US v Cardwell 433 f3d 378, 388-90 nu (4th Cir. 2005) waiver valid based on totality of circumstances, despite defendant being hand cuffed in patrol car for 2 hours because defendant was fully informed of his miranda rights indicated understanding of those rights and willingly answered questions.

A reversible error only occurs when your lawyer makes an objection or motion and the judge rules against you when legally he should not have, In addition, usually the error must not have been harmless. That is, the error must be something that could have changed the result of the trial.

Procedural safeguards: The miranda warnings
To effectuate the protections set forth in miranda, Police officers must warn a suspect prior to custodial Interrogation: (1) that he has right to remain silent, (2) that anything he say's can be used against him in a court of law, (3) That he has the right to the presence of an attorney, and (4) That if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.

US v Anthon, 648 f 2nd 669, 672-73 (10th Cir 1981) miranda warnings Inadequate because they did not Inform defendant of right to counsel, right of counsel during questioning, or right to stop questioning.

US v Street 472 f 3d 1298 1311-12 (11th Cir 2006) miranda warnings Inadequate because they did not Inform defendant that anything he said could be used against him in court or his right to appointed counsel.

miranda 384 us at 479 (absent proof that proper warnings given and valid waiver of rights made by the accused, Evidence obtained through Custodial Interrogation Inadmissible at trial)

US v Lallery, 503 f. 3d 293, 302-03 (3rd Cir 2007) Statement Inadmissible because defendant did not waive right to silence, foot that accomplice, not police, Initiated Subsequent Interrogation dose not remove taint)

US v newton 369 f. 3d 659, 676-77 (2nd Cir 2004) In custody when hand cuffed because significant restriction or freedom, though police told defendant he was not under arrest.

US v Abdulla 244 f 3d 830, 834 (7th Cir 2002) In Custody because arrested and hand cuffed.

US v Mittel-Carey 493 f 3d 36.40 (1st Cir 2007) Statement Inadmissible.

US v griffin 922 f 2d 1343 1355 (8th Cir 1990) Statement Inadmissible.

Consequences of a miranda violation

Statements obtained as a rusult of custodial Interrogation when the suspect was not advised of and voluntarily waived his rights are presumptiv ely Inadmissible in the goverment's case v chief. united states v patane, 542 us 630, 639 (2004) (plurality opinion) (a violation of miranda creates a presumption of coercion that is generally irrebuttable for purposes of the prosecution case in chief.)

Impeachment exception

Statements that are taken in violation of the miranda requirements can be used for Impeachment purposes if the statements were voluntarily made. Harris v NY 401 us 222, 225-26 (1971). Accord State v victor 387 S.E. 2d 248 249 (S.C. 1989) an accuseds Involuntary incriminating statement is, Inadmissible for any purpose, including Impeachment (citation omitted) (state v Hook, 559 SE 2d 856, 864 (SC ct app. 2001) trial court erred in allowing use of Involuntary statement)

Brewer v williams 430 us 387 (1977) once the Sixth Amendment right to counsel has attached for a particular Charge, law enforcement officials may not use as evidence at trial incriminating statements deliberately elicited from the accused without the presence or waiver of Counsel. This prohibition applies to state ments elicited by police and individuals used by the police to gain Information

Evidence obtained after a miranda violation

If the police obtain a statement without complying with the mandates of miranda, the admissible of subsquently obtained evidence is drawn into question. In oregon v Elstad, the united states supreme court held that a confession obtained in violation of miranda, but otherwise voluntarily given, dose not necessarily require the suppression of a later, properly warned confession:

Pro Se Brief

The trial judge did error allowing testimony to be heard by the jury that was both a miranda violation and ruling violation.

There are several proofs that the court knew there were miranda violations from the very stop In the case were all the statements and Information gathered by the police officers and Shakerra Cowan used on the witness stand came came during the Custodial Interview which was ruled on and should not have been allowed to be heard by the jury. This IS mentioned co-defendant Lawyer mr muredda, is concerned with pre-miranda testimony being heard by the jury knowing none should be heard at all. Mr muredda testimony at trial I think that could turn Into a protential ~~Brewer Iusse(Tr 9 p25 Tr 10 p1)~~ Brewer v Williams 430 us 387 (1977) once the sixth amendment right to Counsel has attached for a particular Charge, Law enforcement Officials may not use as evidence at trial in Criminating statements deliberately elicited" from the accused without the presence or waiver of counsel. This prohibition applies to statements elicited by police and Individuals used by the police to gain Information. To show proof that the judge and prosecutor know of this potenial miranda violation mr muredda mention the case Law Brewer v williams and they acknowledge this error by the prosecutor mr DeBusk making an adjustment

to Mr Muredda Charge prosecutor DeBusk re-asures Mr Muredda with this statement at trial the statement that mr. muredda is worried about will not be coming In (Tr-10 p 16-18) he continues at trial were not going to bring In any of the statements made by the defendants to Law enforcement remember this statement (Tr 10 p 18-19) were not bringing in any custodial or even pre custodial statements to police officer. (Tr 10 p 22-24) The court at trial: All right, sir mr DeBusk at trial were not bringing any of those In (Tr-11 p 1) The court at trial All right. I would -- Tr-11 p 2 mr DeBusk at trial and we have so instructed our witnesses, your Honor. (Tr 11 p 3-4) then on Tr 164 defense Lawyer J.M. Long goes over the ruling again, which again explains that the statements made on (State evidence exhibit number 15 CD) is not to be heard by audio because these statements were given befor miranda warning. J.M. Long at trial: There is some audio interrogation that occurs. And this, of course, is pre-miranda so the solicitor and I have agreed that (Tr 164 p 12-14) we're going to turn the speakers off on the video, continue to watch the video, but we will not have any possibility of Interrogation or Interview. (Tr 164 p 16-19) The court all right. (Tr 164 p 20) Then the trial judge addresses this ruling to the jury which is also a ruling on the evidence as well as whether there was a miranda violation by the agreement by all parties in the court to not allow the audio to be heard one can only conclude that the audio was a miranda violation and error by the court.

Evidence obtained during miranda Violation is Inadmiss ible, so not only should the audio not been heard but the video should not been shown the final proof is where the trial judge errored allowing the audio to be played by prosecutor Mr. DeBusk at trial during cross-examination I could not recall testimony made during custodial Interrogation and prosecution was bent on the jury hearing him prove I said other wise to paint me as a liar to the jury Keimon Coleman at trial I said: I dont recall (Tr 377 p 18) mr DeBusk at trial Its in evidence, you said four minutes later he owes me money, isn't that correct (Tr 377 p 21-22) Keimon Coleman at trial I said that? (Tr 377 p 23) The court well, if Its in evidence the jury will remember It (Tr 378 p 5-6) mr DeBusk at trial: your Honor, we would ask to publish it at this time. (Tr 378 p 7-8) the court the part we've already seen? (Tr 378 p 9) mr DeBusk you Honor the part we saw without sound, I would like to publish the sound portion (Tr 378 p 10-11) the court All right Tr 378 p 12 mr DeBusk It wont be long (Tr 378 p 13) J.m. Long your Honor I'm going to object (Tr 378 p 14) mr DeBusk less then two minutes (Tr 378 p 15) the court okay Tr 378 p 16 mr DeBusk thank you (Tr 378 p 17) the court Its disputed mr long lets see what It said (Tr 378 p 18-19) the court I'm going to allow It (Tr 378 p 25) mr long may we approach your Honor prior to (Tr 378 p 20-21) the court yes (Tr 378 p 22) (an off the record bench conference is held) whereupon state exhibit number 15 is played for the jury with the audio being played twice on page (Tr 379 p 1) and (Tr 379 p 9-10) I trust the Court will see the trial It self was a harmful error and reverse this error as the court violated my right to fair trial thank you

The court of appeals

There are many Issues that I addressed to the best of my understanding of the law where I felt the court errored, from the point of stop by mr Rick Tibbott where there was no warning of miranda rights to be heard given through the entire stop by Rick Tibbott or any of the officers that responded to the scene that day even after the first call made by ms Nancy Ross about a prowler to 911, then while searching defendant Keirnon Coleman finding jewelry on his person Lead question to suspicion to another crime mr Rick Tibbott thought may have taken place, and still no miranda warning upon searching the car a finding marijuana In the car no Immediate arrest were made or miranda warnings given by any of the police. There were statements and testimony that in agreement made by Counsel and court that wouldnt by any means be heard by the jury would be later over ruled by the trial judge and allowed any way, the States evidence showed me In possession of Stolen property not one witness for state

Said I was In the house or said
they saw me Climb from a window or
walk out a door from MS morrottes
house this or any testimony given
states me entering or leaving going
Inside or seen coming out even from
states witness that places us at the
scene could not determine who went In
only who was carrying the stolen Items,
and even after the evidence showed that
one person made a entree and befor trial
State witness co-defendant jordan DuDley
made a plea to second degree burglary and
the court after defense Lawyer J. m. long asked
that I be dismissed upon direct verdict for
lack of evidence the judge denied his request
twice, using testimony from MS Nancy Ross
but we were never charged with any crime
for being on her property even after her
911 Call saying there trying to open my back slider
door there trying to get in my house where
In this situation you have a eye witness
making this complaint and no charges filed
how is this. that she couldnt testify
for a crime that she said happen at her
home but could testify for MS morrottes case

I hope the court can see that this trial demands to be thrown out overturned dismissed for the mis conduct by the trial judge and prosecutor this trial was non the least fair it never followed the rules of law. They took the law In to there own hands violating my right to a fair trial. I believe the judge made every attemp to help prosecution in this case which was one sided allowing evidence that that didnt enter by the rules of the court of law I trust the court of appeals will see all the errors that took place that day and revers these erros vacate my charge

Included with my many Issues are Case law that pretain to my ISSues and arguments

Thank Keirnon Coleman

List of Issues

1st Issue: miranda violations by the court

2nd Issue: Terry stop and frisk for a traffic stop

3rd Issue: prior convictions violation convictions 20 years or over- Inadmissible even for Impeachment my prior conviction dates are from 1988 and 1991 they were allowed at trial and heard by the jury over defense lawyer J. M. Long Objection, and over ruled by Judge Hyman.

4th Issue: Judge denied two request for a direct verdict even when the State witness not one placed me In the house or Evidence was used at trial because state errored In testing any of the evidence

The Issues In my trial range but were all harmful when heard by the jury this the judge knew allowing damaging Evidence to get the jury to return with a guilty verdict, they used the fact that It will show as a win no matter what I ask the court do have some aide me In my argument thank you the other Issues are In this package thank you very much

Pro'se Brief

ISSue The trial judge errored by allowing testimony of MS Nancy Ross to be heard by the jury as evidence which was a seperate Incident and matter, that concerned a 911 Call of a prowler In the neighborhood which no Charges were never filed from the initial Stop by police officers, a short enterview was held on the subject then a new Investigation started when then at the time officer Rick Tibbott discovered jewelry on my person suspicions of another crime of sorts had taken place when a new line of question following. Dismissing the first call and pearsuing the new lead ally to use MS Ross's testimony later at trial Pitts v State 272 ga. app 182, 612 SE. 2d 1 2005 WL 1270498 (2005) Stat v wright, 686 N. W. 2d 295 (Minn. ct app 2004) found a problem with allowing these witness statements into evidence

Pro se Brief

Issues Trial judge errored allowing Prejudice Statements by shakerra cowan to be heard by the jury was hearsay

At trial Shakerra cowan as we were Leaving the second house the guy in the back seat was like I guess we drove past the house and somebody was leaving. he goes, oh, they'er about to leave, and coleman was like no, not now, we've got to go we'll come get it another time, so maybe they were going to come back to that particular house another point in time. (Tr 297 p 14-20)

The purpose of allowing that statement to be heard was to prejudice the jury by showing our Intent was to come there to commit burglaries starting with the Ross house In which shakerra statement came from miranda violations And testimony should have never been used at trial based on poor police work should have dismissed the case for there error for not Issuing miranda warnings befor question and It being caught on the dash cam through the entire police stop even after locating drugs In the car there still was ever a miranda warning only coecion by the police to the female shakerra cowan at trial But when It got to me, they asked what did I know or did i see anything. Because they pretty much know what happened, I guess. (Tr 299 p 7-10)

Mr DeBusk at trial Okay now when they start talking to you do you tell the police what ya'll were doing and what had happen (Tr 300 p 4-6) Shakerra cowan Not In the beginning (Tr 300 p 7) Shakerra cowan Then the officers kind of--and was trying to tell me that— they were trying to let me know that, you had a lot of involvement to do with whatever was going on. (Tr 300 p 8-10) These testimony came about by the police officers using scare tactics before reading her, her miranda warning Prosecution said testimony that were made prior to pre miranda wouldnt be used (Tr 10 p 23-24) custodial or even pre custodial statements to police officers. my right to fair trial had been violated through this hole trial the rules of south carolina law were not followed by the court or the judge they were convinced they had me when know one not one of states witness could say I was In the house not even stepping through all the testimony was there once said I seen him coming through the marotte house window not even shakerra cowan even with me taking the all or nothing verdict to burglary one the entering of a house or dwelling which evidence or who the State called to testify never placed me In the house.

1st Issue is evidence that was ruled on by the judge which was the Initial Conversation of a miranda Concern by mr mureddu, his testimony at trial Tr 9 p 7-25 Tr 10 1-8 addresses Brewer v Williams. There are recongtion that prior statements made during of the point of where we were stopped by Rick Tibbott that those statements were under question to whether they were valid or not. by the mentioning of Brewer v williams then the follow up questions being where mr mureddu asked if these statements would be heard by jury and the ruling on the subject was no. Tr 10 p 16-25 Tr 11 p 1 then during cross examination of defendant Lermon Coleman adding the audio portion to be played for the jury twice and allowed by the judge over the objection of defense Lawyer j.m. Long. It was allowed to be played by judge Larry B. Hyman. Violation of right to fair trial.

2nd Issue is the trial judge errored through out the trial allowing harmful statements to be heard by the jury that were said before miranda warnings and acknowledged by the judge that there were miranda violations In his rulings Tr 166 p 17-25 when he tells the jury the audio, will be muted. and the video is what they will Consider. deception was used to win this trial by allowing a video in evidence and trialing a case that was a violation from the start based on Brewer v williams and other miranda violations this was a result of trial by what ever means and win by deception of the Law.

also george DeBusk at trial We're not going to bring In any of the statements made by the defendants to Law enforcment. (Tr 10 p18-19). and at trial but were not bringing in any Custodial or even pre custodial statements to police officers. Tr 10 p22-24. and this is ruled on by the judge then later Violated twice during the defendant Keiron coleman cross examinations This is found on page Tr 378, at trial mr DeBusk says I would like to publish the sound portion from State evidence exhibit number 15 the court at trial All right mr Long at trial I object mr DeBusk less than two minutes at trial the court okay mr DeBusk thank you the court at trial Its disputed, mr. Long lets see what It said. mr Long at trial may we approach, your Honor prior to the court at trial yes (an off-the-record bench conference is held) the court at trial I'm going to allow It Tr 378 p 10-25 Whereupon, states exhibit number 16, CD is played for the jury Tr 379 p 1-2 then Its played again on Tr 379 p 9-10 mr DeBusk at trial So, mr. Coleman not only did you say he owed you money, you gave a name, Jeffery williams didnt you Tr 379 p 13-15 This was used for Impeachment

My right to a fair trial were violated under law and case law from the start of the Initial stop and by allowing evidence In that was tainted, judge was Informed about the miranda Issue as far as there being a warning made, the conversation was when the agreement was made that the judge acknowledge that there was a miranda violation by when addressing the jury about the video being post-miranda and that they should only consider that portion. I believe the video as well as the other disk to be Inadmissible because of his own reconition of erro. This is found In the copy's of airguments and Issue along with case law I found to support my findings

Thank you

Kelmon Coleman

These Three briefs are Issues I would like to add to my appeal to be seen by the court along with my paper work sent with it. as well as other Issues written for review the transcript Is missing parts of sentences and the first part of shaterra cowon examination on the witness stand how did the law clerk miss this error

Pro se Brief

On march 12th 2014 the trial hearing of state v Keirnon Coleman becun Indictment number 2013-GS-26-2238 seen before judge Carry B. Hyman, which he was a last minute fill In, judge Hyman regular duties are a civil suit judge standing In for a Crimminal Case judge. My trial was a travisity to justice, a mockery of the right to fair trial by the oath officers of the court are sworn to. you are about to hear statements made In the court that will prove with out question that there are violations of fair trial and miranda violations, This and other violations can be found through out my transcript there are agreements and rulings that were breached during my trial being over ruled by the same judge who ruled on them This is trial testimony from that day the first statements come from pre-trial matters where the judge errored the court: At trial Well, I think it is admissible. Okay or at least I've not been asked to rule on whether or not a statement was made freely and voluntarily in this case. I dont know whether it was or not. I dont even know about miranda, when It was given or If It was not given or what the circumstances are. But I don't think it makes any difference. Even if miranda was required, This is Impeachment and I think it can be used, even if there was a miranda violation, for Impeachment purposes. and I think thats clear In the Law. Im going to allow It. this statement is made by judge Carry B Hyman Tr 383 p 5-15 now you'll hear several conversations concerning miranda Issues In which the judge ruled on which starts In the pre-trial matters where also aagreement was made on Evidence being heard by the jury was broken by the judge and prosecator I will show both Instance's.

On March 12th 2014 trial was held State V Keiran Coleman Indictment 2013-GS-26-2238, seen before Judge Larry B. Hyman Last minute fill In for a Crimminal case judge my trial was a travisity to justice a mockery of the right to fair trial by the oath In which officers of the court are sworn to. This IS evidence cut and clear of such violation of the Court In horry county south Carolina, This Evidence IS recorded In my transcript which my Lawyer for my appeal said she could not find merit to my Case, Listen to evidence as explained In my transcript, The Court Contradicts It's self on the miranda Issue to whether or not the court acknowledges there are miranda violations, as well as ruling and agreement breaching through out the trial. I believe the judge knew that there were miranda Issues but decided to trial the case anyway my Lawyer did j.m. Long and prosecutor george DeBusk on there statements on (Tr 164 P 3-19) and then the judge Larry B. Hyman addresses the jury on page (Tr 166 P 17-25) Then on page Tr 10 P1 Lawyer mr mureddu points out that this a potential Brewer V. Williams Issue 430 us 387 (1977) which States Law Inforcement officials may not use as evidence at trial Incriminating statements deliberately elicited without the presence or waiver of Counsel, Then prosecutor george DeBusk Reasures mr mereddu that the statements that mr mureddu is worried about will not be Coming In at Trial Tr 10 P 16-18

Re: The State v Keiron Coleman

Appellate Case No. 2014-000604

In response to the Letter sent September 11th 2014 Comfirming relieve of Counsel was recieved on September 16th 2014. my findings In my pro se brief are the result of me studying my own Case and having more time to do so. The two transcripts I have are different the second one Is missing the direct examination of Shakerra Cowan which explains how she was In the police Car with one of the officers that she showed the Marrotte house to. which is portions of the transcript That ms. Wanda Carter may be didnt see, My biggest Issue In my appeal is the miranda Violations that took place during the day of my arrest which is recorded on the police car cam (state evidence exhibit number 15) starting from the terry stop and frisk to where shakerra Cowan takes the police officers to mrs marotte's house and then returned back to where they stopped us where they show on the video cam when they put hand cuffs on her and the three of us were taken to Horry County police department and questioned I was never read my miranda warning the audio on the police cam shows that from the Initial Call from 911 which was a prowler, to where the officer finds jewelry, to the second officer on scene Natalie Boyd finding marijuana in the car during her search were we informed of our miranda rights during these events.

Pro se Brief

The Issue's Im addressing In my findings are harmful erro's allowed by the trial judge In my case. I believe to be a result of a civil Suit judge acting In replace for a criminal case Judge and when ever you have a doctor trying to practice outside his specialty the result would be malpractice, allowing judges to rule In other Court rooms can be a problem which can be seen In my transcript In one statement. On the Issue of Miranda rights My Lawyer J. M. Long Informed him on page 383 Tr we're opening up a can of worms, as far as his continuing statements or continuing answers in response to interrogation leading us down the wrong way. Tr 383 p 1. 2. 3. 4.) The judge response at trial while the jury was sent out his ruling changed when he addressed the trial Lawyer: a view of the hole police cam (state evidence exhibit number 15) needs to be watched In order to see the Violation It's all on video and can't be refuted my Lawyer address the Court about the statements and Interview on exhibit number 15 were made post-miranda and the judge also states this and advise's the jury about It and that the Audio portion would be muted, by agreement then breach the agreement later during the cross examination of Deirmon Coleman overruling the objection of J. M. Long to play audio portions that when was decided over should have never been played for the jury to hear period.

Statement of Issue on appeal

The trial judge erred In allowing the jury to hear "audio Interrogation that was recorded post or premiranda In which the audio portion apon agreement was not to be played due to premiranda concerns This is reconized and addressed and ruled on, at trial defense attorney j. m. Long further elaborates on this Issue that there is some audio interrogation that occurs and this, of Course, Pre-miranda so the solicitor and I have "agreed" that basically once the officer gets them out of the car and determines their Identity, we're going to turn the speakers off on the video but we will have any "possibility" of interrogation or interview Tr 164 p 14-19. This confirmed by prosecutor George DeBusk at trial turning off the audio after he secures the names Tr 165 p 2-3 and the Court: confirms this ruling at trial the judge say's okay after hearing defense attorney j. m. Long the court: say's allright Tr 164 p 20 and then again confirming the agreement the Court: at trial saying okay Tr 165 p 2.

The judge furthers to continue his ruling for the jury at trial the Court: Allright ladies and gentle men of the jury, we're about to watch part of a disk. that was an audio and video disk ~~en~~troduced earlier states evidence exhibit number 15 is published Tr 166 p 14-15 by "agreement" the parties have Limited this. this was actually about five CD's long a very extensive and long video. but by "agreement" the parties are going to only Introduce about thirty minutes of It and part of that is going to be "muted" and thats what you will "Consider", Okay. Tr 166 p 17-25 The error occurs at cross-examination of keirnon Coleman where there is an objection made by defense attorney j. m. Long about the sound portion of "state evidence exhibit number 15" being played for the jury prosecutor George DeBusk at trial Mr. DeBusk your Honor, The part we saw without sound, I would like to publish the sound portion Tr 378 p 10-11 then after defense attorney j. m. Long objects at trial Mr Long at trial your Honor Im going to object Tr 378 p 14 prosecutor george DeBusk at trial ask If he could play Less then two minutes. Tr 378 p 15 the judge allows It to be played for the jury the Court: At trial Okay Tr 378 p16 over ruling defense attorney j. m. Long the court: at trial Im going to allow It. Tr 378 p.25

over ruling the prior ruling made In the court Is a reversible error the prior ruling being his own the court: At trial a very extensive and long video, but by agreement the parties are going to Introduce about only thirty minunts of It and part of that will be muted. And thats what you will consider. Okay Tr 166 p 21-25. reversible error states when a Lawyer makes an objection or motion and the judge rules against you when legally he should not have. In addition, usually the error must not have been harmless. That Is, the error must be something that could have changed the result of the Trial. Violating my right to fear trial. the evidence played by the judges or Court was for Impeachment reasons to defame me for the witness of the jury to see me as a Liar and character assassination painting me In the worst Color would be harmful to my Case. united states v Havens 446 U.S. 620 (1980) However, Evidence obtained in violation of the fourth amendment may not be used to Impeach a defendants witness. also see Miranda v Arizona 384 us. 436, 444-45 (1966) (footnote omitted) The miranda safeguards apply during Custodial Interrogation regardless of the nature or severity of the offense of which [the person] is suspected or for which he was arrested a viewing of state evidence exhibit number 15 will show the events of that stop where a judgement can be made.

Pro se Brief

ISSue The trial judge errored by allowing Testimony to be heard that deemed prejudice and ment to suggest further Involement by the defendants

Mr DeBost at trial and you were canvassing this same neighborhood for a burglary, when you got that report is that correct Tr 204 p 12-14
jack johnson jr at trial yes, sir Tr 204 p 15.
The law states evidence of prior Criminal acts which are Independent and unconnected to the crime for which an accused is on trial is Inadmissible for purposes of proving that the accused posseses a Criminal Character or has a propensity to commit the crime with which he is charged.

Evidence is relevant and probative if it has any tendency to establish or make more or less probable that the accused committed the crime charged against him. State v Wiles, 383 SC 159, 679 S E 2d 172 (2009) State v. Rivera 402 SC. 225, ; 741 SE 2d 694, (2013) Any evidence that presents an undue Tendency to suggest that a decision be made on an improper basis results in unfair prejudice that damages the defense State v Rivera supra State v Dickerson 341 SC 391 535 SE 2d 119 (2000) Compare State v Langley 334 SC 643, 515 SC 2d 98 (1999) where the court reversed and found that the admission of a high School photograph of a deceased while Living was evidence was reversible error due to Its prejudice and because It was not relevant In proving whether the defendant was guilty of the offense of murder charged against him also evidence of other crimes can only be admitted if the same reasonably Leads to an inference of guilt by chain of logic but dose Include an inference suggesting →

The bad character of the defendant State v Cutro 332 SC 100 504 se 2d 324 (1998) State v Nelson 331 SC 1 501 se 2d 716 (1998) The leak of information of a burglary was not by chance It was ment by all means to damage appellants character and prejudice his defense which violated his right to receipt of a fair trial guaranteed under the fourthteenth amendment to the united state constitution and article 1 section 3 of the south Carolina State Constitution.

Prose Brief

Issue Trial judge errored by allowing Testimony from Shakerra Cowan IN to evidence that occured prior to pre-miranda

argument prosecution during pre-trial matters assured Lawyer mr mureddu that testimony from defendants to Law enforcement would not be entered or be heard at trial by corroborating defendant shakerra cowan (Tr 9 p 23-25) by which mr mureddu accused would turn to a Brewer Issue (Tr 10 p 2) prosecution acknowledge this by assuring mr mureddu "These any Custodial or even pre-custodial statements to police officers, which Shakerra Cowan Testimony on the witness stand was from her pre-miranda conversation with police officers. Mr Rick Tibbott and officer Boyd (Tr 160 p 11-17) By all accounts this trial IS overwhelming with error through out this case Violating multible rights to fair trial and due-process the ruling on admissible Statement made at trial were

Clearly made In (Tr 10 p 16-25) (Tr 164 p 5-20) (Tr 166 p 17-25) then by what reasons prosecution and judge disobeying the ruling on which he made him self, In Trial In order to get a conviction over looking the rules of law. This along with the other Issues should be grounds for dismissal Including my prior convictions being allowed Into Evidence which is another Issue Im addressing next

Pro se Brief 1

Issue That there exist evidence of material facts, not previously presented and heard that requires vacation of the conviction or sentence in the Interest of justice

Argument The court judge errored allowing testimony by the prosecutor to jury place me In the house during examination when the record showed along with State witnesses that not one of them testifyde to teirnon Coleman the defendant being seen entering or exiting from Inside the house or did any Evidence prove that I entered or evidence that was used at trial to prove who entered. which there was one set of foot prints seen In the house and one set entering to suggest one person entered which during trial Co-defendant Jordan DuDley plead guilty to Burglary 2nd degree for entering the dwelling of mrs susan marotte in which trial Continued with prosecution trying to Conduct my all also for entering which the evidence shows one person.

Testimony from states witness that even knew that we were even at the Marotte's house threw her own testimony never placed me In the house when asked until the prosecutor used deception and trickery In his Question but first when asked on (Tr 291 p 19-22) Shaterra Cowan at trial we drove to a different house and they got out, went to the front, went to the back, and then the both of them went I dont know where, I didnt see. Then again during testimony on (Tr 294 p 2-8) Shaterra Cowan at trial Like I said they got out went to the front, went to the back, came back to the car, then they disappeared somewhere then came back to the car with stuff In there hands there or any other witness place me In the house until (Tr 299) where the prosecution places me In the Marotte house he has me coming out of the house as well Shaterra Cowan at trial Mr DeBusk NOW did he before he went In to the house (Tr 299 p 14-15) MS Cowan at trial NO Mr DeBusk at trial

So It was obvious he come out with additional Items (Tr 299 p 17-18) so mr DeBast placed me In the house for the jury to hear as well as me exiting the marotte house with ms cowan Co-signing both line of question which was a fact to "did It" when ms cowan never saw me entered but saw me Come from It of the house back yard which dosent place me In the house unless that person could honestly say they saw me enter I believe the jury hearing I went In to the house automatic creates prejudice Suffering me my right to a fair trial

Case # 13-025034

HORRY COUNTY POLICE DEPARTMENT

Dedicated to Providing Comprehensive, Quality Law Enforcement

2560 North Main Street, Suite 7 – Conway, SC 29526 – Tel: 843-915-5350 – Fax: 843-248-1886

Voluntary Statement

Time: 10:45 *Date:* 3-25-13 *Location:* Hammerstone Page 1 of 1

I, Shakerra Cowan *am* 22 *years old, my date of birth is:* 8-31-90,

my Social Security # is: 068-78-2082; *my phone number is:* 704-492-1260,

my address is: 139 JC Circle Apt. 11 Mooresville, NC 28115;

I am giving this statement to Tibbott of the Horry County Police Department.
I volunteer to give the following information of my own free will, for whatever purpose it may serve.

We met yesturday, Chilled, hungout. He gave me earrings. Asked me if I could take him to a friends house. Came to a neighborhood stopped at a house they got out, was gone for about 4 mins. Went to another house, I parked for about 6-7 mins, they came back. The ~~only~~ one up front with me came back with somethings and we drove off. He was holding a box and little boxes. (the guy in passenger seat)

Shakerra Cowan

I have read each page of this statement, consisting of 1 pages, each of which bears my signature and correction, any if, bear my initials and I certify that the facts contained herein are true and correct.

SIGNATURE: Shakerra Cowan **WITNESS:** _____

Pro se Brief

Issue The trial Court abused its discretion by admitting the prior convictions without conducting a balancing test and articulating for the record specific facts and circumstances to over come rule 609, presumption against admissibility.

Argument During prestrial matters defense Lawyer J. M. Long objected to allowing in to evidence two prior burglaries by the defendant due to its amount of prejudice (Tr 11 p 14-25) (Tr 12 p 1-25) (Tr 13 p 1-25) (Tr 14 p 1-15) The judge ruled without conducting a balancing test and allowed them in to evidence without knowing the law totality Mr Long (Tr 328, p 22-25) (Tr 329 p 1-12) address once again the prior convictions Issue. The judge didnt know the ruling number on the law which is seen on (Tr 330 p 25 (Tr 330 p 1-4)

Through out the conversation the judge never applies the balancing test (Tr 338 p 6-21) Mr Long explains the law on 609 and with the judge acknowledging the rule he then gives his understanding on the law (Tr 338 p 22-25) (Tr 339 p 1-3) (Tr 339 p 5-13.) (Tr 339 p 15-20) (Tr 340 p 1-25) (Tr 341 p 1-25) I believe that the judge lack study of the law on 609 is why it was allowed at trial and into evidence to be heard by the jury several times through out this trial that the defendant had two prior convictions painted a picture in the jury's mind that he must have done this" he's done this in the past he must be guilty forming prejudice in the jury. The judge gave prosecution freedom to break agreements and rules through out this hole trial for the sake of justice overlooking my right to fair trial.
United States v Beahm 664 F 2d 414 418-19 (4th Cir 1981) United states v Lewis (4th Cir 1975)
There was no notice of this evidence until the day of court giving the defense no time to prepare.

Statement of Issue on appeal

The judge erred allowing evidence obtained after a miranda violation

An error occured from the start of a Terry Stop and frisk Rick Tibbott at trial I began to detain them for our safety. patted them down, doing Terry stop and frisk. (Tr 156 p 14-15) Through out the testimony of Rick tibbott at trial Tr143 To the end of his testimony on the witness stand Rick Tibbott at trial Tr 140 DiD then at the time officer Rick Tibbott advise keirnon Coleman, jordan DuDley, or Shakerra Cowan of their miranda rights In which during the initial stop was made, three chain of events occured during that stop 1. The 911 call of a complaint of a prowler Rick Tibbott at trial The call came In as a prowler where two male subjects initially went to the front door of the house. Tr 145 p 17-18 referring back the initial stop where the terry stop and frisk IS being Conducted Tr156 p 14-15 theres no notice of the miranda rights being made. 2 The finding of jewdery during the Terry stop and frisk Rick Tibbott at trial as I patted him down, In the front pocket of his sweatShirt was miscellaneous types of jewdery. Tr 156 p25 Tr 157 p1

after which two boxes of jewelry were found by assiting officer Natalie Boyd at trial I found on the passenger -- on the front passenger floorboard, I found two jewelry boxes, I also found two plastic baggies with a green, leafy substance In them. Tr 251 p25 Tr 252 p1,4,5 even with the discovery of the two plastic baggies with the green leafy substance In them still there were no Immediate arrest were made after these findings or miranda rights given. The finding of jewelry during the Terry Stop Created Suspicion that a Crime had been committed In which a new Line of questioning occured even after the evidence from the car was placed Into a evidence bag, Evidence was sent to Horry County police station further questioning by Assit prosecutor Nancy r. Livesay At trial what did you do to assist in the Investigation of this case. Tr 248 p 2.3.4. officer Natalie Boyd at trial I spoke to the driver of the vehicle. Tr 248 p 5. Assit Prosecutor Nancy r Livesay at trial and what did you learn that furthered this Investgation? Tr 248 p 9-10 officer Natalie Boyd at trial I learned that she drove -- the subject in the front seat requested her to drive him to a friends house to get some money She I learned that they stopped at two

different houses and that the two passengers exited the vehicle and that they the subject in the front returned with Items that he did not leave the vehicle with. Tr 248 p 11-17 before or after were there any miranda warnings made. 3 Marijuana was found In the vehicle during questioning and no Immediate arrest were made after locating the marijuana or miranda warnings once again. Our arrest only after Ms Shakerra Cowan was driven by one of the police officers to show them the house where the jewelry Came from and when they returned to where the stop occured was she placed In handcuffs and placed In a seperate police Car and then and only then were we transported to Horry County police station where we were questioned again before miranda warnings.

I believe my miranda rights were violated as well as my right to a fair trial the part of the video of Shakerra Cowan getting In the police Car Can be seen on video from the live CD disk from the police dash Cam taken that day as well as her arrest after from returning back from showing them the location of Ms susan marotte's house on Capers Creek drive to where the stop took place.

also see: United states V Havens 446 us 620 (1980).

also see: miranda v Arizona 384 us 436, 444-45 (1966)

Statement of Issue on appeal

An error occured when evidence was heard by the jury after a Terry stop and frisk which was not warrented by reasonable articulabe suspicion.

your going to hear testimony from Rick Tibbott that proves officer Rick Tibbott at that time of question operated without reasonable articulable suspicion or probable cause in the weight of the situation.

prosecutor mr. DeBusk at trial what was the general nature of the call? Tr 145 p 16.
Rick Tibbott at trial The call came in as a prowler where two male subjects Initially went to the front of the house. Tr 145 p 17-18.
Prosecutor mr DeBusk at trial what would be protocol when you respond to a prowler call? Tr 145 p 20-21. Rick Tibbott at trial Be looking for the vehicle that your going there -- if they left in a vehicle, or be looking for subjects that stand out as your going to the call. When you get-- Tr 145 p 22-25. prosecutor Mr DeBusk at trial DiD you notice anything in your first check of the property? Tr 146 p 2. Rick Tibbott at trial NO. I didn't. Tr 146 p 3.

j.m. Long at trial when the vehicle went past, there was no question that vehicle could identify your vehicle as an Horry County police department car, is that correct? Tr 175 p23-25. Rick Tibbott at trial yes Tr 176 p1. j.m. Long at trial It was not an unmarked vehicle? Tr 176 p2. Rick Tibbott at trial that's correct. Tr 176 p3. j.m. Long at trial DID that vehicle make any attempts to speed up or evade you. Tr 176 p 13-14. Rick Tibbott not that I saw. Tr 176 p 15. j.m. Long at trial All right. and that vehicle clearly would have had — would have had an opportunity, had It circled the cul-de-sac and spotted your vehicle, okay, and then if It saw you run -- saw you running out the it clearly could have gone highspeed at that point in time correct Tr 176 p 16-21. Rick Tibbott at trial It could have Tr 176 p22. j.m. Long at trial And It would have been much farther down the road before it occurred, the stop occurred, correct, if at all. Tr 176 p 23-25. Rick Tibbott at trial yes. Tr 177 p1. from Tr 177 to Tr 179 there is total compliance during the traffic stop and Terry stop and frisk. There was one minor incident during the terry stop by testimony of Rick Tibbott you decide if this warrents any violation or suspicion.

Through the rest of his Rick Tibbott direct examination is there any concerns about the possibility of threat during this Traffic stop. prosecutor mr DeBusk at trial is it normal procedure in a stop like this To call for back up? Tr 168 p 19-20. Rick Tibbott at trial when there's a prowler complaint in a call like that yes and or traffic stops, we generally try to have more than one person there. Tr 168 p 21-23 prosecutor mr DeBusk at trial and this wasn't really traffic. This was a stop for suspicion, is that correct. Tr 168 p 24-25 Rick Tibbott at trial correct. correct. Tr 169 p 1. prosecutor mr DeBusk at trial. at this point, now that your backup has arrived what does your task change to? Tr 169 p 16-17 Rick Tibbott at trial Trying to get everyone out of the vehicle based on reasonable suspicion. Tr 169 p 18-19. and from his testimony up to this point I see no probable cause or Violation that constitute a terry stop or frisk. Now testimony by Rick tibbott during Cross-examination by Defense lawyer j.m.long at trial Okay. now, you saw the vehicle go by through a window? Tr 175 p. 15-16. Rick Tibbott at trial yes, sir. Tr 175 p 17. j.m.long and you said, is shut the vehicle Tr 175 p 18. Rick Tibbott at trial yes Tr 175 p 19

J.M. Long at trial And wasn't there some confusion at first about you asked him for consent to search his pockets and I think he must have thought you asked him to remove stuff from his pockets, which is why he started to reach and you pat his hand back on top of his head? Tr 180 p 1-5 Rick Tibbott at trial thats how he explained It, yes. Tr 180 p 6.

The law explains the Terry stop and frisk as follows (quoting illinois v. gates, 462 U.S 213, 232 91983) It requires a lower quantum of proof than probable cause: united States v Sokolow 409 US. 1.7 (1984) The fourth amendment requires some minimal level of objective justification for making the stop. That level of suspicion is considerably less than proof of wrongdoing by a preponderance of the evidence. We have held that probable cause means a fair probability that contraband or evidence of a crime will be found, and the level of suspicion required for a terry stop is obviously less demanding than that for probable cause. To justify a stop, police officers must be able to point to specific and articulable facts which taken together with rational inferences from those facts reasonably warrant Intrusion. Also see Terry v ohio 392 u.s. 1.21 (1968) also see united States v Hensley 469 US 221, 229 (1985)

Kernon
McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899

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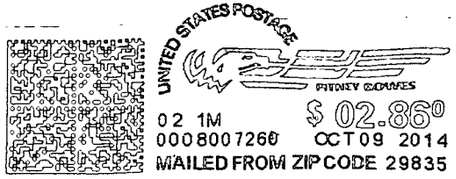

South Carolina Court of Appeals
Jenny ABBott Kitchings Clerk
Post office Box 11629
Columbia, South Carolina 29211

28