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FEB 27 2015

THE SUPREME COURT OF SOUTH CAROLINA

S.C. Supreme Court

Robert James Miller, Jr., :

Petitioner, : Appellate Case No. :

: 2014-002102

v. :

: Certificate of

State of S.C., : Service

Respondent. :

I certify that a copy of Petitioners "Response" was served on the Attorneys for the Respondent by placing a copy in the U.S. Mail, postage prepaid, on February 17, 2015 addressed to:

John Croom Colvin Hunter, Esq.

Office of the Attorney General

P.O. Box 11549

Columbia, SC 29211

R. James Miller, Jr.

Robert James Miller, Jr.

IN THE SUPREME COURT OF SOUTH CAROLINA

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Robert James Miller, Jr.,	✱	
Petitioner,	:	S.C. Supreme Court
	:	Appellate Case No. :
	:	2014-002102
v.	:	
	:	RESPONSE
State of S.C.,	:	
Respondent.	✱	

Pro se Petitioner submits the following response to the dismissal of his PCR (2012-CP-20-0352):

The PCR Court erred in not finding counsels performance deficient; failed to consider the evidence Petitioner had submitted; failed to consider the illegal search and seizure, unlawful Court orders to dispose of Petitioners personal property (beginning more than a year BEFORE the plea hearing); unreasonably applied Strickland; and the Courts decision is contrary to established Supreme Court precedent.

The PCR Court's analysis and reasoning was flawed, as well as it's conclusion. Petitioners plea and PCR hearing were full of errors, Constitutional violations and deprivations of rights that require this Court to grant relief.

1) "Counsel testified he took Applicant's case after Applicant and his prior appointed attorney had a falling out" (page 4).
(Appendix page 101)

- This is not true. The Public Defender was unable to represent me because of a possible conflict of interest. He was, at that time, also representing the Victims family. They were charged with Financial Transaction Card Fraud also.

2) "Counsel testified that he obtained discovery and went over it with Applicant" (page 4). → of Order of Dismissal
See Appendix page 81 lines 11-17.

- Counsel DID NOT request discovery (See attached) and failed to provide any when I requested it.

3) "Counsel testified that Applicant claimed he only took around \$20,000. and that he was locked up before his wife Stole the rest of the funds" (page 4).

- This Statement is not correct. I had no way of knowing how much money had been Stolen. I told the public defender that I had committed the crime and my wife had nothing to do with it only to keep her from going to Jail as our son was only two months old. Later, it was determined that I was incarcerated at the time of the crime, then the indictments were illegally altered and the dates of the offenses were changed. (See attached "Rap Sheets", "Warrants" and "Indictments")

- 4) Counsel testified the evidence was overwhelming due to recordings of telephone calls made by the Applicant to the trading companies (page 4). of Order of Dismissal

Appendix
page 21

• First off, there was only one single phone call to E*Trade (See transcript pg 21 lines 21-25 and pg 22 lines 1-6). Secondly, I WAS NOT convicted for anything related to E*Trade. The charge was dismissed. Thirdly, the State acknowledged that, even if the voice did match mine, South Carolina DID NOT have any Jurisdiction over an alleged offense in New York.

Most importantly, there was absolutely no evidence whatsoever that I committed the crime because I didn't.
See Appendix page 62, lines 5-9 and page 65, lines 2-15

- 5) Counsel testified he did not have concerns about Applicant's mental health (page 5). of Order of Dismissal. Appendix page 85
lines 2-14

- 6) Counsel testified he had no concerns about the indictment or whether the court had Jurisdiction to hear Applicant's plea (page 5) of Order of Dismissal. See also Appendix page 66, lines 4-24, pg 68, line 24 to pg 69, line 7; pg 69, lines 19-23, pg 71, lines 19-23 and pg 78 line 20 to pg 79, line 5

- 7) Counsel testified the Solicitor withdrew the Seven year plea offer prior to Applicant's decision to plead guilty (page 5). of Order of Dismissal. See Appendix page 67, line 15 to pg 68, line 5

This is NOT true. The Solicitor withdrew the plea offer AFTER he instructed the bondsman to pick me up and

put me in Jail, two days AFTER the public defender called him (in my presence) and indicated that I would plead guilty the following week. See Appendix Page 15, lines 3-4

Obviously, I would not have traveled the 550 miles to South Carolina if I had not planned on going to Court.

Appendix page ~~24~~⁸⁰, line 25 to page 81, line 3.

- 8) Counsel testified he never told Applicant he would only get four years (page 5) of Order of Dismissal. See Appendix

Page 87, lines 18-20

• Yes, he most certainly did say that if I pled guilty I would get anywhere from probation to NOT more than four years. Remember, the seven year plea was for four counts, the solicitor dismissed one (because of Jurisdiction), I was asked to plead to 3 charges. Obviously, less charges amounts to less time. And that is exactly what he said.

- 9) Counsel testified that once the solicitor dismissed all of the charges except for what Applicant admitted to doing, there was no need to hire a forensic accountant (page 5).

• The problem with this Statement is that the Charges were not dismissed until April 3, 2012. The plea offer to dismiss the charges was made two weeks prior to that. I was arrested on November 3, 2010 and the AGREEMENT to hire a forensic accountant was made in December 2010. (See also page 5, "Counsel testified that he did

receive the funds to hire an accountant but ultimately deemed it unnecessary.") Therefore, Counsel had more than 15 months to hire an accountant, but chose not to and deprived me of my Constitutional Right to an expert witness. Counsels actions deprived me of a fundamentally fair trial.

As a result of Counsel's errors, I was Ordered to pay \$30,000.00 restitution, a \$6,000.00 Collection fee, and \$50.00 monthly probation fee for 36 months (or Serve 10 years in prison) for an offense in which I was NEVER arrested, indicted, or convicted !!!

The United States Supreme Court has stated many times that restitution MUST be tied to the offense of conviction. See Hughey v. United States. My restitution is illegal and Contrary to Clearly established federal law. Hughey v. United States, 495 U.S. 411, 418 (1990).

Also, (and the reason for my Civil lawsuit (tort) against the Solicitor and Sheriff's office) my illegally Seized Vehicle, \$9882.00 cash and a brokerage account containing \$66,312.93 was supposedly given to the so-called victim. No forfeiture hearings were ever held. According to the plea transcript, pages 22 and 27, the victim was reimbursed his entire loss with the exception of the Stock sale in New York that South Carolina had no Jurisdiction over and I was never arrested or convicted.

My Cash and property was unlawfully given to this person, the bank reimbursed him, and I still owe him?

Ineffective Assistance of Counsel

- 10) The PCR court erred in not finding Counsel's performance deficient.
 - 11) The Court failed to consider the evidence Applicant had submitted, including: Applicants Declaration, Supplement to pending claims, Petition for Writ of Error Coram Nobis, Application to Certify Question of Law and Etc.
 - 12) (page 7) "This court finds that the evidence against Applicant was Overwhelming..." Once again, there was absolutely NO EVIDENCE whatsoever. ~~None~~ Not even a Statement. I do not recall anyone ever saying there was any evidence.
 - 13) "This court further finds there was no reason for Counsel to Challenge the legality of the indictments in this case." (page 7)
- See Appendix pg 78, ln 24
pg 79, ln 1
- The Honorable Judge Young acknowledged at the PCR hearing that the dates on the indictments had been altered. Indictments are defective, insufficient and illegal. Even the type of offense has been altered (See attached information). See also South Carolina Constitution Art. I, §11 2. Where the defendant was tried and convicted upon an indictment which was a nullity, it follows that he was convicted in violation of this section. State v. Funderburk, (S.C. 1972) 259 S.C. 256, 191 S.E. 2d 520.
- Also, Conviction on amended indictment substituting different offense is invalid. State v. Sowell, (S.C. 1910) 85 S.C. 278, 67 S.E. 316. And S.C. Code §17-13-141, & §17-19-20 (3).

Subject Matter Jurisdiction

14) "This Court can find no credible evidence to support a finding the plea court lacked any type of Jurisdiction to accept Applicant's plea." Again, the Court has erred and clearly failed to consider the evidence.

- Subject matter Jurisdiction may be raised at any time (*Brown v. State*, 343 S.C. 342, 540 S.E. 2d 846 (2001)), and thus, the Supreme Court was able to review defendant's claim that trial court lacked Subject matter Jurisdiction on ground that indictment was insufficient, even though he failed to raise the issue until his petition for Certiorari.

- Lack of Subject matter Jurisdiction, on basis that indictment failed to contain necessary elements of charged offense, was a Jurisdictional defect not covered by the Statute which required that objections be made...

Hooks v. State, (S.C. 2003) 353 S.C. 48, 577 S.E. 2d 211

- The Court in which I was convicted did not have the power to convict me because it did not have Jurisdiction. See *Butler v. King*, 781 F. 2d 486, 490 (5th Cir. 1986).

- The General Sessions Court did not have Jurisdiction and violated the Due Process Clause of the 5th and 14th Amendments.

See *Sunal v. Large*, 332 U.S. 174, 178-79, 67 S. Ct. 1588, 1591; *Lowery v. Estelle*, 696 F. 2d 333, 336-38.

Involuntary Guilty Plea

15) "Finally, this Court finds no reason to believe Applicant was led to believe the State would refrain from..."

making a Sentencing recommendation." (page 9) How could the PCR Court possibly overlook this obvious fact? Even the Sentencing sheets indicate that the plea is "without negotiations or recommendation" and it is signed by the Solicitor, myself, and the public defender. The Solicitor broke the agreement, the public defender failed to object (because he was ineffective) and the PCR Court erred by not finding that a violation of my Constitutional Rights had occurred.

See: Fontaine v. United States, 411 U.S. 213-15, 93 S. Ct. 1461-63; Machibroda v. United States, 368 U.S. 487, 494, 82 S. Ct. 510, 514 (1962) holding that petitioner was entitled to a hearing on the issue of...unkept promises..

Santobello v. New York, 404 U.S. 257, 262, 92 S. Ct. 495, 499 (1971) holding that when pleas rest on an implied promise or an agreement by a prosecutor that he will make no sentencing recommendations, such promises must be fulfilled.

Also, Defendant was entitled to postconviction relief (PCR) based on ineffective assistance of counsel during his guilty plea; defendant's attorney's failure to object when Solicitor recommended maximum sentence in violation of negotiated plea agreement fell below professional norms, and fact that defendant was unsure whether to plead guilty, coupled with fact that he was under impression that Solicitor would not make a sentencing request, demonstrated that he would not

have pled guilty but for attorney's ineffective assistance
Thompson v. State, (S.C. 2000) 340 S.C. 112, 531 S.E. 2d 294.

- A defendant's counsel was ineffective during the guilty plea proceeding where the defendant initially insisted on proceeding to trial, the defendant only agreed to plead guilty when he believed the Solicitor would neither oppose nor recommend probation, and (when the Solicitor disregarded the plea agreement) the defendant's attorney failed to draw the Judge's attention to the bargain and then failed to move to withdraw the defendant's guilty plea.

Jordan v. State, (S.C. 1988) 297 S.C. 52, 374 S.E. 2d 683.

All other allegations

16) ~~X~~ The Court has failed to consider some claims such as illegal Search and Seizure (defective search warrant) and Conviction on defective/altered indictments (in which the type of offense and date of offense has been changed) The PCR court did not review or consider the evidence submitted.

Applicant does not waive or abandon any claims just because the court failed to consider them.

17) ~~X~~ Applicant believes that the PCR court unreasonably applied Strickland (Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed. 2d 674) when it failed to consider the cumulative effect of counsel's errors. Please see :

• Mackey v. Russell, No. 02-4237, 148 Fed. Appx. 355, 369 (6th Cir. August 9, 2005) (unpublished)

In addition to "actual ineffectiveness", the PCR Court should have found "constructive ineffectiveness" because my public defender failed "to subject the prosecution's case to meaningful adversarial testing". see Cronic Standard - United States v. Cronic, 466 U.S. 648, 658, 104 S.Ct. 2039, 80 L.Ed. 2d 657, 667-68 (1984) (recognizing a right where performance of Counsel deprived defendant of a fair trial). Counsel put up no opposition or defense whatsoever.

See Edens v. Hannigan, 87 F.3d 1109, 1116 (10th Cir. 1996) holding actual conflict of interest existed when counsel made no effort to present a defense for client because it would have harmed co-defendant.

18) X~~X~~) The Court was objectively unreasonable in not finding that Constitutional errors had occurred. The Court's decision is contrary to clearly established Federal Law. Applicant's entire plea hearing was full of errors that worked to my actual and substantial disadvantage, infecting the entire hearing with error of Constitutional dimensions.

See Wiggins v. Smith, 539 U.S. 510, 528, 123 S.Ct. 2527, 2538, 156 L.Ed. 2d 471, 489 (2003) finding that a "clear factual error" in a State Court's analysis "highlight[ed]"

the unreasonableness" of the court's decision. See also Rompilla v. Beard, 545 U.S. 374, 389, 125 S.Ct. 2456, 2467, 162 L.Ed.2d. 360, 376 (2005) finding that the State Court's "fail[ure] to answer the considerations [the Supreme Court] ha[s] set out" amounted to an unreasonable decision on a claim of ineffective assistance of counsel.

19) ** The PCR Court's decision would have been different if the court had properly considered all of the relevant facts and had they not ignored the evidence.

See Mask v. McGinnis, 233 F.3d 132, 140 (2nd Cir. 2000) (refusing to give the State Court's "factual findings" a presumption of correctness because they were not factual findings but only conclusions).

See also Taylor v. Maddox, 336 F.3d 992, 1000-01 (9th Cir. 2004) (finding that a state court's determination of facts is unreasonable if no finding was made and the court "should have made a finding of fact but neglected to do so").

20) ** The State erred when it denied me a full and fair opportunity to raise my Fourth Amendment claims. The State court never considered my claim.

See Capellan v. Riley, 975 F.2d 67, 70-71 (2nd Cir. 1992)

The State has provided no corrective procedures at all to redress the Fourth Amendment violations.

21) ~~19~~) The PCR Court also erred by not permitting me to raise all of my Constitutional Violations at the PCR hearing (See page 2 of the Order of Dismissal).

According to Williams v. Ozmint, (S.C. 2008) 380 S.C. 473, 671 S.E.2d 600, In a proceeding for postconviction relief, a defendant collaterally attacks his conviction and MAY RAISE ANY CLAIMS OF CONSTITUTIONAL VIOLATIONS relating to his conviction.

Again, the State denied me my right to a full and fair opportunity to be heard and present my claims.

22) ~~20~~) The PCR Court proved itself to be inadequate, unfair, and ineffective by failing to find that Counsel's performance was deficient and his representation (or lack of) fell below professional standards.

Counsel was clearly Constitutionally defective because he:

I. Did not raise issue of Jurisdictional defects.

See United States Constitution, Amendment VI;
Butler v. King, 781 F.2d 486, 490 (5th Cir. 1986);
Hooks v. State, (S.C. 2003) 353 S.C. 48, 577 S.E.2d 211

II. Did not challenge the defective Search warrant.

See United States Constitution, Amendment IV;
Woods v. United States, 279 F 706 (1922);
State v. Hill, 245 SC 76, 138 S.E.2d 829 (1964)

III. Failed to investigate, gather evidence, or interview witnesses.

See Brown v. Myers, 137 F.3d 1154, 1156-58 (9th Cir. 1998); Rickman v. Bell, 131 F.3d 1150 (6th Cir. 1997); Wiggins v. Smith, 539 U.S. 510, 535-38, 123 S.Ct. 2527, 2542-44 (2003); People v. LaBree, 34 N.Y.2d 257, 259-61, 313 N.E.2d 730, 731-32, 357 N.Y.S.2d 412, 413-15 (1974).

IV. Did not hire forensic accountant (expert witness) as agreed.

See Pavel v. Hollins, 261 F.3d 210, 216-26, 223, 228 (2nd Cir. 2001); United States Constitution, Fourteenth Amendment; Starr v. Lockhart, 23 F.3d 1280, 1287 (8th Cir. 1994).

V. Did not honor my request (Right's) for a restitution hearing.

See Amendment VII to the United States Constitution and State v. Gullledge, (S.C. 1997) 485 S.E.2d 923; Bowie v. City of Columbia, (U.S.S.C. 1964) 84 S.Ct. 1697, 378 U.S. 347. See also S.C. Code §16-3-1515(B) and §17-25-322.

VI. Did not object when plea agreement was broken. Failed to enforce plea agreement and refused to withdraw guilty plea.

See Santobello v. New York, 404 U.S. 257, 262, 92 S.Ct. 495, 499 (1971); Custodio v. State, (S.C. 2007) 373 S.C. 4, 644 S.E.2d 36; Thompson v. State, (S.C. 2000) 340 S.C. 112, 531 S.E.2d 294; Jordan v. State, (S.C. 1988) 297 S.C. 52, 374 S.E.2d 683; Johnson v. Beto, 466 F.2d 478, 479-80 (5th Cir. 1972); Davis v. Zant, 36 F.3d 1538 (11th Cir. 1994);

Fontaine v. United States, 411 U.S. 213-15, 93 S.Ct. 1461-63; Machibroda v. United States, 368 U.S. 487, 494, 82 S.Ct. 510, 514 (1962).

VII. Did not object when the Solicitor inappropriately commented on my Post-arrest Silence.

See United States Constitution, Fifth Amendment and Grayley v. Mills, 87 F.3d 779 (6th Cir. 1996) (holding that a prosecutor violated due process by repeatedly making references to petitioners post-arrest silence; also finding that defendant had ineffective assistance of counsel because counsel had not objected...). Alston v. Garrison, 720 F.2d 812, 815-16 (4th Cir. 1983); State v. Robinson, 238 S.C. 140, 119 S.E.2d 671 (1961); Franklin v. Duncan, 70 F.3d 75.

VIII. Did not request discovery, lied about it and failed to raise a claim (or objection) when prosecution withheld exculpatory evidence. See Brady v. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196-97 (1963); United States v. Bagley, 473 U.S. 667, 678, 105 S.Ct. 3375, 3381-82 (1985); Kyles v. Whitley, 514 U.S. 419, 421-22, 435, 115 S.Ct. 1555, 1567 (1995); Once Brady disclosure rule violation is established, **REVERSAL IS REQUIRED.** State v. Kennerly, (S.C. App. 1998) 331 S.C. 442, 503 S.E.2d 214; Walker v. Lockhart, 763 F.2d 942 (8th Cir. 1985) 478 U.S. 1020 (1986) (prosecutorial suppression of exculpatory evidence); United States v. Agurs, 427 U.S. 97, 103-08, 96 S.Ct. 2392, 2397-99 (1976).

IX. Failed to raise a claim of insufficient evidence. See United States v. Desena, 260 F.3d 150, 154-56 (2nd Cir. 2001); Juan H. v. Allen, 408 F.3d 1262, 1276 (9th Cir. 2005); and Jackson v. Virginia, 443 U.S. 307, 318-19, 99 S.Ct. 2781, 2789 (1979). Also see Patterson v. New York, 432 U.S. 197, 215, 97 S.Ct. 2319, 2329 (1977).

X. Failed to investigate defendants mental condition as possible mitigating factor at sentencing, Hendricks v. Calderon, 64 F.3d 1340 (9th Cir. 1995); See also Starr v. Lockhart, 23 F.3d 1280, 1287 (8th Cir. 1994) holding that the denial of petitioner's request for appointment of a mental health expert to develop evidence of diminished capacity and mitigating circumstances violated his due process rights; Torres v. Prunty, 223 F.3d 1103.

23) 21) Petitioner had a Constitutional right to effective Counsel (Sixth and Fourteenth Amendments of the U.S. Constitution). This right is clearly established. Adequate counsel was not provided and I was deprived of a fundamentally fair trial with a "reliable result."

Petitioner was denied a fair trial by the gross incompetence of his attorney and there is a reasonable probability that, but for counsel's errors, he would not have pled guilty, would have insisted on going to trial and the outcome would have been different. Very different.

24) 22) The State court was Unreasonable in not finding a violation of my rights. The state court's decision "resulted in a decision that was contrary to, and involved an unreasonable application of, clearly established Federal Law."

In rejecting my claims, the state court's decision was contrary to established Supreme Court precedent because it confronted facts that are materially indistinguishable from numerous other Supreme Court decisions but arrived at a different result. See *Williams v. Taylor*, 529 U.S. 362, 406, 120 S.Ct. 1495, 1519-20 (2000), *Randass v. Angelone*, 530 U.S. 156, 165-66, 120 S.Ct. 2113, 2119-20 (2000), *Lockyer v. Andrade*, 538 U.S. 63, 73, 123 S.Ct. 1166, 1173 (2003).

25) 23) The State court also applied federal law in an objectively Unreasonable manner. The State court's analysis and reasoning was flawed, as well as its conclusion. The Court's point of view is very different from how most people would see the situation and it would be difficult for a reasonable person to understand how the State Court came to its decision. See:

Jermyn v. Horn, 266 F.3d 257, 312 (3rd Cir. 2001) (finding that defendant's counsel had been ineffective for failing to conduct adequate investigation and the State court's decision to the contrary was objectively unreasonable); See also *Rompilla v. Beard*, 545 U.S. 374, 389, 125 S.Ct. 2456, 2467 (2005); *Washington v. Hofbauer*, 228 F.3d 689, 707 (6th Cir. 2000).

- 26) ~~2A~~) The State Court also ignored legally relevant facts that it needed to consider in order to reach the correct result. The Court's decision would have been different if the Court had properly considered and applied all of the relevant facts. Additionally, the PCR court's determinations of fact were unreasonable and the fact-finding procedure the court used was inadequate because they made conclusions without looking at the evidence I presented. See Torres v. Prunty, 223 F.3d 1103, 1109 (9th Cir. 2000); Mask v. McGinnis, 233 F.3d 132, 140 (2nd Cir. 2000); Caliendo v. Warden of Cal. Men's Colony, 365 F.3d 691, 698 (9th Cir. 2004). The PCR Court's determination of facts was unreasonable and not at all supported by the evidentiary record. See Hooks v. Ward, 184 F.3d 1206, 1231 (10th Cir. 1999).
- 27) ~~2X~~) Clearly, I was denied my 6th Amendment right to assistance of counsel. Obviously, the inadequate representation that I received prejudiced the outcome of my case and the PCR Court erred by not finding (multiple) violations of my rights. See Coleman v. Thompson, 501 U.S. 722, 754, 111 S.Ct. 2546, 2567 (1991) ("[I]t is not the gravity of the attorney's error that matters, but that it constitutes a violation of petitioner's right to counsel."); Paxel v. Hollins, 261 F.3d 210, 216-26, 223, 228, (2d Cir. 2001) (finding ineffective assistance where trial counsel did not prepare a defense, failed to call two important fact witnesses, and did not call a medical expert); Brown v. Myers, 137 F.3d 1154,

1156-58 (9th Cir. 1998) (finding ineffective assistance when Counsel failed to investigate and present testimony supporting petitioner's alibi); Tosh v. Lockhart, 879 F.2d 412, 414-15 (8th Cir. 1989) (finding defense Counsel's failure to procure alibi witnesses was ineffective assistance of Counsel).

Conclusion

Based on the foregoing, Petitioner has established (by clear and convincing evidence) that his entire plea and PCR hearing was full of Constitutional violations and deprivations that require this Court to grant relief.

Petitioner is able to demonstrate a "Sufficient probability that [the court's] failure to review his federal claim will result in a fundamental miscarriage of Justice."

Reaffirmed after the passage of AEDPA in Edwards v. Carpenter, 529 U.S. 446, 451, 120 S.Ct. 1587, 1591 (2000).

Also, see Neder v. United States, 527 U.S. 1, 7, 119 S.Ct. 1827, 1833 (1999) stating that there is a "limited class of fundamental constitutional errors that... are so intrinsically harmful as to require automatic reversal..." My case was full of such errors.

Respectfully Submitted,

Robert James Miller Jr.

14 February 2015

Memorandum

OFFICE OF CLERK OF COURT
FAIRFIELD COUNTY

P.O. DRAWER 299
WINNSBORO, SC 29180
Telephone: 803-712-6526
Fax: 803-712-1506

TO: Robert James Miller Jr. #316047

FROM: Betty Jo Beckham, Clerk of Court

Subject: MOTION OF DISCOVERY

DATE: 10-22-13

I HAVE CHECKED ALL YOUR FILES IN MY OFFICE AND THERE IS ~~NOT~~ A MOTION OF DISCOVERY
RULE 5 IN ANY OF YOUR FILES. YOU NEED TO GET IN TOUCH WITH THE ATTORNEY THAT
REPRESENTED YOU TO SEE IF HE RECEIVED THE MOTION.

STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

Robert J. Miller, Jr., #316047

Case No. 2012-CP-20-0352

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM
Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

EXcessive delay in
receiving a ruling

This matter comes before the Court by way of a post-conviction relief (PCR) application
filed on August 30, 2012. Respondent made its return on October 31, 2013. An evidentiary
hearing into the matter was convened on July 28, 2014, at the Lancaster County Courthouse.
Applicant was present at the hearing and was represented by W. Michael Hemlepp, Jr., Esquire.

Respondent was represented by Assistant Attorney General J. Croom Hunter of the South
Carolina Attorney General's Office.

See Calhoun v. Farley, 913 F. Supp. 1218, 1221 (1995)
Montgomery v. Meloy, 90 F.3d 1200, 1205-06 (1996)
Lane v. Richards, 957 F.2d 363, 365 (1992)

PROCEDURAL HISTORY

state remedies ineffective

The Applicant is incarcerated with the South Carolina Department of Corrections
pursuant to the Fairfield County Clerk of Court's orders of commitment. The Applicant was
indicted at the February 2011 term of the Fairfield County Grand Jury for three counts of
financial identity fraud (2011-GS-20-035, 036, 037). Mike Lifsey, Esquire represented the
Applicant.

On April 3, 2012, the Applicant pled guilty before the Honorable Casey Manning.¹
Applicant was sentenced to two concurrent terms of ten (10) years each. On the third charge,

¹ As a result of his plea, approximately eight other charges were dismissed. (Tr. p. 3, lines 6-9.)

had NOTHING
to do with Plea

* See "Affidavit - Plea agreement"

for LACK OF JURISDICTION

See Plea Transcript

(Tr. p. 22, lines 6-13)

"it's a Jurisdictional issue"

Applicant was sentenced to a consecutive term of ten (10) years, provided that upon the service
^{incorrect →} of three (3) years, the balance would be suspended with probation ^{3 Years} Restitution of \$30,000.00 was
also ordered. The Applicant did not appeal. Yes he did. Direct Appeal # 2012-211446
Filed April 11, 2012

ALLEGATIONS

In his application for post-conviction relief, Applicant alleges that he is being held in
custody unlawfully based on the following grounds:

1. Ineffective assistance of counsel.
 - a. Counsel misled the Applicant by telling him he would receive a lesser sentence than he did.
 - b. Counsel failed to hire a forensic accountant and did not present defendant's request for a restitution hearing.
2. Lack of subject matter jurisdiction.
 - a. The solicitor and the court lacked authority because the offense happened outside the state of South Carolina.
3. Involuntary guilty plea.
 - a. "Defendant pled guilty with the expectation that the solicitor would refrain from making a recommendation to the judge and that he would not oppose any request for leniency by the defendant."

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from plea counsel, Mike Lifsey, Esquire (Counsel). This Court also had before it a copy of the plea transcript, the Fairfield County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.

During the evidentiary hearing, Applicant testified that he was represented at his plea by Mike Lifsey, Esquire. Applicant testified he has filed a lawsuit against the solicitor and the investigators involved in his case. Applicant testified that he understands *PCR is solely for attacking the representation of his plea counsel. Applicant testified he was initially appointed *But See Williams v. Ozmint, (S.C. 2008) 380 S.C. 473, 671 S.E.2d 600. another attorney before Counsel took his case. Applicant testified he did not remember all of the charges he faced prior to his plea. Applicant testified there were initially ten charges filed against

him, all relating to financial transactions. Applicant testified he had some charges dismissed. Applicant testified he spoke with Counsel several times by telephone, but they mostly communicated through email. Applicant testified that once he posted bond, it was easier for him ~~to meet with Counsel. Applicant testified he met at Counsel's office the week before court.~~ Applicant testified they never met in Fairfield County. Applicant testified he and Counsel discussed his medications, but they never discussed any possible defenses. Applicant testified he wanted Counsel to hire a forensic accountant because he disputes the amount of restitution he was ordered to pay. Applicant testified that expert testimony from a forensic accountant would have helped him. Applicant testified Counsel told him not to ask for a restitution hearing. Applicant testified he was never charged with the crime for which restitution was ordered. Applicant testified that Counsel got approval to hire a forensic accountant, and that Counsel discussed two different candidates to hire. Applicant testified this occurred fifteen months prior to his plea. Applicant testified that some of the crimes for which he was indicted occurred outside Fairfield County, and the court did not have subject matter jurisdiction. Applicant testified Counsel never raised that issue. Applicant testified he pled guilty because he wanted to get it over with. Applicant testified the solicitor offered him a seven year plea offer but revoked it prior to Applicant's plea. Applicant testified Counsel told him he was only pleading to three counts, not four. Applicant testified he asked for an appeal, but it was dismissed because a challenge of subject matter jurisdiction was not preserved. Applicant testified Counsel should have objected to a lack of subject matter jurisdiction. Applicant testified that he believes the indictments are illegal because he claims they contain different charges than those for which he was initially arrested. Applicant testified he did not discuss the indictments with Counsel. Applicant testified that he was in jail during the original date on the indictments. Applicant

testified he pled guilty because Counsel told him to. Applicant testified he was not being truthful with the plea judge during the plea colloquy, and he was just repeating what Counsel told him to say.

~~Following Applicant's testimony, Mike Lifsey, Esquire (Counsel), testified. Counsel~~
testified he has been practicing law since 1991. Counsel testified he is the Circuit Public Defender for the Sixth Judicial Circuit. Counsel testified he took Applicant's case after Applicant and his prior appointed attorney had a falling out. ^{→ he was representing victim's family} Counsel testified he met with Applicant a couple of times at the Fairfield County Detention Center, and then after Applicant was released on bond, Applicant moved to Pennsylvania, so they communicated via email most of the time. Counsel testified that Applicant returned to South Carolina prior to the plea, and Counsel met with Applicant three to five times in person. Counsel testified that he obtained discovery and went over it with Applicant. Counsel testified Applicant admitted to accessing the accounts from which the money and funds were stolen. ^{→ NO He did not - see attached memo from Clerk of Court} Counsel testified that Applicant claimed he only took around \$20,000.00 and that he was locked up before his wife stole the rest of the funds. Counsel testified that Applicant pled guilty to only those crimes which he admitted doing, which were theft of funds from the victim's Bank of America, Schwab, and E-Trade accounts. Counsel testified the other charges against Applicant were dropped. ^{→ Dismissed after State stole the money} Counsel testified Applicant had no defenses to the charges to which he pled. Counsel testified the evidence was overwhelming due to recordings of telephone calls made by the Applicant to the trading companies. Counsel testified he understood Applicant's argument concerning the amount of restitution, but Counsel ^{this is not true and this is not even what was said} did not think it would be a good strategy to argue that Applicant only stole part of the money, when Applicant was the one who masterminded the operation. Counsel testified that but for Applicant's actions, none of the money would have been stolen. Counsel testified he thought the

better strategy was for the Applicant to throw himself at the mercy of the court. Counsel testified he did not have concerns about Applicant's mental health. Counsel testified he discussed the constitutional rights that Applicant was waiving by pleading guilty. Counsel testified he went over the elements of the charges and possible penalties with Applicant. Counsel testified he had no concerns about the indictments or whether the court had jurisdiction to hear Applicant's plea. Counsel testified the solicitor withdrew the seven year plea offer prior to Applicant's decision to plead guilty. Counsel testified he never promised Applicant he would receive a particular sentence. Counsel testified he never told Applicant he would only get four years. Counsel testified that once the solicitor dismissed all of the charges except for what Applicant admitted to doing, there was no need to hire a forensic accountant. Counsel testified the only potential reason to hire a forensic accountant at that point was to make a restitution argument, but Counsel did not think the argument would resonate well with a judge or jury. Counsel testified Applicant's wife also had pending charges stemming from the incidents. Counsel testified that he did receive the funds to hire an accountant but ultimately deemed it unnecessary.

** His exact words were "Not more than 4 years".*
→ April 3, 2012
→ AFTER
15 months difference
↑
December 2010

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

This Court finds Applicant failed to demonstrate that Counsel's performance was deficient in any way. This Court further finds that Applicant presented no evidence to show any **Court refused to look at it !!!** prejudice resulting from Counsel's representation. Additionally, this Court finds Counsel's testimony credible and Applicant's testimony not credible.
he is a LIAR

This Court finds that Counsel met with Applicant multiple times prior to the guilty plea. This Court further finds Counsel obtained discovery from the solicitor and went over it with Applicant. **I have proven that he didn't** This Court finds Counsel's belief that Applicant's restitution argument would not resonate with a judge or jury was reasonable. Accordingly this Court holds Counsel's decision not to hire a forensic accountant was reasonable, especially considering the fact that the charges to which Applicant did not admit his guilt were dropped. This Court finds Counsel's belief that

Applicant had no competency issues was reasonable. This Court finds that the evidence against Applicant was overwhelming, and Counsel did everything he could reasonably have done to obtain a favorable outcome for Applicant. ~~This Court further finds that Counsel thoroughly prepared Applicant's case. This Court further finds that because Applicant admitted to lying to the plea court, his testimony to this Court is not credible. This Court further finds there was no reason for Counsel to challenge the legality of the indictments in this case.~~ This Court further finds that Applicant waived any challenges he may have had by pleading guilty. This Court can find no evidence to support Applicant's allegation that Counsel advised him he would receive a specific sentence by pleading guilty. Accordingly, This Court finds Applicant's argument in that regard to be without merit.

Accordingly, this Court finds Applicant did not demonstrate any deficiencies in Counsel's representation. This Court finds that because Counsel's representation was well within the range of competence required in criminal cases, Applicant has further failed to make any showing that but for Counsel's alleged deficiencies, the result of Applicant's case would have been any different.

SUBJECT MATTER JURISDICTION

The Applicant has claimed that the trial court lacked subject matter jurisdiction. Subject matter jurisdiction is the power of a court to hear a particular class of cases. *See See State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005); *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994).

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. *See Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001), *overruled in part by Gentry, supra*. However, "[c]ircuit courts obviously have

subject matter jurisdiction to try criminal matters.” Gentry, *supra*, 610 S.E.2d at 499; *See also* S.C. Const. Art. V, § 7. Thus, the Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside.

~~This Court finds that Applicant’s arguments regarding the plea court’s lack of jurisdiction~~ are wholly without merit. This Court can find no credible evidence to support a finding the plea court lacked any type of jurisdiction to accept Applicant’s plea. The Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

INVOLUNTARY GUILTY PLEA

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. *See Boykin v. Alabama*, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. *Id.* at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one’s accusers. *Id.* Moreover, a criminal defendant entering a guilty plea “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant’s knowing and voluntary waiver of statutory or constitutional rights in a guilty plea “must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

But
they
did
not

This Court finds Applicant has failed to demonstrate that his guilty plea was entered involuntarily. Once again, this Court finds Counsel's testimony to be credible and Applicant's testimony to be not credible.

This Court finds Applicant was aware of the nature of the charges he was facing and the possible penalties. This Court finds Applicant was well aware that by pleading guilty he was waiving his ability to challenge the evidence against him. This Court further finds Applicant was well aware of the constitutional rights he was waiving by pleading guilty. This Court further finds that Applicant pled guilty voluntarily and of his own free will. Furthermore, this Court is not convinced by Applicant's claims that he only pled guilty because Counsel forced him to, or the claims that Counsel promised him a certain sentence. Accordingly, those claims are without merit. Finally, this Court finds no reason to believe Applicant was led to believe the State would refrain from opposing Applicant's request for leniency or making a sentencing recommendation.

Accordingly, those claims are without merit.

See attached proof
Plea was "without negotiation or recommendation"

Accordingly, this Court finds Applicant's guilty plea was knowingly and voluntarily entered. This Court finds that the evidence presented at the evidentiary hearing as well as contained within the guilty plea transcript clearly supports a finding that the guilty plea was not coerced or involuntary; rather, it was freely, knowingly, and voluntarily entered. This Court finds Applicant was informed of the nature and elements of the offenses with which he was charged and to which he pled guilty. This Court further finds that Applicant was fully apprised of the

rights he was forfeiting in order to plead guilty and that Applicant decided to go forward with his guilty plea.

ALL OTHER ALLEGATIONS *that you ignored*

~~As to any and all allegations that were raised in the application or at the hearing in this~~
matter and not specifically addressed in this order, the Court finds Applicant failed to present
sufficient evidence regarding such allegations. Accordingly, the Court finds Applicant has
abandoned any such allegations. *NO, I do not*

CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Plea counsel rendered effective assistance in regard to the claims raised by Applicant. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

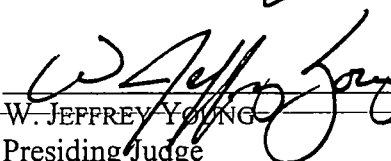
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 28th day of Aug, 2014.



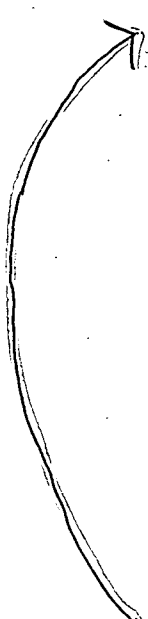
W. JEFFREY YOUNG
Presiding Judge
Sixth Judicial Circuit

Sumter, South Carolina

1 able to deplete those fraudulent accounts basically starting
2 in early August and lasting until mid-October. Mr. Bundrick
3 returned I believe in October, made the report to the
4 sheriff's department that basically his checking account had
5 been depleted. It didn't take -- I think initially the
6 sheriff's department, what made them suspect Mr. Miller or
7 his girlfriend or wife, Kayla Miller, that they had some
8 involvement was they were able to find these other accounts
9 and were able to look at or get some ATM photos throughout
10 South Carolina where Kayla was photographed using the ATM
11 cards that belonged to Mr. Bundrick. In early November
12 Kayla Hudson Miller was arrested, she was actually arrested
13 at the courthouse, she had in her possession at that time
14 several financial cards with Mr. Bundrick's name on them.
15 She did give the investigators the location of where
16 Mr. Miller was and he was caught within an hour or so at a
17 storage unit here in Fairfield County. When he was caught
18 there he had \$9,000 in cash in the storage unit, he also had
19 several cards with Mr. Bundrick's name on it that belonged
20 to these fraudulent accounts. E-trade did a fairly thorough
21 investigation as to what all had occurred. E-trade actually
22 had a phone call of where Mr. Miller called into E-trade and
23 we have the recording purporting to be Mr. Bundrick
24 basically complaining about he tried to use the ATM card
25 somewhere and it was insufficient funds because one of the

(69)

1 transactions hadn't gone through yet from moving it from the
2 Provident account to the E-trade account. Fairly clearly
3 you can tell, at least in my opinion, that it was
4 Mr. Miller's voice on that phone and that's certainly
5 something we would put forth at trial that his voice matched
6 the person who made that phone call. An additional thing
7 ~~Mr. Miller did that he's not actually pleading guilty to~~
8 ~~because I think it's a jurisdictional issue but it's part of~~
9 ~~the restitution and I think it's something important for you~~
10 to know about, is Mr. Bundrick owned some stock in I believe
11 it is some type of oil or energy company out of New York, I
12 believe the holding or the financial company managing the
13 stocks was in New York. Mr. Miller was somehow able to
14 liquidate \$58,000 and some change worth of Mr. Bundrick's
15 stock, have a check sent to E-trade that was then put into
16 the E-trade account. The only thing I guess that was
17 positive out of this is a lot of this money when Mr. Miller
18 and Kayla Miller was caught a lot of money was still in the
19 accounts. A lot of money was gone but a good bulk of it was
20 still in these accounts and Mr. Bundrick was made whole on
21 the Provident account, he was not made whole on the stock
22 sale. After the Provident account was I guess made whole
23 back --



24 THE COURT: So Mr. Bundrick got \$139, or was it
25 \$139,000?

1 MR. LIFSEY: No, sir.

2 THE COURT: Solicitor, one question. Now, Mr. Bundrick
3 is actually out of the \$29,025.75?

4 MR. MAXWELL: That's correct, Your Honor.

5 THE COURT: He has been made whole by insurance and
6 banks or whatever. Help me out a little bit.

7 MR. MAXWELL: The money that was in the checking
8 account the initial fraud was coming from, 101,000 the banks
9 made him whole. Where he is out of the money is after
10 Mr. Bundrick (sic) had liquidated that account he liquidates
11 the stocks in this company up in New York for \$58,000 and
12 that is the bulk of what Mr. Bundrick is out of because
13 those stocks were sold. Of course, when the fraud was
14 caught they just don't give him the stocks back, and luckily
15 there was still \$19,000 of that money still in one of the
16 accounts that he was able to get back. And then he got cash
17 back --

18 THE COURT: So once again he was out of about \$30,000
19 basically.

20 MR. MAXWELL: Yes, sir, that he is out.

21 THE COURT: Anything further?

22 MR. LIFSEY: No, sir.

23 THE COURT: Mr. Miller, on indictment number 2011-35,
24 State versus Robert J. Miller, it's an indictment for
25 financial identity fraud, I sentence you to ten years. On

1 indictment number 2011-37, identity fraud, I sentence you to
2 ten years. Those sentences are concurrent one with the
3 other. On indictment number 2011-36, State versus Robert
4 Miller, financial identity fraud, sentence to ten years
5 suspended to three years probation, that's consecutive to
6 the ten years I have imposed upon on you already. Special
7 conditions of probation when you finish your first ten year
8 sentence is what you make restitution to Mr. Bundrick in the
9 amount of \$30,000. I'll leave open whether or not --
10 because I don't think the Court should be a collection
11 agency for banks or other institutions, I will leave that
12 matter open for somebody to deal with at the appropriate
13 time. Thank you all so very much, we will take a short
14 break.

15 (End of the hearing.)

16
17 Absent the ILLEGAL restitution Order,
18 I would NOT have 10 years suspended
19 to 3 years probation |||
20

21
22 All 3 Sentences should be run
23 Concurrently
24
25

Right ?

PALM PRINTS AVAILABLE

MILLER, ROBERT JAMES JUNIOR
SC0200000 FAIRFIELD CNTY SO
CASE-108284
ATN-200000007265
WARR-M400779
CIT-16-14-40(E)-FELONY

11/03/2010

Exhibit # 20

ARREST CHARGE 01-FINANCIAL
TRANSACTION CARD FORGERY
OFFENSE DATE-09/15/2010
PALM PRINTS AVAILABLE

END OF PAGE

01 - PAGE 02 TO FOLLOW

FROM: SCCH-10042517 20101118 12:13:42 003F993C95
20101118 12:13:42 1E1500FEAA

Exhibit #21

PAGE-02 DATE-11/18/2010 TIME-12:15:38
REQ ORI-SC0200000 FAIRFIELD CNTY SO
SID-SC01603793 FBI-114027LA9

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

WARR-M400780

CIT-16-14-40(E)-FELONY

ARREST CHARGE 02-FINANCIAL
TRANSACTION CARD FORGERY
OFFENSE DATE-10/06/2010

WARR-M400781

CIT-16-14-40(E)-FELONY

ARREST CHARGE 03-FINANCIAL
TRANSACTION CARD FORGERY
OFFENSE DATE-08/28/2010

WARR-M400788

CIT-16-14-60-MISDEMEANOR

ARREST CHARGE 04-FINANCIAL
TRANS CARD FRAUD <\$500 IN
6MTHS
OFFENSE DATE-08/28/2010

WARR-M400789

CIT-16-14-60-MISDEMEANOR

ARREST CHARGE 05-FINANCIAL
TRANS CARD FRAUD <\$500 IN
6MTHS
OFFENSE DATE-10/06/2010

WARR-M400790

CIT-16-14-60-MISDEMEANOR

ARREST CHARGE 06-FINANCIAL
TRANS CARD FRAUD <\$500 IN
6MTHS
OFFENSE DATE-09/15/2010

WARR-M400791

CIT-16-14-60-MISDEMEANOR

ARREST CHARGE 07-FINANCIAL
TRANSACTION CARD FRAUD
GENERALLY
OFFENSE DATE-09/15/2010

WARR-M400793

CIT-16-14-60-MISDEMEANOR

ARREST CHARGE 08-FINANCIAL
TRANSACTION CARD FRAUD
GENERALLY
OFFENSE DATE-10/06/2010

WARR-M400795 @

CIT-16-13-30(B)(1)-FELONY

ARREST CHARGE 09-GRAND LARCEN
Y, VALUE >\$1,000 BUT <\$5,00
0
OFFENSE DATE-08/28/2010

@ - WARRANT OCCURS WITH MORE THAN ONE SID NUMBER

Switched
to

Financial
Identity
Fraud

111
000

DOCKET NO. 2011-03-20-035

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2011

THE STATE
vs.

Robert J. Miller, Jr.

Indictment for
Financial Identity Fraud

SC Code: § 16-13-510
CDR Code: 2813
Class: Felony, E

WITNESSES

Talbert-FCSO

ARREST WARRANT NUMBER/DOA

M400779 (DOA-11-03-10)

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

ARREST WARRANT

M-400780

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Fairfield

THE STATE

against

10-9284

Robert James Jr Miller

Address: reebriar Mossydale

Winnsboro, SC 29180-

Phone: _____ SSN: _____

Sex: M Race: W Height: 5 10 Weight: 155

L State: SC DL #: 99999999

DOB: 1971 Agency ORI #: SC0200000

Prosecuting Agency: Fairfield County Sheriff

Prosecuting Officer: J Talbert - 1086

Offense: FinanTC / Financial identity fraud, obtains/records

identify. info., access/att. access finan. records of

Penal Code: 2813

Order/Ordinance Sec: 16-13-0510

This warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

to be arrested and brought before me to be

all with according to the law.

Signature of Judge

(L.S.)

RETURN

copy of this arrest warrant was delivered to

endant

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:

General Sessions

101 South Congress St

PO Drawer 299

Winnsboro, SC 29180

DEFENDANT COPY DEFEIT/DANT COPY

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Fairfield

Personally appeared before me the affiant

J Talbert

being duly sworn deposes and says that defendant

Robert James Jr Miller

did within this county and state on or about

10/06/2010

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Fairfield

in the following particulars:

DESCRIPTION OF OFFENSE: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of

other unlawfully

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

That on or about October 6, 2010 in the county of Fairfield, one Robert James Jr Miller, without the permission of the victim,

William Bundrick, and with the intent of unlawfully appropriating the financial resources of the victim, did obtain and use Dundrick

identity, social security number, bank account numbers and personal information. With this information the defendant did take

money from the victim's account and deposit into an account fraudulently opened with Bank Of America. This incident is based on

an investigation by the Fairfield County Sheriff's Office.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ ☒ Municipality of

Fairfield

Affiant's Address P. O. Box 387

Winnsboro, SC 29180-

Affiant's Telephone (803)635-4141

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/6/2010 defendant Robert James Jr Miller

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Fairfield

) as set forth below:

DESCRIPTION OF OFFENSE: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of

other unlawfully

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 11/01/2010

Signature of Issuing Judge

Russell Durant Price

Judge Code: 7107

Judge's Address 115-B South Congress Street

Winnsboro, SC 29180-

Judge's Telephone (803)635-4525

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFEIT/DANT COPY

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 316

AFFIDAVIT

DEFENDANT
COPY

DOCKET NO. 2011-GS-20-036

The State of South Carolina
County of Fairfield

2011 FEB -1 P 4:45

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2011

THE STATE
vs.

Robert J. Miller, Jr.

Indictment for
Financial Identity Fraud

SC Code: § 16-13-510
CDR Code: 2813
Class: Felony, E

WITNESSES

Talbert-FCSO

Boyd

ARREST WARRANT NUMBER/DOA

M400780 (DOA-11-03-10)

ACTION OF GRAND JURY

Due Bill

2/1/11

Lisa Winder

Foreperson of Grand Jury

Date:

2/1/11

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF FAIRFIELD)

INDICTMENT

At a Court of General Sessions, convened on February 1, 2011, the Grand Jurors of
Fairfield County present upon their oath:

FINANCIAL IDENTITY FRAUD

That Robert J. Miller, Jr. did in Fairfield County on or about September 2, 2010,
without the authorization or permission of the victim, William Bundrick and with the
intent to unlawfully appropriate the financial resources of the victim to the defendant's
own use or the use of a third party did access the financial resources of the victim
through the use of identifying information in violation of §16-13-0510, *Code of Laws of
South Carolina, (1976), as amended.*

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



Douglas A. Barfield, Jr., SOLICITOR

1 MR. MAXWELL: This is Robert James Miller, Mr. Miller
2 is represented by Mr. Mike Lifsey. Mr. Miller has been
3 indicted for three counts of financial identity fraud, those
4 are docket numbers 2011-GS-20-35, 36, and 37, he is entering
5 guilty pleas to all three charges, that is the 10 year
6 statute. He has a host -- I think eight other charges all
7 related to those identity fraud charges, those indictments
8 will be dismissed per his guilty plea to these first three
9 charges.

10 THE COURT: All right.

11 MR. MAXWELL: This is a straight-up plea, the State is
12 asking for a ten to 15 year sentence. Of course, anything
13 above ten years we would be asking for at least one of the
14 charges to be run consecutive to the first charge. I have
15 handed up a restitution order, it's a lot of money. The
16 victim, Mr. Bundrick, is out of roughly \$29,000 and some
17 change.

18 THE COURT: This is Mr. Bundrick over here to my left?

19 MR. MAXWELL: Yes, sir.

20 THE COURT: How much is he out of?

21 MR. MAXWELL: He is out of 29,000 and some change,
22 there's also some banks that are out of some money because
23 of these transactions. Of course, the State's position is
24 if he gets a ton of time we realize that probation and
25 paying the money back may not be -- may be just kind of a

1 moot point at that point in time. But we've handed it up
2 and however you wish to order that will be fine.

3 THE COURT: Thank you, sir. Mr. Lifsey, you represent
4 Robert Miller?

5 MR. LIFSEY: Yes, sir, I do.

6 THE COURT: Have you explained to Mr. Miller the
7 charges contained in these three indictments, the possible
8 punishments and his rights including his constitutional
9 right to a jury trial?

10 MR. LIFSEY: Yes, sir.

11 THE COURT: And in your opinion does Mr. Miller
12 understand the charges, the punishments and his rights?

13 MR. LIFSEY: I do.

14 THE COURT: How does he indicate to you he wishes to
15 plead, guilty or not guilty?

16 MR. LIFSEY: Guilty, Your Honor.

17 THE COURT: Do you agree with his decision to plead
18 guilty?

19 MR. LIFSEY: Yes, sir, I do.

20 THE COURT: From your investigation of the facts and
21 circumstances surrounding these cases, do you feel that the
22 State could produce sufficient evidence to convince a jury
23 here in Fairfield County of Mr. Miller's guilt and if he
24 were to stand trial on these charges his convictions would
25 be probable?

1 MR. MAXWELL: Your Honor, me and Mr. Lifsey have
2 discussed this case at length. We at different points in
3 time had talked about -- there was an offer on the table of
4 seven years at some point with really no set agreement to
5 the restitution. I don't think Mr. Lifsey disagrees with
6 the amount I've put forward but in the manner of how -- of
7 structuring Mr. Miller making the payments we haven't really
8 talked much about how -- or haven't really agreed to how
9 that's going to happen. It's the State's position that he's
10 pleading straight-up today and we think he deserves a lot of
11 time.

12 THE COURT: And you will drop additional charges I
13 think you mentioned earlier. What are those charges?

14 MR. MAXWELL: Those charges relate to the use of
15 financial cards that were used to access these accounts
16 after they were set up and the money was moved to the
17 fraudulent accounts. There was two counts of financial card
18 fraud, there were three more counts of criminally receiving
19 goods. Basically when I was working with the sheriff's
20 department and we were figuring out what to charge
21 Mr. Miller with prior to his arrest we wanted to make sure
22 we covered all of our bases, everything is related to the
23 financial identity fraud essentially. I think the card
24 fraud of actually using the cards after the fraud was
25 perpetrated, the moving of money to these accounts we

1 months originally after he was arrested in November, he was
2 arrested November 3rd, didn't bond out until February 28th
3 which was a few days shy of four months, he later on ended
4 up in the last spring had a little problem with his bondsman
5 who locked him back up, so he has done four or five months
6 in jail already on these charges. I really doubted at one
7 point that we would even make it to this point today. When
8 he bonded out initially, and I guess this would have been
9 toward the end of February and the spring of 2011 he was
10 hard to track down. When I would call him he would -- or he
11 would call me periodically just sort of crying
12 uncontrollably, sob, threatening suicide. I would
13 immediately tell him to go to the doctor, go to the
14 hospital, but he was in a state way out of where he is
15 today. He also didn't frankly show a lot of remorse for
16 what he had done in this case. Now, the good news, if there
17 is good news, is that at some point I guess when you reach
18 these kinds of -- and I know you have been a judge a long
19 time and you have certainly seen plenty of addicts, but at
20 some point before you can turn around you have to bottom
21 out. And I think probably some point last year or earlier
22 this year we bottomed out and he went home and moved back
23 with his folks in Pennsylvania, they live in McConnellsburg,
24 Pennsylvania which I think is not too far from Maryland in
25 that area. And they've got him involved in a number of

1 MR. LIFSEY: Yes, sir.

2 THE COURT: And has Mr. Miller been ordered to submit
3 to a mental examination to determine his competency to stand
4 trial?

5 MR. LIFSEY: He has not.

6 THE COURT: Any question in your mind, Mr. Lifsey, that
7 Mr. Miller is, in fact, competent to enter these pleas?

8 MR. LIFSEY: No, sir. I will tell you he is taking
9 some psychiatric medications but they are mainly for anxiety
10 and depression. He has always communicated with me very
11 clearly, at least in the last few months communicated with
12 me very clearly and I believe he fully understands what he
13 is doing here.

14 THE COURT: All right. You are Robert Miller; is that
15 correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Mr. Miller, before I can accept your plea
18 of guilty it is necessary for me to make sure that you are
19 making this plea freely and voluntarily. To do that, sir, I
20 need to ask you a series of questions. At any point during
21 my questioning of you if you do not understand anything I
22 say or any words that I use please stop me and I will be
23 more than happy to repeat or explain anything that I've
24 said, Mr. Miller. Additionally I will be more than happy to
25 stop this plea and allow you more time if you need to

1 consult with your attorney, Mr. Lifsey, do you understand,
2 sir?

3 THE DEFENDANT: Yes, sir, Your Honor.

4 THE COURT: How old are you, Mr. Miller?

5 THE DEFENDANT: I'm 40 years old.

6 THE COURT: How far did you go in school?

7 THE DEFENDANT: I got a GED in the 11th grade.

8 THE COURT: What kind of work have you done?

9 THE DEFENDANT: I have worked for Amazon.com as a
10 problem solver and a shipping clerk, I've done a lot of
11 warehouse work.

12 THE COURT: Well Mr. Miller, have you ever been treated
13 for the abuse of alcohol or drugs or for mental illness?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: What have you been treated for and when?

16 THE DEFENDANT: Sir, I'm recently being treated for
17 alcohol dependency, I've been being treated for that since
18 December 6th of last year.

19 THE COURT: Are you still in that program?

20 THE DEFENDANT: Yes, sir, I am.

21 THE COURT: Now, have you taken any medications, drugs
22 or alcohol in the past 24 hours?

23 THE DEFENDANT: I have taken my medication, sir.

24 THE COURT: What sort of medication are you on, sir?

25 THE DEFENDANT: I have taken antidepressants and an

IN THE UNITED STATES DISTRICT COURT
for the District of South Carolina

Robert James Miller, Jr. :
Petitioner :

: C/A No. 1:14-483-JFA-SVH

v. :

Warden, Broad River :
Correctional Institution :
Respondent :

: AFFIDAVIT IN SUPPORT
: OF PETITION FOR WRIT
: OF HABEAS CORPUS

Robert James Miller, Jr. being duly sworn, deposes and says:

- 1) I am the Petitioner in the above-captioned case, and I make this Affidavit to support the facts set forth in my Petition for Writ of Habeas Corpus.
- 2) I resided in Winnsboro (Fairfield County), South Carolina from May 2007 until the morning of August 5, 2010. As a result of an altercation with my fiancé, I packed my clothes and moved out. I have never returned to that house.
- 3) On September 11, 2010, I was arrested at Myrtle Beach for a warrant for criminal domestic violence (CDV) for Fairfield County. I was transferred to Fairfield County on September 15, 2010 and released on a PR bond. The charge was dismissed.
- 4) I left Fairfield County immediately and did not return until November 3, 2010. My wife/co-defendant had a meeting with the Solicitor's Office and it was at this point that the two of us were arrested.

- 5) I was charged for crimes occurring on August 28, 2010; September 15, 2010; and October 6, 2010. Dates in which I am able to prove that I was not in Fairfield County.
- 6) When the above Statement was found to be correct, the State illegally altered the indictments and changed the dates of the offenses to September 2nd and 7th, 2010 (Please See Petition for Writ of Error and Etc).
- 7) Again, I was not in or near Fairfield County on or around this time and therefore not even capable of committing the crimes.
- 8) After her arrest, my co-defendant signed a Statement admitting to committing the fraudulent acts.
- 9) My co-defendant has two cousins whom are also related to the Investigator, Jeff Talbert. ATM Surveillance photos were obtained with all three girls committing fraud. The investigator did not bring charges against his family members. However, he did document his conversation with one of the girls, Jessica Adams, in which she admitted to the fraud.
- 10) Petitioner only has possession of 1/2 of the investigator's notes, the other half of the page is missing. Petitioner has repeatedly requested discovery to no avail (See Petitioner Motion for Appointment of Counsel). Petitioner has also filed a Motion to Issue Subpoena's in this Court (June 3, 2014) that has not been acted on.
- 11) This information and the (missing) Surveillance photos prove that the Petitioner is in fact INNOCENT.

- 12) I, Robert James Miller, Jr., DID NOT commit the offense(s) in which I was pressured and Coerced into pleading guilty to.
- 13) I only pled guilty because the Solicitor instructed the bondsman to (illegally) detain me four days before my trial. I would have (and did) pled guilty to anything at that point.
- 14) As part of the plea, the Solicitor agreed to NOT make a Sentence recommendation. He broke the plea agreement by stating "the State is asking for a ten to 15 year Sentence" (plea transcript page 3).
- 15) Counsel for Petitioner did not object to any of the countless error's, mistakes, and Constitutional violations. Counsel failed to honor any of the Petitioner's requests.

I declare under penalty of perjury that the foregoing is true and correct.

Sworn to and Subscribed
before me this 4th

day of August, 2014.
Susan A. Frye

Robert James Miller Jr.

Robert James Miller, Jr.

My Commission expires:

My Commission Expires
March 5, 2018

PCR Application

State's Return to PCR Application

Counsel's Statement Pursuant to Rule 203(d)(1)(B)(iv) (Direct Appeal)

Order of S.C. Supreme Court dated January 15, 2014

FEDERAL HABEAS GROUNDS

Ground one: Lack of Jurisdiction over the subject matter.

Supporting facts: Alleged offenses occurred outside the territorial jurisdiction of the State of South Carolina. Solicitor lacked authority to initiate ...

Ground two: Constitutionally defective guilty plea.

Supporting facts: Plaintiff unintelligently surrendered his chance of acquittal at trial exchange for concessions that the Solicitor had agreed to but plaintiff did not receive. Plea offer was for a maximum sentence of seven (7) years in exchange

Ground three: Ineffective Assistance of Counsel.

Supporting facts: Plaintiff public defender failed to hire a forensic accountant as promised and approved by the Honorable Judge Goldsmith. He also refused to honor plaintiff's request for a restitution hearing. Plaintiff was denied a fair trial by the gross incompetence of his attorney and ...

Ground four: Involuntary guilty plea.

Supporting facts: Counsel misled the plaintiff into making a disadvantageous choice by indicating that the risk of suffering the maximum penalty could be avoided by pleading guilty. Plaintiff was coerced into pleading guilty ...

Ground five: Plaintiff was not read or otherwise informed of his rights when he was arrested....

Supporting facts: When plaintiff refused to talk or give a statement, Investigator Jeff Talbert made plaintiff's spouse stand in front of the holding cell and forced her into crying by stating he was going to call the Department of Social Services to take our son. ...

Ground six: Plaintiff was falsely imprisoned by the bondsman on March 30, 2012 per request of Assistant Solicitor Riley Maxwell in retaliation for plaintiff not being in agreement to the restitution.

Ground seven: The Honorable L. Casey Manning, per Solicitor Maxwell's request and misleading information, erroneously ordered the plaintiff to pay restitution on a charge that was dismissed.

Supporting facts: The State openly acknowledged on the record that they did not have jurisdiction.

Ground eight: Illegal search and seizure of plaintiff's vehicle on November 3, 2010.

Ground nine: Illegal search of plaintiff's storage unit and seizure of \$9,000.00.

Supporting facts: Search warrant was defective and unlawfully obtained with the intent to deprive plaintiff of property and his rights.

Ground ten: Illegal search and seizure of plaintiff's U.S. mail without any court order or search warrant.

Supporting facts: The intent was of uncovering incriminating evidence which could be used against the plaintiff at trial. None was found but my rights were clearly violated.

Ground eleven: Assistant Solicitor Maxwell unlawfully obtained an Order on March 7, 2011 directing E* Trade Financial to release funds held in this account.

Supporting facts: This incident occurred more than one (1) year before the plaintiff's trial and with the intent to adversely affect and prejudice plaintiff's criminal case. ...

Ground twelve: The State denied the plaintiff due process of law and intentionally neglected to give any notice of the forfeiture hearing held on March 7, 2011.

Supporting facts: This violated State and Federal law and the plaintiff's constitutional rights. Plaintiff was not afforded an opportunity to present witness testimony, attend hearing or present evidence.

Ground thirteen: Assistant Solicitor Maxwell unlawfully obtained a court order directing the Fairfield County Sheriff's Office to release the \$9,882.00 that was illegally seized from the plaintiff. SIX months BEFORE plea !!

Ground fourteen: The State denied the plaintiff due process and equal protection of the law by failing to provide any notice of the forfeiture hearing that was held on October 12, 2011.

Ground fifteen: Assistant Solicitor Maxwell unlawfully obtained a court order on April 5, 2012, directing the transfer of the ownership of the plaintiff's vehicle that was illegally seized.

Supporting facts: Mr. Maxwell committed perjury, violated State and Federal law and deprived the plaintiff of his constitutional rights.

Ground sixteen: The State denied the plaintiff due process of law and deprived him of his personal property.

Supporting facts: Plaintiff was not afforded an opportunity to present witness testimony, attend a hearing or present evidence.

Ground seventeen: Plaintiff's conviction was unlawful as he was denied his Sixth Amendment constitutional right to a speedy trial.

Ground eighteen: Plaintiff's conviction and sentence was obtained in violation of the law. Plaintiff was denied his Sixth Amendment constitutional right to a trial in the "State and district wherein the crime shall have been committed."

Ground nineteen: Plaintiff's conviction and sentence was obtained in violation of the law because the Assistant Solicitor Riley Maxwell and Jeff Talbert, investigator for the Fairfield County Sheriff's Office, concealed evidence and information that would have exonerated the plaintiff.

Ground twenty: Plaintiff was unlawfully convicted and sentenced for a crime in which Investigator Talbert, during the course of his investigation, was able to obtain numerous bank ATM surveillance photographs of two of his relatives withdrawing cash.

Supporting facts: Both admitted to using the ATM cards fraudulently but were never charged. After being advised of this potential conflict of interest, Investigator Talbert intentionally withheld and/or destroyed critical information, evidence, photographs, etc.

Ground twenty-one: The State has continuously rejected and denied the plaintiff's requests for discovery, in violation of State and Federal law and the Sixth and Fourteenth Amendments of the U.S. Constitution.

Ground twenty-two: Plaintiff's conviction and sentence was obtained in violation of the law because the Assistant Solicitor had the plaintiff picked up by the bondsman and falsely imprisoned on March 30, 2012.

Supporting facts: This deliberate act deprived plaintiff of his rights to meet with his attorney, prepare for a trial, or negotiate a plea and forced plaintiff into pleading guilty four days later. This incident was extremely detrimental to the plaintiff and created significant prejudice as the plaintiff was unable to wear a coat and tie to court but had to settle for a bright orange jumpsuit, handcuffs, leg irons and a chain and padlock around his waist.

Ground twenty-three: Plaintiff's sentence violates the Due Process Clause of the Fourteenth Amendment.

Supporting facts: The sentence is an "Atypical" and "Significant Hardship" on the plaintiff in relation to the generally accepted "normal" or "average" sentence imposed for this type of offense. Plaintiff's conviction and sentence clearly indicates bias, prejudice and discrimination....

Ground twenty-four: Plaintiff's sentence is an obvious departure from the ordinary guidelines applied to persons pleading guilty and constitutes cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution.

Supporting facts: Plaintiff would not have pled guilty and would have insisted on going to trial had he been made aware of what was meant by pleading "without Negotiations or Recommendation."...Plaintiff's sentence is unlawful because Assistant Solicitor Maxwell did not keep his agreement. Even after stating he would not make a recommendation to the judge he asked for "a ten to 15 year sentence."

Ground twenty-five: Plaintiff's conviction and sentence was obtained in violation of the law because he is in fact innocent.

Ground twenty-six: Plaintiff has recently learned that he had a constitutional right to be represented by counsel for his appeal even though he could not afford one.

Supporting facts: Plaintiff was denied this right. Plaintiff wrote numerous letters to the Office for Indigent Defense requesting assistance but never received any response.

Ground twenty-seven: Had plaintiff not been deprived of his right to counsel, he clearly would have been able to raise each claim that had been known and exhausted all State remedies.

Ground twenty-eight: Some grounds listed in this Petition were only recently uncovered and made known (i.e., constitutional violations of conducting forfeiture hearings without the plaintiff's knowledge, illegal search and seizure of plaintiff's U.S. mail, unlawful transfer of plaintiff's property, etc.)

Supporting facts: Plaintiff has made every possible attempt to exhaust State remedies by filing Motions for reconsideration and to vacate or modify sentence which have all been rejected.

Ground twenty-nine: As a result of the Assistant Solicitor's misconduct prior to and at the plea hearing, plaintiff is entitled to relief "on the law."

Ground thirty: Plaintiff is entitled to relief on the basis of legally insufficient evidence to support a conviction.

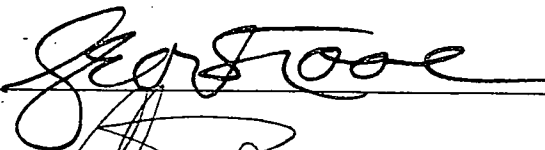
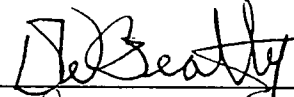
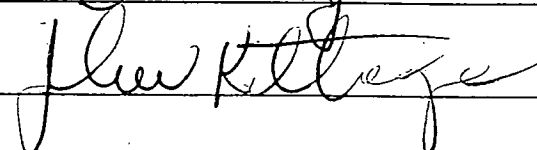
The Supreme Court of South Carolina

ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *Robert Artis*. Letter to the Clerk of Court dated April 14, 2014. Appellate Case No. 2014-000789.
2. *Cornelius Hayes*. Letter to the Clerk of Court dated April 25, 2014. Appellate Case No. 2014-000940.
3. *Robert James Miller, Jr.* Letter to the Clerk of Court; Motion to Vacate Illegal Sentence dated May 12, 2014. Appellate Case No. 2014-001029.
4. *Dwayne Cabbagestalk vs. Jenny A. Kitchings, Clerk of Court for South Carolina Court of Appeals, Robert M. Pachak, Appellate Defender for South Carolina Commission on Indigent Defense*. Petition for a Writ of Mandamus dated April 28, 2014. Appellate Case No. 2014-001004.
5. *Kevin W. McDaniels*. Letter to the Chief Justice dated May 8, 2014. Appellate Case No. 2014-001028.

IT IS SO ORDERED.

 C.J.
 J.
 J.
 J.

Hearn, J., not participating.

Columbia, South Carolina

May 12, 2014

CC:

Mr. Robert Artis

Mr. Alex Underwood

Mr. Cornelius Hayes

Mr. Leon Lott

Mr. Robert Miller

Office of The Attorney General

Mr. Dwayne Cabbagestalk

Mr. Kevin McDaniels

ARREST WARRANT
M-400917

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Fairfield

THE STATE
against
Robert James Jr Miller
Address: Greenbriar Moss
Winnsboro, SC 29180-
2011 JAN -6 P 2:25
FAIRFIELD CLERK OF COURT
JERRY JO BECKHAM

Phone: SSN:
Sex: M Race: W Height: 5 10 Weight: 155
DL State: SC DL #: 99999999
DOB: 10/1/1971 Agency ORI #: SC0200000
Prosecuting Agency: Fairfield County Sheriff
Prosecuting Officer: J Talbert - 1086
Offense: FinanTC / Financial identity fraud, obtains/records
identify, info., access/att. access finan. records of
Offense Code: 2813
Code/Ordinance Sec: 16-13-0510

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and / brought before me to be
dealt with according to the law.

Date: (L.S.)
Signature of Judge

RETURN
A copy of this arrest warrant was delivered to
defendant Robert James Jr Miller
on 12-20-10
Sgt Chris Price
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Fairfield Magistrate
115-B South Congress Street
Winnsboro, SC 29180

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Fairfield

Personally appeared before me the affiant J Talbert
being duly sworn deposes and says that defendant Robert James Jr Miller
did within this county and state on or about 09/01/2010
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of
Fairfield
in the following particulars:

DESCRIPTION OF OFFENSE
FinanTC / Financial identity fraud, obtains/records identify, info., access/att. access finan. records of
other unlawfully

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on September 1, 2010 in the county of Fairfield, one Robert James Miller Jr, without the permission of the victim, William
Bundrick, and with the intent of unlawfully appropriating the financial resources of the victim, did obtain and use Bundrick's
identity, social security number, bank account numbers and personal information. With this information the defendant did
fraudulently open an account with E-Trade. This incident is based on an investigation by the Fairfield County Sheriff's Office.

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
Fairfield

Affiant's Address P. O. Box 387
Winnsboro, SC 29180-
Affiant's Telephone (803)635-4141

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 9/1/2010 defendant Robert James Jr Miller
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County/ ☐ Municipality of Fairfield) as set forth below:

DESCRIPTION OF OFFENSE: FinanTC / Financial identity fraud, obtains/records identify, info., access/att. access finan. records of
other unlawfully

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 11/01/2010

Judge's Address 115-B South Congress Street
Winnsboro, SC 29180-
Judge's Telephone (803)635-4525
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL ORIGINAL

ORIGINAL
AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

EXHIBIT N

1 Sheriff's Department you may have given some type of
2 incriminating statements, that is made some admissions or
3 confessions about your guilt, you need to realize by
4 pleading guilty here today you waive your right to contest
5 if you gave any statements whether or not they were taken or
6 obtained from you freely and voluntarily in accordance with
7 your constitutional rights. Do you understand that, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So Mr. Miller, I'll ask you once again, did
10 you commit these offenses?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: So once again, Mr. Miller, you're telling
13 me you're pleading guilty to indictments 2011-35, 2011-36
14 and 2011-37 because you did, in fact, in Fairfield County
15 back on September 7th of 2010, September 2nd of 2010 and
16 August 28th of 2010 you accessed the financial information
17 of Mr. William Bundrick and you used it for purposes of
18 getting money through the bank or something like that, you
19 understand all of that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You're pleading guilty because you are, in
22 fact, guilty, is that correct, sir?

23 THE DEFENDANT: That's correct, sir.

24 THE COURT: Very well. Solicitor, have there been any
25 plea negotiations?

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Fairfield

VS.

Robert James Miller Jr

AKA:

Race: WHITE Sex: M Age: 40

DOB: 1971 SS#: 7228

Address: Cito RJ

City, State, Zip: McConellsburg, PA 17233

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of other unlawfully

in violation of § 16-13-0510

of the S.C. Code of Laws, bearing CDR Code # 2813

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Maxwell, Riley J

74878

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4/3/12 2011GS2037

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
39 County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

days/hours Public Service Employment.

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning _____

\$ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 2061

Sentence Date: 4.3.12

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-20-35

A/W#: M400779

Date of Offense: 9/7/2010

S.C. Code § : 16-13-0510

CDR Code #: 2813

SENTENCE SHEET

0-10 yrs.

Clerk of Court/ Deputy Clerk

Court Reporter: Beth Wadhwa

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

COUNTY OF Fairfield
STATE VS.Robert James Miller Jr

AKA:

Race: WHITE Sex: M Age: 40DOB: 1971 SS#: 7228Address: Mc Connally Rd
City, State, Zip: Mc Connally Rd, PA 17233DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of other unlawfullyin violation of § 16-13-0510of the S.C. Code of Laws, bearing CDR Code # 2813☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Maxwell, Riley J74878

SC Bar#

Robert James Miller Jr

Defendant

Attorney for Defendant015154

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:4/3/12 2011GS2037 & 2011GS2035The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ OrderedTotal: \$ 30,000 plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

	\$	\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$ <u>500.00</u>
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ <u>5.00</u>
County (if paid in installments)		\$ <u>18.90</u>
		\$ <u>648.90</u>

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011-GS-20-36A/W#: M400780Date of Offense: 9/2/2010S.C. Code §: 16-13-0510CDR Code #: 2813

SENTENCE SHEET - 10 yrs.

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-13-0510 of the S.C. Code of Laws, bearing CDR Code # 2813☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Maxwell, Riley J74878

SC Bar#

Robert James Miller Jr

Defendant

Attorney for Defendant015154

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3

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

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:4/3/12 2011GS2037 & 2011GS2035The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ OrderedTotal: \$ 30,000 plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

	\$	\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$ <u>500.00</u>
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
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		\$ <u>648.90</u>

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☒ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code: 2061Sentence Date: 4-3-12

COUNTY OF Fairfield
STATE VS.
Robert James Miller Jr

AKA: _____

RACE: WHITE Sex: M Age: 40

DOB: 1971 SS#: 7228

Address: City Rd

City, State, Zip: Mc Connellsburg, PA 17233

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of other unlawfully

in violation of § 16-13-0510 of the S.C. Code of Laws, bearing CDR Code # 2813

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Maxwell, Riley J 74878 SC Bar# Defendant Attorney for Defendant 015154 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 4/3/12 2011GS2035

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by _____ State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
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County (if paid in installments)	\$
TC	\$

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter:

CCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

SENTENCE SHEET 10 yrs.

4-3-12

1 MR. MAXWELL: This is Robert James Miller, Mr. Miller
2 is represented by Mr. Mike Lifsey. Mr. Miller has been
3 indicted for three counts of financial identity fraud, those
4 are docket numbers 2011-GS-20-35, 36, and 37, he is entering
5 guilty pleas to all three charges, that is the 10 year
6 statute. He has a host -- I think eight other charges all
7 related to those identity fraud charges, those indictments
8 will be dismissed per his guilty plea to these first three
9 charges.

10 THE COURT: All right.

11 MR. MAXWELL: This is a straight-up plea, the State is
12 asking for a ten to 15 year sentence. Of course, anything
13 above ten years we would be asking for at least one of the
14 charges to be run consecutive to the first charge. I have
15 handed up a restitution order, it's a lot of money. The
16 victim, Mr. Bundrick, is out of roughly \$29,000 and some
17 change.

18 THE COURT: This is Mr. Bundrick over here to my left?

19 MR. MAXWELL: Yes, sir.

20 THE COURT: How much is he out of?

21 MR. MAXWELL: He is out of 29,000 and some change,
22 there's also some banks that are out of some money because
23 of these transactions. Of course, the State's position is
24 if he gets a ton of time we realize that probation and
25 paying the money back may not be -- may be just kind of a

1 MR. MAXWELL: Your Honor, me and Mr. Lifsey have
2 discussed this case at length. We at different points in
3 time had talked about -- there was an offer on the table of
4 seven years at some point with really no set agreement to
5 the restitution. I don't think Mr. Lifsey disagrees with
6 the amount I've put forward but in the manner of how -- of
7 structuring Mr. Miller making the payments we haven't really
8 talked much about how -- or haven't really agreed to how
9 that's going to happen. It's the State's position that he's
10 pleading straight-up today and we think he deserves a lot of
11 time.

12 THE COURT: And you will drop additional charges I
13 think you mentioned earlier. What are those charges?

14 MR. MAXWELL: Those charges relate to the use of
15 financial cards that were used to access these accounts
16 after they were set up and the money was moved to the
17 fraudulent accounts. There was two counts of financial card
18 fraud, there were three more counts of criminally receiving
19 goods. Basically when I was working with the sheriff's
20 department and we were figuring out what to charge
21 Mr. Miller with prior to his arrest we wanted to make sure
22 we covered all of our bases, everything is related to the
23 financial identity fraud essentially. I think the card
24 fraud of actually using the cards after the fraud was
25 perpetrated, the moving of money to these accounts we

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

STATE OF SOUTH CAROLINA,)

VS.)

Robert Jones Millard)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

AFFIDAVIT OF DEFENDANT FOR GUILTY PLEA

The Defendant states to the Court that the Defendant wants to plead guilty to the following charge(s):

Financial Identity Fraud (3 counts)

In Connection with the plea, I certify that the answers to the following questions are true:

BACKGROUND OF DEFENDANT

- 1) How old are you? 40
- 2) How far did you go in school? GED
- 3) What kind of work do you do? Unemployed
- 4) Have you ever been treated for abuse of alcohol and/or drugs or for mental illness? yes ☐ no
 If so, when? _____
 For how long? Currently under treatment
 Did you successfully complete the program? ☐ yes ☐ no
- 5) Have you taken any medication, drugs, or alcohol in the last 24 hours? ☒ yes ☐ no
 If yes, what? Klonopin, Vistaril, Trezalone, Atripla
 How much? prescribed amounts
 Does this affect your ability to understand and comprehend what is going on here today
☐ yes ☒ no
- 6) Are you today under the influence of any medication, drugs, or alcohol? ☐ yes ☒ no

- 7) Are you today aware of any physical, emotional, or nervous problem that might keep you from understanding what you are doing? ☐ yes ☒ no
- 8) Have you ever been ordered by a judge to submit to a mental evaluation to determine your competency to stand trial? ☐ yes ☒ no

WAIVER OF CONSTITUTIONAL RIGHTS

- 1) Do you understand that you have the right to remain silent, that is, your right against self-incrimination? You cannot be compelled to testify or give evidence against yourself. Do you understand this right? ☒ yes ☐ no

Do you wish to give up this right and plead guilty?

☒ yes ☐ no

- 2) Do you understand that you have a right to a jury trial, you have a right to have a jury decide whether or not you are guilty beyond a reasonable doubt. They would base their decision upon evidence which the state presents and on any evidence you might wish to introduce. In a trial, you would be presumed to be innocent, and the state would have to produce evidence that would convince all 12 members of the jury that you were guilty beyond a reasonable doubt. Do you understand this right?

☒ yes ☐ no

Do you wish to give up your right to a jury trial and plead guilty?

☒ yes ☐ no

- 3) Do you understand that you have the right to confront and be confronted by the witnesses against you, that is, the right to see, hear, and cross examine any witnesses that may be called against you during the trial and the right to subpoena and call witnesses on your own behalf?

☒ yes ☐ no

Do you wish to give up these rights and plead guilty?

☒ yes ☐ no

- 4) If your case has not yet been before the grand jury, you have the right to have the case presented to the grand jury. After hearing evidence, 12 of the 18 people on the grand jury would have to agree that you were probably guilty before the charge against you could be reported out as a True Bill ready for trial. A grand jury might return a No BILL, which would mean that the charge would be dismissed. Do you understand this right?

☐ yes ☐ no

Do you wish to give up your right to have the grand jury examine your case?

☐ yes ☐ no



5) Do you understand that when you plead guilty you give up these constitutional rights?

yes no

Is that what you want to do?

yes no

Do you understand that you will not get a jury trial if you plead guilty?

yes no

NATURE OF THE CHARGE AND CONSEQUENCES OF PLEADING GUILTY

1) Has your attorney discussed with you the charge(s) and possible punishments for the charge(s)?

yes no

2) Are you pleading guilty for any other reason that the fact that you are guilty? yes no
If so what is the other reason?

3) As you understand, the possible penalty for this charge is:

up to 10 yr on each count

4) If an offense with graduated penalties: Do you understand that if you plead guilty to this offense and you are convicted at a later time of a similar crime, the punishment will be higher next time?

yes no *MA*

5) Do you have any questions about the nature of the charges against you?

yes no

6) Do you understand that when you plead guilty you admit the truth of the charge(s) against you?

yes no

7) You may have defenses to the charge(s) against you. Do you understand that if you plead guilty you will waive or give up any defense to the charge(s)?

yes no

8) You may have given an incriminating statement in this case. Do you understand that if you plead guilty you waive or give up the right to contest or challenge whether such a statement was freely and voluntarily given in accordance with your constitutional rights?

yes no

- 9) Understanding the nature of the charge(s) against you and the consequences of a guilty plea, do you still wish to plead guilty?

☒ yes☐ no

PLEA NEGOTIATIONS

- 1) Has any plea agreement been made by you with the solicitor's office?

☐ yes☒ no

If so, exactly what do you understand the agreement to be?

- 2) Other than this agreement, has anyone promised you anything else in regards to your sentence in this case?

☐ yes☒ no

VOLUNTARINESS OF PLEA

- 1) Has anyone promised you anything or held out any hope of reward to get you to plead guilty?

☐ yes☒ no

- 2) Has anyone threatened you or used force to get you to plead guilty?

☐ yes☒ no

- 3) Has anyone used pressure or intimidation to cause you to plead guilty?

☐ yes☒ no

- 4) Have you had enough time to make up your mind as to whether or not you want to plead guilty?

☒ yes☐ no

- 5) Are you pleading guilty of your own free will and accord?

☒ yes☐ no

SATISFACTION WITH ATTORNEY

- 1) Has your attorney reviewed this form with you and answered any questions you have about it?

☒ yes☐ no

- 2) Are you satisfied with the manner in which your attorney has advised you and represented you?

☒ yes☐ no

33

5/5

- 3) Have you talked with your attorney as often and for as long as you feel necessary for him/her to properly represent you?
☒ yes ☐ no
- 4) Do you need more time to talk with your attorney?
☐ yes ☒ no
- 5) Have you understood your talks with your attorney?
☒ yes ☐ no
- 6) Has your attorney done everything for you that you feel he/she could have done or should have done?
☒ yes ☐ no
- 7) Has your attorney done anything in this case that you feel he/she should not have done?
☐ yes ☒ no
- 8) Are you completely satisfied with your attorney's services?
☒ yes ☐ no
- 9) Do you have any complaint that you want to make about your attorney, the solicitor, or any of the police officers?
☐ yes ☒ no
- 10) Do you understand that you have a right to appeal your guilty plea and the sentence and that you must do this within 10 days of the sentence?
☒ yes ☐ no

CONCLUDING QUESTIONS

- 1) Do you understand all of these questions?
☒ yes ☐ no
- 2) Do you still want to plead guilty?
☒ yes ☐ no

SIGNED BY ME IN THE PRESENCE OF MY ATTORNEY, this _____ day
of _____.

x T. [Signature]
DEFENDANT

ARREST WARRANT

W-400779

STATE OF SOUTH CAROLINA

County/

Municipality of

Fairfield

THE STATE

against

Robert James Jr Miller

Greenbriar Mossydale

Winnsboro, SC 29180-

me: M Race: W Height: 5 10 Weight: 155

State: SC DL#: 99999999

3: 12/19/1971 Agency ORI #: SC0200000

Securing Agency: Fairfield County Sheriff

Securing Officer: J Talbert - 1086

Use: FinanTC / Financial identity fraud, obtains/records

identify. info., access/att. access finan. records of

Use Code: 2813

Ordinance Sec: 16-13-0510

warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

to be arrested and brought before me to be

with according to the law.

The accused

to be

(L.S.)

Signature of Judge

RETURN

of this arrest warrant was delivered to

Robert James Jr Miller Jr

11-3-10

Bill D

Signature of Constable/Law Enforcement Officer

IN WARRANT TO:

General Sessions

101 South Congress St

PO Drawer 299

Winnsboro, SC 29180

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/

Municipality of

Fairfield

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on or about

State of South Carolina (or ordinance of

in the following particulars:

DESCRIPTION OF OFFENSE

FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of

other unlawfully

I further state that there is probable cause to believe that the defendant named above did

the crime set forth and that probable cause is based on the following facts:

That on or about September 15, 2010 in the county of Fairfield, one Robert James Jr Miller, without the permission of the victim,

William Bundrick, and with the intent of unlawfully appropriating the financial resources of the victim, did obtain and use Bundrick

identity, social security number, bank account numbers and personal information. With this information the defendant did take

money from the victim's account and deposit into an account fraudulently opened with HSBC Bank. This incident is based on an

investigation by the Fairfield County Sheriff's Office.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/

Municipality of

Fairfield

Affiant's Address

P. O. Box 387

Winnsboro, SC 29180-

Affiant's Telephone

(803)635-4141

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/15/2010

defendant Robert James Jr Miller

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Fairfield

) as set forth below

DESCRIPTION OF OFFENSE: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of

other unlawfully

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 11/01/2010

Signature of Issuing Judge

Russell Durant Price

Judge Code: 7107

Issuing Court: X Magistrate

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ORIGINAL

STATE OF SOUTH CAROLINA

County/

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That on or about September 15, 2010 in the county of Fairfield, one Robert James Jr Miller, without the permission of the victim,

William Bundrick, and with the intent of unlawfully appropriating the financial resources of the victim, did obtain and use Bundrick

identity, social security number, bank account numbers and personal information. With this information the defendant did take

money from the victim's account and deposit into an account fraudulently opened with HSBC Bank. This incident is based on an

investigation by the Fairfield County Sheriff's Office.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/

Municipality of

Fairfield

Affiant's Address

P. O. Box 387

Winnsboro, SC 29180-

Affiant's Telephone

(803)635-4141

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 9/15/2010

defendant Robert James Jr Miller

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Fairfield

) as set forth below

DESCRIPTION OF OFFENSE: FinanTC / Financial identity fraud, obtains/records identify. info., access/att. access finan. records of

other unlawfully

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 11/01/2010

Signature of Issuing Judge

STATE OF SOUTH CAROLINA :

County of Fairfield :

Robert James Miller, Jr. :

Petitioner :

v. :

State of South Carolina :

Respondent :

EXHIBIT #4

IN THE COURT OF GENERAL SESSION

Sixth Judicial Circuit

Case No.: 2012-CP-20-352

74

2014 JAN 24

AM 10 34

FAIRFIELD COUNTY

CLERK OF COURT

BETTY SC BECKHAM

MOTION FOR PRODUCTION OF

COMPLETE CASE FILE PURSUANT

To Brady v. Maryland, 373 U.S. 83

(1963) SC. CODE ANN. § 30-4-10

§ 30-4-165 (1991-Supp. 2005)

COPY

Comes now Petitioner, Robert James Miller, Jr., respectfully requesting this Honorable Court to help petitioner obtain a complete case file with financial records, bank statements, receipts, motions, letters, notes, emails, and ALL investigation reports in RE. Matter of Haddock 201 S.E.2d 601 (1986); Sup. Ct. Rule 32 Code of Prof. Resp. Dr 6-101 A(3) and Rules of disciplinary procedure § 7 Subd. (A) (3).

The petitioner respectfully contends that he never received a complete discovery Rule 5 package from the state nor his appointed counsel, pursuant to the law of this state and the Sixth and Fourteenth Amendments of the U.S. Constitution. Petitioner respectfully requests a full and complete case file pursuant to Brady v. Maryland 373 U.S. 83 (1963) SC. Code Ann. § 30-4-10 § 30-4-165 (1991-Supp. 2005)

Sworn to and subscribed before me
this 24th day of January, 2014

Susan H. Zryc
Notary Public

My Commission Expires
MONTH 2014

My Commission expires: _____

Respectfully Submitted,

R. James Miller, Jr.
Robert James Miller, Jr.

1 he's charged with. It was our view that she was mainly
2 guilty of using the cards to deplete the accounts at several
3 different locations of the ATM's. There was a car seized by
4 the sheriff's department that we believe that was bought
5 with the stolen funds that was basically seized when Kayla,
6 the girlfriend, was arrested. That car is still in
7 possession of the sheriff's department, it's a 2002 Saturn,
8 I believe. Mr. Bundrick has also agreed to take --
9 basically take that as partial payment of the restitution.
10 I think we first may have to work that out with Kayla
11 Miller's case first, that's only going to be worth about
12 \$3,000, I believe, I Kelly Blue Booked it last week and
13 roughly about that amount. If that did occur I would just
14 write a letter to the probation department noting that this
15 amount was set off from the initial amount. I think that's
16 all I have. I think Mr. Bundrick would like to speak at the
17 appropriate time.

18 THE COURT: All right. Now, Mr. Lifsey and Mr. Miller,
19 you heard the presentation by the solicitor's office, is all
20 of that substantially accurate and correct?

21 MR. LIFSEY: Yes, sir.

22 THE COURT: Is that fair enough, Mr. Miller?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Very well, sir. I find there's a
25 substantial factual basis for your plea, I further find the

FILED: October 2, 2014

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6761
(3:14-cv-00340-JFA)

ROBERT JAMES MILLER, JR.

Plaintiff - Appellant

v.

RILEY MAXWELL, Assistant Solicitor; JEFF TALBERT; MAGGIE BOYD;
BILL DOVE; JEFF WESTFALL, Investigators for the Fairfield County Sheriff's
Office, each in their individual capacity

Defendants - Appellees

J U D G M E N T

In accordance with the decision of this court, the judgment of the district
court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

IV. Statement of Claim

Each defendant is sued in their individual capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

1) On November 3, 2010, at approximately 11:00 am, plaintiff's spouse was arrested by Investigator Jeff Talbert and charged with multiple counts of Financial Transaction Card Fraud, Financial Identity Fraud and Grand Larceny. This incident occurred at the Assistant Solicitor's Office, 101 South Congress Street, Winnsboro, S.C.

2) Defendant's Talbert and Boyd then located the plaintiff's properly and legally parked 2002 Saturn vehicle (Exhibit A) on Washington Street in downtown Winnsboro. Without a search warrant, court order or probable cause, defendant's seized and impounded said vehicle (Exhibit B).

Defendant's Talbert and Boyd acted with malice and with the intent to deliberately deprive the plaintiff of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution.

Without reasonable justification, defendants knowingly and willingly violated plaintiff's Fourth Amendment rights by illegally seizing his vehicle.

3) Later that afternoon, at approximately 2:00 pm, Defendants Bill Dove and Jeff Westfall arrested the plaintiff at a public storage unit he was renting. Plaintiff consented to a search of the premises which was conducted in his presence. Defendants stated they were looking for a laptop computer. None was found and nothing was taken.

Plaintiff was taken to the Fairfield County Detention Center where defendants seized \$882.00 cash he had on his person.

4) Also on November 3, 2010, at 4:55 pm, after already having searched the storage unit and becoming familiar with its contents, Defendant Westfall, without sufficient probable cause, obtained a search warrant to re-inspect the premises (Exhibit C).

The warrant was served at 5:30 pm by Defendants Jeff Talbert, Jeff Westfall, Bill Dove and Maggie Boyd (Exhibit D). Again no computers were found. However, \$9,000.00 in U.S. currency was located and seized.

*Please note that "Attachment B" of plaintiff's Exhibit C does not match the other documents. It is not initialed by the Judge and the font is different, indicating it was added after – the – fact.

5) Plaintiff and his wife remained at the detention center for over three (3) day's without a bond hearing. Upon information and belief, Defendant Talbert requested the delay and intentionally postponed the hearing that would have otherwise been held before the regularly scheduled Magistrate Judge. Defendant Talbert arranged a "Special" bond hearing in front of the Summary Court Chief Judge, and per his request, plaintiff was denied bond.

Plaintiff's wife, having identical charges, was released on a personal recognizance (PR) bond. Defendant Talbert was personally responsible for the violation of the plaintiff's rights under the Eight Amendment to the U.S. Constitution.

6) In February 2011, after nearly four months in jail, plaintiff had a bond review hearing before the Honorable Judge Brooks Goldsmith and was granted a \$125,000.00 bond which was posted on February 28, 2011. This excessive and unnecessary bond was imposed at the request of Defendant Maxwell.

7) Towards the end of 2011, plaintiff, with the permission of his attorney and Assistant Solicitor, Riley Maxwell, moved to his parent's house in Pennsylvania to await the pending criminal case. The move was necessary because the plaintiff required health - sustaining medication and treatment for a chronic medical condition (Exhibit E). It was agreed that the plaintiff would return to South Carolina when the trial / plea was scheduled.

8) Upon notice that plaintiff's case was scheduled for April 2012 court term, he promptly returned to South Carolina and rented a motel room for a week a few blocks from the public defender's office. This arrangement allowed the plaintiff and his attorney to meet in person and discuss the case.

9) During a discussion on the afternoon of Wednesday, March 28, 2012, plaintiff's attorney telephoned Defendant Maxwell and advised that we were not in agreement as to the restitution but would see him in court the following week. Plaintiff and his attorney agreed to meet again on Friday.

10) However, several agents from the bonding company came to the motel early Friday morning, March 30, 2012 and handcuffed the plaintiff and took him to the Fairfield County Detention Center.

Upon information and belief, Defendant Maxwell contacted the bondsman and requested that the plaintiff's bond be revoked because: "He might back out and not show up for court."

Defendant Maxwell's actions constituted reckless indifference to plaintiff's rights to substantive due process under the Fourteenth Amendment to the United States Constitution.

11) That afternoon, plaintiff's attorney came to the jail to advise him that Defendant Maxwell, after learning the plaintiff had been "picked up", was withdrawing all plea offers.

12) Four (4) days later, April 3, 2012, at the Fairfield County Court of Common Pleas, the plaintiff pled guilty before the Honorable L. Casey Manning to three (3) counts of Financial Identity Fraud (2011-GS-20-035,036,037). Plaintiff was sentenced to two concurrent terms of ten (10) years each. On the third charge, plaintiff was sentenced to a consecutive term of ten (10) years suspended to three (3) years probation. Restitution in the amount of \$30,000.00 (plus \$6,000.00 collection fee) was also ordered in addition to court fees totaling \$916.70.

13) Plaintiff appealed his conviction and sentence on April 11, 2012 (Case No. 2012-211446).

14) On July, 18, 2012 the South Carolina Court of Appeals dismissed the case (Exhibit F) because plaintiff did not know how to file a statement "of any arguable basis that there are issues preserved for appeal."

15) On August 30, 2012, the plaintiff filed an application for Post-Conviction Relief in the Fairfield County Court of Common Pleas (Case No: 2012-CP-20-352) (Exhibit G). This matter is still pending.

16) In his application for Post-Conviction Relief, the plaintiff alleges that he is entitled to relief for the following reasons:

- A) Ineffective assistance of counsel.
- B) Constitutionally defective guilty plea.
- C) Lack of Jurisdiction over subject matter or defendant;

~~Offenses occurred outside the territorial Jurisdiction of the State of South Carolina. Solicitor lacked authority to initiate prosecution and the convicting court lacked authority to try the offenses.~~

~~There is now substantial evidence that Defendants Talbert and Maxwell concealed important information with the intent of depriving the plaintiff of his rights under the Sixth Amendment to the U.S. Constitution.~~

On or about October 6, 2010, Defendants Talbert and Maxwell were notified by E *Trade Financial that their alleged victim had established legal residency in Ninilchik, Alaska in August 2009. (Exhibits S & T)

17) Part of the relief being sought in the plaintiff's PCR is:

- A) ~~Correction of plaintiff's conviction and sentence.~~
- B) ~~The return of the plaintiff's vehicle and \$9,882.00 cash that was seized by the defendants on November 3, 2010.~~
- C) ~~An order vacating the restitution.~~

~~Defendant Maxwell openly acknowledged at the plea and on record that the State did not have Jurisdiction over the offense in which the restitution was ordered.~~

Plea Transcript page 22 (Exhibit Q)

- 6) ... An additional thing
- 7) Mr. Miller did that he's not pleading guilty to
- 8) because I think it's a Jurisdictional issue but...

Defendant Maxwell, as an assistant solicitor, clearly would have known that his actions violated the plaintiff's rights under the Seventh and Fourteenth Amendments to the U.S. Constitution.

18) While preparing for his PCR hearing, plaintiff began mailing letters to the defendants in August 2013. Plaintiff wanted to verify that his vehicle and cash was still being held at the Fairfield County Sheriff's Office. After numerous letters, plaintiff

received a response dated October 30, 2013 from Captain Brad Douglas (Exhibit H) indicating that Defendant Maxwell informed him that the vehicle and all U.S. currency was released to the victim per a court order. No date was given.

To the best of the plaintiff's information, knowledge and belief, no forfeiture hearing had ever been held. This issue is an important part of plaintiff's pending Post-Conviction Relief.

19) Plaintiff immediately began writing the defendants and requested a copy of the court order, photocopy of the "Property invoice and return receipt" for case #10-8284, and a copy of the "Impounded vehicle card "Showing the disposition of plaintiff's vehicle and its contents.

20) On November 15, 2013, Defendant Maxwell mailed the plaintiff copies of three (3) court orders:

(A) Dated April 5, 2012 – directing the transfer of the ownership of the plaintiff's vehicle (Exhibit I).

(B) Dated October 14, 2011 – (~~six months before plaintiff's plea~~) – Ordering the release of the \$9,882.00 that was seized from plaintiff (Exhibit J).

(C) Dated March 7, 2011 – directing E*Trade Financial to release the funds held in this account (Exhibit K). As of September 30, 2010, the balance was \$66,312.93 (Exhibit P)

Per Defendant Maxwell's misleading and false statements, it is clearly obvious that all 3 orders were obtained with the intent to deprive the plaintiff of his rights guaranteed by the Fifth, Seventh, and Fourteenth Amendment to the U.S. Constitution.

Plaintiff was not afforded an opportunity to present witness testimony, have a hearing, or present evidence and as a result, has suffered loss of property, substantial injury and emotional distress.

21) Prior to Defendant Maxwell's letter dated November 15, 2013 (Exhibit L), the plaintiff had no knowledge whatsoever of the court orders. Defendant Maxwell deliberately continued to abuse his position and deprive the plaintiff of his constitutional rights even after the plea hearing on April 3, 2012.

Example A: The order dated April 5, 2012 (refer to Exhibit I) States: During the plea and on the record, the defendant (Plaintiff Miller in this action) consented to the forfeiture of a 2002 Saturn vehicle to offset the amount of restitution."

On or about, December 4, 2013, plaintiff was able to obtain a copy of the plea transcript. Nowhere does it contain any such language? Plaintiff has contested this matter, not consented (in part because he feels restitution is in error).

In fact, according to the transcript on page 25 lines 3-11, (Exhibit M), Defendant Maxwell indicates that no action would be taken in regards to the vehicle until after the plaintiff's spouse had been tried.

However, plaintiff's spouse did not go to court until June 2012, more than two months after the plaintiff. Defendant Maxwell submitted this order for a Judges signature only two (2) days after plaintiff's plea.

Example B: This order dated October 14, 2011 (refer to Exhibit J), states that "A hearing was held on Wednesday, October 12; 2011. The State was represented by

Assistant Solicitor Riley Maxwell. Miller was represented by Mike Lifsey, Chief Public Defender."

Again, as with the other Orders, the plaintiff was not ever notified of any hearing. As evidence by the plea transcript, it is not even likely that the plaintiff's public defender had any knowledge of any hearing or Order:

Transcript page 28 (Plaintiff's attorney)

Line 25) ... in fact we would affirmatively consent to any
Page 29

Line 1) forfeitures of money that has already been taken.

Also, the second page of this Order contradicts itself with the statement "During the hearing, the defendant did not object to the States request?"

This malicious due process violation clearly establishes a pattern of abuse and deprivation of plaintiff's rights under the Constitution and laws of the United States.

Example C: The Order dated March 7, 2011 was issued only one (1) week after plaintiff posted bond and exactly seventy - seven (77) days after the plaintiff was charged. The warrant for this offense was issued on November 1, 2010 (Exhibit N) along with all the other warrants issued in this case, however, the defendants intentionally held it back for over seven (7) weeks before serving it on December 20, 2010 (See Exhibit J, paragraph 2). This being the same offense that was dismissed because the defendants were very much aware that the State did not have Jurisdiction (which they admit, refer to paragraph 17, part 2, of this complaint) (Exhibit O).

As of September 30, 2010, the balance on this account was \$66,312.93 (Exhibit P). On or about October 4, 2010, this account was frozen per request of Defendant Talbert. The only persons with access to this account between 10/4/2010 when it was frozen and March 7, 2011 when the Order to release the funds was issued, was the defendants named in this suit.

Please note that the defendants claim the account balance was only \$19,653.51 as of February 8, 2011 (Refer to Exhibit K). Despite numerous written requests from the plaintiff, the defendants are unable / unwilling to provide any information, receipts, signatures, or etc. in reference to the release of these funds. There is no evidence that any part of these funds was delivered to the victim in the plaintiff's criminal case. In fact, he has vehemently denied receipt of said funds.

In this plaintiff's opinion, it couldn't be any more obvious what illegal misconduct the defendants had in mind and in fact, did carry out. Defendants charged the plaintiff for a crime with the intent of making the charge and the \$66,312.93 disappear.

22) In addition to the numerous letters to the defendants, the plaintiff, after having been made aware of the court orders, began mailing letters to Herman Young, Sheriff for Fairfield County (5 letters total) and the South Carolina Attorney General's Office (4 letters total) requesting information and assistance in this matter and expressing my intentions to file this action.

Sheriff Young is legally responsible for the overall operation of the Fairfield County Sheriff's Office and the conduct of his investigators, Defendants Jeff Talbert, Jeff Westfall, Bill Dove and Maggie Boyd.

The South Carolina Attorney General's Office is responsible for the oversight of the Solicitor's office and the conduct of defendant Riley Maxwell, Assistant Solicitor.

Additional letters (3 total) were mailed to the South Carolina Law Enforcement Division (SLED) requesting an investigation into the defendant's misconduct and theft of funds.

As of this writing, plaintiff has not received any responses.

EXhibit C Page 1

STATE OF SOUTH CAROLINA }

COUNTY OF FAIRFIELD }

SEARCH WARRANT

Form approved by SC

General - Section 17

March

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPAL
OF

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

See Attachment A

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and seize such property if found:

DESCRIPTION OF PROPERTY

See Attachment B

This Search Warrant shall not be valid for more than ten days from the date of issuance.
A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Winnsboro, S.C.

11-03-
4:55 PM

2010

[Signature]

Signature of Officer

(LS)

Exhibit C page 2

STATE OF SOUTH CAROLINA }

COUNTY OF FAIRFIELD }

AFFIDAVIT

Personally appeared before me, one Inv. Jeff Westfall who, being duly sworn, says that there is probable cause believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

See Attachment B

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

See Attachment A

REASON FOR AFFILANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See Attached Affidavit

Sworn to and Subscribed before me

this 3rd day of Nov, 2010

[Signature]

(LS)

Signature of Judge

[Signature]

Affiant

Address Fairfield County Sheriff's Office

350 Columbia Rd., SC 29180

Phone (803) 635-4141

State of South Carolina)

)

)

County of Fairfield)

AFFIDAVIT

In support of the attached Application for Search Warrant, Affiant, being duly sworn, deposes and says:

I, Jeff Westfall, am a criminal investigator with the Fairfield County Sheriff's Office. In connection with my duties, I investigate and make arrests for violations of criminal offenses. I have been a criminal investigator with the Fairfield County Sheriff's Office for approximately 2 years. Prior to that, I was a patrol deputy with the Fairfield County Sheriff's Office for 1 year and a patrol officer with the Town of Winnsboro for 2 years. During this time, I have investigated numerous criminal investigations which have led to numerous arrests and convictions.

I am submitting this Affidavit in support of the belief that there is probable cause to establish the property and items enumerated herein are to be found at said storage unit #115 at Clarks Mini Storage located at 1470 US Hwy 321 Bypass area of Fairfield County in South Carolina. During the course of an investigation I have learned from an interview of Kayla Miller that Robert James Miller does rent this storage unit and it is in his name. The Fairfield County Sheriff's Office is conducting an investigation involving Robert James Miller and Kayla Miller where they were illegally obtained credit cards in

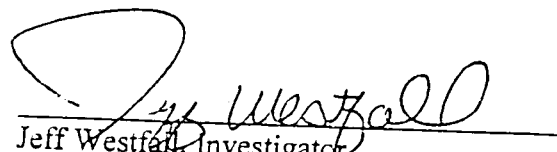


Exhibit C page 4

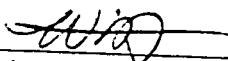
other persons (real and fictitious) names for the intent of committing the crime of identity theft.

On or about August 28th 2010, Robert James Miller and Kayla Hudson did illegally use the identity of the victim William Bundrick to open up fictitious bank accounts and transfer the monies out of Mr. William Bundrick account and place it in the fictitious accounts for the purpose of stealing the money. It is the belief of the affiant that the fraudulent credit cards and money may be inside of the storage unit located at 1470 US 321 Bypass, Winnsboro SC at Clarks Mini Storage.

Based on the above facts and circumstances, your Affiant believes that there is probable cause to believe that the items enumerated above are contained within this storage unit.


Jeff Westfall, Investigator
Fairfield County Sheriff's Office

Sworn to and Subscribed Before Me
This 30th Day of November 2010


Magistrate
Fairfield County



ATTACHMENT A

~~RE: CLARKS MINI STORAGE~~
~~1470 US HWY 321 BYPASS~~
~~WINNSBORO, SOUTH CAROLINA~~

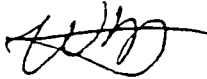
DIRECTIONS TO PROPERTY TO BE SEARCHED

From the intersection of Hwy 213 and US Hwy 321 Bypass travel North to Clarks mini warehouse behind City Laundry and Cleaner address 1470 US Hwy 321 Bypass. Fairfield County.

DESCRIPTION OF PROPERTY TO BE SEARCHED

Storage unit clearly mark with black number 115 with a white roll up door.

All items located inside storage unit such as suit cases, boxes, safes, any type of storage container stored within the storage unit.



ATTACHMENT B

DESCRIPTION OF PROPERTY SOUGHT

1. Any credit cards, bank cards, paper checks, US Currency, documents.
2. computer devices, cell phones
3. Any other items related to the crime.

Exhibit D

RETURN

I received the attached Search Warrant 11 - 3, 2010, and have executed it as follow
On 11 - 3, 2010 at 5:30 o'clock P M, I search
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Storage Unit #115
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

See attached list

This inventory was made in the presence of Inv. Jeff Talbert, Inv. Jeff Westfall
AND Inv. Maggie Boyd and Inv. Bill Dove

I swear that this Inventory is a true and detailed account of all property taken by me on the warrant.

SWORN to before me this 4th }

day of November, 2010 }

[Signature] (LS) }

Signature of Judge

[Signature]

(Signature of Officer Executing Warrant)

Exhibit H

Sheriff

Herman W. Young



FAIRFIELD COUNTY SHERIFF'S OFFICE

October 30, 2013

Mr. Miller,

I am in receipt of your letter and your requests contained therein. I conferred with Riley Maxwell, 6th Circuit Assistant Solicitor, about your requests. Records indicate that the vehicle (2002 Saturn, VIN 1G8ZH52892Z120291) and all US Currency recovered in this investigation were released to the victim, Robert Bundrick, per court order by Judge Brooks Goldsmith. Other items taken from the storage unit include credit cards, checkbooks, and miscellaneous papers deemed evidence to this investigation.

All of your other personal belongings were secured and left in the storage unit. To determine their status, you are advised to contact the storage unit manager.

Regards,

A handwritten signature in cursive script, appearing to read "Brad Douglas".

Captain Brad Douglas

Exhibit # 53 1/2

Robert James Miller, Jr. #316047
Broad River Correction Institution
4460 Broad River Road
Columbia, South Carolina 29210

April 30, 2014

Fairfield County Sheriff's Office
c/o Property / Evidence Officer
and/or Agency FOIA / Privacy Act Officer
P.O. Box 387
Winnsboro, SC 29180

RE: Privacy Act Request for case No.: 10-8284

Dear Officer in Charge,

Under the Freedom of Information Act, 5 U.S.C. subsection 552, and the Privacy Act, 5 U.S.C. Subsect 552a, I am requesting access to all records, documents, photographs, information, files, receipts, and most importantly - copies of ALL signatures related to the release of my \$9,882.00 U.S. Currency, 2002 Saturn vehicle (VIN: 1G8ZH52892Z120291), and all other evidence confiscated or seized in the aforementioned case.

I would also like a copy of any court orders that you may have granting you permission to

release my personal property, vehicle contents and especially the \$66,312.93 that was in the E account and the \$17,359.79 from the Paypal acc

I would also like to request information on the location and disposition of check #5355 made payable to myself in the amount of \$100.00 which was unlawfully removed from my mailbox by Jeff Talbert. As im sure you recall, I have mailed nume requests over the past year, in which your office h failed to respond. My next step is to forward this matter to the appropriate agency for an investigat

This information is being requested in connectio to pending litigation in the United States Distric Court.

If you deny all or any part of this request, please cite each specific exemption you think Justifies your refusal to release the information and notify me of appeal procedures available under the law.

Thank you for your time, assistance, and prompt attention to this matter.

Respectfully,
Th. Gorman Miller

unlike Dababnah, I was not in court or ever notified or afforded an opportunity to attend a forfeiture hearing, if one was even held. In my case, the defendants had no right or authority to seize anything and were very much aware that they lacked jurisdiction over subject matter and the plaintiff. The Solicitor, Defendant Maxwell, lacked authority to initiate prosecution and the convicting court lacked authority to try the offenses, which Maxwell acknowledged at the plea and on the record.

Furthermore, the Supreme Court has recognized the defense of absolute immunity for prosecutorial duties that are "intimately associated with the judicial phase of the criminal process," such as "initiating a prosecution and... presenting the State's case." Imbler v. Pachtman, 424 U.S. 409, 430, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976). HOWEVER, the same immunity does not apply to a prosecutor's actions that are investigative or administrative. See id.; Harlow v. Fitzgerald, 457 U.S. 800, 811 n. 16, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982). Therefore, when a court is asked to determine whether a prosecutor is entitled to absolute immunity, it is to examine "the nature of the function performed, not the identity of the actor who performed it." Forrester v. White, 484 U.S. 219, 229, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988). Moreover, "the official seeking immunity bears the burden of showing that such immunity is justified for the function in question." Burns v. Reed, 500 U.S. 478, 486, 111 S.Ct. 1934, 114 L.Ed.2d 547 (1991). Maxwell has

utterly failed to satisfy his burden of proving that absolute immunity protects him against liability flowing from his request's for court order's to release plaintiff's property.

In my complaint, paragraph's 20 and 21, I list the three Court orders unlawfully obtained by Defendant Maxwell who was clearly acting in either an investigative or administrative capacity and thus cannot be protected by absolute immunity. Maxwell obtained an Order dated March 7, 2011, more than one year before plaintiff's plea, directing E*Trade Financial to release the funds held in this account (Exhibit K). As of September 30, 2010, the balance was \$66,312.93 (Exhibit P). This being the same offense that was dismissed (Exhibit's N & O) because Defendant Maxwell acknowledged the State did not have Jurisdiction (Exhibit Q).

Plaintiff is able to establish ulterior motive on the part of the prosecutor, Defendant Maxwell. Maxwell charged the plaintiff with a crime, secretly obtained an order to release the funds, then dismissed the case. The same thing happened with the court order dated October 14, 2011 (six months before plaintiff's plea) (see Exhibit J). Also, Maxwell unlawfully obtained an Order (without a hearing and as an administrative act) on April 5, 2012, directing the transfer of the ownership of the plaintiff's vehicle that was illegally seized by Defendant's Talbert and Boyd without any search warrant; probable - cause hearing, court order or Etc. Maxwell committed perjury (refer to paragraph 21,

his arrest and conviction are also barred by the favorable determination requirement of *Heck*.

3. Deprivation of property

Plaintiff asserts that Defendants illegally confiscated his vehicle and money. [Entry #1 at 3, 6–7]. The Due Process Clause of the Fourteenth Amendment provides that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1. However, the Due Process Clause is not implicated by a negligent act of a governmental official causing unintended loss of or injury to life, liberty, or property. *Daniels v. Williams*, 474 U.S. 327 (1986); *Pink v. Lester*, 52 F.3d 73, 75 (4th Cir. 1995).

Moreover, an intentional deprivation of property by a governmental employee does not violate the Due Process Clause if a meaningful post-deprivation remedy for loss is available. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *see also Mora v. City of Gaithersburg, MD*, 519 F.3d 216, 230–31 (4th Cir. 2008) (concerning the intentional taking of guns and ammunition); *Bogart v. Chapell*, 396 F.3d 548, 561–63 (4th Cir. 2005) (finding that intentional destruction of a plaintiff’s property did not violate the due process clause because South Carolina afforded a meaningful post-deprivation remedy for such loss). In South Carolina, a prisoner may bring an action for recovery of personal property against officials who deprive them of property without state authorization. *See McIntyre v. Portee*, 784 F.2d 566, 567 (4th Cir. 1986) (citing S.C. Code Ann. § 15-69-

10). Such an action provides “a post-deprivation remedy sufficient to satisfy due process requirements.” *Id.* (citing *Parratt v. Taylor*, 451 U.S. 527 (1981)).

In this case, Plaintiff alleges Defendants deprived him of his funds and vehicle, without benefit of a forfeiture hearing. [Entry #1 at 6–7]. As Plaintiff has an adequate state remedy available to address Defendants’ alleged improper confiscation of his property and money, this claim is subject to summary dismissal.

III. Conclusion and Recommendation

For the foregoing reasons, it is recommended that this case be dismissed without prejudice and without issuance and service of process.

IT IS SO RECOMMENDED.

Shiva V. Hodges

February 25, 2014
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**

Exhibit #9

State of South Carolina
Solicitor, Sixth Judicial Circuit



CHESTER/FAIRFIELD
LANCASTER
DOUGLAS A. BARFIELD, JR., SOLICITOR

November 15, 2013

R. James Miller, Jr., #316047
Broad River Correctional Institute
4460 Broad River Road
Columbia, S.C. 29210

Dear Mr. Miller:

Please find enclosed the court orders regarding the money, the E*Trade account and the vehicle. You will need to contact your attorney regarding discovery matters.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Maxwell".

Riley Maxwell
Assistant Solicitor

Also:

S.C. Code § 16-3-1515 (B) A victim who wishes to receive restitution must, ... provide the prosecuting agency or summary court Judge with an itemized list which includes the values of property stolen... property recovered... an itemization of financial recovery...

And § 17-25-322 S.C. Code of Laws

Miranda warnings

Miranda V. Arizona, 384 U.S. 436, 468, 86 S.Ct. 1602, 1624; Also Stansbury V. California, 511 U.S. 318, 114 S.Ct. 1526 (1994) (finding that defendant must be given Miranda warnings if he is in custody and being questioned).

Violation of Fifth Amendment Right

Gravley V. Mills, 87 F.3d 779 (6th Cir. 1996) (holding that a prosecutor violated due process by repeatedly making references to petitioner's post-arrest silence).

BRADY claim

- * Brady V. Maryland, 373 U.S. 83, 87, 83 S.Ct. 1194, 1196-97
- United States V. Bagley, 473 U.S. 667, 682, 105 S.Ct. 3375, 3383.
- Kyles V. Whitley, 514 U.S. 419, 421-22, 115 S.Ct. 1555, 1560.
- United States V. Garza, 435 F.3d 73, 75-76 (1st Cir. 2006).
- * Banks V. Dretke, 540 U.S. 668, 693, 695-96, 124 S.Ct. 1256, 1273-75 (2004).

Supplement to paragraph #6

Illegal Search and Seizure.

Defective Search Warrant.

"Warrant must describe objects with particularity.
- An affidavit for a warrant to search for property in fraud upon revenue of the United States, which is substantially in the language of the statute authorizing such search warrant, but which does not particularly describe the person or things to be seized, does not conform to the requirements of this Amendment. A warrant issued thereon and following its language is VOID."

Woods v. United States, 279 F. 706 (1922)

Effect of insufficient affidavit —

Where the affidavit does not disclose anything which the issuing officer can consider in arriving at a determination of whether there is probable cause for the issuance of a warrant, this, in effect, leaves the determination of probable cause to the judgment and discretion of the police officer rather than to the issuing officer; therefore, the affidavit is totally insufficient and a warrant issued thereupon is a nullity.

State v. Hill, 245 SC 76, 138 SE2d 829 (1964).

Supplement to paragraph's 17, 19 and 20

§ 16-13-520, S.C. Code - Venue

... the crime is considered to have been committed in a county in which a part of the financial identity fraud took place...

Accused must be tried in county where offense committed. This section establishes common law rule that criminal prosecution shall be tried in county in which offense committed. State v. Gasque, 241 S.C. 316, 128 S.E.2d 826 (1957).

Defendants Talbert and Maxwell are without excuse and clearly would have known that they lacked authority to initiate prosecution because the alleged offenses occurred outside their territorial jurisdiction and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001).

Convicting Court did not have Jurisdiction,
and violated the Due Process Clause of the 5th
and 14th Amendments.

See Sunal v. Large, 332 U.S. 174, 178-79, 67 S.Ct.

1588, 1591; Butler v. King, 781 F.2d 486, 490 (5th Cir.)

Lowery v. Estelle, 696 F.2d 333, 336-38 (5th Cir.).

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM FAIRFIELD COUNTY
Court of General Sessions

L. Casey Manning, Circuit Court Judge

Case No(s).: 2011-GS-20-035, 2011-GS-20-036, 2011-GS-20-037

The State of South Carolina,

Respondent.

v.

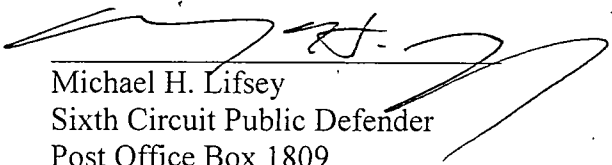
Robert James Miller, Jr.

Appellant.

NOTICE OF APPEAL

Robert James Miller, Jr. appeals his conviction and sentence in this case. The sentence was imposed by the Honorable L. Casey Manning on April 03, 2012.

Date: April 11, 2012


Michael H. Lifsey
Sixth Circuit Public Defender
Post Office Box 1809
Lancaster, SC 29721
Attorney for Appellant
(803) 285-5585

Other Counsel of Record:
Riley J. Maxwell, Esq.
Assistant Solicitor
Post Office Box 1085
Winnsboro, South Carolina 29180
Attorney for Respondent
(803) 712-1735

RECEIVED

APR 16 2012

SC Court of Appeals

EXHIBIT AA

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM FAIRFIELD COUNTY
Court of General Sessions**

2012 APR 11 P 4:10

L. Casey Manning, Circuit Court Judge

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

Case No(s): 2011-GS-20-035, 2011-GS-20-036, 2011-GS-20-037

The State of South Carolina,

Respondent.

v.

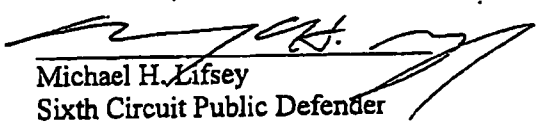
Robert James Miller, Jr.

Appellant.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

Appellant pled guilty on April 3, 2012. Undersigned counsel files this appeal at the request of Appellant and pursuant to In re Anonymous Member of the Bar, 303 S.C. 306, 400 S.E.2d 483 (1991). Counsel knows of no issue that can be reviewed on appeal.

Date: April 11, 2012


Michael H. Lifsey
Sixth Circuit Public Defender
Post Office Box 1809
Lancaster, SC 29721
(803) 285-5585
Attorney for Appellant

Other Counsel of Record:

Riley Maxwell
Assistant Solicitor
Post Office Box 1085
Winnsboro, SC 29180
(803) 712-1735
Attorney for Respondent

RECEIVED

APR 16 2012

SC Court of Appeals

Exhibit F



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

September 17, 2012

Robert J. Miller, Jr. #316047
Broad River Rd. Corr. Inst.
4460 Broad River Rd.
Columbia SC 29210

Re: The State v. Miller, Robert
Appellate Case No. 2012-211446

Dear Counsel:

This office is in receipt of your letter received August 3, 2012. Please be advised the above case was dismissed on July 18, 2012 and remitted to the Clerk of Court for Fairfield County on August 13, 2012. A copy of both orders are enclosed for your reference.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Robert Michael Dudek
Salley W. Elliott

The South Carolina Court of Appeals

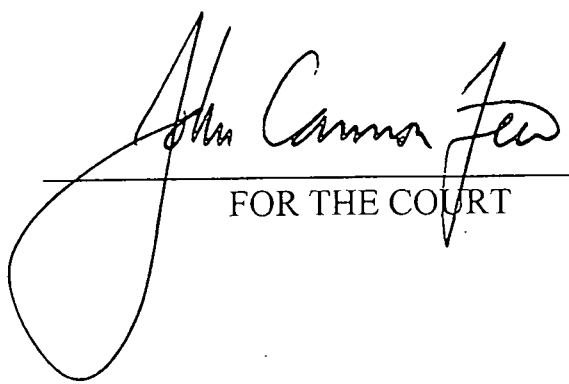
The State, Respondent,

v.

Robert Miller, Appellant.

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

C.J.

Columbia, South Carolina

cc:

Robert Michael Dudek

Salley W. Elliott

Michael H. Lifsey

FILED

JES 7/18/12



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 13, 2012

The Honorable Betty Jo Beckham
P.O. Drawer 299
Winnsboro, SC 29180

REMITTITUR

Re: The State v. Miller, Robert
Lower Court Case No. 2011GS2000036, 2011GS2000035, 2011GS2000037
Appellate Case No. 2012-211446

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

Enclosure

cc: Robert Michael Dudek
Salley W. Elliott
Michael H. Lifsey



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 15, 2014

Robert Miller, 316047
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: The State v. Miller, Robert
Appellate Case No. 2012-211446

Dear Mr. Miller:

This Court is in receipt of your Motion for Reinstatement, Petition for Writ of Error Coram Nobis, Motion for Recognizance or Bail, and Affidavit in Support of Application for a Certificate Certifying Question of Law. This Court issued an order of dismissal for failure to provide a sufficient explanation pursuant to Rule 203(d)(1)(B)(iv), SCACR, dated July 18, 2012 and the remittitur was issued in a timely matter, dated August 13, 2012. Pursuant to Rule 221, SCACR, once the remittitur is issued, this Court no longer has jurisdiction on your appeal.

Therefore, we are returning all of your correspondence recently received. Also, we have attached the order of dismissal issued July 18, 2012 and the remittitur issued August 13, 2012, as well as an order issued by the Supreme Court on January 15, 2014.

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP2000352**

Robert James Miller Jr

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER OF DISMISSAL

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

Judge Code

9/10/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on **September 10, 2014**, and a copy mailed first class or placed in the appropriate attorney's box on **September 10, 2014**, to attorneys of record or to parties (when appearing pro se) as follows:

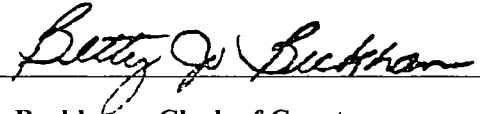
Robert James Miller Jr ,
William Michael Hemlepp Jr. 3027 S. Paraham Road York,
SC 29745

ATTORNEY(S) FOR THE PLAINTIFF(S)

J. Croom Hunter PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter



Betty Jo Beckham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM FAIRFIELD COUNTY
Court of Common Pleas

W. JEFFERY YOUNG, Circuit Court Judge

Civil Action Number: 2012-CP-20-352

Robert J. Miller, III #316047,

Petitioner,

v.

STATE OF SOUTH
CAROLINA,

Respondent.

NOTICE OF APPEAL

Robert J. Miller, III appeals the order of the Honorable W. Jeffery Young dated September 10, 2014 denying his application for Post-Conviction Relief.



September 30, 2014

W. Michael Hemlepp, Jr.
3027 S. Paraham Road
York, South Carolina 29745
803-718-0956
legal@p-3-solutions.com
Attorney for Appellant

Other Counsel of Record:
J. Croom Hunter
OFFICE OF THE ATTORNEY GENERAL
1000 Assembly Street, Suite 518
Columbia, South Carolina 29201
803-734-1867

STATE OF SOUTH CAROLINA

COUNTY OF Fairfield

Robert James Miller, Jr.
Plaintiff(s)vs.
Robert M. Stevenson III,
Warden, Broad River Corr. Inst.
Defendant(s)Submitted By: Robert James Miller, Jr.
Address: B.R.C.I. #316047
4460 Broad River Rd.
Columbia, SC 29210

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP-20-163

JUN 6 PM 12:31
FAIRFIELD COUNTY
CLERK OF COURT
DETTY J. JOHNSONSC Bar #:
Telephone #:
Fax #:
Other:
E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☒ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

Robert James Miller, Jr.

Date: April 15, 2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA,
COUNTY OF **Fairfield**

Robert James Miller, Jr.
Plaintiff

vs.

Robert M. Stevenson, III
Warden, Broad River
Correctional Inst. Defendant.

IN THE COURT OF COMMON PLEAS

Sixth JUDICIAL CIRCUIT

**MOTION AND AFFIDAVIT TO
PROCEED IN FORMA PAUPERIS**

FILE NO.

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM
APR 6 PM 12:39

I, **R. J. M. Jr.** being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me
this **14th** day of **April**, 2014

Judson H. Dye
Notary Public for South Carolina

My Commission expires
My Commission Expires
March 5, 2018

Robert James Miller Jr.
Signature of Plaintiff or
Person Filing Complaint on Behalf of
Plaintiff

ORDER

☒ Leave is *granted* to proceed in forma pauperis without payment of the filing fee.

☐ Leave is granted to proceed in forma pauperis without payment of the service cost.

☐ Leave is *denied* to proceed in forma pauperis.

Dated:

5/6/14, 2
South Carolina

[Signature]
JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014-CP-20-00163

Robert James Miller, Jr.

Robert M. Stevenson, III

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other Dismissed without prejudice _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm; vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff's Motion for Appointment of Counsel is DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk : _____

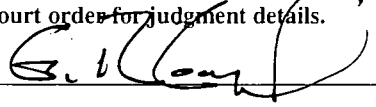
INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge



Judge Code 2126

Date 7-24-14

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Pro Se

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD
IN THE COURT OF COMMON PLEAS

Robert James Miller Jr

2014 SEP 8 AM 9 08
FORM 4
FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2000163

Robert M Stevenson III

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

MOTION FOR HABEUS CORPUS DENIED

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		/

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

9/4/2014

Date

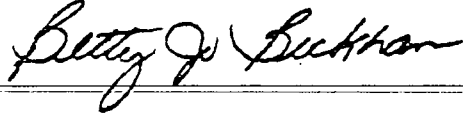
For Clerk of Court Office Use Only

This judgment was entered on September 4, 2014, and a copy mailed first class or placed in the appropriate attorney's box on September 4, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Robert James Miller Jr BRCI #316047 4460 Broad River
Road Columbia, SC 29210

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Betty Jo Beckham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Post Office Drawer 299
Winnsboro, South Carolina 29180



Clerk of Court	(803) 712-6526
Fax	(803) 712-1506
Family Court	(803) 712-6528
Fax	(803) 712-1478

CLERK OF COURT FAIRFIELD COUNTY
BETTY JO BECKHAM

Judy M. Bonds
Deputy Clerk of Court

Beverly R. Grier
Family Court Deputy

September 30, 2014

Robert James Miller Jr #316047
Turbeville Correctional Institute TAI126
PO Box 252
Turbeville SC 29162

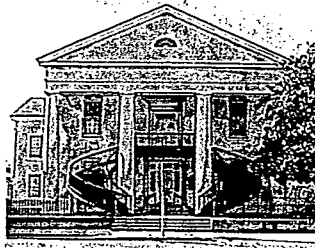
Please find enclosed the certificate of mailing as proof that your Habeus Corpus Appeal has been forward to the court of appeals. Any further questions regarding this matter should be addressed to them.

Betty Jo Beckham
Clerk of Court

A cursive handwritten signature that reads "Betty Jo Beckham".



Post Office Drawer 299
Winnsboro, South Carolina 29180



Clerk of Court	(803) 712-6526
Fax	(803) 712-1506
Family Court	(803) 712-6528
Fax	(803) 712-1478

CLERK OF COURT FAIRFIELD COUNTY
BETTY JO BECKHAM

Judy M. Bonds
Deputy Clerk of Court

Beverly R. Grier
Family Court Deputy

CERTIFICATE OF MAILING

Date: September 10, 2014

RE: Robert James Miller Jr vs State of South Carolina

Case No: 2014-CP-20-163

Betty Jo Beckham, Clerk of Court of Fairfield County, has personally mailed a copy of the NOTICE OF APPEAL, FORM4 ORDER DENYING HABEUS CORPUS, AND FILED HABEUS CORPUS by mailing the same in the United States mail at the United States Post Office, Winnsboro, South Carolina, at 2:00 PM on September 10, 2014, properly addressed to each party named at the address opposite his/her name as set out below, with correct postage prepaid on each:

NAME

ADDRESS

W. Michael Hemlepp, Jr.
SC Commission on
Indigent Defense

PO Box 11433
Columbia SC 29211-1433

Clerk of Court
SC Court of Appeals

PO Box 11629
Columbia SC 29211

Betty Jo Beckham

Betty Jo Beckham
Clerk of Court for Fairfield County

The Supreme Court of South Carolina

The State, Respondent

v.

Robert Miller, Petitioner.

Appellate Case No. 2014-000030

Lower Court Case Nos. 2011-GS-20-00035 thru 2011-GS-20-00037.

ORDER

By order filed on July 18, 2013, the South Carolina Court of Appeals dismissed the appeal in this matter.¹ When no petition for rehearing or reinstatement was received, the Court of Appeals sent the remittitur on August 13, 2013. Petitioner has now filed a motion seeking a writ of certiorari, a writ of habeas corpus, a vacation of his criminal convictions, monetary damages, and such other relief as may be appropriate.

The motion must be dismissed because petitioner has failed to provide an affidavit or proof of service showing that a copy of the motion has been served on opposing counsel. Rule 240(c)(1) of the South Carolina Appellate Court Rules (SCACR):

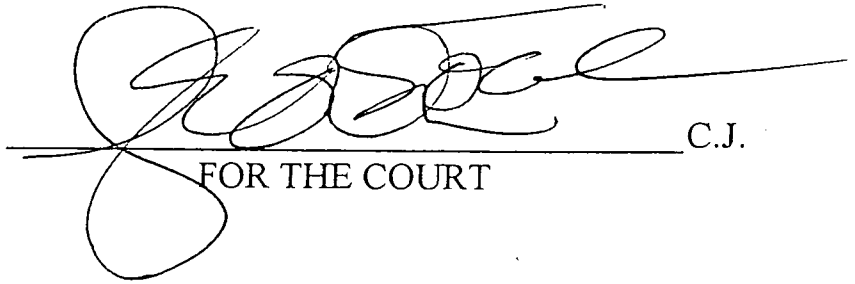
To the extent the motion is seeking review of the decision of the Court of Appeals, the motion must be dismissed for several other reasons. First, under Rule 242(a) of the South Carolina Appellate Court Rules (SCACR), this Court will only review a final decision of the Court of Appeals, and a decision is not final for the purposes of review until a petition for rehearing or reinstatement has been acted on by the Court of Appeals. Rule 242(c), SCACR. Since no petition for rehearing or reinstatement has been ruled on by the Court of Appeals in this matter, there is no final decision for this Court to review.

¹ Before the Court of Appeals, the Appellate Case Number was 2012-211446.

Second, when no petition for rehearing or reinstatement was received by the Court of Appeals, the Court of Appeals properly sent the remittitur. Rule 221, SCACR. The sending of the remittitur ended appellate jurisdiction over this case, and no further motion or petition can be considered in the case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).

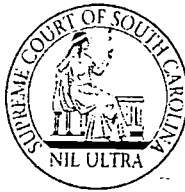
To the extent petitioner may be requesting relief from this Court under Rule 245, SCACR, that request must be dismissed not only for the failure to provide a proof of service, but also because there is no extraordinary reason for this Court to entertain this matter in its original jurisdiction. *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991).

Accordingly, the motion is dismissed.


C.J.
FOR THE COURT

Columbia, South Carolina
January 15, 2014

cc: Salley W. Elliott, Esquire
The Honorable Jenny Abbott Kitchings
Robert Miller
The Honorable Betty Jo Beckham



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

May 14, 2014

Mr. Robert Miller, 316047
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Re: The State v. Robert Miller
Appellate Case No. 2014-000030 (Appellate Case No. 2012-211446 before
the South Carolina Court of Appeals)

Dear Miller:

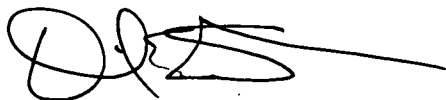
This responds to your documents dated May 12, 2014.

In this Court's order of January 15, 2014, it was determined that the South Carolina Court of Appeals had properly sent the remittitur on August 13, 2013. The sending of the remittitur ended appellate jurisdiction over this case, and neither this Court nor the Court of Appeals can consider any further motion in the above matter. *Wise v. South Carolina Dept. of Corrections*, 372 S.C. 173, 642 S.E.2d 551 (2007). Therefore, to the extent your documents may be seeking any relief in the above case, no action will be taken on it.

Your motion to vacate is being treated as a request for relief under Rule 245 of the South Carolina Appellate Court Rules, and it has been assigned Appellate Case Number 2014-001029. You will be advised when the Court takes action on this motion. Due to the number of pending matters, it may take several months for this

motion to be considered by the Court.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: Office of the Attorney General

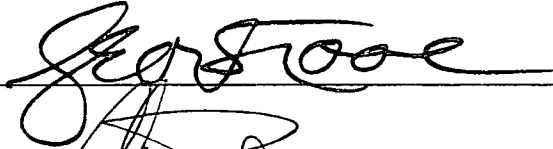
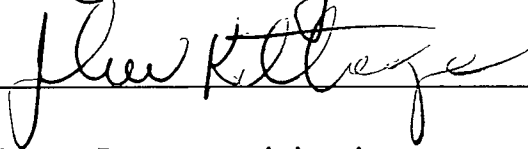
The Supreme Court of South Carolina

ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *Robert Artis*. Letter to the Clerk of Court dated April 14, 2014. Appellate Case No. 2014-000789.
2. *Cornelius Hayes*. Letter to the Clerk of Court dated April 25, 2014. Appellate Case No. 2014-000940.
3. *Robert James Miller, Jr.* Letter to the Clerk of Court; Motion to Vacate Illegal Sentence dated May 12, 2014. Appellate Case No. 2014-001029.
4. *Dwayne Cabbagestalk vs. Jenny A. Kitchings, Clerk of Court for South Carolina Court of Appeals, Robert M. Pachak, Appellate Defender for South Carolina Commission on Indigent Defense*. Petition for a Writ of Mandamus dated April 28, 2014. Appellate Case No. 2014-001004.
5. *Kevin W. McDaniels*. Letter to the Chief Justice dated May 8, 2014. Appellate Case No. 2014-001028.

IT IS SO ORDERED.

 C.J.
 J.
 J.
 J.

Hearn, J., not participating.

Columbia, South Carolina

May 12, 2014

CC:

Mr. Robert Artis

Mr. Alex Underwood

Mr. Cornelius Hayes

Mr. Leon Lott

Mr. Robert Miller

Office of The Attorney General

Mr. Dwayne Cabbagestalk

Mr. Kevin McDaniels

The Supreme Court of South Carolina

The State, Respondent

v.

Robert Miller, Petitioner.

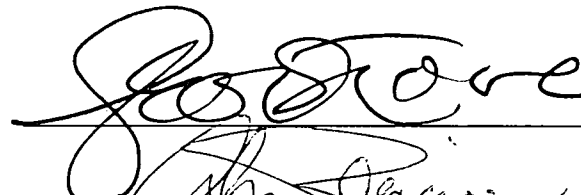
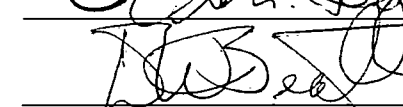
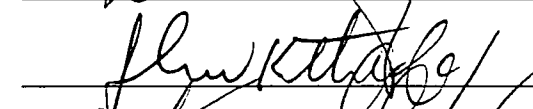
Appellate Case No. 2014-001029

ORDER

The following matter was dismissed by order dated June 12, 2014:

Robert James Miller, Jr. Motion to Vacate an Illegal Sentence dated May 12, 2014. Appellate Case No. 2014-001029.

Petitioner has now submitted a petition for rehearing. Because petitioner has shown no reason for this Court to reconsider its earlier decision in this matter, the petition is denied.

 C.J.
 J.
 J.
 J.
 J.

Columbia, South Carolina

July 15, 2014

cc:

Robert Miller, 316047

Office of the Attorney General

The Supreme Court of South Carolina

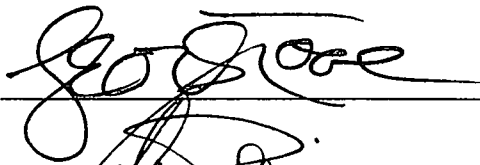
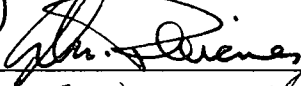
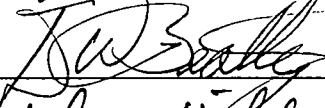
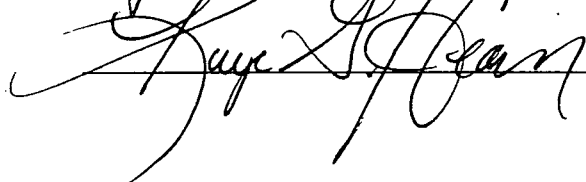
ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *David Cancer*. Letter to the Clerk of Court dated April 9, 2014. Appellate Case No. 2014-000790.
2. *Vernon Brown #303575, Inmates in S.M.U. at Lee Correctional Institution vs. Warden Dennis Bush, Deputy Warden Willie Davis, Captain Timothy Commander, Lt. Anthony Davis, Lt. Wilson, Lt. Shaw, and Lt. Richardson, all day Shift Supervisors of S.M.U. at Lee Correctional Institution*. Petition for Some Help. Appellate Case No. 2014-001193.
3. *Imani Y. Smith*. Letter to the Chief Justice dated May 28, 2014. Appellate Case No. 2014-001195.
4. *The State of South Carolina vs. Dominick Alexander Brown*. Petition of Overturnment and Release received May 29, 2014 and May 30, 2014. Appellate Case No. 2014-001194.
5. *Regina Hunter*. Letter to the Chief Justice dated May 18, 2014. Appellate Case No. 2014-001116.
6. *Paul Brown vs. The Honorable Perry M. Buckner, Administrative Judge for the Fourteenth Judicial Circuit*. Petition for a Writ of Mandamus dated May 16, 2014. Appellate Case No. 2014-001108.
7. *Robert James Miller, Jr.* Letter to the Chief Justice dated June 9, 2014. Appellate Case No. 2014-001029.

8. *Edward Briggs v. State of South Carolina*. Petition for Sentence Modification or In Alternative For Writ of Mandamus dated May 7, 2014. Appellate Case No. 2014-001114.
9. *William Washington v. State of South Carolina*. Petition for Writ of Mandamus dated May 5, 2014. Appellate Case No. 2014-001112.
10. *Robert L. Garrett, Jr.* Letter to the Chief Justice dated May 18, 2014. Appellate Case No. 2014-001102.

IT IS SO ORDERED.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

June 25,, 2014

The Supreme Court of South Carolina

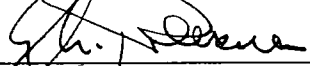
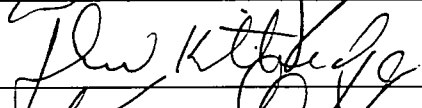
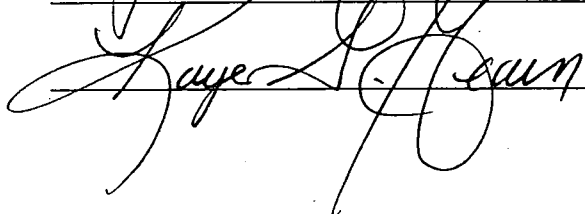
ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *Demetrius J. Smalls*. Complaint dated June 15, 2014. Appellate Case No. 2014-001613.
2. *Billy Lee Lisenby, Jr. v. South Carolina Department of Corrections, the State of South Carolina, and South Carolina Department of Probation, Parole, and Pardon Services*. Request for Injunctive Relief and Extension of Time dated June 25, 2014. Appellate Case No. 2014-001562.
3. *Billy Lee Lisenby, Jr. v. Administrative Law Court*. Petition for a Writ of Mandamus dated July 22, 2014. Appellate Case No. 2014-001623.
4. *Jacoby Gregory*. Letter to the Court dated July 11, 2014. Appellate Case No. 2014-001543.
5. *Darterious Mims*. Letter to the Clerk received July 17, 2014. Appellate Case No. 2014-001572.
6. *R. James Miller*. Letter to the Court dated July 9, 2014. Appellate Case No. 2014-001620.
7. *Franklin J. Loftis v. Administrative Law Court, State of South Carolina*. Petition for a Writ of Mandamus dated July 24, 2014. Appellate Case No. 2014-001673.
8. *Roderick English v. South Carolina Department of Corrections*. Motion to Obtain Correct Sentencing Sheets received July 31, 2014. Appellate Case No. 2014-001540.

9. *Demetrius Alexander Brown v. State of South Carolina*. Motion for a Bond Hearing dated July 26, 2014. Appellate Case No. 2014-001662.
10. *Roger Lee Arbogast*. Letter to the Chief Justice dated July 25, 2014. Appellate Case No. 2014-001664.

IT IS SO ORDERED.

	_____ C.J.
	_____ J.
	_____ J.
	_____ J.
	_____ J.

Columbia, South Carolina

August 21, 2014

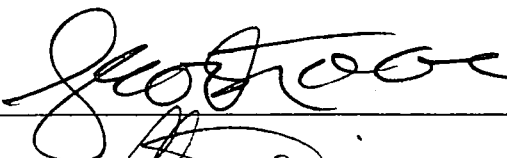
The Supreme Court of South Carolina

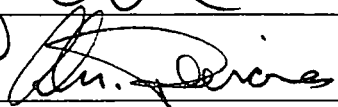
ORDER

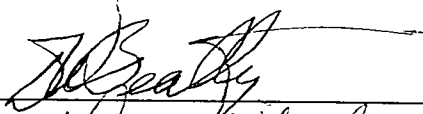
The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

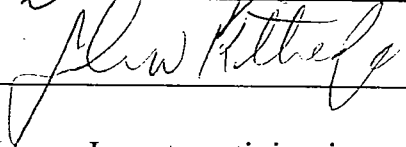
1. *R. James Miller, Jr.* Letter to the Court dated August 4, 2014. Appellate Case No. 2014-001740.
2. *John Dykeman v. State of South Carolina.* Petition for a Writ of Mandamus dated August 1, 2014. Appellate Case No. 2014-001739.
3. *Jimmy L. Rushing.* Letter to the Clerk of Court dated August 15, 2014. Appellate Case No. 2014-001758
4. *State of South Carolina v. Willie Brown, Jr.* Petition for a Writ of Mandamus dated August 13, 2014. Appellate Case No. 2014-001804.
5. *Antonio Dieargo Patterson.* Letter to Justice Beatty dated August 5, 2014. Appellate Case No. 2014-001805.
6. *Dennis Temple.* Letter to Justice Beatty dated February 14, 2014. Appellate Case No. 2014-001814.

IT IS SO ORDERED.


C.J.


J.



J.


J.

Hearn, J., not participating.

Columbia, South Carolina

September 11, 2014

CC:

Mr. Robert James Miller

Mr. John Dykeman

Mr. Jimmy L. Rushing

Mr. Willie James Brown

Mr. Antonio D. Patterson

Mr. Dennis Temple

Supreme Court
~~IN THE SUPREME COURT OF THE STATE OF SOUTH CAROLINA~~
For the District of South Carolina

Robert James Miller, Jr. :

Petitioner, :

Appellate case No: 2014-002102

C/A No. ~~111-183 JIA 5TH~~

v. :

State :

Documentation

~~Warden, Beasly Miller~~ :

of Medical

~~Corrections Institution~~ :

Conditions

Respondent. :

Please allow me to introduce evidence and information in regards to my medical conditions that may have been introduced at my plea hearing had I not been denied my Sixth Amendment Constitutional Right to the effective assistance of Counsel.

Petitioner was denied a fair trial by the gross incompetence of his attorney and there is a reasonable probability that, but for counsel's errors, he would not have pled guilty, would have insisted on going to trial and the outcome would have been different.

Hendricks v. Calderon, 64 F.3d 1340 (9th Cir. 1995)
despite evidence that defendant was mentally impaired, Counsel failed to investigate defendant's mental condition...

- WELLBUTRIN (bupropion) is indicated for the treatment of major depressive disorder (MDD).

Psychosis and other Neuropsychiatric Reactions:
Depressed patients treated with WELLBUTRIN have had a variety of neuropsychiatric signs and symptoms, including delusions, hallucinations, psychosis, concentration disturbance, paranoia, and confusion.

Some patients have unusual thoughts or behaviors while taking WELLBUTRIN, including delusions (believe you are someone else), hallucinations (seeing or hearing things that are not there), paranoia (feeling that people are against you), or feeling confused.

- KLONOPIN (clonazepam) is indicated for the treatment of panic disorder.

Because benzodiazepines have the potential to impair judgment, thinking...

Adverse Reactions: Confusion, depression, amnesia, hallucinations, hysteria, psychosis... memory disturbance, intellectual ability reduced, emotional lability... depersonalization, illusion...

- TRAZODONE hydrochloride is indicated for the treatment of depression.

Adverse reactions : Confusion, decreased concentration, disorientation, panic attacks, feelings of guilt or worthlessness...

- CETEEXA (citalopram) is indicated for the treatment of depression.

Psychiatric Disorders - Frequent : impaired concentration, apathy, aggravated depression, Confusion... depersonalization, psychotic depression, delusion, emotional lability, panic reaction, psychosis..

- VISTARIL (hydroxyzine hydrochloride)... management of neuroses and emotional disturbances manifested by anxiety, tension, agitation, apprehension or Confusion

...ability to render the disturbed patient more amenable to psychotherapy in long term treatment of the psychoneurotic and psychotic...

- AIRIPLA

Psychiatric Symptoms include : delusions, psychosis-like behavior... Confusion, abnormal thinking, depersonalization... depression, anxiety... delusions, mania, neurosis, paranoia, psychosis...

At the time of petitioner's plea, petitioner was under the care of a physician, psychiatrist, and mental health counselor and taking the following prescribed medications:

- Klonopin (clonazepam)
- Wellbutrin (Bupropion Sr)
- Trazodone
- Atripla
- Prestiq
- Vistaril (Hydroxyzine Pamoate)
- Celexa (Citalopram)

All but one (1) of the above medications are for the treatment of Severe mental disorders. The petitioner's public defender was well aware of the medications (because I repeatedly provided him with copy's of all available information) and the petitioner's medical conditions but he failed to inquire or investigate as to the effects (and side effects) of the medication or the conditions of the petitioner that necessitated the need for medication.

I am not raising this issue to indicate that I may have been incompetent or incoherent at the time of the plea. I do, however, wish to point out the incompetence of the public defender for failing to adequately represent me.

Exhibit # 33

1/5

STATE OF SOUTH CAROLINA)

COUNTY OF LANCASTER)

STATE OF SOUTH CAROLINA,)

VS.)

Robert Jones, Millitt)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

AFFIDAVIT OF DEFENDANT FOR GUILTY PLEA

The Defendant states to the Court that the Defendant wants to plead guilty to the following charge(s):

Financial Identity Fraud (3 counts)

In Connection with the plea, I certify that the answers to the following questions are true:

BACKGROUND OF DEFENDANT

- 1) How old are you? 40
- 2) How far did you go in school? GED
- 3) What kind of work do you do? Unemployed
- 4) Have you ever been treated for abuse of alcohol and/or drugs or for mental illness? yes ☐ no
If so, when? _____
For how long? Currently under treatment
Did you successfully complete the program? ☐ yes ☐ no
- 5) Have you taken any medication, drugs, or alcohol in the last 24 hours? ☒ yes ☐ no
If yes, what? Klonopin, Vistaril, Trazadone, Atripla
How much? prescribed amounts
Does this affect your ability to understand and comprehend what is going on here today
☐ yes ☒ no
- 6) Are you today under the influence of any medication, drugs, or alcohol? ☐ yes ☒ no



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Services

Food and Drug Administration
10001 New Hampshire Ave.
4th Floor
Silver Spring, MD 20993

July 24, 2014

R. James Miller, #316047
B.K.C.I. Mont. 267
4460 Broad River Rd.
Columbia, SC 29210

Dear Mr. Miller:

This is in response to your letter dated June 16, 2014, to the Food and Drug Administration (FDA) requesting information on several medications.

Enclosed, please find the professional labeling for the requested prescription medications. The labeling, or package insert, is the most complete single source of information on a drug. The information provided in the labeling was derived from clinical trial data reviewed and approved by FDA, and postmarketing data reported on the drug. The information in the labeling is intended for health professionals to help them determine whether or not to prescribe a particular product, and how best to use it safely.

Thank you for writing to the FDA. I hope this information is helpful.

Sincerely,

Joan Powers
Consumer Safety Officer
Division of Drug Information
Office of Communications
Center for Drug Evaluation and Research

Enclosures:

Atripla retrieved from
<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=2e97aa6d-09f7-46df-9499-63db7e9bac35&type=display>

Klonopin retrieved from
<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=542f22e8-dad2-47a8-93b6-30936715d73b&type=display>

Wellbutrin retrieved from

<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=60525754-0d2b-4ba4-918a-1c9d3eff89b2&type=display>

Trazodone retrieved from

<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=a699724b-7412-479e-9894-4cf6ec454d8b&type=display>

Pristiq retrieved from

<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=0f43610c-f290-46ea-d186-4f998ed99fce&type=display>

Celexa retrieved from

<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=6c96373f-6744-49d4-aec5-3720bc993fab&type=display>

Vistaril retrieved from

<http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=aed7d120-5f3d-4276-b341-737244d4f8a5&type=display>

Treatment with WELLBUTRIN can result in elevated blood pressure and hypertension. Assess blood pressure before initiating treatment with WELLBUTRIN, and monitor periodically during treatment. The risk of hypertension is increased if WELLBUTRIN is used concomitantly with MAOIs or other drugs that increase dopaminergic or noradrenergic activity [see *Contraindications* (4)].

Data from a comparative trial of the sustained-release formulation of bupropion HCl, nicotine transdermal system (NTS), the combination of sustained-release bupropion plus NTS, and placebo as an aid to smoking cessation suggest a higher incidence of treatment-emergent hypertension in patients treated with the combination of sustained-release bupropion and NTS. In this trial, 6.1% of subjects treated with the combination of sustained-release bupropion and NTS had treatment-emergent hypertension compared to 2.5%, 1.6%, and 3.1% of subjects treated with sustained-release bupropion, NTS, and placebo, respectively. The majority of these subjects had evidence of pre-existing hypertension. Three subjects (1.2%) treated with the combination of sustained-release bupropion and NTS and 1 subject (0.4%) treated with NTS had study medication discontinued due to hypertension compared with none of the subjects treated with sustained-release bupropion or placebo. Monitoring of blood pressure is recommended in patients who receive the combination of bupropion and nicotine replacement.

In a clinical trial of bupropion immediate-release in MDD subjects with stable congestive heart failure (N = 36), bupropion was associated with an exacerbation of pre-existing hypertension in 2 subjects, leading to discontinuation of bupropion treatment. There are no controlled trials assessing the safety of bupropion in patients with a recent history of myocardial infarction or unstable cardiac disease.

5.5 Activation of Mania/Hypomania

Antidepressant treatment can precipitate a manic, mixed, or hypomanic manic episode. The risk appears to be increased in patients with bipolar disorder or who have risk factors for bipolar disorder. Prior to initiating WELLBUTRIN, screen patients for a history of bipolar disorder and the presence of risk factors for bipolar disorder (e.g., family history of bipolar disorder, suicide, or depression). WELLBUTRIN is not approved for use in treating bipolar depression.

5.6 Psychosis and Other Neuropsychiatric Reactions

Depressed patients treated with WELLBUTRIN have had a variety of neuropsychiatric signs and symptoms, including delusions, hallucinations, psychosis, concentration disturbance, paranoia, and confusion. Some of these patients had a diagnosis of bipolar disorder. In some cases, these symptoms abated upon dose reduction and/or withdrawal of treatment. Instruct patients to contact a healthcare professional if such reactions occur.

5.7 Hypersensitivity Reactions

Anaphylactoid/anaphylactic reactions have occurred during clinical trials with bupropion. Reactions have been characterized by pruritus, urticaria, angioedema, and dyspnea requiring medical treatment. In addition, there have been rare, spontaneous postmarketing reports of erythema multiforme, Stevens-Johnson syndrome, and anaphylactic shock associated with bupropion. Instruct patients to discontinue WELLBUTRIN and consult a healthcare provider if they develop an allergic or anaphylactoid/anaphylactic reaction (e.g., skin rash, pruritus, hives, chest pain, edema, and shortness of breath) during treatment.

There are reports of arthralgia, myalgia, fever with rash and other serum sickness-like symptoms suggestive of delayed hypersensitivity.

- Excessive happiness or irritability
- Talking more or faster than usual

If you have any of the above symptoms of mania, call your healthcare provider.

- **Unusual thoughts or behaviors.** Some patients have unusual thoughts or behaviors while taking WELLBUTRIN, including delusions (believe you are someone else), hallucinations (seeing or hearing things that are not there), paranoia (feeling that people are against you), or feeling confused. If this happens to you, call your healthcare provider.
- **Severe allergic reactions.** Some people can have severe allergic reactions to WELLBUTRIN. Stop taking WELLBUTRIN and call your healthcare provider right away if you get a rash, itching, hives, fever, swollen lymph glands, painful sores in the mouth or around the eyes, swelling of the lips or tongue, chest pain, or have trouble breathing. These could be signs of a serious allergic reaction.

What is WELLBUTRIN?

WELLBUTRIN is a prescription medicine used to treat adults with a certain type of depression called major depressive disorder.

Who should not take WELLBUTRIN?

Do not take WELLBUTRIN if you

- have or had a seizure disorder or epilepsy.
- have or had an eating disorder such as anorexia nervosa or bulimia.
- **are taking any other medicines that contain bupropion, including ZYBAN (used to help people stop smoking) APLENZIN®, FORFIVO XL™, WELLBUTRIN SR®, or WELLBUTRIN XL®.** Bupropion is the same active ingredient that is in WELLBUTRIN.
- drink a lot of alcohol and abruptly stop drinking, or use medicines called sedatives (these make you sleepy), benzodiazepines, or anti-seizure medicines, and you stop using them all of a sudden.
- take a monoamine oxidase inhibitor (MAOI). Ask your healthcare provider or pharmacist if you are not sure if you take an MAOI, including the antibiotic linezolid.
 - do not take an MAOI within 2 weeks of stopping WELLBUTRIN unless directed to do so by your healthcare provider.
 - do not start WELLBUTRIN if you stopped taking an MAOI in the last 2 weeks unless directed to do so by your healthcare provider.
- are allergic to the active ingredient in WELLBUTRIN, bupropion, or to any of the inactive ingredients. See the end of this Medication Guide for a complete list of ingredients in WELLBUTRIN.

What should I tell my healthcare provider before taking WELLBUTRIN?

Tell your healthcare provider if you have ever had depression, suicidal thoughts or actions, or other mental health

problems. See "Antidepressant Medicines, Depression and Other Serious Mental Illnesses, and Suicidal Thoughts or Actions."

Tell your healthcare provider about your other medical conditions including if you:

- have liver problems, especially cirrhosis of the liver.

KLONOPIN® TABLETS (clonazepam)

Sedating drugs may cause confusion and over-sedation in the elderly; elderly patients generally should be started on low doses of Klonopin and observed closely.

ADVERSE REACTIONS

The adverse experiences for Klonopin are provided separately for patients with seizure disorders and with panic disorder.

Seizure Disorders

The most frequently occurring side effects of Klonopin are referable to CNS depression. Experience in treatment of seizures has shown that drowsiness has occurred in approximately 50% of patients and ataxia in approximately 30%. In some cases, these may diminish with time; behavior problems have been noted in approximately 25% of patients. Others, listed by system, are:

Neurologic: Abnormal eye movements, aphonia, choreiform movements, coma, diplopia, dysarthria, dysdiadochokinesis, "glassy-eyed" appearance, headache, hemiparesis, hypotonia, nystagmus, respiratory depression, slurred speech, tremor, vertigo

Psychiatric: Confusion, depression, amnesia, hallucinations, hysteria, increased libido, insomnia, psychosis (the behavior effects are more likely to occur in patients with a history of psychiatric disturbances). The following paradoxical reactions have been observed: excitability, irritability, aggressive behavior, agitation, nervousness, hostility, anxiety, sleep disturbances, nightmares and vivid dreams

Respiratory: Chest congestion, rhinorrhea, shortness of breath, hypersecretion in upper respiratory passages

Cardiovascular: Palpitations

Dermatologic: Hair loss, hirsutism, skin rash, ankle and facial edema

Gastrointestinal: Anorexia, coated tongue, constipation, diarrhea, dry mouth, encopresis, gastritis, increased appetite, nausea, sore gums

Genitourinary: Dysuria, enuresis, nocturia, urinary retention

Musculoskeletal: Muscle weakness, pains

Miscellaneous: Dehydration, general deterioration, fever, lymphadenopathy, weight loss or gain

Hematopoietic: Anemia, leukopenia, thrombocytopenia, eosinophilia

Hepatic: Hepatomegaly, transient elevations of serum transaminases and alkaline phosphatase

Panic Disorder

Adverse events during exposure to Klonopin were obtained by spontaneous report and recorded by clinical investigators using terminology of their own choosing. Consequently, it is not possible to provide a meaningful estimate of the proportion of individuals experiencing adverse events without first grouping similar types of events into a smaller number of standardized event categories. In the tables and tabulations that follow, CIGY dictionary terminology has been used to classify reported adverse events, except in certain cases in which redundant terms were collapsed into more meaningful terms, as noted below.

The stated frequencies of adverse events represent the proportion of individuals who experienced, at least once, a treatment-emergent adverse event of the type listed. An event was considered treatment-emergent if it occurred for the first time or worsened while receiving therapy following baseline evaluation.

Adverse Findings Observed in Short-Term, Placebo-Controlled Trials

Adverse Events Associated With Discontinuation of Treatment

Overall, the incidence of discontinuation due to adverse events was 17% in Klonopin compared to 9% for placebo in the combined data of two 6- to 9-week trials. The most common events ($\geq 1\%$) associated with discontinuation and a dropout rate twice or greater for Klonopin than that of placebo included the following:

Table 2 Most Common Adverse Events ($\geq 1\%$) Associated with Discontinuation of Treatment

Adverse Event	Klonopin (N=574)	Placebo (N=294)
Somnolence	7%	1%
Depression	4%	1%
Dizziness	1%	<1%
Nervousness	1%	0%
Ataxia	1%	0%
Intellectual Ability Reduced	1%	0%

Adverse Events Occurring at an Incidence of 1% or More Among Klonopin-Treated Patients

Table 3 enumerates the incidence, rounded to the nearest percent, of treatment-emergent adverse events that occurred during acute therapy of panic disorder from a pool of two 6- to 9-week trials. Events reported in 1% or more of patients treated with Klonopin (doses ranging from 0.5 to 4 mg/day) and for which the incidence was greater than that in placebo-treated patients are included.

The prescriber should be aware that the figures in Table 3 cannot be used to predict the incidence of side effects in the course of usual medical practice where patient characteristics and other factors differ from those that prevailed in the clinical trials. Similarly, the cited frequencies cannot be compared with figures obtained from other clinical investigations involving different treatments, uses and investigators. The cited figures,

What is autism spectrum disorder (ASD)?

Autism is a group of developmental brain disorders, collectively called autism spectrum disorder (ASD). The term "spectrum" refers to the wide range of symptoms, skills, and levels of impairment, or disability, that children with ASD can have. Some children are mildly impaired by their symptoms, but others are severely disabled.

ASD is diagnosed according to guidelines listed in the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition - Text Revision* (DSM-IV-TR).¹ The manual currently defines five disorders, sometimes called pervasive developmental disorders (PDDs), as ASD:

- Autistic disorder (classic autism)
- Asperger's disorder (Asperger syndrome)
- Pervasive developmental disorder not otherwise specified (PDD-NOS)
- Rett's disorder (Rett syndrome)
- Childhood disintegrative disorder (CDD).

This information packet will focus on autism, Asperger syndrome, and PDD-NOS, with brief descriptions of Rett syndrome and CDD in the section, "Related disorders." Information can also be found on the Eunice Kennedy Shriver National Institute of Child Health and Human Development website at <http://www.nichd.nih.gov> and the Centers for Disease Control and Prevention website at <http://www.cdc.gov/ncbddd/autism/index.html>.

What are the symptoms of ASD?

Symptoms of autism spectrum disorder (ASD) vary from one child to the next, but in general, they fall into three areas:

- Social impairment
- Communication difficulties
- Repetitive and stereotyped behaviors.

Children with ASD do not follow typical patterns when developing social and communication skills. Parents are usually the first to notice unusual behaviors in their child. Often, certain behaviors become more noticeable when comparing children of the same age.

In some cases, babies with ASD may seem different very early in their development. Even before their first birthday, some babies become overly focused on certain objects, rarely make eye contact, and fail to engage in typical back-and-forth play and babbling with their parents. Other children may develop normally until the second or even third year of life, but then start to lose interest in others and become silent, withdrawn, or indifferent to social signals. Loss or reversal of normal development is called regression and occurs in some children with ASD.²

RECEIVED

FEB 27 2015

IN THE SUPREME COURT OF SOUTH CAROLINA ^{S.C.} Supreme Court

Robert James Miller, Jr.,

Petitioner,

v.

State of South Carolina,

Respondent.

Appellate Case No. :

2014-002102

Supplement to

Response

The PCR court failed/refused to consider or address the unlawful Court Orders issued prior to Petitioners plea hearing. E* Trade was ordered to release \$19,653.51 (\$46,657.42 is missing - stolen by the Sheriff's Office) and then THE INDICTMENT WAS DISMISSED (see attached).

The PCR court also failed to review Petitioners claim that Orders were issued to release \$9,882.00 cash (six months before plea) and Petitioners vehicle - to be applied towards UNLAWFUL restitution Order.

See Hughey v. United States, 495 U.S. 411, 418 (1990)

"Restitution MUST be tied to the offense of conviction."

"Restitution may not be imposed for losses caused by any other crime or any other defendant."

My restitution Order is contrary to clearly established federal law and the PCR court ignored this fact.

→ See Appendix pg. 8, line 20 thru pg. 9, line 11 ←

1	1. The first part of the paper is an introduction to the topic of the study.
2	2. The second part of the paper is a literature review of the topic.
3	3. The third part of the paper is a description of the methodology used in the study.
4	4. The fourth part of the paper is a presentation of the results of the study.
5	5. The fifth part of the paper is a discussion of the results and their implications.
6	6. The sixth part of the paper is a conclusion and a list of references.
7	7. The seventh part of the paper is an appendix containing additional data and figures.
8	8. The eighth part of the paper is a glossary of terms used in the study.
9	9. The ninth part of the paper is a list of abbreviations used in the study.
10	10. The tenth part of the paper is a list of acknowledgments.

Exhibit P

September 1, 2010 - September 30, 2010

Account Number: 6394-
Account Type: INDIVIDUAL

E*TRADE Securities LLC
PO Box 1542
Merrifield, VA 22116
1-800-ETRADE-1 (1-800-387-2331)
etrade.com Member FINRA/SIPC

Customer Update:

NOTICE OF CUSTOMER AGREEMENT

UPDATES - Effective September 1, 2010,
E*TRADE has updated its Brokerage Customer
Agreement and Margin Agreement. To review
agreements go to etrade.com. If you have
questions, please call 1-800-ETRADE-1
(1-800-387-2331) anytime 24/7.

Law Enforcement Misconduct

IMPORTANT INFORMATION:

NEED HELP? Visit our Online Service Center.
The fastest way to get the answers you need.
Go to etrade.com/servicecenter.



BUNDRICK ROAD
WINNSBORO SC 29180-8503

Account At A Glance

\$61,897.22



As of 08/31/10

\$66,312.93



As of 09/30/10

Net Change: \$4,415.71

Sheriff's
Office
[only] released
\$19,653.51
they claim the rest (\$46,657.42) is MISSING

Securities products and services are offered by E*TRADE Securities LLC, Member FINRA. Your account is carried by an affiliate, E*TRADE Clearing LLC, Member NYSE/FINRA/SIPC, which maintains your funds and securities. Please promptly report any inaccuracy or discrepancy in your account to both E*TRADE Securities LLC at 1-800-ETRADE-1 and E*TRADE Clearing LLC at 201-499-6247. You should re-confirm any oral communication in writing to further protect your rights, including rights under the Securities Investor Protection Act (SIPA).

DETACH HERE

BUNDRICK ROAD
WINNSBORO SC 29180-8503

Use This Deposit Slip

Acct: 6394-
DETACH HERE

Please do not send cash

Make checks payable to E*TRADE Clearing LLC.

Dollars	Cents

TOTAL DEPOSIT

Mail deposits to:



E*TRADE CLEARING LLC
P.O. Box 1542
Merrifield, VA 22116-1542

093020100001 1116394-1

E*TRADE Securities
Investment Account



E*TRADE
FINANCIAL
Trading • Investing • Banking

WITNESSES

Talbert-FCSO

Boyd

ARREST WARRANT NUMBER/DOA

IM400917 (DOA-12-02-10)

ACTION OF GRAND JURY

TRUE BILL

2/1 2011

Teresa Wendler

Foreperson of Grand Jury

Date: 2/1/11

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-20-045

The State of South Carolina

County of Fairfield

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2011

THE STATE

VS.

Robert J. Miller, Jr.

H-1 709

[Signature]

4/3/12
ETRADE

Indictment for

Financial Identity Fraud

SC Code: § 16-13-510

CDR Code: 2813

Class: Felony, E

Exhibit 0

2011 FEB -1 P 4:44

FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

STATE OF SOUTH CAROLINA
COUNTY OF FAIRFIELD
THE STATE

vs.

Robert James Miller &
Kayla Hudson, a/k/a Kayla Miller,
Defendants.

COURT ORDER

2011 MAR -7 P 3:54
FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

TO: ~~E*TRADE FINANCIAL~~

This matter comes before the Court by petition of Riley J. Maxwell, Assistant Solicitor for the Sixth Judicial Circuit of South Carolina.

FACTS

1. E*Trade Brokerage Account #63941525 was opened [REDACTED] address, social security number and date of birth.
2. [REDACTED] had account #0000001730600 at Provident Bank in Winnsboro, S.C. Funds were transferred from the Provident Bank account into the E*Trade account on August 10, September 2, September 23, 2010. The total amount transferred was \$41,000.
3. [REDACTED] owned stock in the Piedmont Natural Gas Company ("Piedmont"). The stock was liquidated in August 2010. A [REDACTED] check was made payable to [REDACTED]. On August 30, 2010, the check was deposited into the E*Trade account.
4. Other funds in the Provident Bank account were transferred into accounts [REDACTED] opened at other financial institutions [REDACTED].
5. [REDACTED] Investigator Jeff Talbert was assigned to investigate the matter. [REDACTED] further informed Inv. Talbert that the Piedmont stock was liquidated without his authorization. On November 3, 2010, Robert Miller and Kayla Hudson, a/k/a Kayla Miller, were arrested for three counts of Financial Identity Fraud, three counts of Financial Transaction Card Fraud, three counts of Criminally Receiving Goods, and one count of Grand Larceny \$10,000 or more. Robert Miller was arrested for an additional count of

[Handwritten signature]

Financial Identity Fraud on December 20, 2010. True-Source

issued by the Fairfield County Grand Jury on February 1, 2011 on all charges.

6. Shortly after the investigation began, all accounts referenced were frozen.

[REDACTED] including the \$41,000 transferred to the E*Trade account.

7. On February 8, 2011, \$19,653.51 remained in the E*Trade account. The account is frozen and still registered in [REDACTED] name and his identifying information.

Due to the account being frozen, [REDACTED] does not have access to the money.

The Court finds that the money in the E*Trade account rightfully belongs to [REDACTED]

[REDACTED] should be granted to access to the funds.

Robert Miller is represented by Mike Lifsey. Kayla Hudson is represented by William Frick. The attorneys for the defendants do not contest the State's request.

You are hereby ordered to relinquish funds in account #63941525 opened in the name

[REDACTED] Bundrick Road, Winnsboro, S.C. 29180.

AND IT IS SO ORDERED!


Brooks P. Goldsmith
Presiding Judge, 6th Judicial Circuit

Date: March 7, 2011
Fairfield, SC

I was NEVER notified of any hearing
or given an opportunity to attend.
This was more than a YEAR BEFORE
I pled guilty !!!
This is clearly not lawful

Exhibit I

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF FAIRFIELD	)	SIXTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA	)	ORDER
APR -5 A 11:09	)	INDICTMENT(S)
-versus FAIRFIELD COUNTY	)	2011 -GS-20-0035
CLERK OF COURT	)	2011 -GS-20-0036
Robert James Miller, BETTY JO BECKHAM	)	2011 -GS-20-0037
Defendant.	)	

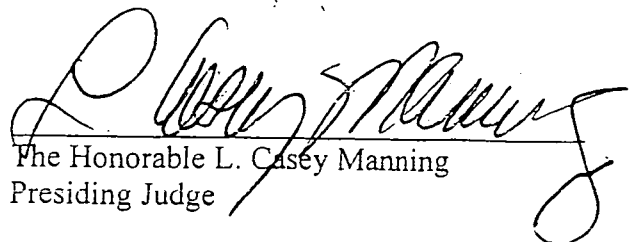
The Defendant came before the Court on April 3, 2012 and entered guilty pleas to three counts of Financial Identity Fraud. The Court sentenced the Defendant to ten years on two of the counts to be run concurrent. On the third indictment, the court imposed a probationary sentence to be run consecutive to the other charges. As a condition of probation, the Court ordered the Defendant to pay \$29,025.75 in restitution to the William Bundrick. During the plea and on the record, the Defendant consented to the forfeiture of a 2002 Saturn vehicle (VIN #1G8ZH52892Z120291) to offset the amount of restitution. The vehicle is currently in the possession of the Fairfield County Sheriff's Office.

The Court finds it appropriate that the vehicle be transferred to the ownership of William Bundrick to satisfy part of the restitution and the amount of restitution be offset in the amount of \$2750.00.

The South Carolina Highway Department is directed to issue a clear title vesting title to the above described vehicle in the name of William Bundrick.

AND IT SO ORDERED.

Date: April 5, 2012


The Honorable L. Casey Manning
Presiding Judge

NO
I Did
NOT

THE STATE OF SOUTH CAROLINA
SESSIONS

COUNTY OF FAIRFIELD

THE STATE

vs.

Robert James Miller,

Defendant.

IN THE COURT OF GENERAL

COURT ORDER

2011 NOV -1 A 9:43
FAIRFIELD COUNTY
CLERK OF COURT
BETTY JO BECKHAM

This matter came before the Court pursuant to a motion by State. The State requests that \$9882.00 U.S. currency collected by the Fairfield County Sheriff's Office from Robert James Miller's actual or constructive possession be relinquished to William Bundrick. A hearing was held on Wednesday, October 12, 2011. The State was represented by Assistant Solicitor Riley Maxwell. Miller was represented by Mike Lifsey, Chief Public Defender.

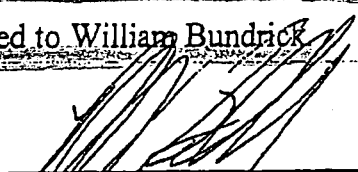
On October 14, 2010, [REDACTED] Bank account to the Fairfield County Sheriff's Office. Investigator Jeff Talbert was assigned to investigate the matter. Bundrick further informed Inv. Talbert that stock was liquidated without his authorization. Robert Miller and Kayla Hudson, a/k/a Kayla Miller, were charged for three counts of Financial Identity Fraud, three counts of Financial Transaction Card Fraud, three counts of Criminally Receiving Goods, and one count of Grand Larceny \$10,000 or more. Robert Miller was charged with an additional count of Financial Identity Fraud on December 20, 2010. True-billed indictments were issued by the Fairfield County Grand Jury on February 1, 2011 on all charges. The charges are pending.

On November 3, 2011, Miller was arrested at a storage unit at City Laundry Cleaners. Officers located \$882 in cash on Miller's person. The storage unit was searched pursuant to a search warrant and \$9,000 in cash was located and seized.

During the hearing, the defendant did not object to the State's request. The State a, not to use the absence of the defendant's objection of the motion to prejudice the defend: any future criminal trial.

The Court, therefore, orders that the \$9882.00 in cash funds collected by the Fair County Sheriff's Office in this matter can be released to William Bundrick

IT IS SO ORDERED.


Brooks P. Goldsmith
Presiding Judge, 6th Judicial Circuit

Date:

October 14 2011

Neither me or the Public Defender
was at this hearing that occurred
six months BEFORE my guilty plea

RECEIVED

R. James Miller, Jr. #316047

FEB 27 2015

Manning Corr. Inst.

S.C. Supreme Court

502 Beckman Drive

Columbia, SC 29203

22 February 2015

Supreme Court of South Carolina

P.O. Box 11330

Columbia, SC 29211

Re: 2014-002102

Dear Clerk of Court,

Please take note that my address has changed and the correct address is listed above. Thank you for your time and assistance.

Respectfully,
R. James Miller

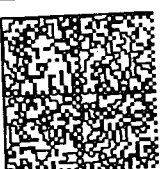
R. James Miller, Jr. #316047
Manning Corr. Inst. WA-37B
502 Beckman Drive
Columbia, SC 29203

RECEIVED

FEB 24 2015

MCI MAIL ROOM

Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
1231 Gervais Street
P.O. Box 11330
Columbia, SC 29201



UNITED STATES POSTAGE
PITNEY BOWES
02 1P
0003167753
MAILED FROM ZIP CODE 29203
\$005.750
FEB 25 2015