

Coversheet

I the pro-se petitioner, Filing pro-se brief, pursuant to the Filing of my Appellate defense counsel, brief pursuant to State v Johnson Believe the S.C Supreme Court should in the interest of Justice, and to prevent a miscarriage of Justice, and to protect the public interest and Confidence and integrity in the Judiciary, Should consider the following Issues, where P.C.R Judge displayed a manifest Bias and prejudice against me in which prejudice me from being able to properly and adequately litigate my issues and claims of ineffective Assistance of Appellate Counsel on the Record, in which the Record clearly before this Court, shows that P.C.R Judge consistently, deprived me out my due Process of Rights to be adequately heard in the presenting of my evidence in support of my claim against my Appellate Defense Counsel Ms. Elizabeth Franklin Best as a result of his ~~Bias and prejudice~~ Judicial Bias and prejudice, I was unable to present on the Record & preserve for review by this Court. The issues I am submitting before this Court in my Pro-se brief as follows; with Sworn affidavit in support of.

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JUN 24 2018

S.C. SUPREME COURT

Submitted by

Richard M. Williams 243803

O.B.108 P.C.I

430 Oaklawn Rd

Rt 13er SC 29669

STATE OF SOUTH CAROLINA

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In The Supreme Court

JUN 24 2016

Appeal from Greenville County

S.C. SUPREME COURT

Edward W. Miller Circuit Court Judge

State of South Carolina

Robert M. Watkins

Petitioner

✓

STATE OF SOUTH CAROLINA

Respondent

Appellate Case NO: 2015-002191

Pro-se Brief to Johnson Petition Filed
By Appellate Defender Laura R. Boer

With Attached Exhibits

1-27

Submitted by
Pro-se appellant
Robert M. Watkins 243803 02B108
Perry Correctional Institution
430 Oaklawn Rd
Pelzer, S.C. 29669

Issue Present

- Issue 1. Judge Edward W. Miller order of dismissal of Case 2014-CP-23-0589 on October 2, 2016 should be vacated pursuant to violations of SCACR 3B(5) and 3B(7) in which his impartiality might reasonably be questioned violating SCACR 501 Canon 3E(9) Disqualifying him Due to Judicial Bias. . . . pages 1-8.
- Issue 2. Whether or not the S.C. Supreme Court subject matters Jurisdiction over appellate Case #2011-195272 resulting in opinion no. 27334 was obtained by acts of Extrinsic fraud, misconduct of the adverse party, fraud upon the Court and misconduct of the adverse party, and malicious Prosecution by the State of South Carolina Attorney General's Office. . . . ? pages 9-17
- Issue #3. Did Judge W. Miller abuse his discretion in finding that it was not necessary for counsel to have objected to the trial judge's ruling at Frank's hearing in order to preserve the issue for appellate review, and that I did not meet my burden of proving this issue by a preponderance of the evidence? page 18-20
- Issue 4. The September 24, 2008 Jury trial and Conviction under Indictment 2002-CS-23-1063 should be vacated on grounds that Judge Larry R. Patterson impartiality might reasonably be questioned when he had personal knowledge of disputed evidentiary facts of the case prior to the circuit solicitors exercise of it.

Unconstitutional Power pursuant to SC 1976 Code of law § 1-7-330
Judge shopping to schedule the retrial before Bias Judge
Larry R. Patterson, my Due Process of Right to a fair trial
and impartial Judge page 21-30

Issue 5. error of law and ABUSE of Discretion, Did Judge Edward
W Miller in his order of dismissal on Oct 2. 2015 case
2014-CP 23-0589 ABUSE his discretion in finding that I
had not met my burden of proving this issue by a preponderance
of the evidence pursuant to Frasier v State, 351 SC 385.
389, 570 S.E.2d 192, 17P (2002) because the appropriate legal
analysis for determining if I had proved ineffective assistance
of Trial Counsel as the analysis under Strickland v Washington,
466 U.S. 668 687 84 (1984) see Id in Appendix page 949 A to
page 850, page 850 C, page 851 D, page 851, 852, E page
852, F page 853, G page 853-854 page 31-

Issue # 6. Did PCA Judge Edward W Miller error in finding
that conviction after this retrial does not constitute
a violation of double jeopardy and that the
Double jeopardy clause does not preclude retrial of a
defendant whose conviction was set aside because of trial
error and further finding applicant received credit
for the time served since his original conviction in charges
and concludes the applicant has not met his burden
of proving this issue by a preponderance of the
evidence page 32-35

Issue # 7. Sworn Affidavit asking this court to consider how
it subject matter jurisdiction over Appellate Case
2011-195272 was obtained, through act of Misconduct
shocking to the Universal sense of justice by the SC attorney
General's office Page 35-42.

Issue # 8 Ineffective assistance of Appellate Counsel Elizabeth Franklin
Best, in which Judge Miller with a Bias and prejudice against me
would not allow me to fully litigate my issue and
present my evidence of ineffective assistance of appellate counsel

The following Exhibits are attached.

- Exhibit #1. 5 pages January 6, 2012 copy of AAG William M. Bitch Jr. email log.
page 59-63
- Exhibit #2 September 22, 2011 letter from Appellate defense counsel Elizabeth Franklin Best pg 64
- Exhibit #3 October 3, 2011 letter from Elizabeth Franklin Best pg 65
- Exhibit #4 My Jan. 12, 2012 letter to Elizabeth Franklin Best 7 pages. page 66-72
- Exhibit #5 Oct 16, 2002 letter from 1st Trial Counsel James W. Bannister to Assistant
Prosecutor Judy Munson pg. 73
- Exhibit #6 Criminal Case indictment 2002-GS-23-1063 Transcripts pages 119, 120, 121, 122
129, 364, 365, 366, 366 front and back page 74-82
- Exhibit #7 PCN Case 2004-CR-23-7064 Transcript pg. 3-36, front and back. - pg 83-117
- Exhibit #8 pg 1-6 front and back PCN Case 2004-CR-7064 order of dismissal pg 118-123.
- Exhibit #9 SC Supreme Court Memorandum Opinions 2008-MU-001 4 page
page 124-128
- Exhibit #10 Statement of Jeannie Pirello 2 page page 129-130
- Exhibit #11 Greenville Police incident Dispatch Detail Report 3 pages, Pages 131-133
- Exhibit #12 Indictment 2002-GS-23-1063 of Oct 25, 2002 and Sept 24, 2008 conviction and
sentencing sheets 6 pages page 134-140
- Exhibit #13 Greenville County Detention Center Inmate Booking Report 2 pages
pages 141-142
- Exhibit #14, (15) (16) (17) (18). letters from SC Supreme Court clerk of Court.
pages 143-148
- Exhibit #19 Oct 3, 2011 letter from Elizabeth Franklin Best page 149
- Exhibit #20 May 30, 2012 letter from David Alexander of SCC ID Division
of appellate defense page 150
- Exhibit #21 SC Court of Appeals April 21, 2011 order denying rehearing.
2 pages. page 151-152

- Exhibit # 22 Sept 12 2011 letter from appellate defense Counsel Elizabeth Franklin Best. page 153
- Exhibit # 23. September 21 2011 letter from James W Durrichy page 154
- Exhibit # 23 Sept 22 2011 letter from Elizabeth Franklin Best page 155
- Exhibit # 25 Ticket # 478015, Bench warrant, inmate plea notification, Garden Street, 4 pages. Page 156, 157, 158, 159.
- Exhibit # 26 January 20 2012 Memorandum from James W. Durrichy page 160
- Exhibit # 27 August 6 2013 letter from office of the Clerk of Court Greenville SC. assistant clerk of Court Leana King 2 pages. Page 161. 162

- Exhibit # 22 Sept. 12 2011 letter from Appellate counsel Elizabeth Franklin Best page 153
- Exhibit # 23 September 21, 2011 letter from James M. Dorrity page 154
- Exhibit # 24 September 22, 2011 letter from Elizabeth Franklin Best page 155
- Exhibit # 25 Ticket # Y-780115, Bench warrant, inmate Plea. notification sentencing sheet. 4 pages. Page 156-159
- Exhibit # 26 January 26 2012 Memorandum from James M. Dorrity. page 160
- Exhibit # 27 August 6 2013. letter from Office of the Clerk of Court Greenville South Carolina. assist Clerk Leanda King. 2 pages. Page 161-162.

Those exhibits are evidence and are included as a part of my Petition for Writ of Certiorari, submitted of late by Gregory Leonard to the Johnson Petition.

Those exhibits are accurate and true to the Best of my knowledge.

Robert Watkins ✓

Subscribed & before me
on this 30th day of June month 2016 year

SC Notary Nancy C. Murchant Exp - Oct. 1-23-2023

I believe this Court should consider the following issue,

In Judge Edward W. Miller order of dismissal of Case 2014-CP-23-0589 on October 2, 2016, should be vacated, pursuant to violations of SCACR 3B(5) and 3B(7) in which his impartiality might reasonably be questioned, violating SCACR 501 Canon 3E(1), Disqualifying him. Due to Judicial Bias.

argument: in the Form of a Sworn Affidavit

On April 22, 2015 in reference to case 2014-CP-23-0589, Judge Edward W. Miller presided over my PCR Evidentiary hearing. In presenting my claim of ineffective assistance of counsel claim against my appellate defense counsel Ms. Elizabeth Franklin Best Id in Appendix page 771, 772, 773, 780, 781, Judge Miller in violation of SCACR 501 Canon 3 B(5) did not perform his judicial duties without bias or prejudice, when during direct examination before him, I started presenting my evidence to support my claim of ineffective assistance of appellate counsel and he kept cutting me off to prevent me from being heard as far as when I started to present evidence to support my claim of ineffective assistance of Appellate Counsel.

See Id in Appendix page 817 line 22 - page 819 line 4, when Judge Miller cut me off from being heard and before I could finish presenting my evidence stating.

The Court: So you're not actually claiming ineffective assistance of your Appellate Counsel. You're claiming malicious Prosecution? Id in Appendix page 819 line 5-7

I stated No, and tried to continue presenting my evidence in showing what she did wrong, and Judge Miller cut me off again stating.

The Court: I heard what you said, what did you

appellate counsel do wrong. Id in Appendix page 819 line 8-10
I then started explaining, and before I could be completely heard
and present my evidence Judge Miller cut me off from being heard
again, telling me that all that was obviated by the ruling of the
Supreme Court. Id in Appendix page 819 line 8-19 Judge Miller
wouldn't allow me to be heard, by presenting testimony to what my
appellate Counsel did wrong, and submit my exhibits in support of
my claim of ineffective assistance of Appellate Counsel in the Record.
Before he with a Bias and prejudice against me, stated that, all
that was obviated by the ruling of the Supreme Court. I went
on in trying to present my evidence and prove by the preponderance
of the evidence, that my appellate Counsel Ms Franklin Best performance
fell below an objective standard of reasonableness in failing to get the
petition for Writ of Certiorari thrown out, that based on the evidence I
provided her she should have filed a motion pursuant to SCPCP Rule
60(b)(3) Motion to dismiss the Petition for Writ of Certiorari, on grounds that
the appellate Court subject matter jurisdiction was obtain by acts
of fraud upon the court and misconduct of the adverse party; But
before I could present this evidence, and show on the record how bad
my appellate Counsel filed this Motion. There is a reasonable
probability that the S.C Supreme Court would have dismissed the state
petition for Writ of Certiorari, denying its Petition to review the S.C
Court of Appeals, Unpublished Opinion 2011-UP-091 reversal of my
conviction, that granted me a New trial. I was prejudice by counsels
Deficient performance in not filing a SCPCP 60 B(3) Motion, because
absent the challenge to the Petition for Writ of Certiorari filed by
the State, S.C Supreme Court granted The states petition for Writ of
Certiorari, and reversed the S.C court of Appeals, unpublished opinion
2011-UP-091 reversal of my conviction, prejudicing me of my right to
a New trial; I tried to get this on the record before Judge Miller,

For some reason, I believed, Judge Miller was aware of the evidence I was trying to introduce into evidence in the record before him, and he had a preconceived bias, that the evidence supports a claim of Malicious Prosecution and not ineffective assistance of appellate Counsel. In which leaves me to claim also that he had personal knowledge of the disputed evidentiary facts, that I was going to introduce into evidence that supported my ineffective assistance of Appellate Counsel claim, and he did not want me to get that evidence onto the record, because, Elizabeth Franklin Best, my appellate Counsel did not show up to defend the state against my claims of ineffective assistance of Appellate Counsel, and if I established on the Record such claims by the preponderance of the evidence proving the 2 prong test in Strickland v Washington 466 U.S. 668.

687.88 1984. I would be entitled to a summary judgment in my favor based on the relief sought against my Appellate defense Counsel Ms. Franklin Best for default, failure to appear and defend against my claim against her. So it's my belief that, with a Bias and prejudice against me, and having personal knowledge of the disputed evidentiary facts and evidence in my case to support an ineffective assistance of appellate Counsel claim against Ms Franklin Best, Judge Miller, tried to change my ineffective assistance of appellate Counsel claim to a Malicious Prosecution claim: see Id in Appendix page 819 line

5-7. When I told him no that my claim based on the Evidence I wanted to present wasn't a Malicious Prosecution claim, with a

Bias he states, " All That was obviated by the Supreme Court
all Id in Appendix page 819 line 18-19

I Judge Miller with a Judicial Bias wasn't about to allow me to be heard as far as me establishing a record of ineffective assistance of appellate Counsel claims against Mr. Elizabeth Franklin Best

when he already knew he was going to deny the Claim, and that I would file an appeal to S.C. Supreme Court; therefore he had to prevent me from establishing in the record before him by the preponderance of evidence, that my Appellate defense Counsel Ms Franklin Best performance fell below and objective standard of reasonableness in failing to file a SCRAP 60(b)(3) Motion to dismiss the states Petition for Writ of Certiorari, and that her deficient performance prejudiced me of my right to a new trial, because there is a reasonable probability had she filed the Motion The S.C. Supreme Court would have dismissed the states Petition for a Writ of Certiorari.

Judge Miller preconceived opinion that The S.C. Supreme Court step in and reinstated the conviction regardless of what ruling the Court of Appeals came up with. There is nothing that appellate defense counsel could have do to stop that. Id in Appendix page 820 lines 3-14 is Biased prejudicial against me, because its based on his helieve and from his personal knowledge of the evidence and facts of my case that I'm only arguing Ms Franklin Best was ineffective assistance of appellate Counsel in failing to file a SCRAP 240(e) Motion to assistant attorney General William M. Blitch Jr Expedited Motion to Recall the remittitur Id in Appellate Case # 2015-0021915-Supplemental Appendix page 11-14, as well as the Cover sheet of the senior Assistant Attorney General Tracy A Meyers. Response to my F.O.I.A. for a copy of Assistant Deputy Attorney General Sally W. Elliott and assistant Attorney General William M. Blitch Jr. mail log from April 21 2011 to June 15, 2011 dated January 6 2012 Id in Appendix page 844 Judge Miller was aware that I did not receive a copy of Assistant Attorney General William M. Blitch Jr mail log from April 21 2011 to June 15 2011 until January 6, 2012 That contained evidence of Extrinsic fraud

fraud upon the Court, and Misconduct of the adverse party and violation of S.C.A.R. 407 Rule 8.4 (a)(6)(d)(e), Rule 3.3(1)(i) by the opposing party assistant attorney General William M. Blitch Jr., which was after Assistant attorney General William M. Blitch Jr. had filed his Expedited Motion to Recall the Remittitur on June 15 2011

see Id. in Appellate case # 2015-002191 Supplemental Appendix page

11-14. It is reasonable to believe Judge Miller, with a Bias, on behalf of my appellate defense counsel Elizabeth Franklin Best, with a Bias and prejudice against me, didn't see why she would file a Return Pursuant to S.C.A.R. 240(e) to try to get the remittitur dismissed, when just based on the grounds set forth in the expedited motion to recall the remittitur, she had no reason to believe that Assistant attorney General William M. Blitch Jr. was being untruthful. He believed there was no ground to get the expedited motion to recall the remittitur thrown out on dismissed, to prevent the S.C. Court of Appeals from granting the motion to recall the remittitur, when I didn't become aware of the evidence and grounds to challenge such motion until January 6th 2012.

S.C.A.R. 240(e) states: Any Party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return: provided however, a return to a petition or motion for rehearing under Rule 221 need to be filed unless requested by the court. The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(e) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

Because my appellate defense Counsel Ms Elizabeth Franklin Best

Did not file a return pursuant to SCAR 240(c) to Assistant Attorney General William M. Blitch Jr expedited Motion to recall the remittitur. on June 2 2011 the S.C. Court of Appeals issued an order recalling the remittitur on the grounds set forth in Assistant Attorney General William M. Blitch Jr. mail log. see Id in Appellate Case 2015-002191 Supplemental Appendix page 15, 16!

On July 14, 2011 Assistant Attorney General William M. Blitch Jr. filed a Petition for Writ of Certiorari Appellate Case # 2011-195272. S.C. Supreme Court granted the state's petition for a Writ of Certiorari, an oral argument was held, id. The S.C. Supreme Court reversed the S.C. Court of Appeal Unpublished Opinion 2011-UP-091 reversal of my conviction under Criminal Case, 2002 GS 23-1063, id. affirming the conviction.

absent the evidence I received on January 6th 2012 Id in Exhibit # 1 attached My appellate defense Counsel stated that there was no grounds in which the get the petition for Writ of Certiorari thrown out. see two letters I received from her. on September 22, 2011 Id as Exhibit # 2 and October 3, 2011 Id as Exhibit # 3 attached. But when I sent My appellate defense Counsel Ms Elizabeth Franklin Best on January 12 2012 a copy of Assistant Attorney General William M. Blitch mail log. showing that He did receive the S.C. Court of Appeals order denying Rehearing for Robert Watkins, with a letter asking her to file a SCAR 60(b)(3) Motion to get the Petition for Writ of Certiorari thrown out, Her deficient performance prejudiced me because it resulted in the S.C. Supreme Court reviewing Assistant Attorney General William M. Blitch Jr. Petition for a Writ of Certiorari to reverse the S.C. Court of Appeal Unpublished Opinion 2011-UP-091 reversal of my conviction which they reversed, prejudicing me of my Right to a new Trial. Judge Miller was so bent on preventing me from establishing the record before him concerning Elizabeth Franklin Best

Ineffectiveness for failing to file a return Motion pursuant to
SCAEC 240(c). That he displayed a judicial Bias in his finding
in the record that: Well I'm going to make the finding that even if
the conduct of the appellate counsel fell below an objective standard
of reasonableness, the fact that the Supreme Court took the case up in
any way, regardless, there's no prejudice from any deficiency
if there was any next ground. see Id in Appendix page 822 line 3-8

Judge Miller never gave me the fair opportunity to litigate my claims
and present my evidence in support of my claim of ineffective assistance
of appellate counsel. His finding above is Bias and prejudicial.
Because it's plain to see that he has a judicial Bias in believing
that because S.C. supreme Court took the case up in any way,
regardless, there's no prejudice from any deficiency, if there was
any. see Id in Appendix page 822 line 3-8.

Based on the evidence I have presented Judge Miller did not
perform his judicial duties impartially and fairly, the records shows
that he manifested bias in the proceeding before him, impairing
the fairness of the proceeding and brings the judiciary into dispute.
violation of SCAEC 501 Canon 3B(5). Judge Miller did not
accord to me in which I had a legal interest in case 2014.CP.23-0589
Before him, the right to be heard according to law, which I litigate.
on the record before him, my evidence with supporting exhibits
to support my ineffective assistance of Counsel Claim against my
appellate defense counsel Ms Elizabeth Franklin Best
violation of SCAEC Canon 3B(7) in which his impartiality might
reasonably be questioned pursuant to SCAEC 501 Canon 3E(1).
Based on his personal knowledge of disputed evidentiary facts
and evidence in my case. violating SCAEC 501 Canon 3E(1)(1). That
lead to his Bias finding Id in Appendix page 822 line 3-8.

That finding isn't based on what he wouldn't allow me to present, by cutting me off every time he thought I was about to introduce Evidence in support of my claim against Ms Elizabeth Franklin Best, who he knew the state did not subpoena, because she would hate to admit she was ineffective in not doing what I claim she didn't do. His finding was based off of a Bias perception that all deficiencies that may have occurred by Elizabeth Franklin Best was obviated when S.C. Supreme Court took up the case.

For the above listed aforementioned reasons and Evidence he presented, I pray that the S.C. Supreme Court vacates Judge Miller Order of dismissal of Case # 2014-CP-23-0589, and Remand to lower Court for further proceeding as this Court deems appropriate.

Robert W. W. ✓

Sworn to before me on this

20th day June month 2016 year

SC Notary Public: Nancy C. Muehlent

Exp. Date: 1-23-2023

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JUN 20 2016
P.C.I. MAILROOM

Issue 2 I believe this Court should consider this issue concerning whether or not its subject matter jurisdiction over Appellate Case 2011-195272 resulting in its Opinion No 27334 was obtained by acts of Extrinsic fraud, misconduct of adverse party, fraud, malicious prosecution by the State of South Carolina Attorney General's office.....?

The South Carolina Supreme Court, subject matter jurisdiction over Appellate Case 2011-195272 in which the Court reversed the S.C. Court of Appeals reversal of my conviction of unpublished Opinion 2011-UP-091 State v. Watkins on Criminal Case 2002-6523-063 in S.C. Supreme Court Opinion No 27334 heard October 16, 2013 - filed December 4, 2013. was obtained pursuant to acts of Extrinsic fraud, fraud upon the Court, Violations of SCACR 407 Rule of Professional Conduct Rule 8.4(d) and Rule 3.3. (a), and Malicious Prosecution. By the State of South Carolina Attorney General's office, Assistant Attorney General William M. Blitch Jr. ::

Sworn Affidavit in Support of,

On March 8, 2011 in reference to Appellate Case # 2011-195272 the S.C. Court of Appeals Reversed my criminal conviction of September 22, 2008 Case 2002-6523-063 Before Judge Harry R. Patterson :: in which a copy of S.C. Court of Appeals Unpublished Opinion 2011-UP-091 was sent to Assistant Deputy Attorney General Sally W. Elliott :: with Notice that pursuant to Rule 221(b) of SCACR, the remittitur on this case will be sent to the clerk of Court for Greenville County after Fifteen (15) days, exclusive of the date of filing of this Opinion. See Id in Appellate Case # 2015-002191 Supplemental Appendix

Pursuant to SCACR 221(a) Assistant Deputy Attorney General, to prevent the remittitur from being sent pursuant to SCACR 221(b) on March 21, 2011

Filed a timely Petition for a rehearing... see Id in Appellate Case # 2015-002191
Supplemental Appendix page 2-7

On April 21 2011 The SC Court of Appeals issued an Order denying the
Petition for a rehearing. Informing Assistant Deputy Attorney General
Salley W. Elliott, that the remittitur in this case will be held in this Court
only so long as required by SCACR 221(b). Id in Appellate Case # 2015-002191
Supplemental Appendix page 8 & 9

Since 242(c) provides in pertinent part: "A petition for writ of
Certiorari shall be served on opposing counsel and filed with proof
of service with the clerk of Court of Appeals and the clerk of
Supreme Court within thirty (30) days after the petition for rehearing
or reinstatement is finally decided by the Court of Appeals." In the case
Appellate Case # 2011-195272, the Order denying rehearing was entered
On April 21, 2011. Thus because May 21, 2011 was a Saturday, the
petition for writ of certiorari should have been filed on or before
May 23, 2011. But because the S.C. Attorney General's Office
failed to timely file a Petition for a writ of Certiorari on or before
May 23, 2011. The S.C. Court of Appeals pursuant to SCACR 221(b)
on June 2, 2011 sent the remittitur... see Id in Appellate Case # 2015-002191
Supplemental Appendix page 10 :

On June 14, 2011, I was released from the custody of South Carolina
Department of Correction pursuant to the sending of the remittitur, making
S.C. Court of Appeals Unpublished Opinion 2011-UP-091 reversal of my
September 24 2008 Conviction under Indictment ~~Case #~~ Case # 2002-GS-23-1063
final. As result of the sending of the remittitur and copy of the SC Court of
Appeals Unpublished Opinion 2011-UP-091, to the office of the clerk
of Court of General Session Court, Greenville County, The S.C. Court of Appeals
no longer had subject matter jurisdiction over criminal Case ~~Indictment #~~
2002-GS-23-1063 a Appellate Case # 2011-~~UP-091~~ 095272.

On June 15, 2011 Assistant Attorney General William M. Blitch Jr., of the S.C. Attorney General's office, representing the State of South Carolina Greenville County, filed an Expedited Motion to Recall the remittitur: see Id in Appellate Case # 2015-002191 Supplemental Appendix page 11-14. Based on the statement of facts he included in his Expedited Motion to recall the remittitur.. on June 30, 2011 The S.C. Court of Appeals issued an order recalling the remittitur: see Id in Appellate Case # 2015-002191 Supplemental Supplemental Appendix page 15, 16.

Based on the statement of facts and law Id in Assistant Attorney General William M. Blitch Jr. Expedited Motion to recall the remittitur my appellate Defense Counsel did not believe she had any grounds to prevent the remittitur from being recalled; so my appellate Defense Counsel, Elizabeth Franklin Best did not file a return to assistant attorney General William M. Blitch Jr. Expedited Motion to recall the remittitur pursuant to SCAER 240(c). which lead to the S.C. Court of Appeals deeming that my appellate Defense Counsel Elizabeth Franklin Best, acting ~~as my attorney~~ consented to the relief sought in Mr. Blitch Jr. Expedited Motion to recall the remittitur. Apparently ~~by~~ The P.R. Judge Edward W. Miller in reference to Appellate Case No ~~2015-002191~~ ~~supplemental Appendix page~~ 2015-002191 ~~supplemental Appendix page~~ who presided over my P.R. Evidentiary hearing ^{claim of} ~~claim of~~ ^{against} ineffective assistance of Appellate Defense Counsel Elizabeth Franklin, that there is nothing that she could have done to stop the remittitur from being recalled. see Id in ~~Appellate~~ Appellate Case 2015-002191 Appendix page 820 line 4-14

Once the S.C. Court of Appeals recalled the remittitur in June 30 2011, Bring the case back up from the lower trial Court; back up to the S.C. Court of Appeals, giving S.C. Court of Appeals subject matter jurisdiction. ~~As~~ on July 14, 2011 Assistant Attorney General William M. Blitch Jr. filed a Petition for A Writ of Certiorari, with the S.C. Court of Appeals ~~and~~ ~~the~~ clerk of Court and The clerk of Court of S.C. Supreme Court. pursuant to SCOR 242(c). My appellate defense Counsel Elizabeth Franklin Best filed a return to the State Petition for a Writ of Certiorari; ~~also~~.

On January 6th, 2012 pursuant to S.C. FOIA, I manage to obtain a copy of Assistant Attorney General William M. Blitch Jr. mail log from April 21, 2011 to June 15, 2011. see Id as Exhibit # (1) attached 5 pages. which contains evidence that Assistant Deputy Attorney

General Salley W. Elliott forward to Assistant Attorney General William M. Blitch Jr. the June 2, 2011 S.C. Court of Appeals remittitur sent to ~~her~~ from the S.C. Court of Appeals; in which is logged in on ~~two~~ William M. Blitch Jr. mail log on June 3, 2011 see Id in Exhibit # 1. page 5 of 5; it also ~~shows~~

Contains evidence that apparently ~~the~~ Assistant Deputy Attorney General Salley W. Elliott, forwarded or transferred the S.C. Court of Appeal order denying rehearing for Mr. Robert Watkins, too late for him to file a petition for a Writ of Certiorari; in which she did not transfer or forward it to his mail log until June 15 2011. see Id in Exhibit # (1) page 5 of 5.

Exhibit # (1) contains evidence that Assistant Deputy Attorney General Salley W. Elliott transferred the S.C. Court of Appeals April 21 2011 order denying petition for rehearing to Assistant Attorney General William M. Blitch Jr. too late to timely comply with SCOR 242(c).

Filing of a Petition for a Writ of Certiorari, and that the remittitur was not sent down through some mistake or inadvertence on the part of the SC Court of Appeals or its Officer. I agree with Judge Miller, that there was nothing my appellate Counsel could have done to stop the remittitur from being recalled on June 30, 2011. Because I didn't obtain this evidence of fraud upon the Court, extrinsic fraud and violations of several 407 Rules 8-4 (d) and Rule 3.3(c), until Jan. 6, 2012. The ~~State~~ ^{already} Malicious Prosecution had ~~already~~ been done. Remittitur recalled, and Petition for Writ of Certiorari filed. Judge Miller didn't give me an opportunity to be heard, in which is because he apparently already knew what had happened, and where he believes my claim should have been, which was Malicious Prosecution; that's why he stated.

So you're not actually claiming ineffective assistance of your Appellate Counsel. You're claiming Malicious Prosecution. Id. as Appendix page 819 line 5-7

I said no, and tried to present my evidence under my appellate Counsel was ineffective assistance of Counsel in failing to file a Motion to set the petition for Writ of Certiorari Thrown out, pursuant to ~~several~~ SCRCP 60(b)(3) fraud upon the Court, misrepresentation of the adverse party; because on 1-12-02 I provided my appellate defense Counsel Elizabeth Franklin Best, with my letter a copy of Assistant Attorney General William M. Blitch Jr mail log containing evidence that he did receive a copy of the S.C. Court of Appeals order denying rehearing from Robert Watkins. See Id. as Exhibit # 24 attached.

Exhibit # (1.) ~~shows~~ contains evidence that William M. Blitch Jr. received the S.C. Court of Appeals ~~denial~~ Order denying

rehearing for Robert Watkins. It was not addressed or mailed to him. But was ~~mailed~~ addressed and mailed to Assistant Deputy Attorney General Sally W. Elliott, in which she had to transfer it to him. See transfer and forwarded to him the remittitur sent to her SEE listed on his mail log on June 3rd 2011. I sent her a letter date June 13, 2011; she transferred or forwarded it to ~~the~~ William M. Blitch Jr. mail logs see Id as Exhibit # (8) attached. now see Exhibit # (1) his mail log for June 13 2011. ~~For some unknown reason~~ The reason Assistant Deputy Attorney General Sally W. Elliott held on to the Order denying the petition for rehearing, so that William M. Blitch Jr. could not file a Petition for Writ of Certiorari; pursuant to SCOP 242(c) was based on a letter I sent to her concerning my case in which I showed her a lot of Due Process violations and Brady Violations by the ~~prosecutors~~ Solicitors Office of Greenville County, and how I was aware of the indictment never being filed against me in the Court of General Sessions Office of the Clerk of Court. In my letter I told her that if she allow the remittitur to be sent, and didn't file a petition for writ of Certiorari, and allowed me to go back to Greenville County for a new trial, that I would be willing to lay down for 6 1/2 months until I had 10 years in my mandatory 10 no more than 30 years sentence; and be willing to take a 10 year time serve guilty ~~plea~~ ^{plea} She granted my wish. Apparently when she ~~finally~~ forward the order denying the petition for rehearing to Assistant Attorney General William M. Blitch, he had other plans; which involved malicious prosecution. In which after I had ~~already~~ ^{already} been released from SCDC, and awaiting a Guilty Plea deal or new trial under SC as a result of SC Court of Appeals Unpublished Opinion 2011-UP-091 Appellate Case ~~2011-195272~~ 2011-195272. On June 14 2011. Assistant Attorney General William M. Blitch Jr. on June 15, 2011

upon the S.C. Court of Appeal April 21 2011 order denying petition for rehearing for Robert Watkins being forwarded or transferred to his mail log. In his expedited Motion to recall the remitter knowingly included in this Motion a false statement or statements as follows:

II

Respondent was never served with a copy of the Order of the Court of Appeals denying Respondent's Petition for Rehearing. The Undersigned checked his incoming mail log, any untiled mail, and the file associated with this appeal, and has been unable to find any indication of being served with a copy of the Order denying the Petition for Rehearing.

III

... Additionally, the undersigned rechecked his mail log and mail and was unable to find any Order denying the Petition for Rehearing.

IV

The Undersigned asks the Court to recall the remitter because it was sent without the undersigned receiving a copy of the Order denying the Petition for Rehearing, and as a result, the undersigned cannot petition for Writ of Certiorari as intended. See Wise v. S. Carolina Dept of Corrections, 372 S.C. 173, 174, 642 S.E. 2d 551, 552 (2007) (citing) State v. Keels, 39 S.C. 553, 17 S.E. 802 (1893) Id in Appellate Case # 2015-002191 page Supplemental Appendix page 11, 12, 13

These statement of facts is false.. see Id in Exhibit (1) attached page 5 of 5

In which Assistant Attorney General William M. Blitch Jr, knowingly ~~now~~ includes these false statement of facts in his expedited Motion to recall the remitter, engaged in conduct involving dishonesty.

fraud, deceit or misrepresentation invalidates of SCOR 407 Rule 8.4(d)

upon the SC Court of Appeals April 21 2011 filed Order denying rehearing for
Robert Watkins. ~~filed an expedited motion to recall the remittitur~~
on June

and made these false statements in his Expedited Motion to recall the remittitur, to the tribunal in violation of SCOR Rule 3-3 (1) which in committing fraud upon the Court, his ~~conduct~~ misconduct is so serious that it undermines or is intended to undermine the integrity of the proceeding before S.C. Court of Appeals. He also deprived me of informed full participation base on these false statements of facts, as a deception to prove that prevented my appellate defense counsel Elizabeth Franklin Bost from knowing about asserting certain rights; a ~~part~~ of protecting my right to a new trial. Why would she believe he would commit any act of dishonesty in his Expedited Motion to recall the remittitur, until I provided her with evidence to prove otherwise. William M. Bitch committed the Extrinsic Fraud, and Malicious Prosecution to continue the process of the appellate process or appeal process, and to reverse the S.C. Court of Appeals judgment of reversal of my conviction under Indictment case # 2002-GS-234063 by act of fraud. Id in Appellate Case 2015-002991
Supplemental Appendix page 15-16.

Exhibit #1 shows that Assistant Attorney General William M. Bitch Jr. Did Review the S.C. Court of Appeals Order denying Petition for rehearing for Robert Watkins Appellate Case 2011-195272. Therefore the statement he included in his expedited motion to recall the remittitur Id in Appellate Case # 2015-002991 Supplemental Appendix page 11-14 is false, and that the S.C. Court of Appeals on June 30, 2011 issued an order granting the Expedited Motion to Recall the remittitur on those false statements of facts. Id in Appellate Case # 2015-002991 Supplemental Appendix page 15-16 Had it not been for this Malicious Prosecution, Extrinsic Fraud, and Fraud upon the Court, as well

As the Misconduct of the adverse party, being the Assistant Attorney General William M. Blitch Jr. The State of South Carolina Attorney General's office, would not have had any legal grounds in which to get the remittitur recalled, to vest the S.C. Court of Appeals and S.C. Supreme Court, with subject matter jurisdiction, to entertain the State of South Carolina Attorney General's office. Petition for a writ of Certiorari, that resulted in the reversal of SC Court of Appeals Unpublished Opinion 2011-UP-091 State v Watkins. To which is all in S.C. Supreme Court Opinion No. 27334 Heard October 16th 2013. Filed December 4, 2013

For the above reasons stated, I pray that this court will reinstate my right to a new trial under S.C. Court of Appeals Unpublished Opinion 2011-UP-091.

Robert M Watkins 2438636213108
Perry Correctional Institution
430 Oaklawn Rd

Pelzer SC 29969

Robert Watkins

Sworn to before me on this 20th day
June month 2016 year SC Notary Public Nancy C. Merchant
Exp. Date 1-23-2023

Issue # 3

Argument

I Robert Max Watkins in reference to Appellate Case No. 2015-002191 by way of pro-se response to the Johnson v State 294 S.C 310, 364 S.E. 2d 201 (1988) Petition, makes his pro-se response to that Petition Filed by ~~his~~ my Counsel, hereby raise and argue the following issues I believe the South Carolina Supreme Court should consider in this Appeal.

~~Did~~ Did Judge Edward W. Miller abused his discretion in finding that ~~it~~ it was not necessary for Counsel to have objected to the trial judge's ruling at the Franks hearing in order to preserve the issue for Appellate review; and that I did not meet my burden of proving this issue by a preponderance of the evidence.

Argument: On September 22, 2008 My trial Counsel Stephen John Henry during a pre-trial Motion before Judge Harry R. Patterson case #2002-GS-251063. Informed Judge Patterson that there is a suppression issue in this case, in which he put it in writing just by way of Notification to the Court and to the Solicitor's office. In which he was attempting to suppress the search of the Apartment. The suppression was held, see Id in Appendix page 179 line 16 through page 234 line 25. My trial Counsel did not object to the Trial Judges denial of his Motion to Suppress the search of the apartment pursuant to Franks v Delaware. According to State v West, 313 S.C 2126, 438 S.E.2d. 256 (Ct. App 1993) An objection must not only be made, but it also must be made in the Record to preserve error for Appeal. Not only must an objection be timely, it must also be specific. The objecting party must give the specific legal or procedural grounds for the objection. State v Crowley 226 S.C 472, 85 S.E.2d. 714 (1955). I have a due process of right and equal Protection of Right to Judicial review of this 4th Amendment claim to ~~suppress~~ in which pursuant to

Franks v Delaware, 438 U.S. 154. My trial Counsel challenged the veracity of the statements included in the search warrant affidavit issued to search my residence, in which my trial Counsel Stephen John Henry, while under oath during my PCR evidentiary hearing case 2014-CP-23-0589 on April 22nd 2015 stated: "In his approach in Franks v Delaware cases, and of course, Mr. Watkins thinks he introduced me to that case, but he didn't. In any event, in Franks hearing, what I try to do in this case was to get the officer -- the main officer was Will Bruce -- to admit that the information in his search warrant did not match the information he got from the victims. I didn't need the victims to do that. In fact, Will Bruce, for the most part, after some prodding, admitted that much of the information in the search warrant -- I'm not saying he made it up, but didn't match what the statements were from the victims. The victims also made verbal statements that were in the report. So we had access to the information we needed, plus Will Bruce essentially admitted what I wanted him to admit for the Franks hearing. see Id in Appendix page 834 line 15 - page 835 line 4.

I raised this issue of my trial Counsel's Stephen John Henry performance fell below an objective standard of reasonableness pursuant to the first prong test of Strickland v Washington 466 U.S. 668, 687-88 (1984) in failing to object to reserve for direct appeal for it to be reviewed after the Frank hearing see Id in Appendix page 810 line 4 - page 811 line 1. of PCR case 2014-CP-23-0589 Transcript page 18 line 4 - pg. 19 line 1.

During the PCR Evidentiary hearing, I had my PCR Counsel ask my trial Counsel Mr Henry why didn't he object on the record to Judge Patterson's decision in the Frank v Delaware case, His reply was It wasn't necessary. I think I did. Id in Appendix page 840 line 13-16.

It is clearly obvious that my trial Counsel's deficient performance prejudiced me of my Due Process of Rights, and equal ~~the~~ protection of Right to judicial review of Trial Judge's abuse of discretion in finding there is not a substantial showing that a false statement was knowingly and intentionally made with reckless disregard for the truth, under Franks versus Delaware, and ~~the~~ the subsequent case.

so therefore I'm going to deny the Suppression: Id in Appendix page 234
line 20 ~~through page - 25~~. In which had it not been for my trial Counsel
deficient performance, there is a reasonable probability the result of
the proceeding would have been different; in which the second prong
test of Strickland v Washington supra is supported by the following facts
of evidence, that this issue wasn't raised by my Appellate defense
Counsel on direct appeal. see Id in Appendix page 629-645
Final brief on my Appellate defense counsel Elizabeth A Franklin Best.

The PCR Judge Edward W. Miller had before him, the transcripts from
the pre-trial hearings and the trial, the Greenville County Clerk of Courts
records, the South Carolina Department of Corrections records, the
PCR application, the return, the appellate records, and Applicant's
Exhibit 1: which are included in the Appendices of Appellate Case
2015-002891. Which is before this Court, and shows that Judge Miller
saw the evidence that I've presented in this argument, and made an
erroneous Judgment on the facts before him.::

In the name of God, the most Gracious the most Merciful, I pray that
upon this Courts Grace, that, Judge Miller order of dismissal,
be reversed, and a new trial Granted, base on the issue and
argument set forth in Issue #1. .

[REDACTED]

Issue 4

I believe this court should consider, whether or not, the conviction of September 24th, 2008 of Indictment Case # 2002-GS-23-1063 before Judge Larry R. Patterson should be vacated on grounds that Judge Larry R. Patterson impartiality might reasonably be questioned based on personal knowledge of disputed evidentiary facts of Case 01-25052 Indictment Case # 2002-GS-23-1063. Where based on this personal knowledge of the disputed evidentiary facts of my case, he with a judicial bias and prejudice against me issued an erroneous order of dismissal of my per Application case 2004-CP-23-2064 on January 25, 2006, in which the 13th Judicial Circuit Court Solicitor Lucas Merchant under the unconstitutional power of S.C. 1976 Code of Law 1-7-330 Judge shopped to schedule the new trial of criminal case Indictment Case # 2002-GS-23-1063 before Bias Judge Larry R. Patterson. Citing State v Longford 735 S.E.2d 471.

Sworn Affidavit and Support of

On October 23-25th 2002 The State of South Carolina Greenville County prosecuted me under Indictment Case-2002-GS-23-1063. Representing me were assistant Public Defender James W. Bannister of the Defender's Corporation of Greenville County, Inc. During the Jury trial, the states own witness Elena Pelzer my co-defendant introduced into evidence, evidence of alibi defense. Based on this evidence, the presiding Judge Victor C. Ryb Jr, asked was alibi defense Plead. My counsel Mr. Bannister stated yes. and The Judge then asked was Notice given, my counsel stated Yes, and referred to his letter sent to The prosecuting attorney

- Ms Judith Munson; see Id as Exhibit # (5) attached dated October 16th 2002. The prosecuting attorney challenged his letter as a notice as being insufficient. That it did not comply with SCR crim P. Rule 5(c)(1) Notice of alibi defense, an inquiry was conducted into whether or not, my trial counsel Mr. Bannister Notice to the prosecuting attorney meet the requirement of SCR crim P. Rule 5(c)(1) Notice of alibi; in which it was determined affirmatively his letter Id as Exhibit # (5) attached did not comply with the Rule; in which the record shows that my trial counsel, Mr. James W. Bannister admitted on the record that his letter does not comply with SCR crim P. Rule 5(c)(1) Notice of alibi defense as a result of counsel deficient performance in failing to comply with SCR crim P. Rule 5(c)(1) Notice of alibi defense, the trial judge did not charge the jury on alibi defense; which prejudiced me of an defense of alibi charge to the jury - see Id in exhibit # (6) Trial transcript page 364 line 12 - page 367 line 12 of my 1st trial transcript of criminal Case Indictment # 2002-CS-23-1063, of October 23-25th 2002 Before Judge Victor C. Pyle resulting in a conviction

* Please Notice that my trial Counsel Mr. James W. Bannister failed to object to preserve this issue for review on direct Appeal. As a result of him not objecting to the trial judge refusal to give requested charge of alibi defense based on the evidence introduced into evidence by the states own witness. This issue although had merit was not preserved. Therefore was raised in an Anders Brief By the 5th Division of Appellate Defense when I appealed the conviction under Indictment case # 2002-CS-23-1063 of Oct 23-25th 2002

Which was dismissed pursuant to Anders v California 386 U.S. 738
57, S.Ct 1396 (1967) state v Watkins, O.P. No 2004-UP 406. Filed
June 22 2004).

I then filed a PCR application Case# 2004-CP 23-7064 on October
22, 2004. An evidentiary hearing was held on April 8, 2005
Before the Honorable Judge Larry R. Patterson of Greenville County.
The issue presented was that my Trial Counsel Mr. James W. Bonister
performance fell below an objective standard of reasonableness
pursuant to the first prong test of Strickland v Washington, 466
U.S. 668, 682-88 (1984) in jail to comply with S.C. Crim. P. Rule 5(c)(1),
which is Id in Exhibit # (6) Transcript of the Record.

As a result of Counsel deficient performance Id in Exhibit (6)
attached pursuant to Strickland v Washington, 466 U.S. 668 682-88
(1984) I was prejudice of a alibi defense change to the jury,
in which had it not been for counsel deficient performance
there is a reasonable probability the outcome of the trial
would have been different:

See Id as Exhibit # (7) a copy of the PCR Transcript of Case
2004-CP23-7064 Evidentiary hearing of April 8, 2005, before
Judge, Larry R Patterson. page 1 - 34. Attached

My Trial Counsel admitted on the record before Judge Larry
R Patterson that, he was ineffective assistance of Counsel
for not making sure he complied with S.C. Crim. P. Rule. 5(c)(1)
Notice of alibi. Id in Exhibit # (7) PCR Tr. page 7. line 18
through page 8 line 5. Now Judge Patterson is suppose

to remain impartial. But the Records Id in Exhibit # (7) shows that he was bias towards me, and his impartiality might reasonably be questioned concerning the judicial Bias he manifested against me where he started acting as counsel for the defendant my Trial Counsel Mr. James W. Bannister, in questioning him in a manner to which to elicit evidence from him that would favor him against my claim against him. see Id in exhibit # (7) PCR Tr. page 8 line 18 - page 13 line 25 Judge Patterson did the cross examination of the defendant, Mr. Bannister, not his counsel assistant attorney General Karen C. Ratigan. Even after I had introduced my evidence into the record and as well as the defendant James W. Bannister through Judge Patterson, he still at the conclusion of the PCR proceeding was unable to make a ruling, stating that

The Court: All right. I'll read the transcript. I don't -- I don't know. I'll have to look at this case Id in Exhibit # (7) PCR transcript case # 2004-CR-637064
Tr. page 36 line 3-4 attached

Judge Patterson in reference to my PCR Application 2004-CR-23-7064 transcript of my PCR Evidentiary hearing before him on April 8, 2005 can only base his ruling on the evidence presented before him. When he went and read the trial transcript and looked at the case, this was extrajudicial and prejudicial because know he has personal knowledge of disputed Evidentiary facts of Criminal Case Indictment 2002 GS 23-1063 Trial transcript dated conviction before Judge Victor C. Ryle Jr. on Oct 23-25, 2002 as well as my case that wasn't introduced into evidence

Before him, during his presiding over my PCR Application Evidentiary hearing on April 8, 2005. In which lead to his abuse of discretion and erroneous finding of facts resulting in the issuance of an order denying my PCR application on January 25, 2006. see Id as Exhibit # (8) attached

Based on his personal knowledge of the disputed Evidentiary facts of criminal case indictment # 2002-GS-23-1063. Id in The Transcript of Indictment case # 2002-GS-23-1063 jury trial and conviction of October 23-25th 2002 Before Judge Victor C. Jr.

Judge Larry R. Patterson judicial Bias and prejudice manifested in presiding of my PCR Evidentiary hearing case # 2004-CP-23-7064 and his erroneous ruling from those facts resulting in him issuing a order denying my PCR application with prejudice. Based on His personal knowledge of the disputed Evidentiary facts and that existed in my case, impartiality might reasonably be questioned, and Disqualify him from presiding over a retrial or new trial of case Indictment # 2002-GS-23-1063 pursuant to SCOR 501 Canon 3 E(1).

I filed a Petition for Writ of Certiorari with the SC Supreme Court appealing Judge Larry R. Patterson order denying my PCR application Civil case 2004-CP-23-7064, set was granted, and on January 14 2006 The S.C Supreme Court. issued a Memorandum opinion 2006-mu-001 reversing Judge Larry R. Patterson order denying my PCR application. see Id as Exhibit # (9) attached.

Apparently assistant Solicitor Lucas Marchant of the 13th Judicial Circuit Court of Greenville County Solicitors Office, was aware of Judge Larry R. Patterson erroneous in civil case 2004-CF-23-7064 after reading the trial transcript of the 1st jury trial and conviction of criminal case Indictment # 2002-GS-23-1063 at Oct 23 25th 2002 Before Judge Victor C. Pyle Jr. and looking at the case, and knew of Bias on Judge Patterson Bias and prejudice and erroneous ruling after having personal knowledge of the disputed contradictory facts and evidence of this case, erroneous ruling in civil case 2004-CF-23-7064 that Judge Patterson was bias against me and that his impartiality might reasonably be questioned, therefore in order to prejudice me of a fair and my pre-trial motions and of my Due Process of Rights to a fair trial, in re-prosecuting me again a second time under Indictment Case # 2002-GS-23-1063 assistant Solicitor Lucas Marchant exercised under SC Statute 19.76 Code of Law § 1-7-330, the unconstitutional power of scheduling the retrial of criminal case Indictment 2002-GS-23-1063 on the General Sessions docket for trial on September 22, 2008 Before Bias Judge Larry R. Patterson.

see Id in Appendix page 1-99.

When Judge Judicial Bias based on personal knowledge and judicial knowledge of case 2002-GS-23-1063 of Oct 23 25th 2002 jury trial conviction of transcript Before Judge Victor C. Pyle Jr. and from looking at case, showing judicial Bias

When circuit Solicitor under SC 1976 Code of Law § 1-7-330
Judge shopped to schedule All pretrial Motions and retrial
of second trial Before Bias Judge Larry R. Patterson:

Judge Patterson in looking at the case, obtained Extra Judically,
personal Knowledge that in Case # 01-95052

State witness Jeannie Pineda statement contains evidence
that the B/m entered Chuck-e-cheese at 1:00 am on
12-19-01, establishing the time the crime began. see Id as
Exhibit # (10) attached 2 pages

and The Greenville Police incident Dispatch Detail Report, at
1:06:20 am on 12-19-01 is when the armed Robbery was reported
• see Id in Exhibit # (11) attached 3 pages

The first Jury trial transcript of Oct 23-25 2002 Before Judge Victor C Pyle
that resulted in a conviction case 2002-GS23-1063, that Judge Patterson
read that was not introduced into evidence before him in any
Judicial proceeding was that, the State failed to through
it witness Jeannie Pineda, introduce into evidence, the time
she stated the B/m entered the restaurant, as a result
evidence of alibi defense was introduced into evidence.
The prosecutor did a poor job. see Id in Exhibit # 6 to 119, 120, 123, 129

Also he was aware that my trial Counsel Mr. Barnister who
worked for The Defender Corporation of Greenville County Inc.
in providing counsel to indigent defendant through the
Public defenders office under supervision of chief
Public defender John F. Mauldin, how he misrepresented
me during the pre trial Motion Suppression evidence

hearing, resulting in incriminating evidence being introduced into evidence in order for the prosecution to sustain a conviction. Judge Patterson was aware of my two defenses. Alibi and suppression of the evidence, and how I was misrepresented by Mr. Barrister in reference to both, resulting in a conviction.

Based on his personal knowledge of the disputed evidentiary facts and evidence of the case 41-95052 Indictment 2012-6523-1063 Judge Patterson possessed a preconceived Bias, that he manifested during the pre-trial Motion, assistant Solicitor Lucas Marchant pursuant to S.C. 1976 Code of Law § 1-7-330 scheduled on the Motions docket to be heard before Judge Larry R. Patterson, because of his Bias:

§ 1-7-330 Bias Comments concerning his preconceived Bias and prejudice against me in reference to case / Indictment 2012-GS-23-1063

It in Appendix page 38 line 15-22, page 39 line 3, 7, 10-14, page 42 line 12-20, 25 - page 43 line 3; page 53 line 3-8, line 12, 13 15-19, page 54 line 10 - page 55 line 4, line 9, 15 16, page 63 line 23 - pg 64 line 2. page 77 line 25 - page 78 line 14;

Judge Patterson. Judicial and personal knowledge of the disputed evidentiary facts he tries to act like he doesn't have knowledge of because he claims he hadn't read the entire transcript; allowed him to abuse his discretion in his ruling on admission or non admission of evidence in the interest of the prosecution.

Assistant Solicitor Lucas Marchant. But Most of all He
with Judicial Bias during the jury trial on September 22-24, 2008
Sought to prejudice me of a fair trial by amending the
indictment in his charge to the jury after the jury had been
sworn; to lessen the states burden of proof, and to allow a
conviction on an uncharged offense. This is a Judicial
Bias, to alter or amend the charging terms of an indictment
after an arraignment and the jury is sworn, without motions
be made by neither party, me or the State. Judge Patterson
impartiality might reasonably be questioned here, which
would disqualify him pursuant to the provisions of
SCA 501 Canon 3E(1)(a). : see Id in Appendix page
145 line 8 - page 147 line 18, page 607 line 21 - page 609

line 16 and as Judge Patterson

Based on the Bias and prejudice I have presented
Concerning Judge Patterson that is to why Assistant Solicitor
Lucas Marchant would use the unconstitutional provision and
power under SC 1976 Code of Laws § 1-7-330 to Judge
shop to seek through Judge Patterson to violate my Due
Process of Rights to an impartial Judge and a fair trial.
Schedule the retrial of new trial on the General Sessions
trial docket, to be heard before Judge Larry Patterson.

I therefore pray that this Court pursuant to State v
Langford, 400 S.E. 421, 735 S.E.2d 471 vacated the
September 24, 2008 conviction under Indictment 2002,
65-23-1063 in which Judge Patterson presided over...
or grant me a new trial.

Robert H. Williams 1758-20213
100 P.S.
400 S.E.2d

1st Robert Watkins ✓

Robert M Watkins 243803
Q2 B108
Perry Corr. Inst
430 Oaklawn Rd
Pelzer SC 29669

Sworn to before me on the 20th day
June month 2016 year.

Se Notary Public Nancy C. Merchant

Exp. Date: 1-23-2023

RECEIVED
JUN 20 2016
P.C.I. MAILROOM

I believe this Court should consider this issue

Issue #5 error of law and Abuse of discretion

The PCR Judge Edward W Miller in his order of dismissal on Oct 2, 2015 case 2014-CP-23-0589. Id in Appendix page 849 'A', to page 850 abused his discretion in finding that ~~the burden of proof~~ I had not met my burden of proving this issue by a preponderance of the evidence pursuant to Frasier v State, 351 S.C. 385, 389, 570 S.E2d. 172, 174 (2002). This is error of law, because the appropriate legal analysis for determining if I had ~~not~~ proved ineffective assistance of Co. Trial Counsel, the right legal analysis ~~is~~ that should have been used is Strickland v Washington, 466 U.S. 668, 687, 88 (1984). This is also for the finding of Judge Miller in 'B' of page 850, C page 857, D. page 851-852, E page 852, F page 853, G page 853-854. Judge Miller committed error of law, abusing his discretion in applying ~~For~~ ^{legal} the analysis of Frasier v State, 351 S.C. 385, 389, 570 S.E2d. 172, 174 (2002) instead of Strickland v Washington analysis: "In which under Strickland v Washington 466 U.S. 668, 687-88 (1984) analysis, the Supreme Court applies the 2 prong test, in which I must prove that (1) counsel's performance fell below an objective standard of reasonableness and (2) counsel's deficient performance prejudice me, resulting in an unreliable or fundamental unfair outcome in the proceeding."

For the above reason, I pray this Court reverse Judge Edward W Miller October 2, 2015 order of dismissal of Case 2014-CP-23-0589 and grant me a new trial --

Issue # 6

Did Judge Edward W. Miller error in finding that conviction after this retrial does not constitute a violation of double jeopardy. ... and that the Double Jeopardy clause does not preclude retrial of a defendant whose conviction was set aside because of trial error, ... and further finding Applicant received credit for the time served since his original conviction in those charges, and concludes the Applicant has not met his burden of proving this issue by a preponderance of the evidence.
see Id in Appendix page 852 & 853 Supplemental Affidavit

Sworn Affidavit in Support of

all judges, take an oath to uphold the Constitutional laws of this State and the United States. A Judge who sits upon the Bench in interference to Criminal Cases and Civil case shall not in the exercise of their judicial duties fail to ensure that the does not violated a defendants Constitutional Rights, is to promote the public confidence and integrity in the Judiciary. In presiding over criminal case # 2002-GS-23-1063 on September 24 2008, Judge Larry R. Patterson was aware of the disputed Evidentiary fact of this case; especially when the indictment 2002-GS-23-1063 used in the 1st jury trial and conviction, that Brought me Before the Court of General Sessions on Oct 23-2002 in which I was convicted on Oct 25 2002 Before Circuit Court Judge Victor C. Kyle Jr. I was sentenced to SDC for a period of 30 years for Armed Robbery and 5 years to run concurrent

for Possession of a weapon during the commission of or attempt to
Commit a violent Crime. see Id in Exhibit # 12 attached 5 pages.

I was credited time from 12-19-01. After serving 6 1/2 years
on the armed Robbery sentence, I served the 5 year concurrent
sentence for Possession of a Wpn during the commission of or
attempt to commit a violent Crime, in which on after denial of an
appeal and filing of a Pet application, in which on Appeal
to S.C. Supreme Court of the denial of my Pet application.
The S.C. Supreme Court reversed the dismissal of my Pet application
granting me a new trial in its memorandum opinion 2008-MO-001
Id as Exhibit # 9 attached

on Feb 6, 2008 I were release from SCDC after serving 6 1/2 years
for the conviction under Indictment # 2002-GS23-1063 for violation
of S.C. 1976 Code of law § 16-11-330 Armed Robbery and § 16-23-490 P.W.D.C.V.C.
into the custody of Greenville County where it was held in the
Greenville County Detention Center on a NO Bond For Court, until the
retrial on September 22-24, 2008 in which using the same Indictment
2002-GS23-1063 of used to convict me Back on October 25, 2002 was
used to convict me again on September 24, 2008. In which I was
sentenced to 25 years for violation of S.C. 1976 Code of law § 16-11-330
Armed Robbery, and 5 years to run consecutive for violation of S.C.
1976 Code of law § 16-23-490 P.W.D.C.V.C. There is no way Judge Larry R.
Patterson did not know he was violating my S.C. const article 1 section 12
and U.S.A. 5th 14th of the Double Jeopardy Clause. in sentencing me
to a 5 year consecutive sentence for violation of S.C. 1976 Code of law
§ 16-23-490 P.W.D.C.V.C., after I had already served 6 1/2 years

For the same offense under the same indictment. Proof is Id in
Appendix page 38 line 15-22, page 62 line 2-63 line 3. Now
see Exhibit # 12 Indictment 2002-GS-23-1063 and sentencing sheet
of October 25, 2002 and September 24, 2008, containing evidence
that the sentencing of Judge Larry R. Patterson on September 24, 2008
of a consecutive sentence of 5 years for violation of SC 1976
Code of law § 16-23-490 violated the Double Jeopardy clause of
SC Const article 1 section 12, and USCA 5th 14th, because I had
already served the specialty for that offense from 12/79-01 to
January 19th 2008 according to SC Supreme Court Memorandum Opinion
2008-MU-001. Id as Exhibit # 13 attached. In which I was release
from SCDC on Feb. 6, 2008 into the custody of Greenville County and
held in the Greenville County Detention Center, on a No Bond for Court
under arrest warrants 6865977 Arnold Robbery, 6865988 PWDLRC
Indictment 2002-GS-23-1063. Judge Patterson set a \$70,000 Bond on
the arrest warrant 6865977, 88 on March 14, 2008. Id in Appendix
page 1, page 8 line 16 - page 9 line 2. I was held in custody until
I was in a jury trial, retried and convicted on September 24, 2008
Before Judge Larry R. Patterson... who sentenced me in violation of
SC Const article 1 section 12 and USCA 5th 14th of the Double Jeopardy
clause to 5 years consecutive for violation of SC 1976 Code of law
§ 16-23-490 to serve a sentence or penalty I had already
served. see Id in Appendix page 627 line 8-12 ;

I pray that this Court finds that a violation of S.C.
Constitution article 1 section 12 and U.S.C.A § 14th, of the
Double Jeopardy Clause has occurred and that upon
its Grace and Mercy, grants me relief in the vacating
of this 5 years consecutive sentence.

Robert W. [Signature] ✓
17-008

Sworn to before me on the 20th day
June month 2016 year

SC Notary Public Nancy C. Merchant

Exp. Date 1-23-2023

RECEIVED
JUN 20 2016
P.C.I. MAILROOM

Sworn Affidavit

I believe that this Honorable Court should consider how its subject matters jurisdiction was obtained. I ask this court to please upon its Grace, show mercy in order to protect the public confidence and integrity in the judiciary, that the misconduct of the S.C. attorney General's Office be acknowledge and this court remedy this misconduct & prevent future misconduct of the adverse party from committing acts of fraud upon the court, as well as the state in a position that affects the integrity and confidence of the citizens in this state. Due Process of Right to a fair and unbiased and prejudice judiciary system. I believe it's a grave disrespect to the Judge of the S.C. Court of Appeals and Chief Justices, for the Executive Branch of Government, "The S.C. attorney General's Office", through its employees to commit acts of dishonesty, and extreme fraud as well as fraud upon the court to further the prosecution of an appeal to continue a criminal conviction once a citizens has successfully appeal that criminal conviction, and had been release from that conviction for a new trial... on June 15 2011 assistant attorney General William M. Blitch Jr. of the State of South Carolina Attorney General's Office. Knowingly included false statement of facts in an Expedited Motion to recall the conviction sent on June 2, 2011. That resulted in my relief from custody

of SCDC from further serving the remainder of the sentence under Indictment 2002-GS-23-1063 of September 24, 2008. Id in Exhibit # 6 attached now see Id in Appellate Case # 2015-002191 Supplemental Appendix page 11-14. AAG William M Blitch Jr. Expedited Motion to recall the remittitur filed after the June 2, 2011 remittitur had already been sent. Id in Appellate Case 2015-002191 Supp. Appendix page 10

- on June 14, 2008 Greenville County Sheriff's Department picked me up upon being released from SCDC, and transported me to the Greenville County Detention Center, where I was Booked in.
• see Id as Exhibit # (13) Greenville County Detention Center inmate Booking report attached 2 pages

The sending of the remittitur on June 2, 2011 ended the appellate court's jurisdiction over criminal case 2002-GS-23-1063 Appellate Case 2011-195272. SC Court of Appeals Unpublished Opinion 2011-CA-091, reversal of the September 24, 2008 conviction under indictment/case # 2002-GS-23-1063.

In order to file a Petition Writ of Habeas, AAG William M Blitch Jr would have to get the remittitur recalled back up to the SC court of appeals, in which the only way to do this was to show that the remittitur was sent down through some mistake or inadvertence or error on the part of the S.C. Court of Appeals or its office... Wise v S Carolina Dept. of Corr. 372 S.C. 173, 174. 642 S.E.2d 551 (2007).

C. King State v Keels, 39 S.C. 553, 17 S.C. 802 (1893)

on June 30, 2011 The S.C. Court of Appeals issued an order recalling the remittitur, granting AAG William M. Blich Jr. Expedited Motion to recall the remittitur because Respondent requests the recall of the remittitur because it never received notice of the petition for rehearing, denial; see Id in Appellate Case # 2015-002191 supplemental Appendix page 15.16 et al

On January 6, 2012 pursuant to SCFOIA, I received a copy of AAG William M. Blich Jr. mail log from April, 21, 2011 to June 15, 2011, containing evidence that he did receive the S.C. Court of Appeals, order denying Petition for rehearing for me Robert Watkins. see Id in Exhibit # 1 page 5 of 5 attached

The S.C. Court of Appeals mailed the April 21, 2011 filed order denying petition for rehearing in my case to Assistant Deputy atty General Sally W. Elliott; Id in Appellate Case # 2015-002191 Supp App Page 8, 9 as well as all other correspondences in my case. I also mailed my correspondences / letters to assistant Attorney Deputy attorney General Sally W. Elliott. She would route them to Assistant Attorney General William M. Blich Jr. who was handling my case. How else would Mr Blich Jr. could have filed a Petition for a rehearing pursuant to SCACR 221(a) in time before the remittitur was sent pursuant to SCACR 221(b), when the S.C. Court of Appeals unpublished opinion 2011-CR-091

reversal of my conviction was sent to Assistant Deputy atty. General
Salley W. Elliott instead of AAG William M. Blitch Jr. she
had to route or forwarded to him. see Id. in Appellate Case
2015-002191 Supp. Appendix page 1, and pages 2-7 also the

remittitur was sent to her. Id in Appellate Case # 2015-002191

Supp. Appendix page 10. now see Exhibit # 1 AAG William M. Blitch
mail log, contains supporting evidence that assistant Deputy atty General
Salley W. Elliott forwarded the remittitur to William M. Blitch Jr.
page 4 of 5.

When the S.C. Court of appeals issued the order denying the petition
for a rehearing. I wrote assistant attorney General's Salley W. Elliott
a letter concerning the history of my case in which dealt with the
filing of the indictment against me to satisfy the Court of General Sessions
Subject matters jurisdiction; because the county jurisdiction is based
on the nature of the charge of offense in which it is provided
jurisdiction over, pursuant to S.C. Const article V, 11 Due Process
requiring the filing of the indictment pursuant to S.C. Const Rule 3(c)(1).
Where S.C. 1976 Code of Law 1-7-530 unconstitutionally stripped the
General Session Court of all jurisdictional control over the General
Session Court docket, vesting of exclusively in the jurisdictional control of
the Executive Branch of Government, "The Circuit Solicitors Office".
This special legislation violated S.C. Const article 3 section 34, in fringing upon
my Due Process and equal protection of Rights to S.C. Const Rule 3(c)(1).
S.C. 1976 Code of Law 17-23-130 arraignment in General Sessions Court.
Whichever I have a right to be placed on Notice of the charge
filed against me. But if the charge is not filed with the Court of
General Sessions, the clerk of Court can not arraign me

pursuant to SC 1926 Code of Law 17-23-130. I also explained that
the Statute of limitations would prevent arrest, because the
Indictment had not been filed against me now in 9 1/2 years.
I also presented Evidence of Brady violations, misconduct of
the circuit Solicitor's Office. I asked Mr. Elliott to not file a
petition for Writ of Habeas. That if she allowed the remittitur to
be sent, me be released from SCDC into the custody of Greenville
County, that I would lay down, not apply for a Bond, for 6 1/2
months so that I would have 10 years in on the sentence.
in which armed Robbery carried a mandatory minimum of 10 years
no more than 30 years, that I was willing to accept a 10 year
time serve guilty plea. This way everyone is happy, the state got
10 years out of me, and I can't sue, and I get my freedom.
to be with my family and be a productive human being in society.
Apparently she granted me my wish, in which upon receiving the
S.C. Court of Appeals Order denying the petition for rehearing dated
April 21 2011. She held on to it, until, The remittitur was sent
and I was released from SCDC into the custody of Greenville County.
on June 14, 2011. She then forwarded the S.C. Court of Appeals to
Assistant Attorney General William M. Blich Jr., in which it was
logged in on his mail log on June 15, 2011. see Fed in Exhibit
41. page 5 of 5 which contains evidence that it was not because of
any error or mistake or inadvertence of the SC Court of Appeals
or its Officer that the remittitur was sent without AAG William M.
Blich Jr. receiving it in time to file a Petition for Writ of Habeas.

pursuant to SCACR 242(c). before the remittitur was sent
pursuant to SCACR 221(b). It was the error, mistake or
inadvertence of Assistant Deputy Attorney General Solley to
Elliott; and AAG William M. Blitch Jr. knew this.

Evidence of Malicious Prosecution Id in Appellate Case
2015-002191 Supp Appendix page 11-14, page 15, 16,
now see Id in Exhibit #1. page 5 of 5

Once the remittitur was recalled due to misconduct
of the adverse party, and a fraud upon the Court -
on July 14 2011 Assistant General William M. Blitch Jr. filed
a Petition for Writ of Certiorari, because the recalling of the
remittitur gave S.C. Court of appeals jurisdiction over my case
again. Appellate Case 2011-195272 So that Assistant General
William M. Blitch, could maliciously seek with malice to
continue the criminal appeal "prosecution" of my case, and
to deprive me of my liberty and life. This is how the
S.C. Supreme Court was able to get involved in my case
and reverse the S.C. Court of appeals unpublished opinion
2011-UP-091 reversal of my conviction. In it Opinion
No 27334. Id in Appendix page 756-759

I ask this Court that upon its Grace and Mercy that
it reinstate The SC Court of Appeal judgment in its

Unpublished Opinion 2011-UP-091 State v. Watkins. based on the above aforementioned facts to correct a grave injustice, and to prevent future misconduct, that places other Government agencies, such as the SCCD Division of Appellate Defense in positions that would deter the public confidence and integrity in the judiciary had it revealed such misconduct involving malicious Prosecution.

I further ask this court based on its knowledge of the facts surrounding the recalling of the remittitur; that just because I didn't discover this misconduct of the adverse party or extrinsic fraud, and fraud upon the court until January 6, 2012, in which on Jan. 12th, 2012 I made SCCD Division of Appellate Defense Counsel, Elizabeth Franklin Best and David Alexander aware of this evidence, in providing a copy of Mr. Blitch Jr mail log to them. Whether or not, their representation fell below an objective standard of reasonableness in failing to file a Motion to set the petition for writ of Certiorari thrown out pursuant to SCRCP Rule 60(b)(3). What could I do, There is no hybrid representation in South Carolina. If they refused to get the Petition for writ of Certiorari thrown out because of what assistant atty Genl William M. Blitch did, in which Judge Miller, already with Bias Believes there was nothing my appellate Counsel could have done, because he was focusing on the remittitur, when my issues

was getting the Petition for writ of Habeas Corpus thrown out. I'm
indignant, dependent upon my Government and its official
and employees to uphold the constitution; that was created
to protect me from, the Government violating my Rights, for such
a thing to happen, there had to be a Bias and prejudice against
me by the individuals working as Government officials and
employees together, to violate my constitutional and civil rights
to continue my incarceration; under act of Malicious
Prosecution; and the only justice I can receive, to remedy
this injustice, must come from the U.S. Supreme Court
Justices. For this cause and reason, I pray that
my New trial is reinstated under 9th Circuit Court of Appeals

Unpublished Opinion 2011-UP 091. State v. Watkins

Appellate Case 2011-195272.

In the Name of God, The Most Merciful, The Most Gracious.
For it is in God we trust

Robert Watson ✓

Sworn to before me

on this 20th day June month 2016 year

SC Notary Nancy C. Muehlent Exp. Date 1-23-2022

See Exhibit (C) and that the same was shown to him was
nothing but a copy.

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RECEIVED
JUN 20 2016
P.C.I. MAILROOM

Issue #8 I believe this Court should consider the evidence concerning the issue of ineffective assistance of Appellate Counsel Elizabeth Franklin Best, in which with a Bias and prejudice against me, ^{Judge Miller} would not allow me to fully litigate my issue and present my evidence of ineffective assistance of appellate Counsel

Sworn Affidavit in Support of

I ask this Court to upon its supreme wisdom, and supreme acknowledgment of the laws of this state, federal and state laws, if it would upon its grace determine whether the Government appointed Counsel were ineffective of appellate defense Counsel. Both Elizabeth Franklin Best and David Alexander was ineffective assistance of Counsel in failing to file a motion to reinstate or get the Petition for Writ of Certiorari, thrown out, pursuant to S.C. App 60 (b)(3) once I provided Elizabeth Franklin Best, a copy of Assistant Attorney General William M. Bitch Jr. mail log from April 21 2011 to June 15th 2011. Because whenever I tried to present this evidence to show that Assistant Attorney General William M. Bitch, Jr. committed, fraud upon the Court, misconduct of the adverse party, or extrinsic fraud, and malicious Prosecution to the S.C. Court of Appeals, and S.C. Supreme Court, no action was taken on any of my complaints, letters, Motions, etc I made pursue because I was represented by the S.C. Division of appellate Defense. The clerk of Court of Appeals at S.C. Supreme Court Forwarded a copy of all my attempted filings to my appellate Defense Counsel Elizabeth Franklin Best and David Alexander. See ID as exhibit # (14) (15) (16) (17) (18) (attached). They did nothing because they had already made it up in their minds that there was nothing they could do to get the petition for Writ of Certiorari.

Thrown out once the remittitur had been recalled. see Id as Exhibit # (19), (20), (21). I provided my appellate defense Counsel Elizabeth Franklin Best Exhibit # 4 (8 pages) which contained a copy of William M. Blich Jr mail log, showing he received the S.C. Court of Appeals order denying rehearing for me Robert Watkins on June 15, 2011. That was mailed to assistant Deputy Attorney General Sally W. Elliott. see Id in Appellate Case # 2015-002191 Supp. Appendix page 8 and 9 apparently she failed to forward it to assistant attorney General William M. Blich Jr in time for him to comply with SCACR 242 (c) filing of a Petition for Writ of Certiorari. This is why The S.C. Court of appeals on June 2, 2011 sent the remittitur Id in Appellate Case 2015-002191 Supp. Appendix page 10 in which assistant Deputy attorney General Sally W. Elliott received and forwarded it to Assistant attorney General William M. Blich Jr. see Id in Exhibit # 1. page 4 of 5 attached she didn't forward the S.C. Court of Appeals April 21 2011, order denying Petition for rehearing to him, until the remittitur had been sent, and I was released from SCAC, basically Based upon my letter I sent to her. That I was willing to accept a guilty Plea. But apparently assistant attorney General William M. Blich Jr didn't see it that way when he received the S.C. court of Appeals order denying rehearing for Robert Watkins on June 15, 2011. In which lead to him filing an Expedited motion to recall the remittitur. Id. Appellate Case # 2015-002191 Supp. Appendix page 11-14.

No My appellate Defense Counsel Elizabeth Franklin-Best of the
SCCJD Division of Appellate Defense received a copy of
the S.C. Court of Appeals April 21, 2011 order denying the petition
for rehearing on April 22 2011. see Id as exhibit # (21) attached.

Now My Appellate Defense Counsel Elizabeth Franklin-Best
wasn't aware of the evidence that existed that Assistant Atty General
William M. Blitch Jr. Had received the S.C. Court of Appeals April
21 2011 order denying Petition for rehearing. Because (1) she
didn't do any investigation, (2) I hadn't provided her with a
copy of assistant attorney General William M. Blitch Jr. mail log
until 1-12-12. see Id as exhibit # 4. 8 pages attached.

So I leave the S.C. Supreme Court with the question as to whether
or not there was anything she could have done to assistant
attorney General William M. Blitch. Expedited Motion to recall
the remittitur thrown dismissed. instead of Not filing a return
Motion pursuant to SCRC 240(e), which the court deem that
she consented to the relief assistant atty General William M. Blitch Jr.
Based on the grounds set forth in his expedited Motion to
recall the remittitur. Id in Appellate Case # 2015-002191 Supp. Appendix
page 11-14 attached, in which on June 30th 2011 The S.C. Court of Appeals
issued an order recalling the remittitur based on the ground set
forth in assistant Atty General William M. Blitch Jr. expedited Motion
to recall the remittitur see Id in Appellate Case 2015-002191
Supp Appendix page 15, 16.

Once the remitter was recalled, Assistant Atty General William M. Blitch Jr. Filed a Petition for Writ of Certiorari on July 14, 2011, involving the S.C. Supreme Court in Appellate case # 2011-195272: State v Robert Watkins.

I am asking this court to determine that after I provided SCCTO Division of Appellate Defense, Counsel Elizabeth Franklin Best a copy of Exhibit # (1) sparse Assist. Atty General William M. Blitch Jr. mail log showing he did receive the S.C. Court of appeals order denying rehearing for Robert Watkins, her client, do this Court upon its Grace find that there was something appellate defense Counsel Elizabeth Franklin Best and David Alexander could have done to get the Petition for Writ of Certiorari thrown out, and the S.C. Court of appeals unpublished Opinion 2011-UP-091 reversal of my conviction reinstated, such as filing a Motion pursuant to SCRPC 60(b)(3)?

I believe the Government intentionally did not subpoena or summons my appellate Counsel Elizabeth Franklin Best or David Alexander to appear to contest my claim of ineffective assistance of appellate Counsel because of the evidence that Assistant Attorney General Karen C. Ratigan knew that they would introduce into evidence, that they were ineffective assistance of appellate Counsel for failing to file a Motion pursuant to SCRPC Rule 60(b)(3) to get the petition for Writ of Certiorari thrown out and the judgment of S.C. Court of Appeals Unpublished Opinion # 2011-UP-091 reinstated. I did not need them to appear. once I got my claim and Evidence presented, Because then it was up to the State to contest it.

My problem was protecting my right to a new trial, in which I
was dependent upon the Government to protect due to my
indigency, through out Entirely the SCCID Division of Appellate defense.
In order for me to based on the evidence I obtained, to protect that
right to a new trial, I needed to get it before the Courts, which
The laws of this state only allows me to do on appeal is through
Government appointed Counsel of SCCID Division of Appellate defense.
I were dependent on SCCID Division of Appellate defense to protect
my right to a new trial granted to me by S.C. Court of Appeals.
When the SCCID Division of Appellate defense failed to protect that
right; I was dependent on Government appointed Counsel pursuant
to SCRPC Rule 71.1(d) ALR Counsel Robert M. Grail Jr. to insure
that the available grounds for relief against my appellate
defense Counsel, Ms. Elizabeth Franklin Best and Mr. David Alexander
is presented on the record adequately to meet the requirements
of Strickland v Washington, 466 U.S. 668 687-88 (1984) by the
perpunderance of the Evidence that existed; and to insure that
a complete record of this evidence is preserved for review
by the S.C. Supreme Court just in case the Judge of the Court
of Common Pleas deny my relief sought. But unfortunately
when I filed a claim against the State of South Carolina
in the Court of Common Pleas which will also effect the
criminal conviction in which the state deprived me of my
liberty and life; the state through its appointed lawyers or
Counsel, that are paid to represent me by the state
is a conflict of interest, the Judge is paid by the state.

and the state is representing the state appointed lawyer, defender
Counselors, how can I win under this conflict of interest?
I must show a Constitutional violation, and apparently
They all in the interest of the state, constructively conspire
together to prevent me from presenting any evidence on the courts
record that would entitle me to relief by U.S. Supreme Court
upon its review of such evidence. The PCR transcript
of Case # 2014-CP-23-0589 Edin Appendix page 293-841
shows this. How can an indigent defendant, appellant,
applicant, petitioner, present evidence that the state violated his or
her Due Process of Rights to a fair trial, when the state funds
the appointment of counsel, under a conflict of interest, that results
in the representation of indigent defendants resulting in a conviction in cases
where they have valid meritorious defenses, or a defense in which
suppression of the evidence would prevent the prosecution of the case
against the indigent defendant, but the government lawyers failed to
properly articulate in the indigent defendants favor. The system is
broken, and needs fixing, those government appointed lawyers need
to be sanctioned, license suspended and charges brought against
them, for committing a crime against indigent defendants civil
rights to liberty and life, because they fail to protect indigent
defendants Rights under the Due Process Clause of the 5th/14th
United States Constitution, knowing their appointment of representation is a conflict of interest
interest. I have enclosed copy of my appellate Counsel Elizabeth
Franklin Best letter dated September 12, 2011. She sent to me
as exhibit # C22 a attached Compare to Evidence in Appellate
Case 2015-002191 Supp Appendix which shows she is

incompetent. She doesn't know what's going on in my case. She provides me inadequate information on the status of my case. I had already been released into the custody of Greenville County for a new trial. By the time I got her response letter to my September 6, 2011 letter to her asking her about the status of my case, because I had been told by the County attorney's office that the remittitur had been recalled and a petition for writ of certiorari had been filed.

• See Id as Exhibit # (22) attached

It wasn't until I contacted James M. Dorrity by letter on September 16th 2011 about Greenville County Detention Center personal jurisdiction to hold me if my case was no longer in the jurisdiction of the circuit Court, that he had talked with Elizabeth Franklin Best about the inaccuracies in his Sept 12 2011 letter to me. Apparently Mr. Dorrity, The county attorney's office, The circuit Solicitor and Elizabeth Franklin Best come together to determine that the appeals process had not concluded and that I will remain classified as a sentenced inmate in the Greenville County Detention Center system which will be modified to reflect my charges of conviction.

See Id as Exhibit # (23) attached This is when Elizabeth Franklin Best sent me another letter date Sept, 22, 2011 in which she justifies the inadequate information on the status of my case, and tells me, she has no basis for challenging the S.C. Court of appeals order recalling the remittitur.

Id as Exhibit # (24) attached

Mr. Durriety had the Greenville County Detention Center Systems modified with a false entry that I was sentenced on Sept 24, 2011 By Judge Larry R. Patterson for arrest warrants GE05977, 88 Indictment #2002-GS-23-1063, and that it was on appeal. see Id as Exhibit # (13) 2 pages

Law which on the same date my guilty plea to Traffic ticket 7720115 were accepted by city Municipal Court Judge Darnell Fisher in which he sentenced me to \$200. fine or 30 days to run consecutively to any and all charges. see Id in Exhibit

(25) 3 pages and Exhibit # (13). attached

I wrote Mr Durriety again concerning my opinion that the Greenville County Detention Center lacked personal jurisdiction to hold me on a no Bond for Court under arrest warrants GE05977, 88 Indictment 2002-GS-23-1063 as well as subject matter jurisdiction. This is when he sent me a letter date January 26, 2012. informing me that he has contacted the SCDC and are having discussion about my return to their custody. see Id as Exhibit # (26) attached

on 1-30-12 underacts of Conspiracy with General Counsel of SCDC and Kirkland R.E. staff, under false pretenses, acts of Malicious Prosecution, conspired with Greenville County Detention Center in using Exhibit # (13) as an commitment order to accept me back into SCDC while the state appealed the state own case concerning my liberty and life. This Greenville County Detention Center inmate Booking Report is a fraudulent document, and does

not meet the requirement of SCDC Policy 21.09 § 11.4.
Committed order is a legal document issued by a judge or magistrate
formally committing the defendant to the SCDC for a designated
period of time usually submitted by a County Clerk of Court.
This document is the authority by which the SCDC may legally
confine the inmate and all admitted inmates must be accompanied
by such an order. My arrest on 1-30-12 by SCDC was a false
arrest, to get me back into the custody of SCDC, instead of letting me
go in society while the state appeal of S.C. Court of Appeals
Judgment of Unpublished Opinion 2011-UP 091 State v Watkins
was pending in the S.C. Supreme Court. All I wanted was
my new trial to prove my innocence, or be convicted without
my Constitutional Right being violated. The State is guilty of
conspiring to alter the facts to convict me in violation of my Due Process
of Right to a fair trial, and deprive me of a fair hearing, in which
to present my evidence of constitutional violation on the Record.
Because of the injustice I'm aware of now, my case is more
of a Political and financial issue that apparently outweigh
justice, or any remedy in which I would be entitled to. All
I want is a new trial, so I can plea out to time served.
I'm not claiming innocence, I'm claiming that I was convicted in
violation of my Rights under the Due Process clause of the
5th 14th USCA and deprive of an opportunity to present such evidence.
Due to state law, such as Jones v State 348 S.C. 13, 558 SE2d 517
(2002) State v Stuckey, 333 S.C. 56, 508 SE2d 564 (1998); Fiske
v State, 298 S.C. 306, 379 S.E.2d 907 (1989) and the Government
lawyers want raise the issue or adequately present the violations
Due to the conflict of interest that would exist if they do against

the state, in which has a 3rd Party interest, in which employees
them to represent indigent defendants. This is basically a
violation of the judiciary system of the state of South Carolina.
I'm not trying to beat the system. I just want it to work for
me.

In conclusion I ask this court to vacate its
opinion, under case # 27334, and reinstate
The SC Court of Appeals Unpublished opinion 2011-UP-091.

Robert Wallace ✓

Sworn to before me on this

20th day June month 2016 year

SC Notary Randy Merchant Exp Date 1-23-2023

PS. see exhibit # (21) 2 page attach

No sentencing sheet for Indictment 2007 GS23-1063
for 9-27-2011

Molitious Prosecution
Fraud

RECEIVED
JUN 20 2016
P.C.I. MAILROOM

Exhibit
#1
5 pages



ALAN WILSON
SECURITIES COMMISSIONER

January 6, 2012

Mr. Robert M. Watkins, #134960
Greenville County Detention Center
201 McGee Street
Greenville, SC 29601

RE: Freedom of Information Act ("FOIA") request

Dear Mr. Watkins:

Your request pursuant to the FOIA for copies of the mail log for Assistant Deputy Attorney General Salley Elliott, for the period March 8, 2011 to June 15, 2011, the mail log for Attorney William Blitch, for the period April 21, 2011 to June 15, 2011, a letter from you dated June 7, 2011, and a copy of the Remittitur relating to case 2002-GS-23-01063, has been referred to me for reply. Pursuant to your request, the records of this Office were checked and enclosed are documents responsive to your request.

With respect to copies of orders or judgments, any materials this Office might possess relating to your case should previously have been made available to you through counsel and, if not, should be obtained from that source. If you can not or do not wish to obtain them from that source, this Office will provide them to you for a fee not to exceed our actual research and copy costs. Agencies are permitted to charge reasonable fees not to exceed their actual costs to provide records and this Office has elected to charge the fees as a way to offset the costs of responding to requests. This Office charges \$18.90 per hour of staff time required to locate and copy records responsive to requests and copy costs of \$.20 a copy. These costs are directly related to the cost to the Office for staff to search for and copy responsive records. If you wish this Office to provide copies of the documents referred to above, please send a deposit of \$20.00 to my attention at the address below. Upon receipt of the appropriate deposit, we will copy and provide the documents to you, along with either the excess of your deposit if our costs are less than \$20.00 or a bill for the remainder if our costs exceed \$20.00.

I hope you find this information helpful.

Sincerely yours,

Tracy A. Meyers

Tracy A. Meyers
Senior Assistant Attorney General

TAM/tpn

Exhibit #4
2 page

WILLIAM BLITCH'S MAIL LOG APRIL 21, 2011 - JUNE 15, 2011

April 21, 2011 Court of Appeals	Opinion	Tyquan Jared Amir Jones
April 22, 2011 SCCID-Hudgins Court of Appeals Court of Appeals Court of Appeals SCCID-Hudgins	FBOA James Letter Order denying rehearing Order denying rehearing Petition to file ext	Walter Thompson Brian Keith Kelly Ervin Gamble Juan Orozco James Walter Thompson
April 25, 2011 Samuel Whitner	Request	
April 26, 2011 SCCID- Dudek Court of Appeals Supreme Court Court of Appeals	letter re: amended final briefs letter re: status of case Time allotment for argument Motion for ext granted	Gerald Pitts James Miller Gerald Carlisle
April 27, 2011 Court of Appeals Court of Appeals Court of Appeals Court of Appeals	letter re: oral argument letter re: oral argument Pet. For ext granted letter re: oral argument	Charles Coleman Leon Hill Jack Harrison MacArthur Lee, Jr.
April 28, 2011 Court of Appeals Supreme Court SCCID-Franklin-Best	pet for ext granted Letter Samuel Whitner Petition for Rehearing	Benjamin P. Green James C. Miller
April 29, 2011 Court of Appeals Richard Harpootlian	Opinion consent motion for ext	Antoine Miller Kendra Samuel
May 2, 2011 SCCID-Hudgins	FBOR	Bryant J. Kinloch
May 3, 2011 John Martin Foster	Motion for ext	Mark Allen Hoyle
May 4, 2011 G. Dewy Oxner, Jr- Haynesworth, Sinkler, Boyd	Motion to file Amicus Brief Amicus Brief	John M. Sterling

~~_____~~
60

~~_____~~

22
May 5, 2011

Supreme Court Order
Court of Appeals Order
SCCIDtranscript request
SCCID-Hudgins FBOA Marco

John M. Sterling, Jr.
Christopher Spriggs
Jermaine T. Fuller
Andrea Clark

May 6, 2011

Court of Appeals Petition Granted

Mark Alan Hoyle

May 9, 2011

Supreme Court Order granting Cert
SCCID-Dudek Letter Gerald Carl Pitts
Supreme Court Order granting Cert
Court of Appeals Remittitur

Zeb Eron Binnarr

Reginald R. Latimore
Tyquan Jared Amir Jones

May 10, 2011

Supreme Court letter
John H. Blume letter re: order
Joseph M. MCCulloch, Jr. Response to Petition for Rehearing
G. Dewy Oxner Motion to Admit Counsel Pro Hac Vice

Samuel Whitner
Christopher Sprigg
Ryan Hercheck
John M. Sterling

May 11, 2011

Court of Appeals submitted case
Supreme Court Order
Court of Appeals Opinion

Kevin M. Ware
John M. Sterling, Jr.
Kevin Allen Chase

May 17, 2011

SCCID-Franklin-Best ROA
Court of Appeals Remittitur
Court of Appeals Remittitur

Taylor K.
Antoine Miller
Marcus McKenzie

May 18, 2011

Court of Appeals ext Order
Court of Appeals no oral argument
Court of Appeals no oral argument
Court of Appeals no oral argument

Dominic Leggette
Leon Hill
Bobby Lee Burdine
MacArthur Lee, Jr.

May 20, 2011

Jack B. Swerling Letter

Jack Harrison, Jr.

May 23, 2011

Court of Appeals Motion for ext granted
Court of Appeals Petition for extgranted

May 24, 2011

Court of Appeals Opinion
Court of Appeals argument acknowledgment
The Finney Law Firm Petition for Writ of Cert

Najjar De'Breece Byers
Charles Coleman
Adam Whitsett

May 25, 2011

Supreme Court extension order
Court of Appeals extension order
SCCID-Dudekext letter
Supreme Court Letter and order
Court of Appeals case submitted on briefs
Court of Appeals Opinion

Juan Orozco
Steven Burton
Juan Orozco
Ervin Gamble
Charles Coleman
Eugene Payton

May 26, 2011

Supreme Court Request denied

John M. Sterling, Jr.

May 27, 2011

Tara Dawn Shurling Petition for rehearing
SCCID-Pachak IBOR

Kevin Chase
Danny Long

June 1, 2011

Court of Appeals Order denying rehearing
SCCID-Dudekext letter Samuel Whitner
Brigid Jones Amended Final Reply brief
Brigid Jones Amended Initial Reply brief

Thomas Simmons
John M. Sterling, Jr.
John M. Sterling, Jr.

June 2, 2011

Supreme Court ext order
Court of Appeals Letter
Court of Appeals Motion Granted

Samuel Whitner
Christopher Spriggs
Marco Andrea Clark

June 3, 2011

Court of Appeals Remittitur Robert Watkins

June 6, 2011

John Martin Foster FBOR

Mark Allen Hoyle

June 7, 2011

SCCID- Franklin-Best FBOA
SCCID-DuRant BOA

Taylor Key
Reginald R. Latimore

June 8, 2011

Court of Appeals Opinion
Court of Appeals ext Order

Phillip Wesley Sawyer
David Johnson

62

~~3-11-11~~
3-11-11

~~3-11-11~~

June 9, 2011

Court of Appeals

Supreme Court

Supreme Court

Court of Appeals

Opinion

Motion Denied

Remittitur

Opinion

Kevin M. Ware

John M. Sterling

Najjar De'Breece Byers

Vincent N. Way

June 10, 2011

Court of Appeals

Remittitur

Eugene Payton

June 13, 2011

Robert Watkins

Letter

June 14, 2011

Court of Appeals

Court of Appeals

Opinion

Motion Granted

Bobby Lee Burdine

Mark Alan Hoyle

June 15, 2011

Robert M. Dudek

Court of Appeals

Court of Appeals

Court of Appeals

Court of Appeals

Record on Appeal

Ext Order

Motion for ext granted

ext order

order denying rehearing

Samuel L. Whitner

Hazard Cameron

Mark Alan Hoyle

Dominic Leggett

Robert Watkins



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Exhibit
#2

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 22, 2011

Robert Watkins, 10194 Yellow Pod Room #5
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601-2210

Re: Your letter

Dear Mr. Watkins,

I have received your latest letter. First of all, just to be clear—the remittur in this case was improperly issued because the state did not realize their petition for rehearing had been denied. The state asked that the remittur be recalled because they did not have notice. The Court granted that motion. I don't have any basis for challenging the Court's decision in this regard.

Also, I inaccurately told you that the petition for rehearing was denied on July 14th. That is actually the day the state submitted their petition for writ of certiorari. I gave you the wrong date because my assistant entered the wrong date into the database. I apologize for that mistake. I will now be filing a response to the state's petition on your behalf. You will receive a copy of that when it is filed.

If you are transferred to another facility, please give us a call or write to us and let us know. That way you can be sure that your materials will get to you in a timely manner.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

64

*She did come this week
after she spoke with
James M. Derricks
contacted her.
She did even know
this release was
in Greenville County*



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Exhibiting

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 3, 2011

Robert Watkins, 10194 Yellow Pod Room #5
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601-2210

Re: Your letters

Dear Mr. Watkins

I have just received your two most recent letters. Believe me when I say that I totally understand your frustration, and I know that you filed a grievance because you are upset. In your shoes, I would be upset too. I just want to apologize because I think that you think I'm not working for you. Nothing could be further from the truth. I think one reason why we're having this difficulty is because you were shipped to Greenville without my knowing about it, and so you didn't receive information when we initially sent it out. I have tried my best to keep you up to date with the developments in your case, and I apologize that you did not receive information when you should have. But please know that we now have a win in the Court of Appeals, and my focus is to protect that win while the Attorney General asks the Supreme Court to get involved in your case. I do not have any basis to have the court toss out their appeal. It is the policy of their office to appeal the cases that we win. If this were a case where they sought to recall the remittitur say, a year after it went down, that would be a totally different issue. But I don't have any legal authority which would support a request to have the Court dismiss their petition for writ of certiorari. So, I'm sorry about that. But your case is a strong one—if it wasn't, we would not have won in the Court of Appeals. Winning cases is HARD, but we actually have a win at this point. So, please accept my apology that we seem to have gotten off to a rocky start here. I'm sure this problem is exacerbated by the fact that we are unable to visit our clients when they are in prison. But, in any event, please know that I have your best interests at heart and that I will be trying to secure your win for you and so that you will get a new trial.

Sincerely,

Elizabeth A. Franklin-Best

Elizabeth A. Franklin-Best
Appellate Defender

RECEIVED

Date 1-12-2012

Exhibit #4
7 pages

JAN 19 2012

SC OFFICE OF
APPELLATE DEFENSE

pg 1 of 7

Dear Ms. Elizabeth Franklin-Best Esq. Appellate Defense Counsel.

The Greenville County Detention Center Assistant County Administrator James M. Dorriety came to see me today. He discussed with me the possibility of being released on house arrest; he further explained other things he would like to do for me considering my lengthy incarceration. He had some concerns about an appeal Bond etc. I told him that I would write you and have you call him. He said that would be fine too, and that after I write you to let him know, and if he hasn't heard anything from you he is going to contact you.

His number is ~~James M. Dorriety~~ (864)-467-2321

I rather you and him discuss this matter. Then he can let me know what's what, and we can go from there.

I believe there is so concerns about me being incarcerated in the GCDL, and I no longer am under a conviction, nor has the solicitors office recharged me. Being that GCDL has personal jurisdiction over me, I think my Due process of Rights under the Due process clause of the 14th USCA and SC Const Article 1 § 3 has become of some concerns.

So as my counsel Please call him.

Also

I want to Bring to your attention that, assistant Attorney General William White did receive Notice from the SC Court of Appeals, that on June 15, 2011, that his petition for a

rehearing had been denied. Senior Assistant Attorney General sent me a copy of Mr. Blich's mail log from April 21, 2011 to June 15, 2011, and it shows he did receive Notice that his petition for rehearing had been denied. He also received on June 3rd 2011, a copy of the remittitur and Judgment.

I'm a little puzzled, because all Judgment, decrees, etc concerning my case which the SC Court of Appeals rendered, were address to assistant Deputy Attorney General Sally W Elliott. for an example.

- (1) The March 8, 2011 Judgment / Unpublished Opinion 2011-UP-091 in which SC Court of Appeal reversed the conviction under Case # 2002-B523-1063 State v Watkins, Robert.

Included with this Judgment / was SC Court of Appeal notifying the state that the remittitur will be held only as long as Required by SCACR 221(b).

There is no record of Sally W Elliott according to her March 8, 2011 - June 15, 2011 of her mail log of her ever receiving a copy of this Judgment and Notice of SCACR 221(b), which to file a Petition for a rehearing.

Yet it was sent to her. So how did William Blich know that the conviction had been reversed in order to file timely a Petition for a rehearing, when SC Court of appeal never send a letter or copy of the Judgment address to him. and Sally W Elliott's mail log for March 2011 there is no evidence that she received it, if you have it off of her mail log.

Why would William Blich include a false statement in his expedient Motion to recall the June 2 2011 Permitting on grounds he checked his mail log and didn't receive Notice of when his petition for rehearing had been denied.

You received a copy of his Motion. Read it Dated June 15, 2011. Then contact Tracy A Meyers and ask did Mr. Blich receive the SC Court of Appeal order denying his petition for rehearing on June 13th 2011. You could have mailed a return to Mr. Blich's expedient Motion to recall the permitting and challenge his relief sought on just that ground alone showing he did receive Notice of when the state's petition for rehearing was denied, also that case law *State v Kels* 39 S.C. 553, 17 S.E. 802 (1893) has nothing to do with what he is stating in his motion.

Also because you're still my Counsel on Record. I'm denied access to the courts by the state of South Carolina Clerk of Court of Supreme Court to present any of this proof or to file a motion for an speedy appeal. See attached document: dated January 10th 2012 from Daniel E. Shearman.

I want you to file a Motion for speedy appeal - Pursuant to SC Const Article 1, § 9 and U.S.C.A. 14th 5th.

I am providing the following Parties a copy of this letter notifying them and providing Proof that I have made these request to you as my Counsel.

Proof of Service

cc Ms Elizabeth Franklin Best.
 SCCID. Division of Appellate Defense
 Post Office Box 11589
 Columbia SC, 29211-1589.

cc The Honorable Judge Jean Tard
 1231 Nervens St. Columbia SC 29211

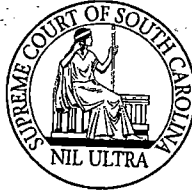
cc SC Bar Association
 Witnessed by W. Massey

Robert M. Watkins 0194
 GCDC, 20 McGee St
 Greenville SC 29601

Sworn to before me Robert M. Watkins
 this 13 day January 2012 year
 SC Notary Pamela Gross Exp Date 1-3-13

PS I've attached a copy of ^{Copy of (2)} ~~the~~ Page of William Blitch's
 mail log. See June 15, 2011.
 He received Court of Appellate order denying rehearing.

I was told there was a flood in their building. This mail was
 everywhere, this is why he got it on June 15, 2011 although
 it got there on April 21, 2011.



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 10, 2012

Mr. Robert Watkins, #0194
Greenville Cty Detention Ctr
Yellow 40
20 McGee Street
Greenville, SC 29601-2210

Re: The State v. Watkins, Robert

Dear Mr. Watkins:

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

Very truly yours,



CLERK

cc: Assistant Attorney General William M. Blitch, Jr.
Appellate Defender Elizabeth A. Franklin-Best

copy

WILLIAM BLITCH'S MAIL LOG APRIL 21, 2011 - JUNE 15, 2011

April 21, 2011 Court of Appeals	Opinion	Tyquan Jared Amir Jones
April 22, 2011 SCCID-Hudgins Court of Appeals Court of Appeals Court of Appeals SCCID-Hudgins	FBOA James Letter Order denying rehearing Order denying rehearing Petition to file ext	Walter Thompson Brian Keith Kelly Ervin Gamble Juan Orozco James Walter Thompson
April 25, 2011 Samuel Whitner	Request	
April 26, 2011 SCCID- Dudek Court of Appeals Supreme Court Court of Appeals	letter re: amended final briefs letter re: status of case Time allotment for argument Motion for ext granted	Gerald Pitts James Miller Gerald Carlisle
April 27, 2011 Court of Appeals Court of Appeals Court of Appeals Court of Appeals	letter re: oral argument letter re: oral argument Pet. For ext granted letter re: oral argument	Charles Coleman Leon Hill Jack Harrison MacArthur Lee, Jr.
April 28, 2011 Court of Appeals Supreme Court SCCID-Franklin-Best	pet for ext granted Letter Samuel Whitner Petition for Rehearing	Benjamin P. Green James C. Miller
April 29, 2011 Court of Appeals Richard Harpootlian	Opinion consent motion for ext	Antoine Miller Kendra Samuel
May 2, 2011 SCCID-Hudgins	FBOR	Bryant J. Kinloch
May 3, 2011 John Martin Foster	Motion for ext	Mark Allen Hoyle
May 4, 2011 G. Dewy Oxner, Jr- Haynesworth, Sinkler, Boyd	Motion to file Amicus Brief Amicus Brief	John M. Sterling

21

~~CONFIDENTIAL~~

June 9, 2011

Court of Appeals

Supreme Court

Supreme Court

Court of Appeals

Opinion

Motion Denied

Remittitur

Opinion

Kevin M. Ware

John M. Sterling

Najjar De'Breece Byers

Vincent N. Way

June 10, 2011

Court of Appeals

Remittitur

Eugene Payton

June 13, 2011

Robert Watkins

Letter

June 14, 2011

Court of Appeals

Court of Appeals

Opinion

Motion Granted

Bobby Lee Burdine

Mark Alan Hoyle

June 15, 2011

Robert M. Dudek

Court of Appeals

Court of Appeals

Court of Appeals

Court of Appeals

Record on Appeal

Ext Order

Motion for ext granted

ext order

order denying rehearing

Samuel L. Whitner

Hazard Cameron

Mark Alan Hoyle

Dominic Leggett

Robert Watkins

Robert M Watkins 194 Yellow Pond Ln 21

GREENVILLE COUNTY DETENTION CENTER
20 McGee Street
Greenville, South Carolina 29601-2210

GREENVILLE SC 29601

17 JAN 2012 PM 3 L

USA
FIRST-CLASS
FOREVER



Elizabeth Franklin - Best
SCCID Division of Appellate Defense
Post office Box 11589
Columbia SC, 29211-1589

Legal Mail

29211+1589

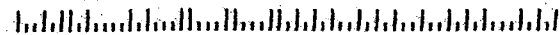


Exhibit #5

LAW OFFICES

BANNISTER AND WYATT, L.L.C.

ATTORNEYS AT LAW

501 EAST McBEE AVENUE, SUITE 201

P. O. BOX 10007

GREENVILLE, SOUTH CAROLINA 29603

TELEPHONE (864) 298-0084

TELECOPIER (864) 298-0146

E-MAIL BANNISTERWYATT @ BANNISTERWYATT.COM

O. W. BANNISTER, JR.
JOHN F. WYATTJAMES W. BANNISTER
BRUCE W. BANNISTER

October 16, 2002

VIA HAND DELIVERYJudy Munson, Esq.
13th Circuit Solicitor's Office
Greenville County Courthouse
305 East North Street, Suite 325
Greenville, SC 29601

RE: State v. Watkins, Robert

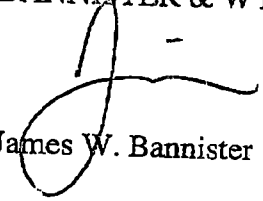
Dear Judy,

In reviewing my file, I thought it prudent to advise you that Elena Pelzer may provide an alibi defense for Mr. Watkins. I am writing this letter in an abundance of caution regarding the potential testimony of Ms. Pelzer. I can tell you that I have not spoken with her or her attorney about what her testimony would be. I am, therefore, assuming because of the timing of the arrest that Ms. Pelzer would be able to offer testimony that my client was with her at the time the robbery was committed.

If you need to talk to me about this matter please call me at your convenience.

Sincerely,

BANNISTER & WYATT, L.L.C.


James W. Bannister

JWB/rdh

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE - ARMED ROBBERY
COUNT TWO - POSSESSION OF A WEAPON DURING
THE COMMISSION OF OR THE ATTEMPT TO COMMIT
A VIOLENT CRIME

At a Court of General Sessions, convened on FEBRUARY 19, 2002 the

Grand Jurors of Greenville County present upon their oath:

COUNT ONE - ARMED ROBBERY

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001,
while armed with a deadly weapon, or while alleging, either by action or words ^{and} or both he was armed
while using ^{Representing the use of that} a representation of a deadly weapon or any object which a person present during the
commission of the robbery reasonably believed to be a deadly weapon ^{That he} did, by use of force, threats or
intimidation, take and ^{fuck} carry away the ^{fuck property that belongs to chuckie cheese} property of another, to wit: U.S. currency from Chuckie Cheese.

This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF OR THE
ATTEMPT TO COMMIT A VIOLENT CRIME

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001,
possess or visibly display a handgun during the commission or attempted commission of a violent crime,
to wit: Armed Robbery. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as
amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provide

Thomas J. Davis
SOLICITOR

Exhibit # 6
6 page Front
and Back
Ti page 364-12-PS367-1m12
pg 119, 120, 128, 128, 129

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

-VS-)

ROBERT M. WATKINS,)

DEFENDANT.)

-2002-GS-23-1063

TRANSCRIPT OF RECORD
(VOLUME ONE OF TWO)

OCTOBER 23 - 25, 2002
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

JUDITH MUNSON, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

JIM BANNISTER, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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1 Q. CAN YOU TELL THE JURY ABOUT WHAT TIME YOU GOT TO THE
2 CHUCK-E-CHEESE?

3 A. I DON'T REMEMBER THAT.

4 Q. WOULD IT BE BEFORE OR AFTER THE STORE CLOSED?

5 A. IT WAS AFTER IT CLOSED.

6 Q. OKAY. DID ANYBODY GO WITH YOU OVER THERE?)

7 A. NO. IT WAS JUST ME THAT CAME.. \

8 Q. OKAY. AND WHEN YOU GOT TO THE STORE DID YOU EVER LEAVE
9 PRIOR TO THE INCIDENT THAT TOOK PLACE?

10 A. YES. I LEFT TO GO GET FOOD.

11 Q. WHERE DID YOU GO TO GET FOOD?

12 A. I WENT TO BI-LO. AND I WENT TO STEAK AND SHAKE.

13 Q. ALL RIGHT. AND CAN YOU SAY ABOUT WHEN YOU GOT BACK TO
14 THE STORE?

15 A. IT WAS A LITTLE BIT BEFORE ONE. 12:50 AM

16 Q. OKAY. WERE YOU IN THE STORE WHEN THE CARPET CLEANERS
17 WERE THERE?

18 A. YEAH.

19 Q. OKAY. DID YOU LEAVE TO GO GET FOOD BEFORE OR AFTER THE
20 CARPET CLEANERS LEFT?

21 A. IT WAS BEFORE THEY LEFT.

22 Q. ALL RIGHT. AND WHEN YOU CAME BACK WERE THEY OR WERE THEY
23 NOT STILL IN THE STORE?

24 A. THEY WERE ALREADY GONE.

25 Q. OKAY. WHEN YOU CAME BACK INTO THE FOOD -- BACK INTO THE

JEANNIE PIREDA - DIRECT EXAMINATION BY MS. MUNSON

120

1 RESTAURANT WITH THE FOOD WHAT DID YOU DO?

2 A. I GOT EVERYONE TOGETHER AND TOLD THEM THE FOOD WAS THERE.
3 AND THEN WE ALL SAT DOWN AND STARTED TO EAT.

4 Q. OKAY. EVERYONE THAT WAS IN THE STORE WORKING ON THE
5 CLEANING, DID Y'ALL SIT AT THE SAME TABLE?

6 A. YES.

7 Q. OKAY. NOW WHILE YOU WERE SITTING THERE EATING TELL THE
8 JURY WHAT HAPPENED NEXT.

9 A. OKAY. WE WERE ALL SITTING DOWN EATING, JOKING AROUND.
10 AND THEN THIS GUY COMES IN WITH A GUN AND ASKED WHERE THE
11 MONEY IS. AND AT FIRST I GUESS WE DIDN'T KNOW WHAT HAPPENED.
12 SO THEN HE SAID IT AGAIN, LIKE MORE FIRM, LIKE WHERE'S THE
13 MONEY. AND THEN AT THAT POINT MY GM STOOD UP.

14 Q. TELL THE JURY WHAT YOU MEAN BY YOUR GM.

15 A. MY GENERAL MANAGER, MARCUS.

16 Q. OKAY. WHERE WAS THIS PERSON WHEN YOU HEARD, WHERE'S THE
17 MONEY?

18 A. HE CAME THROUGH THE BACK DOOR. SO THROUGH THE BACK
19 ENTRANCE, UP THE HALLWAY.

20 Q. HOW CLOSE WAS HE TO ALL OF Y'ALL WHEN THAT COMMAND WAS
21 MADE?

22 A. HE WASN'T TOO FAR AWAY. I COULDN'T TELL YOU LIKE THE
23 DISTANCE.

24 Q. OKAY. DESCRIBE FOR THE JURY THE BUILD OF THIS PERSON AS
25 BEST YOU CAN.

*Did you
actually see
him come in through
the back door?
yes or no*

JEANNIE PIREDA - CROSS EXAMINATION BY MR. BANNISTER

128

1 Q. AND WHILE HE HAD THE DOOR OPEN WHAT WAS GOING ON? WERE
2 Y'ALL COMING IN THE KITCHEN OR OUT?

3 A. WE WERE GOING OUT OF THE KITCHEN.

4 Q. OKAY. I'M SHOWING YOU WHAT'S BEEN MARKED FOR
5 IDENTIFICATION PURPOSES ONLY AS STATE'S EXHIBIT NUMBER 21.
6 DOES WHAT IS IN STATE'S EXHIBIT NUMBER 21 LOOK LIKE WHAT YOU
7 SAW THAT NIGHT?

8 A. YES.

9 Q. OKAY.

10 MS. MUNSON: I HAVE NOTHING FURTHER OF THIS WITNESS AT
11 THIS TIME.

12 THE COURT: MR. BANNISTER.

13 **CROSS EXAMINATION BY MR. BANNISTER:**

14 Q. MS. PIREDA? AM I PRONOUNCING THAT CORRECTLY?

15 A. YES.

16 Q. OKAY. YOU GAVE A STATEMENT THAT NIGHT WHEN THE POLICE
17 ASKED YOU QUESTIONS ABOUT WHAT HAD HAPPENED, CORRECT?

18 A. YES.

19 Q. ALL RIGHT. AND YOU TOLD THE POLICE THAT NIGHT THAT YOU
20 LEFT AROUND 12:28 AM TO GO GET THE FOOD, CORRECT?

21 A. YES.

22 Q. ALL RIGHT. IS THAT WHEN YOU SAW THE WHITE CAR?

23 A. YES, WHEN I WAS LEAVING.

24 Q. OKAY. YOU SAID THAT YOU CAME BACK ABOUT TEN TIL ONE, IS
25 THAT CORRECT?

12:28
Tuesday
Dec 14, 2001

12:50

78

1 Q. OKAY. COULD YOU SEE WHO WAS DRIVING IT?

2 A. I COULDN'T SEE WHO WAS DRIVING IT, BUT I SAW TWO PEOPLE
3 IN THE CAR. *2 people but I can't*

4 Q. COULD YOU TELL ANYTHING ABOUT THE PEOPLE IN THE CAR?

5 A. NOT REALLY BECAUSE IT WAS DARK.

6 Q. OKAY. SO YOU LEFT TO GO GET THE FOOD?

7 A. (AFFIRMATIVE NOD).

8 Q. ALL RIGHT. AND WHEN YOU SAW THE TAURUS WERE YOU INSIDE
9 OR OUTSIDE THE BUILDING?

10 A. I WAS OUTSIDE THE BUILDING.

11 Q. OKAY. AND TELL THE JURY WHERE EXACTLY YOU WERE.

12 A. I WAS WALKING OUT THE FRONT DOOR. I WAS RIGHT IN FRONT
13 OF THE FRONT DOOR. AND THEN I GLANCED OVER TO SEE IF I COULD
14 SEE THE LICENSE PLATE AND I COULDN'T. AND THEN SO I WAS

15 WORRIED ABOUT GETTING IN MY CAR BECAUSE I WAS SCARED. *why when you scared*

16 Q. OKAY. YOU SAID SOMETHING ABOUT KNUCKLES ON A KITCHEN
17 DOOR.

18 A. UM-HUM.

19 Q. YOU SAW THE ROBBER USE HIS KNUCKLES?

20 A. UM-HUM.

21 Q. SHOW THE JURY WHAT YOU MEAN BY THAT.

22 A. HE WAS JUST LIKE HOLDING IT LIKE THAT. YOU KNOW, JUST

23

24 Q. HOLDING OPEN THE DOOR?

25 A. YEAH, BASICALLY.

1 A. YES.

2 Q. ALL RIGHT. SO 12:50 YOU WERE IN THE RESTAURANT WITH THE
3 FOOD, EVERYBODY SITTING DOWN AROUND GETTING READY TO EAT,
4 CORRECT?

5 A. YES.

6 Q. ALL RIGHT. IT WAS SOMETIME AFTER THAT THE ROBBER CAME
7 INSIDE?

8 A. YES.

9 Q. ALL RIGHT. WHEN THE ROBBER CAME IN YOU GOT A PRETTY GOOD
10 LOOK AT HIM?

11 A. YES. YES, I DID.

12 Q. AND YOU GAVE THE POLICE AS ACCURATE A DESCRIPTION AS YOU
13 COULD OF WHAT THAT ROBBER LOOKED LIKE, CORRECT?

14 A. YES.

15 Q. ALL RIGHT. AND IN YOUR DESCRIPTION YOU TOLD THE POLICE
16 THAT THE ROBBER HAD ON A DARK, DARK BLUE JACKET, CORRECT?

17 A. UM-HUM.

18 Q. ALL RIGHT. AND YOU TOLD THEM THAT THE PERSON WAS WEARING
19 FUBU JEANS?

20 A. I DIDN'T SAY IT WAS FUBU. I SAID THEY LOOKED LIKE FUBU.

21 Q. OKAY. THAT THEY -- ALL RIGHT. LOOKED LIKE ---

22 A. YES.

23 Q. --- FUBU JEANS?

24 A. IT LOOKED LIKE -- THAT'S HOW I COULD REMEMBER IT IS

25 BECAUSE FUBU MAKES THEIR JEANS VERY DARK, A LOT OF THEM. SO

*she had to
be told this
or she
the jeans in her pants
on*

pg 78

JEANNIE PIRED A - CROSS EXAMINATION BY MR. BANNISTER

130

1 THAT'S WHAT IT LOOKED LIKE.

2 Q. IS THERE A PARTICULAR KIND OF MATERIAL -- WELL LET ME ASK
3 IT THIS WAY. IS DENIM THE TYPE OF MATERIAL THAT YOU ASSOCIATE
4 WITH JEANS?

5 A. YES.

6 Q. ALL RIGHT. DID YOU FEEL LIKE THOSE JEANS THAT YOU SAW
7 WERE A DENIM FABRIC?

8 A. YEAH, THEY LOOKED LIKE IT.

9 Q. OKAY. NOW IN YOUR STATEMENT YOU SAID -- YOU TOLD THE
10 POLICE I DIDN'T SEE THE BOOTS TOO WELL, BUT THEY WERE PROBABLY
11 BLACK.

12 A. I PUT BLACK?

13 Q. YEAH. WOULD YOU LIKE ---

14 A. THEY WERE VERY DARK ---

15 Q. --- TO TAKE A LOOK AT IT?

16 A. NO, THAT'S OKAY.

17 Q. OKAY.

18 A. THEY LOOKED DARK BROWN, BUT THEY MAY HAVE BEEN BLACK.
19 THEY WERE JUST BOOTS.

20 Q. ALL RIGHT. IS THAT WHAT YOU REMEMBER HERE TODAY?

21 A. I REMEMBER BOOTS. I DON'T REMEMBER THE COLOR. I JUST
22 REMEMBER IT BEING DARK.

23 Q. ALL RIGHT. SO IF -- WOULD IT BE FAIR TO SAY THAT YOUR
24 MEMORY WAS BETTER ALMOST TEN MONTHS AGO WHEN THIS ACTUALLY
25 HAPPENED THAN IT IS SITTING HERE TODAY?

1 MR. BANNISTER: THANK YOU, JUDGE. JUDGE, THE ONLY OTHER
2 ISSUE THAT WE NEED TO TAKE UP, I WOULD PRESUME WOULD BE THE
3 CHARGE AT THIS POINT. I HAVE READ OVER THE CIRCUMSTANTIAL
4 EVIDENCE CHARGE THAT YOU PROVIDED ME YESTERDAY. AND I WOULD
5 WITHDRAW MY OBJECTION OR I WOULD WITHDRAW MY MOTION TO HAVE
6 THE LITTLEJOHN CASE CHARGED IF THAT IS IN FACT WHAT YOU WERE
7 GOING TO CHARGE ---

8 THE COURT: THAT'S WHAT I'M GOING TO CHARGE.

9 MR. BANNISTER: ALL RIGHT. THEN I HAVE NO OBJECTION. IF
10 I COULD HAVE ONE MOMENT TO CONFER, I MAY HAVE ONE OTHER CHARGE
11 ---

12 THE COURT: LET ME ASK THIS. WAS THE DEFENSE OF ALIBI
13 PLED?

14 MR. BANNISTER: JUDGE, YES.

15 THE COURT: I MEAN NOTICE WAS GIVEN AND ---

16 MR. BANNISTER: YES, SIR, JUDGE.

17 THE COURT: ALL RIGHT. SO YOU'RE ENTITLED TO A CHARGE ON
18 ALIBI.

19 MS. MUNSON: WELL IT WAS KIND OF GIVEN. I MEAN I GOT A
20 LETTER FROM MR. BANNISTER SAYING OUT OF AN ABUNDANCE OF
21 CAUTION ELENA PELZER MIGHT PROVIDE AN ALIBI.

22 MR. BANNISTER: RIGHT. I DIDN'T KNOW WHAT SHE WAS GOING
23 TO SAY. I HADN'T TALKED TO HER.

24 MS. MUNSON: BUT I DON'T RECALL GETTING ANY NOTICE ABOUT
25 MS. OWENS.

1 MR. BANNISTER: SHE DOESN'T PROVIDE HIM AN ALIBI.

2 MS. MUNSON: OKAY.

3 THE COURT: WELL MY QUESTION IS ---

4 MS. MUNSON: I SAY HE'S NOT ENTITLED TO IT BECAUSE NOBODY
5 GOT ON THE STAND AND SAID, HE COULDN'T HAVE DONE IT, HE WAS
6 WITH ME. IT'S FLOATING AROUND OUT THERE, BUT IT ISN'T ALIBI
7 TO THE POINT WHERE HE'S ENTITLED TO A CHARGE ON IT.

8 MR. BANNISTER: WOW, NOW, JUDGE. I WOULD STRONGLY
9 DISAGREE WITH THAT. FIRST OFF TO BACK YOU UP, ELENA PELZER IS
10 THE WITNESS WHO SAYS THAT ROBERT WATKINS CAME TO HER APARTMENT
11 AT 12:45. I PROVIDED NOTICE TO THE SOLICITOR BECAUSE I DID
12 NOT KNOW FOR SURE WHAT MS. PELZER WAS GOING TO SAY.

13 AND IN MY LETTER I SAID OUT OF AN ABUNDANCE OF CAUTION I
14 WANT TO LET YOU KNOW THAT I BELIEVE MS. PELZER MAY PROVIDE MR.
15 WATKINS AN ALIBI DEFENSE. AND, IN FACT, WHEN SHE GOT IN HERE
16 AND SAID THAT MR. WATKINS CAME IN AT 12:45 THAT IS WHAT SHE
17 DID. THE WITNESSES FROM THE CHUCK-E-CHEESE SAID WE WERE
18 SITTING DOWN TO EAT SUPPER AT 12:45 OR 12:50. HE CAN'T BE IN
19 TWO PLACES AT ONCE.

20 THE COURT: WELL RULE 5 PROVIDES AS FOLLOWS, MR.
21 BANNISTER, UPON WRITTEN REQUEST OF THE PROSECUTION STATING THE
22 TIME, DATE, AND PLACE OF WHICH THE ALLEGED OFFENSE OCCURRED
23 THE DEFENDANTS WERE SERVED WITHIN TEN DAYS OR SUCH TIME AS THE
24 COURT MAY DIRECT UPON THE PROSECUTION, A WRITTEN NOTICE OF HIS
25 INTENTION TO OFFER AN ALIBI DEFENSE. THE NOTICE SHALL STATE

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1 THE SPECIFIC PLACE OR PLACES OF WHICH THE DEFENDANT CLAIMS TO
2 HAVE BEEN AT THE TIME OF THE ALLEGED DEFENSE AND THE NAMES AND
3 ADDRESSES OF THE WITNESSES UPON WHOM HE INTENDS TO RELY TO
4 ESTABLISH SUCH ALIBI. HAVE YOU COMPLIED WITH THAT RULE?

5 MR. BANNISTER: I BELIEVE SO, JUDGE.

6 MS. MUNSON: HE DID NOT, YOUR HONOR. HE DID NOT
7 TECHNICALLY COMPLY WITH THE RULE. HE DID NOT SAY PURSUANT TO
8 ---

9 THE COURT: I MEAN DOES YOUR NOTICE STATE THE SPECIFIC
10 PLACE OR PLACES OF WHICH THE DEFENDANT CLAIMED TO HAVE BEEN AT
11 THE TIME OF THE ALLEGED OFFENSE?

12 MR. BANNISTER: NO, SIR, JUDGE, MY NOTICE DOES NOT STATE
13 THAT. I HAD NO IDEA WHAT ELENA PELZER WAS GOING TO TESTIFY
14 TO. I PROVIDED ALL THE INFORMATION THAT I HAD. IF WHAT
15 YOU'RE TELLING ME IS THAT -- I MEAN THE WAY I'M HEARING THIS
16 THING UNFOLD IS THAT AT TRIAL IF I'M UNAWARE -- I MEAN IF
17 FACTS COME OUT THAT I HAD NO WAY OF ANTICIPATING PRIOR TO
18 COMING OUT AT TRIAL THEN I'M PRECLUDED FROM HAVING A CHARGE
19 THAT WOULD OTHERWISE BE PROPER. I MEAN IT'S ---

20 THE COURT: BUT YOUR NOTICE WOULD HAVE TO -- YOUR
21 DEFENDANT KNEW WHERE HE WAS AT THE TIME.

22 MR. BANNISTER: AND I SAID THAT ELENA PELZER WOULD BE MY
23 ALIBI WITNESS.

24 MS. MUNSON: YOUR HONOR, THE NOTICE DID NOT SAY THAT. IT
25 SAID OUT OF AN ABUNDANCE OF CAUTION I MAY HAVE ONE. HE DID

1 NOT COMPLY WITH THE RULE. IT DIDN'T SAY HE WAS GOING TO USE
2 HER.

3 THE COURT: MR. BANNISTER, YOU HAVEN'T COMPLIED WITH THE
4 RULE.

5 MR. BANNISTER: JUDGE, I TAKE STRONG EXCEPTION TO WHAT I
6 ANTICIPATE IS GETTING READY TO BE YOUR RULING ON THAT. I
7 BELIEVE THAT IS -- REQUIRING OF ME TO FORECAST WHAT ANOTHER
8 WITNESS IS GOING TO SAY ---

9 THE COURT: BUT THE RULE SAYS THAT YOU ARE SUPPOSED TO
10 STATE WHERE YOUR CLIENT WAS AT THE TIME IN QUESTION. AND YOU
11 HAVEN'T DONE THAT. I CAN'T CHARGE IT, MR. BANNISTER. YOU
12 HAVEN'T COMPLIED WITH RULE 5 ON NOTICE OF ALIBI AS A DEFENSE.

13 MR. BANNISTER: I TAKE EXCEPTION TO THAT RULING, JUDGE.

14 THE COURT: ALL RIGHT, SIR. ALL RIGHT. ANYTHING ELSE
15 BEFORE I BRING THE JURY?

16 MS. MUNSON: YES, SIR, BRIEFLY. I LOATHE MAKING
17 OBJECTIONS DURING CLOSING STATEMENTS.. AND TO TRY TO AVOID
18 THAT I WOULD RESPECTFULLY REQUEST THAT YOU INSTRUCT MR.
19 BANNISTER TO MAKE NO FURTHER PERSONAL APPEALS TO THE JURY AS
20 AN OPENING WHEN HE -- AND I CAN'T REMEMBER THE EXACT WORDS,
21 BUT ASKED THE JURY TO IMAGINE THAT THIS IS A FAMILY MEMBER OF
22 THEIRS. I WOULD OBJECT TO ANY TYPE OF APPEALS LIKE THAT.
23 OBVIOUSLY, IF THAT WAS A FAMILY MEMBER THEY WOULDN'T BE
24 QUALIFIED TO SERVE.

25 THE COURT: YOU'RE NOT GOING TO ARGUE THAT ARE YOU, MR.

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STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

ROBERT M. WATKINS

:

:

-vs-

:

TRANSCRIPT OF RECORD

:

STATE OF SOUTH CAROLINA

:

April 8, 2005

Greenville, South Carolina

B E F O R E:

HONORABLE LARRY R. PATTERSON, JUDGE

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

RODNEY RICHEY, ESQ.

Attorney for the Plaintiff

KAREN RATIGAN, ESQ.

Attorney for the Defendant

MARY E. SPRAGUE

Court Reporter

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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Ms. Ratigan 8

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Mr. Richey 15

EXHIBITSMARKEDFILED

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P2 - Letter 25 25

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CHARGE OF THE COURT N/A

1 MS. RATIGAN: May it please the Court, Your Honor?
2 This is the case of Robert Watkins versus the State of
3 South Carolina. This is docketed at 2004-CP-23-7064.
4 Mr. Watkins was indicted for armed robbery and possession
5 of a weapon during the commission of a violent crime.
6 After a jury trial on these charges where he was
7 represented by Mr. James Bannister, he was found guilty
8 as indicted. On October 25th, 2002, Judge Pyle sentenced
9 Mr. Watkins to concurrent terms of 30 years for armed
10 robbery and five years for the weapons charge. Mr.
11 Watkins filed an appeal to the South Carolina Court of
12 Appeals in the nature of an Anders brief. The Court
13 dismissed his appealed on June 22nd, 2004.

14 THE COURT: Okay.

15 MR. RICHEY: Your Honor, we call Mr. Bannister.

16 THE CLERK: Mr. Bannister, place your left hand on
17 the Bible, please, raise your right hand.

18 JAMES BANNISTER

19 Having been first duly sworn, testified as follows:

20 THE CLERK: Thank you. You may be seated.

21 THE COURT: A lot of people would like to
22 cross-examine you, Mr. Bannister.

23 DIRECT EXAMINATION

24 BY MR. RICHEY:

25 Q Can you state your name, please?

1 A Jim Bannister.

2 Q Mr. Bannister, do you recall representing Robert
3 Watkins?

4 A Yes.

5 Q Okay. And pursuant to your representation -- was
6 that a trial or a guilty plea?

7 A It was a trial.

8 Q Okay. And do you recall what the charges were?

9 A Yes. Armed robbery and possession of a weapon
10 during the commission of a crime.

11 Q Okay. And this crime allegedly occurred at Chuck E
12 Cheese, is that correct?

13 A That's correct.

14 Q Okay. Can you tell me at the time -- at the time of
15 this crime Mr. Watkins alleged that he had an alibi?

16 A Yes. He said he had not committed the crime, and
17 during the course of our investigation into the case and
18 receiving discovery from the State I determined that I
19 thought he did have a valid alibi, and so I sent a letter
20 to the State indicating the same. *October 16th 2002*

21 Q The alibi actually was a girlfriend, or acquaintance
22 of Mr. Watkins that he alleged that he was at her house
23 during the time Chuck E Cheese got robbed, is that
24 correct?

25 A The -- she actually stated that he was at their

Don't fully state report

1 apartment at the time that the robbery would have
2 occurred. We had -- I believe we had a 911 call from the *Greenwich Village*
3 Chuck E Cheese. So we had that time pretty much *Report*
4 pinpointed, that and the testimony from the witnesses. *7:06:00 on*

5 And I don't remember exactly what the time was other than
6 it was at night. And his girlfriend, in the statement
7 she had given, said he arrived at the apartment some
8 period of time before the robbery occurred. And I don't
9 remember exactly, but I know it was -- it was -- it gave
10 him an alibi, yes. *12:48 12:50*

11 Q Okay. And -- and before the trial did the State
12 produce a statement to you from this particular witness?

13 A Yes, they did?

14 Q And in that statement did the witness basically
15 restate that the alibi that he had?

16 A Yes. The -- well, the witness stated that this is
17 where he was and this is the time frame, yes. *absent in the opening*

18 Q And when you sent the letter to Ms. Munson, which is
19 part of this transcript, on page 426, where you notified
20 Ms. Munson of the -- that the -- that Ms. Pelzer may be
21 providing an alimony (sic) for the defendant, Mr.

22 Watkins, when you sent that letter, that was your notice
23 to Ms. Munson of the alibi?

24 A Yes, it was. And I'll tell you, at the time I wrote
25 the letter I was telling her that Elena Pelzer was going

1 to be our witness. I had received the statement from
2 her -- from Elena Pelzer, I received that statement from
3 the solicitor, and so I was sending it back saying -- I
4 was referencing that statement saying this is our -- this
5 is our alibi. I really expected at trial for Ms. Pelzer
6 to back off of the timing of it. I just anticipated it
7 to be different testimony than what the statement was.
8 That's why I couched it in terms of I thought it would be
9 prudent to let you know this -- you know, I've got an
10 alibi. But anyway ---

11 Q And at trial ---

12 THE COURT: Are you talking about the October the
13 16th letter?

14 MR. RICHEY: Yes, Your Honor.

15 * THE COURT: Okay. I was just making sure that was
16 it. Okay.

17 BY MR. RICHEY:

18 Q And at trial did you ask for an alibi charge from
19 Judge Pyle?

20 A I did.

21 Q And was that -- was that requested denied?

22 A That request was denied, yes.

23 Q Okay.

24 A Yes.

25 Q And I'll refer you to page 366 on the transcript,

*Just Patterson knew can
and Oct 16 letter can
reference of Oct 21 letter
statement*

1 starting at 365, line 20, where Judge Pyle -- Judge Pyle
2 found that ---

3 THE COURT: 365?

4 MR. RICHEY: Yes, Your Honor, line 20.

5 BY MR. RICHEY:

6 Q And it goes on to page 366. And is that where Judge
7 Pyle denied the ^{alibi} Allen charge -- the alibi charge because
8 he felt that you didn't comply with rule five of your
9 notice?

10 A That's correct. Ultimately the back and forth
11 between myself, the solicitor and Judge Pyle was
12 initiated by Judge Pyle. I had not anticipated an
13 objection to an alibi charge. Ms. Munson had never given
14 me any indication that there was any question about the
15 alibi charge until Judge Pyle raised that issue.

16 Q Okay. Do you believe that he should have been
17 entitled to that charge?

18 A I thought at the time that he was entitled to the
19 alibi charge, that I had given the State sufficient
20 notice with the letter that I sent. And I knew at that
21 point that one or two things was going to happen, either
22 if the judge didn't give it I thought it was a direct
23 appeal issue that would potentially overturn the case in
24 the event there was a conviction, or I figured I would be
25 where I am right now which is saying if my letter wasn't

1 sufficient under rule five that was my fault and I was
2 ineffective for not making sure that that was done
3 correctly.

4 MR. RICHEY: Thank you. Answer any questions the
5 attorney general would have.

6 CROSS-EXAMINATION

7 BY MS. RATIGAN:

8 Q So your testimony is at the time you issued that
9 letter you thought that would be compliant with rule
10 five?

11 A Yes. And I -- you know, looking back on it I should
12 have set forth exactly what is in the rules, you know,
13 but the -- it was referring back to the statement that
14 Elena Pelzer had given, and the statement gave the time
15 and gave the location. So I felt like that was adequate.
16 I will say I haven't made that mistake again since that
17 time.

18 THE COURT: Well, what does the rule say? I mean,
19 he -- in the letter it says she'll offer testimony that
20 my client was with him at the time the robbery was
21 committed. I assume they had the indictment and knew
22 what time the alleged robbery was committed, right?

23 MR. BANNISTER: I ---

24 THE COURT: I mean, the 911 call came from Chuck E
25 Cheese?

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1 MR. RICHEY: Judge ---

2 THE COURT: How could there have been a mistake
3 about that?

4 MR. RICHEY: Well, Judge Pyle ruled that he had to
5 give a specific time and place of where the defendant was
6 claiming to have been in the notice.

7 MR. BANNISTER: Right.

8 MR. RICHEY: He said the letter fails to state with
9 specificity the date and time of where the defendant was
10 in the actual letter. Judge Pyle deemed the letter to be
11 insufficient notice.

12 THE COURT: Well, he said that -- Ms. Pelzer had a
13 lawyer, I assume, because he refers to Ms. Pelzer's
14 lawyer.

15 MR. RICHEY: Chris Posey.

16 MS. RATIGAN: I think it was Chris Posey.

17 MR. BANNISTER: Yes, and she was a cooperating
18 witness with the State at the time, which is frankly why
19 I expected the testimony to change once we got to trial,
20 but it did not.

21 THE COURT: Okay. What does upon written request of
22 the prosecution mean, the first part of that rule five?

23 MR. RICHEY: Your Honor, that's when we file the
24 discovery motion, the prosecutor then serves you with
25 reciprocal discovery. And in reciprocal discovery they

*discussing Pelzer, 2008
Miss Bannister witness
no statement*

ask you for your -- if you have any alibi witnesses or
evidence -- planning to call an alibi, that you give them
that information. That's the -- that's what the
solicitor's office normally do in this town. So ---

THE COURT: Okay. Okay.

BY MS. RATIGAN:

Q Was there any indication from the prosecutor in this
case prior to trial that she was -- that she found your
letter insufficient?

A No. I got -- there was nothing from Ms. Munson
saying that the letter was insufficient. As a matter of
fact when I was sitting at counsel table and the judge
raises this issue, I mean I could tell she was a little
bit surprised as well as I was. As a matter of fact it's
not on record but I went over to her and I said, Judy,
don't let him do this because we're just going to be back
here on a PCR or it's going to be a direct appeal, one of
the two, but she didn't.

MS. RATIGAN: That's all I have, Your Honor.

THE COURT: Well, you said this Ms. Pelzer was going
to be a State's witness?

MR. BANNISTER: She was a State's witness. She was
a cooperating witness. She had pending charges. As a
matter of fact -- no, she was -- she had pending charges
though, I knew that. And -- and she was cooperating with

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1 the State. She ultimately received some benefit I
2 believe for her testimony.

3 THE COURT: So you couldn't talk to her anyway?

4 MR. BANNISTER: No, I could only have talked to her
5 through Chris Posey, yes, sir.

6 THE COURT: And she did testify?

7 MR. BANNISTER: She did testify.

8 THE COURT: What did she testify to?

9 MR. BANNISTER: She testified that she was in the
10 apartment when Mr. Watkins came back into the apartment.
11 And for me the crucial part of that was the timing of it.
12 When did he walk back into the apartment? She is very
13 specific, and again I have to refer to the record as to
14 what she said, but she was very specific as to what that
15 time actually was. And were that true it meant Mr.
16 Watkins could not have been the one that committed the
17 crime at the Chuck E Cheese because we have the 911 call
18 which put that time a little -- a bit of time after he
19 walked into the apartment. It was like -- it may have
20 been 15 or 20 minutes, it wasn't huge, but it was -- it
21 just meant he couldn't have been there to commit the
22 crime.

23 MR. RICHEY: Judge, I don't know if I can do it this
24 way, Mr. Bannister received -- he didn't have any contact
25 with this witness because she was represented by counsel,

1 but prior to the trial, some week or two before the trial
2 he was provided a statement from this particular witness,
3 and in that statement it outlined the time frame of the
4 alibi, basically. And then she testified to the exact
5 time. So on this side we're saying that he didn't talk
6 to her but prior to trial. He had a statement from this
7 witness who testified at trial almost verbatim -- similar
8 to that statement, so the time factor was known prior to
9 the trial.

10 MR. BANNISTER: Which was why I wrote the letter,
11 Your Honor.

12 THE COURT: What was she charged with by the State?
13 Were they kind of working some kind of -- well,
14 apparently they didn't work much with her because she
15 testified against them.

16 MR. BANNISTER: Yes, sir, she testified. I'm not
17 sure what she ended up -- I'm confusing -- I'm afraid I'm
18 confusing her with another case I had. I'm afraid to say
19 what she ended up getting. I know she was a cooperating
20 witness.

21 THE COURT: Did he prohibit you from arguing to the
22 jury that she was -- he was there?

23 MR. BANNISTER: No, he did not prohibit me from
24 arguing to the jury that my client had an alibi. What he
25 did not do was give an alibi instruction to the jury,

1 because he said I had not complied with rule five, which
2 I just had -- I still have a problem with that. It just
3 put me in a terrible position. And here was the problem,
4 because I didn't know -- I knew they were going to call
5 this witness, and I didn't know whether she was going to
6 sick with her statement at which point there is direct
7 evidence of my alibi, or whether she was going to then
8 back off of it, which meant I could impeach her with it,
9 but it's not -- it's not -- if I understand it correctly,
10 it's not evidence that that's what she said, it's
11 evidence of what she's testifying in court as to whether
12 it's truthful or not. So I was in a bit of a bind from
13 an evidentiary standpoint of being able to get that into
14 the jury. When she testified to it I felt like I was
15 absolutely entitled to an alibi defense.

16 THE COURT: Well, a prior inconsistent statement
17 that can come in just as bearing on the merits.

18 MR. BANNISTER: Right.

19 THE COURT: Who called her as a witness?

20 MR. BANNISTER: The State did, I believe.

21 THE COURT: So you did not call her as a witness?

22 MR. BANNISTER: No. It was in their case in chief.

23 THE COURT: And you were going to use the statement
24 to impeach her ---

25 MR. BANNISTER: At a minimum.

1 THE COURT: --- if she testified? At a minimum.

2 MR. BANNISTER: At a minimum, yes. I felt like they
3 were going to have to call her. I felt like they were
4 going to have to call her.

5 THE COURT: Okay.

6 MR. RICHEY: Nothing else for this witness.

7 MS. RATIGAN: I have nothing further from this
8 witness, Your Honor.

9 THE COURT: Why don't you go ahead and examine him
10 fully now if you're going to -- are you going to use him
11 in your case?

12 MS. RATIGAN: It seems to be coming down just to the
13 issue of the statement, which was -- I mean the alibi
14 charge, I'm sorry, which was actually addressed on
15 appeal.

16 THE COURT: Okay.

17 MS. RATIGAN: So I believe Mr. Bannister has
18 explained to the best of his recollection his motivation
19 behind the letter that he thought it was compliant.

20 THE COURT: Okay.

21 MR. BANNISTER: May I be excused?

22 THE COURT: You can come down.

23 MR. BANNISTER: Okay.

24 THE COURT: You can be excused, I guess.

25 MR. RICHEY: Call Mr. Watkins please.

1 THE CLERK: Place your left hand on the Bible,
2 please, raise your right hand.

3 ROBERT WATKINS

4 Having been first duly sworn, testified as follows:

5 THE CLERK: Thank you. You may be seated.

6 DIRECT EXAMINATION

7 BY MR. RICHEY:

8 Q Sir, can you state your name, please?

9 A Robert Watkins.

10 Q Mr. Watkins, are you currently incarcerated in the
11 Department of Corrections?

12 A Yes, sir.

13 Q And what are you incarcerated for?

14 A Armed robbery and possession of a weapon.

15 Q Okay. And were you represented by James Bannister
16 in the armed robbery ---

17 A Yes, sir.

18 Q --- trial?

19 A Yes, sir.

20 Q Okay. And did you file an application for post
21 conviction relief in Greenville County against Mr.
22 Bannister for that representation?

23 A Yes, sir.

24 Q And you deem that Mr. Bannister was ineffective in
25 representing you?

1 A Yes, sir.

2 Q And was one of the issues that you raised was the
3 alibi issue?

4 A Yes, sir.

5 Q Okay. And how did you feel Mr. Bannister was
6 ineffective in representing you in regards to that?

7 A At my arrest I gave a statement of my alibi, which
8 included Elena Pelzer and Patricia Owens as my alibi
9 witnesses. During this time, as you see here in this
10 statement, he said -- in this letter he said that he had
11 interviewed -- he had failed to interview Elena Pelzer.
12 And I had gave a statement showing Elena Pelzer was my
13 alibi witness. And he failed to interview Elena Pelzer.

14 But he sent a letter to Ms. Munson letting Ms. Munson
15 based upon his records that he knew that I was -- that
16 Elena Pelzer would establish an alibi defense.

17 Q So you said at the time the letter was sent you had
18 already given a statement to law enforcement at that
19 time?

20 A Law enforcement of my alibi.

21 Q And at that time you gave the statement that you say
22 what time and where were you at?

23 A I didn't state a time, I stated the places and
24 locations that I was at.

25 Q And was one of those locations Elena Pelzer's?

1 A Yes, at apartment 708.

2 Q And who was the other party that was a part of this
3 alibi?

4 A Patricia Owens.

5 Q And how was Patricia Owens related to your alibi
6 defense?

7 A Patricia Owens was my -- stated my whereabouts,
8 where I was at prior to when this robbery was supposed to
9 have happened.

10 Q Okay. And in fact was there any notice about
11 Patricia Owens being a potential alibi witness?

12 A No, it wasn't.

13 Q Okay. And I read -- I call your attention to page
14 364 of the transcript where Ms. Munson says to the judge
15 that she doesn't -- she don't recall getting any notice
16 about Ms. Owens' alibi. So is that correct that Ms.
17 Owens was a potential alibi too?

18 A Yes, she would establish my whereabouts prior to
19 when this robbery was supposed to have happened until my
20 whereabouts of getting back to my girlfriend's house at
21 the time this robbery actually was occurring. And I had
22 gave them that. The notice that he sent, it was a notice
23 for -- it like gave Ms. Munson a warning that she was a
24 potential alibi defense, which at this time Ms. Munson
25 called Elena Pelzer to the courthouse on the 21st and

1 obtained a statement from her. And from this statement
2 that's why I say when he testified that he said that on
3 the 16th that he had received a letter from Ms. Munson
4 and that's when he sent his letter. He had received --
5 he had already had his letter sent to her. She hadn't
6 gave a statement yet. See what I'm saying? So the
7 letter allowed Ms. Munson to go and make a deal or
8 however and get a statement. See what I'm saying?
9 Turned against my alibi. So therefore when she gave her
10 statement on the 21st, two days before my trial, there
11 was no way that he could make a return to that. See what
12 I'm saying? He didn't have notice from the solicitor
13 until two days before the trial.

14 Q But did you give him notice of where you were and
15 the time you were ---

16 A Yeah, I gave it to the State.

17 Q Did you -- okay. Did your lawyer have access to
18 that statement?

19 A Yes, he had access to that. He read it off in the
20 trial transcript that he had -- to try to suppress the
21 statement, and Ms. Munson said she was not going to use
22 the statement because it was stating my whereabouts
23 and -- and that I had -- just simply stating I had
24 nothing to do with the crime.

25 Q And tell me about Patricia Owens? And tell me in

1 relation to the -- all right. Before you got to Ms.
2 Pelzer's house, okay, where were you before that?

3 A At Patricia Owens' house.

4 Q And who was Patricia Owens?

5 A That's my ex-girlfriend?

6 Q So you had two girlfriends out there?

7 A Yeah.

8 Q So you leave the ex-girlfriend's house and then
9 where do you go?

10 A I go to my main -- my girlfriend's house, where --
11 Elena Pelzer.

12 Q Okay. All right. And did Ms. Owens know what time
13 you left?

14 A Yes.

15 Q Okay. All right. You raised other issues in this
16 case, is that correct?

17 A Yes, sir.

18 Q And what are the other issues that you raised?

19 A Dealing with my Fourth Amendment, Mr. Bannister
20 failed to articulate a Fourth Amendment claim dealing
21 with the search warrant, affidavit and return.

22 Q Okay. And what was that?

23 A When I had -- I had wrote the Department of Public
24 Safety, and I had got a copy of the return search
25 warrant. It was never signed. It was never returned.

1 But the State had produced a copy of one being signed.
2 And then rule 17-13-141 says the State must log the time
3 and date of the issuance of a search warrant, the time it
4 was returned, and such information as what probable cause
5 establishes the issuance of the warrant. There's no
6 record of this. There's no record of saying when the
7 search warrant was issued, when it was returned, to
8 anything. And he knew this in the evidentiary hearing.
9 But in statute it says all he has to do is prove
10 prejudice. And he allowed the State to produce a search
11 warrant affidavit return without even being able to
12 determine when it was ever issued or when ever it was
13 returned. See what I'm saying? And if he had obtained
14 the original documents he would have knew that it was
15 never really returned. This -- this document -- this
16 return was signed some other time. And you could not
17 tell according to the law when the search warrant was
18 returned.

19 Q Okay. And you think he was ineffective for not
20 objecting to the ---

21 A Well, yeah, for not doing an adequate investigation
22 to get -- to see the original return, ask for the
23 original return. He would have seen no return was made.
24 So somebody had to sign -- make a duplicate of that, sign
25 it and prepare it for trial to introduce it before the

1 judge. I have a -- I have -- I'd like to make this an
2 exhibit right here.

3 Q Do you know -- do you have any allegations in
4 regards to the investigations, trying to talk to the
5 witnesses?

6 A Excuse me.

7 Q Did you -- do you believe the case was properly
8 investigated?

9 A No, I -- he didn't properly investigate the
10 witnesses. Because Elena Pelzer evidently become a State
11 witness until the 21st when she gave her statement. So
12 that means he had all up between that time to even confer
13 with her or her attorney before she became a State
14 witness when she gave her statement, when they called her
15 up to give her statement.

16 Q But you don't know whether he did that or not, or
17 did he do that?

18 A He didn't investigate it. He says in his letter he
19 never talked to her, investigated or talked to her or
20 anything.

21 Q Okay. Is there other allegations that you make at
22 this time?

23 A He failed to object to the judge's charge on the
24 circumstantial evidence. It doesn't state reasonable
25 doubt in the charge and under -- you got -- he should

ROBERT WATKINS - Direct by Mr. Richey

1 have objected to the charge because it don't include
2 reasonable doubt in the charge. And then have the jury
3 find me guilty on the lesser -- what it's called -- I
4 can't explain.

5 Q Lesser burden is that what you're saying?

6 A No, the jury had to find me guilty beyond a probable
7 cause and this allowed them to find me on a lesser --
8 less than what is required by the due process clause.

9 Q Okay. All right. Is that the extent of the
10 ineffectiveness of Mr. Bannister?

11 A No. Also he failed to object to prosecution
12 misconduct. The prosecution in her closing argument, at
13 page -- at page 401 where the prosecution's closing
14 argument referred to statements in the -- incriminating
15 me in the crime, the statement was not included in the
16 offense, when she stated that the witness will tell you
17 on -- the witness will tell you that occasions they have
18 seen sometimes and they couldn't see who was and -- and
19 the other times they were sure it was one person, a black
20 male. No where in the evidence did the witness ever
21 claim they seen a black male in this white Ford Taurus
22 that was on the scene there of the crime, to place me on
23 the scene of the crime.

24 And also including in that, on page 403, she
25 included the statement that -- and remember what Ms.

1 Owens -- line 23 to 25, and remember what Ms. Owens told
2 you in her testimony that you can go from her house to
3 the apartment complex and back again in 15 minutes. The
4 prosecutor was telling the jury this. Patricia Owens
5 never stated this in the thing she was -- what she was
6 trying -- excuse me, I'm getting nervous.

7 Patricia Owens never stated in her testimony. What
8 the solicitor was doing was saying that Bruce -- Bruce
9 had got a stereo out of the apartment and took the stereo
10 from around Chuck E Cheese area to Highland Square
11 Apartments. And she was trying to establish the time
12 saying that can go from there and back again in 15
13 minutes, round trip. And that's not in there.

14 And you can't get from Highland Square Apartments to
15 Chuck E Cheese and back -- I mean back to Highland Square
16 Apartment, round trip, in 15 minutes. It's impossible.
17 But she tried to use this statement, saying that this
18 statement was in the -- in evidence and wasn't in
19 evidence to establish a time frame to say this is the
20 time I committed the crime.

21 As you further go on and see that that 404 -- 404,
22 she concluded and says that's when I committed the
23 robbery, trying to put the time frame in there. That's
24 not in evidence.

25 Also for the prosecution to constantly -- he failed

1 to object to the prosecution's constantly using the word
2 I all the way through? Personal opinions or personal
3 impressions that she is not representing the State, she's
4 giving her own personal opinion. As far as like she
5 saying, I suggest to you -- I'm on 403. I suggest to
6 you, again, Patricia Owens comes to mind. She was
7 constantly states I, referring to herself. Let me see.
8 It's all -- I need my records right there. My ---

9 Q Okay. So you're saying that she said I in the
10 transcript and you think that's improper?

11 A Yeah, it's improper. Constantly using -- addressing
12 a personal opinion as far as using herself, saying I
13 instead of saying the State. The State wants this.
14 She's appealing to the bias of the jury.

15 MR. RICHEY: Okay. Answer any questions the
16 attorney general will have for you.

17 MS. RATIGAN: I don't have any questions, Your
18 Honor.

19 MR. RICHEY: Step down.

20 MR. WATKINS: Excuse me. I wanted to enter my
21 exhibits about the search warrant.

22 MR. RICHEY: Just bring them over here. We'll look
23 at them.

24 MR. WATKINS: Thank you.

25 MR. RICHEY: That's all from us, Your Honor.

1 MR. WATKINS: Can I say something? I wanted -- I
2 want to get my -- I had give him a chain of custody
3 thing. The chain custody, they never proved chain of
4 custody of the gun. And my lawyer failed to object to
5 chain of custody of the gun, basically all the evidence.
6 They never proved chain of custody of the gun or the
7 money. And I have documents here I want to submit to the
8 Court to show chain of custody.

9 MR. RICHEY: Your Honor, we would admit these two
10 documents. Chain of -- I don't think there's an
11 objection by the State.

12 MS. RATIGAN: No objection, Your Honor.

13 MR. RICHEY: And the search warrant. The first ---

14 THE COURT: Without objection those documents are
15 admitted.

16 MR. RICHEY: --- exhibit is going to be exhibit --
17 the chain of custody is going to document one Applicant's
18 Number 1. And Applicant's Number 2, Your Honor, will be
19 the search warrant and return and the related document
20 with it.

21 THE COURT: Okay.

22 (Petitioner's Exhibit Numbers 1 and 2 were marked
and filed.)

THE COURT: Anything else, Mr. Richey?

MR. RICHEY: This is Applicant's Exhibit 3, the

1 statement of Elena Pelzer. That's the statement that was
2 in question.

3 MS. RATIGAN: No objection, Your Honor.

4 THE COURT: Elena Pelzer?

5 MR. RICHEY: Yes, sir.

6 THE COURT: She testified twice. That can come in.
7 Okay. I saw where she was recalled a second time. She
8 was recalled a second time during the trial.

9 MR. RICHEY: Yes, sir.

10 THE COURT: Not recalled a second time, but she was
11 recalled. She testified twice. Okay.

12 (Petitioner's Exhibit Number 3 was marked and
13 filed.)

14 THE COURT: What's the State's position?

15 MS. RATIGAN: Well, the State doesn't need to call
16 any witnesses. We would rest on the record, and just
17 briefly make an argument that the alibi -- Mr. Bannister
18 testified that he believed his letter to the solicitor's
19 office referencing the statement, which included the
20 time, place and date was sufficient. He believed
21 sufficient at the time. The State never told
22 believed it was insufficient. It was actu
23 on the trial Court's volition. So we
24 there was no ineffective assistance
25 Bannister did what he thought

1 time.

2 Regarding the search warrant issue. Mr. Bannister
3 had a motion to suppress that, all the evidence seized
4 via the search warrant. That was the beginning of the
5 hearing. And there were some procedural inconsistencies
6 that were brought up and actually one of the letters
7 entered in by Mr. Watkins from Ms. Munson states in the
8 letter there were procedural inconsistencies. However,
9 these were all addressed by the trial judge, which they
10 were in the record. That suppression hearing was from
11 about 22 to about page 45. The judge addressed the
12 procedural variances in the search warrant and found that
13 the motion to suppress should be denied. In fact, Mr.
14 Bannister reraised that issue at the close of the State's
15 case, at the close of his case and at the close of trial.

16 Regarding the chain of custody. Mr. Watkins has
17 failed to articulate where there was a break in the
18 chain. So we would state that he has not met his burden
19 of proving that there was any kind of a problem that
20 should have been objected to in the chain of custody.

21 So we would say based on the record and Mr.
22 Bannister's testimony that Mr. Watkins has failed to meet
his burden in this case.

THE COURT: Why didn't the defense raise -- why
didn't they raise Judge Pyle as -- issue about him

1 committing error on appeal?

2 MS. RATIGAN: What is your question, Your Honor?

3 THE COURT: I mean, why didn't the appellate counsel
4 say that Judge Pyle committed error by not charging the
5 alibi?

6 MS. RATIGAN: Well, that was the issue raised on
7 appeal. The issue raised ---

8 THE COURT: It was?

9 MS. RATIGAN: Yes, sir. The issue raised on appeal
10 was the lower Court errored in failing to give an alibi
11 charge to the jury. That was the issue raised in the
12 Anders brief, and the Court of Appeals obviously found it
13 was without merit as they dismissed the appeal.

14 THE COURT: So in effect they sustained what Judge
15 Pyle ruled that the letter was not sufficient?

16 MS. RATIGAN: I would believe so, Your Honor.
17 However, Mr. Bannister testified at the time he thought
18 it was sufficient because it referenced that statement.
19 And we would -- he said that he was surprised, that he
20 thought it was completely compliant and that it was
21 surprise to him to find it was insufficient.
22 state that there wasn't any kind of ineffe
23 assistance, as he did what he thought
24 the time. It was -- I mean, unfor
25 that he's changed his practice

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1 thought that was sufficient.

2 And I would also state, Your Honor, in order to
3 prove ineffective assistance of counsel you have to prove
4 both error and prejudice. And any error that may have
5 occurred as a result of the alibi charge we would state
6 there was no prejudice as Judge Pyle did not -- he did
7 not limit Mr. Bannister in his closing argument, and he
8 was allowed to argue -- he was allowed to argue that
9 position in closing. So he was not estopped from being
10 able to argue an alibi, or that there were other people
11 who could place Mr. Watkins in a different time line, he
12 just didn't give the alibi charge.

13 MR. RICHEY: Judge, I would say that the State has
14 referenced in this letter by referring to the statement.
15 There is nothing in this letter that refers to the
16 statement. So to say that the letter references the
17 statement, the statement gave the time, I think that's
18 inaccurate because the letter says nothing about Ms.
19 Pelzer's statement.

20 Secondly, I think what Judge Pyle ruled the way
21 Judge Pyle ruled in this case is a strict ruling based
22 off the strict language of the statute. But what Judge
23 Pyle ruled, I believe -- I believe is correct, because
24 Judge Pyle said, hey, you don't need Elena Pelzer. He
25 said, Elena Pelzer, that's irrelevant reason to me about

1 not knowing her. Judge Pyle said, your client knew where
2 he was at the time, therefore your client could have told
3 you, listen, I was at Elena Pelzer's house and that
4 information could have been submitted.

5 Secondly, I think Mr. Bannister testified and I
6 think the record will show that he got the statement ---

7 THE COURT: Well, he's got to name the witness.

8 MR. RICHEY: Right.

9 THE COURT: The alibi witness. And his client
10 doesn't have to testify.

11 MR. RICHEY: Right. And the client could -- the
12 client says, I was at Elena Pelzer's house to him. And
13 think he -- that's what Judge Pyle's ruling was, you
14 could have told the State that he was at Elena Pelzer's
15 house at this time, and she would be a witness. But I
16 think the crux of it --- *in order for me to give 11/1/68 I must be made sure*

17 THE COURT: But doesn't the rule say he's got to
18 name the witness and the date, place and time?

19 MR. RICHEY: Right. And I think ---

20 THE COURT: Well, he was -- he -- she was
21 represented by Posey. He could not talk to Elena Pelzer.

22 MR. RICHEY: Right. But my position is, Your Honor,
23 he could have cured that before trial. And the way that
24 is that Mr. Bannister testified he got the statement from
25 Ms. Pelzer prior to trial. At the point that he gets

*Testimony
known to have
the crime occurred
about Feb 28, 2002
in the prison
discussing and
I stated the crime
occurred at
1:57 pm
But death was
shot 12:50 pm
from 12:50
at 1:00 pm*

1 that statement he knows that the time, the place, the
2 everything that her testimony would be. He testified
3 that he was shocked that she testified consistent.

4 THE COURT: The State called her as a witness.

5 MR. RICHEY: I understand that, Your Honor. But --
6 but the lawyer requested the charge, and he had got the
7 alibi information out of that witness, Your Honor. So I
8 think it was proper for him to get the alibi charge.
9 But ---

10 THE COURT: The State's calling her as a witness.

11 MR. RICHEY: I understand.

12 THE COURT: Why would Bannister presume that she
13 is -- or assume that she's going to testify for something
14 in his favor, if the State is calling her as a witness?

15 MR. RICHEY: Because he has a statement from her
16 that's favorable to him. And at that point with the
17 statement, Your Honor, to protect ---

18 THE COURT: He cannot get that statement in unless
19 she takes the witness stand.

20 MR. RICHEY: Right.

21 THE COURT: He did not call her. The State called
22 her.

23 MR. RICHEY: Right. But she was available to
24 testify, Your Honor. I don't think the rule contemplates
25 that if you have a witness you have to give the State

1 notice at that point. And to protect him -- because see
 2 at this juncture, Your Honor, even if he had called her
 3 as a witness, even if Mr. Bannister says, she is a
 4 witness, and she testified she was at my apartment that
 5 day, Judge Pyle ^{*}was-not going to give him an alibi
 6 charge. And to not give that alibi charge is similar to
 7 say, I'm not going to charge the lesser included offense.
 8 You can argue it all you want, but the judge is not going
 9 to charge it. And I believe that at the time this
 10 statement was give, at minimum notice should be given to
 11 them so that witness and that charge is available at
 12 trial. It wasn't available to Mr. Watkins. And I think
 13 the rules is a notice rule. It doesn't contemplate -- it
 14 gets you in the game, and without the notice he's not
 15 even in the game.

16 *Patterson* THE COURT: Well, if the State got the statement
 17 from her, they had notice of what she was going to
 18 testify to. *statement give to us on Oct 21, 2002 2 days before trial*

19 MR. RICHEY: They had notice.

20 *Patterson* * THE COURT: Alibi -- they had the date, time, place
 21 and everything, and who the witness was. And then
 22 Bannister was in a position that he couldn't talk to her
 23 because she was represented by Posey and had other
 24 charges pending. He couldn't talk to her. And Posey
 25 could say, get lost, Bannister.

*Not true
 Posey & Bannister
 from same firm
 Refers to Capron
 of Cincinnati City*

1 MR. RICHEY: Right.

2 THE COURT: You cannot talk to her. *Yes, he can give*
then

3 MR. RICHEY: But -- I understand -- I understand
4 that position. I understand the Court's position on that
5 issue, but I still believe that once the statement is
6 given to the lawyer and is not -- and it is prior to
7 trial that then the notice should be given. Because if
8 Mr. Bannister argued to Judge Pyle, listen, I gave this
9 notice to the State three days ago because that's when I
10 got the statement. I got the statement, Judge, three
11 days ago, and I gave this notice. It's out of time,
12 because it would be out of time then, but I gave the
13 statement, the date and time two days before trial
14 because that's when I got the statement, I think then
15 we're talking about ---

16 THE COURT: Why did the State call Ms. Pelzer as a
17 witness?

18 MR. RICHEY: She called Ms. Pelzer as a witness to
19 testify to other events, in terms of property that was
20 found and that type of stuff. But she was not, Your
21 Honor -- she was also charged with armed robbery, so she
22 was a corroborating witness. But I think the issue --
23 you know, I still think the issue becomes -- and let me
24 go back and say this, there was another alibi witness in
25 this case, Patricia Owens, that ---

1 THE COURT: She testified.

2 MR. RICHEY: --- that no notice was given at all on
3 her. At all. There was zero notice given about her,
4 none, no notice, period. Okay. And these witnesses were
5 linked. Leave this apartment, go here and they'll be
6 linked to the alibi. To give an invalid notice on one
7 and no notice on the other one ---

8 THE COURT: What did they find in Pelzer's
9 apartment? I got to read the transcript. What did they
10 find in Pelzer's apartment?

11 MR. RICHEY: They were supposed to find coins
12 and ---

13 ✓ THE COURT: From Chuck E Cheese? *No*

14 ✓ MS. RATIGAN: A small gun wrapped in a black mask.

15 MR. RICHEY: But there was a conflict and ---

16 ✓ MS. RATIGAN: And some money.

17 MR. RICHEY: A conflict and issue about that money,
18 whether it was wrapped properly and that type stuff. So
19 it wasn't a home run case for the State. I think we both
20 would concede that, that it wasn't a home run. I use the
21 phrase home run case for the State, that they can go and
22 go one, two and three. So this alibi was a -- it was a
23 big deal in this case. And any time you say you wasn't
24 there and the judge doesn't charge it, you can stand up
25 and talk all you want about it. You can talk all you

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1 want about it, but you can't get in your closing
2 arguments and say this judge is going to charge you on
3 alibi. Okay. You can't -- you're precluded from doing
4 that and that's -- that's ---

5 ✓ THE COURT: Because of the items they found in
6 Pelzer's apartment they had her charged with armed
7 robbery too?.

8 MR. RICHEY: Yeah.

*She was charged with Armed Robbery Before
They had searched The apartment -*

9 MS. RATIGAN: And unfortunately we didn't discuss
10 this with Mr. Bannister while he was here, the Patricia
11 Owens angle. So we don't know why he may or may not have
12 chosen to provide alibi, because she -- he brought her in
13 to testify as a defense witness that there was somebody
14 else who had a key to the apartment and that's how the
15 stuff got there. So he had her testify for not even an
16 alibi related reason. I mean, she testified definitely
17 on his behalf, but we don't know, since we didn't ask him
18 when he was here, if there was any kind of decision not
19 to try and pursue that alibi.

20 MR. RICHEY: And Ms. Munson jumped on Mr. Bannister
21 on this transcript when it all started about, you know,
22 Judge, he didn't give me notice on Patricia, Patricia
23 Owens. I mean all -- she just wrapped it altogether and
24 Judge Pyle -- I mean, if the solicitor said I got no
25 notice on one witness and a partial notice on the other

one, you know, I think that had an effect on the Court's ruling.

THE COURT: All right. I'll read the transcript. I don't -- I don't know. I'll have to look at this case.

MR. WATKINS: Your Honor, can I speak, Your Honor?

THE COURT: I can't hear anymore. Thank you.

MR. RICHEY: Thank you, Your Honor.

MS. RATIGAN: Thank you, Your Honor.

(A discussion was held off the record.)

MR. RICHEY: Your Honor, on the last one, we're going to admit -- the State is not going to object to Mr. Watkins' statement.

THE COURT: Okay.

MR. RICHEY: It's Applicant's Exhibit Number 4.

(Petitioner's Exhibit Number 4 was marked and filed.)

- - -END OF TRANSCRIPT OF RECORD- - -

17

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

2004-CP-23-7064

Robert Max Watkins,)
S.C.D.C. No. 243803,)

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

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This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 22, 2004. The Respondent made its return on February 28, 2005. An evidentiary hearing into the matter was convened on April 8, 2005 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, James W. Bannister, Esquire. The Court had before it a copy of the trial transcript, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return to the same.

PROCEDURAL HISTORY

The Applicant is presently confined in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the February 2002 term of the Greenville

County Grand Jury for armed robbery (2002-GS-23-1063, count 1) and possession of a weapon during the commission of a violent crime (2002-GS-23-1063, count 2). James W. Bannister, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty as indicted. On October 25, 2002, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to concurrent terms of thirty (30) years for armed robbery and five (5) for the weapons charge.

A timely Notice of Appeal was filed on Applicant's behalf. Wanda P. Hagler, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the nature of an Anders¹ brief. The South Carolina Court of Appeals dismissed the Applicant's appeal. State v. Watkins, Op. No. 2004-UP-406 (S.C. Ct. App. filed June 22, 2004).

ALLEGATIONS

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

1. Ineffective assistance of counsel:
 - a. "Fail to comply with SCRCrP Rule 5 alibi."
 - b. "Fail to articulate 4th Amendment claims."
 - c. Failed to object to "prosecution misconduct."
 - d. Failed to "request for a directed verdict of acquittal, and state authority and facts supporting motion."
 - e. Failed to "object to language in the indictment."
 - f. Failed to "object to state violating sequester."
 - g. "Assist[ed] the State in introducing inadmissible hearsay testimony into evidence."
 - h. Failed to object to "improper jury charge on circumstantial evidence."
 - i. Failed to object to "improper charge to jury."

The Applicant also filed an amendment on January 25, 2005, in which he expanded upon the issues raised in his PCR application.

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. 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.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

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) (citing Rule 71.1(e), SCRCPP).

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, 80 L. Ed. 2d 674 (1984); Sanchez v. State, 351 S.C. 270, 274-75, 569 S.E.2d 363, 365 (2000). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80

L. Ed. 2d 674 (1984)). Where trial counsel articulates a valid reason for employing a certain strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (citations omitted); Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992).

The Applicant testified he gave an alibi statement when he was arrested. The Applicant testified trial counsel failed to give proper notice that Patricia Owens would be used as a part of his alibi defense. The Applicant testified trial counsel failed to properly investigate his case or interview witnesses. The Applicant stated trial counsel did not challenge either the search warrant or the chain of custody. The Applicant stated trial counsel should have objected to both prosecutorial misconduct in the State's closing argument and the circumstantial evidence charge.

Trial counsel testified the Applicant had an alibi for the time the armed robbery occurred and that the State produced a statement from this witness to that effect. Trial counsel testified he sent a letter to the State in which he referred to this statement. Trial counsel testified he believed this letter was compliant with providing alibi notice under Rule 5 and that he did not anticipate the trial judge would not provide an alibi charge to the jury. Trial counsel also said the State was surprised when the trial judge deemed the notice insufficient.

This Court finds the Applicant's testimony is not credible, while also finding trial counsel's testimony is credible. This Court further finds trial counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

Accordingly, this Court finds the Applicant failed to prove the first prong of the Strickland test – that trial counsel failed to render reasonably effective assistance under prevailing professional norms. This Court finds trial counsel, in sending the alibi letter to the

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State, believed it would satisfy as notice of alibi under Rule 5, SCRCrimP. This Court finds that belief was well founded because, in the letter, trial counsel referred to the witness's statement and the State clearly knew the time, place, and date mentioned in that statement. Regarding the search warrant issue, this Court notes a pre-trial suppression hearing was held on this issue and that trial counsel objected to the warrant both at the close of the State's case and in his motion for a new trial. (Trial transcript, p.323; p.422). The Applicant admitted this on cross-examination. This Court finds the Applicant failed to articulate why trial counsel should have objected to the chain of custody. Upon reviewing the trial transcript, this Court also finds there was no reason for trial counsel to object to either the circumstantial evidence charge to the jury or during the State's closing argument.

This Court also finds the Applicant has failed to prove the second prong of Strickland -- that he was prejudiced by trial counsel's performance. Assuming arguendo that trial counsel erred regarding the alibi issue, this Court finds the Applicant has failed to prove prejudice as testimony related to alibi was presented at trial. 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.

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 evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

JRP

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CONCLUSION

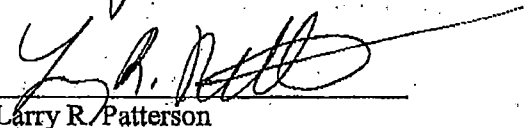
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR 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 227 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 12 day of January, 2006


Larry R. Patterson
Resident Judge
Thirteenth Judicial Circuit

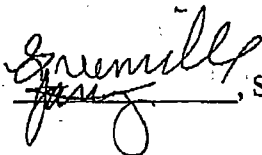

Greenville, South Carolina.

Exhibit # 9
4 pages

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THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Robert M. Watkins,

Petitioner,

v.

State of South Carolina,

Respondent.

FILED
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GREENVILLE CO. S.C.
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ON WRIT OF CERTIORARI

Appeal from Greenville County
Victor Pyle, Jr., Circuit Court Judge
Larry R. Patterson, Post Conviction Relief Judge

Memorandum Opinion No. 2008-MO-001
Submitted November 15, 2007 – Filed January 14, 2008

REVERSED

Appellate Defender Robert M. Pachak, of South Carolina
Commission on Indigent Defense, Division of Appellate Defense, of
Columbia, for Petitioner.

pursuant to *Anders v. California*, 386 U.S. 738 (1967). *State v. Watkins*, Op. No. 2004-UP-406 (S.C. Ct. App. filed June 22, 2004).

Petitioner filed an application for PCR in which he alleged trial counsel was ineffective for failing to obtain an alibi instruction. At the PCR hearing, trial counsel testified that he believed the letter to the solicitor's office complied with Rule 5(e)'s notice requirements. The PCR court found trial counsel was not ineffective because his belief that he complied with the rule was "well founded" and dismissed Petitioner's PCR application. Petitioner argues to this Court that the PCR court erred in ruling trial counsel was not ineffective. We agree.

The burden of proof is on the applicant in post-conviction proceedings to prove the allegations in his application. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). On appeal, the PCR court's ruling should be upheld if it is supported by any evidence of probative value in the record. *Cherry v. State*, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989).

Because Pelzer's testimony showed that Petitioner was at a different place at the time of the robbery, he was entitled to an alibi charge. *State v. Shuler*, 344 S.C. 604, 632, 545 S.E.2d 805, 819 (2001) (holding that if there is any evidence to support a charge, the trial court should grant the request). Thus, trial counsel was deficient for failing to raise this argument to the trial court and obtaining an alibi instruction. See *Ford v. State*, 314 S.C. 245, 442 S.E.2d 604 (1994) (holding that counsel's rejection of an alibi charge when the defendant claims that he was in another place at the time of the commission of the criminal act constitutes deficient representation under an objective standard of reasonableness). Moreover, Petitioner was prejudiced by the trial court's failure to give an alibi instruction because there is a reasonable probability that the result of trial would have been different, as the State based its case against Petitioner entirely on circumstantial evidence. See *Riddle v. State*, 308 S.C. 361, 363, 418 S.E.2d 308, 309 (1992) (holding that the failure to give an alibi charge, where the defendant claims to be at another place, is reversible error); *Roseboro v. State*, 317 S.C. 292, 294, 454 S.E.2d 312, 313 (1995) (noting that an alibi charge is considered especially crucial when the evidence is entirely circumstantial).

Attorney General Henry Dargan McMaster, Chief Deputy Attorney General John W. McIntosh, Assistant Deputy Attorney General, Salley W. Elliott, Assistant Attorney General Karen Ratigan, all of Columbia, for Respondent.

PER CURIAM: In this case, we granted certiorari to review the denial of Petitioner Robert M. Watkins' application for post-conviction relief (PCR). We reverse the PCR court's order denying relief.

The State alleged that Petitioner robbed a Chuck-E-Cheese restaurant at approximately 1:00 a.m. At trial, Elena Pelzer, Petitioner's girlfriend, testified that on the night of the robbery, Petitioner left their apartment at 9:30 p.m. and returned at approximately 12:50 a.m. Pelzer testified that shortly thereafter, they left the apartment to get food, but were stopped by police and arrested for the robbery. During the jury charge conference, trial counsel requested an alibi instruction, but the trial court refused based on trial counsel's failure to comply with Rule 5(e), SCRCrimP.¹ The jury found Petitioner guilty, and the court of appeals dismissed Petitioner's direct appeal.

¹ Rule 5(e)(1), SCRCrimP, provides:

Upon written request of the prosecution stating the time, date and place at which the alleged offense occurred, the defendant shall serve within ten days, or at such time as the court may direct, upon the prosecution a written notice of his intention to offer an alibi defense. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

The trial court denied trial counsel's request for an alibi instruction because, although the notice stated that Pelzer would provide an alibi defense, it did not state the specific place that Petitioner claimed to have been at the time of the robbery.

Accordingly, we hold that trial counsel was ineffective and grant Petitioner relief.

TOAL, C.J., MOORE, WALLER, PLEICONES and BEATTY, JJ., concur.

CITY OF GREENVILLE
COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

Exhibit # 10 2 pages

01:07

CASE # 01-95052
DATE 12-19-01

S.F. HAMILTON Jeanne M. Prieda
and

do hereby give freely and voluntarily this statement to who have identified themselves as officers of the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice, that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.

I am 17 years old and reside at 9 Blackenridge Drive Taylors, SC 29687

OP We have been watched for several nights. The car was a white taurus. He always stayed towards the left side of the parking lot. Everytime I saw in the car, it was only 1 person. He's obviously been in here cos' he knows or knew the place well. I actually kinda remembered someone that meets his ^{something about his eyes} ~~stand~~ in here Sunday. Anyways when I left at 12:28 tonight I saw him at the side of the building and he left when he saw me. When I got back with the food at around 10:15 we stayed for 10 mins and then he approached us. The way he approached us, he seemed scared in a way. I could prob. say he's robbed maybe a couple gas stations but didn't have too much experience. What I saw when he approached, A man with a black winter hat (a cheap cotton one) I saw his eyes + eyebrows clearly. Under that he had a like a cotton scarf wrap around his mouth and nose. He had on a dark dark blue heavy jacket over that with a hood over the other hat. He was about 5'11, 5'10 medium build, he had on black FUBU Jeans. I think and I didn't see the boots to well but they were

I have read or had read to me, the above statement of 1-2 pages and it is true and correct as best I recall, and I have received a copy of this statement.

WITNESSES:

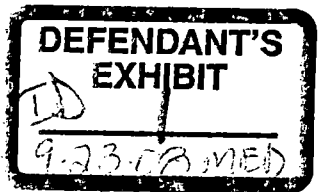
Matt, Jeanne Marcus
Jimmy J. Hamilton

Jeanne Prieda

Sworn before me this _____ day of _____ 199__

Jeanne Prieda
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____



CITY OF GREENVILLE
COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

PS 2/2

01107AM

EX 13

CASE # 01-95052
DATE 12-19-01

I, J.F. HAMILTON and Jaume M. Pineda, do hereby give freely and voluntarily this statement to the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice, that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised any reward to make this statement and do so voluntarily. I understand I have the right to stop at any time. I hereby waive these rights.

I am 17 years old and reside at 9 Bladenridge Drive Taylors SC 29687

He said where's the money? Marcus pointed. Then he said everybody get up. ~~They got up~~ We got up. Marcus was first, then me. I didn't see who was behind me. I was studying the guy. He touched the door & kinda held it for me with his knuckles touching, not his fingers. He was beside Marcus & I and he got nervous in the kitchen. (after entering the kitchen, I saw he noticed our pizza knife) He said "don't touch anything." Put your hands up." We entered the office... Marcus in front of the safe, the black male behind him & myself behind the black male with Matt to my right & Jimmy to my left. As Marcus was getting the money the black male said, "This has nothing to do with y'all, it's not your money so don't worry about it. Do your thing and call the cops. File your reports." We walked back out into the front of the house rest. and he looked at me & said you got money in your purse? (that's the time I wanted to cry) he said, nevermind y'all worked too hard for it. Then he turned and walked ~~fast~~ off. The gun he had, I could tell you if I saw it. Very small, very. Faded silverish, gray, maybe a one bullet shooter.

Also, the ~~last~~ part he said we were stupid for ~~leaving the door unlocked~~.
I have read or had read to me, the above statement of _____ pages and it is true and correct as best I recall, and I have received a copy of this statement.

WITNESSES:

Sworn before me this _____ day of _____ 199____

Jaume Pineda
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

Exhibit # 11. 3 pages

Page 23

Date Run 02/26/2004
Time Run 10:03:33

Greenville Police
Incident Dispatch Detail Report

Page 1
ID-IMP310

RD #: GP 01-95052

DISPATCH INFORMATION				DISPOSITION INFORMATION	
Location Chuck E Cheese 253 Congaree Road Beat/Subbeat Source Priority Shift HECT/2050 E911 IMMEDIATE 3 Code / Description 45JO Armed Robbery / Just Occurred 45 JO Armed Rob B/M 5'10 BLUE COAT SLI M1049 PISTOL TO HEAD TO EMPLOYEES//MASK ON FACE// Caller: CHUCK E CHEESE'S//624 () 297-4250 Dispatch Assignment Area Dispatch Code: D Disp: 12/19 01:07:35 Enrt: 12/19 01:07:35 Onsc: 12/19 01:07:40 Comp: 12/19 04:40:36				Ucr Code Description 45JO Armed Robbery / Just Occur Service Description Code 5 Incident Rpt: Dispo Star: 389 HAMILTON Remarks Continued Area	

Call Received
Call Dispatched

Wed 12/19/2001 01:06:20 373 HARDIN, C. POLYN K
Wed 12/19/2001 01:07:35 386 BLAKE, VA IRLE D

Incident Dispatch Block Listing

Unit	Stars	Dispatch Time	En-route Time	On-Scene Time	Complete Time
B8	378 JONES		12/19/01 01:07:35		
B8	378 JONES	12/19/01 01:07:35		12/19/01 01:07:40	12/19/01 03:18:04
B9	389 HAMILTON		12/19/01 01:07:46		
B9	389 HAMILTON	12/19/01 01:07:46		12/19/01 01:11:35	12/19/01 04:40:36
C8	371 CHENOWETH		12/19/01 01:07:55		
C8	371 CHENOWETH	12/19/01 01:07:55		12/19/01 01:14:33	12/19/01 01:54:44
202	150 Jones		12/19/01 01:09:23		
202	150 Jones	12/19/01 01:09:23		12/19/01 01:11:38	12/19/01 04:40:36
201	186 MILLER		12/19/01 01:09:25		

Date Run 02/26/2004

Time Run 10:03:34

Greenville Police
Incident Dispatch Detail Report

Page 2
ID-IMP310

RD #: GP 01-95052

Incident Dispatch Block Listing

Unit	Stars	Dispatch Time	In-Route Time	On-Scene Time	Complete Time
201	186 MILLEY	12/19/01 01:09:25		12/19/01 01:19:33	12/19/01 02:53:12
A9	342 ESTES			12/19/01 01:11:33	
A9	342 ESTES		12/19/01 01:11:33		
A9	342 ESTES	12/19/01 01:11:33			12/19/01 02:05:29
G8	396 ELLIS			12/19/01 01:18:54	
G8	396 ELLIS		12/19/01 01:18:54		
G8	396 ELLIS	12/19/01 01:18:54			12/19/01 02:41:52
F8	303 Thompson			12/19/01 01:26:34	
F8	303 Thompson		12/19/01 01:26:34		
F8	303 Thompson	12/19/01 01:26:34	12/19/01 02:20:24	12/19/01 02:20:24	12/19/01 02:19:12
923	8300 Pratt		12/19/01 01:40:20		
923	8300 Pratt	12/19/01 01:40:20		12/19/01 02:22:26	12/19/01 04:02:29
F8	303 Thompson	12/19/01 02:20:24			12/19/01 04:40:36

1039 132

Date Run 02/26/2004
Time Run 10:03:34

Greenville Police
Incident Dispatch Detail Report

Page 3
ID-IMP310

RD #: GP 01-95052

Additional Remarks

Type	Date	Time	Beat	Remarks / Comments
Comments	: CM 12/19/01	01:13:21	0386	NOTIFIED HIGHWAY AT 113 626
Comments	: CM 12/19/01	01:21:13	0373	LEFT ON FOOT POSSIBLY TWO THE APTS IN BACK//WHITE TAURUS LEFT IN THE PARKING LOT//WHITE TAURUS SEEN SEVERAL TIMES E ARLIER IN THE WEEK IN THE PARKING LOT/ /624
Comments	: CM 12/19/01	01:45:16	0262	NOTIFIED UNIT 42
Comments	: CM 12/19/01	01:51:55	0262	NOTIFIED DETECTIVE BRUCE PER UNIT 42 IF ANOTHER DETECTIVE NEEDED NOTIFY DAN FULLER
Comments	: CM 12/19/01	10:38:42	8728	UNIT 928 10-5 TO 145 CONCARKE RD, #708 AT 10:32

WITNESSES

✓ DOCKET NO. 2002-GS-23-

TJQ

C1063

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2002

THE STATE

vs.

ROBERT MAX WATKINS

9-24-08
GUILTY

Guilty

ARREST WARRANT NUMBER

G 865977

G 865988

ACTION OF GRAND JURY

TRUE BILL

Joan Holman

FOREMAN GRAND JURY

Representative of Grand Jury

VERDICT

COUNT ONE: Guilty

COUNT TWO: Guilty

Indictment for

0139 ARMED ROBBERY

VIOLATION § 16-11-330

0549 POSSESSION OF A WEAPON DURING

THE COMMISSION OF OR THE ATTEMPT TO

COMMIT A VIOLENT CRIME

VIOLATION § 16-23-490

Foreperson of Petit Jury

Date:

10/25/02

273

ENTERED
ACCT.

SCANNED

Exhibit # 12
6 pages

[REDACTED]

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE - ARMED ROBBERY
COUNT TWO- POSSESSION OF A WEAPON DURING
THE COMMISSION OF OR THE ATTEMPT TO COMMIT
A VIOLENT CRIME

At a Court of General Sessions, convened on

FEBRUARY 19, 2002

the

Grand Jurors of Greenville County present upon their oath:

COUNT ONE - ARMED ROBBERY

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001, while armed with a deadly weapon, or while alleging, either by action or words or both, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon did, by use of force, threats or intimidation, take and carry away the property of another, to wit: U.S. currency from Chuckie Cheese. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF OR THE
ATTEMPT TO COMMIT A VIOLENT CRIME

That ROBERT MAX WATKINS did in Greenville County, on or about the 19th day of December, 2001, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Thomas T. Quinn
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STATE VS.

ROBERT MAX WATKINS

AKA:

Race: B Sex: M Age: 37

DOB: 5/22/1965 SS#: 243-16-2123

Address: 245 COMBAREE RD. # 708

GREENVILLE, SC 29607

DL# 1729248 SID#: 5C009A1348

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:

2002 -GS- 23 - 1063

A/W#: G-865988

Date of Offense: 12-19-2001

S.C. Code §: 16-23-490

CDR Code #: 0 / 5 / 4 / 9

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: POSS. WEAPON DURING A VIOLENT CRIME

in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0 / 5 / 4 / 9

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for 5 days/months jail time.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$14-1-206 (Assessments 100%)

\$14-1-211(A)(1) (Surcharge)

\$14-1-211(A)(2) (Surcharge)

\$56-5-2995 (DUI Assessment)

3% to County (if paid in installments)

TOTAL

PTUP

 days/hours Public Service Employment

Obtain GED

Attend Voc Rehab. or Job Corps

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund.

Other:

PRESIDING JUDGE [Signature]

Judge Code: 101710

Sentence Date: 12-26-02

Clerk of Court/Deputy Clerk

Reported:

White - Clerk

Green - Correction

Yellow - Probation

Red - Juvenile

pg 136

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#

COUNTY OF GREENVILLE
STATE VS.

ROBERT MAY WATKINS

AKA: _____
Race: B Sex: M Age: 37
DOB: 5/22/1965 SS#: 243-16-2127
Address: 415 CONBARGE RD. #108
GREENVILLE, SC 29601
DL# 9729248 SID#: 500971748

2002 -GS- 23 - 1063

A/W#: G-865977

Date of Offense: 12-14-2001

S.C. Code §: 16-11-330

CDR Code #: 6/1/3/9

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: ARMED ROBBERY

in violation of § 16-11-330 of the S.C. Code of Laws, bearing CDR Code # 0/1/3/9

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The pleas: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for 17-19-01 days/months jail time.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS

Recipient: _____

*Fine: _____ \$

§14-1-206 (Assessments 100%)... \$

§14-1-211(A)(1) (Surcharge)... \$ 100

§14-1-211(A)(2) (Surcharge)... \$

§36-5-2993 (DUI Assessment)... \$

% to County (if paid in installments)... \$

TOTAL... \$

Paul B. Wickensimer

Clerk of Court Deputy Clerk

Court Reporter: _____

Wickensimer

Green - Corrections

Canary - Probation

Pink - Defendant

CCP 1017 (1/2001)

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc Rehab. or Job Corps

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: _____

PRESIDING JUDGE

Judge Code: 101710

Sentence Date: 10-25-02

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Robert Watkins

AKA:

Race: B Sex: M Age: 42
 DOB: 05-22-1965 SS#: 247-89-8576 1243-16-2123
 Address: 245 CONGARREE RD APT 708 BLD
 GREENVILLE, SC 29607
 DL#: 007729248 SID#: 090521690

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2002GS2301063

A/W#: G865977

Date of Offense: 12/19/2001 - 1/19/2004

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: ROBBERY, ARMED WITH A DEADLY WEAPON (GS)

in violation of § 16-11-0330(A)

of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

J. C. M. Lucas
 Marchant, Lucas

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
§ 90.11 TP (SCCJA Surcharge)	\$5	\$
TOTAL	\$	\$

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Paul B. Wickens
 Clerk of Court/ Deputy Clerk

Court Reporter:

M. Di Girolamo

PRESIDING JUDGE

Judge Code: 2 0 3 15

Sentence Date: September 24, 2008

SCCA/217 (07/2008)

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Robert Watkins

AKA:

Race: B Sex: M Age: 42

DOB: 05-22-1965 SS#: 243-16-2123 247-89-8576

Address: 245 CONGAREE RD APT 708 BLD

GREENVILLE, SC 0000029607

DL#: 007729248 SID#: 090521698

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2002GS2301063

A/W#: G865988

Date of Offense: 12/19/2001 - 1/19/2004

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: POSSESSION OF A WEAPON DURING A VIOLENT CRIME

in violation of § 16-23-0490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Marchant, Lucas

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: September 24, 2008 in arrears
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35-13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ _____

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

§ 90.11 TP (SCCJA Surcharge) \$5 \$ _____

TOTAL \$ _____

Paul B. Wickens
Clerk of Court/ Deputy Clerk

Court Reporter:

M. DeStefano

139

PRESIDING JUDGE

Judge Code:

Sentence Date:

September 24, 2008

SCCA/217 (07/2008)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
State of South Carolina,)
)
vs.)
)
Robert Max Watkins,)
)
Defendant.)

Thirteenth Judicial Circuit
In the Court of General Sessions

Case No.: 2002-GS-23-01063

VERDICT

ON THE CHARGE OF ARMED ROBBERY:

We, the jury, by unanimous consent find the Defendant:

1. Not Guilty.
2. ☒ Guilty.

ON THE CHARGE OF POSSESSION OF A WEAPON DURING A VIOLENT CRIME:

We, the jury, by unanimous consent find the Defendant:

1. Not Guilty.
2. ☒ Guilty.

September 24, 2008
Greenville, SC

Forfeiture of the Jury

HUGH G. FAULKNER, JR.

JAMR060
12/15/11 09:53Greenville County Detention Center
Inmate Booking Report

Page 1

Jail #: 0194 Pack #: 134960 Juv#: Cell: YEL Custody Level: MED SS

Name (L/F/M/S): WATKINS

ROBERT

MAX

Addr: 106 EISENHOWER DR 8

C: GREENVILLE

S: SC ZIP: 29607

POB: DC Age: 46 DOB: 05/22/1965 Race: B Sex: M

WgtIn: 225 HgtIn: 601

CC: SSN: Hair: BLK Eyes: BRO

Wgtout: HgtOut:

Phone: 864-232-9277 Rel Pref: ISL

Educ: XXX Ins:

Attorney: Photo#: 32003988

B.Money: \$0.00

NextKin (L/F/M/S): LATTIMORE

FRANCES

Phone: 864-232-5786 Relationship: GM

Addr: 12 MARIE ST

C: GREENVILLE

S: SC ZIP: 29609

Notify Victim?: N Arrs Off: WORTKOETTER

Records Clerk: EHUCKS

Booked: 13:09 06/14/2011 B.ORI: 000 B.Off: LSMITH

S.Off: CCOLLOGAN

Charges:	Warrant	Case	Court & Judge	Ori
HOLD FOR COURT	APPEALNEXT2	HOLD/COURT	3 SOLICI SOLICI	000
Indict:	Arrest: 06/14/2011 13:09	RR:		
Sentenced on 09/24/2011 - see Charge Comments				
POSS GUN/KNIFE DURING COMM OF VI	G865988	UNDERSENT	3 PATTTER PATTTER	000
Indict: 2002GS2301063	Arrest: 06/14/2011 13:35	RR:		
Sentenced on 09/24/2011 - see Charge Comments				
ROBBERY: ARMED ROBBERY W/A DEADL	G865977	UNDERSENT	3 PATTTER PATTTER	000
Indict: 2002GS2301063	Arrest: 06/14/2011 13:35	RR:		
Sentenced on 09/24/2011 - see Charge Comments				
BENCH WARRANT: MAGISTRATES	Y780115	01102993	1 GRIMSL CAGLE	000
Indict:	Arrest: 12/07/2011 05:50	RR: 12-25-11		
(CS) Sentenced on 12/15/2011 to 200.00 or 30 dys				

X

C. Smith

X

C. Smith

1-30-12

Released Date: 1/20/12

Judge: Patterson

Release Where? Cust.

Released Off-> R

C:

S:

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPY

Current Date

Scanned by
BLO

JAMR060
12/15/11 09:53

Greenville County Detention Center
Inmate Booking Report

Page 2

Jail #: 0194 Pack #: 134960 Juv#: Cell: YEL Custody Level: MED SS

Name (L/F/M/S): WATKINS ROBERT MAX

Comments:

GENERAL COMMENTS:

TAG # 078353/0455795

SENTENCE COMMENTS:

CHARGES G865977 AND G865988 ARE PENDING FINAL DISPOSITION
OF APPEALS' PROCESS. INMATE CURRENTLY CONSIDERED AS BEING
SENTENCED AS THE APPEAL IS STILL PENDING.

Other Names:

BASE	ROBERT	
WALKINS	ROBERT	MAX
WALKINS	ROBERT	MAXWELL

Search & Classification at Booking:

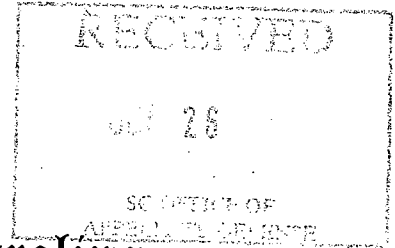
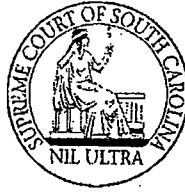
T	NPF	CW	PW	SU	C1	PAO	3F5	EH	DH	ES	CAO	KIB	MF	Cus	Ovr	Date
A	F	N	Y	N	SS	Y	N	N	Y	N	Y	CLR	F	MAX	MED	12/15/2011

Search Exp:

Class Exp:

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPY
10/11/12
Current Date

Exhibit # (14)



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

TO: Mr. Robert Watkins

FROM: Daniel E. Shearouse, Clerk *DES*

DATE: October 25, 2011

This Court has received your recent correspondence.

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

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

_____ If you believe you have good cause to seek to have your current counsel relieved then you should file a motion in the lower court in which this matter is pending. We are forwarding a copy of your letter to your counsel so he may be aware of your concerns.

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

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

CC: Elizabeth A. Franklin-Best (with enclosure)



Exhibit # (15)

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 10, 2012

Mr. Robert Watkins, #0194
Greenville Cty Detention Ctr
Yellow 40
20 McGee Street
Greenville, SC 29601-2210

Re: The State v. Watkins, Robert

Dear Mr. Watkins:

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

Very truly yours,



CLERK

cc: Assistant Attorney General William M. Blicht, Jr.
Appellate Defender Elizabeth A. Franklin-Best

RECEIVED
JAN 10 2012
SC OFFICE OF
APPELLATE DEFENSE

144

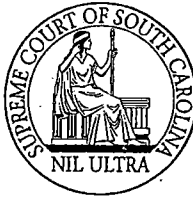


Exhibit # (16)

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 12, 2012

Mr. Robert Watkins, #243803
Kirkland Correctional Institution
4344 Broad River Road
Columbia, SC 29210

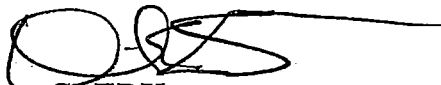
Re: The State v. Watkins, Robert

Dear Mr. Watkins:

This responds to your letters dated April 3, 2012 and April 5, 2012. Since you are represented by counsel in this matter, no action will be taken on your pro se letters. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

The address for that Office is P.O. Box 11589, Columbia, SC 29211, and their phone number is 803-734-1343.

Very truly yours,


CLERK

RECEIVED

DES/lda

APR 12 2012

cc: Attorney General Alan Wilson
Chief Deputy Attorney General John W. McIntosh
Assistant Deputy Attorney General Salley W. Elliott
Assistant Attorney General William M. Blich, Jr.
Solicitor W. Walter Wilkins, III
Appellate Defender Elizabeth A. Franklin-Best

SC OFFICE OF
APPELLATE DEFENSE

145

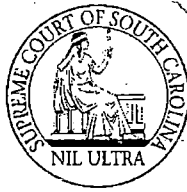


Exhibit # 17

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

May 28, 2013

Mr. Robert M. Watkins, 243803
M.C.I. - F4-197A
380 Redemption Way
McCormick SC 29899

Re: State v. Robert Watkins
Appellate Case No. 2011-195272

Dear Mr. Watkins:

This responds to your letter dated May 24, 2013. Unless relieved by order of this Court, David Alexander, Esquire, will represent you throughout this pendency of this case, including any petition for rehearing that may be filed by either side after this Court issues a decision in this case.

Therefore, as long as Mr. Alexander remains as your counsel, I cannot accept any brief or other *pro se* documents from you relating to the merits of this matter. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

Very truly yours,

CLERK

RECEIVED

cc: William M. Blich, Jr., Esquire
David Alexander, Esquire

MAY 28 2013

OFFICE OF
APPELLATE COUNSEL

146

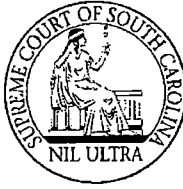


Exhibit # (18)
2 pages

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

January 3, 2014

Mr. Robert M. Watkins, 243803
M.C.I. - F4-197A
380 Redemption Way
McCormick SC 29899

RECEIVED

JAN - 3 2014

Re: State v. Robert Watkins
Appellate Case No. 2011-195272

RECEIVED
APPELLATE

Dear Mr. Watkins:

This responds to your motion dated December 23, 2013. To the extent this is intended as a motion in the above matter, no action will be taken on it for two reasons.

First, you are represented by counsel in this matter. Therefore, you are not permitted to make a *pro se* filing of this nature. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

Second, the remittitur was sent to the circuit court on December 20, 2013. The sending of the remittitur ended appellate jurisdiction over this case, and no further motion can be considered in this case. *Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 642 S.E.2d 551 (2007).



Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

October 3, 2011

Robert Watkins, 10194 Yellow Pod Room #5
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601-2210

Re: Your letters

Dear Mr. Watkins

I have just received your two most recent letters. Believe me when I say that I totally understand your frustration, and I know that you filed a grievance because you are upset. In your shoes, I would be upset too. I just want to apologize because I think that you think I'm not working for you. Nothing could be further from the truth. I think one reason why we're having this difficulty is because you were shipped to Greenville without my knowing about it, and so you didn't receive information when we initially sent it out. I have tried my best to keep you up to date with the developments in your case, and I apologize that you did not receive information when you should have. But please know that we now have a win in the Court of Appeals, and my focus is to protect that win while the Attorney General asks the Supreme Court to get involved in your case. I do not have any basis to have the court toss out their appeal. It is the policy of their office to appeal the cases that we win. If this were a case where they sought to recall the remittitur say, a year after it went down, that would be a totally different issue. But I don't have any legal authority which would support a request to have the Court dismiss their petition for writ of certiorari. So, I'm sorry about that. But your case is a strong one—if it wasn't, we would not have won in the Court of Appeals. Winning cases is HARD, but we actually have a win at this point. So, please accept my apology that we seem to have gotten off to a rocky start here. I'm sure this problem is exacerbated by the fact that we are unable to visit our clients when they are in prison. But, in any event, please know that I have your best interests at heart and that I will be trying to secure your win for you and so that you will get a new trial.

She would have had she
investigated and obtained a copy
of William M. Blitch Jr mail log.
like I did.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

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SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Exhibit # 20

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

May 30, 2012

Robert Watkins, #243803
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

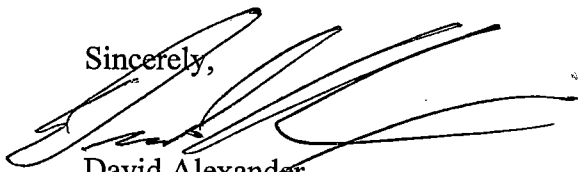
Re: Your case

Dear Mr. Watkins:

It was a pleasure speaking with you the other day. I reviewed your file regarding the issue of the recalled remittitur. As the Court of Appeals has already issued its Order recalling the remittitur and the Supreme Court has already received the State's Petition for Writ of Certiorari and our Return, it seems there is little to be done at this point. You have already won at the Court of Appeals, which is a great accomplishment. Hopefully, the Supreme Court will deny the State's Petition and you will soon receive your new trial.

I hope this answers your questions. If you would like to discuss the matter further, please feel free to give me a call. I look forward to working with you on your case.

Sincerely,



David Alexander
Appellate Defender

DAA:cms

150



The South Carolina Court of Appeals

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

TANYA A. GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

April 21, 2011

Assistant Deputy Attorney General Salley W. Elliott
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Re: The State v. Watkins, Robert

Dear Counsel:

Enclosed is a copy of an Order of the Court denying your Petition for Rehearing in the above case.

The Remittitur in this case will be held in this Court only so long as required by Appellate Court Rule 221 (b).

Please notify this office, in writing, within ten (10) days from the date of this letter, whether or not you want any of the remaining Records on Appeal and briefs we may have in this case. Also enclose a check payable to the S. C. Court of Appeals, in the amount of \$7.50, to cover mailing costs. If we have not heard from you within ten (10) days, the Record on Appeal and briefs will be disposed of.

Sincerely,

V. Claire Allen

V. Claire Allen
Deputy Clerk of Court

VCA/tf

cc: Appellate Defender Elizabeth Franklin-Best
Robert Watkins, #243803
Robert Mills Ariail, Esquire

RECEIVED

APR 22 2011

SC OFFICE OF
APPELLATE DEFENSE

Columbia, S



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Exhibit # 22

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 12, 2011

Robert Watkins, 10194 Yellow Pod Room #5
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601-2210

Re: Your letter

Dear Mr. Watkins

I received your letter dated September 6, 2011. My records show that the Court of Appeals denied the state's petition for rehearing on July 14, 2011. The state currently has a due date of September 14, 2011 to file a petition for writ of certiorari. They may seek and receive a continuance from the South Carolina Supreme Court. Generally, when we win a case in the Court of Appeals, the state appeals the case. There is nothing I can do about that. When the state files its petition for writ of certiorari, I will send you a copy of it. We will then file a response, and ask the South Carolina Supreme Court to deny cert. I am not sure why the remitter in your case has already been issued. I suspect it was done so due to mistake. In any event, I will keep you up to date with the status of your case, and once the Supreme Court DENIES cert, that will be the conclusion of the appellate litigation concerning your case.

Please call if you have any further questions.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

153

47



Department of Public Safety

James M. Dorriety
Assistant County Administrator
jdorriety@greenvillecounty.org
(864) 467-2321
www.greenvillecounty.org

September 21, 2011

Inmate Robert Watkins, Pack # 134960
Greenville County Detention Center; Yellow-40
20 McGee Street
Greenville, SC 29601

RE: Your Form 502, dated 9/16/11

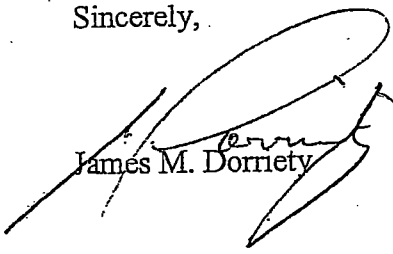
Dear Mr. Watkins:

After our lengthy discussion on 9/20/11, I reviewed the various documents you provided to me and I consulted with senior management at the Detention Center. We reviewed the judicial process addressed throughout your documents and we consulted with the 13th Circuit Solicitor's Office, the County Attorney's Office and finally, with the SC Division of Appellate Defense.

From our conversations we have learned that while the SC Court of Appeals has overturned your 2008 convictions, the Remittitur was submitted in error and has since been recalled. Because the SC Office of the Attorney General has filed a Petition for Writ of Certiorari with the SC Supreme Court, the decision of the Court of Appeals is under appeal. Accordingly, the appeals process has not concluded; therefore, you will remain classified as a sentenced inmate and our system will be modified to reflect your charges of conviction.

Appellate Defender Elizabeth A. Franklin-Best is considered your attorney throughout this appeals process and I spoke with her about the conflicting dates in her letter addressed to you on September 12, 2011. Ms. Franklin-Best intends to write you another letter correcting the administrative error. I understand, depending on action of the SC Supreme Court, another Remittitur could follow the action of the SC Supreme Court. Until then, you must remain in custody and will be classified as a sentenced inmate pending judicial appeals.

Sincerely,


James M. Dorriety

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Page 10 of 10



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

September 22, 2011

Robert Watkins, 10194 Yellow Pod Room #5
Greenville County Detention Center
20 McGee Street
Greenville, SC 29601-2210

Re: Your letter

Dear Mr. Watkins,

I have received your latest letter. First of all, just to be clear—the remittur in this case was improperly issued because the state did not realize their petition for rehearing had been denied. The state asked that the remittur be recalled because they did not have notice. The Court granted that motion. I don't have any basis for challenging the Court's decision in this regard.

Also, I inaccurately told you that the petition for rehearing was denied on July 14th. That is actually the day the state submitted their petition for writ of certiorari. I gave you the wrong date because my assistant entered the wrong date into the database. I apologize for that mistake. I will now be filing a response to the state's petition on your behalf. You will receive a copy of that when it is filed.

If you are transferred to another facility, please give us a call or write to us and let us know. That way you can be sure that your materials will get to you in a timely manner.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Elizabeth A. Franklin-Best
Appellate Defender

EAF/cms

Exhibit 425
4 pages

Form 438
Rev. 5-00

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA VERSUS

FIRST NAME: Ribe MIDDLE NAME: (NMN) LAST NAME: Base

STREET AND NO.: 2100 Pine Creek Dr 1st 550 Greenville SC 29605 CITY: Greenville STATE: SC

STATE LICENSED: SC DRIVER'S LICENSE NO.: 007 729 248 DRI. LIC. CLASS: D

VER. LIC. NO.: SC STATE: SC MAKE OF VEH: Pontiac YEAR: 92 COMM VEH: NO TRUCK: NO COMB.: NO

HAZ. MT.: NO MOPED: NO MTRCYCL: NO OTHER: NO

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER: Timothy C. ... STREET AND NO.: 6217 Wilshire Hwy Del

DATE OF TRIAL: 05/20/01 TIME OF TRIAL: 1300 CITY: Greenville STATE: SC ZIP CODE: 29611

VIOLATION - COURT APPEARANCE REQUIRED: YES VIOLATION SECTION NO.: 56-5-1890

OWNER OF VEHICLE: Timothy C. ... DATE OF ARREST: 04/17/2001

ADDRESS OF OWNER: Greenville SC DATE OF VIOLATION: 04/17/2001

BAIL DEPOSITED: NONE NAME OF ARRESTING OFFICER: E.C. ... RANK: 7th

RACE: M SEX: M BIRTH DATE: 05/22/1965 HT.: 6'00" WT.: 220 EYES: BRN

DATE BAIL RECD.: 20 BY: ...

CASE BEFORE: MAGISTRATE ☒ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐

NAME OF TRIAL OFFICER IF DIFFERENT FROM ABOVE: ...

DEFENDANT: DID NOT APPEAR ☐ APPEARED ☒

DISPOSITION: GUILTY ☐ PLED: NOLO CONTENDERE ☐

FORFEITED BOND ☐

TRIAL BY: TRIAL OFFICER ☐ JURY ☒

VERDICT OF TRIAL IF ANY: GUILTY ☒ NOT GUILTY ☐

JAIL SUSPEND: ... FINE: ... AMT. COLLECTED: ... AMT. SPENDED: ...

COMMITTED TO: ...

CERTIFIED CORRECT: ... DATE: 12/21/01

Y 780115

While being held in
Greenville County on
a NO Bond
under arrest warrants
for 66577 Armed Robbery
and 665788
Poss of a weapon during
arrest of a crime
A Bond warrant was issued
for this offense.

TRIAL OFFICER'S COPY

CERTIFIED COPY
DIANE D. CAGLE, JUDGE

p156

...

BENCH WARRANT

To any Lawful Constable or Officer:

WHEREAS: One ROBERT BASE on the 29th day of November, 2001
Was convicted in this Court of PASSING UNLAWFULLY

YOU ARE HEREBY INSTRUCTED TO BRING THE DEFENDANT BEFORE ME TO BE DEALT WITH
ACCORDING TO THE LAW.

This order is to command you to take and convey him/her to the common jail. The
keeper of the said jail is directed to receive the said defendant and to safely
keep until he/she shall be thereof discharged by due course of law; And for so
doing, this shall be your good and sufficient warrant.

Witness: The due execution of this warrant on 30 DECEMBER 2001 A.D.


JUDGE DIANE D. CAGLE (LS)
GREENVILLE COUNTY MAGISTRATE

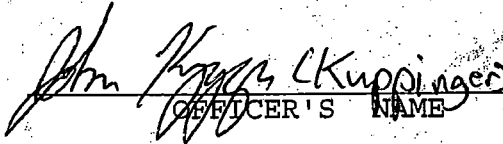
(tear here)

Y780115 BW

OFFICER'S RETURN

STATE OF SOUTH CAROLINA
GREENVILLE COUNTY - MAGISTRATE DIANE D. CAGLE

I hereby certify that pursuant to the command of the within warrant I have
placed the said ROBERT BASE in the jail this 07 day of
in December A.D. 2011.
(Month) (Year)


OFFICER'S NAME *1303 C35

Address: 200 CAVALIER APT 106
City: GREENVILLE SC 29607

Height: 6'7"	Birth date: 5/22/65
Weight: 215	SSN: 0
Sex: M	Lic: 007729248
Race: B	State:

BENCH WARRANT

RETURN WARRANT TO:
JUDGE DIANE D. CAGLE
6247 WHITE HORSE ROAD
GREENVILLE, SC 29611

01835233

01-102993

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPY

6/14/13
Current Date

INMATE PLEA NOTIFICATION

Name: ROBERT M. WATKINS ALIAS Robert Base Pack #: 134960 ID/LOC: 0194 Yellow P.
Address: 20 McGee St Greenville SC 22601 -JRCN-
(STREET) (CITY STATE ZIP)
Telephone: _____
Warrant/Ticket #: Y-2800115 Charge: improper passing / (am charging)
Warrant/Ticket #: _____ Charge: _____
Warrant/Ticket #: _____ Charge: _____

READ THIS CAREFULLY:

- You have the right to a lawyer
- A lawyer can help you decide whether to plead guilty or go to trial
- A lawyer can present your side of the case to a judge during a guilty plea or to a jury during a trial
- If you have no money to hire a lawyer, you can ask the Court to appoint a lawyer for you
- If you decide to plead guilty, you will be giving up your right to a jury trial which includes your right to confront and cross examination witnesses against you, the right to present evidence on your behalf, the right to remain silent, the right to challenge an illegal search or arrest and the right to require the prosecution to prove its case against you beyond a reasonable doubt
- A guilty plea is a conviction and will be part of your criminal record
- The decision to enter a guilty plea or to ask for a jury trial is yours alone

I understand what I have read above. ☒ Yes ☐ No Robert M. Watkins
Signature

Check ☒ one of the boxes below:

RIGHT TO COUNSEL

- ☐ I would like the Court to appoint a lawyer to represent me in my case
- ☐ I am able to hire my own lawyer
- ☒ I would like to give up my right to a lawyer

Check ☒ one of the boxes below:

GUILTY PLEA, JURY TRIAL OR BENCH TRIAL

- ☒ I would like to plead guilty
- ☐ I would like a jury trial
- ☐ I would like a Bench trial

I am making these choices freely and voluntarily.

Robert M. Watkins
(Signature) AKA Robert Base

12-7-11
(Date)

Note: you are required to notify the court if your address changes

(GCDC 528)

COUNTY OF GREENVILLE

Greenville Township

IN THE MAGISTRATE'S COURT

CHARGED WITH OFFENSE OF

IMPROPER PASSING

December 15, 2011

The State of South Carolina

vs.

Robert Base
200 CAVALIER APT 106
GREENVILLE, SC 29607
DEFENDANT(S)

DOB: 5/22/1965

SENTENCE

\$200.00 OR 30 DAYS

TIME TO RUN CONSECUTIVE WITH ANY AND ALL OTHER CHARGES

STATE OF SOUTH CAROLINA)

County of Greenville)

I, Diane D. Cagle Magistrate for Greenville Township in Greenville County, in State
aforesaid, do hereby certify that the foregoing is a true copy of the sentence pronounced by me in
the case above entitled.

Diane D. Cagle
JUDGE

The above defendant delivered to LEC.

CERTIFIED COPY
DIANE D. CAGLE, JUDGE



Department of Public Safety

James M. Dorriety
Assistant County Administrator
jdorriety@greenvillecounty.org
(864) 467-2321
www.greenvillecounty.org

MEMORANDUM

DATE: January 26, 2012
FROM: James M. Dorriety
TO: Inmate Robert Watkins; Pack # 134960
RE: Your Letter dated January 18, 2012

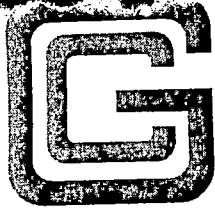
I am in receipt of your letter advising me of your opinion that I do not have jurisdiction over your custody. You also asked about the Special Visit we discussed.

The Solicitor's Office rendered an opinion to me that you are still considered a sentenced prisoner. With that and considering your recent refusal to work, only days after I asked you to remain compliant with the rules, the Special Visit is no longer available.

Because you are considered "sentenced" I agree with your opinion that I should not have jurisdiction over your custody. Because of your letter and refusal to work, we have contacted the SC Department of Corrections and are having discussions about your return to their custody.

Cc:

Inmate File



**Greenville
County**

Exhibit 027 Page 9

Office of the Clerk of Court
Greenville, South Carolina
Paul B. Wickensimer
Clerk of Court

[Handwritten signature]

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

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August 6, 2013

Robert Watkins. 243803
F4-197A
McCormick Correctional Institute
386 Redemption Way
McCormick, SC 29899

Re: 2002GS2301063

Dear Mr. Watkins:

Enclosed you will find a copy of the sentencing sheet that we have from Judge Patterson in the above reference case. We do not have a sentencing sheet dated 9-24-2011.

I have also enclosed a clocked copy of your letter as you requested.

Most of your previous requests that you have been sending have been for information only that is not subject to an FOIA request. I have tried to explain that we cannot provide explanations of how the criminal justice system works but that is what you keep asking us for. I know you are trying to understand how it works and I know it can be confusing when procedures change over the years. I have given you as much information that I can without crossing the lines of providing legal advice.

Again, all of the public information we have is available to the public and you or a representative on your behalf can come into our office and obtain any records that we have in your file. I understand that you personally cannot come to our office and must request documents through the U. S. Mail. Everything we have in your file has been provided to you on numerous occasions. However, understanding that at times when you are moved from one facility to another you can lose the documents, we have provided them again when you have explained your situation. If there was something I could help you with I tried to be responsive as much as I could within the guidelines of our office.

page 161 of 162

Robert Watkins

8/6/2013

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Should you need additional documents, I will be glad to provide them to you if you identify specifically what you need from your file.

I sincerely hope you are doing well. As I have said in the past, keep me posted on how your case is progressing as I am interested in how it turns out. I just cannot answer any questions on how the system works.

Best Regards,

Leanda King

Leanda King

Assistant Clerk of Court

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Robert Watkins 243883 Q2B/08
Perry Correctional Institution
430 Oaklawn Rd
Pelzer SC 29669

ams

BA8

To South Carolina Supreme Court
Post Office Box 11330
Columbia SC, 29211

RECEIVED

JUN 20 2015

F.O.I. MAILROOM

RECEIVED

JUN 20 2015

F.O.I. MAILROOM

(1231 Germain Street)

Columbia SC 29201

Legal