

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM BARNWELL COUNTY  
DOYET A. EARLY, III, CIRCUIT COURT JUDGE

2014CP0600173  
Appellate Case No. 2015-000825

Drian Daniels, Appellant,

v.

State of South Carolina, Respondent.

TO: Justin J. Hunter  
PCR Staff Attorney  
Attorney General's Office  
POB 11549  
Columbia, S.C. 29211-1549

DENNISON RESPONSE

These represent the appellant's position why he should have been allowed to proceed in the lower court and this Court on the current application for post-conviction relief (APCR):

1. There is the jurisdictional issue where the 'lack of jurisdiction' occurred as it pertained to the Court of General Sessions for Barnwell County where 10-5-98 was not an authorized term of Court for the Court did not have the authority to convene 10-5-98 because § 14-5-630(3) of S.C. Code Ann. (1995) set forth the guideline(s) for court sessions and there was not an authorized special term of court on Daniels' guilty plea case;

2. Indictment number 98-GS-06-005 is void where it failed to list any witness(es) appeared before the Grand Jury of Barnwell County on 1-25-98 so it must be the case that the solicitor appeared before the grand jury to secure the indictment on said date;

3. When petitioner sought expungement of the weapon (knife) offense which was not pres. on 10-5-98; the government refused which is not permissible under State v. Nesbitt, 768 S.E.2d 68, 71 (2015) which represents a breach of the plea bargain so rule requires specific performance or withdrawal of guilty pleas is on the table;

4. Trial counsel rendered the actual ineffective assistance when counsel who knew the facts of the case failed to file a motion to present the preponderance of the evidence hearing where the matter of a household member was the alleged victim of the crime; he should have been granted the right for the Court to consider parole eligibility under South Carolina law-manslaughter conviction.

5. Community Supervision Program [CSP] violates the separation of powers clause and the due process clause of South Carolina and United States Constitution. State v. Blakney, 763 S.E.2d 622, 626 (S.C. App. 2014) cert. denied; CSP is administered by the State Agency and only a judicial sentence is punishment according to Federal law.

This 28<sup>th</sup> day of April 2015.

*Brian Daniels 253205*  
Brian Daniels, 253205  
Ridgeland Correctional Institution  
Savannah 'B' Unit, Room 5  
Post Office Box 2039  
Ridgeland, S.C. 29936

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has caused true and correct copies of the DENNISON Response

to be mailed, postage prepaid, to the government's attorney whose is set forth above herein this 28<sup>th</sup> day of April 2015.

s/ Brian Daniels 253205

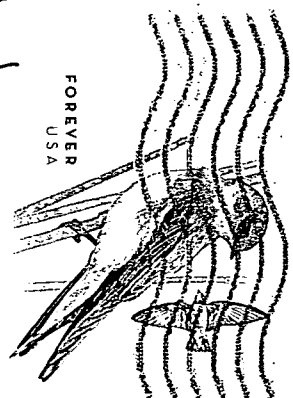
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S.C. Supreme Court

Brian Daniels #253205 SB# 11  
Ridgeland Corr. Inst  
P.O. Box 2039  
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29 APR 2015 PM 2 11

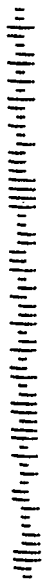


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The Supreme Court of South Carolina  
Daniel E. Sheerouse, Clerk of Court  
Post Office Box 11330  
Columbia, S.C. 29211

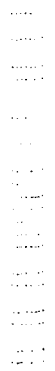
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