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IN THE COURT OF APPEALS
FOR THE STATE OF SOUTH CAROLINA

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WATTS, MARCUS L.,

Appellant,

v.

THE STATE OF SOUTH CAROLINA,
Respondant.

S.C. SUPREME COURT

MOTION FOR SC Court of Appeals

APPOINTMENT

OF COUNSEL

Appellate Case No.

2016-002198

Pursuant to Law appellant moves for an order appointing counsel to represent him in this case. In support of this motion appellant states:

1. Appellant is unable to afford counsel. He has requested leave to proceed in forma pauperis.
2. Appellant's imprisonment will greatly limit his ability to litigate. The issues involved in this case are complex, and will require significant research and investigation. Appellant has limited access to the law library and limited knowledge of the law. It takes weeks to get a book. Appellant has limited formal education, as well.
3. A trial in this case will likely involve conflicting testimony, and counsel would better enable appellant to present evidence and cross examine witnesses.
4. Appellant has made repeated effort to obtain a lawyer.

WHEREFORE, appellant requests that this court appoint a member of the Division of Appellate Defense, for the South Carolina Commission on Indigent Defense, as counsel in this case.

11/7/16

Date

~~Marcus L. Watts~~

Marcus L. Watts

PCI

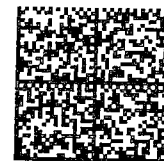
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The State of South Carolina,
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SC Court of Appeals

INITIAL BRIEF

Appellate Case No.
2016-002198

PETITIONER/APPELLANT DID NOT KNOWINGLY AND VOLUNTARILY ENTER A PLEA OF GUILTY

"Except for certain minor offenses, the Circuit Court does not have subject matter jurisdiction to hear a guilty plea unless (1) there has been an indictment which sufficiently states the offense; (2) there has been a waiver of the indictment; or (3) the charge is a lesser included charge of the crime charged in the indictment." Cambell v. State, 342 S.C. 100, 535 S.E. 2d 928 (2000). It is the prerogative of any person to waive his rights, confess, and plead guilty under judicially defined safeguards, which are adequately enforced. State v. Kerr, 330 S.C. 132, 498 S.E. 2d 212 (1998).

Entering a guilty plea results in a waiver of several constitutional rights, therefore the Due Process Clause requires that defendants enter in a guilty plea voluntarily, knowingly and intelligently. Burnett v. State, 352 S.C. 589, 576 S.E. 2d 144 (2003). To support finding that guilty plea is voluntarily and knowingly entered, record must establish that defendant had full understanding of consequences of his plea and charges against him. Carter v. State, 329 S.C. 355, 495 S.E. 2d 773 (1996). State v. Arthur, 374 S.E. 2d 291 (1988) (a valid waiver of constitutional or statutory rights require a showing on the record

that the defendant made the waiver knowingly and intelligently).

A guilty plea must be an informed and intelligent decision. State v. Lopez, 352 S.C. 373, 574 S.E.2d 210 (2002). To be valid, a guilty plea must represent an intelligent choice among the alternatives available to a defendant. Id.

In the case sub-judice, the colloquy amounted to nothing more than a pro forma answers to pro forma questions. State v. Gardner, 570 S.E.2d 184, 187 (2002). The judge never informed Appellant that the State must obtain a lawful true bill indictment according to the state statutes and State Constitution and that they have failed to do so — thus depriving the court of subject matter jurisdiction and that the only way Appellant can be lawfully convicted is if he plead guilty and gives the court subject matter jurisdiction that it otherwise does not have.

Had Appellant been informed of this he would never have plead guilty but would have demanded that the State first obtain subject matter jurisdiction by obtaining lawful indictments. Appellant acted reasonably in believing that the Solicitor was trustworthy and had obtained lawful indictments. Appellant had no prior reason for doubting the indictments were lawfully obtained and could not have known about the indictments at the time of the plea because of the Solicitor's Fraud, Perjury, and Conspiracy designed to keep the bogus indictments hidden from Appellant.

In other words, Appellant's guilty plea was not "an intelligent choice among the alternatives available" to him, Lopez, supra, because he could have plead not guilty and

the court would have lacked subject matter jurisdiction to put Appellant on trial. Since the relevant information was hidden from Appellant and Appellant was prevented from considering it in making the decision to plead guilty, his guilty plea was not knowingly, voluntarily or intelligently entered.

Dated: 11/7/16

Respectfully Submitted,

s/ Marcus L. Watts

Marcus L. Watts

SCDC # 316590

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430 Oak Lawn Rd.

Pelzer, SC 29669