

12/21/15

**RECEIVED**

DEC 29 2015

SC SUPREME COURT

TO MR. DANIEL E. SHEAROUS

MARION JAMELL HUTLEY  
APPELLATE CASE NO. 2015-000104

I AM RESPONDING TO APPELLATE PRO-SE PETITIONER AND APPELLATE COUNSEL DENIAL TO ARGUE ISSUE THAT WAS RULED ON AT P.C.R. HEARING. COUNSEL BENJAMIN TRIPP TOLD APPLICANT THAT HE WAS NOT FILING A BRIEF FOR THE COLLATERAL ESTOPPEL ISSUE. APPELLATE SUBMITTED A LETTER TO MR. SHEAROUS DATED 11-16-15 ASKING TO ACQUIRE AN ADDITIONAL 15 DAYS TO FILE BRIEF DUE TO THE LOCKDOWNS AT LIBER CONVENTIONAL INSTITUTION WHEN COURTS DOCUMENT STATES 45 DAYS HOWEVER, LIBER LAW LIBRARY ONLY GIVES HALF OF DAYS. I WAS PROVIDED EXTENSION TIL 1-9-2016

Thank You  
Marion Hutley  
240707

Applicant Asserts to file A PRO-SE writ of Habeas with this Court in which Petitioner maintains the order of dismissal of his Post-Conviction Relief Application and Hearing that does not comply with (S.C. Code § 17-27-80), and (Rule 52(c) SCRPC. P.C.R. Courts ARE Required to "Make Specific findings of facts and state expressly its conclusion of law relating to each issue presented and raise in his/her application, (See BRAYSON V. STATE 493 S.E.2d 500). (IN Humbert V. State 548 S.E.2d 8(2) The State argues that any complaint regarding the sufficiency of the order is not preserved for review because Petitioner did not file a Rule 59(e) SCRPC.

Applicant comes before this Court with documented evidence in submitting 59(e) motions to the following parties and HEAR ARE THE REASONS, (SEE Exhibit A) PAUL B. WICKENS, MER. GREENVILLE COUNTY CLERK OF COURT, (2) AND (3) PCR JUDGE (LITIA H. VERDIN; B) DANIEL E. SHEAROUSE, S.C. Supreme Clerk of Court and 4 (a)(b), (c), (d) and (e) PCR counsel Brian P. Johnson, "stating defendant is not allowed hybrid representation," PCR Court, Attorney General and PCR counsel failed to comply with the Rules, Codes and Statutes of Applicant dismissal order. Appellate cites JAMISON V. STATE 765 S.E.2d 123, (CONCERNING ISSUES 10(b) AND 10(f) THROUGH 10(i) WAS PART OF THE LOWER COURT AND P.C.R. COURT ADVISED THROUGHOUT HEARING OF TESTIMONIAL EVIDENCE, "Appellate contends "P.C.R. Index shall include only matters that was presented to the P.C.R. Court, (SEE Rule 243(f) SCACR. HOWEVER, THE DISMISSAL ORDER SIGN AND DATED BY THE ABOVE THREE(S) PARTIES WAS CONDUCTED WITH ARBITRARY PROCEDURES OF DISMISSAL ORDER SIGNING) "All other allegations" see P.C.R. TR pg 173) "The South Carolina Supreme Court has consistently vacated and remanded PCR Courts Judgements that do not contain findings of facts Governed by the P.C.R. Act.

Petitioner AVOIDS ISSUE 10(f) AND MAY COUNSEL FAILURE TO ARTICULATE A FOURTH Amendment claim was ineffective assistance, (SEE TR trans pg 50 L 17-21 Trial Counsel lack questioning probable cause requirement of arrest warrants M-381409 and III, see PCR TRANS pg 134 L 15-21). Defendant is presenting testimonial evidence concerning probable cause standard under the U.S. Const. and S.C. Act, (SEE SIKES V. STATE 548 S.E.2d 4(6)). The Publish and Admittance without serving uniform traffic ticket or warrant are inconsistent with the right and power to interpret and apply the law, (SEE Statute's, § 56-7-10 (a) and (c). And 56-7-15 (a) "stated where as one is arrested for a traffic offense OR OFFENSE COMMITTED IN THE OFFICER'S PRESENCE, "THERE WILL BE A UNIFORM TICKET USED".

Trial Judge Robin B. Stillwell stated is it standard that a ticket must be given OR ISSUED? (SEE TR trans pg 41 L 23-24 and pg 42 L 1-10) Judge stating "I don't think there's any case law that says there must be a criminal citation issued, The incorrect ruling is ambiguity of the statute, which are penal in nature and must be strictly construed against the state and in favor of the defendant. Further MORE, Petitioner exhibit #5 of the Greenville S.C. Police DEPT AN-ACCREDITED LAW ENFORCEMENT AGENCY. Sec. 9.3.1, "The warning ticket serves only as an official warning to the violator and no further enforcement (which means law) action will be taken". If this is a govern policy of warning ticket stated to be mandate within provisions, that means the initial arraignment of Magistrate Judge Barks date was not privy of the commission and the misrepresentation of the higher courts, (SEE Exhibit #6 Greenville S.C. Agency, "Temporary commitments was required for those person who will need to attend a scheduled session of bond court at the Detention center in order to receiving an "ARRAIGNMENT", (SEE TR trans pg 45 L 6-8 OFFICER HINES testifying to the procedure, however not complying with Greenville public safety, (SEE TR trans pg 61 L 10-25 Detention center officer STEVEN BABINSKY testifying to the procedure of Greenville county public policy, (SEE PCR trans pg

139. L 14-24), Petitioner has not only prove that the Representation of Arrest Warrant was Relied Upon, Also the Officer omission and commission of Information was Relied Upon, Where Police Officer Hines failed to inform the Judicial Officer of facts he knew would negate Probable Cause, In which the Precedence Courts would Reasonably find that such Reliance was an Unfortunate Adjudication upon defendant's conviction of Collateral Estoppel, Punishment, and mostly his "Rights" of an Unprocess offense of disregard of stop sign, Appellate Allegation that the Police seize him pursuant to a legal process, (See Arrest Warrants M-381909 And #111, That was not supported by Probable Cause, (See Warning tickets pg 163 and 164, and Exhibit #5), and the Criminal process terminated in his favor of Criminal negligence which is sufficient to state a claim of seizure that was violative of U.S 4th Amend and, S.C. ART 1 SEC 10. Applicant contends S.C Courts has neglected to correct the outcome of substantial Prejudice and Perjury done by Officer Hines under "Oath" in Numerous Proceedings. Applicant concerns are to show Officer Hines multiple Perjury testimony the following are listed 1/ARREST WARRANT INCONSISTENT OF TR trans pg 54, L 17-21), This Initial Proceeding of Arraignment of a "Causing, Initialing and Countinuing" Repudiation of Constitutional Law of Statutes and Rules, (SEE S.C.A.D.C 123-601). The Use of Warning tickets is listed to MISDEMEANOR CASES UNDER TITLE 30 THE FORM PRESCRIBES FROM SUCH WARNING TICKET SHALL BE SUBMITTED AS BELOW and the ticket shall be issue in "TRIPlicate" with one copy to violator, ONE COPY RETAINED BY THE OFFICER AND, ONE FORWARDED TO THE CHIEF OF LAW ENFORCEMENT OR HIS/HER DESIGNEE, Perjury is making material FALSE OR misleading statements, (SEE TR trans pg 14, L 6-13), Officer Hines Testifying of Two copies Blue to defendant and white copy for officer to keep, (SEE TR trans pg 16, L 6-25" where court judgement by Judge stated he take notice that officer Hines testified under "Oath" that he issued a warning ticket, OFFICER HINES was later question by defense counsel "where is your copy, DO YOU HAVE IT HERE AND DID YOU KEEP IT IN YOUR FILE?", AS ACCORDED UNDER CODES S.C.A.D.C 123-601. OFFICER HINES REPLIED TO PROCEDURES OF CRIMINAL ANALYSIS Storing of Database of copies, then destroying the hand copies. HOWEVER THIS TESTIMONY IS IN CONJECTURES OF EXHIBIT #5 SEE §.2.2 GREENVILLE S.C AGENCY, WHICH STATES "THE COPY WILL BE DISCARDED IN A SECURE MANNER WHEN IT NO LONGER SERVES A PURPOSE, (SEE TR trans pg 23, L 10-25, OFFICER HINES TESTIFYING AS A LAW WITNESS OF OPINIONATED TESTIMONY CONCERNING PROCESS DATA EXTRACTION OF ULTIMATE ISSUES OF CASE IS NOT HARMLESS, (SEE STATE V ELLIS 547 S.E.2d 490), AND SEE TR trans pg 14, L 16-17 AND PG. L. 18-25, OFFICER HINES TESTIFYING, TO CRIME ANALYSIS POLICY & PROCEDURES WITHOUT TRAINING AS AN EXPERT WITNESS OF POLICE DEPT DIVISION PRATICES OF CRIMINAL ANALYSIS (SEE P.C.R. ISSUES 10(T) PAGES IN THIS ORDER 121, 122, 119 AND 120) "DUE PROCESS" HAS BEEN COMPLICATED BY PETITIONER THROUGHOUT HIS BRIEFS TO ALL JURISDICTIONAL COURTS WHERE FINDINGS OF FACTS WAS REQUESTED AND ADDRESSED TO THE COURT IN P.C.R. HEARING AND APPLICATION OF DECLARATION OF LAW, (SEE PCR TA PG 140, L 22 THRU 141, 142, 143 AND 144). HOWEVER THE P.C.R COURT DISMISSAL ORDER STATES APPLICANT FAILED TO BRING OR PRESENT ANY TESTIMONIAL ARGUMENT OR EVIDENCE, (SEE PG 163, 164 AND 165) IN HIS APPLICATION OR AT HEARING WHERE NOT MET OR ABANDON, (SEE PG 173). PETITIONER HAS SHOWN IN BRIEF THE COURTS OF SUBJECT MATTER CIRCUIT AND COURTS JURISDICTION. THE TESTIMONY OF APPLICANT IS ADDRESSING TO THE S.C SUPREME COURTS WITH TESTIMONY AND ARGUMENTIVE EVIDENCE FOR THE SUPERINTENDERS OF SUPREMACY TO REVIEW PETITIONER STATUTES AND CONSTITUTION'S OF LAW, (SEE S.C. ART. V) "THE SOUTH CAROLINA SUPREME COURT HAS CONSISTENTLY HELD THAT IN AS MUCH AS THE ESTABLISH OF A UNIFORM JUDICIAL SYSTEM IS MANDATORY PROVISION WHICH EXTENDS OR PERPETUATES A NON-UNIFORM SYSTEM OR WHICH POSTPONE OR DEFERT THE REQUIREMENTS OF ARTICLE V, MUST BE CONSIDERED UNCONSTITUTIONAL OF CIRCUIT TO CIRCUIT

And court to court. There is no place in the unified judicial system for local  
Rules or Policy of Practice. Appellate is including all that is necessary  
enabling the supreme court to decide whether the "Bullags" Initial  
arraignment appearance. Bench Trial And P.C.B HEARING and dismissal/order.  
As such, the Circuit court like this court has limited scope of review  
and cannot ordinarily consider issues that was not raised and ruled on  
by the Administrative Agency. /see *Babe vs State* 503 S.E.2d 163, Declining to  
give collateral estoppel effect to proceedings which occur during an  
Administrative hearing. Petitioner contends the issue of a warning ticket  
does not contain a hearing or Administrative. Constitution's, state's  
And Rules.

Petitioner contends that the P.C.R. court's finding of supports to Counsel's ineffective prompts under "Strickland" Counsel failed to object to prejudicial comments made by Prosecution in their opening statements, /see TR, Trans pg 5: L 8-25, "Where Prosecutor argues defendant waive his right to be heard on constitutionality of the stop and failed to do so and does not get a second chance to argue and collateral estoppel was established /see State v Myers 311 S.E.2d 551, finding any unpreserved "Doyle" violation, but strongly cautioning solicitors against violating the prohibition by commenting on defendant's exercise of constitutional rights. Citing Doyle v. U.S. 96 S.Ct 2245, A State Prosecutor may not seek to impeach a defendant's story told the first time at trial, "Specifically, the solicitor must not comment, either directly or indirectly, on a defendant's silence, failure to testify, or failure to present a defense /see State v. W. Fadden (539 S.E.2d 391). This was not evidence offered by the state in its case in chief as confession by silence or its substantiated evidence of guilt, but another cross examination of a witness as to why he had not told the same story earlier at his first opportunity." /In Michigan v. Tucker 94 S.Ct 2357, "Requires that a person taken into custody be advised immediately that he has the right to remain silent, that anything he says may be used against him", /see Arrest Warrants M-38/909 and 111, "Where A.P.A. and stated accused defendant was placed under arrest for stop sign violation. However, at petitioner's bench trial officer Hines denied, abandoned and refused the arrest of stop sign, then stated he arrested defendant for false information which occurred after traffic stop /see TR trans pg 59: L 9-21). This continuously violation of Miranda warning of a lawful arrest, which is prejudice and fundamentally unfair of deprivation of due process of an arrest person silence." The South Carolina Supreme Court has consistently held that inasmuch as the establish of a uniform judicial system is mandatory, provisions which extend or perpetuate a non-uniform system or which postpone or defeat the requirements of S.C. Article V, must be considered unconstitutional, such local non-uniform rules are inconsistent with both the provisions and purposes of the constitutional mandate and are therefore unconstitutional and void. There is no place in the United States judicial system for local rules which has the effect of varying the administrative and procedural rules of practice from circuit to circuit and court to court, /see S.C. § 56-7-15 (c) and 56-7-40, stating "No other ticket may be used and the penalty for failure to account for ticket or use of non-uniform ticket, /see TR trans pg 14: L 6-25, pg 15: L 1-10 and, pg 23: L 12-25, "where officer Hines is testifying he issued petitioner a warning ticket, "who get copies, it goes to crime analysis whom electronically files it and disposes the hard copy, placement of information where he retrieved it from without chain of custody, /see Const Art. 1, Sec. 3 and 22, and S.C. Code S.C.A.D.C. 123-160" stating warning ticket copies come in triplicate" forms, in stead of two (2) copies officer Hines testified to, "The application of collateral estoppel against a defendant constitutes an invasion of the fact findings and ultimate decisional functions of the jury, indeed a jury has the prerogative of returning a verdict of innocence in the face of overwhelming of conviction guilt, /see TR trans pg 42: L 1-25, "where guilt is affirm of defendant with officer Hines credibility upon cumulative evidence", /In Dunn v. U.S. 52 S.Ct 189, "hence the collateral estoppel doctrine which serves to establish virtually conclusive evidence of a critical element of criminal guilt, compiles the jury in the discharge of its essential responsibilities contrary to the constitutional purposes of the jury's right in a criminal trial, /see S.C. § 56-1-710, stating "conviction" "is defined of terms of collateral estoppel to secure a defendant's appearance in court", /see pg 163 and 164 warning tickets and P.C.R. Trans pg 134: L 5-10, Appellate Testifying to not receiving no uniform traffic ticket for appearance of stop sign violation under § 56-7-10 and 56-7-15, however the lower courts did not consider: APPLICANT'S VALUES OF THE

Conviction of collateral Estoppel of the government and the REALITY Slight burden on the government to approve the facts upon with the Judgment of the lower court's conviction was based, MORE OVER, When the government ruled on the evidence relating to WARNING TICKET, DISPATCH RECORDS AND TRANSCRIPT AND WARRANT'S OF CONSTITUTIONALITY ESTABLISHING PROBABLE CAUSE REQUIREMENTS OF A LAWFUL PROCEDURE TO ARREST, (SEE TR trans pg's 14 L 6-17, pg 27, L 22-25; pg 28, L 1-20 AND pg's 24, 25, 26 AND 27), PETITIONER ASSERTS TO STILL CONTESTING THE STATE WITNESS CREDIBILITY AND EVIDENCE OF PREPONDERANCE, (SEE P.C.R. TRANS pg 134-146), "THIS UNILATERALLY DULIFYING AGREED UPON PRECAUTIONARY MEASURES THE INITIAL CIRCUIT, APPELLATE AND P.C.R. COURT'S ACCEPTANCE OF EVIDENCE WITHOUT CONDUCTING ANY FURTHER BALANCING ANALYSIS TEST, WHERE DEFENSE COUNSEL IS OBJECTIONING AND DRAWING INCONSISTENCIES OF OFFICER'S TESTIMONY, (SEE TR trans pg 15 L 18-25 AND pg 25, L 22-25, pg 26 AND 27 L 1-17), MISREPRESENTATION OF FRAUD AND FORGERY APPLICANT AVOIDS IN P.C.R. TRANS pg 140 L 22-25 AND pg 141 THRU 144) THE CONTRADICTION OF CD-ROM RECORDING AND TRANSCRIPT TRIAL COUNSEL INADEQUATE STRATEGY WHERE HE TESTIFIES TO LIMITED AND WATER PREPARATIONS TO INVESTIGATE, (SEE P.C.R. DISMISSAL ORDER RULING OF ISSUE D pg 170 SEE ISSUE (E) OF D)), TRIAL COUNSEL WAS APPOINTED IN THE LATER PORTION OF DISCOVERY, ALSO SEE STATE EXHIBIT #4 AND P.C.R. EXHIBIT 2), IN STATE V MATHEWS 56.5 362d 7th, COUNSEL CANNOT ASSAULT TRIAL STRATEGY AS A DEFENSE FOR FAILURE TO OBJECT TO COMMENTS WHICH CONSTITUTE AN ERROR OF LAW AND ARE INHERENTLY PREJUDICIAL, (SEE P.C.R. TRANS pg 152 L 21-25 AND pg 153, L 1-24), "WHERE ATTORNEY GENERAL IS QUESTIONING DEFENSE COUNSEL OF HIS STRATEGY AND DISCREPANCIES OF BRINGING UP "CRUCIAL STAGES", "COUNSEL REPLIES "I HAVE TO LOOK AT THE TRANSCRIPT, "IF ITS IN THE TRANSCRIPT, " THEN I DID OR DIDN'T, DEFENSE COUNSEL WAS FURTHER QUESTIONING BY P.C.R. COUNSEL DID HE ATTEMPT TO PRESERVE THE RECORD ON THAT ISSUE, " AGAIN TRIAL COUNSEL TESTIFIED "I HOPE I DID, I BELIEVE I DID YOU HAVE TO LOOK AT THE TRANSCRIPT AS FAR AS WHETHER OR NOT "I BELIEVE I DID," THE DISSOCIATION OF FACTUAL UNANSWERED QUESTIONS BY DEFENSE ATTORNEY WILL NOT CONSUME THE REQUIREMENTS OF CHERRY V. STATE, IT IS THUS UNCLEAR WHETHER THE PROCEEDING LOWER COURTS GAVE ADEQUATE FACTS FINDING CONSIDERATION OF DEFENDANTS CLAIM OF PERJURY AND PREJUDICE, (SEE TR trans pg 16, L 17-25 AND pg 17, L 1-3, WHERE JUDGE BASED EVIDENCE AS CUMULATIVE WITH OFFICER CREDIBILITY UNDER "MATH" THAT HE ISSUED A WARNING TICKET TO DEFENDANT, " HOWEVER IN THE JUDGE RULING'S TR trans pg 42, L 4-8, JUDGE STATED HE DOES NOT THINK THERE IS ANY CASE/LAW THAT SAYS THERE MUST BE A CRIMINAL CITATION THIS IS AN UNFAIR AND PARTIAL DECISION UNDER STATUTE'S § 56-7-10 STATING THERE WILL BE A UNIFORM TRAFFIC TICKET (UTT) IN AN ARREST FOR ANY TRAFFIC OFFENSE, ALSO § 56-7-15, STATES IF THE OFFENSE IS COMMITTED IN THE PRESENCE OF THE OFFICER HE MAY ARREST BY THE USE OF (UTT), AN ACCUSED IS ALWAYS CONSTITUTIONALLY ENTITLED TO A TRIAL DE-NOVO OF THE FACTS ALLEGED, AND COLLATERAL ESTOPPEL IS AVAILABLE AS A DEFENSE EVEN THOUGH IT CAN NEVER BE RAISED OFFENSIVELY BY THE PROSECUTION (SEE U.S. V. BRUNO 333 F. SUPP 570). A PRIOR ADJUDICATION WITH NO RESPECT TO THE INITIAL ELEMENT OF A SUBSEQUENTLY TRIED OFFENSE IS NOT BINDING UPON ACCUSED, THIS IS SO BECAUSE THE DEFENDANT, CHARGED OR ACCUSED OF A CRIME ALWAYS HAS THE RIGHT TO HAVE THE JURY OR TRIERS OF THE FACTS DETERMINE ANEW EVERY ELEMENT OF GUILT, WHICH BY USING THE DOCTRINE OF COLLATERAL ESTOPPEL AGAINST A DEFENDANT CONSTITUTES AN INTRUSION OF THE FACT FINDING OF ULTIMATE DECISION FUNCTIONS OF THE JURY, MULTIPLE STATE SUPREME COURTS FOUND THAT SUCH AN APPLICATION OF COLLATERAL ESTOPPEL CONFLICTS WITH THE PRESUMPTION OF INNOCENCE AS TO EVERY ELEMENT OF A CRIME AND IT IMPERMISSIBLY SHIFTS THE BURDEN OF PROOF TO THE DEFENDANT, (SEE U.S. V. PELULLO 14 F.3D 881), AND /ARREST WARRANT'S "M-301909 AND #11), ALSO PER DISMISSAL ORDER pg 170 AND 171, "ATTORNEY GENERAL M/S ANJUMAN STATED, THE ARRESTING OFFICER AT TIMES INDICATED THAT APPLICANT WAS BEING ARRESTED FOR RUNNING A STOP SIGNAL OR GIVING FALSE NAME, APPELLATE ASSERTS IN THE ENTIRE COURT PROCEEDINGS OF TRANSCRIPT'S THERE IS NO INDICATION OF OFFICER HINES TESTIFYING TO THAT ALLEGATION" AND DEFENDANT CANNOT BE ARRESTED BY ISSUANCE OF A WARNING TICKET, PETITIONER CONTENDS WAS THE INITIAL ARRESTMENT JUDGES ACTING

In A Neutral and Detach Manner of Policy of Services of Warning ticket of omission of Applicant Arrest Warrant Affidavit to Arresting Appellate/SEE GREENVILLE S.C. POLICE DEPT AN ACCREDITED LAW ENFORCEMENT AGENCY TITLE 22D, A4, SEE 9.3.1, "OFFICERS MAY ISSUE A WARNING TICKET IN LIEU OF CITATION FOR ANY MINOR MOVING VIOLATION AND NO FURTHER "ENFORCEMENT" (WHICH MEANS LAW) ACTION WILL BE TAKEN"/SEE TOWN OF HENNA, PATH V. WRIGHT 9 S.E.2D 924). WHEN CONFRONTED WITH A PROBLEM OF TRAFFIC THE COURT MUST CONSIDER "WHETHER THE PRESENCE OF THE (INVALIDATED) COURT HAD ANY SPOILOVER EFFECT, SUFFICIENTLY PREJUDICIAL TO CALL FOR REVERSAL. IT IS NOW SETTLED, HOWEVER THAT AN ACCUSED IS ENTITLED TO THE ASSISTANCE OF COUNSEL AT EVERY "CRITICAL STAGE" OF THE PROCEEDINGS AND FAILURE TO HAVE ASSISTANCE IS REVERSIBLE ERROR EVEN THOUGH NO PREJUDICE IS SHOWN. THE TEST TO DETERMINE WHETHER A CRITICAL STAGE OF THE PROCEEDING HAS BEEN REACHED, AS IT RELATES TO THE RIGHT OF COUNSEL, "IS WHETHER THE PARTICULAR STAGE EITHER REQUIRES OR OFFERS OPPORTUNITY TO TAKE A PROCEDURAL STEP WHICH WILL HAVE PREJUDICIAL EFFECTS IN LATER PROCEEDING, OR WHETHER EVENTS TRANSPIRE THAT ARE LIKELY TO PREJUDICE THE ENSUING TRIAL"/(SEE STATE V. WILLIAMS 210 S.E.2D 298). SOUTH CAROLINA SUPREME COURT CHARACTERIZED A "CRITICAL STAGE" AS ONE THAT HELD SIGNIFICANT CONSEQUENCE FOR THE ACCUSED. IT IS WELL SETTLED THAT THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL APPLIES TO CERTAIN STEPS BEFORE TRIAL. THE SIXTH AMEND GUARANTEES A DEFENDANT RIGHT TO COUNSEL PRESENTED AT ALL CRITICAL STAGES OF THE CRIMINAL PROCEEDING, WHICH IS INSTITUTED TO DETERMINE A PERSON GUILTY OR INNOCENT OR, TO SET A CONVICTED PERSON'S PUNISHMENT. APPLICANT CONTENDS CRITICAL STAGES WERE CONDUCTED AT BENCH TRIAL BY STATE USE OF OFFENSIVE COLLATERAL ESTOPPEL UPON DEFENDANT CONSTITUTIONAL RIGHTS OF WAIVER SAFEGUARDS. OFFICER HINES AND JUDGE BARKSDALE VALIDATION OF ARREST WARRANTS AT ARRAIGNMENT IN CRIMINAL AND JUDICIAL PROCEEDING, /SEE TOWNSVILLE COUNTY DEPT OF PUBLIC SAFETY, ADDRESSED BY DEPUTY DIRECTOR R. ISRAEL NOLLISTER, CONCERNING WHEN, WHERE AND HOW ARRAIGNMENT AND JUDICIAL POLICY AND PROCEDURE COMMENCES IN SALLY PORT. THIS IS WHERE THE INITIAL INITIATING TO PROCURE AN ORDER OR DECREE OF LAW OR EQUITY, /SEE WADE V. U.S 87 S.Ct 1926). "CRITICAL STAGES INCLUDE ARRAIGNMENT AND ENTRY OF A GUILTY PLEA TO THAT OFFENSE, CITING ALABAMA V. HAMILTON, AND HAMILTON V. ANGER-SINGER SUPRA(S). PETITIONER ALLOWS THAT ANY AND ALL COURTS PROCEEDING OR CASE IN CHIEF ARE WITHOUT JURISDICTION TO COMMENCE PROCEEDINGS, /SEE STATE V. RAMSEY 727 S.E.2D 429, AND STATUTE 56-7-10(A) ELIMINATES THE NEED FOR AN ARREST WARRANT AND AUTHORIZES THE USE OF A UNIFORM TRAFFIC TICKET TO NOTIFY AN ACCUSED AND COMMENCE JUDICIAL PROCEEDING IN THE MAGISTRATE COURT. S.C. STATUTE'S 56-7-10 AND 56-7-15 DESCRIBES THERE ARE THREE (3) CATEGORIES OF OFFENSES FOR WHICH THE STATE MAY USE A UNIFORM TRAFFIC TICKET INSTEAD OF AN ARREST WARRANT TO COMMENCE PROCEEDING IN THE MAGISTRATE COURT (1) TRAFFIC OFFENSE AND (2) OFFENSES WITHIN THE SUBJECT MATTER JURISDICTION OF THE MAGISTRATE COURT THAT ARE COMMITTED IN THE PRESENCE OF A LAW ENFORCEMENT OFFICER, /SEE TR. TRANS PG 19, L24-25, "OFFICER HINE TESTIFYING HE OBSERVED DEFENDANT ROLL THROUGH THE STOP SIGN. PETITIONER CONTENDS TO NEVER RECEIVING AN ARREST WARRANT OR (D.T.T.) TO WAIVE JURISDICTION AND PROBABLE CAUSE STANDARDS. THE OPENING STATEMENTS BY SOLICITOR AND RULING BY THE COURT TO APPLY THE OFFENSIVE COLLATERAL ESTOPPEL TO IMPERCH APPLICANT TESTIMONY" TOLD FOR THE FIRST TIME. /IN HEWINS V. STATE 760 S.E.2D 814), EVEN IF DEFENDANT PLED GUILTY TO THE OPEN CONTAINER VIOLATION, HIS PLEA WOULD HAVE CONSTITUTED A WAIVER OF ANY CHALLENGE HE MAY HAVE HAD TO THAT "OFFENSE" BUT COULD NOT EXTENDED TO CONSTITUTE A WAIVER OF A CHALLENGE OF POSSESSION OF CRACK COCAINE. APPELLATE ASSORTS HIS CASE IS DISTINGUISH WITH CONSTRUCTIVE VIOLATIONS OF CONSTITUTION'S, STATUTE'S AND CODES. THE INITIAL ARREST OF DISREGARD OF STOP SIGN, WHICH IS RULED ESTOPPEL WITH UNDER "OATH" TESTIMONY AND EVIDENCE PETITIONER COMMITTED A CRIME (COUNSEL INEFFECTIVE TO CALL UPON EXPERT WITNESSES PREJUDICE PETITIONER TRIAL PROCEEDING OF AN UNCHARGED OFFENSE. APPELLATE CONTENDS PERSONAL JURISDICTION

Waiver of a challenge to the charge of possession of crack cocaine. Appellant asserts his case is distinguish cause the initial arrest is dis regard of stop sign which is an uncharge offense. Applicant contends personal jurisdiction are prescribed in steps of law for obtaining such jurisdiction, as is illustrated by the familiar instance of a party who "though not served with a summons", "appears" and "answers" and is there by "precluded" (also known as collateral/estoppel) from afterwards raising the question as to whether the court required jurisdiction of his person. /see TR. TRANS pg 5 L 20-24, where solicitor stated the defendant already had a chance to argue the constitutionality of the stop and failed to do so and does not get a second chance to argue. Petitioner avows the state never establish the three (3) requirements to a party asserting collateral/estoppel. /see State v. Hewins, further more, applicant testimony in PCA TRANS pg 133, L 3-25 and pg 134, L 1-14, to having no knowledge or understanding of collateral estoppel to challenge an unfounded charge to initiate, when defendant was not provided with a summons, which was told to appear and answer, /see State v. Dudley 581 S.E.2d 171, /see S.C. CONST ART 1 SEC 11 and ART 5 SEC 11. Applicant contends the dismissal order ruling from Judge and Attorney General states, "The Waiver that results from the entry of a guilty plea is confined to the offense that is subject of the plea" /see P.C.R. TRANS pg 172. Defendant asserts Officer Hines testified he issued defendant a warning, /see TR. TRANS pg. 57 L 15-21, there is no statute or law where a defendant can waive the issuance of a warning ticket. Because its not equivalent of a citation or summon where one is to appear and answer to a court proceeding. When a statute is penal in nature it must be strictly construed against the state and in favor of the defendant, /see Town of Mt. Pleasant v. Roberts 413 S.E.2d 278"

APPELLATE CONTENTS INEFFECTIVE ASSISTANCE OF COUNSEL'S AND APPELLATE LAWYER BENJAMIN JOHN TRIPP OF PETITIONER'S RIGHT TO AN APPELLATE COUNSEL ASSISTANCE. IN SEEKING REVIEW OF THE DENIAL OF P.C.R. APPELLATE COUNSEL IS REQUIRED TO BRIEF ARGUABLE ISSUES DESPITE COUNSEL'S BELIEF, THE APPEAL IS TRIVIAL AND TO SAFEGUARD THE RIGHT TO APPEAL (SEE AUSTIN V. STATE 409 S.E.2D 395), PETITIONER HAS A SIXTH AMENDMENT THAT REQUIRES EFFECTIVE ASSISTANCE OF COUNSEL AT CRITICAL STAGES OF A CRIMINAL PROCEEDING, (SEE U.S. V. WADA 87 S.Ct 1296). THE CONSTITUTION GUARANTEES APPLIES TO PRE-TRIAL CRITICAL STAGES THAT ARE PART OF THE WHOLE COURSE OF A CRIMINAL PROCEEDING, A PROCEEDING IN WHICH DEFENDANTS CANNOT BE PRESUMED TO MAKE CRITICAL DECISIONS WITHOUT COUNSEL ADVICE. THE CONTINUOUSLY PLAN OF CONSTITUTION'S, STATUTE'S, CODE'S AND RULE'S APPLICANT'S, ASKING THE S.C SUPREME COURT TO REVIEW BRIEF'S, ISSUES AND COURT PROCEEDING. APPELLATE COUNSEL BENJAMIN TRIPP TOLD APPLICANT THAT HE WAS NOT BRIEFING THE ISSUES OF COLLATERAL ESTOPPEL WHICH WAS RULED AGAINST PETITIONER AT P.C.R HEARING. COUNSEL TRIPP ASK THE COURT TO BE RELIEVED OF COUNSEL ON 11-7-15 BY DROPPING S.C. SUPREME COURT OF A JOHNSON PETITION. THIS TRIVIAL CONDUCT AGAINST PETITIONER'S OF SAFEGUARD OF THE RIGHTS OF APPEAL IS IN VIOLATION OF U.S CONSTITUTION'S AND S.C. ART'S.

PETITIONER CONTENTS TO REQUEST FOR A WRIT OF HABEAS CORPUS AFTER DENIAL OF MOTION FOR RELEASE FROM A SLADY. (SEE Mc KINNEY'S CPL § 170.176) RELEASE OF DEFENDANT UPON FAILURE TO ACQUAINT MISDEMEANOR COMPLAINT BY INFORMATION FAILURE TO FILE MISDEMEANOR INFORMATION WITHIN 24 HOURS OF ARREST, WHERE AS STATUTORY PERIOD FOLLOWING ARREST REQUIRES DETAINEE'S RELEASE, (SEE S.C. CODE § 22-5-510(B)). PETITIONER HAS PROVIDED THE CIRCUIT AND COURT'S WITH THE UNJUSTIFIABLE CONTROVERSY, THE ASSERTIONS OF THE RECORD CONTAINING EVIDENCE DEFENDANT WAS DENIED PROBABLE CAUSE/SEE ARREST WARRANTS. "FURTHERMORE OFFICER HINES TESTIMONY AT BENCH TRIAL, OFFICER WAS ASK "DID HE ARREST DEFENDANT FOR DOING THAT?" "OFFICER HINES IS ARRESTED DEFENDANT FOR FALSE INFORMATION AFTER TRAFFIC STOP. (SEE TR TRANS PG 57, L 17-21). APPLICANT HAS THE RIGHT TO BE INFORMED OF THE TRUE GROUNDS OF ARREST SEE S.C. CODE ANN § 17-13-50(A), 1-4 AND (B). THE USE OF A WARNING TICKET CANNOT SUBSTAIN GROUNDS, WITHIN THE CONSTITUTION'S AS A RECORD ESTABLISHING AN ARREST PURSUANT TO THE PROVISIONS OF WARRANT REQUIREMENT ESTABLISHING PROBABLE CAUSE, (SEE WARNING TICKETS PG 103 AND 104). THE WARNING TICKETS ARE A ~~MISREPRESENTATION~~ MISREPRESENTATION OF LAW AND OBLISH WITHIN THE COURTS OF S.C. PROCEEDING, APPLICANT MAINTAINS TO CONTEST THE DISCREPANCIES OF THE UNLAWFUL PROCEDURES AND OFFICER'S OF THE ENTIRE COURT PROCEEDINGS, (SEE P.C.B TB PG 140, L 22, PG'S 141, 142, 143 AND 144-5). (SEE EXHIBIT #5). THE DUPLICATES OF MATERIAL EVIDENCE ARE NOT EVEN COMULATIVE IN ANY ASPECT OF SUFFICIENT JUDGMENT OF AILING TO A CRIME OR VIOLATION HAS OCCURRED, (SEE MILTON V. RICHLAND COUNTY 2015-MO-046, WHERE DEFENDANT'S WAS ARRESTED IN RICHLAND COUNTY (ARREST TO MTT) AND NOT A WARRANT. DEFENDANT IS SHOWING WITHOUT WARRANT OR DTT HOW CAN HE WAIVE PROSECUTION BY INFIRMATION AND CONSENT TO BE PROSECUTED UPON MISDEMEANOR COMPLAINT WITHOUT JURISDICTION COURT PROCEEDING OF INFERIOR. THE CONTINUOUS ADVOCATION CONDUCTED BY STATE IS AN INFRINGEMENT OF PETITIONER'S CONFINEMENT FOLLOWING ARRAIGNMENT WHERE THE PREVIOUS TRIAL COURT APPEARANCES OF AD JUDICATION ARE TRINT WITH CONCLUSION OF MISLEADING COLLATERAL ESTOPPEL DOCTRINE, PRECLUDING PETITIONER FROM CHALLENGING ESSENTIAL INITIAL ARREST. COUNSEL ADOPTED TRIAL STRATEGIES, WITHOUT PRIOR CONSULTATION WITH AN ACCUSED WILL NOT, WHERE THE CIRCUMSTANCES ARE EXCEPTIONAL, PRECLUDE THE ACCUSED FROM ASSERTING CONSTITUTIONAL CLAIMS, (SEE HENRY V. STATE OF MASS. "A DEFENDANT'S KNOWING AND VOLUNTARY WAIVER OF A STATUTORY OR CONSTITUTIONAL RIGHT MUST BE ESTABLISH BY A COMPLETE RECORD, AND MAY BE ACCOMPLISHED BY COLLOQUY BETWEEN COURT AND THE

Defendant, between the Court and defendant's counsel/s or both. (State v. Truesdale, 548 S.E.2d 896) Petitioner contends what the U.S. Supreme Court thinks that the deliberate by counsel of the defendant's objection Rule as a part of the trial strategy would have that effect in this case. (see Whit v. U.S. v. Balkcom 333 F.2d 496). "Of course, a guilty plea may not be accepted unless its voluntarily entered with understanding of the nature and consequences of the charge or accusations and judgment, which is a guarantee of substantial "critical stage" of Applicant's constitutional rights. In Rothgery v. Willipie County (18 S.Ct 2578); "A criminal defendant's initial appearance before a Magistrate, where he learns of the accusations or charges against him and his liberty is subject to restrictions marks the initiation of adversary judicial proceeding." (see AMERICAN BAR ASSOCIATION "AMICUS CURIAE 5-8; describing the ABA's position for the past 40 years that counsel should be appointed "certainly no later than the accused's initial appearance before a judicial officer". The remaining seven states South Carolina and others are against, the practice on are not pass of ambiguity even as the state seeks to avoid the impact of Jackson by contending that the defendant initial appearance before the Magistrate after his arrest should not trigger his Sixth Amendment right to counsel. This notion is clearly contrary to U.S. state supreme court statement. In WYER v. STATE 320 S.E.2d 1011, where supreme court quoted from Brewer v. Williams 97 S.Ct 1232) consequently in the present case, the Sixth Amendment right attaches when the defendant was arrested, initially brought before the Magistrate. (see State v. Barrow 359 S.E.2d 844). The U.S. Supreme Court have held, however that the Miranda warnings extends to having counsel present at various "practical critical" interactions between the defendant and the state, including the deliberate elicitation by law enforcement officers, (and their agents) of statements pertaining to the charge. (Citing MASSIAH v. U.S. 84 S.Ct 1199). Constitutional safeguards such as those embodied in Miranda cannot be waived unless there is a knowing and intelligent relinquishment of such rights. (In U.S. v. HALE 95 S.Ct 2133). The court explained that Miranda warnings convey an implicit assurance to an "arrested" person that he will not be penalized for remaining silent. Thus, "it would be fundamentally unfair and a deprivation of due process to allow the arrested silence to be used to impeach an explanation subsequently offered at trial. Adversary judicial proceeding begins at the first formal charge proceedings. (see MORAN v. BUBINE 706 S.Ct 1135). "A crime is generally defined as an act which is committed or omitted in violation of a public law commanding or forbidding the act, to this definition the authorizes generally added the requirements that there be some punishment attached to a violation of law. Additionally deterring allows there is no evidence that Appellant had benefit of counsel for arraignment or Magistrate court proceeding. Defendant asserts that unconstitutional convictions in terms of collateral estoppel should not be used against him in circuit court. (see State v. Hewins, Citing ARGERSINGER v. HAMLIN 407 U.S. 25), It's progeny. Petitioner claims any use of his uncounsel appearances or any court proceeding upon conviction is in violation of the Sixth Amendment. Appellant case is distinguish from SNOWDON, In SNOWDON a two offenses was linked, however Applicant multiple arrests were separated. (see TB trans pg 54, L19-21, Officer Hines testimony He arrested Mr. Harky for false information which occurred after the traffic stop. The state's conclusion that the doctrine of collateral estoppel could not be applied offensively in perjury prosecution so as to preclude

litigation of primary substantive issues involving a specific finding of fact made by a jury in a prior criminal trial against the defendant. Petitioner pleads with briefs and argumentative testimony of Officer Hines per jury testimony. Upon appeals or motion to suppress based on plain error grounds, this court of U.S. Supreme applies a deferential standard of review and will reverse if there is clear error (cites Scott Robinson - Ineffectiveness to articulate defendant U.S. 4th Amend And, S.C. Art. 1, Sec. 10 was insufficient of Applicant Right's. A procedure which relies entirely on "comparison" and "elimination" cannot be used to make positive identification or identification when an unknown material evidence cannot be excluded. It has been widely recognized that the party offering the results of laboratory test must not only produce an expert to attest the scientific reliability of the test, but also, he must vouch for its correct administration in the particular case, Solicitor PAN NAT Vouch, see TR trans pg 41. (19-22). Appellate allows that the government has had its opportunity to litigate the authenticity of evidence and warning ticket. However, Applicant asserts the original warning ticket does not match the duplicate admitted at bench trial, and government failed to present original matching duplicate admitted at trial. Petitioner contends of his case this amount of denial of procedural due process, because of the very procedures Officer Hines followed assured the description of the defendant's right to meaningful cross-examination. It is clear that the government failure to establish a prima facie case and failed to meet the minimum standard of presumption proof, (see U.S. v. BRUND 333 F. Supp 570).



Office of the Clerk of Court

Paul B. Wickensimer  
Clerk of Court for Greenville County  
Greenville, South Carolina

[www.greenvillecounty.org](http://www.greenvillecounty.org)

November 5, 2014

Marlin Hutley 240708  
Perry Correctional institute  
430 Oaklawn Rd  
Pelzer SC 29669

Re: Motion under Rule 59e.

These pleadings are being returned to you because you have been appointed counsel. You may mail these documents to your counsel. Brian Johnson.

The South Carolina Supreme Court in a directive states that any petitioner who is represented by legal counsel, cannot file documents on his behalf. All documents must be submitted through your legal appointed counsel.

Thank you for your cooperation in this matter.

Sincerely,

Paul B Wickensimer

Exhibit  
# 1



State of South Carolina  
The Circuit Court of the Thirteenth Judicial Circuit

Letitia H. Verdin  
Judge

Greenville County Courthouse  
305 East North Street, Suite 318  
Greenville, SC 29601-2120  
Phone: (864) 467-8448  
Fax: (864) 467-8504  
lverdin@sccourts.org

To: Martin Hutley # 240707  
Perry Correctional Institution 62A Rm 220  
4300 Oaklawn Rd.  
Pelzer SC 29669  
From: Letitia H. Verdin  
Date: November 4, 2014

I have received your letter of October 24, 2014. The applicable response is checked below.

It is improper for a judge to receive such a communication outside of court and off the record regarding a case. Therefore, I have disregarded your letter and am returning it to you. Please do not attempt to communicate with me other than in court, on the record and with notice to all parties concerned.

This court no longer has jurisdiction over your case. More than ten (10) days have passed since your sentence date.

SCDC has the exclusive authority to compute sentences, including credit for time served. Therefore, you must follow the SCDC grievance procedure if you disagree with their calculations.

I suggest you contact your attorney directly.

I suggest you contact the Probation Office.

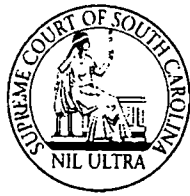
I suggest you contact the Solicitor's Office.

Your Motion must be filed with the Clerk's Office, therefore I am returning the same to you.

cc: Brian Johnson, Attorney at Law

Exhibit

#2



# 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  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499

TO: Mr. Marlin Hutley ##240707

FROM: Daniel E. Shearouse, Clerk *DES*

DATE: October 30, 2014

This Court has received your recent correspondence.

This Court cannot provide legal advice or assistance. Therefore, we will not be able to provide legal advice and you should consult an attorney.

Since you are represented by counsel in this matter, no action will be taken on your pro se filing. Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010); Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

If you believe you have good cause to seek to have your current counsel relieved then you should file a motion in the lower court in which this matter is pending.

Since you are represented by counsel in this matter, we are forwarding a copy of your letter to counsel for any assistance he/she can give you.

Your remedy is in the lower court where this matter is pending.

CC: Brian P. Johnson, Esquire (with enclosure)

*Exhibit*  
*#3*

COPIES

10/24/14

DEAR Honorable Ms Vordine

I address MR Johnson with respect  
to file A 59(e) motion for the Rulings  
of the issues Attach to the P.C.R.  
Application there ARE (8) ISSUES  
And the one MR. Johnson Amend At  
the P.C.R. Hearing. I SINCERELY ASK  
And Beg the Court for assistance  
IN the above Reference MATTER.  
As of this day I have not Receive  
any of the Two procedures from  
MR Johnson

Thank you  
Marlin Hutley  
MARLIN HUTLEY

Exhibit  
2(A)

7/14/14

DEAR MR. JOHNSON

I hope all is well, This letter is not to be taken as arrogance of me or that I have a law degree. I'm explaining what I don't want to go through again with lawyers and court. So if your attention and cross load are fully stuck then let the court NO so you can be removed from my case. I have a sentence of twenty five (25) years from misrepresentation of evidence and testimony, furthermore 60% can be believable and prima facie presumption for argument at P.C.R. with documented proof. What I ask of you if possible is a petition to the court for a investigator and C.D recording expert this is the 40% that's missing, also there are 5 witnesses that I wish to subpoena. If what I'm asking to be done is too much let me NO, so I can move on at my terms. If you decide to stay focusing me a reply and please allow me one contact visit. MAY I HAVE A COPY OF WHAT YOU OBTAIN FROM SCOTT ROBINSON

Sworn to and subscribed before me this \_\_\_\_\_

day of 14, July 2014

Tamara Conwell

NOTARY PUBLIC My Commission Expires September 25, 2023

THANK YOU

Print Martin Hutter  
Signature  
Exhibit 4

LAW OFFICE OF BRIAN P. JOHNSON, LLC

---

P. 864.331.1630  
F. 864.672.4009  
www.brianpjohnsonlaw.com

522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

July 25, 2014

**VIA U.S. POSTAL ONLY**

**Marlin Jamelle Hutley**  
**SCDC# 240707**  
**Perry Correctional Institute**  
**430 Oaklawn Rd.**  
**Pelzer, SC 29669**

**Re: State of South Carolina vs. Marlin Jamelle Hutley**  
**PCR Case No.: 2013CP2306842**

Dear Mr. Hutley:

I am writing in reply to your letter dated July 14, 2014. Sorry for the delayed response, but I was on vacation earlier this month.

Please note that we have yet to receive your discovery packet from the Attorney General's Office, so I have not yet been apprised of the issues. However, I expect to receive those items soon.

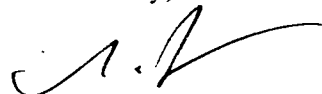
We also requested access to Mr. Robinson's file. I will forward both as soon as we receive them.

As such, I ask that you please wait until we are both able to review those documents before requesting an action.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit 4

10/6/14

TO MR. BRIAN JOHNSON

I AM WRITING CONCERNING THE PROCESS OF MY P.C.R. HEARING MY FIRST LETTER TO YOU WAS A MAJOR IMPORTANCE TO ALL MY ISSUES WITHIN THE MATTER HAVING A SUCCESSFUL HEARING CAUSE ITS MY FIRST AND LAST BITE OF THE APPLE AFFORDED TO ME AT THIS STAGE. THEREFORE, I WISH TO SUBPOENA WITNESSES WHOM MEET THE REQUIREMENTS OF DEFENDANT COMPULSORY PROCESS, ALSO THE CALLING OF EXPERT WITNESS AND INVESTIGATOR. IF THIS PROCEDURE IS A COMPLICATED DISTURBANCE TO YOU OR FIAM, PLEASE REMOVE YOURSELF FROM MY CASE. I ASK THIS WITH SINCERITY AND RESPECT.

RECEIVED

OCT 06 2014

P.C.I. MAILROOM

THANK YOU,  
MAB/ML HUTLEY

# 240707

exhibit  
4(a)

LAW OFFICE OF BRIAN P. JOHNSON, LLC

---

P. 864.331.1630  
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522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

October 29, 2014

**VIA U.S. POSTAL ONLY**

Marlin Jamelle Hutley  
SCDC# 240707  
Perry Correctional Institute  
430 Oaklawn Rd.  
Pelzer, SC 29669

**Re: Marlin Jamelle Hutley vs. State of South Carolina**  
**PCR Case No.: 2013-CP-23-06842**

Dear Mr. Hutley:

I am writing in reference to your letter dated October 24, 2014, and read on October 29, 2014.

Please note, that we can no longer amend your application for relief. Further note, that I cannot file a 59(e) as we have not yet received a decision from the Judge.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit  
4(A)

LAW OFFICE OF BRIAN P. JOHNSON, LLC

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F. 864.672.4009  
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522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

November 10, 2014

VIA U.S. POSTAL ONLY

**Marlin Jamelle Hutley**  
**SCDC# 240707**  
**Perry Correctional Institute**  
**430 Oaklawn Rd.**  
**Pelzer, SC 29669**

**Re: State of South Carolina vs. Marlin Jamelle Hutley**  
**PCR Case No.: 2013CP2306842**

Dear Mr. Hutley:

I am writing in response to your letter read on November 10, 2014.

Please note that I do not intend to brief our issues before the Court unless it is requested by the Judge. However, I do intend to argue our issues verbally.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

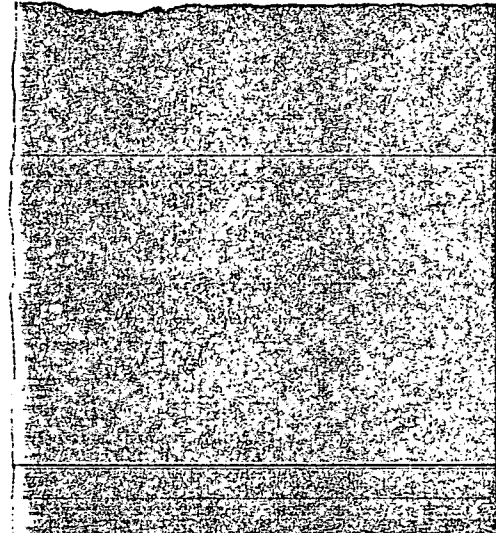
Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit  
40



LAW OFFICE OF BRIAN P. JOHNSON, LLC

---

P. 864.331.1630  
F. 864.672.4009  
www.brianpjohnsonlaw.com

522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

November 19, 2014

VIA U.S. POSTAL ONLY

Marlin Jamelle Hutley  
SCDC# 240707  
Perry Correctional Institute  
430 Oaklawn Rd.  
Pelzer, SC 29669

**Re: Marlin Jamelle Hutley vs. State of South Carolina**  
**PCR Case No.: 2013-CP-23-06842**

Dear Mr. Hutley:

I am writing in reply to your letter dated November 17, 2014, and received on November 19, 2014.

A Hearing has not been held in your case and as such a decision has not been made. A 59(e) motion is not made until after a decision is made and an order is issued.

I do not believe that you have a complete understanding of the procedures but I will attempt to provide you with a better understanding before your Hearing.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit  
4(c)

LAW OFFICE OF BRIAN P. JOHNSON, LLC

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F. 864.672.4009  
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522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

December 29, 2014

VIA U.S. POSTAL

Marlin Jamele Hutley  
SCDC# 240707  
Perry Correctional Institute  
430 Oaklawn Rd.  
Pelzer, SC 29669

**Re: Marlin Jamele Hutley vs. State of South Carolina**  
**PCR Case No.: 2013-CP-23-06842**

Dear Mr. Hutley:

Please find a copy of the Order of Dismissal regarding your application for Post-Conviction Relief. Note, that we have thirty (30) days to appeal the decision of the Court. Please let me know if you wish for me to file an appeal.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit  
4(b)

LAW OFFICE OF BRIAN P. JOHNSON, LLC

---

P. 864.331.1630  
F. 864.672.4009  
www.brianpjohnsonlaw.com

522 North Church Street  
Greenville, SC 29601  
brian@brianpjohnsonlaw.com

January 13, 2015

**VIA U.S. POSTAL ONLY**

Marlin Jamelle Hutley  
SCDC# 240707  
Perry Correctional Institute  
430 Oaklawn Rd.  
Pelzer, SC 29669

**Re: Marlin Jamelle Hutley vs. State of South Carolina  
PCR Case No.: 2013-CP-23-06842**

Dear Mr. Hutley:

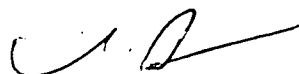
I am writing in response to your letter received January 9, 2015, requesting that a 59(e) Motion be filed on your behalf. Please take note, I wasn't clear on the basis on which you wished to file the Motion, but discerned that you wished to contest the findings of fact as insufficient. I have reviewed the Order of Dismissal personally, and determined that the Judge made appropriate findings of fact to preserve your issues for appeal.

Therefore, I am writing you to notify you that I did not file a Rule 59(e) on your behalf. However, a Notice of Appeal was filed on your behalf on January 12, 2015. I have attached a copy of the filing to this letter.

If you have any questions or concerns feel free to write me at the above address.

Thank you.

Sincerely,



Brian P. Johnson, Esquire

BPJ/lf

Exhibit  
4(e)

## 9.0 WARNING TICKETS

Warning tickets are intended to gain voluntary compliance of motor vehicle laws without penalizing the violator. The ticket is an additional traffic enforcement tool, to be used at the officer's discretion, within the guidelines of this policy.

- 9.1 Warning ticket books are issued by the Supply Officer, who will maintain a record of each book issued. Officers receiving warning ticket books will sign for each book to include the date of issue and ticket numbers.
- 9.2 The warning ticket is a two part copy which is pre-numbered:
  - 9.2.1 The original warning ticket marked the "Operators Copy" will be issued to the offender.
  - 9.2.2 The Records copy of the ticket will be turned in with reports and other tickets at the end of shift and forwarded to Crime Analysis for statistical and analytical purposes. This copy will be discarded in a secure manner when it no longer serves a purpose.
- 9.3 Conditions of Use:
  - 9.3.1 Officers may issue a warning ticket in lieu of a citation for any minor moving violation at their discretion. The warning ticket serves only as an official warning to the violator and no further enforcement action will be taken.
  - 9.3.2 A warning ticket may be issued for a license/registration, equipment or other non-moving violation at the officer's discretion.
  - 9.3.3 A warning ticket will not be issued for the following:



- No State Driver's License;
- Any violation involving alcohol or drugs;
- Reckless driving;
- Leaving the scene of an collision;
- Any violation that may have caused an collision;
- Any provision of the Greenville City Code of Laws which involves danger or damage to life or property.

9.4 When a warning ticket is written the officer will fill the ticket out in its entirety. In the "Violations" block circle the violation and in the "Offense Code" block write the Code of Laws of South Carolina Statute number.

Exhibit #5



Department of Public Safety

R. Israel Hollister  
Deputy Director  
rhollister@greenvillecounty.org  
(864) 467-2326  
www.greenvillecounty.org

March 6, 2015

Mr. Marlin J. Hutley  
Q2A, Room 220  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, South Carolina 29669

Dear Mr. Hutley:

I have had the opportunity to review your letters dated December 18, 2014 and January 27, 2015. Within them you pose three questions, but I find it difficult for our Records Manager to determine what if anything you should be provided to make certain your questions can be answered to your satisfaction. This is simply because not every practice that occurs involving the Detention Center and its staff is governed by policy and procedure. Rather than charging you financially to provide you with information that may not serve your interests; I have elected to first attempt to answer your questions at no cost with my knowledge of common practices or applicable policies and procedures at the Detention Center.

In response to question #1; a temporary commitment is not required for every person committed to the Detention Center. Temporary commitments are required for those persons who will need to attend a scheduled session of bond court at the Detention Center in order to receive an arraignment. The Arresting Agency is required to complete a Pre-Detention Checklist on all persons being committed to the Detention Center. Most all documents received from an Arresting Agency are time date stamped by a Detention Officer at the Detention Center after the departure of the Arresting Agency.

In response to question #2; the Search Officer at the Detention Center is not required to sign the Temporary Commitment nor the Pre-Detention Checklist.

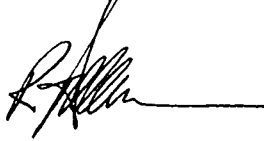
In response to question #3; custody may be exchanged between an Arresting Agency and a Detention Center security staff member at a number of places, but most often this occurs in the Change of Custody Sally Port at the Detention Center. This Sally Port separates the Judicial Corridor from the Intake and Release Area.

In closing, I have attached copies of your letters so that you can see the questions you have posed. I am also refunding your \$5.20 paid for copying expenses since there are no

Exhibit  
#6

copies being provided to you. I hope this information you find helpful since I am unaware of the reason for your interest in this information.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hollister", followed by a horizontal line.

R. Israel Hollister,  
*Deputy Director*  
Greenville County Department of Public Safety

MARLIN HULLY #240704  
WYANDO (B), Rm 231  
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