

STATE OF SOUTH CAROLINA
COUNTY OF Greenville

Case No. 2014-CP-23-1895

Plaintiff(s) George Cleveland, III

vs.
Defendant(s) South Carolina

PLAINTIFF'S EXHIBITS

DEFENDANT'S EXHIBITS

COURT'S EXHIBITS

PLAINTIFF'S EXHIBITS	DEFENDANT'S EXHIBITS	COURT'S EXHIBITS
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Court Reporter Michael R. Watts

Clerk of Court Jan White

Rough DRAFT

IN THE STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

George Cleveland, III
Plaintiff,

v.

SOUTH CAROLINA,
Defendant.

IN THE COURT OF
Common Pleas

Case No:

2014-CP-23-01895

Plaintiff's MEMORANDUM
OF LAW IN SUPPORT
OF GRANTING POST
RELIEF (P.C.R.)

PETITIONER'S
EXHIBIT

1. George Cleveland, III proceeding pro se in the above captioned case respectfully moves this Court to grant my P.C.R. Application for the following reasons: the Greenville County General Sessions Court lacked subject matter jurisdiction to impose sentence, due process violations, and a breakdown which resulted from my former lawyer made errors so serious that counsel was not functioning as the counsel guaranteed to me by the Sixth Amendment and the deficient performance caused

me presided.

Due Process Violations:

2. ~~On~~ on November 05, 2013 in the Greenville County General Sessions Court; Judge Edward M. Miller presiding ^{violated} my due process constitutional rights ~~awarded~~ awarded to me by the United States and the South Carolina Constitution ~~because~~

3. My due process rights were violated because ~~of~~ Judge ~~not~~ I objected to Judge Miller ~~saying~~ saying a jury will be picked ~~we are not going to delay the~~ ~~trial~~ the court would not allow a continuance so I could hire new counsel. The following ~~colloquy~~ colloquy took place between me and Judge Miller:

~~the~~ ~~court~~ ~~is~~ ~~saying~~

• ~~the~~ court: we are not going to

3.

DELAY the trial. transcript p. 6
sec. 3.

- COURT: "IF I relieve him, we are still going forward with the trial today." transcript p. 8 sec. 24-25.
- ME: "I'm not ready." transcript p. 9, sec 1.
- ME: "I don't feel ready." ^{transcript} p. 9, sec. 22.
- COURT "Whether you are ready or not ready, the court is proceeding with the case." transcript p. 9 sec. 24-25.

~~Mr. Watts~~

- MR. WATTS: "We can just put people in the jury box and try the case." transcript p. 11, sec 4-5.
- ME: "AGAIN, I'm not ready for trial." ~~transcript p. 11, sec 12.~~ transcript p. 11, sec 12.

- Me: "I Am not ~~not~~ Ready"
~~not~~ transcript p. 14, sec 6.
- Me: "I really don't want to..."
 [plea]. transcript p. 15, sec 13.
- Court: you Are not going to game
 the system And set it up for
 some fall down the Road. "transcript"
 transcript, p. 15, sec 22-23.

4. Further Mr. SARRATT failed to object to even Judge Miller's sentence of 10 years by appointment of service ~~for~~ ~~5~~ 6 years the balance is suspended for five (5) years probation five (5) years consecutive suspended during probation and hanging 9 years over my head, see transcript pp. 32 ~~and~~ see 21-25 and p. 33 see 1-3, ~~caused~~ ~~by~~ ~~violating~~ prejudiced me by violating state law S.C. Code § 17-25-50 As Amended which require multiple offenses to be considered as one offense ~~and~~ ~~one~~ ~~conviction~~ ~~and~~ ~~hanging~~ 9 years over my head.

4. - look at other #4.

4. During this exchange Mr. SARRATT SAID nothing. ~~and~~ He did not attempt to ~~protect~~ protect my constitutional rights

5. ✓ Mr. SARRATT'S deficient performance by not asking the court to rule on my objections of: not being ready to proceed with trial without an attorney, gaining the system comment, and the fact I was not ready for trial caused me prejudiced because ~~of~~
• I had no objections preserved for appeal and the outcome of the proceeding could have been different inasmuch as I would have demanded a trial or some or all charges ~~or~~ could have been dropped, thus ~~my~~ ~~prejudice~~ I could have avoided a prison sentence.

6. ✓ I was then forced with pleading guilty because of the threat of an instant trial without a lawyer or with Mr. SARRATT who was not prepared; therefore; my ~~going~~ guilty ^{PLEA} was not ~~volun~~ voluntarily, knowingly, and intelligently entered

7. ✓ Prior to the forced guilty plea, I was told to sign all five of the sentencing sheets, and initial waiver of presentment to grand jury on two (2) of the five (5)

8. ✓ The two (2) were poss. of stolen vehicle and ~~removing~~ falsifying UW AM Arrest warrant number: 2012A2330200168, and Remove falsifying UW: 2012A23302 ~~200168~~ 4. 60170,

9. ~~The other three (3) sentencing sheets~~

9. Both charges were from the 2001 Ford Fusion stolen out of Georgia.

10. The other three (3) charges of: obtain signature under false pretenses, Arrest WARRANT # 2012A2330200169, Possession of stolen vehicle, ARREST WARRANT # ~~2012A23302~~ N201732, And Remove falsifying VIN, ARREST WARRANT N201731.

10. The following remarks were made by the court after the conclusion of me signing the sentencing sheets:

• court: All set? All right. come on around. "TRANSCRIPT P. 17, sec 7,

✓
12. Mr. SARRATT AGAIN SAID
nothing OR RAISED ANY
objection to his client
signing sentencing sheets
that were GRAND JURY
presentment, as indicted
in not marked.

✓
13. Mr. SARRATT failed to ~~pause~~
~~the proceedings~~ ~~to~~ stop me
from signing the sentencing
sheets until AFTER ~~to~~ I
WAS ADVISED of the nature
and crucial elements, ~~of~~ of
changes, the consequences of
pleading guilty, and the
constitutional rights I waived.

14. this ~~deficient~~ deficient person
performance caused me prejudice
because I would not have
plead guilty if I knew I

WAS GOING TO PRISON, ~~OR~~ AND
I WOULD NOT HAVE WAIVED
~~FOR~~ GRAND JURY PRESENTMENT
IF I ~~WAS~~ ^{HAD} A CLUE THAT I
WAS NOT INDICTED, I WOULD
HAVE DEMANDED A TRIAL OR
A DISMISSAL ~~AND~~ ~~OF~~ ALL
CHARGES, THUS THE OUTCOME
OF MY PROCEEDINGS COULD
HAVE BEEN DIFFERENT; THEREFORE
MR. SARRATT'S ~~PERFORMANCE~~
DEFICIENT PERFORMANCE CAUSED
ME TO ~~BE~~ PREMATURELY WAIVE
CRITICAL PROTECTED CONSTITUTIONAL
RIGHTS, ACCORDINGLY I SUFFERED
PREJUDICE BY MR. SARRATT'S ~~NOT~~
^{OBJECTING} ~~TO~~ WAIVER OF INDICTMENT;
~~AND~~ AND I SUFFERED
PREJUDICE BY NOT KNOWING PRIOR
TO MY GUILTY PLEA OF THE NATURE

And crucial elements or
consequences of my plea of
guilty.

15. I showed up in court without
my family, ~~and~~ jacket, slacks,
and own my way to school
not knowing prison awaiting
me.

~~16.~~

16. Speaking of Indictments, the
clerk for the first time ~~has~~
says ~~a~~ on record I
was "indicted for all five
charges," transcript p. 17, ~~5~~
555 ~~10~~, 14, 18, and 21.

17. None of the Discovery Documents
made no mention of Indictments.

18. The primary function of the
8

GRAND JURY IS TO PREVENT THE
PROSECUTOR FROM SUBJECTING
INNOCENT PEOPLE TO THE BURDEN
AND TRAUMA OF TRIAL. UNITED
STATES V. THOMAS, 788 F.2D,
1250, 1254 (7th CIR. 1986.)

19. "OBJECTIONS TO ANY INDICTMENT
FOR ANY DEFECTS ON THE FACE
SHALL BE BY DEMURRER OR
ON MOTION TO QUASH SUCH
INDICTMENT BEFORE THE JURY
SHALL BE SWORN AND NOT
AFTERWARDS. S.C. CODE § 17-19-
90 AS ~~AMENDED~~ AMENDED.

20. MR. SARRATT FAILURES TO EVEN
NOTE ON THE RECORD AT THE GUILTY
PLEA HEARING OF NOVEMBER 05, 2013
THAT HE HAD NOT BEEN PROVIDED
WITH INDICTMENTS DURING THE DISCOVERY
PROCESS WAS ~~DEFICIENT~~ AN DEFICIENT
PERFORMANCE.

21. ✓ All indictments on the face look fake.

22. ✓ First, the witness ~~Barry Brown~~ ^{SIGNATURE} Barry Brown's look different ~~than~~ than the signatures on the five (5) Arrest WARRANTS

23. ✓ Second, the Grand Jury foreman's signature is not dated.

24. ✓ Third, the received stamp of September 20, 2012, by the Greenville County Clerk of COURT proves the face ~~use~~ of the indictment never left the office because if it had, the clerk would then stamped it filed ~~to~~ which ~~signature~~ ~~signature~~ indicates compliance with state Law.

25. ✓ SC code §14-17-530 says ~~the clerk of court~~ the clerk of

the court must ~~also~~ file and endorse paper.

26. The Greenville County clerk's office in a letter to me says in part "the clerk of court can not provide copies of document which were not filed in this office."

27. In a letter from Oconee County clerk of the court: Mrs. Beverly Whitfield ~~also~~ describes the Grand Jury process as this:

A. ~~Roots~~ ~~also~~ after the Grand Jury reports on their scheduled day(s), the solicitor has a time for each department or agency to report and make their presentations.

- B. The Agency goes by the ~~Solicitor~~ Solicitor's office and picks up the indictment for their department and takes them to the Grand Jury Room.
- C. Once they have presented their case, they leave the Grand Jury room and the Grand Jury decides if they are to be true billed or no billed.
- D. They then date the indictment and it is signed by the acting foreperson.
- E. Once the Grand Jury has finished for the day, they make their report and give the indictments to our office.
- F. ~~to~~ they then forward them to the ~~Solicitor~~ Solicitor where they

given A number And entered into their system, copied And returned to ~~the~~ the clerks office.

G. The clerks' office then clock each indictment And enter them into ~~our~~ their system.

28. I submit, the indictments were Rubber-stamped, And the body of the indictments says the ~~to be~~ ~~present~~ Greenville County Grand Jury convened on September 24, 2013.

29. When did they true-bill the indictments, why ~~is~~ is the Foreman's signature not dated, why did the Greenville County Clerk of Court's office not clock stamp the ~~indictment~~ ~~to be~~ filed, why is ~~it~~ ~~on~~ witness

FACE

Barry Brown signature look different than his signature on the five (5) Arrest Warrants, ~~why~~ why is Brown the only witness, what was the Grand Jury make-up. Were they all qualified, if I was indicted why was ~~so~~ ~~the~~ I forced to initial ~~the~~ ~~signature~~ waiver of presentment to Grand Jury, and finally why was AS indicted not checked on the sentencing sheets.

30. All of the procedures and questions ~~were~~ ^{were} for Mr. SARRATT to answer, but he failed to, and failed to quash the indictment prior to trial pursuant to SC code § 17-19-20 AS Amended.

31. Finally, one more ~~to~~ ISSUE with the indictment, the body language of indictment FOR OBTAINING GOODS UNDER FALSE pretenses, SAYS: A. "that George Cleveland, III did in Greenville County, ON OR ABOUT the MAY 03 2012 with intent to cheat and ~~defraud~~ defraud the ~~and~~ victim CARMAH OF Greenville to obtain A 2011 FORD FUSION valued AT MORE than ten thousand DOLLARS from the victim by means of FALSE pretenses AND representations, to wit: STD sell them A stolen vehicle."

32. ~~what~~ this LANGUAGE SAYS I obtained A 2011 Ford Fusion from
15.

CARMAX AND SOLD THEN THE
CAR.

33. THIS LANGUAGE IS NOT SUFFICIENT
FOR AN INDICTMENT AS IT
DOES NOT GIVE ME A PLAN
AND CLEAR NOTICE OF THE
CRIME I ALLEGED TO HAVE
BROKEN. SC CODE § 17-19-20
~~AS~~ AS AMENDED SAYS EVERY
INDICTMENT MUST ALLEGE
SUFFICIENT DETAILS. I SUBMIT
THIS INDICTMENT DID NOT.

34. THE POSS. OF STOLEN VEHICLE,
AND REMOVAL VEHICLE
I.D. ARREST WARRANT #
2012A2330200168, AND 2012A
2330200170 ~~AND~~ WERE BOTH
AN INTERSTATE CRIME UNDER
FEDERAL JURISDICTION.

35, The National Motor
vehicle Theft Act (A.K.A. i
Dyer Act) 18 U.S.C. §§
2312 and 2313 ~~to~~ ~~preempt~~
this ~~a~~ FEDERAL law preempts
State law ~~to~~ thus
the two (2) crimes see
~~the~~ paragraph (Paragraph 34).
that I'm serving a prison
sentence, and later a probation
sentence is without effect
because the Supremacy clause of
the United States Constitution
Article VI ^{clause} 2, consequently,
my conviction is unlawful.

36. S.C. code § 17-25-10 AS
Amended says: "no person shall
be punished until legally convicted"

37. MR. SARRATT'S DEFICIENT ~~performance~~
performance

was so defective by failing to file objections to defective indictments under S.C. code § 17-19-90 as amended, ~~not~~ ~~paying attention~~ where the obtaining goods under false pretenses ~~body~~ indictment body language was misleading, the indictment body language clearly and plainly ^{says} DUVALL FORD, ~~the~~ ~~code~~ Mr. Watts saying the following at the November 20, 2013 hearing: "I have Mr. DUVALL who owns DUVALL FORD down in Clayton, Georgia!" TRANSCRIPT p. 11 sec 5-6, the ARREST WARRANT # 2012 A2330200168 plainly states the ~~the~~ ~~2011~~ Ford Fusion ~~stolen~~ ~~stolen~~ belonged to DUVALL Ford in Clayton, GA, the police reports ~~also~~ also reads

DUVALL FORD in clayton GA,
~~this~~ ~~also~~ caused me prejudice
because I ~~was~~ plead guilty
to charges the Greenville
County General Sessions
Court had no jurisdiction
to impose, I ~~is~~ serving a
prison sentence on the
2011 Ford Fusion stolen from
DUVALL FORD in clayton, ~~Georgia~~ GA.

~~See~~ to see transcript p. 32
section 21-25, whereas my
prison sentence is based solely
on ARREST WARRANT # 2012
A2330200168, IF I would
have knew this ~~at~~ prior
to me pleading guilty, I
would not ~~have~~ have plead guilty,
I would ^{have} demanded a trial
OR DISMISSAL ALL CHARGES
related to interstate commerce.
therefore, the outcome ~~could~~
could

19.

have been different after
A thorough investigation of
law and facts ~~relevant~~
relevant to plausible options
are virtually unchallengeable,
and strategic choices
made after less than
complete investigation are
reasonable precisely to the
extent that reasonable
professional judgments
support the limitations on
investigation. Bottom line is,
Mr. SARRATT did ~~not~~ no investigation
of the facts or law, thus, he
breached ~~his~~ duty of ~~performance~~
~~prevailing professional~~
rendering reasonable performance
under prevailing professional
norms.

38. Mr. Sarratt also failed ~~to~~^{to} demand all exculpatory evidence in violation of Brady v. Maryland, 373 U.S. 83 (1963)

39. The indictments are exculpatory evidence because ~~they~~^{they} are notice document informing me of official charges or no official charges thus, this evidence was material, therefore; ~~there~~^{there} is a reasonable probability that but for Mr. SARRATT'S ~~unprofessional~~ unprofessional errors, the result of the proceeding would have been different.

~~I would~~ have demanded ^{appropriate} Subject Matter Jurisdiction.

39. Judge Miller sentenced me to a prison term based solely on poss. of stolen vehicle stolen from Clayton, GA

40. ~~the~~ United States Constitution
Article VI ~~of~~ Clause 2
says in part: "... the Authority
of the United States shall
be the supreme Law of
the Land; and the Judges
in every State shall be
bound by it."

41. ~~there's~~ (3) ways Federal Law
can preempt state: 1. where
Congress makes it intent to
preempt state law explicit in
statutory language 2. where
state law regulates conduct
in a field that Congress
intends for the Federal Government
to occupy exclusively or
3. where there is an actual
conflict between state and
federal law. says chief

Justice TOAL writing for the
MAJORITY in ~~the~~ city of
Cayce v. Norfolk Southern
Ry. Co., 391 S.C., 395, 706,
S.E.2d 6, S.C. (2011)

42. It has been well settled that
state law that conflicts
with Federal law is without
effect. McCulloch v. Maryland
17, U.S., 316, 4, L. ED. 579 (1819)

43. Justice TOAL also wrote
"Courts must look at the purpose
of the Federal Act to determine
if state law is to be preempted."

44. The purpose of the Dyer
Act is to punish Defendants
for stolen and poss. of stolen
vehicles ~~and~~ ~~in~~ interstate

Commerce, U.S. v. Bunch, 542,
F2d, CA. MD. (1976) because
by 1919 ~~with~~ with the
increasing number of
~~of~~ motor vehicles where
crimes of vehicle ^{theft}, common-law
larceny, embezzlement,
false pretenses ~~created~~
in interstate commerce
~~with~~ by speedy escapes
left states powerless
with charging the alleged
~~and~~ actors.

45. the chief sponsor of the
law was Representative L.C. Dyer
of Missouri. Research also
pointed out the increasing number
of automobile thefts, the financial
losses, and the cost of automobile
insurance. on the mse
24.

46. The Dyer Act 18 U.S.C.
§ 2313 (A) ~~is~~ ~~reads~~ reads:

"Whoever receives, passes,
conceals, stores, barter,
sells, or disposes of any
motor vehicle, vessel, or aircraft
which has crossed a state
or United States boundary
after being stolen knowing
the same to have been stolen
shall be fined under this
title or imprisoned not more
than 10 years or both."

47. This federal law reads the
SAME AS SOUTH CAROLINA
LAW § 16-21-0080 AS Amended
except the crossing a state
or United States boundary.

48. The three ways FEDERAL

LAW preempts state LAW
under the Norfolk Southern
Ry, Co. court, supra, the
~~Dejer Act preempts S.C. Code~~
~~§ 16-021-0080 (Pass-staken~~
~~vehicle)~~ because CONGRESS
makes its intent known in
the statutory language, and
there is an actual conflict
between state and federal
law, ~~the~~

~~Based on the Federal~~

49. Mr. SARRATT ignored my repeated
questions regarding federal ~~Jurisdiction~~
JURISDICTION over three (3) of
my charges. ~~ever~~ He ever ignored
AN November 04, 2013 email
where I specifically ask about

performances caused me great
~~the~~ Actual injury as described
~~above~~ Above,

Suppression of Evidence:

50. The final point I want to
make is the failure of MR.
SARRATT to file A suppression
motion OR make ~~any~~ ^A F/OUR
motion challenging the ~~constitution~~
Constitutionality of Investigator's
Barry BROWN opening the Hood and
doors of the NISSAN versa when
all were closed because the
~~A~~ CARMAT staff member who
looked the versa over ~~was~~
Completed his task prior to police
showing up.

51. Brown's ~~ARREST~~ ARREST AFFIDAVIT
made no mention of the ~~wind~~
wind-shield view being hard to read
and he didn't mention it until
days later in his supplemental
report.

52. S.C. code § 17-13-30
As Amended states that
officers may Arrest without
WARRANT for offenses committed
in view.

53. ~~That~~ The offense was not
committed in front of the
officers ~~who~~ because the
doors ~~where~~ were closed, trunk
closed, and hood closed, no
search warrant was executed

first, I ~~was~~ did not give consent
to the search, nor was I detained
thus tainting the evidence found
because of the illegal search

And because of the ~~the~~ South
Carolina statute that was broke.

~~All~~ All subsequent evidence was
~~also~~ Also ~~inadmissible~~ inadmissible.

54. But ~~and~~ from the ~~poor~~ poor
performance of ~~my~~ Mr. SARRATT

prejudiced me because I could not fight the suppression motion in the Court of Appeals since there was no such motion or objection made on the record. Also, the outcome could have been different by way of a demand for ~~to~~ a jury trial or the trial court dismissing the charges based on the fruit of poisonous tree doctrine.

Conclusion:

55. Mr. SARRATT poor performance in my case demonstrates a ~~need in this~~ demand by me that Attorneys like MR SARRATT either learn how to become an effective lawyer or ~~to~~ ~~he~~ shall turn ~~in~~ his Law License.

56. Mr. SARRATT has caused me to loose my job, ~~flunk~~ flunk out of college, and ~~put~~ ~~cause~~ ~~me~~ ~~and~~ my family great pain.

57. The late Discovery by the STATE encompassed many reports that ~~are~~ were incupatory because of the Allegations made by the Greenville County Sheriff's office. And the state's potential witness list with no time to investigate the credibility of intent, motive, OR scheme of the witness..

58. Have any of the state's witness ever lied that would call into question their credibility to the Court AND/OR jury?

59. The Answer to that question may never be known, but the lies of Mr. SARRATT ARE ~~of~~ known through the ~~evidence~~ ^{Real} evidence and extrinsic evidence of Mr. SARRATT.

60. ~~10~~ Mr. SARRATT lied when he told the court on November 05, 2013 that he ~~had~~ ^{had} ~~answered~~ answered all of my questions see transcript P-6 sec 15-16.

61. Mr. SARRATT lied when he told the court on November 05, 2013 that he has diligently represented me see transcript P-6 sec 17.

62. Mr. SARRATT lied when he told the court on 11-05-13 that suppression matters of evidentiary matters are before the court ~~litigating~~
~~see 24-25~~ see transcript. p. 6 sec 24-25.

63. Mr. SARRATT lied when he told the court on 11-05-13 that he ~~to~~ spent ~~looking~~ ^{hours} looking at Discovery, see transcript. p. 13, sec 17-18.

65. ~~And~~ Mr. SARRATT lied when he told the court on 11-05-13 that he was prepared and that he reviewed evidence with me, see transcript p. 13 sec 21-22.

66. MR. SARRATT ever lied
to the office of Disciplinary
Counsel regarding Speeding

93 m.p.h. in a 65 mph zone
in ~~the~~ Rutherford North
Carolina and the office
of Disciplinary Counsel
did not find out until they
began researching an

MARIJUANA AND DRUG PARAPHRASIS
charge of July 11, 2008 in Polk

County North Carolina, see
IN the MATTER OF MICHAEL
JAMES SARRATT; OPINION

NO. 2009-036, filed on
April 20, 2009 by the South
Carolina Supreme Court.

~~67. Based on the foregoing~~

67. My family has ~~kept~~ kept me sane with their letters, ~~phone~~ telephone calls, prayers, And for family members like my mother has made sure I have plenty to eat, and hygiene to stay clean.

68. I respectfully request that this court grant my P.C.R. order be released on a personal ~~recognizance~~ ~~recogniz~~ Recognizance Bond as most of my family ~~is~~ ~~to~~ has lived in Oconee County, SC All their lives ~~with~~ including ~~myself~~ myself.

69. I submit, I'm no flight risk as I attended all my court hearings, and have never had a failure to appear bench

warrant signed on me.
~~20~~


70. The Burden of proof is on me the P.C.R. Applicant, thus, I'm sorry if I took up too much of the court's time; however, I only got this one (1) bite of the apple.

PRAYER FOR Relief

71. Wherefore; grant my P.C.R. Application.

72. ~~20~~ order me Released on A personal Recognizance bond;

73. Any other Relief this court deems proper and/or ~~just~~,
Just

DATED: February 15, 2015 Respectfully Submitted,


George Cleveland, #35770
EVANS Correctional Institution
610 Hwy 9 West
Bennettsville SC 29512

**END
OF
FILING.**