

Dear clerk of Court,

6-22-15

RE: motion for lack of jurisdiction *ex mero motu*

I'm asking this honorable Courts to review the concerned matter above and grant relief due to the fact that a conviction has been obtained through not only an unlawful arrest, but also through a defective indictment in which the grand jury witness (Officer Brown) was never sworn under oath to give any type of testimony before the Grand Jury proceedings.

I'm Enclosing 2 document to show the honorable Courts that a violation has occurred "which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice".

The (1<sup>st</sup>) document is my arrest warrant which does not have a signature from the magistrate Judge giving authority to arrest and violates State Statute 17-13-140 as well as the U.S.C.A. Const. Amend. 4<sup>th</sup> Code 1976, § 17-13-140. The primary purpose of the Statute is to insure the timely recording of the testimony upon which the judicial officer relied in issuing the warrant. However, the primary benefit of the Statute "is to the person arrested or searched." Also see that South Carolina Constitution forbids this type of action under S.C. Const. Art. I, Section 10.

Under S.C. Code Ann. § 22-3-710 All proceedings before magistrates in criminal cases shall be commenced on information under oath, plainly and substantially setting forth the offense charged upon which, and only which, shall a warrant of arrest issue. A warrant affidavit that is insufficient in itself to establish probable cause may be supplemented before a magistrate by sworn oral testimony, in which this wasn't done in my case, but instead the warrant was served upon a statement of facts not sworn to and shows to be unconstitutional. To further the matter a preliminary proceeding if it was had was indeed void under these grounds. See State v. Wimbush, 9 S.C. 309 (1878).

The (2<sup>nd</sup>) document is my indictment which the only witness that was used to indict me was (Officer Brown) and shows not only a defect in my indictment but also shows that counsel was ineffective for allowing such a blatant violation of my fourth amendment right to occur, in which should have and could have been handled during a simple preliminary hearing if one was had, so I'm hereby asking for the courts to investigate the matter at hand *ex mero motu* as to the lower court having jurisdiction, to also grant me release from custody when it is proved that the imprisonment cannot be shown to conform with the fundamental requirements of law, which indeed the individual is entitled to his immediate release.

**RECEIVED**

Respectfully Submitted,

JUN 24 2015

S.C. SUPREME COURT

Michael A. Duke Sr.  
ECI-RH-223 #31176  
610 Hwy 9 West  
Bennettsville, SC 29512



WITNESSES

BROWN/NMBPD

DOCKET NO. 2003-GS-26- 3445

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

GD 71872

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2003

ARREST WARRANT NO. H-299368

CDR: 0452 44-53-0375 (C) (1) (a)

DOA: 9-12-003

*[Signature]*

*[Signature]*

THE STATE

VS.

MICHAEL ANDRE DUKES B/M

510 GOVERNORS ROAD

WILMINGTON, NC 28411

SSN 247-41-9038 DOB 12-08-78

ACTION OF GRAND JURY

*[Signature]* NOV 20 2003

Foreman of Grand Jury

Attorney

VERDICT

*GUILTY*

8-9-05

INDICTMENT FOR:  
TRAFFICKING CRACK COCAINE  
MORE THAN 10 GRAMS, LESS THAN 28 GRAMS

*[Signature]*  
Foreman of Petit Jury Date:

J. GREGORY HEMBRER, SOLICITOR

ORIGINAL

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT FOR  
TRAFFICKING CRACK COCAINE  
MORE THAN 10 GRAMS, LESS THAN 28 GRAMS

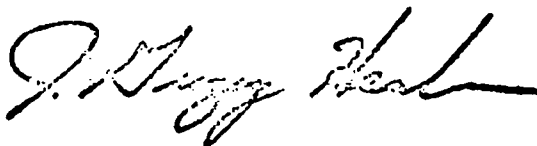
At a Court of General Sessions, convened on November 20, 2003 the Grand Jurors of Horry County present upon their oath:

TRAFFICKING CRACK COCAINE MORE THAN 10 GRAMS LESS THAN 20 GRAMS

(CDR: 0452 44-53-0375(C)(1)(c))

That Michael Andre Dukes did in Horry County on or about September 11, 2003, knowingly, sell, deliver, purchase, or bring into this State; or did aid, abet, attempt or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession or attempted to become in actual or constructive possession of a quantity of Crack Cocaine in an amount of more than ten grams but less than twenty-eight grams, same being a controlled substance all within the meaning of Section 44-53-110, et. seq. S.C. Code of Law, (1976), as amended, such possession not having been authorized and in violation of Section 44-53-375 (c)(2), S.C. Code of Laws, 1976, as amended, for the crime of trafficking.

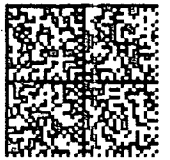
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



\_\_\_\_\_  
SOLICITOR

Michael A. Dukakis #311176  
EIT-RW-223  
610 Hwy 9 west  
Bennettsville, SC  
29512

COLUMBIA  
SC 2900  
22 JUN '15  
PM 1 L



UNITED STATES POSTAGE  
\$00.485  
02 1M JUN 22 2015  
0004276978  
MAILED FROM ZIP CODE 29512

PERMIT MAIL FROM OFFICE

2921113030

The Supreme Court of  
South Carolina  
The Honorable Daniel E. Shearouse,  
Clerk of Court  
Post Office Box 11330  
Columbia, SC  
2921113030