

The Supreme Court of South Carolina  
Daniel E. Shevouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

Eric T. Burgess # 349367  
ACI-F1(A)45  
1057 Revolutionary Trail  
Fairfax, SC 29827

November 2<sup>nd</sup>, 2014

**RECEIVED**

NOV 07 2014

S.C. SUPREME COURT

Re: Appellate Case No. 2014-00351

Honorable Clerk,

Please find enclosed the Appellate's Pro Se Memorandum / response to be submitted for the courts' considerations of his case.

At this time please be advised / informed that the Appellate seeks relief due to the many Violations of Due Process of Law committed within the proceedings of his case since October 20<sup>th</sup>, 2010 of which includes: Being denied / deprived Effective Assistance of Counsel; Being denied / deprived Equal Protection of The Law; and many more listed within.

The relief the Appellate seek is a (Full Vacation) of his sentencing / conviction, resulting in / of his immediate release from the care, custody, and control of (SCDC) Allendale, SC as a "remedy" of the many violations of Due Process of Law committed against him, of which has caused him to be denied / deprived of his Civil Rights.

cc:file //: Holland & Knight  
Civil Rights Attorneys  
50 North Laura St. Suite 3900  
Jacksonville, FL 32202

Respectfully submitted,  
Eric T. Burgess  
SCDC # 349367

The Supreme Court of South Carolina

Eric T. Burgess  
Pro Se Petitioner,  
v.  
State of South Carolina  
Respondent,

Appellate Case No. 2014-00351

Pro Se Petitioner's Response To Counsel's  
Writ of Certiorari

**RECEIVED**

NOV 07 2014

S.C. SUPREME COURT

Issues Presented:

A.) The Indictment used to detain, send to trial, sentence, and imprisonment the Appellate remains on its face that not of a (True Bill).

1.) The clerk's time stamp records that the Indictment was received on November 17<sup>th</sup>, 2010. The term however is listed as May and the year of 2010 is scratched out in pen and written in as 2011. The body of the Grand Jury reflects that of "No" date that the Grand Jury met on, in fact the Appellate's copy remains blank after receiving it for the 1<sup>st</sup> time from his trial counsel, Larry Holmes Cooke on the date of August 30<sup>th</sup>, 2011, a sum of (10) months after the appellate was detained at Greenville County Detention Center and also (3) month after the Grand Jury allegedly met, yet his indictment remains blank.

B.) Trial Counsel, Larry Holmes Cooke failed to strike Juror, Kim R. Varner from being submitted to the jury of the Appellate's trial, dated January 18<sup>th</sup>, 2014.

1.) Mr Varner is/was a practicing (Solo Practitioner) and also a Public Defender for the 13<sup>th</sup> Judicial System, the same Judicial System the Appellate was being tried that day, having contact, personal/professional relations with all persons within courts that day.

2.) Thus being a conflict of interests for both parties, being that it may Mr. Varner could have swayed the Jury in the favor of either the defendant and/or the State with his vast knowledge of the law and/or to make a deal for a future client with the Prosecutions, Mrs. Buzna Seay.

3.) Knowing of such a "Conflict of interest," Judge Robin B. Stilwell speaks up on Court's records and insists Mr. Varner be submitted to the Jury that day after Trial Counsel Lenz Cooke had moved originally to strike Mr. Varner.

C.) Trial Counsel, Lenz Cooke denied and deprived the Appellate's rights to preserve the known violations of both Rule (3) and Rule (5) of the South Carolina Rules of Criminal Procedures by failing to/or having deliberate indifference to submitting prepared Motion To Dismiss to Courts and/or voicing aloud for Courts records the date of the Appellate's trial, January 18<sup>th</sup>, 2013, Mr. Cooke's previously prepared Motion To Dismiss was dated, May 19<sup>th</sup>, 2011.

1.) This deliberate act proves prejudice and/or deliberate Indifference and/or the Trial Counsel acting as a (Rubber Stamp) for the state with the Appellate's submission of (Exhibit 12), Notice of Motion To Dismiss, signed by Trial Counsel and dated May 19<sup>th</sup>, 2014 but never was this document submitted to/or for Courts records.

2.) The Appellate obtained this document from Mr. Cooke's brief the day of his trial while Trial Counsel conducted his final closing statements to the Jury members just before the Appellate's sentencing.

D.) Trial Counsel failed/neglected with deliberate indifference to inform/advise the Appellate of any information regarding his charge, including the Prosecution's Plea Offers of Assault and Battery 1<sup>st</sup> Degree of which was 1<sup>st</sup> made on May 11<sup>th</sup>, 2011 then again on May 18<sup>th</sup>, 2011, both with a withdrawal time of August 24<sup>th</sup>, 2011. (The Appellate submits Exhibits 11 and 14).

1.) Trial Counsel insists of nothing more but cohercing the Appellate while under duress to accepting the only alleged Plea of (Attempted Murder), then releases to the Appellate, after his many requests of his (Rule 5) of which contained the plea offers made, yet the plea offers had already expired just (6) days before the documents were released to the Appellate, (The Appellate submits as proof Exhibit 17).

E.) On January 18<sup>th</sup>, 2012 the Appellate was found guilty of the lesser included offense of Assault and Battery of a High and Aggravated Nature and was sentenced to serve (7) years (Non-Violent) with the South Carolina Department of Corrections by Judge Robin B. Stilwell, and given the jail credit of (363) days jail credit.

1.) The Appellate being treated as a nuisance by his trial counsel, Mr. Cooke "neglects" with deliberate indifference to appeal the Appellate's conviction / sentencing, even though the Appellate respectfully requested of him to do so.

2.) The Appellate being sentenced to (7) years (Non-Violent) with a (CDR) code of (3411) changed his court recorded (Non-Violent) sentence to "Violent, Most Serious," Courts failed and/or neglected to inform the Appellate of any and all Statutory / Mandatory restrictions and requirements of the imposed sentence on/for Court's Records, including the violent sentence and/or the Mandatory (2) year supervision program required upon his release from the South Carolina Department of Corrections. (The Appellate submits as proof Exhibit 1).

3.) Thus violating Due Process of Law, see People v. Sparbar (2008), Supreme Courts deemed that the Defendant is entitled to a "Full Vacation" of his sentencing / conviction to "Remedy" the (Violation of Due Process of Law), No where on Courts records was the Appellate made aware nor informed of any such Statutory / Mandatory restrictions and requirements.

F.) The State of South Carolina has failed to fulfill its Constitutional obligation to provide the Appellate with Effective Assistance of Counsel at both his trial, Post Conviction Relief Hearing, and now relies on Mrs. Katherine Hutchinson to help "Remedy" the many violations of his 1<sup>st</sup>, 4<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendment Rights of the United States Constitution, and the violations of the requirements for Effective Assistance of Counsel described, articulated, and set forth by the U.S. Supreme Courts in Gideon v. Wainwright, 372 U.S. 335 (1963).

1.) Each Court Appointed Attorney failed/deliberately acted with deliberate indifference to acting as an advisor to the State, never conducting interviews, never questioning witnesses/victims to determine factual events, never preparing to represent nor submit any/all concerns in/of best interests of their appointed client, even failing to meet with the client until (5) minutes before the (PCR) hearing was scheduled to be heard in court in December of 2013.

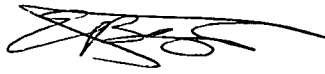
2.) Each Court Appointed Attorney has acted nothing more than as a "Rubber Stamp" for the State, assisting in the collections of just another (Economic Unit) to benefit from government fundings, each has collected money for a service that they have failed to provide to the Appellate, each failing to bring forth all concerns of case matter in/of his best interests, failing to preserve the Appellate's Civil Rights if an Appeal is to become necessary, and each denying and depriving the Appellate Equal Protection of Law / hindering, impeding, and obstructing his access to courts and necessary information for preparation of his case.

3.) Each Court Appointed Attorney has committed fraud upon the Courts, the state of South Carolina, and its citizens.

Conclusion: The Appellate humbly and respectfully submits his requests

and Motion to "Fully Vacate" his sentencing and/or conviction due to the many recorded violations of Due Process of Law committed herein. Thus this request be granted, he is to be released immediately from the South Carolina Department of Corrections of Allendale, SC 29827. with any/all charges dismissed with prejudice then exonerated of his criminal records to "remedy" the Violations of Due Process of Law and the Appellate being denied/deprived of Effective Assistance of Counsel and Equal Protection of The Law.

ccFile//: Holland and Knight  
Civil Rights Attorneys  
50 N. Laura St, Suite 3900  
Jacksonville, FL 32203

Respectfully submitted,  
Eric T. Burgess  
  
SCDC# 349367

DOCKET NO. 2010-GS-23-008937

BSD

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2010

THE STATE

vs.

ERIC TODD BURGESS

ARREST WARRANT NUMBER

1483636

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

Foreperson of Petit Jury

Date:

RECEIVED

NOV 17 2010

Clery of Court  
Greenville County

23  
24  
25  
26

DOCKET NO. 2010-GS-23-  
BSD 008937

The State of South Carolina

County of Greenville

*J.A.H.*

COURT OF GENERAL SESSIONS

May TERM 2010 2011

THE STATE

vs.

ERIC TODD BURGESS

ARREST WARRANT NUMBER  
1483636

ACTION OF GRAND JURY

TRIPNEY

*Bobby Damm*

Foreperson of Grand Jury

VERDICT

Guilty

*Boyd W. Hammon*

1-18-2012

Date:

Foreperson of Petit Jury

Indictment for

ATTEMPTED MURDER

VIOLATION § 16-03-0029

3411  
3440

RECEIVED

NOV 17 2010

Clerk of Court,  
Greenville County

88 88 88

\*1483636\*

RECEIVED  
OCT 26 2010  
Clerk of Court  
Greenville County

WITNESSES

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

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CODEFENDANTS

BAIL set by

Judge J. K. M.  
 on 10/21/10  
 Type and Amount: \$100,000  
 Name of Surety: S

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
 on \_\_\_\_\_  
 Defendant Attorney: \_\_\_\_\_

Decision: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_  
 on \_\_\_\_\_  
 by \_\_\_\_\_  
 (indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition: \_\_\_\_\_  
 Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(1483636)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ATTEMPTED MURDER

At a Court of General Sessions, convened on \_\_\_\_\_ the Grand Jurors of Greenville

County present upon their oath:

That ERIC TODD BURGESS did in Greenville County on or about the 20th day of October 2010, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Christopher Dale. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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

*Wynne S. Seay*  
SOLICITOR

4/8/11

Received by  
FAX from  
Larry's  
private  
office  
APR 19 2011  
Initial  
April 14, 2011  
(Exhibit 2)  
13th Circuit Public Defender

- Mr. Cook,

I am writing you at this time to request the following actions to be taken at this time regarding the criminal matter you have been appointed to act on my behalf as my legal counsel.

I am not wishing to debate the belief of the outcome of this action, I am merely wishing that the issue be preserved for appeal purposes in case an appeal becomes necessary.

At this time would you properly prepare a "Motion to Dismiss" on my behalf with the court and scheduled or request a hearing date on this motions issue.

Please file a motion to dismiss based upon Violation of Due Process, rights for the expiration of time line Violations of both preliminary hearing request and lawfully detention of my case as dictated by laws and rules governing such issues of this state.

Thank You,  
Eric Todd Burgess  
April 14, 2011

Pursuant to Article I § 34 of the state of South Carolina  
Consultation it is here by ordered: All criminal within the State of  
South Carolina shall be disposed of within 180 days from the date  
of the defendants arrest, or may be extended, By written order of the  
court after showing of just cause of extenuating circumstances.

This right or order does not create or define the defendants rights  
to a speedy trial as dictated by the laws of this state.

Found listed as the "180 day rule" in 2003.

Carolina Rules of Procedure:

Ordered by: supreme court justice  
"Finley" 1999

Support: Article I § 34 of S.C. Constitution gives the Supreme Ct.  
justices the right of dictating all lower Court Rulings of  
Procedures; which define "Due Process of Law" being Civil  
Rights to all Citizens and must be adhered to by law; and  
holds Constitutional Value.

Attorney Tim Sullivan filed a motion to dismiss in 2007  
concerning the charge of Murder One bases solely on this order  
being violated and the charges were dismissed by the Court on  
Violation of Due Process. "State Vs. Hicks of 2007"

I want this issue preserved for an appeal and need it addressed in pretrial motions so that it may be made an issue if an appeal is necessary.

The law states to be used as an issue upon appeal. The issue must be a part of the originally tried case.

8 of 23

May 8, 2011

State of South Carolina

Court of General

County of Greenville

Sessions

Vs.

Eric Todd Burgess

Motion for Dismissal

Pro Se Petitioner

Attempted Murder (I-483636)

In the matter of the State of South Carolina Vs. Pro Se Petitioner moves that the above mentioned case be dismissed based pursuant to "Violation of Due Process," Article V § 4 of the State of South Carolina's Constitution which states; it is hereby ordered: All criminals within the state of South Carolina shall be disposed of within one hundred and eighty days from the defendants arrest, or may be extended by written order of the court after showing of just cause of extenuating circumstances. Ordered by Supreme Court Justice "Judge Finley in 1999."

Further, prose petitioner hereby informs this court of gross misconduct by my court appointed lawyer, Larry Coole esq. I made copies of the same above and sent them to my Public Defender, Larry Coole, and my father as proof of when and that they were sent. On April 27, 2011 at approximately 3:30pm I called Mr. Coole's Private office, he told me he had recieved my letter asking him to file this motion of Due Process on my behalf. When I asked him not once but three times to file it over the phone during the call, knowing it would be proof, he refused! Stating and I quote, "That he doesn't like for people to tell him how to do his job, for me to file it myself!" I in turn reminded him of his Lawyers Creed; that he is suppose to uphold and have his clients best interest at heart at all times. He then tries to settle me down by telling me he'll file a motion on my behalf for me to recieve a Personal Recognace out on bond since I have been here since October 31, 2010 and I'm trying to get back to my son whom is a toddler when I was his sole care provider.

On May 2, 2011 at approximately 12:45pm I made contact with Mr. Coole's secretary, "Piper," at the Public Defender's offices, she informs

me that instead of filing the motion on my behalf like I had asked Mr. Cooke to Do upon "Violation of Due Process," he had went behind my back to the solicitor and informed him or her what I had requested him to file. To my knowledge this is "Violation of Attorney Client Privilege," and again I feel my case should be dismissed upon "Violation of Due Process." Mr. Cooke Does not seem to have my best interest at heart. I feel as If he is now trying to railroad my case. Before I asked Mr. Cooke to file this "Motion To Dismiss," his Private Investigator, "Tracy," informed me that the solicitor had still not made contact with the alleged victim. My motion of discovery also shows no written statement against me from the alleged victurn and after speaking with my wife, "Sarah Burgess," she say he doesn't want to press charges.

After speaking with Mr. Cooke's secretary "Piper" on May 2, 2011 she states Mr. Cooke deliberately told the solicitor what I asked him to file on my behalf. I feel that if I may have been a client of Mr. Cooke's Private Practice this would have never happened. I thank you for your time today and again I have taken the time upon myself to make copies to protect myself of proof of verification and legality of these forms.

Prose petitioner request that the enclosed copy of this motion be returned Via Self-addressed, Stamped envelope (S.A.S.E) Clocked in and time stamped.

re...  
Humbly submitted by,  
[Signature]  
Pro Se Petitioner  
5/09/11  
Date

Sworn to Me on This Date 5/9/11  
Witnessed  
Brenda Gail Alexander  
Date 5/9/11  
My Commission Expires 3/31/2021

(Exhibit 11)

State of South Carolina  
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647  
Telefax: 864-467-8610



Solicitor  
W. Walter Wilkins

5/11/2011

Greenville County Courthouse  
305 E. North Street, Suite 325  
Greenville, SC 29601-2185

13th Circuit Public Defender

MAY 11 2011  
Initials: *[Signature]*

LARRY COOKE  
GREENVILLE COUNTY COURTHOUSE  
GREENVILLE, SC 29601

RE: Plea Offer for State v. Eric Todd Burgess

Dear Larry Cooke :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The State will reduce the following:

<i>Warrant Number:</i>	<i>Charge:</i>	<i>Plead to Charge:</i>
I483636	Murder / Attempted Murder	to <u>Assault and Battery 1st Degree</u>

The State will make the following sentence recommendations/negotiation:

No recommendation. No contact with victim.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 8/24/2011 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,

*Bryna Seay*  
Bryna Seay  
Assistant Solicitor

May 18, 2011

State of South Carolina Court of General Sessions

County of Greenville

Vs.

Attempted Murder (I-483636)

Eric Todd Burgess

Pro Se Petitioner

Motion for Supremacy of Telecommunication Records

for the Dates of May 2, 2011 at 12:45pm as well as

April 27, 2011 at 3:30pm established between myself,

Eric Todd Burgess, and Larry Cooke, (Public Defender) and his

Associates, (Frany, and Piper).

In the matter of the State of South Carolina Vs. Pro Se Petitioner moves for a Supremacy of Telecommunications Records from Pro Se Petitioner, Eric Todd Burgess, to his Public Defender, Larry Cooke in regard to the courts matter stated above. The phone conversations are proof of His Conduct of Mr. Larry Cooke violating his clients, "Attorney Client Privileges," as well of Dereliction of His Oath, "To have the best interest of his clients at all times.

Pro Se Petitioner, Eric Todd Burgess requested a copy of the recordings of those conversations by writing a "502" while detained in Greenville County Detention Center to an Officer Johnson, which is in charge of the Telecommunications at Greenville County Detention Center. Officer Johnson responds that I would have to have my alleged Lawyer file a subpoena on my behalf. He then visited me in Green Pod on May 17, 2011 to enlighten me of why, and Pro Se Petitioner, Eric Burgess responds of my reasoning of why I must do so myself. With Officer Johnson's understanding he was asked to make sure the conversations were recorded, he returned May 18, 2011 to inform me that they were indeed recorded. I get I would need a Supremacy of Records from the court before they could be released to me, Pro Se Petitioner Eric Todd Burgess.

These records are value to my case matter and with them I know that I can win my freedom bail to regain the relationship of most importance to my heart, that of which is with my three year old son, Justen Gabriel Burgess. I thank you for your time, the recordings of the communication between myself and Mr. Cooke and his associates were on the Dates as follows: April 27, 2011 at Approximately 3:30 pm and May 2, 2011 at Approximately 12:45 pm with accordance to these telephone numbers listed: (804) 232-8175, Mr. Cooke's Private Practice as well as (804) 407-8523 Mr. Cooke's Public Defenders Office.

Prose Petitioner request that the enclosed copy of this motion be returned Via Self-addressed, Stamped Envelope (SASE.) Clocked in and time stamped.

P.S. I would also like the recordings of the date  
Humbly Submitted by: of May 18, 2011 at Approximately 12:45 to  
(804) 407-8523, Public Defenders Office.

Pro Se Petitioner: ~~JB~~  
Date: 5-18-11

Notary: Sworn to Me on this Day  
Date: 5/18/11  
Brenda Lail Alexander  
My Commission Expires  
3/31/2021

THE STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS  
THIRTEENTH JUDICIAL CIRCUIT  
Warrant/Indictment Nos.: I483636

THE STATE  
ERIC TODD BURGESS,  
DEFENDANT.

TO: Bryna Seay, Assistant Solicitor

NOTICE OF MOTION TO DISMISS  
CHARGES

Defendant will respectfully show into the court the following

1. The above warrant was served on the defendant on October 21, 2010 for the offense of Attempted Murder. Defendant was arrested, taken into custody, and placed in the Greenville County Detention Center on that date and has not been released since his arrest.
2. A bond hearing was held for the defendant pertaining to the above referenced charge and bond was set at the time of the hearing in the amount of \$15,000 with no contact with the victim.
3. Defendant has been incarcerated in the Greenville County Detention Center since October 26, 2010 on these warrants without any action whatsoever being taken on said warrants. Rule 3 of the South Carolina Rules of Criminal Procedure indicate that within ninety days after receipt of an arrest warrant from the Clerk of Court, the Solicitor shall take action on warrants by (1) preparing an indictment for presentment to the Grand Jury, which indictment shall be filed with the Clerk of Court, assigned a criminal case number and presented to the Grand Jury; (2) formally dismissing the warrant, noted on face of the warrant the action taken; or (3) making other affirmative

*5-18. will file motion to dismiss*  
*Indictment*  
*may 10*

*Rule 3 W/m 90 days shall take action on the warrants by preparing an indictment for presentment to the Grand Jury 9/2/11*

the

disposition in writing and filing such action with the court. In this particular case, none of those have been accomplished by the Thirteenth Circuit Solicitor's Office and more than six months has expired since defendant's arrest without any action whatsoever being taken on the warrants.

4. The South Carolina Rules of Criminal Procedure are clear and specific. Defendant would submit that they are written as requirements to be followed for the fair and just disposition of criminal matters and with the intent that accused citizens of the State of South Carolina not languish in detention without appropriate action being taken to dispose of the criminal charges pending against them. In this particular case, both Rule 3 and Rule 5 of the South Carolina Rules of Criminal Procedure have been violated.

Defendant respectfully requests the court to dismiss the warrant currently pending against defendant and immediately cause his release from the Greenville County Detention Center. Said request is based on the South Carolina Rules of Criminal Procedure and the total lack of compliance of said rules by the office of the Thirteenth Circuit Solicitors Office.

Respectfully submitted,

GREENVILLE COUNTY PUBLIC DEFENDER

By: 

Larry Cooke, Esq.  
Attorney for Defendant  
305 E. North Street, Suite 123  
Greenville, SC 29601  
(864) 467-8522

Greenville, SC  
Date: May 19, 2011

State of South Carolina  
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647  
Telefax: 864-467-8610



Greenville County Courthouse  
305 E. North Street, Suite 325  
Greenville, SC 29601-2185

Solicitor  
W. Walter Wilkins

5/18/2011

**COPY**

LARRY COOKE  
GREENVILLE COUNTY COURTHOUSE  
GREENVILLE, SC 29601

RE: Plea Offer for State v. Eric Todd Burgess

Dear Larry Cooke :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The State will reduce the following:

<i>Warrant Number:</i>	<i>Charge:</i>	<i>Plead to Charge:</i>
1483636	Murder / Attempted Murder	to <u>Assault and Battery 1st Degree</u>

The State will make the following sentence recommendations/negotiation:

No recommendation. No contact with victim.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 8/24/2011 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,

\_\_\_\_\_  
Bryna Seay  
Assistant Solicitor

**OFFICE OF THE PUBLIC DEFENDER**  
**13<sup>th</sup> JUDICIAL CIRCUIT**  
**Greenville County Courthouse**  
**305 East North Street (Rm 123)**  
**GREENVILLE, SOUTH CAROLINA 29601**

John I. Mauldin  
Public Defender

TEL (864) 467-8522  
FAX (864) 467-8521

August 30, 2011

Eric Todd Burgess  
107 F. Silverbrook Drive  
Simpsonville, SC 29681

Re: State v. Eric Todd Burgess  
Warrant/Ticket No(s): I483636

Dear Mr. Burgess:

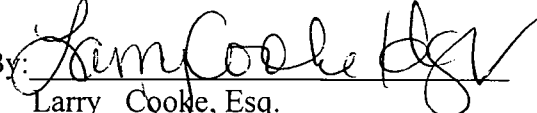
As you requested, enclosed please find a copy of the information the State has furnished to me pursuant to S.C. Criminal Procedure Rule 5 and *Brady v. Maryland*. I instruct you not to share this information with anyone, and I inform you that South Carolina law prohibits a person from interfering with, and/or, intimidating a witness or victim in a pending case. It is my job to contact witnesses and/or victims in preparing your case. Please tell me about your witnesses, and anyone you think might be helpful in preparing your defense. **DO NOT CONTACT WITNESSES OR VICTIMS ON YOUR OWN.**

**THIS IS THE ORIGINAL COPY OF ALL DISCOVERY OBTAINED BY OUR OFFICE. WE HAVE NOT RETAINED ANY OF THIS INFORMATION. SHOULD YOU MISPLACE, LOOSE, OR GIVE THIS INFORMATION TO ANOTHER PARTY, WE CANNOT DUPLICATE IT.**

Should you have any questions, please do not hesitate to contact to me.

Very truly yours,

GREENVILLE COUNTY PUBLIC DEFENDER

By:   
Larry Cooke, Esq.

Attorney for Defendant  
305 E. North Street, Suite 123  
Greenville, SC 29601  
(864) 467-8522

**OFFICE OF THE PUBLIC DEFENDER**  
**13<sup>th</sup> JUDICIAL CIRCUIT**  
**Greenville County Courthouse**  
**305 East North Street (Rm 123)**  
**GREENVILLE, SOUTH CAROLINA 29601**

John I. Mauldin  
Public Defender

TEL (864) 467-8522  
FAX (864) 467-8521

September 27, 2011

Eric Todd Burgess; Inmate #202  
Greenville County Detention Center  
20 McGee Street  
Greenville, S.C. 29601

Re: State v. Eric Todd Burgess  
Warrant/Ticket No(s): I483636

Dear Mr. Burgess:

As of last week, the Solicitor has not been able to locate the witness. She was to send a Sheriff's Deputy to the address given for the witness. I plan to go to that location myself and will get back with you.

The Solicitors are attending a conference this week. General Sessions court will start back the week of October 10, 2011. I have protection until the middle of October. As soon as your trial is scheduled I will let you know. I need to know your clothes size(s) as well as shoe size to get ready.

~~Should you have any questions, please do not hesitate to contact me.~~

Very truly yours,  
GREENVILLE COUNTY PUBLIC DEFENDER

By: Larry Cooke  
Larry Cooke, Esq.  
Attorney for Defendant  
305 E. North Street, Suite 123  
Greenville, SC 29601  
(864) 467-8522

Enclosure

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. Eric Todd Burgess
AKA:
Race: WHITE Sex: M Age: 27
DOB: 10-09-1984 SS#:
Address:
City, State, Zip:
DL#: 011344187 SID#:

INDICTMENT/CASE#: 2010GS2308937
A/W#: 1483636
Date of Offense: 10/20/2010
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Assault and Battery of a High and Aggravated Nature
in violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

TEST: Brenda J. Seay 65348
Seay, Bryna SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is comitted to the State Department of Corrections, County Detention Center,
for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: w/any OTHER CHARGES
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 303 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments), TOTAL.

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2138
Sentence Date: 18 JAN 2012

The Supreme Court of South Carolina

Eric Todd Burgess

Pro Se Petitioner,

v.

State of South Carolina

Respondent

Appellate Case No. 2014-00351

Pro Se Petitioner's Motion To Fully Vacate  
Sentencing / Conviction

A.) Brief:

1.) The Appellate has and/or is entitled to the Statutory Right of Effective Assistance of Counsel and Equal Protection of Law in both his Trial and (PCR) proceedings pursuant to the Sixth Amendment of the United States Constitution 71.1 (D), both Public Defense Trial Counsel and (PCR) Counsel failed and/or neglected with deliberate indifference to Provide the Appellate with Effective Assistance of Counsel, failed and/or neglected with deliberate indifference to provide the Appellate with Equal Protection of Law.

2.) In fact each Court Appointed Attorney failed/with deliberate indifference to provide the Appellate with Equal Protection of Law by denying and depriving the Appellate of his rights in case an appeal became necessary by failing / deliberately neglecting to state aloud for courts records the violations of both Rule (3) and Rule (5) of South Carolina's Rules of Criminal Procedures.

3.) Courts failing to inform/advise the Appellate of any and all statutory / mandatory restrictions of his sentencing / conviction, see People v. Sperry (2008), Supreme courts deem the defendant to be entitled to a "Full Vacation" of Sentencing / Conviction to remedy violation of Due Process.

Conclusion: Appellate respectfully and humbly requests a Full vacation of his sentencing / conviction to remedy the deprivations of: Effective Assistance of Counsel; Due Process of Law; and Equal Protection of The Law.

Respectfully submitted,

Eric T. Burgess

SCDC# 349367

ACI: PI(A)45

1057 Revolutionary Trail

Fairfax, SC 29827

Appellate Case No. 2014-00351

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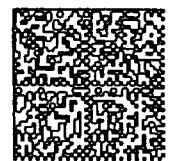
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ACI

The Supreme Court of South Carolina

Daniel E. Seavouse, Clerk of Court

P.O. Box 11330

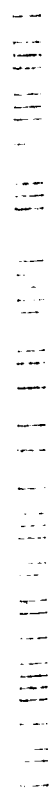
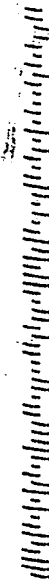
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