

PETITION FOR A WRIT OF CERTIORARI  
~~IN~~ POST CONVICTION RELIEF

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS

MAR 25 2016

S.C. SUPREME COURT

DANIEL D. HALL, JR. CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-01893

APPELLATE CASE NO. 2015-002251

George Cleveland, III,

SCDC NO. 35777,

v.

STATE OF SOUTH CAROLINA,

PETITIONER,

RESPONDENT.

PETITION FOR A WRIT OF CERTIORARI

OFFICE OF THE ATTORNEY GENERAL  
KAREN C. RATIGAN, SENIOR ASST. DEP. A.G.

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(803)-734-3970

ATTORNEY FOR RESPONDENT

George Cleveland, III, #35777

TURBEVILLE CORRECTIONAL INST.

P.O. Box 252

TURBEVILLE, S.C. 29162

PRO SE LITIGANT

1.  
QUESTIONS PRESENTED:

Whether the circuit court ERRED in failing to apply the STRICKLAND v. WASHINGTON 104 S.Ct. 2052, 80 L.Ed 2d. 674 1984; two (2)-prong test: Showing of specific errors, AND the performance prejudiced the defense, is it 2064 to my specific ARGUMENTS, prejudice, supporting evidence as to my ineffective assistance of counsel claim under the sixth (6<sup>th</sup>) Amendment of the United States Constitution?

Whether the circuit court ERRED in failing to make specific findings of fact AND conclusions of LAW in the order of DISMISSAL under S.C. Code of LAWS Ann. § 17-27-80?

Whether the circuit court ERRED in denying my motion to have shackles, AND restraints removed during P.C.R. hearing which is in conflict with DECK v. MISSOURI

544 U.S. 622, (2005) and the Administrative Order: -2001-07-10-01 of the South Carolina Supreme Court?

2.

STATEMENT-OF-THE-CASE:

MAY IT PLEASE THE COURT: ON OR ABOUT JUNE 21, 2012, I DROVE AN NISSAN VERSA TO CARMAX OF GREENVILLE, S.C., LOCATED ON LAWRENCE ROAD FOR THE PURPOSE OF SELLING THE VEHICLE TO THEM. R.P. 23, LINE 21-25.

STAFF AT CARMAX (HEREINAFTER THE BUYERS) AFTER LOOKING AT THE KEY PORT, THE VEHICLE'S ON-BOARD COMPUTER SYSTEM WAS BROKEN. <sup>1.</sup> THE VEHICLE'S HOOD WAS LIFTED <sup>2.</sup>

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1. I DISAGREED WITH THE ON-BOARD COMPUTER BEING DAMAGED R.P. 26; LINE 12-15 (THE COURT REPORTER INCORRECTLY IDENTIFIED MR. SARRATT AS I WAS SPEAKING INSTEAD). R.P. 26; LINE 16-19.

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2. DETECTIVE BARRY BROWN OPENED THE HOOD OF THE VERSA. R.P. 122-123. SGT. DAVID WEINER TOLD THE BUYERS TO MOVE THE VERSA INSIDE THE SERVICE BAY SO I WOULD NOT GET SUSPICIOUS <sup>2.</sup> IF I SAW POLICE AROUND. R.P. 122, 124-125.

The engine compartment was ground-off  
and sprayed-painted over with khaki spray  
paint. R. p. 24, line 5-17. R. p. p. 122-123.

After waiting in the lobby of CARMAT for  
over two (2) hours, Detective BARRY BROWN, and  
Sgt. DAVID WEINER of the Greenville County  
Sheriff's office walked up to me and Sgt.  
Weiner asked me to follow them to an  
vacant office. Upon walking into the office,  
Sgt. Weiner asked: 'who's NISSAN is that?'  
I stated it was mine. Sgt. Weiner then  
placed handcuffs on me, placed me under  
arrest, advised me of my 'MIRANDA-Rights',  
took my bill-fold, keys out of my pocket, and  
my cell-phone off my wrist. He proceeded  
to log-on-to the computer located in the  
office, etc. He called multiple former owners  
of the NISSAN, and finally was told by an

subject, the Nissan was recently traded-in at Best-kia in Easley, S.C., R.P.P. 124-125.

Since Best Kia was located in Pickens County, their Sheriff's office dispatched Deputy Keith Littleton (herein after R/O) to the dealership. R.P.P. 119-120.

After the R/O completed his report, the Nissan was reported stolen<sup>3</sup> by the Pickens County Sheriff's office. R.P.P. 119-120.

Deputy R. Wheatley B-35 arrived at Carmax, and transported me to the Greenville County Detention Center. R.P.P. 122-123. I was booked for poss. of stolen vehicle and falsifying VIN, in violation of S.C. code of Laws §§ 16-21-0080; 16-21-

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3. Best Kia was "unaware" of the missing Nissan until "Sgt. Weimer had called the dealership", R.P. 122.

0046 (A)(2) respectively. R.P.P. 135-137, I subsequently bonded out of the jail.

ON OR AROUND June 29, 2012, Detective BARRY BROWN reported back to CARMAT of Greenville, S.C. in reference to a 2011 Ford Fusion that was sold to CARMAT ON OR AROUND MAY 07, 2012.

The vehicle was stolen from Clayton, GA; accordingly, I was charged with:

poss. of stolen vehicle;  
obtaining goods under false pretense,  
and falsifying VIN. R.P.P. 126-133,

ON OR AROUND July 10, 2012, I was booked by the Greenville County Detention Center. After hiring Attorney Michael J. Sarratt, he filed Appearance of Counsel, and Discovery motion in the Greenville County General Sessions Clerk of Court Division OR

Around April 09, 2013, R.P.P. 96-98,

The state submitted cursory discovery on or  
around May 13, 2013, R.P.P. 99-100, and the  
mother-load a couple of weeks before my  
trial on or around October 09, 2013, R.P.P. 108-  
109, and more days before my trial on or  
around October 29, 2013, R.P.P. 111.

On November 04, 2013, around 9:00 AM, my  
motion for an continuance by and through  
MR. SARRATT was denied by Judge Reed, R.P.P. 71; line 14-25; p. 72; line 1-19.

On or around 12:30 P.M. the same day after  
returning home from the hearing, I emailed MR.  
SARRATT my specific issues:

Nissan versa not reported stolen prior to  
charged, conflicting dates of the whereabouts  
of the Nissan around (June 19-24, 2013).

Authority of CAEMAT to plug their computer  
into the NISSAN's on-board computer;  
photos of SPRAY CAN;  
Ford Fusion stolen from Georgia, and  
Jurisdictional Issues (State or Federal), and  
not thoughtfully looking over all the evidence,  
or meeting with MR. SARRATT regarding trial  
strategy. R.p.p. 75; Line 5-25; p. 76; line 1-13,  
And R.p.p. 113-114.

After no response from MR. SARRATT, I again  
emailed him at 8:55 p.m. regarding my unresolved  
issues. R.p.p. 115. On November 05, 2013, at 7:06 a.m.,  
I emailed MR. SARRATT, and invoked: "you're  
fired." R.p.p. 116.

My jury trial was scheduled at 8:30 a.m.,  
the same day, id., R.p.p. 112, 117.

Judge Edward M. Miller presided over the

TRIAL JURY After An bench conference by  
Asst Solicitor MR. Austin Watts, MR. SARRATT,  
And Judge Miller regarding presumptively my  
Request to fire MR. SARRATT. R.p.p. 3 line 8-25,  
And An continuance to hire new counsel,  
Judge Miller rejected my continuance and  
stated: "cc... you will be representing yourself  
today? we are picking A JURY and going  
forward!! IBI".

After repeated pleas to Judge Miller that  
I was not ready for TRIAL, R.p.p. 4 line 2-11;  
line 23-25, R.p.p. 5; line 1-7; line 21-25, R.p.p. 6;  
line 3-4; R.p.p. 9; line 1-2; R.p.p. 11; line 12-16-18,  
R.p.p. 14 line 14; R.p.p. 15; line 13-14.

Judge Miller subsequently sentenced me: "90  
years by Appointment of service for six years  
... five years probation ... " R.p.p. 32; line 21-  
8.

25 33, line 1-4; R.P.P. 138-142, and restitution  
of \$11,300.00, R.P. 118.

My motion to reconsider sentence was  
denied by Judge Miller ~~on~~ November 21, 2013,  
R.P.P. 143-145

On April 03, 2014, my post-conviction relief  
(P.C.R.) Application was filed in the Greenville  
County Court of Common Pleas (Case No. 2014-  
CP-23-01895) on the following grounds:

Ineffective Assistance of Counsel and  
due process violation.

more specifically: MR. SARRATT failed to advise  
effectively, investigate research mitigation, or  
adequately prepare case for trial, and actions  
by MR. SARRATT and MR. WATTS resulted in  
an unconstitutional breakdown of the  
adversarial process. R.P.P. 35-41 and on or

AROUND February 16, 2015, my Amended  
P.C.R. Application was filed with the Greenville  
County Common Pleas Court adding the deprivation  
of subject-matter-jurisdiction because of  
one (1) of the vehicles was stolen from Georgia,  
crossing over state-lines into South Carolina,  
invoking Federal Jurisdiction under the  
Dyer Act; 18 U.S.C.A. §§ 2312-2313. R.P. 41-1

ON OR AROUND August 22, 2014, the state  
filed their RETURN in my case. R.P. 42-47.

ON OR AROUND February 18, 2015, my P.C.R.  
hearing was held in the common Pleas Court  
of Greenville County; the Honorable DANIEL  
A. HALL presided. R.P. 48, AND AFTER my request  
to proceed pro se was GRANTED, my hearing  
was had. R.P. 86.  
PRIOR to testimony beginning, I made AN

floor motion under deck v. Missouri, id, Requesting  
my hands be free of the belly chains, and hand-  
cuffs so I could organize my legal papers,  
and write legal notes, and it's an undue influence  
R.p. 57 line 20-25. The court denied my floor motion.  
R.p. 58; line 1-14, My testimony I argued the following:  
deprivation of subject matter jurisdiction, R.p. 60; line  
1-19,  
poor communication and not being prepared for trial;  
and outright lies; R.p. 61; line 4-5,  
Federal jurisdiction since the stolen Ford Fusion  
was stolen from Georgia, and crosses state-lines;  
not state jurisdiction, R.p. 80; line 9-23, 25,  
indictments looked fake, sole witness on indictments,  
R.p. 81; line 12-18,  
Forced to plead guilty, R.p. 81; line 22-25;  
never heard from Mr. SARRATT prior to trial,  
R.p. 82; line 1-10;  
closey connected crimes as one sentence, R.p. 82;  
11.

line 17-23,

PRISON sentence solely on Ford Fusion that was stolen from Georgia. R.p. 83; line 1-11.

My hand-written memorandum of Law in support of Granting my P.C.R. Admitted into evidence. R.p. 78; line 4-25, R.p. 79; line 1-7, and All supporting filed Exhibits with the clerk of the Court of Greenville County. R.p. 79; line 18-21.

ON OR AROUND MARCH 11, 2015 I received the proposed order of dismissal from MRS. RATIGAN (S.R.P.). Proposed Supplemental Record pp. 18-26 (hereinafter

Since the proposed order of dismissal failed to directly address my issues OR OR AROUND MARCH 16, 2015, I filed with the court with an eight (8) page objections to the proposed order. S.R.P. 18-26. I also mailed Judge Hall a copy and Mrs. Ratigan as well. S.R.P. 27.

ON OR AROUND MARCH 23, 2015, Judge Hall responded  
12.

And stated the following:

The rules "to file A[N] notice of Appeal,  
S. R. P. 36.

On May 20, 2015, my Rule 52(b) motion was  
mailed to the Greenville County clerk of court  
with supporting Affidavit. R. P. P. 154-221.

On or around August 08, 2015, MR. Michael R. Watts  
(Court Reporter) informed me that no-one has  
requested my P.C.R. transcript, or exhibits.  
S. R. P. P. 29-30.

On or around May 21, 2015, the state responded  
to my Rule 52(b) motion. R. P. P. 225-229.

On or around Sept. 09, 2015, I mailed an carboned  
copied letter to Judge Hall informing him of his  
failure to rule on my merits and rubber-stamping  
the state's order of dismissal. S. R. P. P. 31-32.

By letter on Sept. 14, 2015, Mrs. Ratigan wrote

JUDGE HALL Asking if he needed anything regarding my pending Rule 52(b) motion to let her know, S.R.p. 33.

On Sept. 25, 2015, my motion for leave to file supplemental facts of: four-hundred-two (402) indictments in 8-hours were FRAUD, R.P.P. 233-233-1-4. R.P.P. 234-235.

My Rule 52(b) motion was denied and put an ending to all other pending matters, R.P.P. 231-232.

My notice of Appeal was timely in this court and, an motion to proceed pro se was also filed, S.R.p.p. 37-38. This court GRANTED my motion to proceed pro se, S.R.p. 40.

Appellate defense mailed me a copy of the transcript in my Picir case by way of mail and letter dated JANUARY 21, 2016 because of my ARGUMENT OF AN MULTITUDE of missed court deadlines

S.R. p. 41.

3.  
ARGUMENT  
STRICKLAND V. WASHINGTON / S.C. LAW  
REQUIRES COURT TO  
RULE ON MY PCR.  
CASE:

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The United States Supreme Court adopted the legal standard for ineffective of assistance of counsel claim under the sixth Amendment of the United States Constitution under Strickland v. Washington 466 U.S. 668 104 S.Ct. 2052 80 LEd 2d 674 (1984):

"counsel's performance was deficient" by specific information, and "the deficient performance prejudiced the defense," *id.* at 2064 (hereinafter Strickland).

S.C. Code of Laws Ann. § 17-27-80 states in relevant part: "... the judge shall make findings of fact .... and conclusions of law. ." (hereinafter State-Law).

STRICKLAND requires the court not the SOUTH CAROLINA ATTORNEY GENERAL'S office to Review my case, And make specific findings of fact, id, At 2066. I will Address each in turn:  
Subject matter Jurisdiction  
My testimony;

The byer Act title 18 §§ 2312 And 2313 deprived the Greenville County General sessions Court of Jurisdiction because the fusion was stolen from Georgia, And I cited city of Cayce v. Norfolk Southern Railroad company of this court "Rep. 80; line 4-25.

ORDER OF DISMISSAL:

"This court Rejects the Applicant's Argument that the plea judge lacked subject matter Jurisdiction because the cars At issue in this case may have crossed state line. The Federal Case Law

cited by the Applicant is not persuasive."

R.p. 93.

STRICKLAND AND STATE LAW requires the court to state specific findings and the court failed conclusions of law; failed to state the specific case and stated: "federal case law" when in fact it was South Carolina Supreme Court case law, and federal law.

Exhibit 1 and Rule 52(b) motion specific ERROR/PREJUDICE

MR. SARRATT failed to research and argue federal jurisdiction issue which caused me prejudice under the Supremacy clause of the U.S. Const. ART VI § 2, and *Priester v. Cromer*, 401, 38, 736 S.E. 2d 249 S.C. 2012; *City of Cayce v. Northfolk Southern* because the Dyer Act preempted S.C. Code of Law Ann. § 16-21-0080 (1976), IF I would have known about this prior

to my guilty plea, I would not had  
plead guilty, but instead demanded a trial  
or dismissal. R.p.p. 165-172; consequently, this  
should allow full briefing this argument and  
REMAND back to the lower court with  
instructions.

#### DEFECTIVE INDICTMENT:

At the hearing, I argued the indictments looked  
FAKE, RUBBER-STAMPED. R.p. 81; line 9-25. Also  
argued in detail in my Exhibit 1 admitted into  
the record.

#### ORDER OF DISMISSAL:

cc This court further rejects the Applicant's  
argument that there was no subject matter  
jurisdiction in this case because the indictments  
were false or defective. R.p. 93.

Rule 52(b) / Admitted Exhibit -

I argued NOTHING about the subject matter.

JURISDICTION being deprived because of False  
OR defective indictments

I argued the indictments were defective,  
because of the SOLE WITNESS on the face of the  
indictments that MR. SARRATT failed to object  
to PRIOR to my guilty plea under s.c. code of  
LAWS ANN. § 17-19-90, indictment were stamped  
~~RECEIVED~~ SEPT 20, 2012, but allegedly went before  
the GRAND JURY on SEPT 24, 2013, and my argument  
of PREJUDICE, and no preserved issue for appellate  
review and a different outcome. R.P.P. 172-182;  
Accordingly, these defective indictment arguments  
should be ordered by BRIEFS in this court or  
remanding to the lower court. R.P.P. 128-137.

4.

UNADDRESSED ARGUMENTS!

defective indictments.

MR. SARRATT failed to object to my sentencing  
sheets failing to have an X in the  which I  
suffered prejudice under the due process clause  
of the s.c. const. Art. I § 3 and STATE-V-SMALLS

613 S.E.2d. 754 (2005). R.p.p. 138-142;  
180-183, And the SOLE WITNESS on the face  
of the Indictments in violation of S.C. Code  
of Laws Ann. §17-19-90 which required MR.  
SARRATT to object prior to me pleading  
guilty which caused me prejudice because  
the issue was not preserved for review. IBID.  
WITHHELE Exculpatory Evidence;

The order of dismissal mentioned nothing about  
my argued in my admitted exhibit 1 or  
rule 52(b) AS to the missing indictment  
prior to my guilty plea. MR. SARRATT failed  
to bring these issues to the Judge's attention  
under BRADY v. MARYLAND 373 U.S. 83, id., at  
87. R.p.p. 183-190, the error was clear in the  
state's discovery response which did not list the  
indictments. R.p.p. 97-100, 108-109, 111. I suffered  
AN BRADY violation which if I would not had  
plead guilty, but demanded a trial or dismissal

of All charges against me, and the after  
discovered evidence which show 402 DEFENDANTS  
being ~~TRUE BILLED~~ on the same day of:  
SEPTEMBER 24, 2013 in just 8 hours. R.P.P. 236-  
244.

September 24, 2013 was the only legal day  
the Greenville County GRAND JURY could meet  
R.P. 235.

Insufficient Allegations for indictments.  
The indictment of: obtaining Goods under  
false Pretenses has contradictory language  
which MR SARRATT failed to object to prior  
to my Guilty plea under S.C. Code of  
Laws Ann. § 17-27-80 which caused me  
prejudice because I would not had plead  
guilty, but would had demanded a trial, or  
dismissal of all charges. R.P.P. 190-195

## DUE PROCESS VIOLATIONS!

The ORDER OF DISMISSAL failed to mention my due process violations under the fourteenth Amend. of the U.S. Const. whereas my only two (2) choices were to plead guilty or go to TRIAL - R.P.P. 193-201.

## ILLEGALLY OBTAINED EVIDENCE!

The order of dismissal failed to rule on my fourth Amend. of the U.S. Const. arguments under also s.c. code of laws Ann. §17-13-30 (sheriff must have ARREST WARRANT) AND THE FRUIT OF THE POISONOUS TREE DOCTRINE WHICH MR. SARRATH failed to read the Greenville county Sheriff's Incident reports which stated that Detective BARRY BROWN lift the hood on the VERSA and opened the doors, and Sgt. Weir ordered the VERSA driven to ~~an~~ service bay. R.P.P. 201-210 which an motion to suppress evidence could

have had a different outcome.

offenses closely connected / mercy on the court:

The order of Dismissal failed to address my argument in my Rule 52(b) motion and Exhibit 1 regarding my eleven (11) year prison sentence despite a ten (10) year cap; an sentence that is the max in violation of S.C. Code of Laws Ann. § 17-27-80 which caused me prejudice because I did not receive an reduced sentence for pleading guilty; accordingly a defendant outcome could have happened. R.P.P. 210-214, f. p. 82 Line 17-23.

~~IN~~ <sup>5"</sup> SHACKLES AND RESTRAINTS  
~~IN~~ COURT IS UNCONSTITUTIONAL  
AND IN VIOLATION OF COURT  
ORDER:

The supreme court of the United States in Deck v. Mo. 544 U.S. 622 (2005) reasoned the

Due process clause under the fourteenth Amendment of the U.S. Const. (liberty and property interest) is violated when prisoners are shackled and restrained in court.

I made an motion under Beck v. Missouri to order court security to release my cuffs and belly chains. R-p: 57; line 20-25.

Judge Hall rejected my motion, reasoning: "I'm not going to attempt to dictate to the courtroom security what they can or can't do." R.p. 58; Line 10-14,

the deck court REJECTS this notion that the courtroom security have more power than deck or the fourteenth Amend of the U.S. Const. without an reasonable need for me to be shackled, belly chained, and handcuffed.

IN FACT, this court's administrative order:

2001-07-10-01 state the following relevant part:

"I find that the circuit courts of South Carolina have the need and authority to protect judges, parties and witnesses from physical harm and injury." ... "It is ORDERED that county governing authorities shall provide courtroom security." S.R.P.P. 1-2.

It's extremely difficult to shuffle, organize my legal papers and loosen my mind up so I can argue a compelling argument, but when I'm chained-up like some evil person, it's hard to do so. The need for an inmate to be shackled, belly chained, and cuffed should only be used if that particular inmate's actions warrant such excessive restraints; accordingly, this issue should be GRANTED AND BRIEFED.

6.  
CONCLUSION!

The supporting Appendix, and my Arguments herein shows an massive amount of misconduct; et parte communication between Mrs. Ratigan, and Judge Hall:

"DEAR HALL

PURSUANT to your request, enclosed please find a proposed order of dismissal...  
S.R.P. 18.

Judicial misconduct:

whereas Judge Hall stated the following:  
"The court had before it the transcript of the hearing, the Greenville county clerk of court records. ... R.p. 88.

This was not true because this Greenville County clerk's office stated: my records were "RETURNED" from my P.I.C.R. hearing (2/18/15)

back to their office. R.P.P. 222-224, and the  
COURT REPORTER stated no one "contacted"  
him regarding the P.C.R. transcript or my  
Admitted 35-plus-page Memorandum of  
LAW in support of Granting my P.C.R.,  
S.R.P.P. 29-30 despite Judge Hall stating  
he reviewed my "Exhibit 1", ~~IBID~~. The Filed  
Order of Dismissal is ~~IBID~~ IDENTICAL to the proposed  
Order of Dismissal SOLEY TYPEA by MRS.  
KAREN C. RATIGAN of the ATTORNEY GENERAL'S  
OFFICE, Compare: R.P.P. 87-95 with S.R.P.P. 19-26,  
PLEA: OF 11/05/13 was not a scheduled trial, but a  
hoax and Grammy performance because the Greenville  
County General Sessions Court:  
"NO SUBPOENAS [S] OR SUMMONING JURORS were  
filed" for Nov. 05, 2013. R.P.P. 230, 245-247.  
But Judge Miller stated it was [TODAY] we are

picking A JURY AND GOING FORWARD," R.P. 3;  
Line 22-24.

The clerk:

"How many do you want sir?"  
R.P. 14, Line 15.

The court:

"thirty-five"; R.P. 14, Line 16.

MR. WATTS:

"I'D just as soon pick the jury." R.P. 16 line 9.

I submit, there is AN MOUNTAIN OF CORRUPTION  
in this case, and I would not had plead  
guilty if I knew there WAS NO JURY DOWN-  
STAIRS in the courthouse.

MR. SARRATT'S PERFORMANCE WAS WHOLLY INCOMPETENT.  
OVER 400 FRAUDULY INDICTED DEFENDANTS.

The entire year of 2013; over 400 defendants  
were indicted in; July 23, 2013, August 27, 2013,  
November 26, 2013, and December 17, 2013. COMPARE  
Att. Sr. R.p. 4284

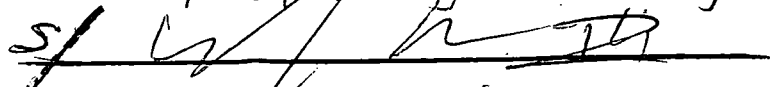
I pray for the following Relief:

WHEREFORE, GRANT my petition for a writ of  
Certiorari: IN my P.C.R. case on All questions  
or some presented,

ORDER BRIEFING DENY on the UNADDRESSED  
ARGUMENTS the P.C.R. COURT failed to ADDRESS  
OR REMAND back to the P.C.R. COURT with  
instructions that pleases this COURT,  
Remand Any other ARGUMENT Addressed herein that  
pleases this COURT.

Any other Relief this COURT seems JUST, proper  
AND/OR equitable

Respectfully Submitted,

  
George Cleveland III, #35770  
TURBEVILLE CORRECTIONAL INST  
P.O. Box 252  
TURBEVILLE, SC 29162

DATED: MARCH 23 2016