

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

Appeal from Georgetown County

Michael G. Nettles, Circuit Court Judge

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SC SUPREME COURT

DAMEON MYERS

*pro se* PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001770

APPENDIX

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STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 ) 2002-GS-22-861, 862 and 864  
 COUNTY OF GEORGETOWN )

The State, )  
 )  
 Plaintiff, ) Transcript of Record  
 )  
 vs. )  
 )  
 Dameon Myers, ) October 17, 2011  
 )  
 Defendant. )

B E F O R E :

Honorable Steven H. John  
 Georgetown County Courthouse  
 Georgetown, South Carolina

A P P E A R A N C E S:

Scott Hixson, Esquire  
 Attorney for Plaintiff

Kirk Truslow, Esquire  
 Attorney for Defendant

Grace L. Hurley, CVR-CM  
 Circuit Court Reporter

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1 (On the record, October 17, 2011.)

2 (The Defendant is sworn by the Clerk of Court.)

3 THE COURT: All right, this is the matter of 2002-GS-  
4 22-861, 2002-GS-22-864 regarding the State of South Carolina  
5 versus Dameon Myers. Mr. Myers was tried in his absence by  
6 the Honorable Paula Thomas. After a jury trial in this  
7 matter, the sentence was sealed. I've been handed the sealed  
8 sentence by the Clerk of Court and the Court is now opening  
9 the sentence in this particular matter. All right, I'm sorry  
10 it was also 2002-GS-22-862, so was 2002-GS-22-861, 862 and  
11 864.

12 MR. TRUSLOW: Your Honor, may I amend my motion to  
13 reflect both - all three of those counts because I only put  
14 two counts. I didn't know at the time I did the motion.

15 THE COURT: Yes, sir.

16 MR. TRUSLOW: Thank you.

17 THE COURT: Absolutely. We'll get to the motion in  
18 just a second. The Court needs to pronounce the sentences.  
19 Then I'll be glad to hear from you as to any matters that  
20 might be presented at that point in time.

21 All right, regarding 2002-GS-22-861, failure to stop for  
22 a blue light, the sentence as given by Judge Thomas on  
23 December 5, 2002, is the Defendant is committed to State  
24 Department of Corrections to a determinate term of three  
25 years.

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1           Regarding 2002-GS-22-862, regarding possession with  
2 intent to distribute crack cocaine, the sentence of Judge  
3 Thomas on December 5, 2002, is the Defendant is committed to  
4 the State Department of Corrections for a determinat term of  
5 20 years.

6           Regarding 2002-GS-22-864, the sentence of Judge Thomas on  
7 December 5, 2002, for the possession of marijuana is the  
8 Defendant is committed to the State Department of Corrections  
9 for determinat term of one year.

10          All right, the sentences having been unsealed and read  
11 into the record, are there any matters on behalf of the  
12 Defense at this point in time?

13          MR. TRUSLOW:    Yes, sir, Your Honor.  The case law that  
14 I've read says that I need to make a motion at the first  
15 opportunity possible to vacate this conviction.

16          THE COURT:       Yes, sir.

17          MR. TRUSLOW:    We'd move and we've submitted a written  
18 motion to do so based upon the Sixth Amendment and his right  
19 to be present at trial.  There's a couple of kinks in this  
20 case.  One is that the, the transcript is not available now;  
21 however, as you know, the law requires that certain specific  
22 findings be made on the record in regards to Mr. Myers'  
23 absence before a trial in absentia proceeds.  I would like to  
24 call my client for three to five minutes just to establish a  
25 record as to why he was not in Court.

1 THE COURT: All right, is there any objection to that  
2 from the State?

3 MR. HIXSON: Yes, Your Honor, based on the information  
4 I handed up and that's relating to the Court of Appeals'  
5 finding, that the Defendant is entitled to a reconstruction  
6 hearing based on his conduct, and if he absconds for ten years  
7 and as a result of that absconsion the Clerk of Court abides  
8 by - excuse me, the court reporter abides by state law and  
9 destroys the transcripts pursuant to the state law, then he is  
10 not entitled to that. Actually, that was considered an  
11 appellate sanction and I'm specifically referring for the  
12 record, Your Honor, to State versus Serrette. That's a South  
13 Carolina Court of Appeals case. The cite, Your Honor, is 375  
14 SC 650, Your Honor, and I've provided a copy to the Court as  
15 well as a copy to Mr. Truslow.

16 THE COURT: All right, well, let ---

17 MR. TRUSLOW: Judge ---

18 THE COURT: --- that and just hold on one second.

19 Let's, let's first be clear about this. There's no question  
20 and you handed to the Court some e-mail correspondence that  
21 you had, Mr. Truslow, with the court reporter, Grace L.  
22 Hurley, and in that you had sent to Ms. Hurley, who was the  
23 court reporter for Judge Thomas on December 5, 2002,  
24 apparently according to court administration records, you had  
25 requested of her the transcripts for the proceedings regarding

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1 Mr. Dameon Myers. Is that correct?

2 MR. TRUSLOW: Yes, sir.

3 THE COURT: All right, sir, and based upon that you  
4 received e-mail message back from Ms. Hurley indicating that  
5 she would have retained the tapes, but after five years by  
6 state law, the court reporters are allowed to destroy them and  
7 that she had done so in this particular matter. She informed  
8 you that the - that pursuant to in her e-mail, Rule 607,  
9 subset i, South Carolina Appellate Court Rules that she kept  
10 them for the required period and thereafter the - destroyed  
11 them. Is that your understanding?

12 MR. TRUSLOW: Yes, sir.

13 THE COURT: All right, would you like this copy of the  
14 email ---

15 MR. TRUSLOW: Marked, Your Honor.

16 THE COURT: --- as a Defendant's Exhibit in this  
17 matter?

18 MR. TRUSLOW: Yes, sir, and Mr. Hixson and I spoke  
19 before. He stipulated to putting that in.

20 THE COURT: All right, very good. All right, let me  
21 hand this to the court reporter, please. Mark it as  
22 Defendant's Exhibit One for the purpose of the motion.

23 (Defendant's Exhibit Number One appropriately marked.)

24 MR. TRUSLOW: Your Honor, can I address State vs.  
25 Serrette?

1 THE COURT: Yeah, just in one second.

2 MR. TRUSLOW: Yes, sir.

3 THE COURT: All right, how about, I will be glad for  
4 you to do so if you'd just give me two minutes here and let me  
5 read the case and then I'll be glad for you to make any  
6 arguments that you would like if you'd just hold on a second.

7 All right, Mr. Truslow, I'd be glad to hear from you,  
8 sir.

9 MR. TRUSLOW: Your Honor, just starting with State v.  
10 Serrette, I read that case when it was given to me and I had  
11 seen it before and I would submit to you that it is absolutely  
12 clear in this case that this is an appellate sanction, not a  
13 trial court - or I should say remedy or sanction. It even  
14 calls it an appellate sanction in here. I'm not asking for a  
15 reconstruction hearing. I'm asking to proffer testimony in  
16 relation to the motion that I've made here today.

17 THE COURT: All right, you've made ---

18 MR. TRUSLOW: That's simply all I'm asking.

19 THE COURT: All right, you've made a motion to vacate  
20 the sentence and for a new trial arguing that the Defendant  
21 did not get proper notice of his trial in his absence;  
22 correct?

23 MR. TRUSLOW: Yes, sir.

24 THE COURT: All right, in that certain findings in  
25 accordance with several Appellate Court decisions and we'll

1 probably talk about those in a little bit, there have to be  
2 certain findings as to the notice to the Defendant. It could  
3 come through the initial bond paperwork. It could come  
4 through notices thereafter, but there has to be some notice to  
5 the Defendant in some way that he should be tried in - he  
6 could be tried in his absence; correct?

7 MR. TRUSLOW: Yes, sir.

8 THE COURT: And the trial judge needs to make those  
9 findings on the record.

10 MR. TRUSLOW: Yes, sir.

11 THE COURT: All right, in this case, obviously, we can  
12 never know whether or not that occurred; correct?

13 MR. TRUSLOW: Correct.

14 THE COURT: Because, obviously as indicated, and  
15 everybody agrees, the trial transcripts, it's no longer  
16 possible. So, it's no longer possible for this Court to look  
17 back and see what Judge Thomas did on the record on December  
18 5, 2002, in these particular matters. Assuming this was a  
19 trial, and I don't know - and again, because we don't have the  
20 record, I don't know if the trial started on December 5, 2002,  
21 or the trial started a day before or two days before or  
22 whenever, but whenever the trial started, it obviously ended  
23 on December 5, 2002, because that's when Judge Thomas issued  
24 the sentences, but whatever it is that the trial commenced,  
25 which again, we can never now know, the trial judge was

1 supposed to have made findings on the record. That's  
2 something that is unknown and we can never know. Would you  
3 agree with that?

4 MR. TRUSLOW: Yes, sir.

5 THE COURT: All right, how do you propose that I hear  
6 your and rule on your motions?

7 MR. TRUSLOW: Based upon my representations and the  
8 evidence that I proffer and I would also point out, Your  
9 Honor, that that State v. Serrette case that Mr. Hixson passed  
10 up that only penalizes my client if he is found to be a  
11 willful fugitive and there's been no evidence or findings of  
12 fact as to that either. So, we've simply made a motion. We  
13 haven't tried to appeal and then the state appeal saying that  
14 they have evidence he was a fugitive; so, therefore the  
15 appellate court should impose that sanction against him and  
16 not let him appeal, we're not even to that point yet. We're  
17 simply still in the trial court making a post-trial motion and  
18 that's all.

19 THE COURT: All right, very good. What do you say to  
20 that Solicitor?

21 MR. HIXSON: That's fine, Your Honor. I understand  
22 that. We also have some documentary evidence that we would be  
23 able to recreate and that's specifically relating to  
24 Defendant's bond paperwork, subpoenas and things like that  
25 that we were able to present through the clerk.

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1 THE COURT: All right, very good. All right, Mr.  
2 Truslow, I'll be glad for you to call your client to the stand  
3 and examine him under oath.

4 MR. TRUSLOW: Mr. Myers, please take the stand.

5 THE COURT: Please come around, sir, to be sworn.

6 Whereupon, Dameon Myers was called to the stand, duly  
7 sworn by the clerk and testified as follows:

8 THE CLERK: Thank you. Please be seated and state  
9 your full name for the record, spelling your first and last  
10 name.

11 MR. MYERS: Dameon Myers, D-A-M-E-O-N, M-Y-E-R-S.

12 EXAMINATION

13 BY MR. TRUSLOW:

14 Q Mr. Myers, do you recall back when you were charged with  
15 the offenses that we're talking about here today?

16 A Yes.

17 Q And who represented you at that time?

18 A I, I can't really remember his name.

19 Q Was it Michael Hursey?

20 A Yes.

21 Q Okay, now, had you, prior to - well, let me back up, had  
22 you ever prepared for trial in this case ---

23 A No, I didn't.

24 Q --- with your attorney?

25 A No, I didn't.

1 Q Okay, the week before or the weekend before this trial  
2 allegedly took place, did you have a conversation with your  
3 attorney?

4 A No, I didn't.

5 Q Well, I'm talking about on the telephone with him about a  
6 plea hearing?

7 A I spoke to him, yes, about a plea.

8 Q Okay, now, what was your understanding of the purpose of  
9 court that week?

10 A That I would be coming to court for a plea.

11 Q And do you remember what the plea offer was?

12 A Anywhere from six to eight years.

13 Q Okay, so, you remember it being about six to eight years?

14 A Yes.

15 Q All right, and what did - what, if you can remember, did  
16 your attorney tell you about showing up that week? Did he  
17 tell you there was going to be a jury trial?

18 A Not to my knowledge.

19 Q Okay, did he tell you that - did he tell you that there  
20 was a plea hearing scheduled?

21 A He told me it would be a plea.

22 Q Okay, and you decided not to plead guilty?

23 A Did I decide not to plead guilty?

24 Q Correct.

25 A I just ---

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1 Q I mean, did you decide to plead guilty or not to plead  
2 guilty that week?

3 A No, sir.

4 Q That means you decided not to plead guilty? You made a  
5 decision not to plead guilty?

6 A If I made a decision not to plead guilty?

7 Q Yes.

8 A I - when I - I didn't - I'm not understanding.

9 Q Why didn't you go to court?

10 A I just, I just left. I didn't ---

11 Q And why, why, why did you leave?

12 A Because I was, I was scared.

13 Q Okay, did you want to take the six or eight year plea  
14 offer?

15 A It was - no, I didn't.

16 Q Okay, and just to back up one more time. Did your  
17 attorney ever prepare with you for trial?

18 A Not for trial, no.

19 Q And did he ever tell you that you were going to trial  
20 that week?

21 A Not to my knowledge, no, he didn't.

22 THE COURT: Can you all stop for a second, please?

23 MR. TRUSLOW: Yes, sir.

24 THE COURT: We have someone in the jury, not in the  
25 jury, in the audience who every time you are asking a question

1 is either nodding her head yes or no. Ma'am, if you don't  
2 refrain I'm going to have you detained by the Georgetown  
3 County Sheriff's Office. Do you understand me? Ma'am?

4 UNIDENTIFIED INDIVIDUAL IN AUDIENCE: Yes, sir.

5 THE COURT: Thank you. Go ahead, Mr. Truslow.

6 BY MR. TRUSLOW:

7 Q Just a couple of more questions, do you know whether or  
8 not your attorney ever moved for a continuance of the case  
9 that week?

10 A Meaning?

11 Q Do you know if he moved the Court to continue your case  
12 that week?

13 A No, sir.

14 Q Do you know if he lodged an objection to trying you in  
15 your absence that week?

16 A No, sir.

17 THE COURT: You're saying you don't know. Is that  
18 what you're telling me?

19 MR. MYERS: Yes, sir.

20 THE COURT: All right, very good. Go ahead.

21 MR. TRUSLOW: That's all I've got, Judge.

22 THE COURT: Cross-examination, Solicitor?

23 MR. HIXSON: Briefly, Your Honor.

24 EXAMINATION

25 BY MR. HIXSON:

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1 Q So, Mr. Myers, you acknowledge that you didn't appear for  
2 court during the November 15<sup>th</sup> term of court. Is that right?

3 A Can you repeat that, sir?

4 Q Do you acknowledge that you did not appear for court with  
5 the call of your case on November 15<sup>th</sup> of 2002?

6 A Yes, sir.

7 Q Okay, and you know that you were tried - you weren't  
8 tried that month. Do you know that? You were tried a month  
9 following that.

10 A I did not, no, sir.

11 Q Okay, so, do you know that you were not tried during the  
12 term of court that you were supposed to appear. You actually  
13 received a bench warrant. Isn't that correct?

14 A Bench warrant, no, sir.

15 MR. HIXSON: I have no further questions, Your Honor.

16 MR. TRUSLOW: Nothing further, Judge.

17 THE COURT: All right, sir. Thank you, sir. You may  
18 step down.

19 Further witnesses on behalf of the, on behalf of Mr.  
20 Myers, Mr. Truslow?

21 MR. TRUSLOW: No, sir, Judge.

22 THE COURT: All right, can you all help me out? I  
23 understand presently that Mr. Hursey is suspended from the  
24 practice of law. Is that correct?

25 MR. TRUSLOW: Yes, sir.

1 THE COURT: All right, now, did anyone try to subpoena  
2 Mr. Hursey to come to court today?

3 MR. HIXSON: I did not, Your Honor.

4 THE COURT: Mr. Truslow?

5 MR. TRUSLOW: Judge, I - I'm going to explain this  
6 because this is very bizarre. Mr. Hursey called me on Friday,  
7 and I don't want to get into too much, but he's got some  
8 issues with the FBI and some closings that he did. Now, you  
9 talk about a coincidence, it was out of the blue. I talked to  
10 him briefly about that, but I first talked to him about this  
11 because I thought somehow they contacted him and that was what  
12 he was calling about. I told him I needed to talk with him  
13 about that, he said, "Give me the weekend," about the issues I  
14 talked to him about the FBI. He was supposed to call me back  
15 over the weekend. I've called his number and another number  
16 he gave me and I have not got in touch with him.

17 Now, that's as honest as I can be about it.

18 THE COURT: All right, I, I, I ---

19 MR. TRUSLOW: It was, it was just out of the blue and a  
20 coincidence.

21 THE COURT: Okay, and I appreciate that.

22 MR. TRUSLOW: I've never seen him in ten years, so, no,  
23 sir.

24 THE COURT: All right, and again, I appreciate that.  
25 Do we have any information about when Mr. Hursey was

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1 suspended, do either of you all?

2 MR. TRUSLOW: I believe it was about 2004, 2005, Judge.

3 THE COURT: All right, and we don't have - you all  
4 don't have any information as to who, through the Supreme  
5 Court, who the lawyer was that was appointed to take over his  
6 files and what happened to his files thereafter?

7 MR. TRUSLOW: No, sir.

8 THE COURT: Okay, all right.

9 MR. HIXSON: Your Honor, I am able to make a showing of  
10 the paperwork in the file that should be in the Clerk's Office  
11 affording him notice, that he had been advised of all these  
12 rights whether it's on the record or not, I don't know because  
13 the transcript's gone, but we clearly have a paper trail  
14 relating to the bond estreatment.

15 THE COURT: Well, I'll be glad for you to present.  
16 I'm just trying to get this other information also to see what  
17 is out there or what we could possibly get. All right, so,  
18 that would be the showing by Mr. Myers. Is that correct, Mr.  
19 Truslow?

20 MR. TRUSLOW: Yes, sir, the showing being his testimony  
21 and that being the only evidence presented and there being no  
22 evidence that he is a or was a willful fugitive.

23 THE COURT: Okay, well I'll be - Solicitor, is there  
24 anything that you'd like to present to the Court at this point  
25 in time?

1 MR. HIXSON: I do, Your Honor, and I've pre-marked some  
2 of these. Ms. Hurley has them to try to expedite the process.

3 THE COURT: All right.

4 MR. HIXSON: If you don't mind, Your Honor, can I hand  
5 them up in lump and move along the process?

6 THE COURT: Yes, have you shown those to Mr. Truslow?

7 MR. HIXSON: I'm going to show him my copies.

8 THE COURT: All right, very good. All right, Ms.  
9 Hurley, I'm going to hand these back to you and you mark these  
10 as State's Exhibits, yes, ma'am.

11 (State's Exhibit Numbers One through Three appropriately  
12 marked.)

13 THE COURT: For your information, gentlemen, the Court  
14 has had the - these matters remarked as State's Exhibits.  
15 State's Exhibit One is a copy of a subpoena in a criminal  
16 case, has on the face of it date and time 12-3-2002 through  
17 12-6-2002 to Dameon Myers. State's Exhibit Two, for ID and  
18 all these are for ID at the present time is a subpoena and  
19 accompanying documentation to Dameon Myers for November 15th,  
20 2002 through November 22nd, 2002, and State's Exhibit Three  
21 for ID is a copy of certain bond paperwork of the Defendant,  
22 Dameon Myers.

23 All right, Solicitor, I'll be glad to hear from you.

24 MR. HIXSON: Thank you, Your Honor. What I've handed  
25 up to the Court, and Your Honor, if you could help me with the

1 numbers, Your Honor, as I refer to it. The November 15<sup>th</sup> item,  
2 I think that's State's Two.

3 THE COURT: State's Two for identification.

4 MR. HIXSON: Your Honor, that individual Mr. Myers was  
5 summoned to come to court. The week prior to this, he didn't  
6 appear on that court date, Your Honor, and a bench warrant was  
7 issued for him. So, he's actually under a bench warrant at  
8 the time of the call of this case in December, and I believe  
9 attached to that packet, Your Honor, there are notices to his  
10 bondsman as well as his attorney. Perhaps I only attached the  
11 ones for December - no, John - Ron Ford Bonding.

12 THE COURT: Ron Ford Bonding is attached to the  
13 November 15<sup>th</sup>, 2002, State's Exhibit Two.

14 MR. HIXSON: That's correct, Your Honor. So, there was  
15 - he failed to appear for that term of court, Your Honor. I  
16 think that's the one that Mr. Truslow is referring to that he  
17 acknowledges on the record that he willfully failed to appear.  
18 He said he didn't want to or he said he was scared. I think  
19 that's a tacit acknowledgement of his willful failure to  
20 appear. Nonetheless, it appears as if and I'm recreating this

21 ---

22 MR. TRUSLOW: Your Honor, can I just object for the  
23 record that's out of context.

24 THE COURT: All right.

25 MR. TRUSLOW: He said he was scared of the guilty plea.

1 THE COURT: I appreciate the - the record is what it  
2 is. Thank you very much.

3 MR. HIXSON: We go forward to State's One, Your Honor.  
4 That's the subpoena that covers the dates of the term of court  
5 in which Mr. Myers was tried. I believe I've attached also  
6 that copy of subpoena to his attorney, Michael Hursey,  
7 indicating that he had been afforded notice that - that some  
8 action was going to take place on his case at that time, Your  
9 Honor. That covers that term of court, but the bench warrant  
10 came from the November term of court, Your Honor. So, it's  
11 two failures to appear, and then finally, Your Honor, I  
12 believe it's State's Three and that's a standard bail form, as  
13 Your Honor has seen this many times, and I draw Your Honor's  
14 attention to the bottom of the page and that is

15 Georgetown, South Carolina, and if Your Honor notices  
16 that matches the address on the subpoena is  
17 - excuse me, road, on, on that, Georgetown, South Carolina.  
18 That's the bond address that the notices were sent to. It's  
19 signed by Dameon Myers June 27th, 2002. Michael Hursey is his  
20 attorney and if Your Honor under acknowledges by the Defendant  
21 it indicates that, "I understand, that I have been informed  
22 that I have a right and an obligation to be present at trial  
23 and should I fail to attend the court, the trial will proceed  
24 in my absence." Your Honor, we'd offer these documents as  
25 indication of and an attempt to provide some guidance to the

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1 Court over his acknowledgement that he knew of the dangers of  
2 failing to appear for court, that the trial may proceed in his  
3 absence, that he was - did in fact fail to appear for court  
4 and then finally that he had actual or he had notice of the  
5 time in which his case would be called to trial, that being  
6 the subpoenas covering the December term of court.

7 THE COURT: All right, Mr. Truslow, first, any  
8 objection to - for the purposes of this motion, State's  
9 Exhibits One, Two and Three?

10 MR. TRUSLOW: No, sir.

11 THE COURT: All right, sir.

12 All right, anything else from the State?

13 MR. HIXSON: No, Your Honor.

14 THE COURT: All right, Mr. Truslow, I'll be glad  
15 to hear from you, any arguments that you'd like to make,  
16 sir?

17 MR. TRUSLOW: Yes, sir. First of all, Judge, I think it  
18 makes a difference if you analyze this case State v. Serrette.  
19 Number one, as I said before, that that is an appellate  
20 remedy. We're not on appeal. If the Appellate Court found  
21 that he was a willful fugitive and it was because of him that  
22 the transcript was destroyed, they could then choose, if they  
23 so decided to, to not hear his appeal and dismiss it.

24 THE COURT: Let's just assume that I agree with your  
25 position on State v. Serrette and this is an issue as to

1 whether or not the Defendant was properly tried in his absence

2 ---

3 MR. TRUSLOW: Yes, sir, then I would ---

4 THE COURT: --- understanding, obviously, that the  
5 trial transcript and the findings of the trial judge, that  
6 cannot be argued because there is no evidence contrary.

7 MR. TRUSLOW: Right, and I would point, Your Honor, to  
8 State v. Fairey which was one of the cases I gave you, which  
9 on page 100 it cites State v. Jackson and it clearly says  
10 that, "However, if the record does not reveal that the  
11 Defendant was afforded notice of his trial, the resulting  
12 conviction in absentia cannot stand," and that's period.

13 THE COURT: All right, but let's talk about that for  
14 one second. Since there is no trial transcript of whatever  
15 findings Judge Thomas placed on the record at the time the  
16 matters came to court, there can be no argument that the trial  
17 judge failed to make the proper findings on the record because  
18 proceedings are deemed to have by appellate court rules and  
19 appellate court decisions to have proceeded in a proper  
20 fashion unless there is proof otherwise. No proof exists. No  
21 proof can exist now because we don't have a transcript to show  
22 that Judge Thomas did not, on the record, set forth the proper  
23 findings under the law as to a trial on the absence. So, that  
24 is not something that you can argue. Is that - would you  
25 agree with that or disagree?

State v. Myers (10-17-11)

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1 MR. TRUSLOW: I would agree that it would be difficult  
2 or impossible for the State to argue that, in fact, the  
3 requisite findings of fact were made on the record.

4 THE COURT: No.

5 MR. TRUSLOW: It would be impossible.

6 THE COURT: It would be impossible to show that the  
7 Court did not make those findings on the record. Proceedings  
8 are deemed to have been done in their proper fashion unless  
9 proof is otherwise shown and that's several Appellate Court  
10 decisions in our state. So, I understand there may be other  
11 arguments, but there can't be an argument that Judge Thomas  
12 didn't make the proper findings on the record because there is  
13 no proof otherwise. That's what I'm saying. You would agree  
14 with that particular issue?

15 MR. TRUSLOW: Under those facts.

16 THE COURT: Right.

17 MR. TRUSLOW: Under those facts.

18 THE COURT: Now ---

19 MR. TRUSLOW: If it was, if it was ---

20 THE COURT: --- solely ---

21 MR. TRUSLOW: --- not my client's fault that the  
22 transcript is not here, then it would make a difference.

23 THE COURT: Well, it's by state law, action of state  
24 law that there is no trial transcript.

25 MR. TRUSLOW: Well, I mean, you know, Your Honor, the

1 State made a conscious decision the first term of court to  
2 issue a bench warrant to say, "Go find Mr. Myers," ---

3 THE COURT: Correct.

4 MR. TRUSLOW: --- and not try him. At that point, he  
5 was a fugitive. They tried him as - if you consider him a  
6 fugitive because they issued a bench warrant there's been no  
7 issue or determination of that, but if you consider that, they  
8 chose to try him as a fugitive already. So, he was not made  
9 like in this case a fugitive after and solely because of the  
10 trial. They made him a fugitive and then brought him - and  
11 then came back a month later and tried him as a fugitive.

12 THE COURT: All right, sir, anything else?

13 MR. TRUSLOW: No, sir.

14 THE COURT: All right, in this particular matter, the  
15 Court respectfully declines to vacate the sentence and also  
16 respectfully declines to change the sentence, the Court  
17 stating there is no evidence presented to it which the Court  
18 could find to reconsider the findings of Judge Thomas, which I  
19 am allowed to do when you have a sealed sentence, the  
20 presiding judge can, in his, her discretion change the  
21 sentence. There's nothing in the record that would so  
22 indicate that the Court should change the sentence of Judge  
23 Thomas and I respectfully decline to do so.

24 MR. TRUSLOW: Your Honor ---

25 THE COURT: Regarding - yes, sir?

1 MR. TRUSLOW: --- if I could just be brief. I  
2 understand your ruling in terms of, you know, I was arguing  
3 that it was unconstitutional. He was tried in his absence. I  
4 was going to then make a motion to reduce the sentence and I  
5 would just like to briefly be heard on that.

6 THE COURT: All right, then, go ahead.

7 MR. TRUSLOW: Judge, my client had no meaningful  
8 criminal record whatsoever at the time. If you look at the  
9 verdict sheets, Judge, he was charged with trafficking in  
10 cocaine, found guilty of the lesser included offense. He was  
11 given a sentence of 20 years on that. Judge, he had a defense  
12 counsel who we don't have a record and know how things went,  
13 but nonetheless who has been suspended or disbarred. It looks  
14 to me like he was maxed out. Now, anybody, if you want to  
15 look at the disparity between people committed or committing  
16 the same offenses, I find it hard to believe that anybody  
17 would necessarily be given the maximum sentences or a sentence  
18 this high when they were found not guilty of trafficking.  
19 They were found not guilty of close proximity and they were  
20 found not guilty of PWID marijuana, but the lesser included  
21 offense of that as well. Nonetheless, he was given a sentence  
22 of 20 years. He was offered six to eight years by the State.  
23 Now, every case that I've passed up to you, Judge, every  
24 single one of them, one thing you will notice in those cases  
25 that the judges did not necessarily reverse the conviction

1 based on the Sixth Amendment, but in every one of those cases  
2 they reduced the sentence and I think what they did was  
3 acknowledge that some play must have come in which was  
4 prejudicial and impassionate for the person not showing up for  
5 trial and must have played a part to some degree, and in this  
6 case you have that, but you also have the fact that he was  
7 found not guilty on the major charges, found guilty of the  
8 lesser included charges and found not guilty on the proximity  
9 charge. Every one of the cases I've passed up to you I would  
10 note that the trial judge unsealing the sentence did  
11 significantly reduce the sentence and I think the purpose for  
12 that is not to create a disparity among Defendants who either  
13 appear at trial or don't appear, because actually under Rule  
14 16 you have a right not to appear at your trial. So, you  
15 shouldn't be penalized for not being there.

16 THE COURT: All right, and I appreciate that. Let's,  
17 let's, let's cover the issue about sentencing. It appears  
18 that the sentence for which he got the 20 years, the  
19 possession with intent to distribute crack cocaine is indexed  
20 under the statutory code section and the CDR code for what was  
21 in existence at that point in time for the distribution or  
22 possession with intent to distribute crack cocaine second  
23 offense, so that's what Judge Thomas sentenced him under.

24 MR. TRUSLOW: Well, I would move to amend that, Your  
25 Honor, because he does not have a prior crack or cocaine

State v. Myers (10-17-11)

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1 offense.

2 THE COURT: Does he have ---

3 MR. TRUSLOW: I believe he ---

4 THE COURT: --- a prior drug offense?

5 MR. TRUSLOW: I believe he's got a for - simple  
6 possession of marijuana forfeiture which would not apply.

7 THE COURT: All right, Solicitor, we're going to have  
8 to look at the prior, prior record and see if it was possible  
9 to sentence Mr. Myers for possession with intent to distribute  
10 crack cocaine at that point in time as a second offense. So,  
11 we'll have to look at his NCIC at that point in time and see  
12 because if he doesn't have a prior drug conviction, then  
13 obviously that would be incorrect.

14 MR. HIXSON: He has - on two - the first page I open is  
15 1999, he has a possession with intent to distribute marijuana  
16 arrest near a school, was convicted of possession - he was  
17 convicted of simple possession from that offense looks like in  
18 2000.

19 THE COURT: Okay, okay, well, let's - before we go -  
20 go any further, let's look at that. Was that in circuit court  
21 or was that remanded back to city court or magistrate's court  
22 or what happened in that originally? If it's a possession ---

23 MR. HIXSON: I'm looking at a simple possession of  
24 marijuana second offense, certified true copy conviction. The  
25 sentencing date on this was October 29<sup>th</sup>, 2001, and it's a

1 certified true copy.

2 THE COURT: All right, sir, you need to mark that as a  
3 State's Exhibit then. Show it to Mr. Truslow.

4 MR. HIXSON: This is a criminal conspiracy, Your Honor.

5 THE COURT: Just hold on, hold on one second. Yes,  
6 ma'am.

7 (State's Exhibit Number Four appropriately marked.)

8 THE COURT: All right, State's Exhibit Four is 2000-  
9 GS-22-1113, 1-1-1-3, State of South Carolina versus - County  
10 of Georgetown versus Dameon Myers regarding simple possession  
11 of marijuana second offense, it is a sentence of the Honorable  
12 Paula H. Thomas on October 29, 2001, in Circuit Court showing  
13 a conviction where the Defendant pled guilty on that date for  
14 that offense and was sentenced to shock incarceration by Judge  
15 Thomas, this being a certified true copy as certified by the  
16 Clerk of Court's Office, Georgetown County, as being a true  
17 and correct copy of the sentence and record of that date of  
18 the Defendant Dameon Myers. Is there any objection to that  
19 State's Exhibit, Mr. Truslow?

20 MR. TRUSLOW: I would object as it being applicable to  
21 enhance these offenses because it's not the same drug.

22 THE COURT: Well, I appreciate that, but ---

23 MR. TRUSLOW: And there have been some amendments and  
24 I'm, you know, been going through them quite a bit and the new  
25 drug laws and I would object to using a marijuana offense to

1 enhance a crack cocaine offense.

2 THE COURT: I, I would appreciate that, but as to the  
3 law that was in effect at the time and what the Court believes  
4 to be the proper law, Mr. Myers had a prior drug offense for  
5 which the possession with intent to distribute crack cocaine  
6 could be stated as a second offense because he had a prior  
7 drug offense that was counseled, shows that he pled guilty in  
8 front of Judge Thomas with defense attorney on October 29th,  
9 2001. Therefore, it was a counseled prior drug offense,  
10 besides the fact it was in Circuit Court before Judge Thomas,  
11 again.

12 All right, so as to that particular issue, the Court  
13 would find it to be proper for Judge Thomas to have sentenced  
14 Mr. Myers for a second drug offense on December 5, 2002. Any  
15 other arguments besides that as to the amount of the sentence,  
16 Mr. Truslow?

17 MR. TRUSLOW: Just what I told you, Judge. I mean,  
18 that's a, that's a pretty light record, that's a pretty heavy  
19 sentence. I would ask you to please consider that at the time  
20 this sentence was sealed that there had to be some emotion  
21 involved in terms of somebody not showing up. Somebody has a  
22 right not to be at their trial under Rule 16, or it could be  
23 waived, that right and that should not play into at all the  
24 sentence. I would ask you to look at Mr. Myers' record that  
25 you have right there with you and just impose a more fair

1 sentence, you know, in light of what we see generally in these  
2 types of cases, that is a, a incredibly high sentence and I  
3 would just have to submit to you that - like I said that, you  
4 know, and of course it doesn't bind you at all, but you know,  
5 sealed sentences, the three cases that I used and one other  
6 that I read, in every one of those cases the sentence was  
7 reduced.

8 THE COURT: All right, sir. What was on December 5,  
9 2002, Mr. Myers' criminal record, Solicitor?

10 MR. HIXSON: Yes, Your Honor. The first indication I  
11 have is a June 1999. He was charged possession with intent to  
12 distribute marijuana. He pled guilty to simple possession of  
13 marijuana. Apparently he also had an unlawful possession of a  
14 pistol charge at that time. It looks like that was dismissed  
15 in conjunction with the guilty plea to simple possession and  
16 in August of 2000 he had a strong-arm robbery arrest and a  
17 possession with intent to distribute marijuana, as well as a  
18 proximity charge. He ultimately pled guilty to the sentencing  
19 sheet that Your Honor has, that is a shock incarceration  
20 sentence, and instead of the strong-arm robbery, he received a  
21 criminal conspiracy conviction based off that strong-arm  
22 robbery, got a sentence of five years suspended to three years  
23 probation. 2001, he got a simple possession of marijuana  
24 arrest. There's no disposition indicated, Your Honor. That's  
25 a magistrate offense. It's not indicated and then after that

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1 we - it appears as if it's a simple possession of marijuana, a  
2 criminal conspiracy. He was convicted in 2001, November 7<sup>th</sup>,  
3 2001, received a 12-month sentence on that as well as a  
4 criminal conspiracy, three years probation on that.

5 Your Honor, I am not sure if that's a probation violation  
6 and that's why it's indicating like this on the sentence - the  
7 offenses are the same and it might be.

8 THE COURT: All right, Madam Probation Agent, be glad  
9 to hear from you.

10 PROBATION OFFICER: Yes, sir. He has a probation case  
11 from that conspiracy charge. We issued our warrant on  
12 February the 13<sup>th</sup> of 2002, excuse me, 2003, shortly after the  
13 sealed sentence was done for absconding supervision. We  
14 didn't place him in the NCIC until 2007 due to our policies  
15 that dictate which cases go into NCIC. We attempted to serve  
16 our warrant and of course could not. So, we ultimately placed  
17 him in the NCIC and we ultimately - he was arrested due to  
18 that NCIC inquiry. We served our warrant on September of this  
19 - of September 9<sup>th</sup>, we were actually going to do his revocation  
20 hearing last term of court, but due to this coming up, we  
21 decided to hold off until all this could be straightened out.  
22 Plus, we found out he had a new attorney and we were going to  
23 try and handle it all at one time.

24 THE COURT: All right.

25 MR. HIXSON: Additionally, Your Honor, I have - at the

1 time this trial occurred in November 1<sup>st</sup> of 2002, I have an  
2 arrest date with pending distribution of marijuana charges  
3 that was on a contingent docket due to this trial. So, this  
4 is still pending. It's been restored and it's pending now.

5 THE COURT: All right, very good.

6 All right, Mr. Truslow, were you aware that Mr. Myers was  
7 on probation at the time that these matters came before the  
8 court in 2002?

9 MR. TRUSLOW: No, sir.

10 THE COURT: All right, sir. Are you prepared for the  
11 Court to address those issues?

12 MR. TRUSLOW: Yes, sir.

13 THE COURT: All right, sir. Based on the matters -  
14 let's try and deal with these in order. Based on these  
15 matters presented as to the motion to change the sentence,  
16 that is to reduce the sentence given by Judge Thomas to Mr.  
17 Myers on these matters, those being the three convictions, the  
18 Court declines to reduce the sentences issued by Judge Thomas  
19 in these matters based upon the Defendant's record. The  
20 offense for which he was charged, for which he was convicted  
21 in these particular matters, the Court declines to change the  
22 sentences to the extent that Judge Thomas did not indicate on  
23 the sentencing sheets that the sentences would run concurrent.  
24 The Court so modifies the sentences of 2002-GS-22-861 for  
25 failure to stop for a blue light and 2002-GS-22-864 for

1 possession of marijuana to indicate that those would run  
2 concurrent with the sentence that she issued on 2002-GS-22-  
3 862. I do not know if that was Judge Thomas' intention at the  
4 time these - it was just left blank, but I find it to be  
5 proper to run the sentences concurrent so there is no question  
6 about that.

7 As to the probation violation matter, I do find there's a  
8 willful violation terms and conditions of the probation, the  
9 - based upon the matters set forth in the report of the  
10 probation department and the matters presented by the  
11 probation department. So, what the Court will do is revoke the  
12 sentence as so indicated as given by Judge Thomas in another  
13 matter on October 29<sup>th</sup>, 2001, will revoke that sentence, run it  
14 concurrent with the sentence as issued by Judge Thomas on  
15 December 5, 2002, in the 2002-GS-22-862 matter. It'll run,  
16 the revocation in full of the amount set forth in that one  
17 will run concurrent with the 2002-GS-22-862 matter.

18 All right, now, as to the motion to vacate the new trial,  
19 the motion to - or, I'm sorry, to vacate the matters and to  
20 have a new trial in these matters, the Court respectfully  
21 declines to grant those motions. The Court finds, one, that  
22 there being no evidence to the contrary, that the proceedings  
23 conducted by Judge Thomas in 2002 are presumed to have  
24 occurred in their regular and normal course, that Judge Thomas  
25 did all that was required of her as a circuit judge at that

1 time to make the requisite findings on the record, that a  
2 trial in absence was proper, there being no evidence to the  
3 contrary and further there can be no evidence produced to the  
4 contrary, the transcript of these proceedings having been  
5 destroyed properly pursuant to state law.

6 As to the other issues raised by the Defense regarding a  
7 trial in absence, regarding that, a - regarding a trial in an  
8 absence, the Sixth Amendment of the Constitution of the United  
9 States of America guarantees the right of an accused to be  
10 present at every stage of his trial but the right can be  
11 waived. It's also set forth in Rule 16, South Carolina Rules  
12 of Criminal Procedure of this particular state. The Defendant  
13 may be tried in their absence when the Defendant received  
14 notice of his right to be present and warned that the trial  
15 would proceed in his absence. Number one, the Defendant  
16 voluntarily absented himself from the jurisdiction and custody  
17 and control of the court. According to his testimony, whether  
18 or not he believed he was going to a trial or not, he  
19 certainly knew that he was to come to court for a guilty plea.  
20 He voluntarily or he stated that he voluntarily decided and of  
21 his own decision decided not to appear in court, his choosing.  
22 He stated, said because he was scared, but it was his choosing  
23 not to appear in court.

24 Further, in accordance with the bond paperwork that the  
25 Defendant signed and initialed on June 27<sup>th</sup> of 2002 regarding

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1 the matters for which he was tried in his absence as reflected  
2 by State's Exhibit Three, the Defendant, through his initials,  
3 indicated that he understood that the Defendant shall appear  
4 at the term of Court of General Sessions beginning on and it  
5 says at the call of the Solicitor. He understood that that  
6 was an unknown date and time to be selected by the Solicitor  
7 and that the matters could proceed. He further indicated  
8 through his signature the acknowledgement by the Defendant  
9 that, "I understand and have been informed that I have a right  
10 and an obligation to be present at trial and should I fail to  
11 attend the court, the trial will proceed in my absence." This  
12 is a voluntary and knowing acknowledgement by the Defendant  
13 that he knew that he could be tried in his absence should he  
14 fail to voluntarily attend court. He waived his right to be  
15 present at the trial. He made this decision. He decided to  
16 do so. Therefore, the trial in the absence was proper and the  
17 motion to vacate the sentence, vacate the trial, order the  
18 matter for a new trial is hereby denied.

19 Any further matters or issues that the Defense would like  
20 the Court to consider that I have not ruled on?

21 MR. TRUSLOW: No, sir.

22 THE COURT: Anything else from the State?

23 MR. HIXSON: No, Your Honor.

24 THE COURT: All right, thank you very much.

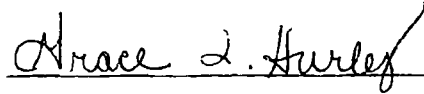
25 (Adjourned.)

## C E R T I F I C A T E

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I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Dameon Myers, held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on October 17, 2011.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Grace L. Hurley, CVR-CM  
Official Reporter

January 20, 2012.

-0-

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Georgetown )  
 )  
279666 )  
 )  
 Inmate # )  
 )  
 Dameon Myers Applicant, )  
 vs. )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 THIRD JUDICIAL CIRCUIT  
 CASE NO. 02-GS 22 861; 863; 864  
2012-CP-22-01132

APPLICATION FOR  
 POST-CONVICTION RELIEF

FILED  
 GEORGETOWN COUNTY S.C.  
 2012 OCT 18 AM 9:00  
 ALMA Y. WHITE  
 CLERK OF COURT

1. Place of detention.  
Teiker Correctional Facility  
Ridgeville, SC
2. Name and location of Court, which imposed sentence.  
Georgetown General Sessions  
Georgetown SC
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed.
4. The date upon which sentence was imposed and the terms of the sentence.  
October 17, 2011  
3 years FTSE; Pw 50 weeks 20 years Mary 1 year
5. Check whether a finding of guilty was made:
  - (a) After a plea of guilty \_\_\_\_\_
  - (b) After a plea of not guilty X
  - (c) After a plea of novo contender \_\_\_\_\_
6. Did you appeal from the judgment of conviction or the imposition of sentence?  
Yes however court ruled that I could not appeal

7. If you answered "yes" to (6), list:

(a) The name of each Court to which you appealed:

*Court of Appeals*

(b) The result of each Court to which you appealed:

*Order denying Right to Appeal*

(c) The date of each such result:

*October 10, 2012*

(d) If known, citations of any written opinion or orders entered pursuant to such results:

8. If you answered "no" to (6), state your reasons for not appealing:

*Did not Appeal in 2003 when convicted because not aware of conviction*

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) *Unconstitutional Conviction*

*Ineffective Assistance of Counsel*

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

*Prosecutor was unethical and so was my counsel. Convicted in my absence I had no idea what my case went to trial without me. My attorney never told me he was going to trial without me. The prosecutor was unethical and was fined*

11. Prior to this application have you filed with respect to this conviction

(a) Any petition in a State Court under South Carolina Law?

*only my motion to reconstruct the sentence*

(b) Any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

(c) Any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)?

(d) Any other petitions, motions or applications in this or any other Court?

12. If you answered "yes" to any part of (11), list with respect to each petition, motion, or application:

- (a) The specific nature thereof: *motion to Reconstruct record and Personal case for neutral.*
- (b) The name and location of the Court in which each was filed: *Court of Appeal*
- (c) The disposition thereof: *Denied*
- (d) The date of each such disposition: *Oct 10/10/12*
- (e) If known, citations of any written opinions or orders entered pursuant to each such disposition:

13. Has any ground set forth in (9) been previously presented to this or any other Court, State, or Federal, in any petition, motion or application which you have filed? NO.

*No*  
14. If you answered "yes" to (13), identify:

(a) Which grounds have been presented:

(b) The proceedings in which each ground was raised:

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) A Post Conviction Relief Petition affords the applicant the first opportunity to allege ineffective assistance of trial counsel, as applicant is prohibited from alleging ineffective assistance of counsel on direct appeal.

16. Were you represented by an attorney at any time during the course of:

(a) Your arraignment and plea? *yes*

(b) Your trial, if any? *yes*

(c) Your sentencing? ~~Judge De [unclear]~~ Kirk Truflow

(d) Your appeal, if any, from the judgment of conviction or the imposition of sentence? Lanelle Durant

(e) Your preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Lanelle Durant

17. If you answered "yes" to one or more parts of (16) list:

(a) The name and address of each attorney who represented you:

at trial: Michael Hursey; Kirk Truflow

(b) The proceedings at which each such attorney represented you:

Michael Hursey - trial / Kirk Truflow - sentencing

18. State clearly the relief you seek in filing this application.

To Be Granted a New Trial and have my

19. Are you now under sentence from any other court that you have not challenged? Conviction Overturned for ineffective assistance of counsel and un-Constitutional Sentence

NO

Respectfully Submitted,

Melissa W. Gray  
on behalf of  
Damon Myers

PO Box 2144  
Mt Pleasant SC 29465

(843) ~~856-5472~~  
856-0580

(843) 856-0590 fax

Date: October 17, 2012  
~~2009~~  
Ridgeville, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Georgetown )  
279666 )  
 Inmate # )  
 )  
Dameon Myers Applicant, )  
 vs. )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 THIRD JUDICIAL CIRCUIT  
 CASE NO.: 02-GS-22-Std: 863; 864  
2012-CP 22-01132

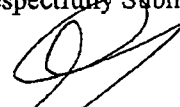
**CERTIFICATE OF SERVICE**  
**POST-CONVICTION RELIEF APPLICATION**

Comes Now the above-referenced Petitioner and does state that he did serve the Office of the Attorney General of the State of South Carolina a copy of the POST-CONVICTION RELIEF APPLICATION by placing a copy of same in the United States Mail on this date at the above-referenced address:

Office of the Attorney General  
 P.O. Box 11549  
 Columbia, South Carolina 29211

FILED  
 GEORGETOWN COUNTY S.C.  
 2012 OCT 18 AM 9:00  
 ALMA Y. WHITE  
 CLERK OF COURT

Respectfully Submitted,

  
 \_\_\_\_\_  
 Melisa W. Gay  
 Attorney for Petitioner Dameon Myers  
 P.O. Box 2144  
 Mt. Pleasant, SC 29465  
 (843) 856-0580  
 (843)856-0590 fx

Dated: October 17, 2012  
 Georgetown, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN

COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT

Dameon Myers  
In Propria Persona Petitioner,

2012CP2201132

vs.

SUPPLEMENT TO PCR  
APPLICATION

STATE OF SOUTH CAROLINA  
Respondent.

**GROUNDS AND SUPPORTING FACTS**

**I. INEFFECTIVE ASSISTANCE OF COUNSEL**

**Michael T. Hursey**

Michael Hursey provided ineffective assistance of counsel and withheld substantive material facts that would have had a substantial impact on the outcome of my trial.

1. Michael Hursey failed to challenge the jurisdiction of the court.
  - a. Michael Hursey did not challenge the pleadings that were presented to the court. Hursey did not challenge the indictment, nor did he challenge the entity and/or alleged victim presenting charges against me.
  - b. Jurisdiction is determined by the pleadings; and the STATE OF SOUTH CAROLINA did not have standing to bring any charges against me. Furthermore, then solicitor Bo Bryant did not have standing to prosecute me for any alleged criminal charges. "The prosecutor is not a witness; and he should not be permitted to add to the record either by subtle or gross improprieties. Those who have experienced the full thrust of the power of government when leveled against them know that the only protection the citizen has is in the requirement for a fair trial." (Donnelly v. DeChristoforo, 416 US 637 -

Supreme Court 1974)

2. Michael Hursey failed to properly investigate the charges against me.
  - a. Michael Hursey failed to obtain any video, audio, and/or any other electronically and/or mechanically stored evidence from law enforcement.
  - b. Hursey did not interview any witnesses that were present on and/or around the date of the alleged crime
3. Michael Hursey failed to properly review the discovery materials handed over by the Georgetown City Police Department (also referred to as GCPD herein) and the Georgetown County Solicitor's Office (also referred to as GCSO herein);
  - a. Micheal Hursey failed to take notice that in the police reports submitted by law enforcement was erroneous and contained false, tainted, and/or misleading statements. The report states that drugs were found under a couch cushion that I was sitting on. However, I was not sitting on any couch and I was already handcuffed, arrested, and seized when officers went inside the home and found the alleged drugs. "[T]his Court held that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. *Mooney v. Holohan*, 294 U. S. 103. There has been no deviation from that established principle. *Napue v. Illinois*, 360 U. S. 264; *Pyle v. Kansas*, 317 U. S. 213; cf. *Alcorta v. Texas*, 355 U. S. 28. There can be no retreat from that principle here." (*Miller v. Pate*, 386 US 1 - Supreme Court 1967)
  - b. In addition, different weight and/or amounts for the alleged drugs were listed several times within the law enforcement reports.
4. Michael Hursey failed to obtain key witnesses and/or witness statements.
  - a. Michael Hursey did not obtain any witnesses to testify to the fact that I did have drugs

nor drugs in my possession as the law enforcement reports and/or documents state.

5. Michael Hursey withheld material fact personally known to him, and failed to bring those personally known facts to the attention of the court and presiding judge.
  - a. Micheal Hursey was aware that the law enforcement and judicial entities and/or individuals in Georgetown, South Carolina had- and currently still has, an vendetta against myself and my family. Just to name a few incidents, in 1999, my eldest sibling was wrongfully and unlawfully framed for a drug deal that he was not involved in. He was arrested, seized, and served jail time for crimes he did not commit. Following the disposition of the charges, he filed a civil suit against the officer involved. My older sibling, Jamol Myers, was wrongfully named as a suspect in an FBI investigation; and in 2003 my siblings and I were wrongfully and maliciously named as suspects in at least one murder investigation-the murder of Joey Pope.
  - b. In addition, the murder allegations were used as a basis to initiate a tactical assault on my sister-in-law, Loushonda Myers; and her children, home, and property. After having her criminal charges dismissed, Ms Myers filed a civil suit in federal court that is currently ongoing. (The Complaint has been attached.) [Civil Suit 5:12-CV-714-BO]
6. Michael Hursey failed to inform the jury that my absence could not be considered as guilt and that I have the right to resist any unlawful proceeding.
  - a. Hursey did not instruct the jury that I did not have to present for trial;
  - b. Hursey failed to inform the jury that they have the power and authority to decide in any manner they felt is just- despite what a statute and/or any judicial and/or law enforcement body/individual states;
  - c. Hursey failed to object to Judge Paula Thomas telling the jury that they owe it to the

citizens to come up with a verdict after stating that they could not agree; and

d. Hursey failed to submit an appeal.

7. Michael Hursey committed fraud by informing me that I was not going to trial and the objective at the time was to work out a plea.

8. Michael Hursey failed to turn over a copy of discovery materials to me.

For the above reasons, Micheal Hursey was incompetent and substantially prejudiced me. He failed to protect and/or defend my substantive Rights. Mr. Hursey violated my substantive Constitutional Rights protected by the Fifth and Sixth Amendments. My due process Rights were violated due to the fact that I was deprived of my property, freedom, and liberties prior to the issuance of an indictment; I never received substantive discovery materials; I was denied the Right to confront my accuser, the STATE OF SOUTH CAROLINA; and I was not made aware of the nature and cause of the allegations made against me. I have a substantive Right to be informed of who is accusing me of a crime, what crime was allegedly committed, and how I injured that human being's person and/or property. In addition, Michael Hursey was disbarred in November of 2011 due to a number of reasons including "Rule 1.1 (competence); Rule 1.3 (diligence); Rule 1.4 (communication)..... Rule 8.4(d) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Rule 8.4(e) (engaging in conduct prejudicial to the administration of justice)." (*South Carolina State Bar Website, <http://www.sccourts.org/opinions/displayOpinion.cfm?caseNo=27080>*)

#### **Kirk Truslow**

1. Kirk Truslow knowingly brought me in front of Judge Steven John, knowing that just about two weeks prior, he had presided over the Joey Pope murder trial in which my brothers and I were being named as the murderers.

a. During this trial, no one was found guilty of the murder. Keri Pope was given a direct

verdict in her favor by Judge Steven John; and Christopher Miller was found guilty of conspiring with himself to commit murder.

- b. Knowing the above, Kirk Truslow did not communicate this to me and he did not ask Judge Steven John to recuse himself based on him presiding over the Joey Pope trial and hearing testimony, statements, and/or likewise alleging that I participated in the murder of Joey Pope.
- c. Truslow failed to properly help me prepare for the hearing on October 17, 2011.
  - i. Truslow failed to obtain the materials such as my NCIC report; the reports concerning the arrest and seizure on and/or around August 28, 2011; the use of cellular phone tracking and/or surveillance done on my cellular phone on and/or around August 28, 2011; and any other materials and/or evidence that would have been helpful to me.
  - ii. Truslow failed to inform me that I did not have to testify on October 17, 2011.
  - iii. Truslow failed to challenge the validity of the alleged criminal history that was presented by the solicitor's office.
  - iv. Truslow failed to obtain the files of Micheal Hursey.

2. Kirk Truslow failed to challenge the jurisdiction of the court.

- a. Truslow failed to challenge the validity of the pleadings, the indictment, and the entity and/or individuals that were initiating the charges against me.

Due to the above reasons, Kirk Truslow was incompetent and substantially hindered my cause. Kirk Truslow violated my substantive due process Rights to a fair proceeding by a an impartial judge. Kirk Truslow was also incompetent and failed to inform me that I did not have to testify; and in fact, Kirk Truslow told me that he was putting me on the stand at the last second.

**Melissa Gay**

1. Melissa Gay failed to obtain my NCIC report; discovery materials, including Hursey's files; and any discovery materials related to my arrest, search, and seizure on and around August 28, 2011. This was despite several requests that she obtain these materials.
2. Melissa Gay failed to discuss specific arguments that she was going to present to assist me in this matter.
3. Melissa Gay failed to perform any independent investigation and/or gathering of substantive materials. In fact, the materials that she possessed were largely materials that my family had gathered to assist me in this matter.

**II. THE CONVICTION AND SENTENCE IS A VIOLATION OF THE UNITED STATES CONSTITUTION**

1. The conviction and sentence violated the Fourth Amendment to the United States Constitution, and the treaties thereof.
  - a. I was denied my substantive due process rights. I was denied the right of freedom of traveling; I was denied the right not to be arrested prior to the lawful issuance of a warrant with probable cause; I was denied the substantive right of having a lawful grand jury convene and issue an indictment; I was denied the substantive right of being innocent until proven guilty.
2. The conviction and sentence violated the Fifth Amendment to the United States Constitution, and the treaties thereof.
  - a. I was forceable held against my will in the Georgetown County Detention Center for the alleged commission of crime prior to a present of indictment by a grand jury.
  - b. I was deprived of life, liberty, and property, without due process of law. I was

unlawfully jailed; the money that I had in my possession was taken; I was extorted into paying a bond for my life, liberty, and freedom (against the laws of the US

Constitution); and I was denied my due process rights due to the following:

- i. Unlawful seizure and search;
- ii. Unlawful warrant; and
- iii. I was denied a fair and impartial trial.

3. The conviction and sentence violated the Sixth Amendment to the United States Constitution, and the treaties thereof.

- a. I was denied an impartial trial due to the prejudice, bias, and discrimination by certain individuals in the law enforcement and judicial body. They found me guilty before trial, and even after the jury could not come back with a decision- the jury was forced to go back and deliberate until a decision could be made.
- b. As shown by facts and evidence, Micheal Hursey did not serves as a honest, diligent, and zealous defense counsel during my trial; and Kirk Truslow failed did not serve as a honest, diligent, and zealous counsel at my sentencing hearing.

4. The conviction and sentence violated the Ninth Amendment to the United States Constitution, and the treaties thereof.

- a. I was denied the substantive right to an impartial trial and am being
- b. The State of South Carolina is attempting to deny my substantive right to:  
an impartial judge that is not influenced by law enforcement officers and/or officials of the court; freedom form harassment and being targeted by police officers based on my family name and the color of my skin; freedom from cruel and harsh sentencing based on my skin color; freedom from malicious, vengeful

plots by member of law enforcement; and the freedom to the same substantive rights as whites.

- c. any unlawful proceeding and/or imprisonment due to the fact that it is not numbered and/or stated in the United States Constitution. I have the substantive right to resist the unlawful arrest, search, seizure, and/or imprisonment by anyone that has unlawfully deprived me of my fundamental and substantive rights; and are depriving me of those rights under the color of law, and with malice, revenge, and/or hatred as a motivating factor.

The Ninth Amendment specifically states that “[the] enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” I am one of the people with unalienable rights that were given to me by God, and should be protected, upheld, and guaranteed by every State/STATE and their law enforcement and judicial bodies. I am not a vessel for the use and acquirement of capital for the state/STATE and/or the COUNTY OF GEORGETOWN. I am not cattle to be led to the slaughter. I am a human being with a soul, and demand to be treated as such. Due to my skin color and family name, I am being denied equal treatment, fairness, impartiality, and justice that De Jure law requires.

**III. THE CONVICTION AND SENTENCE IS IN VIOLATION OF SOUTH CAROLINA CODE OF LAWS, ARTICLE 3 : CRIMINAL GANG PREVENTION ACT/ INTRINSIC AND EXTRINSIC FRAUD**

Members of the GCPD and GCSO managed, operated, and participated in a criminal gang with patterns of criminal activity within the meaning of Section 16-8-230. Their illegal activities include but are not limited to obstruction of justice within the meaning of Section 16-8-230; murder; kidnapping; extortion; burglary; and/or treason. The exhibits following this supplement contains substantial evidence, proofs,

and/or documentation of the conduct of the law enforcement bodies and/or judicial officials operating in Georgetown, South Carolina. Certain members of the GCPD, Georgetown County Sheriff's Office (herein also referred to as GCSO), and the 15th Circuit Solicitor's Office-in which the GCSO is part of) have a malicious agenda they have cold heartedly calculated and masterminded to extract revenge on members of the Myers Family. As shown in our Family's Petition that has been sent to numerous governmental agencies, bodies, and individuals, there does in fact exist malicious intent upon myself and my family members to the extent that certain individuals were and are willing to commit murder.

1. As shown by their own evidence, members of the GCPD knowingly and willingly stated false, fabricated, and/or misleading statements in their affidavit for a search warrant and in their police report.
2. As shown by their own evidence, members of the GCPD knowingly and willingly manufactured evidence and/or testimony depicting my brothers and I as a drug gang in order to frame us for at least one murder.
3. As shown by their own evidence, member of the GCPD knowing and willing coerced incarcerated inmates into making false, fraudulent, and/or misleading statements in order to pin Joey Pope's murder on my brothers and I.
4. As shown by their own evidence, they have attempted to frame my oldest brother for trafficking cocaine.
5. As shown by their own evidence, they have violated the substantive rights of my sister in law due to their malicious attempts at getting revenge, and in order to frame my brothers and I for the murder of Joey Pope.
6. Fraud was willingly and knowingly entered into the proceedings on and/or around December 5, 2002 and October 17, 2011. As shown by the attached exhibits, this fraud tainted and/or

contaminated any and/or all proceedings involving me. Fraud vitiates everything. Once fraud has been entered into any proceeding it is void. (Nudd v. Burrows, 91 U.S. 426; Boyce v. Grundy, 3 Pet. 210; U.S. v. Throckmorton, 98 US 61) The Georgetown City Police Department, Georgetown County Solicitor's Office, and other unknown individuals conspired against me- as they did against other family members- by entering false, fraudulent, and/or misleading statements into reports, warrants, and/or court records.

#### **IV. THE GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA DID NOT HAVE PROPER JURISDICTION**

The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA did not have personal nor subject matter jurisdiction over me. I was not properly served with a lawful summons, complaint, or indictment. Any statute and /or proceeding that violates the substantive due process Rights of any human being are void ab initio. The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA is an administrative court and does not have any judicial power. Under common law and the Supreme law of the land, as well as the Treaties thereof- THE GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA had no jurisdiction and continues to lack jurisdiction.

Jurisdiction cannot be waived and/or forced upon any human being. The aforementioned court is not an Article III Court, and is invested with no judicial power. Fraud has been committed by assuming that I am defined as a "person" within the meaning of the statutes of South Carolina. The fact is that I was not and am not a governmental employee and/or a "person" as defined under the statutes of South Carolina. In addition corpus delicti was not and has not been shown. No injury, harm, and/or damage to anyone's body and/or property was shown and/or proven. Furthermore, I have not knowingly and/or willingly entered into any contract waiving and/or relinquishing any inalienable and/or substantive Rights and/or

Privileges for that of a “statutory” and/or “person” under the laws of this State/STATE. And, importantly, THE STATE OF SOUTH CAROLINA has not proven that I breached a duty to it that resulted in it being injured.

Additionally, there is a gross conflict of interest present. The STATE OF SOUTH CAROLINA controls the GENERAL SESSION COURT OF SOUTH CAROLINA; and the STATE is also the alleged Plaintiff against me. Therefore, the tribunal is not fair nor impartial.

#### **V. DISCOVERY OF NEW INFORMATION**

There has been discovery of new information that I was not aware of nor could I have reasonable have become aware of the information. A witness has come forward with information regarding the alleged incident that has given rise to the De Facto charges.

#### **VI. VIOLATION OF THE SUPREME LAWS OF THE LAND/COMMON LAW**

Article VI, Section 2 of the Constitution for the land of the United States states, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” The United States Constitution was and is based off of common law. The De Fcato proceedings initiated against me was based on fraud, deception, and statutory laws. It was an administrative proceeding initiated against me without fully informing me of such and without providing proof on the record that I had knowingly, intentionally, and/or willingly entered into any such social and/or other contract agreeing to relinquish my natural status and be bound by the statutory laws of a democratic and/or other unknown or unrecognized governmental organization. The South Carolina

Constitution unlawfully deprives, hinders, and/or restricts the substantive powers; inherent Rights; and inherent Privileges of human beings by granting local governments powers, privileges, and/or preferences above that of the People (Section 17 of South Carolina Constitution: The provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor.) This is in direct contradiction to Article IV of the Constitution for the land of the United States which states, "The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence". The unlawful imprisonment and confinement of any human being without due process, equality, fairness, impartiality, and/or the proper procedures and tribunal is in fact domestic violence; and is against the Supreme laws of the land.

Furthermore, Article III, Section One of the Constitution for the land of the United States states, "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour". The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA is not an Article III Court and does not have any judicial power. The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA concerns itself with statutes, and any statute that violate, hinders, and/or conflicts with the Constitution for the land mass called the United States is void. The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA was not and is not in good Behaviour due to the fact that it allowed fraud to entered upon the proceeding and record; it did not prove jurisdiction on the record before depriving me of substantive, inherent Rights; it allowed bias, malice, and injustice to enter upon its De Facto proceedings; and it had and has a practice of allowing conflicts of interest and politics to enter upon its proceedings.

The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA has

administrative judge that are paid by the state and work for the state whom is the alleged Plaintiff in all criminal actions. Likewise, the solicitors are paid by the state and have an incentive to convict the People and imprison them. The GENERAL SESSIONS COURT OF GEORGETOWN, SOUTH CAROLINA is a for profit corporate body and operates against the Supreme Laws of the Land. GEORGETOWN COUNTY is a for profit corporate body and operates against the Supreme Laws of the Land. Both of these corporate bodies have a conflict of interest due to the fact that it operates to make gain off of the People, and that gain conflicts with the administration of justice and De Jure Laws.

**FACTS BASED UPON MY PERSONAL KNOWLEGDE AND SUPPORTED BY FACTUAL EVIDENCE AND LAW**

The following are facts that are based upon my factual knowledge and have been cited above and are now being specifically pointed out:

1. Jurisdiction was not challenged by either Michael Hursey nor Kirk Truslow;
2. Jurisdiction was not proven on the record during my December 5, 2002 trial, nor was it proven on the record during my October 17, 2011 hearing;
3. Kirk Truslow knowingly and willingly allowed Judge Steven John to preside over the sentencing hearing on October 17, 2011 after having full knowledge that he had presided over the Joey Pope murder trial and my name was mentioned as one of the murder suspects;
4. Michael Hursey did not properly prepare with me for any trial and I was not aware of the trial taking place until after the process had been commenced;
5. The law enforcement officers in the city and county of Georgetown and Horry Counties have a vendetta against my family and I and have been working diligently to conspire to obtain lengthy sentencing and most recently a death penalty for murder against my brothers and I;
6. Michael Hursey nor Kirk Truslow informed my that by obtaining them I was improperly

submitting to the jurisdiction of the court;

7. Kirk Truslow failed to obtain substantive discovery materials and the files of Michael Hursey;

8. Michael Hursey failed to obtain substantive discovery materials;

9. My arrest, search, seizure, and confinement was and is unlawful due to the fact that my substantive due process rights were violated, and the Supreme Laws of the Land were not abided by.

10. The facts surrounding this unlawful conviction has been tainted and/or fabricated against me;

11. The jury was not instructed as to the fact that my being absent at the trial was not and could not be taken as an admission of guilt and/or sign of guilt;

12. Michael Hursey did not inform as to the jurisdictional requirements or common law requirements under the Constitution for the United States;

13. My arrest, search, and seizure was unlawful and violated the Constitution for the United States.

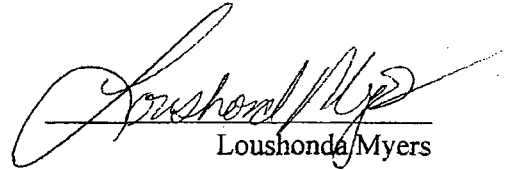
I have attached factual evidence and affidavits in support of this PCR as well as the supplemental information provided. I fully reserve my Right to amend and/or add to this Supplement and/or PCR Application as additional evidence, proofs, and/or materials are discovered.

#### **RELIEF AND/OR REMEDY**

I, Dameon Myers, am now respectfully demanding the following relief, remedy, and/or redress:

1. The sentence, judgement, and/or order against me be vacated, annulled, and/or rescinded;
2. I be immediately released from imprisonment and confinement; and
3. My record be expunged from this matter.

This 1<sup>st</sup> day of August, 2014.



Loushonda Myers  
 Attorney -in-Fact for Dameon Myers/Private Attorney General  
 Dameon Myers  
 In Propria Persona Petitioner  
 Inmate # 279666  
 Lieber Correctional Institution  
 P.O. Box 205  
 Ridgeville, SC 29472

#### CERTIFICATE OF SERVICE

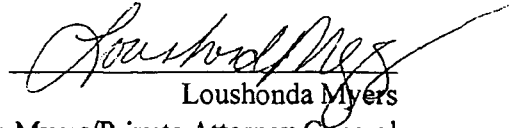
I, Loushonda Myers; on behalf and by request of Dameon Myers, an incarcerated human being. ~~Due to Mr. Myers's incarceration and lack of resources, a copy of the foregoing and a copy of Loushonda Myers's civil suit is being furnished to the Court at this time, and service will be made on other parties on a later date.~~ I, Loushonda Myers, certify that a copy of the foregoing Supplement to PCR Application has been delivered in the manner stated below to the following:

Hand Delivered:  
 Georgetown County Solicitor's Office  
 P.O. BOX 1688  
 Georgetown, South Carolina 29442

Hand Delivered:  
 Georgetown County Court of Common Pleas  
 P.O. BOX 479  
 Georgetown, South Carolina 29442

Via USPS:  
 Attorney General's Office  
 Alan Wilson  
 P.O. Box 11549  
 Columbia, South Carolina 29211

This 1<sup>st</sup> day of August, 2014.



Loushonda Myers  
Attorney-in-Fact for Dameon Myers/Private Attorney General  
Dameon Myers  
In Propria Persona Petitioner  
Inmate # 279666  
Lieber Correctional Institution  
P.O. Box 205  
Ridgeville, SC 29472

STATE OF SOUTH CAROLINA )  
COUNTY OF GEORGETOWN )

IN THE COURT OF COMMON PLEAS )  
FIFTEENTH JUDICIAL CIRCUIT )

Dameon Myers, # 279666, )

2012-CP-22-01132 )

Applicant, )

v. )

**RETURN AND PARTIAL MOTION TO DISMISS** )

State of South Carolina, )

Respondent. )

Respondent, making its Return and Partial Motion to Dismiss to the Application for post-conviction relief filed October 18, 2012, by Dameon Myers, through his counsel, Melissa W. Gay, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Georgetown County. The Applicant was indicted in October 2002 for failure to stop for a blue light (2002-GS-22-861), trafficking in crack cocaine (2002-GS-22-862), possession with intent to distribute (“PWID”) crack cocaine within proximity of a school or park (2002-GS-22-863), and PWID marijuana (2002-GS-22-864). Michael T. Hursey, Jr., represented the Applicant on the charges. On or about December 5, 2002, the Applicant was tried in his absence before the Honorable Paula H. Thomas. The jury found him guilty of failure to stop for a blue light; guilty of PWID crack as a lesser offense of trafficking crack; not guilty of the proximity charge, and guilty of simple possession of marijuana as a lesser-included offense of PWID marijuana. Judge Thomas imposed sentences regarding the three convictions and the sentences were sealed.

It appears that the Applicant was apprehended sometime in 2011. On October 17, 2011, he was brought before the Honorable Steven H. John to have his sealed sentences read to him. T. Kirk

Truslow represented the Applicant in this proceeding. The sentences imposed were as follows: three years for failure to stop for a blue light; twenty years for PWID crack; and one year for simple possession of marijuana. At this hearing, the Applicant moved to vacate the convictions, claiming he was unaware of the trial and had not been given proper notice. Judge John denied this motion after taking evidence on the issue, and also denied the Applicant's motion to reduce the sentences. A timely notice of appeal was thereafter filed. LaNelle Cantey DuRant represented the Applicant in the appeal. The Applicant moved for a remand to reconstruct the trial record, and in response, the State moved to dismiss the appeal, arguing that the Applicant forfeited an appeal because his fugitive status for eight years after his trial resulted in the record of his trial being destroyed. On October 4, 2012, the South Carolina Court of Appeals granted the State's motion to dismiss the appeal. The Applicant filed a petition for rehearing, but the petition was denied on March 11, 2013. The matter was remitted to the trial court in April 2013.<sup>1</sup>

Incorporated herein by reference are the records of the Georgetown County Clerk of Court regarding the convictions; the sentencing hearing transcript dated October 17, 2011; the Department of Corrections records regarding the Applicant; and the Applicant's direct appeal records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II. – Allegations and Relief Sought

In his Application, Mr. Myers alleges that his custody is unlawful for the following reasons:

- (1) Unconstitutional conviction;
- (2) Ineffective assistance of counsel; and
- (3) "Prosecutor was unethical and so was my counsel."

The Applicant further states that he was "convicted in my absence, I had no idea that my case went to trial without me. My attorney never told me he was going to trial without me. The

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<sup>1</sup> Although the Applicant filed his PCR before the Court of Appeals finally resolved his direct appeal, the circuit court now has proper jurisdiction over the PCR since the matter has been remitted back to the circuit court.

prosecutor was unethical and was fired.” The Applicant states he is seeking a new trial and to “have my conviction overturned for ineffective assistance of counsel and unconstitutional sentence.”

**III. – Partial Motion to Dismiss Because the Applicant’s Decision to Become a Fugitive Resulted in the Unavailability of the Trial Transcript**

At the October 17, 2011 sentencing proceeding, the Applicant testified about the circumstances surrounding his absence from trial. He testified that he “just left” because he “was scared.” The presiding judge, after considering the Applicant’s testimony and the paperwork submitted by the State (including the trial subpoenas sent to the Applicant and the bond paperwork), concluded that the Applicant voluntarily and willfully absented himself from the jurisdiction of the court and voluntarily waived his right to be present at trial after having been given proper notice that he was required to appear. The South Carolina Court of Appeals, citing State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007), dismissed the Applicant’s appeal because his willful decision to remain a fugitive from justice presented an obstacle to orderly appellate review and led to the destruction of the trial transcript.

The State submits that the Applicant’s PCR should be dismissed - at least to the extent any allegations are transcript-driven - for the same reasons. At this juncture, more than ten years has passed since the Applicant’s trial. The trial transcript is unavailable because the court reporter properly destroyed the tapes pursuant to Rule 607(i), SCACR. It is doubtful that any of the persons who were involved in the trial have any significant memory of it. The State is severely prejudiced by the unavailability of the trial transcript, and by the lapse of time, which resulted from the Applicant’s willful decision to become a fugitive. Importantly, the Applicant’s willful fugitive status further stands to prejudice the State, not merely in its ability to defend the conviction in PCR court, but also in the possibility that the Applicant’s PCR might prove successful and retrial become necessary after more than ten years has passed.

It would be inappropriate to allow the Applicant to benefit from his ten-year flight, while most defendants responsibly attend court as required even when facing severe terms of imprisonment. Accordingly, the State requests that this Court dismiss any post-conviction relief allegations that are transcript-driven as a sanction against the Applicant and/or because fair and meaningful review is now impossible. See State v. Serrette, 375 S.C. 650, 654 S.E.2d 554 (Ct. App. 2007); see also Ortega-Rodriguez v. U.S., 507 U.S. 234 (1993); Martin v. State, 276 S.C. 514, 280 S.E.2d 210 (1981); Jordan v. State, 276 S.C. 168, 276 S.E.2d 781 (1981); Lamb v. State, 293 S.C. 174, 359 S.E.2d 282 (1987); Scelba v. Scelba, 342 S.C. 223, 535 S.E.2d 668 (Ct. App. 2000).

Also, to the extent the doctrine may apply, the State specifically pleads the affirmative defense of laches as a bar to post-conviction relief. See Bray v. State, 366 S.C. 137, 140-41, 620 S.E.2d 743, 745 (2005) (“Laches is ‘neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Whether a claim is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party.’”) (citations omitted); see also Rule 8(c), SCRPC.

#### IV. – Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant bears the burden of proving his allegations by a preponderance of the evidence. Stalk v. State, 375 S.C. 289, 297, 652 S.E.2d 402, 405 (Ct. App. 2007) (citations omitted); Rule 71.1(e), SCRPC. “Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that ‘counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.’” Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007) (citing Strickland v. Washington, 466 U.S. 668, 669 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985)). The

proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id.

A two-pronged test is used to evaluate allegations of ineffective assistance of counsel. Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007). “In order to prove that counsel was ineffective, a PCR applicant must show that: (1) counsel's performance was deficient; and (2) there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different.” Smith v. State, 375 S.C. 507, 515, 654 S.E.2d 523, 527-28 (2007) (citations omitted). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial.” Id. (citations omitted). “Furthermore, when a defendant's conviction is challenged, ‘the question is whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt. Id. (citations omitted). “There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case.” Id. (citations omitted). The applicant must overcome this strong presumption in order to obtain relief. Stalk, supra (citation omitted).

Respondent submits that the Applicant will be unable to prove his allegations of unconstitutional conviction, ineffective assistance of counsel, and his allegation regarding unethical conduct on the part of the prosecutor and his attorney. However, because the allegations may raise questions of fact that the record does not conclusively refute, Respondent requests an evidentiary hearing to fully resolve the issues. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983). However, if it turns out that refuting the Applicant's allegations requires the trial transcript, the State submits the allegations should be dismissed for the reasons discussed in Section III above.

#### V.

Each and every allegation, claim, or statement contained within the Application not expressly admitted, qualified, or explained is DENIED.

VI.

WHEREFORE, having made its Return and Partial Motion to Dismiss, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

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June 28, 2013

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS?  
 ) FIFTEENTH JUDICIAL CIRCUIT  
 COUNTY OF GEORGETOWN ) CASE NO.: 2012-CP-22-01132

DAMEON MYERS, #279666, )  
 )  
 APPLICANT, )  
 )  
 VS. )  
 )  
 THE STATE OF SOUTH CAROLINA )  
 )  
 RESPONDENT. )

---

**POST CONVICTION RELIEF HEARING**

**MOTION TO DISMISS**

held before the Honorable Kristi L. Harrington  
 Mia Perron, Circuit Court Reporter, 9th Judicial Circuit  
 in the Georgetown County Courthouse  
 Georgetown, South Carolina  
 on August 28, 2014, Commencing at 11:42 a.m.

---

SUSAN "MIA" PERRON, CVR-CM-M  
 Circuit Court Reporter - 9th Judicial Circuit  
 Post Office Box 31865  
 Charleston, South Carolina 29417-1865  
 1-706-231-6028

---

## APPEARANCES OF COUNSEL

FOR THE APPLICANT: Pro Se

FOR THE RESPONDENT: Joshua Thomas, Esquire  
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Post Office Box 11549  
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PROCEEDINGS

1

2

THE COURT: Ma'am, I don't let people lean over  
the bar. What is your name?

3

4

MS. MYERS: My name is Loushonda Myers.

5

6

THE COURT: All right. I don't let people lean  
over the bar.

7

8

MS. MYERS: Okay. I can't talk -- his legal  
rights?

9

10

THE COURT: I don't know who you are. Are  
you -- are you an attorney?

11

12

MS. MYERS: I'm Mr. Myers' attorney in fact.

13

14

MS. MYERS: That means that I hold power of  
attorney over Mr. Myers, and I'm also here as an  
advocate on his behalf, and also as a counsel.

15

16

17

THE COURT: All right. Are you a licensed  
attorney in the state of South Carolina?

18

19

MS. MYERS: I'm not aware of South Carolina  
having a license.

20

21

THE COURT: I'm sorry. You do have a bar  
license in some state?

22

23

MS. MYERS: I'm not aware that there is a bar  
license.

24

25

THE COURT: All right. Mr. Thomas is a licensed  
attorney in the state of South Carolina. Are you a

Dameon Myers vs. State of South Carolina  
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1 licensed attorney?

2 MR. MYERS: Your Honor, may I speak, please?

3 THE COURT: Sir, this is not how this works. I  
4 am in charge of the courtroom. When I need to hear  
5 from you, I will hear from you. Ms. Myers has asked  
6 to be of assistance to you at the table. Would you  
7 like for me to address that or just forget about that  
8 issue, Mr. Myers?

9 MR. MYERS: Carry on.

10 THE COURT: Thank you. Please have a seat.

11 MS. MYERS: What was the question?

12 THE COURT: Are you a licensed attorney?

13 MS. MYERS: I am not a bar-licensed attorney.

14 THE COURT: All right. Then you may not sit at  
15 the table with Mr. Myers.

16 MS. MYERS: Are you denying him assistance in  
17 this -- this matter?

18 THE COURT: Are you arguing with me, ma'am? I  
19 have made a --

20 MS. MYERS: No. I'm asking.

21 THE COURT: I have made a ruling. You are not a  
22 licensed attorney and, as such, you may not be of  
23 legal assistance. I am not going to allow you, in my  
24 presence, to commit a felony.

25 MS. MYERS: All right.

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1 THE COURT: Mr. Thomas?

2 MR. THOMAS: Thank you, Your Honor.

3 We are here this morning on the State's motion  
4 for summary judgment -- the same thing we heard  
5 yesterday, actually -- based on the fugitive  
6 disentitlement doctrine.

7 Mr. Myers was indicted in October of 2002 for  
8 failure to stop for a blue light, trafficking crack  
9 cocaine, possession with intent to distribute crack  
10 cocaine within proximity, possession with intent to  
11 distribute marijuana. It was called for trial on  
12 December 5th, 2002, before Judge Paul Thomas.

13 He did not appear for trial but was found guilty  
14 in his absence for failure to stop, PWID crack  
15 cocaine, and simple possession of marijuana. So a  
16 couple of lesser-included offenses there.

17 His sentence was unsealed in October of 2011 by  
18 Judge John. He got three years for failure to stop,  
19 twenty years for PWID crack cocaine, and one year for  
20 simple possession. There were a motion to vacate,  
21 motion for new trial, motion to reduce sentence at  
22 that time, which were denied.

23 He did file an appeal at that time. He also  
24 filed -- defense filed a motion to remand for a  
25 reconstruction hearing. The State filed a cross-

MIA PERRON, CVR-CM-M

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1. motion to dismiss, based on the fugitive  
2. disentitlement doctrine, which was granted. The  
3. matter was dismissed in March, 2011, by the Court of  
4. Appeals.

5. At this time, the State is just moving to  
6. dismiss this application based on the fugitive  
7. disentitlement doctrine. Again, it was over nine  
8. years between the time he was tried and the time he  
9. was apprehended. Based on that, we would just submit  
10. that his own conduct -- he has -- he has forfeited the  
11. right to challenge his convictions, either on direct  
12. appeal or collaterally, and at this time the State  
13. would just move to dismiss the application.

14. THE COURT: Mr. Myers, are you Dameon Myers?

15. MR. MYERS: I am.

16. THE COURT: Please stand.

17. [Whereupon, Mr. Myers complies]

18. THE COURT: Thank you. Are you Dameon Myers?

19. MR. MYERS: Your Honor, I'm here on a special  
20. appearance. I am Dameon Myers, but my name is spelled  
21. capital D, lower case M-E-O-N, capital M-Y-E-R-S. I'm  
22. a natural human being made in the image and likeness  
23. of God. This is not the same Dameon Myers which is  
24. not the name that is written in all caps which is a  
25. legal fiction. I'm establishing as a natural human

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1 being. My dealings must be in the natural.

2 THE COURT: All right. Let me -- Mr. Myers, I'm  
3 going to stop you there.

4 Is your date of -- what is your date of birth?

5 MR. MYERS: My date of birth is May 22nd, 1982.

6 THE COURT: And I have a social security number  
7 that begins with a 2 and the last four are 1650.  
8 Would that be correct?

9 MR. MYERS: Yes, that would be correct.

10 THE COURT: All right. And you were indicted in  
11 the court of general sessions for possession with  
12 intent to distribute marijuana and you were tried; is  
13 that correct?

14 MR. MYERS: Can you repeat that, Your Honor?

15 THE COURT: Were you tried in the court of  
16 general sessions for possession with intent to  
17 distribute marijuana?

18 MR. MYERS: Was I tried? I mean, Your Honor,  
19 I'm not -- I wasn't -- I wasn't -- I wasn't there when  
20 this -- when these proceedings happened so I can't say  
21 that I was, because he said that I was absence --  
22 there was a trial in my absence and I wasn't there  
23 when this occurred, so I can't say that I was.

24 THE COURT: This is my first time in Georgetown  
25 County. Is he part of the sheriff's department?

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1 UNIDENTIFIED: Yes, ma'am.

2 THE COURT: All right. Thank you. I did not  
3 see any insignia.

4 MR. MYERS: Your Honor --

5 THE COURT: All right. Mr. Myers, I'm going to  
6 explain this one more time because you evidently did  
7 not hear me.

8 MR. MYERS: Okay.

9 THE COURT: I am attempting to ask questions --

10 MR. MYERS: Right.

11 THE COURT: -- and so if you will wait for me to  
12 ask you a question.

13 I'm going to give you time to speak with me at  
14 the end, but it is important for me to do this in a  
15 particular order so that you are -- the record is  
16 clear and that your rights are protected. Would you  
17 like for me to do it in my order, or do you just need  
18 to just speak?

19 MR. MYERS: No. I understand exactly what  
20 you're saying, but I just have one question before we  
21 get started with these proceedings.

22 THE COURT: Well, Mr. Myers, I'm trying to make  
23 sure that I understand who you are, because if you're  
24 not the person that was tried --

25 MR. MYERS: Right.

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1 THE COURT: -- then perhaps you do not even need  
2 to be here. So I'm just trying to make sure that we  
3 have the correct person here today.

4 MR. MYERS: All right, Your Honor.

5 THE COURT: All right. So you're -- you are  
6 indicating to me that on your birth certificate your  
7 name is spelled differently from what is contained on  
8 the indictment? Is that what you're trying --

9 MR. MYERS: I'm indicating --

10 THE COURT: -- to indicate to me?

11 MR. MYERS: I'm indicating to you that the  
12 name's a legal fiction that I'm on that the Court  
13 has -- the State has me under. However, I spelled my  
14 name --

15 THE COURT: I don't know what legal fiction  
16 means, sir.

17 Mr. Myers, I'm just trying to get to the bottom  
18 of this, because I certainly do not want you to be  
19 here if you are not supposed to be here. Okay?

20 So tell me why you are in the department of  
21 corrections. Perhaps we can do it that way.

22 MR. MYERS: Because I was falsely arrested.

23 THE COURT: For?

24 MR. MYERS: For these criminal charges that's  
25 brought upon me.

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1 THE COURT: All right. And would that be the  
2 failure to stop for the blue light?

3 MR. MYERS: [No response]

4 THE COURT: What's he here for, Mr. Thomas?

5 MR. THOMAS: Your Honor, his conviction was for  
6 possession with intent to distribute crack cocaine --  
7 I'm sorry, not -- his conviction was for failure to  
8 stop for a blue light --

9 [Off the record momentarily]

10 THE COURT: Mr. Thomas?

11 MR. THOMAS: His conviction was for failure to  
12 stop for a blue light, possession with intent to  
13 distribute crack cocaine, and simple possession of  
14 marijuana, those three charges.

15 THE COURT: Mr. Thomas, is there any concerns  
16 that the Mr. Myers standing here today is the  
17 Mr. Myers that these charges --

18 MR. THOMAS: Comparing the department of  
19 corrections' records with the sentencing sheet and the  
20 indictment and everything I have, Your Honor, I have  
21 no doubt that he is, in fact, the person that is  
22 incarcerated for these crimes.

23 THE COURT: All right. Mr. Truslow: was he the  
24 one that represented Mr. Myers?

25 MR. THOMAS: Your Honor, I believe he

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1 represented him on the sentencing hearing that  
2 occurred. The actual representation at trial was by  
3 Michael Hursey, H-U-R-S-E-Y. He was actually  
4 disbarred in 2011, so he is not a licensed --

5 THE COURT: I was just wondering because if  
6 Mr. Truslow was present, then he could at least  
7 clarify for the Court that this is, in fact, the  
8 Mr. Myers that was involved in this case.

9 MR. THOMAS: I think he may have left already,  
10 Your Honor. I apologize.

11 THE COURT: Do you have his cell phone number?

12 MR. THOMAS: I can track him down, yes, ma'am.

13 THE COURT: All right. Mr. Myers, I'm  
14 attempting to make sure that you're the Mr. Myers  
15 that's involved in this case. All right? Do you  
16 remember being arrested for these charges?

17 MR. MYERS: Yes, Your Honor, I was arrested.

18 THE COURT: And you were set for trial and you  
19 were not there for trial, or you left during the  
20 middle, or something else?

21 MR. MYERS: What happened -- what happened was I  
22 wasn't properly informed that I was having a trial  
23 that day. My lawyer, Michael T. Hursey, he didn't  
24 told me that I would be having a trial that day but he  
25 did inform me that it would be a plea bargain, that I

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1 didn't have to appear that day in court.

2 THE COURT: And so you failed to show up because  
3 you were not informed; is that correct?

4 MR. MYERS: By Michael T. Hursey. I didn't show  
5 up because he didn't inform me. My lawyer, he didn't  
6 inform me that I had to be in court that day. That's  
7 correct.

8 THE COURT: And then a trial was held in your  
9 absence?

10 MR. MYERS: That's my understanding, yes.

11 THE COURT: And then you were convicted?

12 MR. MYERS: Yes.

13 THE COURT: Picked up on a bench warrant?

14 MR. MYERS: Picked up on a bench warrant? Yes.

15 THE COURT: And then a sentence was read out by  
16 a circuit judge --

17 MR. MYERS: A sealed --

18 THE COURT: -- that was on a -- in an envelope.  
19 Is that what happened?

20 MR. MYERS: Correct. That's right.

21 THE COURT: All right. And so then you're here  
22 to -- you filed an application for post conviction  
23 relief because you didn't know about your trial? Is  
24 that -- am I --

25 MR. MYERS: Yes.

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1 THE COURT: Am I following so far?

2 MR. MYERS: Correct.

3 THE COURT: Is that about what happened,  
4 Mr. Thomas?

5 MR. THOMAS: That's -- you're exactly right,  
6 Your Honor.

7 THE COURT: Correct. Thank you.

8 MR. MYERS: Your Honor --

9 THE COURT: All right. Mr. Myers, I'm really --  
10 I'm really -- I promise you I am going to let you  
11 speak to me. I just have got to do a certain number  
12 of things before we proceed any further. All right?  
13 Tell me why you don't have an attorney.

14 MR. MYERS: Because I have members of my society  
15 that's going to help me, assist me, on this -- on  
16 these proceedings today.

17 THE COURT: Well, they're not allowed to  
18 practice law. And, as a matter of fact, I'm going to  
19 instruct the sheriff of Georgetown County to  
20 investigate the unauthorized practice of law by anyone  
21 who has filed any papers on your behalf that does not  
22 have a bar license. And that will be accomplished  
23 today. And I'm also going to instruct the clerk of  
24 court not to accept any papers on your behalf by  
25 anyone who is not a licensed attorney.

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1 Mr. Myers, do you wish to have an attorney  
2 present here today?

3 MR. MYERS: Your Honor, judicial cannon 3 says  
4 otherwise no -- judicial cannon 3 says: judge shall  
5 accord to every person who has a legal interest in  
6 these -- in this proceeding.

7 This is my -- this is members of my society.

8 THE COURT: They are present and they -- but  
9 they cannot represent you. It is against the law of  
10 the State of South Carolina for someone to engage in  
11 the unauthorized practice of law. I am attempting to  
12 protect your interest, as well as the interest of  
13 society. I am allowing your individual society  
14 members to be present, to be support for you, but I  
15 cannot allow a felony to be committed in my presence.  
16 All right.

17 MR. MYERS: So --

18 THE COURT: Do you wish to have an attorney  
19 present here today, a licensed attorney in the state  
20 of South Carolina?

21 MR. MYERS: I wish to have my members of my --  
22 members of my society. I would wish -- I would wish  
23 for them to help me during these proceedings.

24 THE COURT: All right. I am not going to allow  
25 that to happen. Now, Mr. Myers, do you wish for me to

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1           appoint an attorney for you? Or do you wish to  
2           proceed here today without an attorney?

3           MR. MYERS: One more thing, Your Honor.

4           THE COURT: I need you to answer my question.

5           MR. MYERS: I'll represent -- I'll represent --  
6           I'll be representing myself.

7           THE COURT: All right. And, Mr. Thomas, has  
8           there been any discussion about -- in prior hearings  
9           about having an attorney appointed or represented?

10          MR. THOMAS: He actually had an attorney, who I  
11          believe he retained initially. She filed this action.  
12          When we were here in June before Judge James, he made  
13          a motion to relieve her as counsel. Judge James  
14          granted that motion and an order relieving her was  
15          issued on April 29th of 2014. This is the first time  
16          this has been in court since then. So he has  
17          voluntarily waived his right to an attorney at this  
18          point.

19          THE COURT: All right. Mr. Myers, before we go  
20          any further, I'm going to ask you one more time. I  
21          just need to know. You are prepared here today to  
22          represent yourself?

23          MR. MYERS: Yes, I am.

24          THE COURT: All right. Thank you.

25          All right. So what are we doing here today,

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1 Mr. Thomas?

2 MR. THOMAS: Your Honor, I've only noticed this  
3 as a motion to dismiss based on the fugitive  
4 disentitlement doctrine, which I've already stepped  
5 through. That is the only thing we are here for  
6 today, Your Honor.

7 THE COURT: All right. Mr. Myers, what is your  
8 position as to Mr. Thomas, who is here on behalf of  
9 the State of South Carolina, his motion to dismiss?

10 MR. MYERS: Can you repeat that one more time,  
11 Your Honor.

12 THE COURT: What is your position, what would  
13 you like to tell me, about his motion to dismiss? We  
14 are not here necessarily on the merits of this case.  
15 We are only here as to Mr. Thomas' motion to dismiss  
16 your application.

17 MR. MYERS: Only that this -- as far as  
18 supporting -- as far as supporting my evidence that  
19 the reason why I should be here and how -- how my  
20 rights were violated during these proceedings.

21 THE COURT: Tell me how, sir.

22 MR. MYERS: Ineffective counseling. Ineffective  
23 counsel of Michael T. Hursey, being that the fact that  
24 if it wasn't because of Michael T. Hursey that didn't  
25 inform me to be to trial that day, I would have been

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1 here and we wouldn't -- we wouldn't have to go through  
2 these issues here right now. But being that Michael  
3 T. Hursey didn't inform me that I had a trial on this  
4 date of December the 5th, 2002, this is the outcome,  
5 me being -- me being incarcerated today. And so I'm  
6 defending my -- I'm defending my rights.

7 THE COURT: All right. You may have a seat.  
8 Thank you.

9 [Whereupon, Mr. Myers complies]

10 THE COURT: Mr. Thomas, your response to that?

11 MR. THOMAS: I believe I've sufficiently stated  
12 my position on the motion on the record, Your Honor.  
13 But I would have one other matter at the appropriate  
14 time.

15 THE COURT: I'll be happy to hear.

16 MR. THOMAS: Your Honor, I was just handed this  
17 morning -- and I apologize for not giving you more  
18 notice of this. But based on your previous order to  
19 the clerk of court not to accept anymore filings not  
20 signed by Mr. Myers, I received a copy this morning of  
21 a request for PCR discovery which was filed August  
22 21st, 2014, and a notice of special appearance which  
23 was filed on August 27th, 2014. Neither of them are  
24 signed by him. I would just ask that these be  
25 stricken and that any other filings that may have been

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1 made and not signed by him be stricken.

2 THE COURT: Who are they signed by?

3 MR. THOMAS: May I approach, Your Honor?

4 THE COURT: If you'll just tell me. Are they  
5 signed --

6 MR. THOMAS: They are -- they are signed by  
7 Loushonda Myers as private attorney in fact.

8 THE COURT: And based upon your review and our  
9 colloquy here today with Ms. Myers, do you believe  
10 that she is licensed to practice law in the state of  
11 South Carolina?

12 MR. THOMAS: Your Honor, I actually -- I did  
13 have her -- at some previous point, I believe she has  
14 also signed something else that I've received a copy  
15 of. I looked her up on the bar website at that time.  
16 There is no attorney by that name.

17 THE COURT: And she has indicated to the Court  
18 today that she is not a member of the South Carolina  
19 bar. Pursuant to Section 45-3-10, practicing law or  
20 soliciting legal cause of another without being  
21 enrolled as a member of the South Carolina bar, which  
22 states: no person may either practice law or solicit  
23 the legal cause of another person or entity in this  
24 state unless he is enrolled as a member of the South  
25 Carolina bar pursuant to applicable court rules or

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1 otherwise authorized to perform prescribed legal  
2 activities by action of the Supreme Court of South  
3 Carolina. This type of conduct that is subject of any  
4 charged filed pursuant to this section must have been  
5 defined as the unauthorized practice of law by the  
6 South Carolina Supreme Court -- or, excuse me -- the  
7 Supreme Court of South Carolina prior to any charge  
8 being filed. A person who violates this section is  
9 guilty of a felony and upon conviction must be fined  
10 not more than \$5,000, or imprisoned not more than five  
11 years, or both.

12 As such, I will also be referring this matter to  
13 the Office of Disciplinary Counsel and to the Supreme  
14 Court of the State of South Carolina. But while the  
15 matter is pending, I will strike any -- all actions  
16 that have been signed or filed by anyone -- not Mr.  
17 Myers, who is representing himself, or anyone that has  
18 indicated to the Court that they are a member of the  
19 South Carolina bar. I cannot find any number or any  
20 pro hac vice application or anything giving Ms. Myers  
21 the authorization by the Supreme Court of South  
22 Carolina to practice law and, as such, I will strike  
23 and order, until otherwise noticed by the Supreme  
24 Court, that there is to be no other filings accepted  
25 by the clerk here in Georgetown County.

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1 Anything further, Mr. Thomas?

2 MR. THOMAS: Nothing else from the State, Your  
3 Honor.

4 THE COURT: And anything further, Mr. Myers?

5 MR. MYERS: Yes, Your Honor.

6 THE COURT: Yes?

7 MR. MYERS: One quick question.

8 THE BAILIFF: Stand up, please.

9 THE COURT: Thank you.

10 [Whereupon, Mr. Myers complies].

11 MR. MYERS: In NAACP v. Button: members of  
12 groups who are competent non-lawyers can assist other  
13 members of the group achieve the goal of the group in  
14 court without being charged with unauthorized practice  
15 of law.

16 THE COURT: All right. Sir, I appreciate that.  
17 And if you would like to hand that to the deputy, I'll  
18 be more than happy to take a look at that. However,  
19 pursuant to my judicial canon and my reading of this  
20 statute, I must report any unauthorized practice of  
21 law. So thank you very much.

22 Anything further, Mr. Myers?

23 MR. MYERS: Are we on the record right now, Your  
24 Honor?

25 THE COURT: We have been on the record since we

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1 began. That's why it's so important that you let me  
2 do what I need to do, and that I let you do what you  
3 need to do, so that it is accurately and thoroughly  
4 preserved for the record.

5 Anything further, Mr. Myers?

6 MR. MYERS: Not right now, Your Honor.

7 THE COURT: All right. I'm going to mark what  
8 you handed me as Court's Exhibit Number 1. It will be  
9 made part of the record. All right?

10 [Whereupon, Court's Exhibit Number 1 is marked  
11 by the court reporter]

12 THE COURT: All right. I'm going to take this  
13 matter, the motion to dismiss, under advisement.

14 Mr. Thomas, I would like a proposed order by  
15 both of you. I will expect a proposed order from you  
16 within ten days of today's date. Mr. Thomas and  
17 Mr. Myers, within ten days of today's date. You must  
18 provide a copy to Mr. Thomas of the proposed order,  
19 and Mr. Thomas will provide a copy of his proposed  
20 order to you, before submission to the Court.

21 You will have my ruling within ten days after  
22 submission to the -- of your proposed orders.

23 Mr. Myers, good luck to you. Thank you.

24 [HEARING CONCLUDES AT 12:01 P.M.]

25

Dameon Myers vs. State of South Carolina  
Post Conviction Relief Hearing  
August 28, 2014

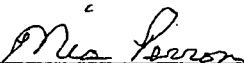
C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the hearing held before the Honorable Kristi L. Harrington, on August 28, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 18th day of November, 2014.

  
\_\_\_\_\_  
Mia Perron, CVR-CM-M  
Circuit Court Reporter  
9th Judicial Circuit

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	2012-CP-22-01132
DAMEON MYERS,	)	
Applicant,	)	<b>Transcript of Record</b>
vs.	)	
STATE OF SOUTH CAROLINA,	)	May 13, 2015
Respondent.	)	

**B E F O R E:**

Honorable Michael G. Nettles  
 Horry County Courthouse  
 Conway, South Carolina

**A P P E A R A N C E S:**

Dameon Myers  
**Pro Se Applicant**

J. Croom Hunter, Esquire  
 Joshua L. Thomas, Esquire  
**Attorney for Respondent**

Kay H. Richardson  
**Circuit Court Reporter**

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BY THE COURT

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1 (MAY 13, 2015)

2 THE COURT: Yes, sir, you are recognized.

3 MR. HUNTER: May it please the Court? This is Dameon  
4 Myers versus the State of South Carolina, 2012-CP-22-1132.  
5 Mr. Myers is currently confined at SCDC pursuant to an order  
6 from Georgetown County. He was indicted at the October, 2002  
7 term of the Georgetown County Grand Jury for failure to stop  
8 for blue light, that was 2002-GS-22-861; trafficking in  
9 cocaine 2002-GS-22-862; possession with intent to distribute  
10 crack cocaine in the proximity of a school or park, that's  
11 2002-GS-22-863; and possession with intent to distribute  
12 marijuana, 2002-GS-22-864. He was represented by Michael T.  
13 Hursey, Jr. On or about September 5th, 2002, Mr. Myers was  
14 tried in his absence before the Honorable Paula H. Thomas.  
15 The jury found him guilty of failure to stop for blue lot,  
16 guilty for PWID crack as a lesser offense, trafficking crack,  
17 not guilty of the proximity charge and guilty of simple  
18 possession of marijuana as a lesser included offense of PWID  
19 marijuana. Judge Thomas imposed sentences regarding the three  
20 convictions, they were sealed.

21 He was apprehended sometime in 2011. On October 17th of  
22 2011 he was brought before the Honorable Steven H. John to  
23 have the sentences unsealed. At that point in time, Mr. Myers  
24 was represented by Mr. Kirk Truslow. The sentences imposed  
25 were as follows: Three years for failure to stop for blue lot;

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BY THE COURT

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1 twenty years for PWID crack; one year for simple possession of  
2 marijuana. At that hearing, Mr. Myers moved to vacate the  
3 convictions claiming he was unaware of the trial, he had not  
4 been given proper notice. Judge John denied that motion after  
5 taking evidence on the issue. He also denied Mr. Myers's  
6 motion to reduce the sentences.

7 A timely notice of appeal was filed by Mr. Myers. He was  
8 represented on that by LaNelle Cantey DuRant. At that point  
9 in time, Mr. Myers moved for a remand to reconstruct the  
10 record. In response, the State moved to dismiss the appeal  
11 arguing that the Applicant forfeited an appeal because of his  
12 fugitive status for eight years after trial resulted in the  
13 record of the trial being destroyed. On October 4, 2012,  
14 South Carolina Court of Appeals granted the State's motion to  
15 dismiss the appeal. At which point, Mr. Myers filed a  
16 Petition for Rehearing which was denied on March 11, 2013.  
17 The Remittitur was sent down in April, 2013. This application  
18 for PCR was filed on October 18, 2012. Mr. Myers is here pro  
19 se today. The State is ready to proceed.

20 MR. THOMAS: Your Honor, at this time, the State would  
21 also make a motion pending -- I'm going to hand Mr. Myers copy  
22 of it. May I approach?

23 THE COURT: Yes.

24 MR. THOMAS: I'll give you a copy. This is just a  
25 memorandum. This is the same motion we made in front of Judge

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BY MR. MYERS

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1 Harrington. I'm just making sure it is preserved for the  
2 record. It's a motion to dismiss based upon the fugitive  
3 entitlement -- disentanglement doctrine. I understand we'll  
4 probably going to take some testimony on it first but I just  
5 want to make sure that is preserved so I gonna move to dismiss  
6 at this time.

7 THE COURT: Very good. Mr. Myers, could you stand up  
8 where you are, please, sir? Just raise your right hand as the  
9 Clerk administers the oath, put your left hand on the Bible.

10 MR. MYERS: Your Honor, I don't swear on the Bible.

11 THE COURT: All right.

12 DAMEON MYERS, HAVING BEEN DULY SWORN, TESTIFIES  
13 AS FOLLOWS:

14 CLERK: Please state your name for the record.

15 MR. MYERS: Dameon Myers, a natural human being made in  
16 the image and likeness of God.

17 THE COURT: All right. Mr. Myers, how are you doing  
18 today?

19 MR. MYERS: I'm doing all right.

20 THE COURT: Good, good. You are standing here  
21 representing yourself and you have the absolute constitutional  
22 right to do that; you understand that, don't you?

23 MR. MYERS: Yes, sir.

24 THE COURT: However, in the United States of America, if  
25 you are charged with a crime and you can't afford a lawyer and

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BY MR. MYERS

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1 you want one, the Court will give you one free of charge; you  
2 understand that, don't you?

3 MR. MYERS: Yes, sir.

4 THE COURT: And that also applies for the civil ancillary  
5 procedures of a post-conviction relief. Would you like to go  
6 forward without a lawyer?

7 MR. MYERS: Yes, sir, Your Honor.

8 THE COURT: All right. How far did you go in school?

9 MR. MYERS: Ninth grade.

10 THE COURT: All right. Can you read and write?

11 MR. MYERS: Yes, sir.

12 THE COURT: And do you understand what we're doing here  
13 today?

14 MR. MYERS: Yes, sir.

15 THE COURT: Do you know that that could conceivably put  
16 you at a disadvantage because you haven't been to law school,  
17 you don't understand the rules of evidence and the rules of  
18 civil and criminal procedure but you want to go forward on  
19 your own; is that correct?

20 MR. MYERS: That's correct, Your Honor.

21 THE COURT: All right. I'll allow you to do so because  
22 you have the constitutional right to do so. All right. This  
23 is your motion, Mr. Myers and in reviewing the pleadings it  
24 appears to me as if you have made an argument that your  
25 conviction was unconstitutional. I'll be glad to hear from

1 you about the grounds of your conviction, how it was  
2 unconstitutional.

3 MR. MYERS: Okay. All right. Your Honor, before I get  
4 into my issues I would like to address the situation prior, my  
5 post-conviction relief hearing motion to dismiss and is the  
6 issue that I never got resolved and there's case law stating  
7 *NAACP vs. Quellin* (spelled phonetically), members of groups  
8 who are competent non-lawyers can assist other members of the  
9 group to achieve the goal of the group in court without being  
10 charged with unauthorized practice of law. I addressed this  
11 issue at my motion to dismiss and I never got no response from  
12 it but my question is these are members of my society, people  
13 who are members of my society that I can kind of like consult  
14 with them during this matter if need be.

15 THE COURT: Are they lawyers?

16 MR. MYERS: No, sir.

17 THE COURT: All right. Well, they -- you can consult  
18 with them and talk with them at certain points in time but  
19 they can't help you in questioning witnesses. They cannot  
20 present arguments to this Court. However, if you want to talk  
21 with them it's very similar to family members. If you want to  
22 talk to them about your decisions, I will allow you some  
23 leeway in that regard but as far as them making a presentation  
24 in court or questioning witnesses, I'm not gonna allow that.  
25 Does that sound fair enough?

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BY MR. MYERS

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1 MR. MYERS: Okay. Yes, sir. So, if I have a question, I  
2 can consult with them?

3 THE COURT: Yes.

4 MR. MYERS: All right.

5 MR. THOMAS: Your Honor, I guess, if you could note the  
6 State's ongoing objection to any commission of an unauthorized  
7 practice of law in the courtroom.

8 THE COURT: Okay. Well, he -- nobody is gonna be  
9 practicing law. If you understood my ruling, he can talk with  
10 them very similar to a defendant in a criminal trial talking  
11 with their family about very important decisions.

12 MR. THOMAS: I understand.

13 MR. MYERS: Your Honor, one more question. Is there any  
14 way I can get one of these cuffs removed so I can be able to  
15 maneuver this paperwork, if you don't mind? It's kind of ---

16 THE COURT: We'll give you -- you know, the regulations  
17 with regard to security are tight.

18 MR. MYERS: Right.

19 THE COURT: But I'm gonna give you plenty of opportunity  
20 if you need assistance or if you need more time to do that,  
21 I'd be happy to do that for you. Okay?

22 MR. MYERS: No problem.

23 THE COURT: The -- and my question to you is the  
24 unconstitutional conviction and, you know, that's one of the  
25 grounds that you've put forward and I want you to explain that

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BY MR. MYERS

10

1 to me. How was your conviction unconstitutional?

2 MR. MYERS: I'm -- it's in my paperwork, Your Honor, I'm  
3 gonna explain it.

4 THE COURT: Okay.

5 MR. MYERS: Your Honor, my first issue that would be  
6 presenting to the courthouse is General Sessions Court of  
7 Georgetown, South Carolina did not have proper jurisdiction on  
8 or around December the 5th of 2002. General Sessions Court of  
9 Georgetown, South Carolina did not have personal nor subject  
10 matter jurisdiction over me. I was not properly served with a  
11 lawful summons, complaint or indictment. Any statute and/or  
12 procedure that violates the substantive due process rights of  
13 any human being are void ab initio. The General Sessions  
14 Court of Georgetown, South Carolina is an administrative court  
15 and does not have any judicial power. Under common law and  
16 the supreme law of the land, as well as the treaties thereof  
17 General Sessions Court of Georgetown, South Carolina, had no  
18 jurisdiction and continues to lack jurisdiction. Jurisdiction  
19 cannot be waived and/or forced upon any human being. The  
20 aforementioned court is not an Article III court, and is  
21 vested with no judicial power. Fraud has been committed by  
22 assuming that I am defined as a person within the meaning of  
23 the statutes of South Carolina. The fact is that I was not  
24 and am not a government employee and/or a person as defined  
25 under the statutes of South Carolina. In addition corpus

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BY MR. MYERS

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1 delecti was not and has not been shown. No injury, harm  
2 and/or damage to anyone's body and/or property was shown  
3 and/or proven. Furthermore, I have not knowingly and/or  
4 willingly entered into any contract waiving or relinquishing  
5 any inalienable and substantive rights and/or  
6 privileges for that of a statutory and/or person under the  
7 laws of this state. And, importantly, the State of South  
8 Carolina has not proven that I breached a duty to it that  
9 resulted in it being injured.

10         Additionally, there is a gross conflict of interest  
11 present. The State of South Carolina controls the General  
12 Sessions Court of South Carolina and the State is also the  
13 alleged Plaintiff against me. Therefore, the tribunal is not  
14 fair nor impartial.

15         With that be saying, Your Honor, I am now challenging the  
16 jurisdiction on or around December 5th, 2002.

17         THE COURT: I'll be glad to hear from the State with  
18 regard to the challenge of the conviction being  
19 unconstitutional and I assume based on what he says that the  
20 Georgetown General Sessions Court did not have jurisdiction.

21         MR. HUNTER: Judge, the State would just object to that  
22 theory being absent any proof shown to the contrary, the  
23 proceedings are deemed to have been, you know, valid. Mr.  
24 Myers is a citizen of the United States and of South Carolina  
25 and was a citizen of Georgetown County at the time I believe

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BY MR. MYERS

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1 that these charges were brought and, Your Honor, I just don't  
2 think there's any valid argument there that ---

3 MR. MYERS: Objection, Your Honor.

4 THE COURT: All right. Well, this is his -- you know,  
5 you've had an opportunity to speak. This is his time to speak  
6 and I'll allow you to speak after he speaks. Go ahead.

7 MR. HUNTER: That's basically my argument, Judge, I just  
8 don't think there's been anything shown so far that, that the  
9 authorities or the Court did not have the authority or the  
10 jurisdiction to proceed forward with the charges.

11 THE COURT: Yes, sir. You can respond.

12 MR. MYERS: Your Honor, I haven't knowingly or willingly  
13 signed any contract and if I did, if he have it, I would like  
14 to see it for the record.

15 THE COURT: Okay. All right. He's maintaining that in  
16 order to submit to the jurisdiction of Georgetown you have to  
17 sign a contract. That's his position and I'll make a ruling  
18 on that.

19 All right. The next issue is ineffective assistance of  
20 counsel and I'll be glad to hear your argument with regard to  
21 that or hear any testimony that you might have in that regard.

22 Before we move forward off the unconstitutional  
23 conviction, do you want to offer any evidence or any testimony  
24 in that regard ---

25 MR. MYERS: No, sir.

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BY MR. MYERS

13

1 THE COURT: --- other than what you've said?

2 MR. MYERS: No, sir, Your Honor. I just want -- as far  
3 as -- just one second. I would just like to state case law  
4 *Basso v. Utah Power & Light*, jurisdiction can be challenged at  
5 any time and jurisdiction once challenged cannot be assumed,  
6 it must be decided. Also, *Melo v. U.S.* (spelled  
7 phonetically), once jurisdiction is challenged, the Court  
8 cannot proceed and declare -- the Court lacks jurisdiction,  
9 the Court has no authority to reach the merits but rather  
10 should dismiss the action. And one more thing, Your Honor --  
11 *Leslie v. Otis*, the issuance of a summons does not confirm  
12 jurisdiction.

13 THE COURT: Very good. All right. No testimony or any  
14 witnesses on that particular issue?

15 MR. MYERS: No, sir.

16 THE COURT: All right. Very good. The next issue is  
17 ineffective assistance of counsel and I'll be happy to hear  
18 from you, hear arguments, any evidence that you have to  
19 support that and any testimony, any witnesses.

20 MR. MYERS: Your Honor, my next issue is Michael T.  
21 Hursey. Michael Hursey provided ineffective assistance of  
22 counsel and withheld substantive material facts that would  
23 have had a substantial impact on the outcome of my trial.  
24 Michael Hursey failed to challenge the jurisdiction of the  
25 Court on and around December 5th, 2002. Michael Hursey did

1 not challenge the pleadings that were presented to the Court.  
2 Hursey did not challenge the indictment nor did he challenge  
3 the entity or alleged victim presenting charges against me.

4       Jurisdiction is determined by the pleadings and the State  
5 of South Carolina didn't have standing to bring any charges  
6 against me. Furthermore, then Solicitor Bo Bryan did not have  
7 any standing to prosecute me for the alleged criminal charges.  
8 The prosecutor is not a witness and he should not be permitted  
9 to add to the record either by subtle or gross improprieties.  
10 Those who have experienced the full thrust of power of  
11 government when leveled against them know that the only  
12 protection the citizen has is the requirement for a fair  
13 trial. *Donnelly v. DeChristoforo*.

14       Michael Hursey failed to properly investigate the charges  
15 against me. Michael Hursey failed to obtain any video, audio  
16 and any other electronically and/or mechanically stored  
17 evidence from law enforcement. Hursey did not interview any  
18 witnesses that were presented in or around the date of the  
19 alleged crime.

20       Michael Hursey failed to properly review discovery  
21 material handed over by the Georgetown City Department, also  
22 referred as GCPD herein, Georgetown County Solicitor Office,  
23 also referred to as GCSO herein.

24       Michael Hursey failed to take notice that in the police  
25 reports submitted by law enforcement was erroneous and

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BY MR. MYERS

15

1 contained false, tainted, and/or misleading statements. The  
2 report states that drugs was found under the couch cushion  
3 that I was sitting on. However, I was not sitting on any  
4 couch and I was already handcuffed, arrested and seized when  
5 officers went inside the home and found the alleged drugs.  
6 This Court held that the Fourteenth Amendment could not  
7 tolerate a state criminal conviction obtained by the knowing  
8 use of false evidence. *Mooney v. Holohan*. There has been no  
9 deviation from that established principle. *Napue v. Illinois*,  
10 *Pule v. Kansas*, *Alcorta v. Texas*. There can be no retreat  
11 from the principles here.

12 In additional, different weights and/or amounts for the  
13 alleged drugs was listed several times within the law  
14 enforcement reports.

15 Michael Hursey failed to obtain key witnesses and/or  
16 witness statements. Michael Hursey did not obtain any  
17 witnesses to testify to the fact that I did have drugs nor I  
18 had drugs in my possession as the law enforcement reports and  
19 documents state. Michael Hursey withheld material fact  
20 personally known to him and failed to bring those personally  
21 known facts to the attention of the Court and presiding Judge.  
22 Michael Hursey was aware that the law enforcement and judicial  
23 entities or individuals in Georgetown, South Carolina had and  
24 currently still has a vendetta against my family, against  
25 myself and my family -- excuse me. Just to name a few

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BY MR. MYERS

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1 incidents, in 1999, my eldest sibling was wrongfully and  
2 unlawfully framed for a drug deal that he was not involved in.  
3 He was arrested, seized and served jail time for a crime he  
4 did not commit. Following the disposition of charges, he  
5 filed a civil suit against the officer involved. My older  
6 sibling, Jamol Myers was wrongfully named as a suspect in a  
7 FBI investigation. In 2003, my siblings and I were wrongfully  
8 and maliciously named as suspects in at least one murder  
9 investigation, the murder of Joey Pope.

10 In addition, murder allegations were used as a basis to  
11 initiate a tactical assault on my sister-in-law, Loushonda  
12 Myers and her children, home and property. After having  
13 criminal charges dismissed, Ms. Meyers filed a civil suit in  
14 federal court that is currently ongoing.

15 MR. HUNTER: Your Honor, I just want to, for the record,  
16 object.

17 THE COURT: I'll allow him -- this -- he's making his  
18 case and I'm gonna allow him to do it.

19 MR. HUNTER: Yes, sir.

20 MR. MYERS: That complaint has been attached, Your Honor.

21 Michael Hursey failed to inform the jury that my absence  
22 could not be considered as guilt and that I have a right to  
23 resist any unlawful proceeding. Hursey did not instruct the  
24 jury that I did not have to be present for trial. Hursey  
25 failed to inform the jury that they had the power and

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BY MR. MYERS

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1 authority to decide in any manner that they felt was just,  
2 despite what a statute or any law judicial and/or law  
3 enforcement body or individual states. Hursey failed to  
4 object to Judge Paula Thomas telling the jury that they owe it  
5 to the citizens to come up with a verdict after stating that  
6 they could not agree and Hursey failed to submit an appeal.  
7 Michael Hursey committed fraud by informing me that I was not  
8 going to trial and the objective at the time was to work out a  
9 plea.

10 Michael Hursey failed to turn over a copy of discovery  
11 materials to me. For the above reasons, Michael Hursey was  
12 incompetent and substantially prejudiced me. He failed to  
13 protect and defend my substantive rights. Michael Hursey  
14 violated my substantive Constitutional rights protected by the  
15 Fifth and the Sixth Amendments. My due process rights were  
16 violated due to the fact that I was deprived of my property,  
17 freedom and liberties prior to the issuance of an indictment.  
18 I never received substantive discovery materials. I was  
19 denied my right to confront my accuser, the State of South  
20 Carolina. And I was not made aware of the nature and the  
21 cause of the allegations made against me. I had a substantial  
22 right to be informed of who is accusing me of a crime, what  
23 crime was allegedly committed and how I injured the human  
24 being's person and/or property. In addition, Michael Hursey  
25 was disbarred in November of 2011 due to a number of reasons

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1 including 1.1 competence, Rule 1.3 diligence, Rule 1.4  
2 communication, Rule 8.4 engaging in conduct involving  
3 dishonesty, fraud, deceit or misrepresentation, and Rule 8.4  
4 engaging in conduct prejudicial to administration of justice,  
5 Your Honor.

6 THE COURT: Okay. Does that cover the prosecutorial  
7 misconduct and the fact that you're alleging that your counsel  
8 was unethical?

9 MR. MYERS: Can you repeat that, Your Honor?

10 THE COURT: The third general area that you have set  
11 forth in your post-conviction relief is set out as prosecutor  
12 was unethical and so was my counsel. I think you addressed  
13 that in your argument, didn't you?

14 MR. MYERS: Yes, I did.

15 THE COURT: Okay. Any evidence that you want or  
16 testimony that you want to add in support of what you told me  
17 here today?

18 MR. MYERS: Your Honor, can I consult with members of my  
19 society at the moment?

20 THE COURT: You can speak with them if you'd like.

21 (REPORTER'S NOTE: Applicant consults with family.)

22 MR. MYERS: Your Honor, I want to submit an affidavit to  
23 you.

24 THE COURT: Do you have an objection?

25 MR. HUNTER: Yes, Your Honor, I object just because Ms.

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BY MR. MYERS

19

1 Madison is not here to testify.

2 THE COURT: I don't know whether she is or not. Is Ms.  
3 Madison here?

4 MR. MYERS: No, she's not here.

5 THE COURT: Well, okay, well under -- well, that's one of  
6 the things I was talking about when you're not a lawyer. In  
7 order for there to be an affidavit -- there's certain legal  
8 procedures where you can submit an affidavit, like in Family  
9 Court at a temporary hearing, you can submit an affidavit but  
10 in matters such as this it would be inadmissible hearsay  
11 because that person would have to get up on the witness stand,  
12 say what's in the affidavit, and he would have an opportunity  
13 to confront them, to question them. So, for that reason, it's  
14 inadmissible, but I don't think that they can testify that  
15 Judge Paula Thomas did what was called an Allen charge. I  
16 think the record is clear on that. We have a transcript of  
17 what transpired and that affidavit appears to me to say what  
18 transpired at the hearing, at the trial, but that's in the  
19 transcript and is really -- that adds nothing to it. I mean,  
20 and you can look at the transcript and see what she said and  
21 she gave them the standard Allen charge. Do you follow me?

22 MR. MYERS: All right, Your Honor.

23 MR. HUNTER: Your Honor, for clarification, the -- I  
24 imagine Judge Thomas did give an Allen charge but the  
25 transcript was actually destroyed in this case.

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BY MR. MYERS

20

1 THE COURT: Oh, okay. All right, well, very good. You  
2 may proceed.

3 MR. MYERS: Just for the record, Your Honor, I would just  
4 like to mention that also my ---

5 THE COURT: Well, to the extent that there is -- there is  
6 no transcript; is that correct?

7 MR. HUNTER: Correct.

8 THE COURT: All right. Well, to that extent, I'm going  
9 to allow that into evidence to establish that there was an  
10 Allen charge given. So, I'm going to allow that into  
11 evidence. Does that sound fair to you?

12 MR. HUNTER: Yes, sir.

13 THE COURT: Very good.

14 MR. MYERS: Your Honor, I would just like to state that  
15 jurisdiction has been challenged and, for the record, I would  
16 like to make Joshua L. Thomas -- facts related to jurisdiction  
17 and just defer upon the Court, Joshua L. Thomas to prove  
18 jurisdiction.

19 THE COURT: All right. Anything else?

20 MR. MYERS: Jurisdiction over the defendant requires both  
21 person and subject matter jurisdiction. *Olds v. State*.  
22 Subject matter jurisdiction is determined from the pleadings.  
23 *Hall v. State*.

24 THE COURT: Okay. Anything else?

25 MR. MYERS: That's it.

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BY MR. MYERS

21

1 THE COURT: Very good. And do you have anything else  
2 with regard to your presentation?

3 MR. MYERS: Anything else on my presentation?

4 THE COURT: Yes.

5 MR. MYERS: No, I just -- or issues?

6 THE COURT: You know, we've gone over all of the issues  
7 and you have done a very good job explaining your position and  
8 my question to you is, this is your time to put forth anything  
9 you want and it appears as if you've explained to each one of  
10 these elements and you've put forth whatever evidence you  
11 won't put up. My question to you is, have you left anything  
12 out or do you need to do anything more?

13 MR. MYERS: Yes, sir.

14 THE COURT: All right. Tell me what it is.

15 MR. MYERS: I have a couple of more issues I need to  
16 argue, Your Honor.

17 THE COURT: Okay.

18 MR. MYERS: The next issue I'll be arguing is ineffective  
19 assistance of Kirk Truslow.

20 THE COURT: Okay.

21 MR. MYERS: Kirk Truslow knowingly brought me in front of  
22 the judge -- in front of Judge Steven John, knowing that just  
23 about two weeks prior he had presided over the Joey Pope  
24 murder trial in which my brother and I was being named as the  
25 murderers. During this trial, no one was found guilty of the

1 murder. Keri Pope was given a direct verdict in his favor  
2 from Judge Steven John and Christopher Miller was found guilty  
3 of conspiring with himself to commit murder. Knowing the  
4 above, Kirk Truslow did not communicate this to me and he did  
5 not ask Judge Steven John to recuse himself based on him  
6 presiding over the Joey Pope trial and hearing testimony,  
7 statements and/or likewise alleging that I participated in the  
8 murder of Joey Pope. Truslow failed to properly help me  
9 prepare for the hearing on October 17th, 2011. Truslow failed  
10 to obtain the materials such as my NCI report, the reports  
11 concerning the arrest and seizures on and around August 28,  
12 2011, the use of cell phone tracking and surveillance done on  
13 my cellular phone and/or around August 28, 2011 and any other  
14 material and/or evidence that would have been helpful to me.  
15 Truslow failed to inform me that I did not have to testify on  
16 October 17th, 2011. Truslow failed to challenge the validity  
17 of the alleged criminal history that was presented by the  
18 solicitor's office. Truslow failed to obtain the files of  
19 Michael Hursey. Kirk Truslow failed to challenge the  
20 jurisdiction of the Court. Truslow failed to challenge the  
21 validity of the pleadings, the indictment and the entity  
22 and/or individuals that were initiating the charges against  
23 me.

24           Due to the above reasons, Kirk Truslow was incompetent.  
25 and substantially hindered my cause. Kirk Truslow violated my

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1 substantive due process rights to a fair proceeding by an  
2 impartial judge. Kirk Truslow was also incompetent and failed  
3 to inform me that I did not have to testify. In fact, Kirk  
4 Truslow told me that he was putting me on the stand at the  
5 last second.

6 THE COURT: All right.

7 MR. MYERS: My next argument is issue with Melissa Gay.  
8 Melissa Gay failed to obtain my NCIC report, discovery  
9 materials including Hursey's files and any discovery and  
10 material related to my arrest, search and seizure on and  
11 around August 28, 2011. This was despite several requests  
12 that she obtain these materials. Melissa Gay failed to  
13 discuss specific arguments that she was going to present to  
14 assist me in this matter. Melissa Gay failed to perform an  
15 independent investigation and/or gathering of substantive  
16 materials. In fact, the materials that she possessed were  
17 largely material that my family had gathered to assist me in  
18 this matter.

19 My next issue, Your Honor, is, The conviction and  
20 sentence is a violation of the United States Constitution, the  
21 sentence violated the Fourth Amendment to the United States  
22 Constitution and treaties thereof. I was denied my  
23 substantive due process rights. I was denied the right of  
24 freedom of traveling, I was denied the right not to be  
25 arrested prior to the lawful issuance of a warrant with

1 probable cause, I was denied the substantive right of having a  
2 lawful grand jury convene and issue an indictment, I was  
3 denied the substantive right of being innocent until proven  
4 guilty.

5       The conviction and sentence violated the Fifth Amendment  
6 to the United States Constitution and the treaties thereof. I  
7 was forcible held against my will in the Georgetown County  
8 Detention Center for the alleged commission of a crime prior  
9 to the present of indictment by a grand jury. I was deprived  
10 of life, liberty and property without due process of law. I  
11 was unlawfully jailed, the money that I had in my possession  
12 was taken, I was extorted into paying a bond for my life,  
13 liberty and freedom against the laws of the U.S. Constitution  
14 and I was denied my due process rights due to the following:  
15 Unlawful seizure and search, unlawful warrants, and I was  
16 denied a fair and impartial trial.

17       The conviction and sentence violated the Sixth Amendment  
18 to the United States Constitution and the treaties thereof. I  
19 was denied an impartial trial due to the prejudice, bias and  
20 discrimination by certain individuals in the law enforcement  
21 and judicial body. They found me guilty before trial and even  
22 after the jury could not come back with a decision, the jury  
23 was forced to go back and deliberate until a decision could be  
24 made. As shown by the facts and evidence, Michael Hursey did  
25 not serve as a honest, diligent and zealous defense counsel

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1 during my trial and Kirk Truslow did not serve as a honest,  
2 diligent and zealous defense counsel at my sentencing hearing.

3       The conviction and sentence violated the Ninth Amendment  
4 of the United States Constitution and the treaties thereof. I  
5 was denied the substantive right to an impartial trial. The  
6 State of South Carolina is attempting to deny my substantive  
7 right to an impartial judge that is not influenced by law  
8 enforcement officers and/or officials of the court, freedom  
9 from harassment and been targeted by police officers based on  
10 my family name and the color of my skin, freedom from cruel  
11 and harsh sentencing based on my skin color, freedom from  
12 malicious, vengeful plots by members of law enforcement and  
13 freedom of the same substantive rights as whites. I have the  
14 substantive right to resist the unlawful arrest, search,  
15 seizure and/or imprisonment by anyone that has unlawfully  
16 deprived me of my fundamental and substantive rights and are  
17 depriving me of those rights under the color of law and with  
18 malice, revenge and hatred as a motivating factor.

19       The Ninth Amendment specifically states that the  
20 enumeration of the Constitution of certain rights shall not be  
21 construed to deny or disparage others retained by the people.  
22 I'm one of the people with the unalienable rights that were  
23 given to me by God and should be protected, upheld and  
24 guaranteed by every State and their law enforcement and  
25 judicial bodies. I am not a vessel for the use and

1 acquirement of capital for the State and the County of  
2 Georgetown. I am not cattle to be led to slaughter. I am a  
3 human being with a soul and demand to be treated as such. Due  
4 to my skin color and family name, I'm being denied equal  
5 treatment, fairness and impartiality and justice that de jure  
6 law requires.

7 My next issue, Your Honor, is conviction and sentence is  
8 in violation of South Carolina Code of Laws, Article 3,  
9 Criminal Gang Prevention Act/Intrinsic and Extrinsic Fraud.  
10 Members of the GCPD and GCSO managed, operated and  
11 participated in a criminal gang with patterns of criminal  
12 activity within the meaning of Section 16-8-230. Their  
13 illegal activities include but are not limited to obstruction  
14 of justice within the meaning of Section 16-8-230, murder,  
15 kidnapping, extortion, burglary and/or treason. The exhibits  
16 following this supplement contains substantial evidence, proof  
17 and documentations of the conduct of the law enforcement  
18 bodies and/or judicial officials operating in Georgetown,  
19 South Carolina. Certain members of the GCPD, Georgetown  
20 County Sheriff's Office herein as GCSO, and the 15th Circuit  
21 Solicitor's Office in which the GCSO is a part of have a  
22 malicious agenda. They have coldheartedly calculated and  
23 mastermind to extract revenge on members of my family as shown  
24 in our family petition and has been sent to numerous  
25 governmental agencies, bodies and individuals. There does in

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1 fact exist malicious intent upon myself and my family members  
2 to the extent to certain individuals were and are willing to  
3 commit murder. As shown by their own evidence, members of the  
4 GCPD knowingly and willingly stated false, fabricated and  
5 misleading statements in their affidavit for the search  
6 warrant and their police report. As shown by their own  
7 evidence, members of the GCPD knowingly and willingly  
8 manufactured evidence and testimony despite my brothers and I  
9 as a drug gang in order to frame us for at least one murder.  
10 As shown by their own evidence, members of the GCPD knowingly  
11 and willingly coerced incarcerated inmates into making false,  
12 fraudulent and/or misleading statements in order to pin Joey  
13 Pope's murder on my brother and I. As shown by their own  
14 evidence, they have attempted to frame my oldest brother for  
15 trafficking cocaine. As shown by their own evidence, they  
16 have violated the substantive rights of my sister-in-law due  
17 to the malice attempt at getting revenge in order to frame my  
18 brothers and I for the murder of Joey Pope. Fraud was  
19 willingly and knowingly entered into the proceedings on and  
20 around December 5th, 2002 and October 17th, 2011. As shown by  
21 the attached exhibits, this fraud tainted and/or -- just a  
22 second -- contaminated any and all proceedings involving me.  
23 Fraud vitiates everything. Once fraud has been entered into  
24 any proceeding, it is void. *Nudd v. Burrows, Boyce v. Grundy.*  
25 The Georgetown City Police Department, Georgetown County

1 Solicitor's Office and other unknown individuals conspired  
2 against me as they did against other family members by  
3 entering false, fraudulent and misleading statements into  
4 reports, warrants and/or court records.

5 THE COURT: Anything further?

6 MR. HUNTER: No, sir, Your Honor.

7 MR. MYERS: My other issue with violation of the supreme.  
8 law of the land/common law.

9 Article VI, Section 2 of the Constitution for the land of  
10 the United States, this Constitution and the laws of the  
11 United States which shall be made in pursuance thereof and all  
12 treaties made or which shall be made under the authority of  
13 the United States shall be the supreme law of the land and the  
14 judges in every state shall be bound thereby, anything in the  
15 Constitution or laws of any state to the contrary  
16 notwithstanding the United States Constitution was and is  
17 based off common law. The de facto proceedings initiated in  
18 against me was based on fraud, deception and statutory laws.  
19 It was an administrative proceeding initiated against me  
20 without fully informing me of such and without providing proof  
21 on the record that I had knowingly, intentionally and/or  
22 willingly entered into any such social or other contract  
23 agreeing to relinquish my natural status and be bound by the  
24 statutory laws of a democratic and/or other unknown,  
25 unrecognized governmental organizations. South Carolina

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1 Constitution unlawfully deprives, hinders and/or restricts the  
2 substantive powers, inherent rights and inherent privileges of  
3 human beings by granting local governments powers, privileges  
4 and/or preferences above that of the people. Section 17 of  
5 the South Carolina Constitution, provisions of this  
6 Constitution and all laws concerning local government shall be  
7 liberally construed in their favor. This is a direct  
8 contradiction of Article IV of the Constitution for the land  
9 of the United States which states, The United States shall  
10 guarantee to every state in the Union a Republic form of  
11 government and shall protect each of them against invasion and  
12 on application of the legislature or of the executive when the  
13 legislature cannot be convened against domestic violence. The  
14 unlawful imprisonment and confinement of any human being  
15 without due process, equality, fairness, impartiality and/or  
16 the proper procedures and tribunal is in fact domestic  
17 violence and is against the supreme laws of the land.

18 Furthermore, Article III, Section 1 of the Constitution  
19 for the land of the United States, the judicial power of the  
20 United States shall be vested in one supreme court and in such  
21 inferior courts as the Congress may from time to time ordain  
22 and establish. The judges, both supreme and inferior courts,  
23 shall hold their offices in good behavior. The General  
24 Sessions Court of Georgetown, South Carolina, is not a Article  
25 III Court and does not have any judicial power. The General

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1 Session Court of Georgetown, South Carolina concerns itself  
2 with status -- excuse me -- statutes and any statute that  
3 violate, hinders and/or conflicts with the Constitution of the  
4 land mass called the United States is void. The General  
5 Sessions Court of Georgetown, South Carolina was not and is  
6 not in good behavior due to the fact that it allowed fraud to  
7 enter upon the proceeding and ---

8 THE COURT: Mr. Chestnut, I'm hearing your arguments and  
9 you've set them forth in great detail. How -- I was just  
10 asking, would you like for me to copy that rather than just  
11 having to read it on the record? We can make that a part of  
12 the record. We could give the State a copy of it and I can  
13 have a copy of it and then you can kind of just tell me from  
14 the heart what your position is. Would that helpful?

15 MR. MYERS: Yes, Your Honor, I just have like a couple of  
16 more sentences.

17 THE COURT: Okay. Sure. I'm not wanting to cut you off.  
18 I was just thinking it's very difficult and arduous for you to  
19 have to sit there and read, you know, this fairly long epistle  
20 you've got there and I just thought it might be easier for us  
21 to do it that way but go ahead.

22 MR. MYERS: All right, Your Honor. I just got a couple  
23 of more sentences.

24 THE COURT: All right.

25 MR. MYERS: The General Sessions Court in Georgetown,

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1 South Carolina was not and is not in good behavior due to the  
2 fact that it allowed fraud to enter upon the proceeding and  
3 record. It did not prove jurisdiction on the record before  
4 depriving me of my substantive inherent rights. It allowed  
5 bias, malice and injustice to enter upon its de facto  
6 proceedings and it has a practice of allowing conflicts of  
7 interest in politics to enter upon its proceedings.

8       The General Sessions Court of Georgetown, South Carolina  
9 has an administrative judge that are paid by the State and  
10 work the State whom is alleged plaintiff is all criminal  
11 actions. Likewise, the solicitors are paid by the State and  
12 have an incentive to convict people and imprison them. The  
13 General Sessions Court of Georgetown, South Carolina is a  
14 profit corporate body and operates against the supreme law of  
15 the land. Georgetown County is a for-profit corporate body  
16 and operates against the supreme law of the land. Both of  
17 these corporate bodies have a conflict of interest due to the  
18 fact that it is operated to make gain off of the people and  
19 that gain conflicts with the administration of justice and de  
20 jure laws.

21       THE COURT: Very good. Thank you.

22       MR. MYERS: This is the last thing right here. Facts  
23 based upon my personal knowledge and supported by factual  
24 evidence in law. The following are facts that are based upon  
25 my factual knowledge that I have cited above and are now being

1 specifically pointed out. The jurisdiction was not challenged  
2 by either Michael Hursey nor Kirk Truslow. Jurisdiction was  
3 not proven on the record during my December 5th, 2002 trial  
4 nor was it proven on the record during my October 17th, 2011  
5 hearing. Kirk Truslow knowingly and willingly allowed Judge  
6 Steven John to preside over the sentencing hearing on October  
7 17th, 2011 after having full knowledge that he had presided  
8 over Joey Pope's murder trial and my name was mentioned as one  
9 of the murder suspects. Michael Hursey did not properly  
10 prepare me with -- prepare me for any trial and I was not  
11 aware of the trial taking place until after the process had  
12 been commenced. The law enforcement officers in the City and  
13 County Georgetown have a vendetta against my family and I and  
14 I have been working diligently to conspire to obtain lengthy  
15 sentencing and most recently a death penalty for murder  
16 against my brother and I. Michael Hursey nor Kirk Truslow  
17 informed me that by obtaining them that I was improperly  
18 submitting to the jurisdiction of the Court. Kirk Truslow  
19 failed to obtain substantive discovery material and the files  
20 of Michael Hursey. Michael Hursey failed to obtain  
21 substantive discovery material. My arrest, search, seizure  
22 and confinement was and is unlawful due to the fact that my  
23 substantive due process rights were violated and the supreme  
24 law of the land were not abided by. The facts surrounding  
25 this unlawful conviction has been tainted and fabricated

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1 against me. The jury was not instructed as to the fact that  
2 my being absent at the trial was not and could not be taken as  
3 admission of guilt and a sign of guilt. Mike Hursey did not  
4 inform me as to jurisdiction requirements of common law  
5 requirements under the Constitution of the United States. My  
6 arrest, search and seizure was unlawful and violated the  
7 Constitution for the states. I have attached factual evidence  
8 and affidavits in support of this PCR as well as the  
9 supplemental information provided. I fully reserve my rights  
10 to amend and add to this supplement and/or PCR application as  
11 additional evidence, proofs and/or materials are discovered.

12 For my relief and remedy, Your Honor, I, Dameon Myers,  
13 now respectfully demand the following relief, remedy and/or  
14 redress: The sentence, judgment and/or order against me be  
15 vacated, annulled and/or rescinded. I be immediately released  
16 from imprisonment and confinement and my record be expunged  
17 from this matter.

18 THE COURT: Very good. Thank you, Mr. Chestnut. You  
19 have any other witnesses you would like to present or any  
20 witnesses at all, actually.

21 MR. MYERS: Yes, Your Honor. Truslow.

22 THE COURT: Yes. He can come forward.

23 Mr. Truslow, place your left hand on the Bible and raise  
24 your right hand as the Clerk administers the oath.

25 MR. TRUSLOW: Yes, sir.



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KIRK TRUSLOW - CROSS BY HUNTER

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1 absence nine years prior to them coming to me, nine years and  
2 some change, actually, I think, it'd been a long time. He had  
3 been apprehended out of state, brought back here because the  
4 sentence from the 2002 trial was sealed by the trial judge. I  
5 had nothing to do with the trial. So, this was around in 2011  
6 and they hired me to see what I could do in terms of the  
7 predicament he was in at that point in time. And I  
8 represented him at the sentencing hearing which was held by  
9 Judge John. Judge Thomas was no longer on the Circuit Court  
10 bench at the time. I filed a motion to vacate or a motion for  
11 a new trial and I filed a motion in the alternative to  
12 reconsider -- actually, I either filed a motion to reconsider  
13 the sentence or I was prepared to make it if he denied the  
14 first motion because of course we didn't know what the  
15 sentence was until we got there.

16 Q: Okay. So that your strategy in the sentencing hearing was  
17 basically to see what you could do to either get a new trial  
18 or get the sentence reduced?

19 A: That's correct, yeah. And I, in fairness to Mr. Myers, I  
20 thought that he had a good argument for that and all I can do  
21 is make that argument. One of the difficulties we had was  
22 that there was no transcript of the trial, so he was tried in  
23 his absence in 2002. So, we raised issues of whether all the  
24 proper findings and everything that has to be done  
25 procedurally to do a TIA were done. However, we -- that was

1 not reflected in the record because there was no record. And  
2 our point was that the State couldn't show that so we  
3 attempted to get a new trial and that was unsuccessful. The  
4 sentence was read, actually prior to that motion, that motion  
5 was denied and then we argued the sentence, made a motion for  
6 a new sentence. The Judge -- well, he didn't change the  
7 sentence but he noted on the on the three sentences it was not  
8 marked concurrent and he went ahead and made all that  
9 concurrent including a probation violation concurrent.

10 Q: Okay. Did you have a strategy for having Mr. Myers  
11 testify at the sentencing hearing?

12 A: Yes. I believed that he needed to testify in order to,  
13 number one, the State had raised the case which really to me  
14 is an appellate case. I didn't think it was applicable but,  
15 you know, according to Judge John, I was wrong on that respect  
16 but that if the transcript is destroyed by virtue of the -- by  
17 virtue of the Defendant being a fugitive for more than five  
18 years and the transcript is destroyed, it kind of comes back  
19 on him as being responsible for that. And our point was that  
20 the transcript was destroyed after five years but that he  
21 wasn't at his trial because he wasn't properly notified of the  
22 trial. So, he was not a fugitive at that time. So, we argued  
23 that motion. The strategy for him to testify was that he --  
24 so that he could explain to the Judge that, you know, his  
25 difficulties with Mr. Hursey back nine years before, maybe

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1 some miscommunication about whether if he wanted to plead  
2 guilty he needed to show up -- it was a seven or eight-year  
3 plea deal -- you know, otherwise, he would be tried, and he  
4 did not show up.

5 MR. MYERS: Your Honor, can I object for a second?

6 THE COURT: You can. Stand up while you're doing it.

7 MR. MYERS: I would -- as far as what Mr. Truslow just  
8 mentioned just now concerning the strategy concerning me  
9 testifying and all, I'm saying that he didn't never tell me  
10 that.

11 THE COURT: Okay. Mr. Chestnut, you can object but, of  
12 course, you have to make objections consistent with rules of  
13 evidence. For instance, if what he's saying is irrelevant,  
14 you can object to that.

15 MR. MYERS: And to the ---

16 THE COURT: If the question is argumentative, you can do  
17 that. If it's already been asked and answered, you can do  
18 that. But you can't object and stand up and argue with him.  
19 You have to make a legal objection to the question.

20 MR. MYERS: Okay.

21 THE COURT: So, based on that, your objection is  
22 overruled. Thank you. Go ahead.

23 BY MR. HUNTER:

24 Q: Mr. Truslow, didn't -- Judge, this is on Page 13 of the  
25 sentencing hearing -- didn't, didn't Mr. Myers tell Judge John

1 that he didn't come to trial because he was scared?

2 A: Actually, he was -- yeah, I mean, if I can answer that and  
3 explain my answer. He did -- he did say that on the stand but  
4 in fairness to him, if you put that in context, I think he was  
5 more referring to a guilty plea. Where he failed to appear  
6 was not the actual trial. He was tried about a month after he  
7 failed to appear and plead guilty. A bench warrant was issued  
8 for not appearing at his guilty plea and then he was tried, I  
9 think, the next month. So, he said he didn't show up because  
10 he was scared, I do not think he meant that he was scared of  
11 going to trial. I think he -- well, I'm not gonna speculate  
12 what he meant but he did say that.

13 MR. MYERS: Objection, Your Honor. As far as that  
14 situation, that -- the situation, that was not that I said I  
15 was scared ---

16 THE COURT: Okay. Once again, you have to object -- if  
17 it's a legitimate question and a legitimate answer, you're  
18 gonna have an opportunity to ask him questions.

19 MR. MYERS: I'm answering the question, I'm not ---

20 THE COURT: Okay. But the question wasn't posed to you  
21 and that's what I'm talking about. You can make a legal  
22 objection to the question but at this point in time, it's his  
23 opportunity to ask him questions. He provides the answers.  
24 And then you can redirect.

25 MR. MYERS: All right. As far as that situation, Your

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KIRK TRUSLOW - CROSS BY HUNTER

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1 Honor ---

2 THE COURT: Okay. Well, once again, now is not the time  
3 to do that. You can have a seat and when he gets through  
4 asking questions you can ask him some more questions about the  
5 matters you're talking about. Okay?

6 BY MR. HUNTER:

7 Q: Mr. Truslow, I just have a couple more questions.

8 A: Yes, sir.

9 Q: Did you know have any reason to think that the Trial Court  
10 didn't have jurisdiction over Mr. Myers?

11 A: No; no, sir.

12 Q: Or that his trial was unconstitutional?

13 A: Nothing that I know of, no, but I didn't have anything to  
14 do with that trial but as far as I had, no.

15 Q: Did you feel the need to ask Judge John to recuse himself  
16 at that time, knowing what you knew then?

17 A: Not what I knew then, I did not, no.

18 Q: Knowing what you knew then, do you think there was  
19 anything else you could've done to help Mr. Myers?

20 A: The only -- and again, I'd just like to be fair in these  
21 situations. The only thing whether it's incompetent or it's  
22 just more I could've done would have been there was a real  
23 issue with his trial attorney who had been disbarred. I tried  
24 to find him and I came close to finding him. I did not -- one  
25 thing I didn't do is seek out who was given his files after he

1 was disbarred but now he had -- I think even the time period  
2 you have to keep files was even over and I don't know that he  
3 would've had those file. I don't think he would've even had  
4 those files even whoever took over, that's how long he had  
5 been suspended because it was shortly after the trial.

6 Q: Okay.

7 A: But I can't think of anything else. I thought we did what  
8 we needed to do to have a chance.

9 Q: Okay. At that time, you didn't -- and like you say, now,  
10 you didn't have any reason to believe that Mr. Hursey handled  
11 Mr. Myers' case improperly, that his disbarment had anything  
12 to do with ---

13 A: No, I didn't have any -- no.

14 Q: Okay. All right. No further questions. Thank you.

15 THE COURT: All right. Mr. Chestnut, you may ask him any  
16 questions you would like.

17 MR. MYERS: My name is Mr. -- my name is Mr. Myers, sir.

18 THE COURT: I'm sorry, Mr. Myers, yeah -- I'm sorry. Go  
19 ahead.

20 MR. MYERS: Just a second.

21 (REPORTER'S NOTE: Applicant confers with family.)

22 MR. MYERS: Your Honor, no further -- no questions.

23 THE COURT: Very good. You may step down. Thank you.

24 Any other witnesses, Mr. Myers?

25 MR. MYERS: Yes, Your Honor. I would like to call

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LOUSHONDA MYERS - DIRECT BY MYERS

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1 Loushonda Myers.

2 THE COURT: All right. Ms. Myers, you may come forward.  
3 Place your left hand on the Bible and raise your right hand as  
4 the Clerk administers the oath.

5 MS. LOUSHONDA MYERS: I don't swear on the Bible, Your  
6 Honor.

7 LOUSHONDA MYERS, HAVING BEEN DULY SWORN,  
8 TESTIFIES AS FOLLOWS:

9 CLERK: Please be seated and please state your name for  
10 the record.

11 MS. LOUSHONDA MYERS: My name is Loushonda Myers.

12 DIRECT EXAMINATION OF LOUSHONDA MYERS BY MR. MYERS:

13 Q: Loushonda, did you ever have any conversation with Kirk  
14 Truslow in which he mentioned that I was being named in a  
15 murder trial?

16 A: I did have a conversation at his office prior to the  
17 October 17th hearing.

18 Q: What was the content of the conversation?

19 A: The conversation that I, as well as Ms. Reed, had with  
20 Kirk Truslow, he informed us that he had just gotten off the  
21 phone with the Solicitor's office in Georgetown County and he  
22 asked us if we were aware that your name, Dameon, was being  
23 mentioned in a murder of Joey Pope. He also went further to  
24 inform us that Judge Steven John was presiding over that  
25 matter and that he would be the presiding judge on October

1 17th but he did not feel as if he would, I guess, be bias  
2 towards him, towards you.

3 MR. MYERS: No further questions, Your Honor.

4 THE COURT: All right. Any cross examination?

5 MR. HUNTER: No, Your Honor.

6 THE COURT: You may step down. Thank you, Ms. Myers.  
7 You may call your next witness.

8 MR. MYERS: Wendy Reed.

9 THE COURT: Yes, ma'am. I'd ask you to come forward and  
10 place your left hand on the Bible and raise your right hand as  
11 the Clerk administers the oath.

12 MS. REED: I don't swear on Bibles either.

13 WENDY REED, HAVING BEEN DULY SWORN,  
14 TESTIFIES AS FOLLOWS:

15 CLERK: Please be seated and please state your name for  
16 the record.

17 MS. REED: My name is Wendy Reed.

18 DIRECT EXAMINATION OF WENDY REED BY MR. MYERS:

19 Q: Wendy, did you have -- did you have a conversation with  
20 Kirk Truslow in which he mentioned that I was being named in a  
21 murder trial?

22 A: Yes, I did. When we was at his office, as Ms. Myers  
23 stated, that he told us that he knew that your name or heard  
24 that your name was mentioned in the court case pertaining to  
25 the Pope murder case.

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ROBERT BRYAN - DIRECT BY MYERS

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1 MR. MYERS: I have no further questions, Your Honor.

2 THE COURT: Any cross examination?

3 MR. HUNTER: No, Your Honor.

4 THE COURT: You may step down. Thank you, ma'am. Thank  
5 you, ma'am.

6 All right. You may call your next witness.

7 MR. MYERS: Bo Bryan.

8 ROBERT BRYAN, HAVING BEEN DULY SWORN,

9 TESTIFIES AS FOLLOWS:

10 CLERK: Please state your name for the record.

11 MR. BRYAN: Robert Bryan.

12 DIRECT EXAMINATION OF ROBERT BRYAN BY MR. MYERS:

13 Q: Robert Bryan, are you -- did Hursey challenge the  
14 jurisdiction of the Court on or around December 5th, 2002?

15 A: I don't remember whether he did or not.

16 Q: Can you remember who was the Plaintiff?

17 A: I don't think there was a Plaintiff.

18 Q: Did the State of South Carolina ever appear on December  
19 the 5th of 2002?

20 A: Did the State of South Carolina appear?

21 Q: Yes.

22 A: Well, I was the prosecutor for the State. I'm not sure I  
23 understand your question. There were several witnesses who  
24 were called who were commissioned law enforcement officers and  
25 some other witnesses who appeared and testified under oath to

1 the facts of the case if that's what you're talking about.

2 MR. MYERS: I have no further questions, Your Honor.

3 THE COURT: Any cross examination?

4 MR. HUNTER: Just briefly, Your Honor. I beg the Court's  
5 indulgence.

6 MR. THOMAS: Your Honor, could we get a couple of minutes  
7 to pre-mark some exhibits.

8 THE COURT: You can proceed forward.

9 CROSS EXAMINATION OF ROBERT BRYAN BY MR. HUNTER:

10 Q: Mr. Bryan, I believe you testified that you were the  
11 prosecutor in this case?

12 A: Yes.

13 Q: Prior to the case going forward, did you have any contact  
14 with Mr. Hursey?

15 A: Well, I'm sure I did. I know I talked to -- I'm sure I  
16 would've talked to him. We would've released the trial roster  
17 that he would've gotten a copy of and I know that in the file  
18 there's a letter mailed to him and a letter mailed to Mr.  
19 Myers as well as a letter mailed to the bondsman, Ron Ford,  
20 and I know we at least mailed him an office -- a subpoena for  
21 the trial and we had also mailed him discovery two months  
22 prior.

23 Q: Okay. So, he had discovery and he knew the trial date?

24 A: Correct. And I can't tell -- I guess this was 2002, so  
25 it's thirteen years ago and I can't tell you -- I would assume

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ROBERT BRYAN - CROSS BY HUNTER

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1 that I had talked to him. As a regular course, I would talk  
2 to the people, the lawyers that I try cases against. I don't  
3 just call their Defendants without notifying them. So,  
4 somebody in our office would've contacted him and let him know  
5 that he was up for trial that week.

6 MR. HUNTER: I beg the Court's indulgence just a minute.  
7 May I approach the witness, Your Honor?

8 A: And to finish that, I think I remember that he was  
9 supposed to plead guilty at some prior date, right, and he did  
10 not show up and so, obviously, Mr. Hursey was there, his  
11 client was not. And at that time, I probably let him know  
12 that we would try him at that time.

13 BY MR. HUNTER:

14 Q: Okay. Can you identify this? I know it's kind of blurry.

15 A: It's really blurry. It looks like a bond sheet for Mr.  
16 Myers with a signature of Dameon Myers in the right-hand  
17 corner, dated 6/27/2002. It looks like Mike Hursey also, his  
18 name appears on it. I can't say that that's Mr. Myers'  
19 signature but he's -- his name is signed above where it says  
20 signature of Defendant.

21 MR. HUNTER: Your Honor, I'd move this into evidence as  
22 State's Number One.

23 THE COURT: Any objection from that?

24 MR. MYERS: (Indicates negatively.)

25 THE COURT: Very good. It's into evidence as State's

1 Exhibit One.

2 STATE'S EXHIBIT NUMBER ONE

3 ADMITTED INTO EVIDENCE

4 MR. MYERS: Your Honor, I just want to -- I just want to  
5 state, *Boswell v. Otis* (spelled phonetically), the issuance of  
6 a summons doesn't give the Court jurisdiction.

7 THE COURT: Yeah, you've made the very clear and I  
8 understand your position. Thank you very much.

9 BY MR. HUNTER:

10 Q: Mr. Bryan, have you had a chance to review your file?

11 A: Just briefly in the last fifteen minutes.

12 Q: Can you identify this paperwork?

13 A: Yeah, this is a subpoena in a criminal case and, honestly,  
14 the copy is sort of illegible as to who it says it was sent  
15 to, so I can't -- I know that in the file that I had -- that I  
16 reviewed the file and in there was a subpoena with the address  
17 listed on the bond sheet that was just entered into -- as an  
18 exhibit, that we had sent a subpoena to Dameon Myers at the  
19 address on that bond sheet but I can't see it on that  
20 subpoena.

21 Q: So, you can't verify it as a true and accurate ---

22 A: Well, I just don't -- can you see -- I can't see any name  
23 on the copy -- it's a poor copy is the issue. I've seen --  
24 fifteen minutes ago I saw a copy in the file that's legible  
25 and sent to Mr. Myers' address on that bond sheet but that

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ROBERT BRYAN - CROSS BY HUNTER

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1 copy there is not legible for me to say.

2 Q: Can you read the name on that one?

3 A: I think it says Dameon Myers. I can't make out the  
4 address on it. I think that's to Dameon Myers. That's a  
5 subpoena for him to be there. And, of course, on the bond  
6 sheet that was admitted into evidence or as an exhibit, it  
7 says on there that his requirement is to show up for court and  
8 to remain there and return for every term of court until his  
9 case is disposed of. So, we sent that to him as a curtesy but  
10 he was required on the bond sheet to be there in court  
11 regardless of whether that notice got to him.

12 MR. HUNTER: Your Honor, I'd move this in as State's  
13 Number Two.

14 THE COURT: Any objection, Mr. Myers?

15 MR. MYERS: *Trinity vs.* -- no facts or evidence to  
16 produce on the record here said it's not factual. Also, I  
17 would like to -- I would like to state that at the time, what  
18 they're talking about when I was arrested -- when I was  
19 arrested, I had a current address. That current address, once  
20 I got out on bond, I was not living at that current address  
21 but my lawyer, Michael Hursey at the time, he knew where I was  
22 living currently and he informed me that anything that's going  
23 on involving the Court that they would let me know but I ---

24 THE COURT: Very good. Objection is overruled. I'll  
25 allow that into evidence.

1                                    STATE'S EXHIBIT NUMBER TWO

2                                    ADMITTED INTO EVIDENCE

3                MR. HUNTER: I beg the Court's indulgence.

4        BY MR. HUNTER:

5        Q: Did you have any concerns about whether the Court had  
6        jurisdiction to hear Mr. Myers' case?

7        A: No. It was a crime that occurred in Georgetown County and  
8        he was arrested by Georgetown County law enforcement at the  
9        scene where they found the drugs in Georgetown County and they  
10       knew Mr. Myers and identified him. The officers were familiar  
11       with who he was and identified him as the person.

12       Q: And he was indicted by the Georgetown County Grand Jury,  
13       correct?

14       A: Yes, yes, he was.

15       Q: No further questions.

16                THE COURT: Any cross examination, Mr. Myers? I mean,  
17       redirect, actually is what I mean, redirect.

18                MR. MYERS: Just one question, Your Honor.

19        REDIRECT EXAMINATION OF ROBERT BRYAN BY MR. MYERS:

20        Q: Bo Bryan, I just want to ask you, was the State of South  
21        Carolina the Plaintiff?

22        A: I don't think we have a plaintiff in criminal court.

23        Q: So, it wasn't? The State of South Carolina wasn't the ---

24        A: That's not a term that I was accustomed to use as a  
25        plaintiff.

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ROBERT BRYAN - REDIRECT BY MYERS

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1 Q: And the Plaintiff never appeared -- did the Plaintiff ever  
2 appear or the State of South Carolina ever appear?

3 A: I'm not sure I understand your question but I appeared as  
4 the Solicitor for the State in prosecuting the crime. Several  
5 witnesses were called who testified under oath in Georgetown  
6 County at the courthouse who were law enforcement officers as  
7 well as people who were there at the scene were called to  
8 testify to what happened at the scene where they found you. I  
9 think the officer who initiated the traffic stop on you came  
10 in and testified that they tried to stop you for having no  
11 headlights on and then when they initiated the traffic light,  
12 there was a high speed pursuit, they chased you into a  
13 location that was not your residence. When they went inside,  
14 they were greeted by somebody or they knocked on the door and  
15 the testimony for the witnesses for the State testified that  
16 somebody came to the door and said that somebody just came  
17 inside their house, they didn't know you and that you were --  
18 pointed in the direction where they found you and they found  
19 the drugs about five feet from where they found you. And so  
20 then we had the chain of custody, I believe, testify for the  
21 State as well as the chemist who did the analysis to say that  
22 it was cocaine or crack and marijuana, all the chain  
23 witnesses. And so, I think those people testified on behalf  
24 of the State and the prosecution.

25 MR. MYERS: Your Honor, the reason why I asked him that

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BY THE COURT

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1 because they say the State against Dameon Myers, that's why I  
2 was asking him about the State.

3 THE COURT: That's a legitimate question and he answered  
4 it.

5 MR. MYERS: All right. No further questions, Your Honor.

6 THE COURT: Very good. You may step down.

7 You may call your next witness.

8 MR. MYERS: Joshua L. Thomas.

9 THE COURT: Who?

10 MR. MYERS: Joshua L. Thomas.

11 MR. HUNTER: Judge, I'm just gonna object. Mr. Thomas is  
12 a party to this action, essentially.

13 THE COURT: He's not a party; he represents the other  
14 side.

15 MR. HUNTER: Correct.

16 THE COURT: That would certainly pose a conflict.

17 MR. THOMAS: My understanding it would be improper to  
18 call an attorney of a party as a witness.

19 THE COURT: Yes, the rules won't allow you to do that but  
20 you're protected on the record with regard to your request.

21 MR. MYERS: All right, Your Honor. Your Honor, one more  
22 thing I would like to -- I don't have any more Plaintiffs --  
23 any witnesses to call but there is something I would like to  
24 address that Truslow mentioned earlier, Your Honor.  
25 Concerning, concerning the scared, like I was scared or

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BY THE COURT

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1 whatever. I just want to mention this for the record. It  
2 says during that question -- he asked me did I help prepare  
3 for the trial in this case and I told him no, I didn't. And  
4 asked me with an attorney and I told him, no, I didn't. I  
5 told him I was scared. It wasn't due to the fact that during  
6 the proceedings, it was due to the fact that after, after the  
7 proceedings that I was thinking that Truslow was talking about  
8 now beforehand because I had no knowledge that I was going to  
9 trial because Truslow never informed me that it was gonna be a  
10 trial. He told me it was something -- I spoke to him  
11 concerning a plea bargain and he told me I didn't have to be  
12 there for the plea bargain but he would let me know what's  
13 going on after the fact.

14 THE COURT: Very good. All right. Does that complete  
15 your presentation?

16 MR. MYERS: One moment.

17 (REPORTER'S NOTE: Applicant confers with family.)

18 MR. MYERS: Your Honor, for the record, at no point in  
19 time did I -- I'm not and was not a resident of Georgetown  
20 County. I was reside -- reside in my body and at no point in  
21 time had Bo Bryan, Joshua L. Thomas or anyone else place on  
22 the record any proof of jurisdiction including the corpus  
23 delecti. Again, there was no proof on the record of  
24 jurisdiction.

25 THE COURT: Okay. Well, you know, in a civil trial, in

1 order for there to be jurisdiction over an individual they  
2 have to be -- under most circumstances have to be a resident  
3 of that county but a crime is different from that. If you  
4 commit the crime in the county, it imparts jurisdiction. But  
5 I understand your position, I understand your legal argument.

6 One question I want to ask you out of pure curiosity, Mr.  
7 Myers, you indicated that you are a member of certain  
8 organization and you identified yourself with a certain title  
9 and I was just asking if you want to tell me a little bit  
10 about that. I'm not aware of that organization.

11 MR. MYERS: I was just saying these were members of my  
12 society or whatever. It wasn't any -- nothing ---

13 THE COURT: Okay. Well, what member of your society --  
14 what society are you a member of?

15 MR. MYERS: Just family, just members that help me, is  
16 helping me with my case.

17 THE COURT: So, like a village like Hillary Clinton's  
18 village, people that are helping you out?

19 MR. MYERS: Just family.

20 THE COURT: Oh, okay. That makes sense. All right.  
21 Very good. All right.

22 Any -- thank you very much. And the State, you're  
23 recognized.

24 MOTIONS:

25 MR. THOMAS: Your Honor, at this time, we would just

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MOTIONS

1 renew our motion under Rule 41(b) of the South Carolina Rules  
2 of Civil Procedure. The Memorandum I provided to you, I'll  
3 just rely on the arguments that are in that.

4 THE COURT: Why don't you summarize that so Mr. Myers can  
5 hear it.

6 MR. THOMAS: And as an overview, Your Honor, the United  
7 States Supreme Court has basically said and adopted a policy  
8 that if you -- if you escape from custody, you're a flight  
9 from custody, disentitles you to call upon the resources of  
10 the Court to determine your claims. That's mostly applied in  
11 our State and our Supreme Court and our Court of Appeals  
12 applies it quite frequently in the cases like Mr. Myers' as  
13 was applied to Mr. Myers' case where if you abscond for a  
14 certain period of time and your absence causes the Court  
15 Reporters to destroy their tapes pursuant to Rule 607, you are  
16 not entitled to file a direct appeal. Your Honor, I would  
17 just submit to the Court that the rationale outlining that  
18 policy for a direct appeal should also be extended to a  
19 collateral attack on the conviction. As we've seen from the  
20 evidence we've presented here today, essentially the bond  
21 order and the subpoena that we entered into evidence along  
22 with all the evidence that was also entered at the Court of  
23 Appeals -- the Supreme Court, the Court of Appeals in the  
24 direct appeal -- there's no question that he was a fugitive,  
25 that is sort of the law of the case, if I could point to that.

1 It's not something that we can re-litigate really.

2 MR. MYERS: Objection, Your Honor.

3 THE COURT: Hang on. I'm gonna let you -- I'm gonna let  
4 you state your objection but let's let him finish talking  
5 first.

6 MR. MYERS: All right.

7 THE COURT: Okay?

8 MR. THOMAS: And we would just submit that his actions in  
9 becoming a fugitive and remaining a fugitive for over eight  
10 years would disentitle him to any review of his conviction be  
11 it direct appeal or collateral review. And I did cite some  
12 case law in there. It's a 5th Circuit case basically that  
13 applies it to a habeas context which is kind of where we are  
14 and we would just submit that you should extend that  
15 collateral consequences as well.

16 Thank you, Your Honor.

17 THE COURT: All right. Yes, sir. You're recognized.  
18 What I would ask that you do, he's made three general requests  
19 for relief, unconstitutional conviction, I'll be glad to hear  
20 from you with regard to that whether it's in the form of  
21 witnesses or argument.

22 MR. HUNTER: Okay. Well, Your Honor, I just had one  
23 witness. I was gonna call Mr. Truslow in rebuttal.

24 THE COURT: All right. You may.

25 And I'll remind you that you're still under oath.

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KIRK TRUSLOW - DIRECT REBUTTAL BY HUNTER

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1 MR. TRUSLOW: Yes, Your Honor.

2 REBUTTAL DIRECT EXAMINATION OF KIRK TRUSLOW BY MR. HUNTER:

3 Q: Mr. Truslow, do you recall having a conversation with  
4 Loushonda Myers?

5 A: Yes.

6 Q: Okay. Do you recall the substance of that conversation?

7 A: Yes. Basically, when she and the other lady testified, it  
8 -- I did -- I have some recollection of talking with them and  
9 some recollection of an issue of his name being mentioned in a  
10 murder trial and I wanted to clarify that. I don't  
11 specifically remember much more about that but when I heard  
12 that I wanted to be able to clarify that to make -- so Your  
13 Honor could judge that in context with everything with their  
14 testimony. I do remember mentioning to them and I do  
15 remember somebody in the court system, a solicitor, somebody  
16 saying that his name did come up in a murder case that was  
17 going on at the time which would've been within weeks of when  
18 we went to court.

19 Q: Was Mr. Myers ever charged in connection with that murder?

20 A: I don't believe he was ever charged in that, no.

21 Q: No further questions. Thank you.

22 A: Thank you.

23 THE COURT: Any cross examination, Mr. Myers?

24 MR. MYERS: No, sir.

25 THE COURT: All right. You may step down. Very good.

1 MR. HUNTER: That's the State's case, Your Honor.

2 THE COURT: Okay. All right. Let's hear what you've got  
3 say about the unconstitutional conviction.

4 ARGUMENTS OF COUNSEL:

5 MR. HUNTER: Your Honor, as far as that goes, Mr. Myers  
6 has expounded his belief that, you know, the Court didn't have  
7 jurisdiction and that as such the conviction was  
8 unconstitutional. Your Honor, I don't think there's any merit  
9 to that argument. As I said earlier, Mr. Myers is a citizen  
10 of the United States, South Carolina, Georgetown County at the  
11 time he was arrested. There's been no proof to show, there's  
12 been no evidence shown that his trial was conducted in a  
13 manner that was not proper. It's his burden to show that.  
14 There's been nothing shown that his indictments were invalid  
15 or anything of that sort. There's been nothing shown that the  
16 Court did not have jurisdiction or that Judge Thomas did not  
17 have jurisdiction. As far as the, you know, the State of  
18 South Carolina physically appearing in court, I think it's  
19 pretty clear. I mean, it's pretty clear and pretty well-  
20 founded that Mr. Bryan appeared on behalf of the State of  
21 South Carolina. The State of South Carolina cannot appear.  
22 So, Your Honor, the State's argument would just be that ---

23 THE COURT: Well, I understand. How about the  
24 ineffective assistance of counsel?

25 MR. HUNTER: As far as that goes, Your Honor, I ---

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ARGUMENTS OF COUNSEL

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1 THE COURT: It's kind of hard to tell from what he's  
2 presented whether he's arguing with his sentencing lawyer or  
3 the trial lawyer, I don't know but what's your position?

4 MR. HUNTER: I can address both, Your Honor.

5 THE COURT: Okay. Well, tell me.

6 MR. HUNTER: I'll address Mr. Hursey first. You know, he  
7 -- as there is no record of the trial, there's no transcripts,  
8 I believe the case law states that, you know, you have to  
9 presume that the trial was handled properly and that outside  
10 of any evidence to the contrary, you have to presume that  
11 Defense counsel acted properly and that everything Defense  
12 counsel did was for a strategic reason. Any obligations Mr.  
13 Myers brought forth today, I think he failed to disprove that.  
14 Furthermore, Mr. Myers was not at his trial so any arguments  
15 he's made whether, you know, allowed or in the pleadings, as  
16 far as the State thinks it is pure speculation because there's  
17 no -- there's no telling what went on at the trial. And so we  
18 just have to assume that Defense counsel acted properly with a  
19 strategy.

20 As far as Mr. Truslow, I think his testimony is pretty  
21 clear. He testified that he thought the only way for him to  
22 show or for him to get Mr. Myers the relief they were seeking  
23 was for Mr. Myers to take the stand and explain some things  
24 and to argue that I believe the case that the State argued  
25 that Judge John relied on -- denying Mr. Truslow's motion was

1 the *Siratt* case. I believe that, you know, even Mr. Truslow  
2 may not agreed with Judge John's ruling, Mr. Truslow proceeded  
3 in the matter he best saw fit and Judge John disagreed with  
4 him. Mr. Truslow testified that knowing what he knew then, he  
5 doesn't think there is anything else he could've done to help  
6 Mr. Myers either get a new trial or get a reduction in  
7 sentence. And as far as the conversation with Ms. Myers, that  
8 was related -- to me, that was a completely unrelated matter.  
9 Mr. Myers was never charged in that case and the State's  
10 position is that's completely irrelevant. I think that's the  
11 argument with the regards to ineffective assistance of  
12 counsel.

13 THE COURT: Okay. All right. How about the allegations  
14 in the unethical conduct?

15 MR. HUNTER: I don't think there's been any evidence  
16 shown that the prosecutor acted unethically nor that Defense  
17 counsel acted unethically. There's been nothing shown that  
18 while Mr. Hursey has been disbarred and there's nothing shown  
19 here today that his disbarment was in any way related to how  
20 he handled this case or had anything to do with it at all. I  
21 believe if you read the opinion disbarring Mr. Hursey, it  
22 mostly had to do with, I believe, a trust account, real estate  
23 transaction, things of that nature.

24 MR. MYERS: Objection, Your Honor.

25 MR. HUNTER: I've got a copy of that if ---

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ARGUMENTS OF COUNSEL

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1 MR. MYERS: Objection, Your Honor.

2 THE COURT: About what?

3 MR. MYERS: *Trinity v.* (Inaudible) -- states that Joshua  
4 L. Thomas cannot state no facts in the courthouse, he have no  
5 facts to rely on.

6 THE COURT: Okay. Well, I'll sustain your objection.  
7 This is argument but I hear what you're saying. All right.

8 MR. HUNTER: Your Honor, we'll just rest on the record  
9 before the Court at this point.

10 THE COURT: Very good.

11 THE COURT: Do you have anything else you would like to  
12 add, Mr. Myers?

13 MR. MYERS: Yes, Your Honor. I want -- jurisdiction was  
14 not proper on December the 5th, 2002 and the Court has no  
15 remedy then, they have to let me go. I have already suffered  
16 and I already suffered and I have harm, damage and injury.  
17 And for the record, Joshua L. Thomas, he has no facts, he has  
18 not facts to put on the record and he has no proof without --  
19 there's no proof to it.

20 Also, just to state that I'm not a citizen of the U.S.  
21 I'm a natural U.S. not the -- the Fourteenth Amendment says  
22 and jurisdiction was never proved for the record. The proper  
23 parties were not present. No corpus delecti jurisdiction is  
24 not waiveable. Proof any crime occurred, proof corpus  
25 delecti, Michael Hursey has failed to appear. This Court has

## RULING OF THE COURT

1 no facts to rely on except my facts, my proof and all my  
2 evidence. Additionally, I would like to have judicial notice  
3 that jurisdiction has been challenged and not proven, no facts  
4 or proof have been provided on the record. The record does  
5 not show proper requirements for jurisdiction. Where is proof  
6 of the corpus delecti, where is the proof of a injured party.  
7 Has the State appeared and/or prosecuted. My due process  
8 rights have been violated and jurisdiction was basically lost.

9 THE COURT: Very good. All right.

10 RULING OF THE COURT:

11 THE COURT: Based on all of the evidence. My ruling is  
12 that jurisdiction over the Defendant did exist. It was a  
13 criminal court, it was a criminal action that was brought  
14 before the Court. He is indeed a citizen of the United States  
15 of America and a citizen of South Carolina and the crime did  
16 in fact take place in Georgetown County and the Defendant was  
17 indeed in South Carolina. All of those things, bestow  
18 jurisdiction on this Court.

19 With regard to ineffective assistance of counsel, I'm  
20 gonna ask that the State prepare the order that there is  
21 indeed no record, no record before the Court and it's  
22 incumbent upon the Applicant to provide record and proof and  
23 he's fallen short in that regard and the burden of proof is  
24 indeed on the Applicant. There's been absolutely no evidence  
25 to establish by a preponderance of the evidence that there was

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1 any ineffectiveness that took place. Specifically with regard  
2 to Truslow, the only thing that was brought up with that was  
3 whether or not it was a proper decision for him, for the  
4 Defendant Mr. Myers, to take the stand. I think that given  
5 the circumstances, that was a legitimate trial strategy. I do  
6 note that Mr. Truslow was indeed able to get the sentences to  
7 run concurrent. That was something that was left up to the  
8 discretion of the Judge and by virtue of his efforts, I think  
9 he was able to accomplish that. There's been no -- absolutely  
10 no allegations of unethical conduct and the burden of proof is  
11 indeed on the Applicant and he's fallen short in that regard.

12 I'm gonna ask that the State prepare that order and send  
13 a copy of that, of the proposed order to the Defendant.

14 Good luck to you. I wish you the best of luck. Very  
15 good.

16 MR. HUNTER: Thank you.

17 MR. MYERS: Your Honor, one more thing?

18 THE COURT: Yes.

19 MR. MYERS: I'd just like to state as far as  
20 jurisdiction, I just want to say I would like to -- I want --  
21 I'm gonna be appealing that on the jurisdiction because I feel  
22 that they didn't have jurisdiction.

23 THE COURT: You are absolutely entitled to an appeal. As  
24 a matter of fact, the order is gonna say that that you have  
25 thirty days from the date you receive the final order to

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1 appeal it and you're entitled to that. That's your absolute  
2 right and I invite you to do so. Does that sound fair?

3 MR. MYERS: Yes, sir.

4 THE COURT: Good luck to you.

5 MR. MYERS: All right.

6

7 (ADJOURNED.)

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COPY

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CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Dameon Myers versus State of South Carolina, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on May 13, 2015.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

August 13, 2015.

STATE OF SOUTH CAROLINA )  
COUNTY OF GEORGETOWN )

Dameon Myers, )  
S.C.D.C. No. 279666, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

IN THE COURT OF COMMON PLEAS )  
FIFTEENTH JUDICIAL CIRCUIT )

Case No. 2012-CP-22-1132 )

**ORDER OF DISMISSAL** )

FILED  
GEORGETOWN COUNTY, S.C.  
2015 JUN 26 PM 3:58  
ALMA Y. WHITE  
CLERK OF COURT

**Procedural History**

In October 2002, the Georgetown County Grand Jury indicted Applicant for failure to stop for a blue light (2002-GS-22-861), trafficking crack cocaine (2002-GS-22-862), possession with intent to distribute crack cocaine within proximity of a school or park (2002-GS-22-863), and possession with intent to distribute of marijuana (2002-GS-22-864). Applicant was represented by Michael T. Hursey, Jr., Esquire. On December 5, 2002, the matters were called for trial before the Honorable Paula H. Thomas and a jury. Applicant did not appear for trial, and the jury found him guilty of failure to stop for a blue light, possession with intent to distribute crack cocaine, and simple possession of marijuana. The jury found him not guilty of possession with intent to distribute crack cocaine within proximity of a school or park. Judge Thomas issued a sealed sentence at that time.

On October 17, 2011, Applicant appeared before the Honorable Steven H. John, who unsealed and pronounced Judge Thomas' sentences of three (3) years for failure to stop for a blue light, twenty (20) years for possession with intent to distribute crack cocaine, and one (1) year for simple possession of marijuana. Applicant was represented at this proceeding by T. Kirk

Truslow, Esquire. Judge John denied Applicant's motion to vacate sentence, motion for a new trial, and motion to reduce sentence.

Applicant filed and served notice of appeal on October 19, 2011. The South Carolina Court of Appeals dismissed Applicant's appeal on October 4, 2012. The Court of Appeals denied a motion for reconsideration on March 11, 2013. The remittitur was returned to the circuit court on April 17, 2013.

Applicant filed an Application for Post-Conviction Relief filed October 18, 2012.

Respondent made a timely Return on or about June 28, 2013. On August 4, 2014, Respondent filed a Motion to Dismiss. A hearing was held on August 28, 2014, at which time Respondent moved to dismiss the Application based on the Fugitive Disentitlement Doctrine. Applicant appeared *pro se*.<sup>1</sup> Respondent was represented by Assistant Attorney General Joshua L. Thomas, Esquire. The Honorable Kristi Lea Harrington denied Respondent's motion and ordered that an evidentiary hearing into the matter be held.

Accordingly, this Court convened an evidentiary hearing into the matter on May 13, 2015. Applicant appeared *pro se*.<sup>2</sup> J. Croom Hunter, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

### Allegations

Applicant alleges in his PCR application that he is being held in custody unlawfully for the following reasons:

1. Unconstitutional conviction;
2. Ineffective assistance of counsel; and
3. "Prosecutor was unethical and so was my counsel."

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<sup>1</sup> By order filed April 29, 2014, the Honorable George C. James, Jr., granted Applicant's motion to relieve counsel and proceed *pro se*.

<sup>2</sup> This Court further advised Applicant of his right to counsel at the PCR hearing, but Applicant chose to proceed *pro se*.

### Summary of Testimony Presented

At the evidentiary hearing, Applicant testified on his own behalf. Applicant also presented testimony from T. Kirk Truslow, Esquire, Loushonda Myers, Wendy Reed, and Bo Bryan, Esquire. At the close of Applicant's case, Respondent again moved to dismiss Applicant's case under the Fugitive Disentitlement Doctrine. This Court does not need to address Respondent's motion under the Fugitive Disentitlement Doctrine because Applicant's case fails on the merits. As an initial matter, this Court finds Applicant's testimony not credible. The Court also had before it a copy of the Georgetown County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, and the return.<sup>3</sup>

During the evidentiary hearing, Applicant testified Michael Hursey (Counsel) was ineffective for failing to challenge the jurisdiction of the trial court. Applicant testified he did not believe the State had standing to bring charges against him. Applicant testified Counsel was ineffective for failing to thoroughly prepare his case and review discovery with him. Applicant claimed the police reports contained false statements, and the police were out to get him. Applicant claimed Counsel was ineffective for failing to obtain witnesses to testify at trial. Applicant testified Counsel's performance at trial was deficient.

Applicant further testified that Kirk Truslow was ineffective for not asking Judge John to recuse himself from the unsealing of Applicant's sentence because Judge John allegedly presided over a murder case two weeks prior where Applicant's name was mentioned as a co-conspirator. Applicant testified the victim in that case was Joey Pope. Applicant further testified that Truslow did not help him prepare for the sentencing hearing after Applicant was apprehended. Applicant

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<sup>3</sup> This Court did not have a copy of the trial transcript because Applicant was apprehended approximately eight years after his trial. As such, the transcript had been destroyed pursuant to Rule 607 SCACR.

testified Truslow failed to challenge the jurisdiction of the sentencing court. Finally, Applicant testified Truslow did not inform him he did not have to testify at the sentencing hearing.

Applicant further testified his conviction and sentence violated the United States Constitution. Applicant claimed he was denied Due Process. Applicant claimed the search which resulted in evidence against him violated his rights. Applicant claimed he was denied an impartial trial, and that he was found guilty before the trial even began. Applicant claimed the trial judge was not impartial, and that he was sentenced unfairly based on his race. Applicant claimed the General Sessions court had no jurisdiction, and the court could not force its jurisdiction on any human being. Applicant claimed he is not a "person" as defined under South Carolina statutes. Applicant further claimed the authorities who took him into custody were members of a criminal gang involved in murder, kidnapping, extortion, burglary, and treason, and the Georgetown County Sheriff's Office was carrying out a vendetta against his family.

T. Kirk Truslow, Esquire, testified he did not see any reason to challenge the trial court's jurisdiction. Truslow initially testified he was unaware Judge John presided over the Pope murder trial, but he later testified he did remember meeting with Loushonda Myers and Wendy Reed at his office, where they brought their concerns to his attention. However, Truslow further testified he did not believe it mattered that Judge John presided over the Pope murder trial because Applicant was never charged in that crime; any connection was merely speculation. Truslow testified Applicant's family retained him to represent Applicant at his sentencing hearing. Truslow testified Judge John presided because Judge Thomas was no longer on the trial bench. Truslow testified he filed a motion for a new trial as well as a motion to reconsider the sentence, but Judge John denied both motions. Truslow testified he was successful in getting Judge John to run the sentences concurrently. Truslow testified it was necessary for Applicant to

testify in order to have chance at having his sentence reduced or his motion for a new trial granted. Truslow testified Applicant was tried in his absence a month after he failed to appear for his guilty plea. He testified he had no reason to challenge the Court's jurisdiction over Applicant's case. Truslow testified he attempted to contact Applicant's trial attorney, who had since been disbarred, but he was unsuccessful. Truslow testified that based on his knowledge at the time of the sentencing, he had no reason to object to Judge John presiding over the hearing. Finally, Truslow testified that to his knowledge, trial counsel's disbarment had nothing to do with his handling of Applicant's case.

Applicant next called Loushonda Myers, who testified she told Truslow that Judge John presided over the Joey Pope trial in which Applicant was named as being involved. Myers testified Truslow told her he did not think it would be a problem, and that Judge John would be fair. Applicant then called Wendy Reed, whose testimony was substantially the same as that of Myers.

Finally, Applicant called Bo Bryan, Esquire. Upon inquiry by Applicant as to whether the State of South Carolina appeared at his trial, Bryan responded that he did not understand the question. Bryan testified he appeared as the prosecutor for the State of South Carolina. Applicant asked Bryan who the plaintiff was at his trial, and Bryan responded there was not a plaintiff in criminal matters. Bryan testified multiple witnesses also appeared at Applicant's trial on behalf of the State of South Carolina, including the police officers who responded after Applicant fled from a traffic stop and chased him into an apartment where he was found with drugs. Bryan testified that the chemist and the witnesses who testified regarding chain of custody also appeared on behalf of the State of South Carolina. Bryan testified there was no issue with the Court having jurisdiction over Applicant's case because Applicant was arrested in Georgetown

County. Bryan testified that Applicant's attorney was notified of the date of Applicant's trial, and Bryan also identified Applicant's bond paperwork and subpoenas indicating he was aware of the trial date and the consequences of failing to appear. Bryan testified to a letter he had in his file that was sent to trial counsel, Applicant, and the bail bondsman indicating the date of Applicant's trial. Finally, Bryan testified he turned over all discovery to trial counsel.

### **Findings of Fact and Conclusions of Law**

#### **1. Ineffective Assistance of Counsel**

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance

was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Applicant alleges trial Counsel was ineffective in his representation of Applicant. This Court finds this argument is without merit. Initially, this Court notes that Applicant is wholly at fault for the inability of this Court to review the trial transcript. Applicant absconded prior to his trial and remained on the run for almost a decade. Because Applicant evaded capture for so long, the transcript of his trial was destroyed according to Rule 607, SCACR. This Court can think of no reason why Applicant should be rewarded for his effectiveness at eluding authorities. As such, this Court must presume that Counsel rendered adequate professional assistance. Furthermore, "in the absence of evidence to the contrary, the regularity of the proceedings of a court of general jurisdiction will be assumed." Pringle v. State, 287 S.C. 409, 410-11, 339 S.E.2d 127, 128 (1986). Additionally, the burden of proof at the hearing is on the applicant to prove his allegations by a greater preponderance of the evidence. Bannister v. State, 333 S.C. 298, 509 S.E.2d 801 (1998). Applicant has presented no evidence other than his self-serving statements that his trial was not properly conducted or that Counsel's representation was deficient. Accordingly, this Court finds Applicant has failed to meet his burden of showing that Counsel did not render adequate assistance. This Court notes Applicant's allegations cannot logically have any factual basis because Applicant was not at his trial to witness Counsel's conduct, and the transcript has been destroyed. As such, Applicant really has no idea how his trial proceeded, despite his allegations to the contrary, so his testimony is clearly not credible.

Applicant next alleges Mr. Truslow's representation at Applicant's sentencing was ineffective. This Court finds the allegation to be without merit. Mr. Truslow's testimony clearly and logically explained his reasoning for having Applicant testify at the sentencing. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). Mr. Truslow stated his goal was to either get Applicant a new trial, or have his sentence reduced, and the only way he could do that was to have Applicant testify why he did not appear for trial. Without Applicant's testimony, Truslow would have had no grounds on which to base his plea for a new trial or lower sentence. Furthermore, Applicant has failed to show how his testimony at the sentencing prejudiced him in any way. Additionally, this Court notes Mr. Truslow was successful in having Applicant's sentences run concurrent to one another. Accordingly, this Court finds Mr. Truslow's performance was well within reasonable professional norms, and Applicant's allegation is without merit.

## **2. Unconstitutional Conviction**

Applicant has voiced numerous concerns over the constitutionality of his conviction, particularly that the court of general sessions did not have jurisdiction over him. This Court finds such allegations to be without merit. Regarding PCR actions, an applicant may challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 610

S.E.2d 494. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 610 S.E.2d 494; See also S.C. Const. Art. V, § 7. Therefore, the applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant has failed to present any such evidence to this Court. This Court finds that Applicant’s conviction involved a criminal charge in General Sessions Court, and thus finds that the circuit court had proper subject matter jurisdiction. This Court notes that Applicant was arrested in Georgetown County, where he was subsequently indicted by a lawfully convened grand jury for crimes that were committed within Georgetown County. As such, his allegations are patently without merit.

### 3. Ethical Allegations

Applicant has alleged that the solicitor acted unethically. This Court finds the allegation to be without merit. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised the issue of prosecutorial misconduct on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant’s burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794 (1989). Applicant has failed to present any evidence to support his accusations; accordingly the allegation is without merit.

### Conclusion

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, his post-conviction relief attorney must serve and file a notice of appeal on Applicant's behalf. Applicant and his attorney are directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice;  
and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 16 day of June, 2015.



Michael G. Nettles  
Presiding Judge  
Fifteenth Judicial Circuit

Stence, South Carolina

DOCKET NO. 02 GS22 861 A  
**The State of South Carolina,**

WITNESSES:

GEORGETOWN COUNTY  
SHERIFF'S DEPARTMENT

County of Georgetown  
18381 RBB

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER:

OCTOBER TERM 2002

3-899771

0065 56-05-0750(B)(1)

THE STATE

D/L#:

vs.

DOI: 4-29-02

**DAMEON LAMARTREY MYERS**

SID: SC01269035

Georgetown, SC 29440

DOB:

SS#: 2

ACTION OF GRAND JURY

*True Bill*

*10/10/02*

Date

J. GREGORY HEMBREE, SOLICITOR

INDICTMENT FOR

*Gregory Hembree*  
Foreman of Grand Jury

VERDICT

FAILURE TO STOP FOR BLUE  
LIGHT AND/OR SIREN

Foreman of Petit Jury

Bus issued 11-22-02

STATE OF SOUTH CAROLINA        )  
  )  
COUNTY OF GEORGETOWN        )        INDICTMENT FOR  
  )        FAILURE TO STOP FOR BLUE LIGHT  
  )        AND/OR SIREN

At a Court of General Sessions, convened on October 10, 2002, the Grand Jurors of Georgetown County present upon their oath:

That Dameon Lamartrey Myers did in Georgetown County on or about April 29, 2002, while operating a motor vehicle on a road, street or highway of this State, willfully and unlawfully fail and refuse to stop when signaled to do so by a law enforcement officer by means of a blue light and/or siren. This in violation of §56-05-0750(B)(1), South Carolina Code of Laws (1976), as amended.

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

  
\_\_\_\_\_  
SOLICITOR

DOCKET NO. 02 GS22 863 ✓  
**The State of South Carolina,**

County of Georgetown  
18381 RBB  
**COURT OF GENERAL SESSIONS**

OCTOBER TERM 2002

THE STATE  
vs.

**DAMEON LAMARTREY MYERS**  
Georgetown, SC 29440  
DOB:  
SS#:

J. GREGORY HEMBREE, SOLICITOR  
**INDICTMENT FOR**

**POSSESSION WITH THE  
INTENT TO DISTRIBUTE  
CRACK COCAINE WITHIN A  
HALF MILE RADIUS OF A  
SCHOOL/PARK**

WITNESSES:  
GEORGETOWN COUNTY  
SHERIFF'S DEPARTMENT

ARREST WARRANT NUMBER:  
G-899773

0108 44-53-0445(B)(2)

D/L#:

DOI: 4-29-02

SID: SC01269035

ACTION OF GRAND JURY

*True Bill*

Date 10/10/02  
*[Signature]*  
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

BW issued 11-22-02

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GEORGETOWN )

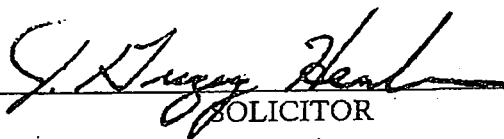
INDICTMENT FOR:

POSSESSION WITH THE INTENT TO  
 DISTRIBUTE CRACK COCAINE  
 WITHIN A HALF MILE RADIUS OF  
 A SCHOOL/PARK

At a Court of General Sessions, convened on October 10, 2002, the Grand Jurors of Georgetown County present upon their oath:

That Dameon Lamartrey Myers did in Georgetown County on or about April 29, 2002, knowingly and intentionally possess with the intent to distribute, a quantity of crack cocaine, a controlled substance under provisions of §44-53-0110, et. seq., South Carolina Code of Laws (1976), as amended, such possession not having been authorized by law, while the defendant was within a radius of one-half mile of the grounds of the West End Park. This in violation of §44-53-0445(B)(2), South Carolina Code of Laws (1976), as amended.

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

  
 SOLICITOR

DOCKET NO. 02 GS22 864 ✓  
**The State of South Carolina,**

County of Georgetown  
18381 RBB  
**COURT OF GENERAL SESSIONS**

OCTOBER TERM 2002

THE STATE

vs.

**DAMEON LAMARTREY MYERS**

Georgetown, SC 29440  
DOB:  
SS#:

J. GREGORY HEMBREE, SOLICITOR  
**INDICTMENT FOR**

**POSSESSION WITH THE  
INTENT TO DISTRIBUTE  
MARIJUANA**

WITNESSES:

GEORGETOWN COUNTY  
SHERIFF'S DEPARTMENT

ARREST WARRANT NUMBER:

G-899774

0188 44-53-0370(b)(2)

D/L#:

DOI: 4-29-02

SID: SC01269035

ACTION OF GRAND JURY

*Jane Bill*

Date: 10/10/02  
*J. Gregory Hembree*  
Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

603 issued 11-22-02


STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GEORGETOWN )

INDICTMENT FOR  
 POSSESSION WITH THE INTENT TO  
 DISTRIBUTE MARIJUANA

At a Court of General Sessions, convened on October 10, 2002, the Grand Jurors of Georgetown County present upon their oath:

That Dameon Lamartrey Myers did in Georgetown County on or about April 29, 2002, knowingly and intentionally possess with the intent to distribute a quantity of marijuana, a controlled substance under provisions of §44-53-0110, et. seq., Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law. This in violation of §44-53-0370(b)(2), South Carolina Code of Laws (1976), as amended.

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

  
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 SOLICITOR