

Dear Ms. Kitchings,

April 6<sup>th</sup>, 2015

## Explanation Of Appeal

According to (Ray v. State, 303 S.C. 374, 401 S.E.2d 151 (1991))... On the date of (02-11-15) my guilty-plea was (involuntary & unintelligently) made, being that i was mis-informed upon if i was to proceed to trial, i would receive a life sentence; this comment was made on many occasions.... Nevertheless, the information was erroneous advice, which was critical towards me proceeding to trial; Furthermore this decision would've been prevented, and i would've continue to maintain my innocence by pursuing a jury-trial; The over-riding factor for pleading guilty to (Arm-Robbery, Kidnapping) was the spectre of the life sentence without parole sentence, mentioned by my legal-representation;

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**SC Court of Appeals**

Being that there were multiple severe technicalities within my case, like many other alleged individuals being investigated, as suspects previously within my case; Like (Ricky K. Blackwell Jr., Carlos Whitner, Lonnie Williams Smith); These fingerprints were also located and obtained from the crime-scene, forensic D.N.A of mine was never uplifted.... Neither was i ever positively identified as a person of interest, neither as a suspect; Amongst that there were multiple (news-paper clippings) i obtained from the "Heralds Journal", while i was detained within "Spartanburg Detention Facility", on the date of (Nov 16, 2013); That included a (3<sup>rd</sup> party) committing these crimes, this was brought forth to my counsel's (Matthew W. Shealy) attention, and hand over as "exculpatory evidence" that would proven to be beneficial in behalf; According to (State v. Gregory, 198 S.C. S.E.2d 98, 104 (1991)).... Furthermore, the (6<sup>th</sup> Amendment) states that: In all criminal prosecutions, the accused shall enjoy the right to a "Speedy and Public Trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusations, To be confronted with the witnesses against him; To have compulsory process for obtaining witnesses in his favor, and to have "Effective Assistance of Counsel";

This "Constitutional Right" was not exercise to its fullest capability, due to the multiple technicalities in my case.... Which i made aware to counsel on numerous occasions, that i would like to pursue a Jury-Trial & argue the many issue's within my case; I also recommended my counsel subpoena multiple people (Lakina Evans, Quata Goodman, Clifford Manningault, Erica Hillstock) to trial, that could clarify my where abouts during the commission of these crimes, by giving him there (names, address, telephone numbers); This was something he made no effort to look into.... There were also countless motions (Subpoena Witness, In-Camera Hearing, Suppression of Evidence, Directed-Verdict, Dismissal/Quashing of Indictment/Warrant, Brady Motion & Supplemental Material) i requested be filed in my behalf, to decipher the sufficient evidence & inconsistent statements given by victim/witness; along with many other, that we disregarded (Continuance of Trial)....

According to (Richardson v. State, 310 S.C. 360, 363, 426 S.E.2d 795, 797 (1993)).... (a defendant who pleads guilty upon the advice of counsel, may only attack the voluntary & intelligent character of the guilty-plea, by showing the advice he received from counsel wasn't within the range of competence demanded of

attorneys in criminal cases);

Nevertheless, being that there were many loop-holes within the allegations against me, and being it for my legal-representation (Matthew W. Shealy) failure to (investigate, develop, and present all relevant evidence) i was hendered in proceeding a fundamentally fair trial, guaranteed to every pre-trial detainee, according to the (5<sup>th</sup> and 14<sup>th</sup> Amendment) and (Wiggins v. Smith, 539 U.S. 510 (2003));

Prejudice was developed on the account that counsel failed to "subpoena witnesses" in my behalf, that could've solidified a stable "alibi-defense", because there were <sup>multiple</sup> numerous different incidents that occurred on separate dates; If these individuals were present within trial, they would've established a substantial part in my defense....

i was "prejudice" on the behalf, that there was no motion filed for (In-Camera Hearing).... According to (State v. Ramsey, 345 S.C. 607, 613, 550 S.E.2d 294, 297 (2001)); (A trial court must hold an in-camera hearing when the state offers a witness whose testimony identifies the defendant as a person who committed the crime, and the defendant challenges the in-court identification as being tainted by a previous, illegal identification or confrontation).... This would've become beneficial, and would've refuted the many inconsistant statements, that identified many others (Race, Height, Clothing, and gun possessed) before i was label with these many accusations; This procedure would've also mandated whether, those statements were reliable or impermissible towards the case; Being that multiple victim/witness gave countless "voluntary statements" that, neither indicated that i was the perpetrator of the crimes,.... Furthermore, being that i was randomly chose in the mist of previous suspects being investigated.... when, its clearly stated by many that the assailant wasn't able to be positively identified, manifest there was a form of "un-necessary unduly suggestive police procedure";

"Prejudice" was brought forth by counsel representation, because he disregarded my request to file motion (Dismissal/Quash Indictment/Warrant).... according to (State v. Edwards, 374 S.C. 543 S.E.2d (2007)) and (State v. Colbreath, 282 S.C. 38, 316 S.E.2d 681 (1984)).... which "Circuit Court Rule 95" states. Failure to comply with rule requiring solicitor to take action on warrant within 90 days after receipt subjects a Solicitor to "contempt proceedings"; Furthermore if this properly filed in a timely fashion, along with (Speedy Trial).... Action would've been taken on my case, if not, it would've permitted the Solicitor the entire Indictment/Warrant, or proceed to trial; this rendered my case deficient of its potential capability....

Moreorless i also demanded a motion for (Directed-Verdict) to be filed.... for reason's that multiple charges had been "inflated", and according to this motion statute: A defendant is entitled to a "directed-verdict", when the state fails to produce evidence of the offense charged; According to (State v. Rothschild,

351 S.C. 238, 569 S.E.2d (2002)... this caused prejudice, because I was charged with (Attempt Murder).... and there was (no harm, damage, or infliction) done to the suppose victim, neither was I identified as the person who intended to cause bodily harm to obtain the charge.... Therefore if this motion was filed, inflated charges, could've possibly been dismissed or dropped to lesser offense; Mainly because the charges didn't fit the criteria of the elements & statute;

A motion for (Suppression of Evidence) was requested to be filed, this also was never accomplished.... counsel stated there was no merit visible to challenge, but if he considered he would argue that during the proceedings of trial; I recommended this be filed on behalf, that there was n't any "exigent circumstances", neither was there any "search warrant" pursued or obtained; in accordings with the "Warrant Clause" or "good faith" why applies towards the (4th Amendment); This wasn't a "Search Incident to Arrest", because we weren't amongst the premises/residence that was searched illegally.... Moreover the individual (Lashavetta Grant) who gave permission to search the living quarters, didn't reside there, neither was she upon the lease.... Her residence & address (408 Abner Rd Apt B-29) was approximately (2 miles) from that "search" (-138-A Hidden Hill Rd.); Furthermore this motion if filed, would've suppressed the illegally obtained evidence, deeming it in-admissible as "fruit of the poisonous tree"; According to (State v. Plath, 277 S.C. 126, 284 S.E.2d 221 (1981)); Plus I could've been eligible to challenge the "search" & (legitimate expectation of privacy) of its grounds....

I continuously filed & requested (Brady Motions/Supplemental) be submitted, to confirm that everything the State possessed was disclosed to the defense during preparations for trial; According to (Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993)).... this rule applies to "impeachment, as well as exculpatory evidence".... according to (State v. Bryant, 307 S.C. 458, 415 S.E.2d 806 (1992)); Moreover it wasn't revealed (on evidence documents), whether the "exculpatory evidence (newspaper clippings) was even admitted to the Solicitor, as SUBSTANTIAL evidence credible to the defense; Being that countless technicalities in the State's case prove to be beneficial within my defense, allegations manifest themselves according to "reasonable competence of counsel," applied to the (6th Amendment)....

Amongst everything there's a "reasonable probability", that not for the "erroneous advice" from counsel, I would've pursued a jury-trial; (Rule 5/Brady Material), proves the claim's firmly raised....

All of the above proceedings would've eradicated all forms of allegations, however more; The Record also shows where the State (Mr. Derrick B. Balsa) sat aside the (life sentence entry), to benefit on the convict & erroneous advice given by counsel..... Which he (Matthew W. Shealy) told me i was better off plea'ing to know least than (10 or 15), than going to trial receiving (life with parole sentence);

This factor severely "prejudice" my case, on the account of not knowing the proper proceeding that would've refuted all allegations against me; i maintained my innocence for (20 months), and wouldn't have pled guilty absent "erroneous advice of counsel"....

- why was the vehicle stopped, and was the traffic violation?
- why wasn't this vehicle stopped when first discovered, there was unknown black-male traveling in passenger before i entered..... How was i made to be person of interest?

Constitutional Rights (4th Amendment)?

- Why wasn't a "search warrant" obtained to meet the
- Why wasn't the "4th Amendment Claim" raised?

- Why wasn't a In-Camera Hearing conducted?
- Why wasn't witnesses subpoenaed for my alibi-defense?

- Why wasn't a "motion to dismissal of Indictment" filed?
- Why didnt counsel challenge suppression of evidence?

These are cases in reference to mine:

- ① (Ray v. State, 401 S.E.2d 151 S.C. (1991))
- ② (Ramsey v State, 402 S.E.2d 484 S.C. (1991))
- ③ (Lockhart v. Fretwell, 113 S.Ct 838, 844, 122 L.Ed.2d 180 (1993))
- ④ (Richardson v. State, 310 S.C. 360, 363, 426 S.E.2d 795, 797 (1993))
- ⑤ (Sikes v. State, 448 S.E.2d 560 S.C. (1994))
- ⑥ (Wiggins v. Smith, 539 U.S. 510 (2003))
- ⑦ \* (Anders v. California, 386 U.S. 738, 744 (1967)) \*
- ⑧ (State v. Edwards, 374 S.C. 543 S.E.2d (2007))
- ⑨ (State v. Gregory, 198 S.C. 98 S.E.2d, 104 (1941))

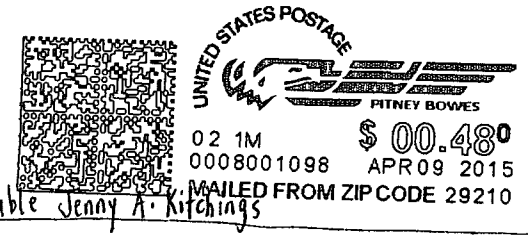
• i will appreciate an "Anders Brief" be conducted upon the merits i've raised..... Thank You, God Bless.....

\* i will like not to have my appeal pursuant to the (Weathers v State) and (Thrift v. State).... they have no substantial merits in reference to my case, thank u!

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