



written in the English language on American soil, as taken from my State of South Carolina related Website. All references herein made are related to the court rules and constitutional rights, duties, protections, accountabilities, responsibilities, protections, fairness, equalities, liberties and promises for the pursuit of happiness are contained in the State Constitution and copies of the Court rules can be extracted from the following websites or made available, upon the party request:

The website for the State Supreme Court Appellate rules are located at :  
<http://www.judicial.state.sc.us/supreme/>

The website for the State of South Carolina Constitution is located at:  
<http://www.scstatehouse.gov/scconstitution/scconst.php>.

The website for the State of South Carolina State code of laws are located and found:  
<http://www.scstatehouse.gov/code/statmast.php>

I am also requesting, based on a reliable source information, that since the law and rules can changed without anyone's knowledge, as on the website posting (based on information the rules are sometime change daily without others being notified) to provide such service and submissions, to be made to this citizens related to the subject matters, as identified an issue.

I, Mr. Wesley move before this honorable court under the authority of the rules, in accordance with the requirements of this court which governs such protection and afforded fairness and equality for an aggrieved citizen, without any restriction or any subjective personal upon her pursuant to rule 201. As stated in relevant parts:

**RULE 201, RIGHT TO APPEAL.**

**(a) Judgments, Orders and Decisions Subject to Appeal.** Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The procedure for petitioning for a writ of certiorari to review final judgments in post-conviction relief cases is provided by Rule 243. Further, the review of decisions of the State Board of Canvassers in election cases shall be

by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270.

**(b) Who May Appeal.** Only a party aggrieved by an order, judgment, sentence or decision may appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

## **II. PROCDRUAL HISTORY AND BACKGROND FACTS**

Mr. Wesley Edward Smith III was a loyal, conscientious and dedicated worker, (as also later identified and acknowledge by the CEO Mr. John T Cahill) that provided a services and in turn was paid wages and granted employment benefit that came with the territory of having a job, by the Pepsi Bottling Group, INC, of which a partnership was formed. From March 22, 1999 until March 28, 2005, Mr. Wesley Edward Smith III believes I became a target of other White American employees was because I oppose to wrongful application of state constitutional law and the subsequent subjectively of the State law a person uses the business as a practice field to practices, but does not only affect me, but could disgrace this company, while at the same time exploit the shareholder and stakeholder monies and retirements ( individuals were pocketing monies intentionally or unintentionally, let them tell it as here to be a plausible excuses) Executives and mangers were not reporting all the fact to the investigative services of the agencies as requires. Executives (just a self title given) and Mangers not reporting the true net revenue of the company, taking side deals, expensive gifts, compromising the business and converting the practice, committing fraud in a sham process intended or united to deceive , for which compelling reasons are given believe the acts were retaliatory and discriminatory. My PBG contract sign a oath and code that I, Mr. Wesley Edward smith III would not disgrace this company, while at the same time be the eyes and ears for the shareholder and stakeholder monies and retirements which allows them to be protected, because the shareholder and investors

did not have inside access. I was doing my job as PBG bible clearly state and employee contract that "must report perceive violation of the companies policies and procedures.

I Mr. Wesley Edward Smith III, was then made the subject of the South Carolina State law for theft and misapplication of company records and misappropriations of funds, by State prosecutors Mr. Ashley B Able, Ms. Jody Smitherman, Mr. Scott Katrosh, Mr. Daniel Blanchard, Ms. Alice Paylor; a committee of private citizen operating within State territory of South Carolina are Pepsi Bottling Group A.K.A Bottling Group, Inc A.K.A The Pepsi Bottling Company INC with Attorneys Mr, Ashley Able, Ms. Jody Smitherman, Mr. Scott Katrosh, Mrs. Lynn S. Holly, CEO Mr. John T. Cahill, CEO Mr. Eric Foss Mr. Steve Barberio, Mr. Joe Voderic, Mr. Bob Marshall, Mr. Richard Simmons, Mrs. Sharon Sullivan, Mr. John Berisford, Mr. Mike Correa, Mr. Russ Arnold, Mrs. Paulette Alvitti, Mr. Erik Mizell, Mr. Herb Jarvis, Mr. Sean Helsel, Mr. Tim Rossetti, Mr. Jeff Stevens, Mr. Michael Fowler, Mr. Roy Miller, and the Witnesses w/ supporting State witnesses with statements made are Mr. Johnnie Devine,; Mrs. Jennifer Pankake , Mr Irvin Haynes. Mr. Jerry Abraham, Mr. Earl Robinson, Mrs. Myra Hill, Mr. Tom Mizell, Mr. John Didit, ESQ, Ms Jane Duet, ESQ, and Mrs. John Didit, ESQ, Ms Jane Duet, ESQ, but not an exhausting listing of the Respondents that convicted me of the "just cause" crime and then terminated my employee contract from employment with PBG under the same premise but without being affording. mr. Wesley Edward Smith III procedural due process and the Constitutional protection my "Legal Shield" As required of the Respondents, who subjected Mr. Wesley Edward smith III to the state laws, dis not allow me to cross examine its said witness not see the discoverable evidence, Instead. I mr. Wesley Edward Smith III was made the subject of the State law and lost his job based on hearsay, rumors, speculation of facts and mere

conjecture of the state law. This is reasonable true because the order is not supported by supporting legal memorandum of law argument for the respondent cause of action to terminated my employment without providing the constitutional rights, duties and services. Mr. Wesley Edward Smith III believe that all his state Constitutional rights have been denied and encroach upon by the respondents

Not only has the violation occurred to my Constitutional rights, but I believe based on this supporting rule under rule 203, that my right to appeal the respondents verdict and subsequent conviction (which lead to my being terminated from employment for the alleged "just cause" reason. I also object to the respondent implied legal right to act as the enforcement agency without providing the substantive proof and evidence required by law. Upon conclusion of the respondent findings, there should be no reasonable doubt remaining. Thus the granting an order or ruling form the court was premature and error of a constitutional right and in violation of the State appellate rules. Also the fact that the respondents have not provided or refuses disclose to the opposing party that upon completion of the initiation and final disposition of termination from employment of such conclusive finding, and that the verdict handed on behalf of the respondent allowed Mr. Wesley Edward Smith III the opportunity as require under rule 203 as relied upon below, to appeal such subject matters decisions from any venue as stated herein and as stated in relevant parts:

**RULE 203  
NOTICE OF APPEAL**

**(a) Notice.** A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

**(b) Time for Service.**

**(1) Appeals From the Court of Common Pleas.** A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCPP), motion to

alter or amend the judgment (Rules 52 and 59, SCRCPP), or a motion for a new trial (Rule 59, SCRCPP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

**(2) Appeals From the Court of General Sessions.** After a plea or trial resulting in conviction or a proceeding resulting in revocation of probation, a notice of appeal shall be served on all respondents within ten (10) days after the sentence is imposed. In all other cases, a notice of appeal shall be served on all respondents within ten (10) days after receipt of written notice of entry of the order or judgment. When a timely post-trial motion is made under Rule 29(a), SCRCrimP, the time to appeal shall be stayed and shall begin to run from receipt of written notice of entry of an order granting or denying such motion. In those cases in which the State is allowed to appeal a pre-trial order or ruling, the notice of appeal must be served within ten (10) days of receiving actual notice of the ruling or order; provided, however, that the notice of appeal must be served before the jury is sworn or, if tried without a jury, before the State begins the presentation of its case in chief.

**(3) Appeals From the Family Court.** A notice of appeal in a domestic relations action shall be served in the same manner provided by Rule 203(b)(1). A notice of appeal in a juvenile action shall be served in the same manner as provided by Rule 203(b)(2).

**(4) Appeals From Masters and Special Referees.** The notice of appeal from an order or judgment issued by a master or special referee shall be served in the same manner as provided by Rule 203(b)(1).

**(5) Appeals From Probate Court.** When a direct appeal is authorized by S.C. Code Ann. § 62-1-308(g), the notice of appeal shall be served in the same manner as provided by Rule 203(b)(1).

**(6) Appeals From Administrative Tribunals.** When a statute allows a decision of the administrative law court or agency (administrative tribunal) to be appealed directly to the Supreme Court or the Court of Appeals, the notice of appeal shall be served on the agency, the administrative law court (if it has been involved in the case) and all parties of record within thirty (30) days after receipt of the decision. If a timely petition for rehearing is filed with the administrative tribunal, the time to appeal for all parties shall be stayed and shall run from receipt of the decision granting or denying that motion. If a decision indicates that a more full and complete decision is to follow, a party need not appeal until receipt of the more complete decision.

**(c) Cross-Appeals.** A respondent may institute a cross-appeal by serving a notice of appeal on all adverse parties, or in the case of an appeal from the administrative tribunal, by serving a notice of appeal on the agency, the administrative law court (if it has been involved in the case) and all parties of record, within five (5) days after receipt of appellant's notice of appeal, or within the time prescribed by Rule 203(b), whichever period last expires.

**(d) Filing.**

**(1) Appeals from the Circuit Court, Family Court and Probate Court.**

**(A) Where to File.** The notice of appeal shall be filed with the clerk of the lower court and with the Clerk of the Supreme Court in the following cases:

**(i)** Any final judgment from the circuit court which includes a sentence of death.

**(ii)** Any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance; provided, however, in any case where the Supreme Court finds that the constitutional issue raised is not a significant one, the Supreme Court may transfer the case to the Court of Appeals.

**(iii)** Any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness now or hereafter authorized by Article X of the Constitution of this State.

**(iv)** Any final judgment from the circuit court pertaining to elections and election procedure.

**(v)** Any order limiting an investigation by a State Grand Jury under S.C. Code Ann. § 14-7-1630.

In closing, I believe that a reversal of law to the premature error of law for the violation of the Appellant Constitutional rights and the requirement under rule 203 for the the service of appellant notices are in order. I, Mr. Wesley Edward smith III gave respect and am respectfully demanding to be respected, demand the enforcement of law to the violation of my recognized constitutional rights demanded to be release form the bonds of PBG and it is many actor, Enjoin others form chiming in on a legal issue that is unrelated to the implied termination process, enjoin all others for chumming in just to continually harass and encroach up on the lagea process, for the fraudulent judgment made and actions taken against me an my families ,members, fraudulent orders, fraudulent date and times, fraud committed upon the cout fraudulent for the bonds of perpetrators acting under the government state laws, demand freedoms, protection, legal rights, liberties, recovery, redress, reinstatement, restoration and I

demand that my legal shield of my constitutional be respected as well as for other similarly situated citizen regardless of any known or unknown disability factors.

**WHEREAS under RULE 245 ORIGINAL JURISDICTION OF THE SUPREME COURT**

**(a) When Appropriate.** The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance, without material prejudice to the rights of the parties. If the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised, the facts showing the reasons must be stated in the petition with supporting affidavits.

**(b) Extraordinary Writs.** A party seeking the issuance of an extraordinary writ in the original jurisdiction of the Supreme Court shall serve and file a petition. The petition and any return shall comply with the requirements of Rule 240.

**(c) Actions.** A party seeking to have the Supreme Court entertain an action in its original jurisdiction (petitioner) shall serve on all other parties (respondents) a petition for original jurisdiction, a complaint setting forth the claim for relief in the manner specified by Rule 8, SCRCF, and a notice advising each respondent he has twenty (20) days from the date of service to serve and file a return to the petition. Service shall be in the same manner as required for summons and complaints in Rule 4, SCRCF. The petitioner shall file an original and six (6) copies of the petition, notice and complaint with the Clerk of the Supreme Court, along with proof of service on each respondent. Any party opposing the petition shall have twenty (20) days from the date of service to file an original and six (6) copies of his return with the Clerk of the Supreme Court and serve on all parties a copy of the return. Failure of a party to timely file a return may be deemed a consent by that party to the matter being heard in the original jurisdiction. Unless otherwise ordered by the Supreme Court, the petition shall be decided without oral argument. If the petition is granted, the respondent shall have thirty (30) days to serve and file an answer to the complaint. The Supreme Court may provide for discovery, fact finding and/or a briefing schedule as necessary.

Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

**RULE 246**

**STAY IN CRIMINAL CASES**

**(a) Stays Pending Appeal.** The service of a notice of appeal by a criminal defendant shall operate as a stay of the execution of the sentence until the appeal is finally disposed of; provided, however, a sentence of confinement shall not be stayed until the defendant has posted bail under S.C. Code Ann. §§ 18-1-80 and -90 (1985). Where the sentence exceeds imprisonment for ten (10) years, the defendant may only be admitted to bail by an appellate court. Where the State has taken an appeal, the appeal shall automatically operate as a stay of further proceedings in the lower court.

**(b) Stays of Sentences After Affirmance.** No stay of any sentence in a criminal case which has been affirmed by the judgment of an appellate court shall be granted, except by order of an appellate court, or a judge or justice thereof, upon motion pursuant to Rule 240.

Amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

**WHEREAS under rule RULE 260 DISMISSAL AND REINSTATEMENT**

**(a) Involuntary Dismissal and Reinstatement.** Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).

**(b) Agreed Dismissal.** If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, the appellate court may enter an order of dismissal. The agreement may contain a provision altering the costs to be assessed under Rule 222 and/or other settlement terms subject to the provisions of Rule 261.

**(c) Withdrawal.** An appeal or other proceeding may be dismissed on motion of the appellant or petitioner upon such terms as may be fixed by the court.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date,

**WHEREAS under RULE 261 AGREEMENTS AND SETTLEMENTS**

**(a) Agreements Generally.** Any agreement submitted to the appellate court for its consideration shall be in writing and signed by the parties or their attorneys. Further, any agreement submitted to the appellate court shall be public unless a motion to seal is filed and the appellate court determines that the matters should be sealed under the standard provided by Rule 41.1, SCRCF.

**(b) Settlement Agreements.** If a settlement agreement relates to a matter that is pending before an appellate court, the settlement agreement need not be submitted to the appellate court unless approval by the appellate court, a lower court or tribunal is required before the agreement can be effective, or the parties desire to have the agreement approved by the appellate court.

**(c) Agreements Regarding Rules.** Any agreement to modify a requirement of these Appellate Court Rules must be approved by the appellate court.

**(d) Vacation of Prior Opinions, Orders or Judgments.** In the agreement, the parties may request vacation of opinions, orders, decisions and judgments previously issued in the matter. The agreement must set forth the facts that warrant this extraordinary relief. If the matter is pending before the Supreme Court and the agreement requests the vacation of an order or opinion of the Court of Appeals, the Supreme Court, in its discretion, may seek a recommendation from the Court of Appeals regarding the request for vacation. If an agreement containing a request for vacation is rejected, the parties may resubmit the agreement without the request for vacation.

Last amended by Orders dated January 28 and 29, 2009, effective April 29, 2009, by Orders of the same date.

The respondents PBG refuse to speak with Mr. Wesley Edward Smith III and will not reconcile. PBG claim it owes Mr. Wesley Edward Smith III, and based on such assumptions, not even respecting the state declaration of rights, under **SECTION 22**. Procedure before administrative agencies; judicial review.

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless

**SECTION 23.** Provisions of Constitution mandatory.

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms. (1970 (56) 2684; 1971 (57) 315.)

**SECTION 24.** Victims' Bill of Rights.

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

- (1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;
- (2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;
- (3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;
- (4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;
- (5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;
- (6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;
- (7) confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;
- (8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;
- (9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;
- (10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;
- (11) a reasonable disposition and prompt and final conclusion of the case;
- (12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.

(C) For purposes of this section:

- (1) A victim's exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.
- (2) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm

as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

(3) The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims.

If this is plausible and the State actors that intervene in or around the court's knew or should have known of these problematic areas such as encroaches of the judicial process and perpetrators at law who lurk and act out of practice at the state laws and thus creates a climate more of problematic vice proffering a legal solution to these controversial issues, with the cosigning back into existence the long standing propaganda of intent<sup>1</sup> such as the assertion of the defense used by the respondents for a defense, which as presumed allow one to act out in any mannerism of ways to another citizen, then why would the professionals of the Courts allow the "Untimely" ruling from Honorable R. Markley Dennis order on 20 March 2006, then the subsequent finalization of the initiated two-part order by the Honorable Doyet A. Early on 29 November 2007 and this order by the Honorable Stephanie P, McDonald dated 27 February 2014 (which order appears totally relevant of one another) without having such mockery of law and further injustices. Why didn't the court impartiality process allow the required liberal construing and then "Summarily Dismissing of the case by the unsupported claims, non-standing of party, non-holding of case by law, by reverting such actions to the State association State affiliations, State interest groups and the State legislators before making a timely, mentally sound, mentally

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<sup>1</sup> Criminal Intent is the devastation of the laws as applied without due diligence and with implied prejudice.

competent, affirmed, decreed, concurring decisions or judgments under the court business practice letterhead. Such follow-ups as required would have prevented illegitimate legalities issue of material fact of objectionable inferences steadily drawn into questions?

These posted declaration of rights affords Mr. Wesley Edward Smith III constitutional protections and relief as afforded under appellate rule 222 and rule 260 from being arbitrary targeted and detained. I respectfully demand to be brought before the court on the respondents PBG claims, charges and wrongful convictions and subsequent collateral attacks, while being lead to believe being racially profiled and stereotyped while living, working, attending school, religious services while having to be reminded of such, for which a place to exist in the state of South Carolina which can be construed or considered to a reasonable person as an hostile environment, as orders and rules are allows averting. Based on the facts of the supporting declaration of rights, this juridical review is respectfully demanded to be considered based on the written laws, as required. A question of does the order of the lower court allows with the contempt of court action to stand in face of the right not allow A writ of *habeas corpus*, to addressed to PBG (the custodian a prison official) and demands that a prisoner be taken before the court, of which the custodian may disclose and evidences and present proof of implied or express authority to act in the fashion to enforce the law while acting under the state Constitution and to determine whether or not PGB had lawful authority to detain the prisoner?

I was at work and victimized, just a innocent bystander, when intruders entered my workspace and deprived me of legal rights, later to have "me" held in contempt of their courts for

prior unrelated incident. prior to these facts, I did not know any of these persons listed above and did not know this scam sham process of criminal activity to defraud the State Government or to exploit partners in the PBG company business in any form or mannerism. I am currently guilty according to the work of PBG only by work association and respectfully demand to invoke the entitlements of my remaining constitutional right to have my day in court, to face my many accusers of the alleged crimes charged and the cause that resulted in the loss of employment with benefits against Mr. Wesley Edward Smith III. My family was adversely affected as a result

How can a ruling be considered finally disposed when the adjudicators know or were sure to know that a harm or injury would result from the existing conflicts and contradictions be adjudicated based on pure speculation, mere conjecture of law and third party hearsay for asking or how such a rulings be legally binding for PBG as justified who provided as fraudulent event, a fraudulent judge, produces fraudulent orders and with fraudulent reporting dates and times still undisputed when the procedural due process clause require a equal and fair process?

March 10, 2015

Respectfully Submitted



Mr. Wesley Edward Smith III