

PETITIONER'S APPENDIX

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

ROBIN B. STILWELL, CIRCUIT COURT JUDGE

LOWER COURT CASE NO. 2014-CP-23-01895

APPELLATE COURT CASE NO. 2015-002251

George Cleveland III,

S.C.D.C. No. 357770,

v.

STATE OF SOUTH CAROLINA,

PETITIONER,

RESPONDENT.

PETITIONER'S APPENDIX

George Cleveland III #357770
TURBEVILLE CORRECTIONAL INST,
P.O. BOX 252
TURBEVILLE, S.C. 29162
PROSE PETITIONER.

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APR 22 2016

S.C. SUPREME COURT

INDEX

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APPELLATE CASE No.

APR 22 2016

2015-co2251

S.C. SUPREME COURT Page(s)

OFFICE OF THE ATTORNEY GENERAL LETTER
WRITTEN TO JUDGE DANIEL D. HALL, DATED
MARCH 05, 2015,

PROPOSED ORDER OF DISMISSAL

FILED AND SIGNED ORDER OF DISMISSAL 2-09
. 10-17

OFFICE OF THE ATTORNEY GENERAL LETTER
WRITTEN TO THE HONORABLE PAUL B. WICKENSIMER,
DATED MAY 21, 2015

STATE'S RETURN TO PLAINTIFF'S RULE 52 (B)
MOTION TO THE COURT'S ORDER OF DISMISSAL
OF P.C.R.

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2015-002251

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PLAINTIFF'S EXHIBIT 1

ALAN WILSON
ATTORNEY GENERAL

March 5, 2015

The Honorable Daniel D. Hall
Moss Justice Center
1675-1J York Highway
York, SC 29745

RE: George Cleveland, III, #357770 v. State
2014-CP-23-1895

Dear Judge Hall:

Pursuant to your request, enclosed please find a proposed order of dismissal in the above-captioned Greenville County post-conviction relief case. As Mr. Cleveland is pro se, by copy of this letter, I am also mailing the proposed order to him. If you have any questions, please feel free to call: 803-734-3737.

Sincerely,

Karen C. Ratigan
Senior Assistant Deputy Attorney General

Enclosure

cc: George Cleveland, III, #357770
Evans Correctional Institution
Post Office Box 2951202
Bennettsville, SC 29512

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

C.A. No. 2014-CP-23-1895

George Cleveland, III,)
S.C.D.C. No. 357770,)

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 3, 2014. The Respondent made its return on August 22, 2014. An evidentiary hearing was held on February 18, 2015 at the Greenville County Courthouse. The Applicant was present and proceeded pro se.¹ Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf. Also testifying was the Applicant's plea counsel, Michael J. Sarratt, Esquire. The Court had before it the transcript of the guilty plea hearing; the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, and Applicant's Exhibit 1.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the September 2013 term of the Greenville County Grand Jury for two counts of removing a

¹ At the start of the hearing, the Applicant's retained counsel made a motion to be relieved and the Applicant joined her in that motion. This Court granted the motion and issued an order to that effect that was filed on February 25, 2015.

vehicle identification number (VIN) (2013-GS-23-7503, -7507), two counts of possession of a stolen vehicle (2013-GS-23-7504, -7506), and obtaining goods under false pretenses (2013-GS-23-7505). He was represented by Michael J. Sarratt, Esquire.

On November 5, 2013, the Applicant pled guilty. The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of 5 years for one count of removing a VIN,² 5 years suspended during probation for the second count of removing a VIN, 10 years suspended upon the service of 6 years and 5 years probation for one count of possession of a stolen vehicle,³ 5 years for the second count of possession of a stolen vehicle, and 5 years for obtaining goods under false pretenses. Susannah C. Ross, Esquire filed a motion to reconsider the sentence, which was denied by order filed November 21, 2013. The Applicant did not appeal.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
 - a. “[F]ailed to advise effectively, investigate, research mitigation, or adequately prepare case for trial.”
2. Due process violations.
 - a. “[A]ctions of my attorney and the Solicitor resulted in an Unconstitutional breakdown of the adversarial process.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record and heard the testimony and arguments. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Below are findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

² 2013-GS-23-7503.

³ 2013-GS-23-7504.

Relevant Testimony

The Applicant stated he had poor communication with plea counsel and that counsel told him "outright lies." The Applicant stated he was very nervous and not ready for trial. The Applicant stated plea counsel was also not ready for trial. The Applicant stated plea counsel forced him to sign the sentencing sheets. The Applicant stated the sentencing sheets incorrectly indicated he waived presentment. The Applicant stated the indictments look "fake" and as if they had been "rubber-stamped." The Applicant stated plea counsel failed to examine the subject matter jurisdiction issue regarding the fact that the cars in this case came across state lines. The Applicant stated plea counsel forced him to plead guilty because he never directly answered his questions.

Plea counsel testified he was retained and that the Applicant was out on bond. Plea counsel testified he filed discovery motions, received those materials and reviewed them, and reviewed them with the Applicant. Plea counsel testified he also mailed a copy of the discovery materials to the Applicant. Plea counsel testified they reviewed the Applicant's version of events, the elements of the charges, and the sentence ranges. Plea counsel testified there was no viable defense. Plea counsel testified the Applicant never came to his office so they had meetings at the courthouse. Plea counsel testified they also exchanged numerous telephone calls, emails, and letters. Plea counsel testified the Applicant was not a cooperative client and would often refuse to answer his questions. Plea counsel testified there was a standing plea offer in this case that was later "sweetened." Plea counsel testified the offer was to plead guilty to two charges in exchange for eight years suspended to three years probation. Plea counsel testified he explained the offer to the Applicant, as well as its risks and benefits. Plea counsel testified the Applicant refused the offer because: (1) he wanted PTI (which the State refused to agree to), (2)

he wanted to raise issues under the Omnibus Crime Reduction Act, and (3) he did not want a felony. Plea counsel testified the case was eventually placed on the trial docket and that he was ready for trial. Plea counsel testified the judge relieved him as counsel when the case was going to trial but then rescinded this decision when the case was to be resolved in a guilty plea. Plea counsel testified there was nothing else he could have done to prepare this case.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

This Court finds the Applicant failed to meet his burden of proving plea counsel did not adequately meet with him to review and prepare his case. Plea counsel testified the Applicant was not a cooperative client but that they nonetheless had several meetings and exchanged numerous telephone calls, emails, and letters. Plea counsel testified he sent a copy of the discovery materials to the Applicant and also reviewed those materials with him. Plea counsel

testified they discussed the Applicant's version of events, the elements of the charges, and the sentence ranges. Plea counsel testified he conveyed and explained the plea offer to the Applicant, who refused it. This court finds plea counsel's testimony is credible. This Court further finds the Applicant failed to articulate what more he wanted plea counsel to do in order to prepare his case. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

This Court finds the Applicant failed to meet his burden of proving plea counsel pressured him into signing the sentencing sheets and pleading guilty. This Court does not find the Applicant's testimony is credible. This Court finds there is no evidence in the guilty plea transcript to support the Applicant's assertion that he was pressured into entering a guilty plea. Rather, when asked by the plea judge whether the decision to plead guilty was his "free and voluntary decision," the Applicant replied it was. (Plea transcript, pp.20-21). Further, while the Applicant was very expressive of his opinion of plea counsel's representation on the day of his plea hearing, the Applicant never stated plea counsel was forcing him to plead guilty. This Court finds the guilty plea transcript itself has refuted the Applicant's allegation. See Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007); see also Rayford v. State, 314 S.C. 46, 48-49, 443 S.E.2d 805, 806 (1994) (where transcript of guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, grant of PCR was inappropriate notwithstanding applicant's claim lawyer misadvised him).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence

that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

Subject Matter Jurisdiction

This Court finds the Applicant has failed to meet his burden of proving a lack of subject matter jurisdiction in his case. 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 lines. The federal case law cited by the Applicant is not persuasive.

This Court also rejects the Applicant's argument that the court lacked subject matter jurisdiction because the sentencing sheets indicated that he waived presentment but his indictments were actually true-billed. This Court finds this is a mere scrivener's error and not a jurisdictional issue.

This Court further rejects the Applicant's argument that there was no subject matter jurisdiction in his case because the indictments were false or defective. This Court notes indictments are merely notice documents and the indictments in this case were properly true-billed by the Grand Jury and sufficient to put the Applicant on notice of the charges he was facing. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

This Court finds the Applicant failed to meet his burden of proving the plea judge lacked subject matter jurisdiction to accept his guilty pleas. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (finding a PCR applicant bears the burden of proving the allegations in their application).

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this _____ day of _____, 2015.

Daniel D. Hall
Presiding Judge
Thirteenth Judicial Circuit

_____, South Carolina.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
George Cleveland, III,)
S.C.D.C. No. 357770,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-1895

ORDER OF DISMISSAL

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2015 APR 7 PM 2:00

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 3, 2014. The Respondent made its return on August 22, 2014. An evidentiary hearing was held on February 18, 2015 at the Greenville County Courthouse. The Applicant was present and proceeded pro se.¹ Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf. Also testifying was the Applicant's plea counsel, Michael J. Sarratt, Esquire. The Court had before it the transcript of the guilty plea hearing, the Greenville County Clerk of Court records, the South Carolina Department of Corrections records, the PCR application, the return, and Applicant's Exhibit 1.

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Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence

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This Court also rejects the Applicant's argument that the court lacked subject matter jurisdiction because the sentencing sheets indicated that he waived presentment but his indictments were actually true-billed. This Court finds this is a mere scrivener's error and not a jurisdictional issue.

This Court further rejects the Applicant's argument that there was no subject matter jurisdiction in his case because the indictments were false or defective. This Court notes indictments are merely notice documents and the indictments in this case were properly true-billed by the Grand Jury and sufficient to put the Applicant on notice of the charges he was facing. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005).

This Court finds the Applicant failed to meet his burden of proving the plea judge lacked subject matter jurisdiction to accept his guilty pleas. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (finding a PCR applicant bears the burden of proving the allegations in their application).

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 12th day of March, 2015.



Daniel D. Hall
Presiding Judge
Thirteenth Judicial Circuit

York

South Carolina.



PLAINTIFFS EXHIBIT 18

ALAN WILSON
ATTORNEY GENERAL

May 21, 2015

The Honorable Paul B. Wickensimer
Clerk of Court, Greenville County
305 East North Street, Room 224
Greenville, SC 29601-2121

RE: George Cleveland, III v. State
2014-CP-23-1895

Dear Mr. Wickensimer:

Enclosed please find the Respondent's original Return to the "Plaintiff's Rule 52(b) Motion to the Court's Order of Dismissal of (P.C.R.)" for filing in your office.

Sincerely,

Karen C. Ratigan
Senior Assistant Deputy Attorney General

Enclosure

cc: Honorable Daniel D. Hall
George Cleveland, III, #357770

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 George Cleveland, III,)
 S.C.D.C. No. 357770,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2014-CP-23-1895

**RETURN TO "PLAINTIFF'S RULE 52(B)
 MOTION TO THE COURT'S ORDER OF
 DISMISSAL OF (P.C.R.)"**

Respondent, by and through undersigned counsel, making its Return to the "Plaintiff's Rule 52(b) Motion to the Court's Order of Dismissal of (P.C.R.)," would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) action filed April 3, 2014.
2. An evidentiary hearing was held on February 18, 2015 at the Greenville County Courthouse.
3. Applicant, on his request, proceeded pro se and also testified on his own behalf. Also testifying was Applicant's plea counsel, Michael J. Sarratt, Esquire.
4. After a full review of the evidence presented at the evidentiary hearing, the PCR judge issued an order filed April 7, 2015 denying the PCR application.
5. Applicant filed a "Plaintiff's Rule 52(b) Motion to the Court's Order of Dismissal of (P.C.R.)" on May 1, 2015 (which was received by Respondent on May 6, 2015).
6. Applicant argues the final order does not address his Exhibit 1. Applicant argues

the court “did not conform its’ findings of fact and conclusion of law to the National Vehicle Theft Act.” Applicant argues plea counsel lied to both the plea judge and the PCR judge. Applicant re-raised the issues he argued at the PCR hearing and also argued issues in his Exhibit 1 should have been addressed.

7. Respondent submits the final order of dismissal in this case contained findings of fact and conclusions of law on every issue that was raised at the PCR hearing and testified to by the witnesses. See S.C. Code Ann. § 17-27-80 (“The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented.”) (emphasis added). Issues listed in Exhibit 1 – but not corroborated by the presentation of probative evidence – are insufficient to warrant relief. See Smith v. State, 369 S.C. 135, 138-39, 631 S.E.2d 260, 261-62 (2006) (An “averment in a PCR application” is insufficient to warrant relief. An applicant seeking relief must present probative evidence to support PCR allegation that a defense attorney’s purported deficient performance entitles him to relief).

8. Respondent submits the “Plaintiff’s Rule 52(b) Motion to the Court’s Order of Dismissal of (P.C.R.)” must be denied. Applicant is not requesting either an alteration or amendment to the final order. Rather, Applicant is asking the Court to reverse its decision and grant post-conviction relief. Such a request is more properly addressed through the appellate process. Cf. Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to but not ruled upon by the trial court).

9. Respondent submits the post-conviction relief court fully reviewed and properly ruled upon all issues and that the “Plaintiff’s Rule 52(b) Motion to the Court’s Order of Dismissal of (P.C.R.)” must be denied.

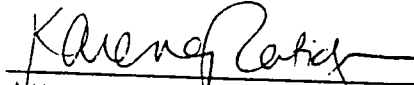
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for Respondent

May 15, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

George Cleveland, III,)
S.C.D.C. No. 357770,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

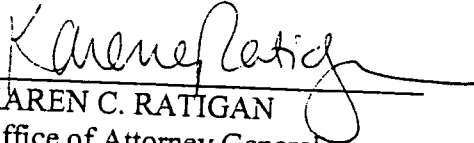
IN THE COURT OF COMMON PLEAS
C.A. No. 2014-CP-23-1895

CERTIFICATE OF SERVICE

I, Karen C. Ratigan, certify that I have today served the within Return to the "Plaintiff's Rule 52(b) Motion to the Court's Order of Dismissal of (P.C.R.)" upon Petitioner by depositing a copy of the same in the United States mail, postage prepaid, addressed to:

George Cleveland, III, #357770
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

I further certify that all parties required by Rule to be served have been served. This 21st day of May, 2015.


KAREN C. RATIGAN
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737
ATTORNEY FOR RESPONDENT

this court never Ruled on All the evidence in the court's Record OR exhibit; Accordingly his court must reconsider my P.C.R. Case on All the evidence, Not just ORAL testimony.

FEDERAL-JURISDICTION/
INEFFECTIVE ASSISTANCE
OF COUNSEL:

21. This court's order of DISMISSAL in Relevant part in the findings of facts, and conclusions of LAW section states:

"This court has reviewed the Record", I.D. At p 2 (order of Dismissal) is false and A ERROR OF § 17-27-80, SUPRA, because this court did NOT conform it's findings of fact, and conclusion of LAW to the NATIONAL MOTOR VEHICLE THEFT ACT, A.K.A.: The Dyer Act 18 U.S.C. § 2312, 2313 which I clearly described in Detail

inside my MEMORANDUM OF LAW, AND ORAL testimony that the Greenville County General Sessions WAS without JURISDICTION to sentence me to prison because my six (6) year PRISON sentence AND five (5) years of probation thereafter is based soley on A 2011 FORD FUSION stolen from GEORGIA, AND Recovered in SOUTH CAROLINA; therefore, I will again explain in detail below because of the clear error of LAW since this COURT Rubber-stamped AN ORDER OF DISMISSAL that did-not base its' facts AND conclusions OF LAW in the ORDER OF DISMISSAL.

22. The supremacy clause of the United STATES CONSTITUTION ART. VI § 2 states in relevant part: "... under the Authority of the United States shall be the supreme LAW OF the LAND..."

23. IN PRIESTER V. CROMER, 401, 38, 736 S.E., 2d., 249 S.C. (2012); Justice Kittredge writing for the majority

Wrote in Relevant part: "The preemption doctrine" is rooted in the supremacy clause provides that any state law that conflicts with Federal law is without effect."

24. The court's order of dismissal states in relevant part: "The Federal case law cited by the Applicant is not persuasive," ID. At p. 6.
25. It's "not persuasive" because the court never reviewed the entire court record e.g., oral testimony, clerk of court record and admitted plaintiff's exhibits.
26. I mentioned nothing about a Federal case, but instead mentioned in open court and in my memorandum of law; a Federal law the Dyer Act (Admitted as Applicant's Exhibit 1, City of Cayce v. Northfolk Southern Ry Co., 391 S.C. 395, 706 S.E. 2d 6, S.C. (2011)), I mentioned during oral testimony was an state case, law, not Federal case law.

27. IN city of Cayce, supra)
 Chief Justice Tolal writing for
 the majority in this relevant case
 wrote... "three (3) ways federal
 law can preempt state law: 1. where
 Congress makes its intent to preempt
 state law explicit in statutory language
 2. where state law regulates conduct
 in a field that intends for the
 federal government to occupy exclusively
 or 3. where there is an actual conflict
 between state and federal law. My
 issues cover all three (3) of these
 elements.

28. The history, and purpose of the Dyer
 Act, and I will fully explain how
 the law is relevant to my case.

29. Automobiles which were stolen,
 driven across state lines into
 other police jurisdiction posed
 problems with a safe haven from
 prosecution. The original act
 sponsored by Representative L.C.
 Dyer of Missouri became law
 11.

IN 1919. The Dyer Act WAS Amended
 IN 1945 to include AIRCRAFT, see
 U.S. v. TURLEY, 352, U.S., 407, 77,
 S. CT., 397, U.S., (1957).

FEDERAL - JURISDICTION:

30. ON November 04, 2013 Around 1p.m.
 I emailed MR. SARRATT questioning
 the STATE'S JURISDICTION in the
 following email to him:

" STATE HAS NO JURISDICTION OVER
 THE FORD FUSION CASE BECAUSE
 THE FUSION WAS STOLEN OUT
 OF STATE " . . . , see Attached Applicant.
 Exhibit 26, ID. At p.2 (emailed letter
 to MR. SARRATT the day BEFORE TRIAL)

31. ON the SAME day of November 04,
 2013 AT 8:55 P.M., I emailed MR.
 SARRATT AGAIN AND SAID the following:

" I HAVE NOT HEARD FROM YOU,
 see Attached Applicant's Exhibit 22.
 (Email to MR. SARRATT).

32. ON NOVEMBER 05, 2013, THE DAY OF MY TRIAL, I EMAILED MR. SARRATT AT 7:06 A.M. INFORMING HIM OF THE FOLLOWING;

"YOU ARE FIRED..... YOU ARE NOT PREPARED..."

CONFLICT BETWEEN STATE AND FEDERAL LAW:

33. I plead guilty to poss. of stolen vehicle; s.c. code AS AMENDED §16-21-0080 WHICH STATES ~~IN~~ RELEVANT PART:

.... "WHO RECEIVES, POSS, CONCEALS, OR DEPOSES OF F..." SEE EXHIBIT 23, SUPRA,

34. THE DYER ACT: 18 U.S.C.A. § 2313 STATES IN RELEVANT PART:

"WHOEVER RECEIVES, POSS, CONCEALS ... OR DEPOSES..."

35. SINCE FEDERAL LAW PREEMPTS STATE LAW MY PRISON SENTENCE IS WITHOUT EFFECT. PRIESTER V.

CROMER, 736, S.E., 2d, 249, S.C. (2012).

36. there is not need to go into detail regarding falsifying VIN S.C. code of LAW AS AMENDED §16-21-0040, see ATTACHED APPLICANT'S exhibit 2 (sentence sheet) since it's the charge stemming from the 2011 FORD FUSION stolen from GEORGIA which I have ALREADY explained this in detail, I BID.

37. this COURT REASONED in its' order OF DISMISSAL that MR. SARRATT testimony WAS CREDIBLE AFTER the following: "plea counsel testified there WAS nothing else he could have done to prepare the case"... ID. AT P 4, "... this COURT finds plea counsel's testimony credible ID. AT P. 5.

38. this is further proof, this COURT did not read nothing in the record.

where Mr. SARRATT refused to answer my questions on November 04, 2013 by email, see AGAIN APPLICANT'S ATTACHED Exhibit 22 (not heard from you email), and Exhibit 26, (two-page letter emailed to Mr. SARRATT around 1 p.m. on November 04, 2013) which Mr. SARRATT admitted during ORAL testimony at my P.C.R. hearing on FEBRUARY 18, 2015 that he received the two (2) page letter by email around 1 p.m. on November 04, 2013; therefore, Mr. SARRATT lied under oath to this court that "there was nothing else [he] could have done" (order of dismissing I.D. at p. 4). there was a lot Mr. SARRATT could have done if he would have answered my questions and researched my discovery and how it was obtained.

39. Mr. SARRATT also told JUDGE MILLER before I plead guilty on November 05, 2013 in Greenville county General

Argument.

52. The South CAROLINA Code of LAW AS Amended § 17-19-90 "OBJECTIONS TO DEFECTIVE INDICTMENTS"

Reads in Relevant part: "EVERY objection to ANY indictment for ANY defect . . . shall be by demURRER OR OR motion to quASH such indictments BEFORE the jury shall be SWORN AND NOT AFTERWARDS."

53. The Issues with my indictments Are: SOLE witness, AND NEVER FILED with the Greenville County CLERK OF COURT.

54. The Greenville County Clerk's office p. 2 of a letter that was mailed to me reads in Relevant part: "The CLERK OF COURT CAN NOT provide copies of documents which were not filed in this office"; see ATTACHED Applicant's Exhibit 29.

55. The FACE of All Five (5) Indictments:

Poss. of stolen vehicle, (Applicant's Attached Exhibit 11), falsifying VIN (Applicant's Attached Exhibit 12), obtaining goods... (Attached Exhibit 13), Poss. of stolen vehicle, (Attached Exhibit 14), And Removing vehicle VIN (Applicant's Attached Exhibit 15). All have one (1) thing in common; they All have the CLERK OF COURT OF GREENVILLE COUNTY STAMP "RECEIVED" SEP 20, 2012" meaning the Solicitor's office prepared the Indictments for the GRAND JURY, and forwarded them to the Greenville County Clerk of Court's office as indicated by All five (5) exhibits, supra, that the clerk received the documents, but they never left the clerk's office and presented to the GRAND JURY.

56. The Indictments were "~~TRUE-BILLED~~" by a Rubber-STAMP.

57. Further evidence is from the second

PAGE OF ALL FIVE (5) ATTACHED
EXHIBIT THAT HAVE AN CONVENING
DATE OF "SEP 24, 2013"

58. SOUTH CAROLINA LAW AS AMENDED
§ 14-17-530 GIVES CLERKS OF
COURT AUTHORITY OF "FILING AND
ENDORSEMENT OF PAPERS", AND
S.C. CODE AS AMENDED § 14-17-570
STATES IN RELEVANT PART: "BOOKS
AND RECORDS SHALL REMAIN IN
CLERK'S OFFICE"...

59. THE GREENVILLE COUNTY CLERK OF
COURT COULD NOT PROVIDE COPIES
OF THE INDICTMENTS BECAUSE
PROPER PROCEDURES AND STATUTORY
LAWS WERE NOT FOLLOWED.

60. IN OTHER WORDS, NO GREENVILLE
COUNTY GRAND JURY EVER HEARD
TESTIMONY OF MY CASE, NEVER
TRUE-BILLED THE INDICTMENT, THUS

the indictments never made its way back to the clerk of courts' office of Greenville County to be "FILED".

61. My sentencing sheets (Applicant's Attached Exhibit 1-5) also indicates no X by AS INDICTED , but all five (5) sentencing sheets have an by: "DEFENDANT WAIVES PRESENTMENT TO GRAND JURY."

62. Without an by "AS INDICTED" OR INITIALS by "DEFENDANT WAIVES PRESENTMENT TO GRAND JURY."

constitutes an due process violation under our state constitution ARTICLE I § 3 because I was not properly served with valid indictments, STATE v. SMALLS, 613, S.E.2d 754, (2005), AND my due process liberty interest were also violated by the same reasons in paragraph under the United States Constitution's FOURTEENTH AMENDMENT.

34. AND photos, see Applicant's Attached Exhibit 19.

72. the last discovery material were sent by MR. WATTS' office on October 29, 2013 the following:

- 1. Wells Fargo check-image;
- 2. Nissan Versa vehicle information;

See Applicant's Attached Exhibit 20.

73. none of the discovery disclosures say nothing provided by Mr. Watts' office relevant to indictments which were exculpatory evidence because the indictments were not presented to the GREENVILLE COUNTY GRAND JURY is favorable to me since they contradicted the "TRUE-BILL" on the face of the indictments but the conflicting dates and the sole witness discredits the AUTHENTICATION of the mere "TRUE BILL" stamp which can be purchase at any office supply store or easily be photocopied to any

NUMBER OF INDICTMENT PAPERS;
 FURTHER, I DID NOT LEARN THE WORDS:
 "TRUE-BILL" UNTIL THE CLERK SAID
 THE FOLLOWING IN OPEN COURT THE
 DAY OF MY GUILTY PLEA HEARING ON
 NOVEMBER 05, 2013:

"AND THESE ARE ALL 'TRUE-BILL',
 ID. AT TRIAL TRANSCRIPT P. 17, LINE-24.

74. BECAUSE THE WORDS "TRUE-BILL"
 WERE NEVER MENTIONED TO ME UNTIL
 MINUTES BEFORE I PLEAD GUILTY, I
 HAD NO-TIME TO EXAMINE THE INDICTMENT
 OR EVEN LOOK AT THE INDICTMENTS OR
 EVEN LOOK AT THE DOCUMENTS PRIOR TO
 PLEADING GUILTY, THUS THE DEFECTS
 WERE NOT KNOWN POST MY GUILTY
 PLEA WHICH WERE FAVORABLE TO ME;
 ACCORDINGLY, THE DEFECTIVE INDICTMENTS
 WERE IN VIOLATION OF BRAY V. MARYLAND
 373, U.S., 83, ID. AT P87, AND WILLFULLY
 WITHHELD BY MR. WATTS' OFFICE.

77. South CAROLINA Code AS Amended
 § 17-19-20 "ALLEGATIONS SUFFICIENT
 FOR INDICTMENT" states in
 Relevant part: "Every indictment
 shall be deemed, and judged
 sufficient and in good law....
 the crime substantially in the
 language of the common law
 or so plainly that the nature
 of the offense charged may be
 easily understood"...

78. ON JULY 10, 2012, I WAS ARRESTED
 FOR OBTAINING GOODS UNDER FALSE
 PRETENSES, see APPLICANT'S ATTACHED
 Exhibit 3 (ARREST WARRANT) S.C.
 Code of LAWS § 16-13-0240 AS
 Amended.

79. S.C. code § 16-13-024, SUPRA,
 (obtaining goods under FALSE
 -pretenses) states in Relevant
 PART: "..." obtains from Another
 person any chattel, money, ...
 with the intent to cheat and defraud"...

False pretenses indictment language
Allegations are insufficient

DEFICIENT PERFORMANCE/PREJUDICE:

82. Mr. SARRATT'S PROFESSIONAL PERFORMANCE fell below objective norms by not objecting to not receiving the indictment before I plead guilty so he, and I could read the language caused me prejudice because I could not have this issue reviewed by the Appellate Court, thus I would not had plead guilty to a indictment with insufficient language had instead demanded a trial or dismissal of all charges; therefore, the outcome would have been different

DUE PROCESS VIOLATIONS:

83. The order of dismissal states in relevant part: "This court finds there is no evidence in the guilty plea transcript to support the applicant's assertion that he

WAS PRESSURED INTO ENTERING A
 GUILTY PLEA... WHEN ASKED BY
 THE JUDGE WHETHER THE DECISION
 TO PLEAD GUILTY WAS HIS 'FREE
 AND VOLUNTARY', THE APPLICANT
 REPLIED IT WAS "(Plea transcript
 PP. 2021)" ID. AT P. 5.

84. THIS DID NOT DIRECTLY ADDRESS MY
 ARGUMENT THAT I WAS FORCED TO
 PLEAD GUILTY, OR GO TO TRIAL WITH
 AN UNPREPARED, UNSKILLED LAWYER,
 FURTHERMORE, I NEVER STATED TO
 THIS COURT MR. SARRATH FORCED
 ME TO PLEAD GUILTY AS THIS COURT
 WROTE IN ITS ORDER, ID. AT P. 5,
 BUT I WROTE IN MY MENDAMUM
 OF LAW ADMITTED INTO EVIDENCE, AND
 IT'S QUITE CLEAR THIS COURT HAS NEVER
 READ, THUS THE COURT'S ORDER OF
 DISMISSAL FINDINGS OF FACT, AND CONCLUSIONS
 OF LAW ARE WITHOUT MERIT AND
 A ERROR OF STATE LAW, § 17-27-89,
 SUPRA; THEREFORE, I MUST EXPLAIN

the Due Process issues AGAIN;
 since it's a novel issue.

85. As the attached evidence has
 proven, e.g.: exhibit 26 C11-04-13
 email regarding my legal issues,
 AND, exhibit 22 C11-04-13 email
 stating "I have not heard from
 you"; he ignored my emails; therefore,
 I no longer trusted him as the
 following colloquy between the
 judge AND, MR. SARRATT on November
 05, 2013 AT my guilty plea hearing:

SARRATT: "...!" AND his response WAS
 that I'm not answering you, quote,
 because "I don't trust you," (Applicant's
 transcript p.10, line 20-21)

86. ON November 05, 2013, I expressed
 to the court for a continuance to
 hire new counsel because MR
 SARRATT WAS NOT PREPARED AND Refused
 to investigate my legal claims, this
 exchange took place between me, AND

the court,

ME: "I want to make sure before I go to trial that my attorney is prepared for me," (Plea transcript p. 5, Line 18-19).

COURT: "We are not going to delay the trial," (Plea transcript p. 6, Line 3). In violation of my due process constitutional rights,

87. The United States Constitution Amendment fourteenth (14th) sec 1 states in relevant part: "... All persons born in the United States ... And of the state wherein they reside ... nor shall any state deprive any person of life, liberty ... without due process of law, and the South Carolina Constitution ART. I § 3 States in relevant part: "... (4) ... 1. Adequate notice, 2. Adequate opportunity for a hearing"

88. My due process liberty interest,

Adequate notice, AND Adequate opportunity for a hearing were violated because of the following collusion between me AND the court on November-05, 2013:

COURT: "I have been informed by your attorney -- do you want to relieve him" (Plea transcript p.3 line 19-20).

ME: "yes sir," (transcript from plea p.3, line 21).

COURT: "you understand if you do that you will be representing yourself today? we are picking a jury and going forward" (Plea transcript p.3, line 22-24).

ME: "I'm not ready," (Plea transcript p.9 line 1).

ME: "I don't feel ready," (Plea transcript p.9, line 22).

COURT: "whether you are ready or not ready, the court is proceeding with the case," (Plea transcript p. 9, line 24-25.)

MR. WATTS: "we can just put people in the box and try the case," (Plea transcript p. 11, line 4-5.)

ME: "Again, I'm not ready for trial," (Plea transcript p. 11, line 12.)

ME: "I am not [ready]" (Plea transcript p. 14, line 6.)

ME: "I really don't want to [Plea]" (Plea transcript p. 15, line 13.)

COURT: "You are not going to game the system and set it up for a fall down the road" (Plea transcript p. 15, line 22-25.)

89. these exchanges noted made on the transcript makes it crystal-

- CLEAR my Liberty Interest due
 process Rights were violated by
 not being allow more time to
 hire a new Lawyer who was
 more prepared, and knowable
 with CRIMINAL-LAW that could
 have found all the errors in my
 case e.g. i defective indictment, jurisdiction,
 AND GRAMM JURY TRUE BILL, then I
 could have made a decision to
 plea or go to trial, or even demanded
 a dismissal of all charges after
 examination of all legally obtained evidence,
 this is all real evidence that Mr.
 SARRATT was not to be trusted,
 Any-longer.

90. Even more Repugnant was me
 signing the sentencing sheets before
 learning the elements of the
 crimes, waiving constitutional rights,
 or the indictment language as
 evidence pursuant to the following

Rights constituted unprofessional error, I suffered due process prejudice because I was given two (2) losing choices: PLEAD GUILTY, OR go to TRIAL which prevented me with sufficient time to hire new counsel, no objections preserved for Appellate Review, OR INSTANT consideration by the trial judge, thus there was a reasonable probability that the outcome would have been differently; accordingly, Mr. SARRATT's unskilled performance undermined confidence in the outcome.

ILLEGALLY OBTAINED EVIDENCE:

93. As I stated multiple times already, the order of dismissal says nothing about my ILLEGALLY obtained evidence argument that was in

My memorandum of Law, AND PART OF THE COURTS' RECORD AS APPLICANT'S COURT EXHIBIT 1, thus it's AN ERROR OF LAW under § 17-27-80, IBID, which clearly state the court shall make findings of facts, and conclusions of LAW must come from the record, it did not; therefore my reconsideration motion must be GRANTED.

94. The Fourth (4th) Amendment of the United States Constitution states the following relevant part: "The Right of the people to be secure in their persons, . . . effects, . . . against unreasonable searches and seizures, shall not be violated, . . . no warrant shall issue, but upon probable cause".

95. South Carolina Code AS Amended § 17-13-30 states in relevant part to my illegally obtained evidence

Argument: "The Sheriff and Deputy Sheriff of this State may Arrest without Warrant Any and All Persons who within their view violate Any of the Criminal Laws of this State!"

96. The Definition of "ILLEGALLY OBTAINED EVIDENCE" is: Evidence obtained by violating a statute or a person's 4th Amendment guaranteed against unreasonable search".... (Source: Black's Law Dictionary 7th Edition).

97. The Definition of "FRUIT OF THE POISONOUS TREE DOCTRINE" states in relevant part.... "AN ILLEGAL SEARCH WARRANT.... IS INADMISSIBLE because the evidence was tainted by the [ILLEGALLY] [searched] (Source: Black's Law Dictionary 7th Edition)

98. Applicant's Attached exhibit 36 is a Receipt from TRI-County ACE HARDWARE in Clensow, S. C.

shows a time of 1:15 p.m. on
June 21, 2012,

99. The Greenville County Sheriff's office
supplemental report written by
Investigator Barry Brown wrote
the following relevant statement:
"Sgt. Weiner (Greenville County
Sheriff's office) made several
phone calls and eventually found
the vehicle had recently been
stolen from KIA of Easley [correct
name Best KIA] they were
unaware of the theft until Sgt.
Weiner had called"... see applicant's
attached Exhibit 30 (incident report),

100. on November 04, 2012, around 1:00 p.m.
(time confirmed by Mr. SARRATT AT
my P.C.R. hearing), I emailed Mr.
SARRATT the following relevant
issues: "... Greenville County
Sheriff's office charged me with
Poss. of stolen vehicle, but the

vehicle was not reported stolen
 AFTER several phone-calls to
 previous owners, he [Weiner]
 spoke with a lady who said she
 TRADED the CAR in AT the KIA
 Dealership in Easley only then
 Sgt. Weiner called the dealership,
 AND they told him the vehicle was
 stolen "... see applicant's Attached
 Exhibit 26 at p. 1. (Email to Mr. SARRAT).

101. Deputy Keith Littleton of the Pickens
 County Sheriff's office reported
 to Best KIA of Easley located at:
 5031 Hwy 153, Easley, SC and
 June 21, 2012.

102. Littleton was dispatched to
 Best KIA at 17:23 p.m., arrived
 at 17:57 p.m., and departed at
 18:16 p.m., see applicant's Attached
 Exhibit 27 (Pickens County Sheriff's
 Incident Report).

103. Exhibit 27, SUPRA, states the
 following relevant part: "... "

" I met with the General Manager Mike MAJURE (complainant) who stated he received a call from the Greenville County Sheriff's office stating a vehicle belonging to his dealership had shown up at CARMAX of Greenville". . .

104. Applicant's attached Exhibit 30 (Investigator BARRY BROWN'S Incident Report) writes in relevant part to ILLEGALLY OBTAINED EVIDENCE: . . . " I RAISED THE HOOD". . .

105. Applicant's attached Exhibit 31 (Sgt. Scott Weimer's incident Report) writes in relevant part to ILLEGALLY OBTAINED EVIDENCE: . . . " I ASKED that the VERSA be moved into the service bays". . .

106. BROWN OR WEIMER made no mention of the time they both ARRIVED, OR, OR mention if the VERSA DOORS

TRUNK, AND Hood were All closed;
 NO mention AT All. I submit, they
 were All closed,

107, Applicant's Attached Exhibit -26
 At p. 2 (November 04, 2013 Email to
 MR SARRATT) states in Relevant
 part to the 4th Amendment violation:
 "the police could not have
 searched [the] versa without
 A SEARCH WARRANT OR my permission
" I want to see if every
 piece of Evidence was obtained
 legally OR were my constitutional
 Rights violated? CAN you
 please get back with me soon
 Regarding this matter? ... IBD,

108 MR. SARRATT did not call OR
 Return my email on November
 04, 2013 the day before my
 trial despite unanswered legal
 questions directly related to my

§ 17-25-50, states in relevant part:

"the court shall treat as one offense any number which have been committed at times so closely connected... be considered as one offense.",

111. South Carolina Code as Amended § 17-25-130 states in relevant part: "... the accused shall be sentenced in like manner as if the jury in a trial had recommended him to the mercy of the court."

112. The Greenville County General Sessions Court on November 05, 2013 said the following relevant part: "I'm going to give you ten (10) years, by appointment of service for six (6) years. The balance is suspended for five (5) years probation... AND that was on 2012-7504"

(2012-7504) is the first four (4) and last four (4) of the indictment from poss. of stolen vehicle; Ford

Fusion stolen from Georgia,

See Exhibit 1, SUPRA, (Plea Transcript p 32, Line 21-25. ON 2012-6057 five years consecutive suspended during probation. SO you are going to have 9 hanging over you. ON ALL OF THE [Rest], five years concurrent!! (Plea Transcript p. 33, Line 1-3.

113. South CAROLINA code AS Amended §16-21-80 states in Relevant part:
 "A person not entitled to the possession of a vehicle ... is guilty of a felony ... must be imprisoned not more than ten years!!"
DEFICIENT PERFORMANCE/PREJUDICE

114. MR. SARRATT'S deficient performance fell way below objectable norms by failing to object to the court's

"10 years by Appointment of
 Service for six years", IBID,
 with balance suspended for
 five years probation. . . . "five
 years consecutive suspended
 during probation on 2012-6057,
 And failing to object to me
 Receiving over the maximum and
 this in violation of § 17-25-130,
 SUPRA which requires the court
 to not sentence a defendant to
 the maximum since I plead guilty.
 I suffered prejudice because I
 have no appealable objections, and
 I did not receive MERCY OF THE
 COURT despite my guilty plea, thus
 a prejudicial increased prison-stay.
 I would not had plead guilty if
 I knew, I was getting a over-
 the statutory limit allowed by law,
 but instead, I would have demanded
 a trial; therefore, the outcome would
 had been different.

colloquy At my guilty plea hearing:

COURT: "ALL SET? All-right come on AROUND" (Plea TRANSCRIPT p. 17, Line 7),

91. Even the COURT WAS Acutely AWARE of me having insufficient time to Review ALL evidence.

COURT: "All-right And have you had enough time to Review the evidence other than what you have told me? I MEAN YOU CAN SAY NO". (Plea TRANSCRIPT p. 23, Line 4-6.

DEFICIENT PERFORMANCE/PREJUDICE:

92. MR SARRATT'S Refusal to Fully Answer All my questions prior to my TRIAL DATE, failing to object to me signing the sentencing sheets, prior to learning the elements of the charges Against me, And prematurely waiving all non-jurisdictional constitutional

CASE, one last email attempt happened
 at 8:55 p.m. on November 04, 2013,
 see Applicant's Attached Exhibit
 22. which states the following:

" I HAVE NOT HEARD FROM YOU."

AND MR. SARRATT lied to the court
 when ask about suppression matters,
 by saying this to the court:

" suppression matters are before
 the court"... (Plea transcript p. 6
 Line 24-25).

DEFICIENT PERFORMANCE/ PREJUDICE :

169. MR. SARRATT performance was deficient
 AND he made errors so serious
 that MR. SARRATT WAS NO FUNCTIONING
 AS the counsel guaranteed under
 the United States Constitution's sixth
 (6th) Amendment by not filing or
 presenting A filoor motion to suppress

the illegally obtained evidence which
 was weiner and Brown's opening
 up the versa, ordering CARMA staff
 to drive the versa into their service
 bays without a search warrant,
 without a arrest warrant, or my
 consent since the offenses were
 not committed in their view,
 failing to investigate what time
 the versa was reported stolen
 from the time I was arrested,
 and charged with poss of stolen
 vehicle, failing to investigate the
 time-line between the trip to Ace
 Hardware to the time at CARMA,
 and time I was arrested for poss
 of stolen vehicle, failing to challenge
 the statutory and constitutional legality
 of the evidence, thus the evidence
 could all be tainted; therefore, I
 suffered prejudice by MR SARRATT not
 filing a suppression motion, or
 objecting to the illegally obtained
 evidence, which did not preserve
 the evidence for appellate review.

George Cleveland, III,
S.C.D.C. NO. 357779,
Applicant,

v.
STATE OF SOUTH CAROLINA,
Respondent.

IN THE COURT OF COMMON PLEAS
C.A. NO. 2014-CP-23-1895

APPLICANT'S MOTION FOR
SANCTIONS AGAINST ASST.
ATTORNEY GENERAL:
KAREN C. RATIGAN UNDER
F.C.P.S.A. § 15-36-10 et. seq.

HEARING DEMANDED

1. IF YOU WOULD TAKE NOTICE: George Cleveland, III, proceeding pro se moves this court by way of this motion for sanctions against Asst. Attorney General Karen C. Ratigan under the South Carolina Civil Proceedings Sanctions Act (F.C.P.S.A.) S.C. Code of Laws Ann. § 15-36-10 et. seq. for introducing frivolous defense in an effort to secure an improper adjudication in the following filings with this court and to Judge Daniel D. Hall:

PROPOSED ORDER OF DISMISSAL OF MY P.C.R. LETTER DATED MARCH 05, 2015; AND THE RETURN TO MY RULE 52(B) MOTION TO THE COURT'S ORDER OF DISMISSAL FILED IN THIS COURT ON OR

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2301895

George Cleveland

State Of South Carolina

FILED
GRE
PAUL
2015 DEC
9 AM 11:42
CLERK OF COURT
JULIE COOPER
STICKENIMMER

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:
ORDER INFORMATION

Applicants Motion For Sanctions Against Assistant Attorney General Karen C. Ratican Is Denied.

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

12/3/2015

Handwritten signature/initials

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

~~PLAINTIFF'S EXHIBIT 38~~

3 Dec 15

Page 60

2154

12-9-13

This judgment was entered on 12-9-13, and a copy mailed first class or placed in the appropriate attorney's box on ~~Robin B. Stitt~~, to attorneys of record or to parties (when appearing pro se) as follows: 12-9-15

George Cleveland 357770 Turbeville Correctional Institute P
O Box 252 Turbeville, SC 29162

Karen Christine Ratigan PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Blank lines for additional information regarding the decision.

RECEIVED
CLERK OF COURT
GREENVILLE COUNTY
SOUTH CAROLINA
DEC 15 2015

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
George Cleveland III)
Plaintiff,)
vs.)
STATE OF SOUTH CAROLINA)
Defendant.)

IN THE COURT OF COMMON PLEAS
13 JUDICIAL CIRCUIT
CASE NO.: 2014-CP-23-01895

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WILKINSON
JAN 16 2015

pro se
Plaintiff's Attorney:
George Cleveland III, Bar No. #35777
Address:
P.O. Box 252 Turbeville, SC
Phone: _____ Fax: 29162
E-mail: _____ Other: _____

OFFICE OF THE ATTORNEY GENERAL
Defendant's Attorney:
KAREN C. RATIGNAN, Bar No. _____
Address:
P.O. Box 11549 Columbia, SC 29211
Phone: _____ Fax: _____
E-mail: _____ Other: _____

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Rule 59 (c) motion
Estimated Time Needed: 30 minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.
Signature of Attorney for Plaintiff / Defendant _____, 20____
Date submitted _____, 20____

SECTION III: Motion Fee
 PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)
 Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____
Date: _____, 20____

CLERK'S VERIFICATION
Collected by: _____ Date Filed: _____, 20____

MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

George Cleveland, III,
SCDC. NO. 357770,
v. APPLICANT,
STATE OF SOUTH CAROLINA,
RESPONDENT.

CASE NO.
2014CP2301895

APPLICANT'S RULE 59(e)
MOTION TO AMEND
JUDGMENT ENTERED
ON DECEMBER 09, 2015

1. IF YOU WILL PLEASE TAKE NOTICE: George Cleveland, III, proceeding pro se in the above captioned case respectfully moves this court to amend its' judgment pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedures (SCRPC) for the following reasons:

The motion for sanctions against Assistant Attorney General Karen C. Ratigan was denied without a hearing, and without a finding of fact, and conclusion of law; therefore, is wholly erroneous;

the court didn't allow the filings of memorandum of law in support or opposition;

And a due process violation under the Fourteenth Amendment; section two (due process liberty or property interest under the United States

constitution.

page 63

JURISDICTIONAL STATEMENT:

2. This court's order was entered on December 09, 2015, see Plaintiff's Exhibit 87-88 (hereinafter P.E.)
3. I received the order from the turbeville Correctional Institution's mail-room on December 15, 2015, see attached supporting affidavit at PAR. 2.
4. Pursuant to Rule 59(e) S.C.R.C.P., this court retains jurisdiction within "10 days after receipt of written notice of the entry of the order, id." since this motion is stamped received by the turbeville Correctional Institution's mail-room prior to the 10 day deadline, my motion is reviewable by this court.

BRIEF-RELEVANT-CASE-BACKGROUND:

5. ON MARCH 05, 2015, ASSISTANT Deputy Attorney General of South CAROLINA KAREN C. RATIGAN, AND Judge DANIEL D. HALL (P.C.R. JUDGE) communicated Ex-PARTE, whereat, he requested a proposed order of DISMISSAL of my P.C.R. Application, see P.E.

1 (letter), and P.E. 2-9 (Proposed order of Dismissal).

6. ON MAY 01, 2015, the Greenville County clerk of court my sixty-four (64) page Rule 52(B) motion to the P.C.R. Dismissal, see P.E. 23-86.
7. ON MAY 21, 2015, MRS. RATIGAN of the Attorney General's office filed an three (3) page Return. P.E. 19-22.
8. IN November of 2015, I filed a motion in this court for sanctions against MRS. RATIGAN under the South Carolina Frivolous Civil Proceedings Sanctions Act (S.C.F.C.P.S.A.) § 15-36-10 et. seq. because of MRS. RATIGAN introducing frivolous defenses under § 15-36-10 (A) (4) (A) (b) "reasonable attorney would believe were not reasonably supported by the facts."
9. IN my Rule 52(B) motion, supra, at 6, I argued the circuit court failed to rule on my specific issues presented at my P.C.R. hearing, in violation of S.C. code of laws § 17-27-80 (Findings and Fact and conclusion of Law).

10. I presented to the COURT, and state the following specific issues:

- the Dyer Act 18 U.S.C.A. §§ 2312, 2313; P.E. 29-30
- Conflict Between State and Federal Law; P.E. 34
- Congress Intent to Preempt State-Law; P.E. 37-38
- State-Law Regulates Conduct Intended for the Federal Government; P.E. 38-39
- Deficient Performance; P.E. 40,
- Not Legally Convicted; P.E. 41-42
- Defective Indictments P.E. 43-44
- Deficient Performance; P.E. 48.
- Withheld Exculpatory Evidence; P.E. 51..
- Deficient Performance; P.E. 58
- Insufficient Allegations for Indictment; P.E. 59.
- Deficient Performance; P.E. 63.
- Due Process Violations; P.E. 63-64
- Deficient Performance; P.E. 70-71
- Illegally obtained Evidence; P.E. 71-72
- Deficient Performance; P.E. 77-78
- Offenses closely connected; P.E. 80,
- Deficient Performance; P.E. 82

17. Mrs Ratigan Addressed absolutely none of my issues in her return. P.E. 19-22

18. she stated; however, the following:
14. Respondent submits the final order of dismissal in this case contained findings of fact and conclusions of law on every issue that was raised [in my] P.C.R. hearing and testified to by the witnesses. P.S. -
19. This was her response in a nutshell which had nothing to do with none of my issues filed, and argued by me. she applied flawed logic to my issues that were frivolous defenses which deviated from directly addressing my issues.
20. the S.C.F.C.P.S.A. § 15-36-10 requires a hearing be held.
21. OBJECTION!
 this court denied my motion for sanctions without any evidentiary hearing, or supporting authority; i.e. case-law, court-rules, or state statutes; therefore, the denied motion for sanctions is wholly erroneous.
22. OBJECTION!
 this court denied me to submit memorandum of law, exhibits and affidavit prior to a decision and denied me a hearing on these issues in violation of Rule 56(C), 12(C) 77(b) all of SCRCP.

And my Due Process (section two; property and Liberty) of the Fourteenth Amendment under the United States Constitution.

23. Based on the errors of Law and Abuse of discretion in this court on the issues I raised, id., I respectfully request the following.

PRAYER FOR RELIEF:

24. WHEREFORE; GRANT my motion to alter and/or Amend the December 09, 2015 Judgment, and order a hearing; prior to the hearing order the filings of Memorandum of Law, supporting affidavits and Exhibits, respectively.
25. Any other relief this court deems just and/or proper.

Respectfully submitted,
 s/ George Cleveland
 George Cleveland, #357770
 Turberville Correctional Inst.
 P.O. Box 252
 Turberville, S.C. 29162

Dated: December 23, 2015

STATE OF SOUTH CAROLINA FILED IN THE COURT
COUNTY OF GREENVILLE GREENVILLE CO. S.C.
IN THE COURT OF COMMON PLEAS WICKENSIMMER

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2301895

George Cleveland

State Of South Carolina

2016 JAN 27 AM 10 06

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

Petitioners' Rule 59(e) Motion Is Respectfully Denied.

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

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Circuit Court Judge

2158

Judge Code

1/15/2016

Date

For Clerk of Court Office Use Only

PAGE 69

1-24-16

1-27-16

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

George Cleveland 357770 Turbeville Correctional Institute P
O Box 252 Turbeville, SC 29162

Karen Christine Ratigan PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter

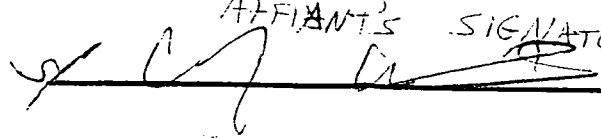
ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

AFFIDAVIT BY George CLEVELAND
APPELLATE CASE No 2015-
002251

1. I, George Cleveland ~~III~~, swears under the penalty of perjury the following is true and correct to the best of my knowledge.

2. ON OR AROUND December 10, 2015, AFTER I could NOT READ the Judge's signature; I requested under the South CAROLINA Freedom of INFORMATION Act (F.O.I.A.) to the S.C. COURT Administration the name of the Judge who signed the Form-4. denying my motion for sanctions because ALL I could read is his Judge code.

AFFIRANT'S SIGNATURE,


Subscribed and sworn to before me this
19th day of April 2016
Emily White (L.S.)
Notary Public for South Carolina

My Commission Expires: 4-29-2016