

STATE OF SOUTH CAROLINA

VS.

ELMORE BRAXTON, 219263

DEFENDANT

IN THE SUPREME COURT  
OF SOUTH CAROLINA

LOWER COURTS DETERMINATION  
IS IMPROPER

CA 1997-CP-06-0011

## INTRODUCTION

PURSUANT TO RULE 243 OF THE SOUTH CAROLINA APPELLATE COURT RULES, THE LOWER COURTS DETERMINATION WAS IMPROPER FOR THE REASONS HEREIN; SEE ATTACHMENTS. ALSO IN ARTICLE I, SECTION 8 OF THE SOUTH CAROLINA CONSTITUTION, THE PROCEDURES THAT THE COURTS OF COMMON PLEAS AND THE STATE ATTORNEY GENERAL'S OFFICE USE TO APPOINT COURTS, OR DECIDE WHAT PETITION, APPLICATION OR MOTION HAS MERIT IS DECIDED BY THE STATE'S ATTORNEY GENERAL'S OFFICE, VIOLATES PRISONERS RIGHTS TO THE U.S. CONSTITUTION AND THE SOUTH CAROLINA CONSTITUTION OF SEPARATION OF POWERS SEE K. C. LANGFORD

VS STATE, 735 S.E. 2d. 471 (2012)

THE CHIEF JUSTICE OF THE SOUTH CAROLINA SUPREME COURT ISSUED AN ADMINISTRATIVE ORDER IN WHICH SHE OPINED THAT THE PROCEDURE FOR P.C.R. JUDGES TO REVIEW THE APPLICATION, MOTION (PRO-SE) ETC. TO DETERMINE WHETHER OR NOT THEY ALLEGED SUFFICIENT GROUNDS TO REQUIRE A HEARING RESULTED IN TOO MANY APPOINTMENTS OF COUNSEL IN THESE CASES OR EVIDENTIARY HEARINGS. ON OCTOBER 6, 2008 CHIEF JUSTICE TOAL DIRECTED THAT INSTEAD OF THE JUDICIAL BRANCH OF GOVERNMENT DECIDING WHO WAS APPOINTED COUNSEL ON EVIDENTIARY HEARING. THE EXECUTIVE BRANCH OF GOVERNMENT - THE ATTORNEY GENERAL'S OFFICE - THE RESPONDENT - WILL NOW DECIDE IF PRISONERS APPLICATIONS OR MOTIONS REQUIRE APPOINTMENT OF COUNSEL OR EVIDENTIARY HEARINGS. WITHOUT COUNSEL, HOWEVER, IT IS UNCLEAR HOW ANY PRISONER IS EXPECTED TO OBTAIN A WRITTEN ORDER OVERRIDING THE ATTORNEY GENERAL'S ORDER TO DISMISS [RUBBER STAMPED BY THE CIRCUIT JUDGES OF THIS STATE] CLEARLY VIOLATING PRISONERS RIGHTS OF THE SEPARATION OF POWER. ARTICLE 1, SECTION 8 OF THE SOUTH CAROLINA CONSTITUTION.

(2)

THIS PROCEDURE CREATES AN INHERENT CONFLICT OF INTEREST BY PLACING POWER OVER THE APPOINTMENT OF COUNSEL IN THE HANDS OF THE ATTORNEY GENERAL—WHOSE ROLE AS AN ADVOCATE FOR THE STATE IS TO SUPPORT THE UNDERLYING CONVICTION. IT IS UNCLEAR WHETHER A SINGLE JUSTICE OF THE COURT MAY DELEGATE WHAT IS ESSENTIALLY A JUDICIAL FUNCTION BY REASSIGNING THAT FUNCTION TO THE EXECUTIVE BRANCH, OF WHICH THE STATE ATTORNEY GENERAL IS A MEMBER. IT IS FAR MORE QUESTIONABLE FOR A SINGLE MEMBER OF THE COURT TO ISSUE A BROAD-SWEEPING RULING WITHOUT ANY PRIOR NOTICE OR PARTICIPATION BY THE PUBLIC. THIS PROCEDURE TRAMPLES THE RIGHTS OF INMATES, AND VIOLATES THEIR RIGHTS TO THE U.S. CONSTITUTION AND SOUTH CAROLINA CONSTITUTION, OF SEPARATION OF POWERS. FOR THE REASONS STATED ABOVE AND THE MERIT OF THE MOTION AND THE EXHIBITS ATTACHED, THE WRIT OF CERTIORARI SHOULD BE GRANTED.

2-19-2015

DATE

Elmore Braxton

ELMORE BRAXTON # 219263



willfully printed and published false and misleading information in its indictment in order to deep secret its violation of statutory law. Here, Subject Matter Jurisdiction is the power to hear and determine cases of general class to which the proceedings in question belong Bells v. Mon-anto Corp, 579 S.E.2d 325 (SC 2003); Inasmuch the Court's power to hear and determine a case. Subject Matter Jurisdiction does not only cover and involve whether or not the matter resides in a proper Court of jurisdiction to hear and determine it, but also involves any issue that may affect that power and or ability to act in accordance to law, this issue can be raised at any time, can not be waived by the Defendant and the Court shall not fail to take notice Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001); State v. Browing, 320 S.C. at 368, 465 S.E.2d at 359 Citing State v. Munn, 357 S.E.2d 461 (SC 1997).

Although, the Defendant did not object to the indictment defect(s) and/or errors that time of his trial. Nevertheless, the defects and/or errors serve to render the Indictment(s) wholly invalid. Defects in an indictment that are of such a fundamental character, as to make and indictment wholly invalid, are not subject to waiver by the Defendant; 41 AM. Jurs.2d Indictment and Information section 299 (1968); State v. Munn Supra; subject to certain minor exceptions not present, the Trial Court lacks Subject Matter Jurisdiction to convict a Defendant for an offense when there is no valid Indictment charging him with that offense when the Jury is Sworn. State v. Beachum, 288 S.C. 325, 342 S.E.2d 597 (1986).

The Defendant for this argument there is a dispute because the Solicitor unlawfully impaneled its grand jury outside the statute: Here, the Grand Jurors convened on February 6, 1995, which is the First Monday in February.

In the case before this Court, due to the Asst. Solicitor misapplication of S.C. Code of Laws 14-5-630 (3). Defendant contends that the Asst. Solicitor "procedural defect" deprived defendant of his procedural due process. Here, "the statute is crystal clear that the Grand Jury Suppose to convened on the Second Monday in February". A Quote from the Statute:

- 14-5-630. Terms of Court in Second Circuit shall be held as herein-after provided.
- Sec. (3) Barnwell County.- The Court of General Sessions for Barnwell County shall be held at Barnwell on the Second Monday in February for a term of one week, on the fourth Monday in May for a term of one week and on the third Monday in September for a term of one week.

Hence, by the doctrine of "State Decisis" because it would be a contradiction of clearly established Law, it is not permissible to apply the newly established section within the legislative intent of S.C. Code of Law 14-5-620.

Both due process and common sense dictate that the Asst. Solicitor unlawfully impaneled its grand jury outside the statute on February 6, 1995 took the Defendant to Trial two days later on February 8, 1995.

However, here, evidence will establish that the Defendant was unable to prepare a defense and exercise such basic rights as appearing, presenting helpful evidence and controverting harmful evidence. One additional piece of evidence very clearly settle the matter of State's False condition. The information contained in the Record also establishes that no special term of the Court of General Sessions was convened on February 6, 1995 on First Monday under the provisions of either section 14-5-410, section 14-5-630, section 14-5-910, or section 14-5-920.

When a legislative enactment limits the manner in which something may be done, the enactment also evinces the intent that it shall not be done another way. Thus, since the Court utilized an unlawful mode of procedure not allowed-

under section 14-9-210, state lacked the requisite jurisdiction to complete return of its true-billed indictment.

Meanwhile, the Asst. Solicitor and other did committed **Obstruction of Justice and conspiracy to commit Official Misconduct and prosecutorial misconduct and Obstruct the due "Administration of Justice"**. In the instant case, "Administration of Justice" means performance of acts or duties required by law in discharge of duty.

S.C. Code Ann. Section 1-7-730 and S.C.Code Ann. Section 17-13-150 require that the prosecution fulfill and see that all the duties, requirements, and rules of Criminal Procedure related to Due Process are adhered to and completed within the Court.

As establish above, the Asst. Solicitor did Obstruct the "Administration of Justice" in this case.

The statutory terms above are clear, unambiguous, and require the County Solicitor to prepare and Subject bills of indictment through the presiding judge of the Court of General Sessions to a grand jury impaneled under the authority of the Court of General Sessions. **No exceptions.**

Accordingly, section 14-9-210, requires strict compliance with its provisions, and mandates that the grand jury must be impaneled under the jurisdiction of the Court of General Sessions before lawful return of a true billed indictment can take place.

However, here, evidence will establish that State unlawfully impaneled its grand jury out side the jurisdiction of the Court of General Sessions, and then willfully printed and published false and misleading information in its indictment in order to deep secret its violations of statutory law.

Therefore since **No Court of General Sessions was convened on the date February 6, 1995 indictment was allegely true billed**, the grand jury peoceedings

would therefore by necessity be held invalid, and its illegally issued indictment null and without binding legal effect.

## II. ARGUMENT

### GROUND B. Did the PCR Court have jurisdiction to conduct a Second PCR Hearing?

#### Supporting Facts and Argument

The fact pertaining to this issue is taken sub-judice from the official record. It is perspicuous that to delay of an Order being submitting to the Honorable Donald A Beatty, Justice who presided at the May 28, 1998 hearing, Justice Beatty by Order dated March 31, 1999, granted Defendant a New Trial. The Order was duly filed by the Clerk of Court. See, Exhibits Order of Justice Beatty granting a New Trial. Justice Beatty also Ordered that the case be "immediatelly" scheduled for a New Trial. However, instead of scheduling the matter for a New Trial, the Attorney General Office's delayed for three month and then they submitted an Order of Dismissal. That Justice Beatty in error signed June 1, 1999. That was over a year after the May 28, 1998 hearing. Justice Beatty upon discussing this with Defendant's Attorney, Mr. Johnson, informed Counsel that he did not mean to sign the Order of Dismissal is void, because Justice Beatty's March 31, 1999 Order was never vacated and in fact was never challenged by the State. If State disagree with Justice Beatty Order of March 31, 1999, then like any other litigant, they were required to file a Rule 52 (a) and Rule 59 (e), South Carolina Rules of Civil Procedure to alter, amend or vacate the order. Being they did not, they waived such, and the March 31, 1999 Order is the law of the case.

Moverover, the PCR Court lack Subject Matter Jurisdiction to supersedeas Justice Beatty's Order of March 31, 1999. Here, the South Carolina Supreme Court is the only Court that have Subject Matter Jurisdiction over this subject matter and with the authority to review a Post-Conviction Relief Action and supersedeas Justice-

Beatty's Order. Specifically, the State failed to file an Appeal against Justice Beatty Order dated March 31, 1999 or Rule 59(e), SCRPC. Here, the State failed to comply with Justice Beatty's Order of March 31, 1999.

When a legislative enactment limits the manner in which something may be done, the enactment also evinces the intent that it shall not be done another way. Thus, since the Court utilized an lawful mode of procedure not allowed under Rule 243 (a) Certiorari: To Review Post-Conviction Relief Actions. A Quote from Rule 243 (q); Review by Writ of Certiorari: A final decision entered under the Post-Conviction Relief Act Shall be reviewed by the Supreme Court upon Petition of either party for a Writ of Certiorari; according to the procedure set forth in this Rule.

As establish above, Rule 243 (a) is clearly a jurisdictional statute, and sets forth mandatory procedure to be utilized by State for reverse Justice Beatty's Order.

In the case before the court, Justice Beatty's points out here that he did not tell him to submit a proposed order, he did not tell the State that he would reconsider his position on his order of March 31, 1999 and despite that, the State of South Carolina did not comply with Justice Beatty's Order of March 31, 1999, the State did not file a Rule 59(e), Rule 52 or Rule 60 (b) Motion. Pursuant to South Carolina Appellate Court Rule 227 for appropriate procedures after notice has been timely filed.

Consequently, the State did committed **Obstruction of Justice and Conspiracy to Commit Official Misconduct and perjury.**

Here the facts and evidence will establish that the State also conspired with several other State Judicial personnel in order to commit fraud upon the Court, the State's acted with intent to deceive or defraud Court by means of-

deliberately planned and carefully executed scheme to mislead the Court of the probative facts on the event of Justice Beatty's Order of March 31, 1999. Here, State violated Pinkerton Rule (Pinkerton v. U.S.), 338 U.S. 640 (1946), a conspirator may be charged with acts done by conspirators.

Simply put, the State has failed to present any competent evidence from which a reasonable inference could be drawn that there was "total failure Justice Beatty's Order meant another PCR Hearing. Here, the Attorney General Office's misconstrued Justice Beatty's Order of March 31, 1999, and State misinterpretation or misapplication of Justice Beatty's Order that is crystal clear that states "New Trial" and Justice Beatty's intent was in his Order of March 31, 1999. Here, the State decision rendered was so inadequate as to surpress mere procedural due process violation and to shock the conscience. Therefore, the Attorney General Office has committed fraud and has been perpetiated upon Court by the State in their Second PCR Hearing and State acted with intent to deceive or defraud Court by means deliberately planned and carefully executed scheme, to mislead the Court.

The legal framework and foundation being firmly in place, the State false and misleading evidence, and misrepresentations. Here, the Attorney General Office duty not to mislead. And a Solicitor has "a special duty not to mislead". This duty arises from the Solicitor's dual responsibility not merely to win a case, but to insure that Justice is done. The potential for a Solicitor to deliberately mislead the Judge, Jury, and Defense Counsel is inherent in every phase of the trial, including offering evidence, question witnesses, making comments, and presenting arguments. Even non-willful misleading conduct is a serious breach, and when sufficient prejudice is demonstrated, a reversal usually follows misleading conduct may rise to the level of a due process violation when it involves the knowing use of false evidence, or when the conduct renders the defendant's trial fundamentally unfair.

Defendant is requesting that this Court direct the State to honor Justice Beatty's Court Order dated March 31, 1999 and exonerate the Defendant because the twelve (12) years delay has deprived the Defendant of his due process. Here, the State failed to comply with Justice Beatty's Order that was issued on March 31, 1999. The State in contempt of Justice Beatty's Court Order. In the instant case, the State willful disobeying Justice Beatty command or official Court Order. The State has committed a criminal contempt of Court Order.

Specifically, the Attorney General's Office misconstrued Justice Beatty's Order dated March 31, 1999 to another PCR Hearing and the Assistant Attorney General **Edgar R. Donald** did committed Obstruction of Justice and Conspiracy to Commit Official Misconduct and Perjury because the Attorney General's Office lack Subject Matter Jurisdiction to conduct another PCR Hearing. Here, the Defendant did not file a Second PCR Application with the Clerk of Court of Barnwell County. Specifically, the jurisdiction lies with the Solicitor Office of Second Judicial Circuit. Justice Beatty Order a New Trial for the Defendant.

As above indicated, the attached (Exhibits) will prove beyond a reasonable doubt the intent of Justice Beatty's Court Order dated March 31, 1999. The Attorney General's Office (State) misconstrued the applicable law.

In the view of these legal principles, under the Appellate Court Rules; Rule 243 (a), that the Attorney General's Office must filed an Appeal against Justice Beatty's Order. Here, the Soth Carolina Supreme Court the one has jurisdiction over the subject matter. Under South Carolina Rules of Civil Procedure Rule 71.1 Post-Conviction Relief Actions; (g) Appellate Review; Continuing Representation. A final decision entered under the Act shall be review according to the procedure specified by Rule 243, SCACR. Here, Attorney General's Office failed to follow these procedure. Justice Beatty's Order granted the Defendant a New Trial.

### III. ARGUMENT

GROUND C. Was the Defendant's Fourteenth Amendment Rights of the United States Constitution and Rights of Due Process violated by Clerk of Court failure to signed the Commitment Order to authenticate as to genuineness of signature on the Order?

#### SUPPORTING FACTS AND ARGUMENT

The Defendant contend it is well established by the Statute that Clerk of Court must signed the Commitment Order to authenticate as to genuineness of signature of the trial Judge. Here, the Clerk of Court failed to signed the Commitment Order to validity the trial judge signature. Further, it appears that the trial judge is in question whether the trial judge signed thid document on February 8,1995. Under Rules of Evidence; Rule 901. Requirement of Authentication or Identification Sec.(7) and(8). For years these courts have produced judgements that are signed only by clerks of the court who are not authorized to sign judgements. The botton line in this case Justice Beatty's granted the Defendant a "New Trial" March 31,1999 and the Attorney General's Office mislead the Court to believe that Justice Beatty's granted another PCR Hearing and the Order is clear on th intent of the Order on March 31,1999 its states Order for a New Trial.

In addition, you may be wondering if this lack of a proper signature is merely a formality and can be ignored. This issue has also been decided. The case of Leonard O.Larue v. Janette Lohman, Case 71802 establishes a bright line test on the validity of orders and judgements. That bright line test is that the judgement or order must be authenticated by Clerk of Court. As Matter of Law the Order of Justice Beatty must stand.

CONCLUSION

For all the reasons stated herein above, it is respectfully requested that this Honorable Court grant Defenant's Motion for After-Newly Discovered Evidence and enforce the State adhered to Justice Beatty's Order dated March 31,1999. Here, the State action affects the fairness, integrity or public reputation of judicial proceedings. To not bring into account and correct the errors outlined in Justice Beatty's Order would be a deep dark stain on the fabric of judicial fairness and integrity as well as a miscarriage of justice. A true miscaaiage of justice or defect calling into question the fairness, integrity or public reputation of our judiciary must not be allowed. As a matter of law the Defendant is entitled to his immediate release because Justice Beatty's Order dated March 31,1999 was never Reverse by the South Carolina Spurme Court or Court of Appeals.

Respectfully submitted,

Elmore Braxton  
Elmore Braxton, 219263

Date: 5-08-13

STATE OF SOUTH CAROLINA  
COUNTY OF BARNWELL

)  
)  
)

VERIFICATION

PERSONALLY appeared before me, Elmore Braxton, 219263, who being first duly sworn, deposes and says: That he is the Defendant in the foregoing action, that he has read the foregoing Motion for After-Nwely Discovered Evidence, and that those matter alleged therein are true to best of his own knowledge, except those matters to be upon information and belief and, as to those, he believe them to be true.

*Elmore Braxton*  
*Elmore Braxton*  
\_\_\_\_\_  
Elmore Braxton, 219263

SWORN TO BEFORE ME THIS

8 day of May, 2013

*Vivian Dubs* (L.S.)  
\_\_\_\_\_  
Notary Public for South Carolina

My Commission Expires: 12-12-22

FILED FOR RECORD  
2013 MAY 14 PM 4:18  
RHONDA D. MELVEEN  
CLERK OF COURT  
BARNWELL COUNTY, S.C.

EXHIBIT A

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BARNWELL )  
 \_\_\_\_\_ )  
 Elmore Braxton, )  
 219263, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
IN THE SECOND JUDICIAL CIRCUIT

CASE NO: 97-CP-06-011

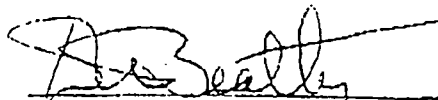
ORDER FOR NEW TRIAL

BARNWELL COUNTY CLERK'S OFFICE  
 100 N. MAIN ST.  
 AIKEN, SC 29801  
 803-325-9123

A hearing in this matter was held May 28, 1998 in Aiken County. Notwithstanding repeated requests to the Assistant Attorney General for an Order in this matter, none was received until approximately 10 months later. During the interim, the Court's memory of the proceeding has faded and the Court has no recollection of the hearing.

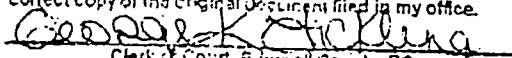
A transcript of the hearing is not available to the Court at this time. Therefore, to avoid further delay in resolving this matter, the Court believes that the interest of justice would be better served by rehearing this case.

Therefore, IT IS ORDERED that a new trial is granted and that this matter be scheduled for hearing immediately.

  
 \_\_\_\_\_  
 Donald W. Beatty  
 Circuit Court Judge

March 31, 1999  
 Aiken, South Carolina

STATE OF SOUTH CAROLINA  
 COUNTY OF BARNWELL  
 I, George K. Fitching, Clerk of Court for Barnwell County, South Carolina, do hereby certify that this is a true and correct copy of the original document filed in my office.

  
 \_\_\_\_\_  
 Clerk of Court, Barnwell County, SC

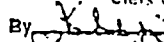
By   
 \_\_\_\_\_  
 Day of April, 19 99

Exhibit B

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BARNWELL )

JUDICIAL CIRCUIT )  
IN THE COURT OF COMMON PLEAS )

Elmore Braxton, 219263, )

Applicant, )

v. )

State of South Carolina, )


Respondent. )

97-CP-06-011

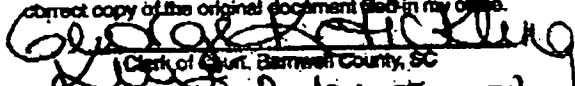
ORDER OF CLARIFICATION

This Court has been made aware that two orders are currently filed in the above captioned matter. This order is issued to clarify that the order dated June 1, 1999, was signed in error. The order dated March 31, 1999, is the true and correct order of the Court. The order dated June 1, 1999, is hereby vacated.

AND IT IS SO ORDERED this 27 day of September, 2001.

  
DONALD W. BEATTY  
Presiding Judge  
Second Judicial Circuit

\_\_\_\_\_, South Carolina.

STATE OF SOUTH CAROLINA  
COUNTY OF BARNWELL  
I, George K. Fickling, Clerk of Court for Barnwell County, South Carolina, do hereby certify that this is a true and correct copy of the original document filed in my office.  
  
Clerk of Court, Barnwell County, SC  
\_\_\_\_\_  
day of October, 2001

# Smalls Law Firm, P.C.

Joseph L. Smalls, Jr.\*  
Kevin D. Kears  
Charlie J. Johnson, Jr.  
Eddy L. Lane\*\*  
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November 26, 2001


Elmore Braxton, #219263  
Allendale Correctional Institution  
F1A-47  
Post Office Box 1151  
Fairfax, SC 29827

RE: Elmore Braxton v. State of South Carolina

Dear Mr. Braxton:

Enclosed is an Order of Clarification pertaining the above referenced case. Should you have further questions regarding this matter, do not hesitate to contact me.

Sincerely,

  
Charlie J. Johnson, Jr.

*EXHIBIT*      *U*

# Small's Law Firm, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

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August 24, 2000

Honorable, Donald W. Beatty  
Seventh Judicial Circuit  
P.O. Box 3543  
Spartanburg, SC 29304

Dear Judge Beatty:

I was retained by Elmore Braxton to represent him in a PCR hearing that was held on May 28, 1998 in Aiken County. At that hearing you denied Mr. Braxton's request for Post-Conviction Relief and ordered the Assistant Attorney General to prepare an Order. The prepared Order was not sent to you until approximately 10 months after the hearing. Because of this delay and the inability to attain a transcript of the proceeding, you signed an Order For New Trial on April 13, 1999 (Enclosure #1).

In July of 1999 I received a copy of an Order of Dismissal signed by you on July 1, 1999 (Enclosure #2). Therefore, I contacted your office and spoke with you concerning the conflict between the two Orders. You informed me that the Order of Dismissal was a mistake on your part and that you still required that a new trial be held.

I then contacted the Assistant Attorney General (Matthew M. McGuire) and informed him of our conversation. He told me that he would have to get in touch with you and that he would call me back. I have spoken with him on at least two occasions since that time and he has informed me that he is of the opinion that your last Order was the one that you intended to sign and that my client is not entitled to a new PCR Hearing.

I contacted my client when I received your first Order and I mailed him a copy. I told him that I believed this

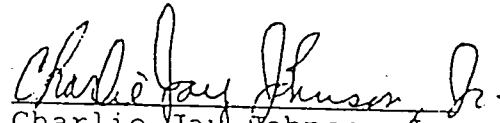
Letter Judge Beatty  
August 24, 2000  
Page 2

would mean that he is entitled to a new PCR hearing. He has contacted me by phone and by mail on a number of occasions since that time and I have not been able to give him a definitive answer to his questions. Over the last six months I have been assigned as Co-Counsel in a Death Penalty Case and have not been able to give this as much attention as was needed. I have recently received a letter in which he requested that I make every attempt to bring the unresolved issues to a close.

I am therefore requesting your assistance in clarifying this matter as it relates to which order was intended by you to be your final Order.

If I can be of any further assistance please contact me.

Respectfully,

  
Charlie Jay Johnson Jr.

*Small's Law Firm, P.C.*

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*Joseph L. Small, Jr.\**  
*Kevin D. Kease*  
*Charlie "Jay" Johnson, Jr.*  
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July 23, 1999

Elmore Braxton  
SCDC# 219263  
F-1 Collection Unite A-47  
Allendale Correctional Institution  
Post Office Box 1151/ Hwy 47  
Fairfax, South Carolina 29827

Dear Elmore

Please find inclosed an Order from Judge Beatty that requires you to have a new trial because the State took to long in preparing the original order. I have spoken to Judge Beatty who stated that he did not intend to sign the Order of Dismissal dated June 1, 1999 and that it is still his intention to have a new trial. He stated that he would rescind the Order dated June 1. 1999.

As soon as I receive additional information I will be getting in touch with you. Please take notice of my new address and phone number. I will be getting in touch with you soon.

Repectfully,

*Charlie Jay Johnson Jr.*  
Charlie Jay Johnson Jr.