

IN THE SUPREME COURT OF SOUTH CAROLINA  
FOR THE STATE OF SOUTH CAROLINA

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Appeal From The Court Of General Sessions  
County of York

Honorable Paul Burch, Circuit Court Judge

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DEC 12 2014

Appellate Case No. 2014-002344

S.C. Supreme Court

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Akeem Alim-Nafi Abdullah-Malik

Petitioner, Pro-Se

-vs-

The State of South Carolina

Respondant(s)

REPLY TO RESPONDANT(S) RETURN FOR WRIT CERTIORARI

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BY: COUNSEL OF RECORD

Akeem Alim-Nafi Abdullah-Malik  
Petitioner/Appellant Pro-Se  
Kershaw Correctional Institutio  
4848 Goldmine Highway  
Kershaw, South Carolina[29067]

LEGAL

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PETITIONER RESPECTFULLY REQUESTS TO INVOKE THE FOREGOING

Petitioner respectfully asks This Honorable South Carolina Supreme Court to accept in *advance* a formal apology for any and all typographical errors not intentionally intended. As well not admendable at this juncture the South Carolina Legal Law Library provisions limits production of motions, documents to the extent of typing accessibility. Being this is a fellow prisoner borrowed type writer. However West Law System here isn't set up for Motion Preparations, Nor Lexis Nexis available. I *ask* your lenity *as* to the typing. To include I am not a Attorney At/In Law nor a Student of Law.

Petitioner ask that HAINES V. KERNER 461 US 1008, 91 S.Ct 981  
GORDON V. LEAKE 574 f.2d 1147, 1151

be applied to the case at bar

## QUESTION REPLY TO RESPONDANT(S)

THE STATE ATTORNEY GENERAL FOR THE STATE OF SOUTH CAROLINA reframes Petitioner Question abating the overall Questions presented by Petitioner Writ For Certiorari. Petitioner here in Reply's to States Return Where The State implies Petitioner asks whether the Court of Appeals for South Carolina erred in dismissing his Appeal for Failure to Timely File and Serve The Notice of Appeal. Petitioner Concedes to his Original

### QUESTION(S) OF RELEVANCE ELUDED BY RECONDANT(S) RETURN

and seeks This Honorable Supreme Court to Review The Questions presented by the Petitioner in Petitioner(s) Petition Writ of Certiorari Court Stamped November 05 2014.

Without further redundance Petitioner Replies To Return Here with in as succiently as possible Moves To Preserve The Record on Parse Questions For Direct Appeal. In event This Honorable Court **GRANTS WRIT OF CERTIORARI** Permitting The Petitioner The Right To Appeal Pursuant To U.S. Constitution, S.C. Constitution Due Process and Equal Protection of Laws F.R. Civ. P., S.C. R. Crim.P, SCACR, all Rules Governing Appeals.

Petitioner here Preserves Questions of parse as listed here and aforegoing in Petitioners Filing Writ of Certiorari.

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1. The Court of Appeals Overlooked The SCACR 262(b) Should have not dismissed appellant Direct Appeal Where Appellant Filed Timely Notice of Appeal Extends to Page 1. Questions presented by Petitioner in Original Writ of Certorari I. Does The U.S. and S.C. Constitution Protect S.C. Prisoners, Pre Trial Detainees, Pro-Se Litigants or Self Represented under Due Process, Equal Protection of Laws, First Amendment Protections and Restraint Upon Liberty. In The State of South Carolina.

2. The Court of Appeals Denying Appellant Due Process and Right

To Direct Appeal Contrary To Decisions of both U.S. Supreme Court and S.C Supreme Court and SCACR 201(a) and (b). 2. Question presented by Petitioner Page 1. II Does The SCACR 262(b) Apply to a pro-se litigant under duress, inability to make copies was at that interim a pre trial detainee self represented held in the custody of York County Sheriff Pending Transfer the very same day as he was sentenced in fact transfered the morning off after sentencing, no supplies, no material to duplicate. However Serves Notice of Appeal With The Clerk of Court Request The Clerk To Forward and Serve other Respondant(s) due to his inability and abnormal circumstances to do so and To forward to The appropriate Appellant Courts and Lower Courts. Within The Notice Petitioner ask That Solicitors and Parties be served. Does this Bar The Litigant whom was in fact limited to resources Access To The Court and ultimately Right To Appeal.

3. The Court of Appeals overlooked Substantial Constitutional Rights Substantive Due Process and Procedural Due Process required. Also the courtesy to a litigant pro-se to not be held to the standards of a bar associated attorney or student of law per se US Laws and SC Laws and rules of lenity. In furtherance of Petitioners original Questions V. Does after all aforementioned once a pro-se litigant is sentenced serves notice to his availability and circumstance and transfered to SCDC does SCDC further Violates Due Process through confiscating withholding all legal material until after a litigants 10 day to file or serve or notify. In addition forcing a litigant to donate his/her legal books by not permitting the litigant to have them in his/her possession during receiving and evaluation time span, limiting law library time, not allowing a pro-se litigant the same liberties as other prisoners under safe guard titled security. Not permitting but only 2 envelopes for mailing if the person is indigent the litigant is treated as though he/she has a attorney. Which of relevance the distinguishment is not made therefore does this deny Access To Courts, Impeded Due Process, Deny Due Process, Restraints Upon Liberty, and Equal Protection of Laws.

4. The Court of Appeals ORDER Denying Petitioner Conflicts with U.S. and S.C Controlling Laws geared to Pro-Se Litigants as such as the petitioner incarcerated, not a student of law nor

as such as the petitioner Whom is incarcerated, not a Attorney At/In Law, nor Student of Law. Petitioner connotes here the matter listed in i.2. and 3. To save redundance and more than waranted repetitvness.

5. The Court of Appeals ORDER DENYING Petitioner Appellants Rights Prevents Petitioner from presenting cognizable claim contingent to prevail a egregious 8 1/2 sentence 5 and 3 1/2 consecutive absent a mental competency hearing a requirment by SC Laws. Petitioner promptly Objected throughout criminal proceedings sought Veterans Treatment Court (VTC) for Non-Violent PTSD Diagnosis consistent with H.R. Bill 3179 Thus Lower Courts Violated Blair v. South Carolina ( cite omitted) Petitioner presented in Writ of Certiorari III. Does the Lower Court Judge have the permissibility to disregard Blair v. South Carolina 273 S.E.2d 53 (S.C. 1981). When a pro-se litigant self represented at initial out of time preliminary hearing contested to and trial. Whom stated he is a PTSD Axis IV Military Treatment Patient at Veterans Administration CBOC Clinics, Veterans Hospitals, who plead guilty via force and mis advise by stand by counsel Violate the American Disability Act, Veterans Disability Rehabilitation Act, Protection & Advocacy for People with Disabilities. 38 USC 1710 and 38 CFR 17.46 and S.C. Codes of Law 44-23-430

6. The Court of Appeals ORDER DENYING Petitioner Right To Direct Appeal Prevents Petitioner cognizable Claim of Prosecutorial misconduct, vindictive prosecution Violations of Langford v. South Carolina ( cite omitted). Question in Petitioner Writ of Certiorari IV. Does The 16th Judicial Circuit Solicitors Office Violate S.C. Laws Langford v. South Carolina 400 S.C. 421, 735 S.E. 2d 471 201 S.C. Lexis 278.

7. The Court of Appeals ORDER DENYING Petitioner Right to Direct Appeal Prevents Petitioner from presenting all mertitious and cognizable contingent claims of fevor. Question of such presented by the petitioner are as such in parse that The State abates parsimoniously via holding a pro-se litigant to the standards of a bar associated attorney or student of law via The State words propriety decorum. When the litigant Filed and Served all Respondant(s) as

law would entail. Petitioner in adverse to The States position. In furtherance for Perservance Question of Petitioner Original Writ of Certiorari VII, VIII, IX in conclusion of Questrions VI. 1st addressing VII. Does the Lower Courts of General Sessions 16th Judicial Circuit not have a boundry binding by S.C. Legislative Branches Laws, H.R. Bills, or H.R. 3179 Veterans Treatment Courts (VTC). Which reduces mental and medical strain upon SCDC. That houses Veterans Non-Violent Prisoners whom have a alternative sentencing regime for applicable incarcerated veternas. That the lowers courts have a right to exercise. Question VIII. Does The 16th Judicial Circuit Solicitors not have to adhere to legislative laws and in specific S.C. Crim. R.P. 2(b) and S.C. Crim.R.P. 8 (a) & (b) Does this action by solicitors affect due process and promote judge shopping, vindictive prosecution, enhancing prosecutorial mis-conduct of solicitors whom Violate Langford v. South Carolina. Thus constituting eluding evading due process. Last in IX. Does S.C. Crim.R.P. 803 effect the Constitutionality of Due Process. When a Judge admitts inadmissible evidence into a critical period as sentencing ultimtely effecting the sentencing not substantiated by evidence rules. Nor 6th Amendment Rights invoked when a defendant invokes. Thus violating Blakely V. Washington validating Booker in The US Federal Sentencing now advisory invalidating Federal Sentencing Guidlines Relieving Judges from Prosecutor Governing both Judical Branches and Legislative Branch being a Executive Branch Officer of Court Langford invalidated this in South Carolina. However does it still transpire in back rooms and meetings or in favor of prosecution. States Equal Protectionm Does not exist.

Seperately VI as a joinder claim does this entail that all listed actions are arbitrary, capricious wanton Civil Actions Where Branches of Government have permission to disregard the very thing they are to be protecting.

## STATEMENT OF THE CASE

Petitioner Moves Motion for Record to concise Statement of Case  
Petitioner concedes with petitioner prior Statements of The Case  
(s) in petitioner Original Writ for Certiorari, Petitioner Re-  
Hearing in Statement of Case, and Petitioner Second Notice of  
Appeal & Explanation filed by Order of Supreme Court Clerk. Pe-  
titioner Motions Record to Be Expanded to This Honorable Courts  
Jurisdiction in the petitioner due diligence throughout these  
proceedings actually Filing Notice of Appeal Timely and Serving  
"all respondants" Pursuant to Filing requirments and availability  
and the means of the pro-se litigant as a self represented litig-  
ant under duress due to pending transfer and actually transfered  
to SCDC morning after such a egregious sentence. Petitioner manag  
ed to File and Serve Pursuant to SCACR 262(b). Petitioner Exhibit  
(s) Notice Filed and Served To the availability under duress. Pe-  
titioner in averments to The State Reurn. Avers to the States pli  
ght as defining petitioners Statement of Case implying it appears  
that Petitioner Filed Timely Notice of Appeal and Served Responda  
nt(s) by leaving with the Clerk of Lowere Court explaining that he  
was subject to transfer and was unabl~~e~~ to make copies would the  
clerk forward to State and Approp~~o~~ate appellate courts. What more  
could have been done at this stage as the Great Writ Written on  
Toilet Paper was not kept out of court. Due to this was all to av  
ail for The Petitioner. Moreover ~~in the~~ matter and to bring a tran-  
sparent light to the matter before This Honorable Court That  
Paramount authority ~~in~~ deciding this matter.

Petitioner was arrested on September 14th, 2013 via a Terry  
Stop conducted by Tega Cay and York County Sheriff Department Off  
icer Clarke. Un Mirandirized, Petitioner and a co defendant was  
taken to Fort Mill Jail. Bonded by Hon. Stuart Wood in the Ex~~cess~~  
of 100,000 dollars for less than 2,000 dollar property crime. Pe-  
titioner was then transported to York County Detention Center and  
awhile awaiting classification in segregated area. Was served a  
old unprocessed warrant that was still in the Sheriff System yet  
[ ] was prior handled via IAD awhile petitioner was in Federal  
Custody via I.A.D. never removed via York County Sheriff Office

petitioner awhile awaiting classification was served a additional 1,500 dollar for out of date warrant still lingering in the system. Petitioner files a pro-se motion for a preliminary proceeding and asks the clerk to file and serve solicitor clerk does in fact file as petitioner asks. However petitioner was never brought before the Lower Courts as so outlined in S.C. Crim.R.P. 2(b) As the petitioner was lead to believe existed "Court Rules" as so that the State, Solicitors Prosecution was subjected to the same Through petitioner contestment of prosecution mis-conduct prosecutorial mis-conduct want of prosecution via Initial Appearances All falling on deaf ears. Petitioner in Initial Appearance terminated his Public Defender due to Counsel refused to follow the petitioners instruction to Motion for Dismissal Want of Prosecution being alot procedures had not been applied in petitioner case. Petitioner terminated counsel ask for stand by counsel. Judge then reappointed counsel as stand by counsel sam counselor as well public defender office authorized the same counsel to stand by counsel. In spite petitioner just relived counselor as his appointed counselor. Petitioner then sought bail review again. Denied by Circuit Judge. Petitioner then proceeded to untimely preliminary hearing. Petitioner contested the hearing in objection. By stating to the Magistrate Judge that this was not a proceeding within itself that the time had lapsed to bring this to court. Which constituted denial due process to proceed on matters that were not brought before the "courts" in a appropriate time S.C. Crim.R.P. 2(b). Case was bound over to Grand Jury. Petitioner Motion to be permitted to attend the Grand Jury to exercise the 6th Amendment Right to face his accusers. Motion never heard amongst 17 other preliminary motions. Due Process denied once again. Petitioner Motion Demanding his release for Wants of Prosecution and sought via The Courts Lower Courts and Sheriff to be immediately release. Petitioner proceed to Motion Hearing that The Honorable Judge John Hayes III heard. At that interim petitioner sought relief again notifying the Judge Motion To Compell the Pending Motions that were pending never heard. Judge Hayes III stipulated that due to the then 2013 Christmas Holidays could we convene after to here these pending matters. As well the probaility of release to care of The Veterans Administration. In the event the petitioner

could provide information of programs that the petitioner had so  
aforementioned to The Honorable Judge Hayes III. Programs alter-  
native to pre-trial incarceration that would insure the return of  
a veteran to court, safe guard bail if imposed, drug testing,  
curfews etc. All which the petitioner had participated in or was  
then a face for veterans prior to this matter before you. Pet-  
itioner was and is a 3 Time Honorable Discharged Veteran. at time  
of arrest was a full time community college student, under Vet-  
eran Treatment Care Mental Health Counseling and Medical Treat-  
ment via CBOC Outpatient Clinics and Veterans Administration Med-  
ical Centers. Petitioner was seeking to return to the well being  
and care of the Veteran Service admitt his wrong and pick up the  
pieces of a man full of personal convictions that life has pre-  
sented this displaced Veteran. Awhile awaiting at that interim  
the 2013 holidays to pass still incarcerated. In York County  
Detention Center subjected to cruel and unusual punishments no  
due process, no attorney privileges to prepare a adequeate defense  
for trial, no ability to call or question witnesses, no funds  
allotted for investigations, nor investigators, stand by counsel  
gagged restricted to what a stand by counsel in York County can  
do & will do via order. Judge John Hayes III traveled until March  
31st, 2014. Prosecution knowing Judge Hayes III position regard-  
ing Veterans. Sought and found a Judge. Honorable Judge Paul Burch  
whom was scheduled to be in York County to bring the petitioner  
serving trial Notice on March 6th, 2014 Petitioner not prepared  
for trial moved for a continuance denied by Honorable Judge Burch  
Petitioner was brought to trial via Objection by petitioner that  
  
the defense was not prepared for trial warranting at least one  
continuance. Yet that prosecution had sought this judge. Trial  
Notice was served to Go To Trial. Petitioner Motion The Courts to  
permitt the defense a oppportunity to issuance of warranted sub-  
poenas for the defense and for mitigating circumstances and  
expert testimony. Petitioner placed 17 subpoens in the stand by  
counsel hands March 7th, 2014. To be taken to York County Sheriff  
for processing . Therefore thereafter asking the stand by counsel  
to return to the jail to pick up the remaining subpoenas which 47  
was not done in either circumstances. None of the subpoenas were  
in fact served by York County Sheriff Department. On March 10th,  
2014 petitioner was brough to trial, no subpoenas issued, Honorable

Judge Paul Burch was notified in open court by petitioner had several preliminary matters motions that had not been heard. Which per-se Honorable Judge John Hayes III were to be heard upon his return to court. To include that subpoenas had not been served Judge Paul Burch denied the petitioner issuance of subpoenas, as well the inability to voir dire the jury, or call witnesses in petitioner behalf. Petitioner at that juncture through in the towel sort of speak regurgitated the aspects of proceeding to trial under those circumstances of fundamental fairness uneven, Favored In Favor of Prosecution. Petitioner receded from trial knowing these proceeding was unbalanced. In distraught and the poignant aspect geared at a full time student, honorably discharged from militray, working to deligently get his life modified at now age 54, father of 5, and 3 appointed as his fiancée deceased, and 8 grandchildren, was not a flight risk, had a alternative to incarceration via Veterans Administration, strong family ties in York County, biological mother, step father, siblings, and slew nieces and nephews. Was forced to throw in the towel. Request that a viable negotiation between all parties could be reconsidered via plea. Not fully knowingly due to distraught and not fully comfortable with a stand by counsel whom was fired on more than one occassion by the petitioner, yet showed up as stand by counsel against petitioner will. Coerceing the petitioner that the guilty but mentally ill was the aspects offered a individual as the petitioner. Whom asked the Honorable Judge Burch to hold a Judicial Conference to insure safe guards within the agreements between The State and Petitioner, to permitt the petitioner the insurance that by voluntarily entering this that certain safe guards would have bound the agreement. Judge Burch decline to offer a Judicial Conference. Leaving the petitioner at the liberty of stand by counsel. Whom pleaded the matter and coerced petitioner through initialing of the plea, the negotiations with the state, not advising the petitioner of the plea he was negotiating, nor its effect if accepted by Honorable Judge Burch. To include that he advised stand by counsel to plea guilty but diminished capacity at time of arrest. To seek a evaluation for competency. As well Honorable Judge accepted the plea absent a mental health competency hearing. Knowing the petitioner asked if he could reced trial

offer mitigating circumstances, as to the petitioners mental and medical health status. Offering petitioners PTSD Dignosis and Veteran Administration ~~Prognosis~~. To include petitioners fights to have called witnesses in his behalf. Whom would have attested to petitioner treatment, counseling, and ability to grow further into positive impact in society if given ample opportunity oppose to incarceration and further reincarcerations. Petitioner was only excercising the Rights that were to be avail to him or those alike. However petitioner ~~is~~ in SCDC basic Human, Civil, and Constitutional Rights Violated. Without the fundemental Fairness, Due Process and Equal Protection of Laws. Which brings this matter before This Honorable S.C. Supreme Court.

In furtherance to aforementioned and up to date. After such horri- fic occurances in the listed maters. Petitioner inspite contest- Equal Justice Equal Protection of Laws, Due Process. Was however senetnced on March 10th, 2014 By Honorable Judge Paul Burch to consecutive terms 5 years for Bglr 3rd 1st Offense, and 3 1/2 years consecutive for Criminal Conspiracy. Without a Mental Health Competency Hearing. Or safe guards of Due Process and Equal Protection of Laws. Prosecution Mis-Conduct and Wants of Pros- ecution. Petitioner upon being sentenced was transfered back to the jail a terrible day in court. Finds himself in further dismay was escorted to another housing area in the jail, oppose to the re- turn back ~~to cell~~ *to cell* ~~petitioner had spent 5 1/2 months in~~ *petitioner had spent 5 1/2 months in* and denied access to courts. Petitioner with what he had left, as in reference to supplies and material, Filed a Timely Notice of Appeal and Did what he was required to do based upon what he as a pro-se pet- itioner could do under the circumstances with no extra paper or his ability to make copies. He requested the Clerk of Lower Court To File ,forward to appropriate Appellate Courts, and Serve The State unlike the States position as the Petitioner sought the Clerk to fill his the petitioner responsibility. The petitioner under duress and awaiting a transfer, in a new housing in the jail, no supplies, no ability to duplicate the same. Respectfully asked the Clerk to File and Serve. What else was he to do at this stage. Petitioner was in fact transfered the very same morning to SCDC March 11th, 2014. Upon arrival there all of petitioner

legal material was confiscated witness by Warden Mckie conducted by Lt. Story, ordered to Officer Gatson and Female Officer to store all petitioner legal property until further notice by SCDC General Counsel. Which was not released to the petitioner until after March 24th, 2014. Petitioner Exhibts via attachments of the continued impediments interference with due process throughout the proceedings. Petitioner awhile in Kirkland R & E Facility Notified The Courts of Appeal and sought the Status of his Appeal The Courts return stated they had no filed Appeal in reference to the petitioner. Without legal material at that interim and the ability to formulate another draft petitioner trusted that the lower courts would have forwarded as they had in past proceeding knowing the petitioner was pro-se, no copy ability or duplication ability, nor does SCDC render duplicating hand generated copies. See Abdullah-Malik v. SCDC 2014-002446 Stayed he Prays.

Petitioner wrote York Coounty regarding the Filed Appeal To receive a filed copy and question was the state served and appropriate appellate courts. Being the petitioner had no address to the courts until inquiry at SCDC Inprocessing by Dorm Captain Maddox Petitioner inspite impediments kept due diligence to insure that Notices were in fact filed and served as petitioner respectfully requested. To no avail did lower courts respond. Numerous letters were sent to the whereabouts of petitioner Direct Appeal.

attempting to stay consistent and focused wrote S.C. Court Administrator to the inquiry of lower court transcripts. That Court Reporter Wanda Nelson of York County had inconsistent Court Reporting dates. That Mrs. Nelson set in open court at petitioner hearings, as well, Mrs/Ms Shirly Broom set in sentencing and a additional reporter in Preliminary Proceeding. Petitioner desiring to prepare for Direct Appeal. Was not aware of status. Until contacting This Honorable S.C. Supreme Court Clerk Mr. Daniel Shearouse. That the petitioner filed a Notice of Appeal in The Lower Courts whom had no knowledge of petitioner filing as to their non responsivness to petitioner letters request and the court reporter Mrs. Wanda Nelson not accurately accounting for the dates that she in fact set in petitioners proceeding to confuse the matter further. However Mr. Shearouse forwarded Notice For Filing Out of Time Appeal and Explanation. In which the petitioner filed and explanation consistent with his Filed Original

Notice of Appeal and Explanation that he did in Fact File and serve all respondents by leaving the Notice of Appeal with the Clerk of Court In General Sessions of York County. Asking respectfully that the Clerk of ~~Court~~ would forward and Serve The State and Appropriate Court of Appellate Level. The decorum pointed out by the state in its words propriety should be receded. Pet- is pro-se under abnormal circumstances, no micro processing, no prison typewriter to ~~use~~, this one borrowed from fellow prisoner, at that interim of filing the notice of appeal, no jail law library, nor attorney privileges, at York County. The petitioner did what was to avail at that interim and is pro-se incarcerated. The standards of litigation has to meet some form of lenity. As The State positions that the petitioner seeks to relax SCACR 262 (b). Isn't consistent with Haines v. Kerner (cite omitted) nor Gordon v. Leake (cite omitted) The petitioner did ~~use~~ he was to to ~~use~~ that interim. Petitioner being in SCDC has faced and does face grievant processes, that due to Petitioner excersising what due process substantive and procedural is to be of avail is not. As The S.C. Supreme Court and U.S. District Court For District of S.C. that due process mail impediments to the extent petitioners filings in both courts initially approximately April/May 2014. Was filed on Scratch Paper written on the back to meet the "courts" deadlines and fill his petitioner responsibilities. So The States position is cleraly erroneous and preposterous to imply that the petitioner relied on Clerk of Lower Court to fill his responsibility the petitioner did what was within his means as a indigent pro-se litigant. Petitioner was denied Right To To Direct Appeal, Denied Rehearing. Contrary to Laws, Rules of lenity to the pro-se prison litigant. In not holding the pro-se litigant to the standards of a Bar Associated Attorney or In Law/ At Law Attorney or Student of Law. Petitioner Filed and Served "all respondents" by leaving his Notice of Appeal with The Lt. and Detention Officers hands Pursuant to Houston v. Lack 487 US 266 (1988) morning of March 11th, 2014 one day after sentencing March 10th, 2014. In York County Asking respectfully that The Clerk of Court would File forward to appropriate Appellate Court and Within Notice To Serve The State and Courts of Appeal. Due to pending a transfer to The South Carolina Department of Corrections Which he the petitioner was infact transfered that very morning after Serv-

eing a Timely Notice of Appeal and Respectfully requested the Clerk to File and Serve due to his inability to due so hand cuff-shackled in the back of transport wagon in route one way to the confines of SCDC. Whom took the petitioners litigation legal property withheld until after any dates that required exceptional importance Tha State marking that as March 20th, 2014. Yet the petitioner did not recieve his legal property back till after March 24th, 2014. How convient after The States position of Appeal Notice Date Moreover petitioner actual Filed and Served Pursuant to SCACR 262 (b).

Petitioner in concluding this STATEMENT OF THE CASE ask respectfully that This Honorable South Carolina Supreme Court Rules in Favor of the Constitutional Rights To Due Process and Equal Protections of Laws, The Standards of a Prisoner Incarcerated proceeding pro-se is not the same as to a Lisenced Bar Associated Attorney At Law/ In Law, nor a Student of Law. The petitioner did what was to his avail at that interim not to circumvent law only To Preserve The Right To Direct Appeal Consistent with the U.S. and S.C. Constitution and Laws Applicable to The Right To Appeal. As so the petitioner desires and desired to excercise that very right that was to be of avail. The Right To Direct Appeal in a Criminal Proceeding as mandated by Rule of Thumb.

## RESPONSE TO STATE ARUMENT

Petitioner in argumentum response ask respectfully that This Honorable S.C. Supreme Court accept the Relpy argumentum of the terms of fundamental Fairness, The Right To Direct Appeal in The United States and In The State of South Carolina a pupil, persons and people in criminal proceedings have a Right To Direct Appeal Pursuant to SCACR 201(a) and (b). Adverse to The State the Petitioner Filed a Timely Notice of Appeal in accords with the SCACR 203 (a) and (b) (2).Petitioner under duress and abnormal circumstances Filed Notice of Appeal With Clerk of Lower Court as outlined in SCACR applicable. Due to petitioners abnormal circumstances as a aggrieved self represented pro-se litigant under duress and pending transfer to SCDC. In which he was transfered That very date of Filing and Serving all respondants to the best of petitioners ability. The York County Detention Center is not a 24 hour legal processing center. The means to copy or duplicate material is via request to staff. That isn't a immediate result often not accomplished except once per week or when staff can be accessible. Petitioner did what he was to avail at that duress pressured interim. Also without material, supplies to hand generate the required copies to File and Notice all respondants. Therefore with limited options. The petitioner respectfully Filed and Served The Courts and "all respondants" by leaving with the Clerk of Lower Courts. Petitioner asked the clerk due to abnoraml circumstances to File Serve and Forward to all respondants. To include appropriate Appellate Court and The State Solicitors. The State was in fact served. Pursuant to SCACR 262 (b). Due to Moss Justice Center consists of Courts, Solicitors, Detention, Sheriffs Office, and Possibly Public Defenders Office. The petitioner was not circumventing. He had no paper, was under duress and ask the clerk to file and serve upon all respondants within the Notice of Appeal. See Exhibit I. In addition the Clerk had previously forwarded Motions, Petitions, and Letters to The State and Return copies to the petitioner and pro se litigants whom are normally at distress and disadvantage in processing documents. The State to contest Timely Service contests not only the petitioner and the propriety of the matter. Also contests the SCACR 262(b) and its application to pro-se litigants inability to have the aspects of

fundamental fairness, substantive and procedural due process. Thus ultimately Violating both U.S. Constitution Amendments First, Fifth, Sixth, Eighth, Thirteenth, and Fourteenth Amendments, S.C. Constitution Art I. Sec. 1,2,3,7,8,9,10,13,14,15,18,22, and 23. Moreover the right to Direct Appeal. See Evitts v. Lucey 469 US 338 78 L.Ed.2d 821 (1985) White v. State 208 S.E. 2d. 35 (1994) Dicenzie v. Rose 04-3571 (6th Cir) Roe v. Flores-Ortega (Cite omitted) Council v. State, (Cite Omitted) Graham v. State (Cite Omitted) Brunson v. American Koyo Bearings (S.C. App 2005) 367 SC 161, 623 S.E. 2d 870 Wolff v. McDonnell 418 US 539 71 Ohio Op. 2d 336 (1974) Palko v. Connecticut 302 US 319 (1937), Snyder v. Massachusetts 291 US 97 (1934), Hurtado v. California 110 US 516 1884 The States position invalidates Haines v. Kerner 401 US 1008, 91 S.Ct 981 (1971) Gordon v. Leake 574 F.2d 1147,1151. Relentlessly holding a incarcerated unlicensed pro se litigant with limited resources, at that interim lacked a jail law library, thus in direct Violations of Bounds v. Smith 430 US 817 (1977) noting Morales v. Schmidt 340 F.Supp 544, 548 (W.D. Wis 1972) Judge Doyle "recognized that access by inmates to certain minimum of legal books materials was a constitutional protected right. When petitioner was housed in York County Detention Center Petitioner was not accessible to a jail law library amongst many other liberties that were to be available for a pre-trial self representd pro-se litigant. As such a law library. Petitioner had to request via the lower courts Honorable Judge John Hayes III to use the Judges Law Library of only able 1 hour per week or bi weekly. Once denied that by Sheriff, Jail Administrator Assistant Administrator, and Commander of Security after petitioner was assaulted and unwarranted harassed reported to PREA and Jail Administrator. Stand here before this Honorable S.C. Supreme Court stands a man full of convictions personally. However convicted without the basic protections of human, civil, and constitutional rights as aforementioned. Within and throughout these proceedings. For the State to make the argument that the State was Not Served is To Say That McDonalds, Burger King, Wendy's White Castle, Blimpies, Jack In Box Cook Out doesn't ~~have~~ Hamburgers or isn't a Fast Food Chain. Clearly the petitioner Filed and Served "all respondents" with what was to his avail Filed March 11th, 2014. Pursuant to Houston v. Lack 487 US 266. The (3) Three peices of paper the petitioner

that was available to petitioner after sentencing and prior to being transferred to SCDC. Petitioner avers to Mears v. Mears 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1988). Petitioner asserts that (Mears) can not be applied to a White v. State (Cite Omitted) Special Circumstances Issue at Bar Here in Instance. In addition petitioner Pursuant to SCACR 203(d) (1) (B) (iv) because by pleading guilty did not waive his right to challenge the violations of his rights that occurred at sentencing hearing. Terry v. Commonwealth 500 S.E.2d 117, 355 S.C. 79 (S.C. 2003). ("sentencing although often combined with admissions of guilt in a hearing is a separate issue from guilt and a distinct phase of criminal proceedings. Honorable Judge accepting a Mental Ill Plea and Denying The Mentally Ill Competency Hearing Requirement thus violating Blair v. South Carolina 273 S.E. 2d 536 (S.C. 1981) Finding failure to request competency hearing did not waive right to such a hearing. Petitioner connotes 'Blair' that he the petitioner was a US Army 3 Time Honorably Discharged was a PTSD Dignosed Patient Under Care of Veterans Administration was enough to a least raise skepticism to the Judge extending himself beyond the Scope of his respective J.D. and Judgeship Judge opted to define the petitioner as not being mentally ill. Disregarded H.R. Bill 3179 Veterans Treatment Alternative or to at least consulted with Veteran Judges or Judicial Council to determine if there was in fact a alternative to incarceration and to what extent the petitioners remorsefulness to the occurrences while he in fact fell into diminished capacity. Being under the diminished capacity mind set at that interim. Which continued on and off awhile in York County Detention Center without Counseling available to the petitioner. As to date petitioner warrants Veterans Treatment that meets petitioner needs. Sending the petitioner to SCDC for such a lengthy period absent Protected Right trained staff for Veterans. Wherefore the H.R. Bill 3179 in fact offered a remedy for Non Violent People, Person, Pupil as the petitioner.

In conclusion of arguments reply to respondents Unlike State v. Hinson 303 S.C. 92, 399 S.E. 2d 422 (1990). Petitioner wasn't seeking to extend the time to File and Serve Notice of Appeal under petitioner special circumstances he did to what was avail as The Great Writ Was Filed and considered served due to the abnormal circumstances and under duress what was left. He exercised

what he was able under those circumstances in asking respectfully that the clerk file and forward serve all respondents. In the means available to a litigant in transit to SCDC. Unlike Miller v. State 269 S.C. 113, 236 S.E.2d 422 (1977) or unlike USAA Property and Cas Ins Col v. Clegg 377 S.C. 643, 661 S.E. 2d 791 (2008) both listed cases here are not similar to the petitioner in its entirety the petitioner was never delinquent in filing nor serving. When he respectfully asked the clerk to file and serve by asking the court to forward to the state and appropriate appellate courts. Unlike State v. Tatnall 350 S.C. 135, 564 S.E.2d 377 (Ct. App.2002) Consent to Jurisdiction is not a requirement when a petitioner files in court at its appropriate time. Rescue isn't warranted when a litigant files timely as the petitioner in fact met that requirement. Yet due to restricted nature unavoidable by the petitioner due to detention centers, correctional facilities process to copy or as SCDC opts to not copy petitioners hand generated. Does this constitute denial of access to the courts and DENYING THE RIGHT TO DIRECT APPEAL DUE PROCESS, and EQUAL PROTECTION OF LAWS, even to Indigent Pro-Se Litigant Incarcerated. or do we allow The State to prevail and hold the pro-se incarcerated litigant to same standards as a Attorney At/ In Law or student of Law. Jurisdiction isn't deprived by the Petitioners TIMELY FILED NOTICE OF APPEAL AND SERVICE under abnormal circumstances as no material, supplies, and inability to duplicate copy prior to being transported to SCDC. Met their with more and more impediments. Fillibusters in access to courts, impeding due process The States distaste for Attorney exemplifies more The States distaste for incarcerated litigantst whom are at the mercy of the custodian. Whom preserves the Rights of Prosecutors oppose to the Committee of Penology design to educate and rehabilitate a prisoner However the State opposes Granting Writ of Certiorari for a petitioner filing on time a Timely Filed Notice of Appeal and Serve "all respondents" at what liberty was afforded at that juncture. In further burdening the tax payers dollars. That the petitioner is in prison on consecutive terms. Wherefore most matters as the petitioners are time served, probation, community service, as so as petitioner co-defendant recieved time served sentence. The petitioner was the one in college, seeking to transfer to four year

college after completion of community college, ~~to~~ prepare for

the lsat, seeking to apply to law school. deterring of all the former rough edges. Oppose to petitioner current conditions in SCDC no means to further education, have veterans counseling, restore family ties to children or grandchildren.No Education Enhancement Programs for Prisoners as Title 2-77-10 outlines for SCDC. No Veterans Treatment Care at either scope medical or mental health. Per se Honorable Judge Baxley in McQuiggins v. Perkins (cite omitted) See Metro Article January 9th, 2013 and Protection Advocacy for People with Disabilities.www.The State.com.

Petitioner submitts and contends that the S.C. Court of Appeals applied the incorrect analysis in relations to White v. State under Special Circumstances to include to hold the petitioner to the standards of a Attorney At Law/In Law or Student of Law under decorum. When the petitioner had no options excpet allow the Appeal to become irrelevant due to not filing and requesting a Judical Officer of The Court or Clerk of Court the courtesy of Sir/Madam Clerk I am being transfered to another location. I do not have the means to copy duplicate. Will you kindly File Serve "all required respondants" Respectfully. Sincerely, Akeem A-N Abdullah-Malik date signed March 11th, 2014. As so thereof the petitioner was then transfered upon hand delivering this to the detention officer thus filing timely Notice and Service under the abnormal circumstances aforementioned within and through out.

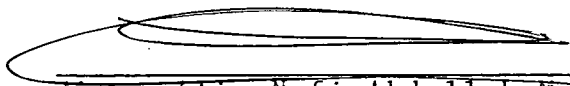
CONCLUSION

Petitioner contends The South Carolina Court of Appeals applied the incorrect law analysis applicable to Special Circumstances, improperly resolving the Question(s) Presented. Conflict Resolution is supported in transcripts and record as the petitioner clearly defines throughout proceedings beginning to end via records. Petitioner seeks discretionary Review by This Honorable South Carolina Supreme Court. In Granting Writ of Certiorari and Petitioner Right To Direct Appeal in a Criminal Case.

This said <sup>0th</sup> day DECEMBER month

Tuesday Twelfth Year

Respectfully submitted,

  
Akeem Alim-Nafi Abdullah-Malik  
Counsel of Record  
Kershaw Correctional Instituti  
4848 Goldmine Highway  
Kershaw, South Carolina[29067]

PROOF OF SERVICE

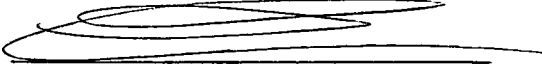
I'AM Akeem Alim-Nafi Abdullah-Malik, certify that I have served the Reply to Return To Petition for Writ of Certiorari on State Attorney General, and foremost In The South Carolina Supreme Court (1) Original and CC: listed below the same in the United States mail, postage prepaid, addressed to South Carolina Supreme Court Post Office Box 11330 Columbia South Carolina 29201 and South Carolina Attorney General Post Office Box 11549, Columbia South Carolina 29211

I further certify that all parties required by Rule to be served have been served.

This said 21 day October month

Twenty One, Fourteenth year

Sincerely,

  
Akeem Alim-Nafi Abdullah-Malik  
Counsel of Record

Kershaw Corr. Inst.  
4848 Goldmine Highway  
Kershaw, South Carolina 29

CC: Kevin S. Brackett  
Solicitor, 16th Judicial Circuit  
1675 IA of York Highway  
York, South Carolina [29745]

=

EXHIBITS I

No longer @ YCDC  
3/14/14 to

DONOR CLERK OF COURT

FILED-RECEIVED

2014 MAR 14 PM 1:23

I WAS sentenced March 10<sup>th</sup> 2014  
Before Judge Paul Ruff I  
TO APPEAR THE MATTER. ASIC NOTICE OF  
SERVICE & NOTICE TO THE Appellate DC  
Appellate Court For REVIEW

DAVID HAMILTON  
C.C.P. & G.S.  
NORFOLK COUNTY, VA

IN ADDITION AS THE Counsel  
I AM MAKING ORDERS BE FORWARDED TO  
ME TO WHERE I AM BE AT I AM  
STILL HERE AWAITING TRANSFER TO S.C  
DEPT OF CORRECTIONS.

Sincerely,  
Mr. Hamilton  
Mr. Hamilton

PS: I AM UNABLE TO MAKE COPIES TO  
SERVE ON THE Solicitor AS WELL THE  
Appellate Appoint Court. ASIC Respectfully  
Court WILL Log & Transfer TO S.C Appellate  
Courts:

IN THE COURT OF GENERAL SESSIONS  
FOR THE STATE OF SOUTH CAROLINA  
County of York

Akeem A-N Abdulhak-Malik

Evangel / Prose / Plaintiff

CONVICT Case No: 2013 GG 46 0430

04370, 04371...

- US -

THE STATE OF SOUTH CAROLINA  
Respondent

FILED-RECEIVED  
2014 MAR 14 PM 1:28  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

### NOTICE OF APPEAL

LOMER NOW PURSUANT TO S.C. Criminal Appeals  
PROCEDURE CONVICT Akeem A-N Abdulhak-Malik  
HEREINAFTER PETITIONER

MOVES THE SAID COURT NOTICE OF APPEAL  
RIGHT TO DIRECT APPEAL PURSUANT TO S.C. APPEALS  
PROCEDURES.

PETITIONER IS REQUESTING TRANSFER TO S.C. DISTRICT  
OF COMMERCE. MOVES JUDICIAL NOTICE BE SERVED  
ON THE STATE OF SOUTH CAROLINA TO WHOM NOTICE  
BE SERVED IN THE APPELLATE COURT S.C. DISTRICT  
AND APPELLATE COURTS.

FILED 11:05 AM  
MARCH 14 2014  
COURT CLERK

Respectfully Submitted  
Akeem A-N Abdulhak-Malik  
Petitioner

CERTIFICATE OF SERVICE

I am duly deposing. On said date 11A, day month  
year, being the said date, I am deposing  
the defendant above named to Howard J. Lurie  
1- City National Bank - 10 West 42nd Street  
New York City, New York  
County of York

Signed

This said 11A day month year at New York  
County of York  
Mr. Albert A. N. Nelson, Clerk

FILED-RECEIVED  
2014 MAR 14 PM 1:23  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

EXHIBIT II

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

**Office of General Counsel**

**RESPONSE TO INMATE CORRESPONDENCE**

INMATE: Akeem Abdullah Malik, SCDC #359150  
INSTITUTION: Turbeville Correctional Institution  
FROM: Shanika Johnson, Staff Attorney  
SUBJECT: Legal Documents Review  
DATE: April 30, 2014

**RECEIVED**  
JUN 04 2014  
SC COURT OF APPEALS

Mr. Abdullah-Malik,

I was forwarded your Request to Staff requesting the date I met with you and Lt. Story at Kirkland Reception and Evaluation Center to review/approve your legal documents. The date of the review was March 24, 2014. It is my understanding that you did not have access to your legal materials until after that review meeting.

s/ Shanika Johnson  
Shanika Johnson

**"All Rights Reserved"**  
**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**  
**REQUEST TO STAFF MEMBER**

TO NAME: <b>GENERAL COUNSEL</b>	TITLE:	DATE: <b>3-13-14</b>
INMATE'S NAME: <b>Akeem A-N Abdullch-Malik</b>		SCDC #: <b>359150</b>
INSTITUTION: <b>KIRKLAND R&amp;E</b>		LIVING QUARTERS: <b>F3 150</b>

TO WHOM THIS MATTER CONCERN: **PER SE DIRECTION & ORDER Lt. STURDY VIA WARDEN MCKIE**

**I** Am stipulating that the documents entered your facility is a part of AMERICAN'S DISABILITY ACT & VETERANS Rehabilitation Act Am Jur 501 & 52 In **Both Civil & Pending Criminal: Appellant Procedures FOR Sale Purposes. Private RECORD IN ALLEGATION & EXPRESSIVE MATERIAL FACTS FAMILY CORRESPONDANCE & ESTABLISHMENT OF RECORD! CASE # 1:14-00109-RBH-SUH & Appealing Awaiting From receipt 2013-CR-46-04270, 71 #1 - CIVIL } I AM respectfully requesting release of all #2 - CRIMINAL } my legal work to be held in my possession & ACCESS TO your LAW LIBRARY during my tenure here**

**DISPOSITION BY STAFF MEMBER:**  
**I have reviewed the requested material and confirmed it consists of legal materials**

DATE:	SIGNATURE: <b>Aharita Johnson</b>
-------	--------------------------------------

AKEEM ALIM-NAFI ABDULLAH-MALIK  
PETITIONER PRO-SE COUNSEL OF RECORD  
4848 GOLDMINE HIGHWAY  
KERSHAW, SOUTH CAROLINA [29067]

December 8th, 2014

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
Post Office Box Number 11330  
Columbia, South Carolina 29211

RECEIVED

DEC 12 2014

Re: Akeem Alim-Nafi Abdullah-Malik  
2014-002344 Appellate Case Number

S.C. Supreme Court

Dear Mr. Shearouse:

Enclosed find the original Reply of The Return to Petition for Writ of Certiorari along with proof of service in the above referenced case.

Sincerely,



Akeem Alim-Nafi Abdullah-Malik  
Counsel of Record  
Kershaw Correctional Institution  
4848 Goldmine Highway  
Kershaw, South Carolina [29067]

CC State Attorney General  
Mr. Alan McCory Wilson

CC Assistant Deputy Attoreny General  
Salley W. Elliot

CC 16th Judicial Circuit , Solisitor  
Kevin S. Brackett