (2003). Successive applications are disfavored and the burden is on Applicant to establish that he could not have raised any new ground raised in a subsequent application in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981). The Applicant could have raised these issues in her previous PCR proceeding. Therefore, she cannot raise these issues now in a successive application. See Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, supra.

In addition, these allegations are barred by the one-year statute of limitations. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations applies to all applications after July 1, 1996. See Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant in this case was sentenced on February 10, 2006, and the remittitur from the direct appeal was sent to the lower court on April 17, 2006. Therefore, Ms. White had until April 17, 2007 to file a timely PCR application. However, this Application was not filed until October 20, 2011. Therefore, the Application is barred by the statute of limitations.

A motion for summary judgment may properly be used to raise a statute of limitations defense. See RWE Nukem Corp. v. ENSR Corp., 73 S.C. 190, 194, 644 S.E.2d 730, 732 (2007). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that summary dismissal of the Application is appropriate for the reasons set forth above.

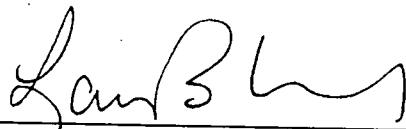
CONCLUSION

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to **DISMISS** this Application for post-conviction relief **WITH PREJUDICE** unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted **TWENTY (20) DAYS** from the date of service of this Order to show why the conditional dismissal should not become final. The Applicant shall file any reasons she

may have with the Horry County Clerk of Court and shall serve the State using the following address:

**Office of the Attorney General
Attn: Christina J. Catoe (PCR)
P.O. Box 11549
Columbia, SC 29211**

AND, IT IS SO ORDERED this 7 day of Dec, 2011.



Larry B. Hyman, Jr.
Chief Administrative Judge
Fifteenth Judicial Circuit

12-7-2011, South Carolina



ALAN WILSON
ATTORNEY GENERAL

December 14, 2011

The Honorable Melanie Huggins-Ward
Horry County Clerk of Court
Common Pleas Division (PCR)
Post Office Box 677
Conway, South Carolina 29528

RECEIVED
HARRIS COUNTY
2011 DEC 15 PM 3:56
MELANIE HUGGINS-WARD
CLERK OF COURT

RE: Vartasha McCullough White, # 313878, v. State of South Carolina
2011-CP-26-8793

Dear Mrs. Huggins-Ward:

Enclosed please find, for filing in your office, the original and one (1) copy of the **Conditional Order of Dismissal** regarding the above-referenced PCR matter.

Please mail the clocked copy back to me in the enclosed envelope.

Thank you for your assistance in this matter, and please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Christina J. Catoe
Assistant Attorney General

CJC/

Enclosure

V
#313878
4450 Broad River Road
Columbia SC 29210



(Daniel E. Shearouse)
South Caroline Supreme Court
P.O. Box 11330
Columbia SC 29211