THE Honorable Daniel E. Shearouse
clerk Supreme Court of South Carolina
P.O. Box 11330
Columbia, S.C. 29211

Re: Perry Watford 289215 Vs. State of South Carolina
Case NO: 2011-CP-32-0488

Mr. Shearouse,

enclosed is the Explanation required by Rule. 243(c) SCRCP. Appellant accidentaly forgot to submitt Exhibit(A) with the Notice to Appeal on November 17, 2014. Appellant Just recived Copies.

Perry Watford 289215
Perry Watford 289215
Allendale C.I. F4-A40
P.O. Box 1151
Allendale
Fairfax, S.C. 29827
Appellant, pro-se

cc. Walt whitmire
Asst. Attv. General
P.O. Box 11549
Columbia, S.C. 29211-1549

Date November ____ 2014

Re. Court Brief submitted by Perry Lee Watford (#289215) regarding December 2002 court sentencing

May 21, 2010

Re: Court Brief submitted by Mr. Perry Lee Watford (#289215) regarding December 2002 court sentencing

Subject: Personal narrative of listed family members regarding attorney meetings

Responders/Relationship to Perry Lee Watford:

Brenda Silvio – Mother, Louise Mlcoch – Aunt, Frank Mlcoch – Uncle, Ann Zimmerman – Aunt, John Zimmerman – Uncle, Tammy Watford - Sister

To whom it may concern:

The following is a narrative of the recollections of the listed family members of Perry Lee Watford regarding conversations with Mr. Watford's attorney Theo Williams outlined in the referenced brief.

The referenced case relates to the automobile accident of October 10, 2001 where a Mr. James Hernandez was killed. Mr. Perry Lee Watford was sentenced to 25 years in prison for reckless homicide and leaving a fatal crash scene.

While Mr. Watford did flee the crash scene, he surrendered to authorities the next day. Perry had gone with family members Brenda Silvio (mother) and Ann Zimmerman to attorney Theo Williams' office the morning of October 11, 2001 to arrange for legal representation and turn himself in to the authorities. On that day, Mr. Williams acknowledged the serious nature of the charges facing Perry, but he was cautiously reassuring that a plea agreement could be had and a prison sentence of 3-5 years was possible. At that time, there was a sense that the circumstances of the accident and fleeing the scene could be made to give support to his case.

Subsequent litigations and negotiations with the prosecutor office ultimately led to a plea offer of 15 years. In subsequent discussions had with Mr. Williams at the Lexington County court house, Mr. Williams told Louise and Frank Mlcoch and Tammy Watford that he had turned down the 15 years sentence since he did not believe this was a fair offering and that Perry was not the bad person being portrayed. The circumstance of the accident never seemed to be given enough discussion and there was much being made of Perry's past personal police history, much of which was judged to be totally irrelevant to the case being litigated. We remained hopeful that a fair, lesser sentencing agreement could be had.

At the final sentencing hearing, after fully cooperating with the prosecutor and insurance litigants, Perry offered a guilty plea and was sentenced to 25 years in prison. Perry's family members in attendance, Louise and Frank Mlcoch, John Zimmerman, Tammy Watford, and Brenda Silvio (Perry's mother living in Baton Rouge, Louisiana – not in attendance) were fully sympathetic to the surviving family, but were led to believe the

sentencing would be more in line with the original plea agreement of 15 years or less. The 25 years sentence was a complete surprise to all of the cognizant family members in attendance or otherwise.

This narrative is offered to bring clarity to the referenced court brief.

Respectfully,

Brenda Silvio 5/21/10
Brenda Silvio / Date

Louise T. Mlcoch 5/21/10
Louise T Mlcoch / Date

Frank C. Mlcoch Jr. 5/21/10
Frank C. Mlcoch, Jr. / Date

Ann Zimmerman 5/21/10
Ann Zimmerman / Date

5/21/10
John Zimmerman / Date

Tammy Watford 5-21-2010
Tammy Watford / Date

Sworn before me on this 21st day of May, 2010

Notary Public

Judy L Jeffcoat

Commission Expires: 7/18/2018

JUDY L JEFFCOAT NOTARY PUBLIC STATE OF SOUTH CAROLINA

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS

CASE NO.: 2011-CP-32-0488

Perry Watford, 289215 ..... Appellant

VS.

State of South Carolina ..... Respondent

Explanation Required

Above Captioned Appellant, pro-se respectfully moving this Honorable Court to give an Explanation why the lower court determination was improper. Appellant has an arguable basis.

Appellant Counsel was Ineffictive assistance, when Counsel failed to inform Appllant of the (15) fifteen years plea offer By the state.

Initialy Appellant's Counsel acknowledge the serious nature of the charges Appellant was facing. Counsel Cautiously reasuring Appellant and Appellant's family Members that a plea agreement Could be had and a prison sentence of (3) Three to (5) five was possible At the time. Subsequent litigation and negotiations with the prosecution office ultimately lead to a plea offer of (15) fifteen years by the state.

Counsel informed Appellant's family and family Members in a discussion leaving the Lexington County court House that (he) Counsel turned down the (15) fifteen years plea offer from the state, Because Counsel Did not Believe this was a fair plea offering and that the Circumstance of the accident never seemed to be given enough discussion and there was much being Made of (Perry's) Appellant's past personal police history. Much of which was Judged to be totally irrelevant to the case being litigated. Appellant would have taken the (15) fifteen years plea offer by the state.

At the time Appellant was challenging his conviction by way of federal hebeas Curpus C/A No. 6:09-CV-00924-SB and Appellant diligently attempted to present the exhibit to the federal court. Appellant challenged it again in the Fourth Circuit No. 10-6580 Court. that Judgment entered February 28, 2011. Court knows the exhaustion doctrine precluded the federal Court's from addressing the exhibit, the federal Court was denied March 11, 2010. on April 12, 2010 Appellant filed with the fourth Circuit Court and that Judgment was entered on February 28, 2011.

Appellant Contends that trial Counsel's action denied Appellant effective assistance of counsel in this regards. Trial Counsel's actions is contory to what the Supreme Court held in Judge v. state 321 S.C. 554, 471 S.E 2d 146 (1996). That a defendant is entitled to effective assistance of Counsel, when the Appellant rejects a plea offer. In the instant case, Trial Counsel did not even inform Appellant of the (15) fifteen years plea offer by the state, But the federal and state Court's addressing the Matter found that the right to effective assistance of Counsel attached not only to Appellant's decision to plea guilty, But to also to refusal of a plea bargain ... The Appellant not only informed of the plea offer by the state, but was not given a chance to refuse the plea offer by the state.

Futhermore on March 21, 2012. The Supreme Court decided Lafler V. Cooper. 132 S.Ct. 1376 (2012), and Missouri V. Frye. US ___. 132 S.Ct. 1399 (2012)

The Supreme Court held in both cases, that Defendant have a sixth Amendment right to Counsel, that Extends to plea bargaining process. In A stringent review of exhibit (A) support's Appellant's claim that there was in fact a plea-deal never offered to Appellant. The Exhibit (A) is dated (May 20, 2010). As Appellant stated Appellant was (fighting) challenging Appellant Conviction at the time of the newly discovered evidence to Appellant.

Trial Counsel's action was prejudical, this was a critial stage of Counsel's reprentation of the Appellant.

This is prevesly the same issue on all four feet as was discussed in Davie V. State, 381 S.C. 601. 675 S.E. 2d 416 (2009).

The Davie Court looked to decision of other state, Federal jurisdictions in addressing this issue. They stated in Davie Court "We believe an adoption of rule that Counsel's failure to Convey a Plea offer Constitutes deficient preformance.

The theory underlying this is that Such Conduct Constitutes Unreasonable performance under the prevailing professional standards established by the American Bar Association or state-specific ethical rule of Conduct pursuant to these professional standards. Plea counsel is required to fully Cummunicate with client, so that the client can make an informed decision regarding any proposal's by the state Id. at 381 S.C. 601, 675 S.E. 2d. 416 (2009).

The Davie Court held that "a case-by-case" approach is most Consistent with prior decisions and effectively achieves the ultimate goal of assessing whether, but for counsel's deficient performance a defendant would have accepted the state's proposed offer plea. Id. at 381 S.C. 601, 613, 675 S.E2d 416. 422 (2009).

The reviewing Court applies a two-pronged test in evaluating allegations of ineffective assistance of plea Counsel. Cherry 300 S.C. at 117, 386 S.E2d at 625, citing Strickland also additional duties to Counsel's "assistance to the defendant", which is to advocate the defendant's Cause and the more particular duties to consult with defendant on important develoment's in the course of the prosecution" Strickland V. Washington, at 688. The Appellant is entitled for Counsel to be undivided loyalty in Lockhart V. Terhune, 250 F.3d 1223 at (9th Cir. 2001). Defendant's sixth Amendment right to Cousel's included the right to be represented by an attorney with undivided loyalty, in McMann V. Richardson, Attorney must give "reasonable Competent adviSe" To client in guilty pleas.

In the Course of Appellant's representation there were procedual and Constitutional error's that were successive and egregiously cumulative. The United States Supreme Court, in Taylor 436 U.S. at 487 said that, "[T]he cumulative effect of the pentially damaging Circumstance of this violates the due process guarantee of fundamental fairness".. This Court in Tennant V. Marion Healthcare Foundation. 459 S.E.2d 374, 394, 395 (W.Va. 1995) Explained that: "The cumulative error doctrine was created to permit Court's to reverse where there are numerouse violations of fundamental rules that if Considered individually would have no measurable effect on the Court but, in Cumulative effect... are prejudical ... as a general rule. we do hold that the Cumulative error doctrine may be Considered when evaluating a party's Claim of Trial error"...

In the instant matter, the Cumulative effect of prosecutions Conduct negelecting statutory procedures and of the deficiency of Trial Counsel's reprenstation of the petitioner exceed the guidlines set in Tennant and Johnson. Freeman.

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LEGAL MAIL