

STATE OF SOUTH CAROLINA  
COUNTY OF COLUMBIA  
ALTON M. CHISOLM #241794

APPLICANT,

VS.

STATE OF SOUTH CAROLINA OF APPEAL  
RESPONDENT

(The South Carolina Court of Appeals

PRO SE, ALTON M. CHISOLM

APPELLATE CASE NO. 2014-002351

PRO SE, BRIEF: ACTUAL INNOCENCE,

EXTRA ORDINARY CIRCUMSTANCES, RAREST

CAUSE, CASE AND NEWLY DISCOVERY

EVIDENCE IN: THIS PRO SE, BRIEF, ANY

ISSUES, CASE, LAWS, (6)-EXHIBITS

IN: DIRECT, ISSUES, EVIDENCE.

I, ALTON M. CHISOLM HAVE ENCLOSED A COPY  
OF: MY, PRO SE, BRIEF WITHIN (45) DAYS: I AM, FILING,  
"ANY ISSUE," EVIDENCE: I WILL HAVE MY COPIES, "NOTARIZED"  
AND: I WILL SUBMIT "ALL" MY, EVIDENCE, "STARTING," FROM:  
THE (S.V.P.), MATTERS AND: I SUBMITTED (6), ISSUES, ETC.:  
APPELLATE, COURT, I BELIEVE THE COURT SHOULD CONSIDER "ALL" MY ISSUES.

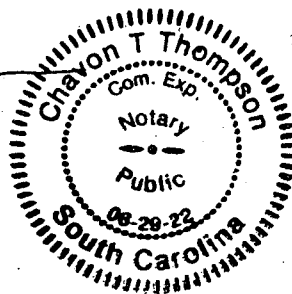
SWORN OR AFFIRMED AND SUBSCRIBED  
BEFORE ME THIS, 8<sup>th</sup> DAY OF

SEPTEMBER, 2016



MY COMMISSION EXPIRES, 6-29-22

SIGN: ALTON M. CHISOLM



Sincerely,

Alton M. Chisolm

ALTON M. CHISOLM

RECEIVED  
SEP 12 2016  
SC Court of Appeals

South Carolina Court of Appeals  
Jenny Abbott Kitchings, Clerk  
Post Office Box 11629  
Columbia, South Carolina 29211

September 7, 2016

Alton M. Chisolm  
S.C. Dept. of Mental Health  
S. V. P. PROGRAM  
7901 Farrow Road  
Bldg. 3; Third Floor  
Columbia, S.C. 29203

RECEIVED

SEP 12 2016  
SC Court of Appeals

RE: IN THE MATTE OF Alton M. Chisolm  
APPELLATE CASE NO. 2014-002351

DEAR, JENNY ABBOTT KITCHINGS, CLERK, ETC.:

I, Alton M. Chisolm have enclosed, MY, PRO SE, Brief within: the (45) Days, "ENLIGHTENING" ANY ISSUES in this PRO SE, APPEAL AND: I HAVE SUBMITTED A (2) PAGE DOCUMENT FROM: THE "HONORABLE, JUDGE, R. MARKLEY DENNIS Jr.": The "Second Page" related to: the Basis, for MY, "Original Commitments Not Before the Court" At the Present Time: APPELLATE Court, etc., I have submitted the (Number: 6) (6) (MAIN ISSUE) FROM, MY: "JULY 19, 2002, LEWD ACT, Commitments, etc." For: The APPEALS Court Consideration IN: MY, Court, ISSUES, MATTER.

CLERK, JENNY ABBOTT KITCHINGS, etc., The APPELLATE Court: HERE is a "THANK YOU, Certificate" FOR, LETTING, ME, KNOW ABOUT: THIS IMPORTANT MATTER FOR MY LIFE.

Sincerely,  
Alton M. Chisolm  
ALTON M. CHISOLM

"SEPTEMBER 9, 2016"

cc

AG  
#1

APPELLATE COURT, PAGE (2)

ARE THE (PRO SE) (SPEAKING) "ORIGINAL" ON COMMITMENT.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

CASE NO. 2006-CP-10-02715

IN THE MATTER OF THE CARE

ORDER

AND TREATMENT OF

ALTON CHISOLM,

PETITIONER.

IN MY (6) ISSUE, etc.

DOCUMENTS (1-16)

2014 OCT 30 AM 9:03  
CLERK OF COURT

This sexually violent predator matter came before the Court for an Annual Review hearing on October 21, 2014, pursuant to S.C. Code Ann. Section 44-48-110. At such a hearing the burden is upon the Petitioner, Mr. Chisolm, to show probable cause that his mental abnormality or personality disorder has so changed that he is safe to be at large, and not likely to commit acts of sexual violence. See *Matter of the Care and Treatment of Tucker*, 353 S.C. 466, 578, SE 2d 719 (2003).

The record showed that Mr. Chisolm had filed a Petition for Release, and the State had filed a Return. Petitioner Chisolm was personally present, and represented by Charles T. Brooks, III. The State was represented by Senior Assistant Attorney General James G. Bogle, Jr.

Based upon the statements of counsel, the record before the Court included the letter from the Department of Mental Health to the Chief Administrative Judge of this Circuit dated November 12, 2013, the attached Notice of Right of Petition to Release signed by Petitioner on November 12, 2013, and the Annual Review Treatment Report by Chief Psychologist Dr. Marla L. Domino, dated November 7, 2013. The record also showed the Petitioner had sought an independent evaluation as allowed by the statute, by Order filed on or about November 25, 2013, and that Petitioner was transported for that evaluation in April 2014. This matter was previously set for a hearing on June 18, 2014, but continued because the State's expert was not available.

Mr. Brooks informed the Court that he had (no expert testimony) to present. Since the Treatment Report by Dr. Domino was already (part of the record), the Court received testimony from Dr. Domino, specifically addressing Petitioner's treatment since the date of her report, November 7, 2013. Included within her testimony were accounts of numerous behavioral observation notes for misconduct by Petitioner at the Sexually Violent Predator Treatment Program. She further noted that these records showed a pattern of mood swings, emotions, threats, failure to cooperate with supervision and obey rules, and an attitude of hostility, where Petitioner would not accept responsibility for misconduct or his past crimes, or would blame others for his situation. While there was evidence of dementia due to a past head injury, Dr. Domino testified that condition was not a deciding factor governing Petitioner's conduct at the present time.

CAUTION, APPELLATE - Court, September 7, 2016 - AITON M. Chisolm - Pro-se

To H. Judge and Attorney Falk and Families.  
For Aiton M. Chisolm  
For Att. [unclear]

Dr. Domino concluded that her opinion as stated in her Treatment Report had not changed, that Petitioner's mental abnormality or personality disorder had not so changed that he was safe to be at large, and not likely to commit acts of sexual violence.

Petitioner testified on his own behalf, but much of his contentions related to the basis for his original commitment, matters not before the Court at the present time, that could or should have been dealt with at the appellate level.

Based upon the evidence before the Court, comparing and evaluating the testimony of Dr. Domino and Petitioner, and the full record as set forth above, the Court finds that Petitioner has failed to show probable cause that his mental abnormality or personality disorder have so changed to the extent that he would be safe to be at large and not likely to commit acts of sexual violence. Accordingly,

IT IS HEREBY ORDERED that the Petition for Release and this Annual Review are hereby denied;

IT IS FURTHER ORDERED that Petitioner remain in the custody of the Sexually Violent Predator Treatment Program operated by the Department of Mental Health;

IT IS FURTHER ORDERED that Petitioner remain under the jurisdiction of this Court;

AND IT IS SO ORDERED.

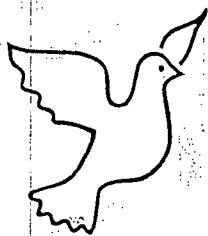
  
R. MARKLEY DENNIS, JR.  
Chief Administrative Judge  
Ninth Judicial Circuit of Common Pleas

October 27, 2014  
Charleston, South Carolina

AMDO/2

# Thank You!

For all the wonderful things you do  
And for being kind  
May God bless you  
And may Heaven smile upon you!



On this wonderful day  
That the Lord has made,  
Remember  
When you are walking  
You are not alone  
God is always walking with you  
Hence now and forever more.



*Every day will I bless thee, and I will praise thy name for ever  
and ever.. Psalms 145:2*

To: JENNY ABBOTT KITCHINGS, etc, APPEALS, COURT, MEMBERS.

From: Pro Se, ALTON M. CHISOIM, THE APPELLANT.

September 7, 2016

The STATE OF SOUTH CAROLINA  
IN The COURT of APPEALS

---

Pro Se Brief from: ALTON M. CHISOLM

---

Appellate Case No.: 2014-002351 —

IN the MATTER OF The CARE AND TREATMENT OF ALTON M. CHISOLM

---

BRIEF OF APPELLANT

---

ALTON M. CHISOLM  
S.C. DEPT. OF MENTAL HEALTH  
S. V. P. PROGRAM  
7901 FARROW ROAD  
Bldg. 3; THIRD FLOOR  
Columbia, S.C. 29203

**RECEIVED**

SEP 12 2016

SC Court of Appeals

The STATE of South Carolina  
IN The Court of Appeals

---

APPEALS From Charleston County  
Court of Common Pleas  
HONORABLE R. MARKLEY DENNIS Jr. <sup>Judge,</sup> ~~Circuit Court~~

---

Appellate Case No.: 2014-002351  
IN the MATTER of the CARE AND TREATMENT of  
A I T O N M. Chisolm  
P R O S E B R I E F of APPELLANT

---

A I T O N M. Chisolm  
7901 FARROW ROAD  
Bldg. 3; Third FLOOR  
COLUMBIA, S.C. 29203  
P R O S E F O R APPELLANT

**RECEIVED**

SEP 12 2016  
SC Court of Appeals

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CERTIFICATE of COUNSEL . . . . . 8

The CONCLUSIONS AND The Certificates of Counsel are  
IN: The WRITS AND THE ANDERS Briefs, etc., Number (6) ISSUES  
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CONCLUSION:

# Table of Authorities

September 7, 2016

Cases: 1. "Pro Se, Alton M. Chisolm, Case LAWS"

- 1A. State v. Jason C., 51 Misc.3d 553, 554, 26 N.Y.3d 483 (Supreme Court, Kings County, 2016)...
- B. KANSAS v. HENDRICKS, 521 U.S. 346, 371-72 (1997) . . . . .
- C. Hudson v. United States (1997) 522 U.S. 93, 100, Quoting Ward 448 U.S. at 244 . . . . .
2. Number, 6.-Case, -LAWS: Matthew Jamison v. South Carolina (Appellate)  
Case No. 2012-212996-OPINION No. 27454 (STATE of South Carolina IN  
The Supreme Court), Heard (March 5, 2014 October 22, 2014) "Entry-Case  
Law", 2014 (S.C. Code ANN § 17-27-45 (c) 2014), etc., HENDERSON  
V. Morgan 426 U.S. 637 (1976); PITMAN V. STATE 337 S.C. 597 S.E. 2d 623  
(S.C. 1999), Boykin v. Alabama 395 U.S. at 245, 89, S.C. 1713 (1969); TURNER  
V. State (S.C. 1999) 335 S.C. 362, 517 S.E. 2d 442; U.S. V. Jones 143 F3d 1417,  
1418 (11th Cir. 1998); UNITED STATES V. MURIEL - 111 F3d: 975, 980 (1st Cir. 1998)  
UNITED STATES V. Jones supra: Suppression of Evidence; UNITED STATES  
V. Simmons 763 F2d 529, 533 (2nd Cir. 1985) UNITED STATES V. MURIEL supra;  
ROBINSON V. Shell Oil Company 117 S.Ct. 843 (1997); State v. Easler (S.C. 1997)  
327 S.C. 121, 489 S.E. 2d 617; Sharpe v. Sharpe 535 S.E. 2d 913, 342  
S.C. 71 (S.C. 2000); Bell v. Monsanto Corp. 579 S.E. 2d 325 (S.C. 2003);  
Brown v. State 343 S.C. 342, 540 S.E. 2d 846 (2001); State v. Gentry 363  
S.C. 93 610 S.E. 2d 494 (2005); State v. Elmore 279 S.C. 417, 308 2d 781 (1983)  
State v. Carson 317, S.C. 430, 431, 454, S.E. 2d 888, 889 (1995); State v. Tabory 262  
S.C. 136, 141, 202, S.E. 2d 852 (1994); State v. Anderson 439, S.E. 2d 835 (1993);  
State v. Jones 439, S.E. 2d 282 (1994), Creates A (Procedural-Defect)  
that Nullify Indictments, etc.: . . . . .

Statutes: SEE, ISSUES, NUMBER-2, 3, 4 AND 5.

3. S.C. Code (1976) ANN § 16-15-140 AS A NON-VIOLENT OFFENSE . . .  
S.C. Code (1998) ANN § 44-48-30 (1) (2) AS A VIOLENT OFFENSE . . .

## Treaties:

4. American Psychiatric Association (2013). Diagnostic and Statistical Manual  
of Mental Health disorder: DSM-5 (5th ed.) Washington, D.C. American Psychiatric Publishing . . .  
PASSIM:

## Table of Authorities

CASE: 2. "ATTORNEY, James K. FAIK, CASE, LAWS,"  
ISSUE, Number, "5," DOCUMENTS:

1. State V. Jason, 51 Misc. 3d 553, 26 N.Y.S. 3d 423  
(Supreme Court, Kings County, -2016.....)

1B. McGee V. Bartow, 593 F. 3d 556 (7th Cir. 2010)...

1C. Kansas V. Hendricks, 521 U.S. 346, 371-72 (1997)...

From: Pro Se Alton M. Chisolm

Statement of Issues ON Appeal

I have written behind This Document: ENCLOSED ARE "ANY ISSUES" within the Brief: I have "ENLIGHTENED" (6) ISSUES, FROM (1-6) AND: "THE ISSUES ARE (~~STATED~~)" behind each "<sup>(NUMBER)</sup>ISSUE"; NUMBERS: DID the trial Judge, ETC., "ERR" IN FINDING "NO PROBABLE CAUSE EXIST" AS TO WHETHER "APPELLANT, ALTON M. CHISOLM" WAS: A SEXUAL VIOLENT PREDATOR: "I AM NOT A SEXUAL VIOLENT PREDATOR", AND HERE IS MY PROOF. 1. THE (S.V.P.) MATTERS FROM: "2009 (S.V.P.) TRIAL, TRANSCRIPT, MARCH 25, 2010 ON APPEAL. ENLIGHTEN, ACTUEL-INNOCENCE - JURISDICTION 21 - DEFECTS, ISSUES, MATTER: NEWLY DISCOVERY EVIDENCE, ISSUES: EXTRA-ORDINARY CIRCUMSTANCES, "RAREST" cause-case AND (~~ENTERED~~) A-(2014-case)-LAW" (FALSE ISSUE) - LEWD ACT INDICTMENT THAT WAS (CHANGED) FROM: THE (<sup>(C.S.C.)</sup>ORIGINAL) "FALSE (\$75,000 BOND, INDICTMENT) TO CONVICT ME IN: THE JULY 19, 2002- TO AUGUST 2003 CONCURRENT WITH MARCH 1996 LEWD ACT PLEA CONVICTION UPON, ALTON M. CHISOLM. THIS "DIRECT EVIDENCE" WAS "SEEN" IN: THE "2009-TRIAL, TRANSCRIPT ON APPEAL, (146), PAGE, DOCUMENTS AND: THE (CIRCUIT COURT REPORTER-ANN BOULE MEYER). "SEND IT TO ME IN THE MAIL: I BELIEVE IN (2011) AND THERE WAS "NO-  
PAGE-1 of 2

From; Pro Se Alton M. Chisolm

Statement of Issues on Appeal

True-Indictment" Just the (True, Nolle Prosequi-

"False", Indictment, \$75,000, Bond) AND: I, know, if the "Clerk, Meyers" had A "True" Indictment" to Indict Me: she would have had it in, The last (4), PAGES of that (146) Page, Transcript."

2. The April 14, 2010, written, by: "LANelle Canter DURANT "True", Anders Brief" and on page (7, 8, 9), "Enlightened, Issues, "I-Seen-later" of My, "Actual Innocence", etc., "Proof" for Me. Proving (IN the Anders Brief) on (789) "that" (There was NOT SUFFICIENT, EVIDENCE) to Support AN (order) of (S. V. P. Commitment) For, Alton M. Chisolm AND Etc.: It Must be Reverse"...:

"Appellate, Court, please, Read these Very Important, Documents."

3. My Writ of Habeas on page (6, 7, 8. AND 11), etc. Bottom Page. I (Challenge) the Conflict, Issues between S.C. Code (1976) ANN § 16-15-140-(Lewd Act AS a NON-VIOLENT), offense AND: (THE S.C.) Code (1998) ANN § 44-48-30(1) (2) AS A violent offense-and is IN: (Violation of The Executive Branch V. Judicial Branch, Issues, etc. and: Final (Judgement (ENTERED) ON) the Record) of Charleston, S.C., Court, etc., (Lewd Act), Issues, For, Alton M. Chisolm.

3. 4. My Emergency Petition for Writ of Mandamus to show Cause IN: The Issues (1976) statute (NON-VIOLENT OFFENSE ANN § 16-15-140) AND 1998 statute (VIOLENT OFFENSE ANN § 44-48-30(1) (2)).

5. My Appellate Attorney, "JAMES K. FALK", Anders Brief, Enlightens, Issues. Punitive, etc., Violate The EX Post Facto AND: The Double Jeopardy, Cause, upon: A (6) MONTH, (Paraphilic Disorder NOS Diagnosis) For, Alton M. Chisolm,

6. My (original Issues) From Oware (1), July 19, 2002 to August 2003, Lewd Act, Concurrent With March 1996 Lewd Act, Plea, Conviction" AND: My (False Nolle Prosequi) Indictment "Entered" in: The Starting of My, 2002, Convictions AND (Real suspect), "James Jones" wasn't -

From: Pro Se Alton M. Chisolm

## ARGUMENTS

The Trial Judge, etc., "ERRED" in Finding "NO Probable, Cause, EXIST AS to whether "Appellate, Alton M. Chisolm was: A Sexual Violent Predator, Etc., "Threat in the Community" Because: Dr. Domino, etc., AND Dr. Swan, Diagnosis (Paraphilic Disorder NOS Diagnosis), For: "Six Month - WAS NO LONGER A General Accepted (diagnosis Etc. <sup>(IN ATT. FAIK-ANDERS Brief)</sup> ARGUMENTS) IN: MY <sup>"PRO SE."</sup> ANDERS-Brief, April 14, 2010, "Written" BY: LANELLE CANTEY DURANT, "True", ANDERS BRIEF ON PAGE, (7, 8, 9), ENLIGHTENED, ISSUES. "PLEASE, Notice, with CAUTION", (All) "6" of MY, (PRO- Se, Brief) ISSUES; EVIDENCE, "STAPPIED Together" For: The COURT to Consider in this APPEAL, AND: EACH "ISSUE" Are "STAPPIED" with the EXIBITS. I ALSO HAVE <sup>(PAGE 15 OF 16)</sup> (MOTION) OF Discovery: The "VICTIMS" SAY "I AM NOT A THREAT".

FROM: Pro Se, ALTON M. CHISOLM

## STATEMENT OF THE CASE

FOLLOWING A Plea, Trial AND: A JURY Trial IN Charleston County, Court of Common Plea, IN Charleston, South Carolina: APPELLATE COURT, I, ALTON M. CHISOLM WAS CONVICTED IN: Charleston, South Carolina UPON: A, 2002 to 2003 LEWD ACT Plea, Concurrent with: A, 1996-CONVICTION, LEWD ACT, MATTERS: I went to A (2009) JURY, TRIAL UPON: The S.V.P., Commitment, Conviction IN: The CASE of MENTAL Health AS A Sexual Violent Predator AND: APPELLANT, ALTON M. CHISOLM exercise his Rights to Petition For: The Immediate, Release, UPON: My (6) Issues IN the APPELLATE, Court AND I believe the Court Should consider those (6) Issues in this Appeal UPON: PRO Se, ALTON M. CHISOLM, Immediate, Release, FROM: The "S.V.P.", Commitment, MATTERS.

# CERTIFICATE OF COUNSEL

The undersigned certifies that to the Best of MY Ability this ANDERS ("PRO-Se" "Brief" etc.) of APPELLANT complies with Rule 211(b), SCACR, AND The APRIL 15, 2014 ORDER of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and other Sensitive Information in Appellate, Court, Filings."

September 7, 2016

**RECEIVED**

SEP 12 2016

SC Court of Appeals

Alton M. Chisolm

ALTON M. CHISOLM

S.C. DEPT. OF MENTAL HEALTH

S. V. P. PROGRAM

7901 FARROW ROAD

Bldg. 3; THIRD FLOOR

Columbia, S.C. 29203

SOUTH CAROLINA COURT OF APPEALS  
JENNY ABBOTT KITCHINGS, CLERK  
Post office Box 11629  
Columbia, South Carolina 29211

September 7, 2016

ALTON M. CHISOLM  
S.C. DEPT. OF MENTAL HEALTH  
S. V. P. PROGRAM  
7901 FARROW ROAD  
Bldg. 3, Third Floor  
Columbia, S. C. 29203

RECEIVED  
SEP 12 2016  
SC Court of Appeals

RE: IN THE MATTER OF ALTON M. CHISOLM  
APPELLATE CASE NO. 2014-002351

DEAR, JENNY ABBOTT KITCHINGS, CLERK, ETC.:

I, ALTON M. CHISOLM HAVE ENCLOSED A COPY OF: MY PRO SE, Brief within (45) DAYS AND: I AM FILING "ORIGINAL" COURT, DOCUMENTS WITH "ANY ISSUES," EVIDENCE: I WILL "NOTARIZE," THESE DOCUMENTS, AND: SOME OF MY, "COPIES NOTARIZED" HAVE "SOME OF MY WRITINGS" ON THEM: PLEASE, FORGIVE, ME: I AM NOT AN "ATTORNEY". I HOPE AND PRAY THAT: YOU, "APPELLATE COURT," GRANT THESE MATTERS FOR ME AND: APPELLATE, COURT, MY "ANY ISSUES," EVIDENCE STARTING, FROM:

1. The S.V.P. MATTERS FROM: THE "2009 S.V.P. TRIAL, TRANSCRIPT, (MARCH 25th, 2010) "ENLIGHTEN", NEWLY DISCOVERED EVIDENCE WITH: A (146), PAGE, (TRUE), COPIES THAT: THE CIRCUIT COURT REPORTER, ANNE BOULE MEYERS GAVE ME TO: PROVE MY ACTUAL-INNOCENCE ON: THE LAST (4) PAGE IN THE (146), PAGE DOCUMENTS: CIRCUIT COURT REPORTER, ANNE BOULE MEYERS, - "ENLIGHTENED" TO ME, ETC.: TRUE COPIES IN MY ACTUAL-INNOCENCE JURISDICTIONAL DEFECTS, MATTER, - EXTRA ORDINARY CIRCUMSTANCES (RARE) CAUSE, CASE IN HAND AND: NEWLY-DISCOVERY DIRECT-ISSUES-EVIDENCE,

PAGE-1 of 2

"South Carolina Court of Appeals"

September 7, 2016

FROM: "Pro Se Alton M. Chisolm".

UPON, Alton M. Chisolm: These last (4) PAGE Document, "Clear to See", ENLIGHTENED ON: The "Records of the (S.V.P.) TRIAL, TRANSCRIPT, APPEAL, Documents: A "2014 (ENTRY) CASE, LAW, MATTHEW JAMISON V. SOUTH CAROLINA (APPELLATE) CASE NO. 2012-212996 OPINION NO. 2745 (STATE OF SOUTH CAROLINA IN THE SUPREME COURT), HEARD, MARCH 5, 2014 OCTOBER 22, 2014 (S.C. CODE ANN § 17-27-45 (C) 2014): THIS (ENTRY), "FALSE", (NOLLE PROSEQUI) (\$75,000 FALSE, BOND) "CRIMINAL SEXUAL MISCONDUCT, INDICTMENT" "TRAVELLED, FROM, GUARE(1): "JULY 19, 2002, CONVICTIONS" AND WAS (CHANGED) to: The "LEWD ACT-INDICTMENT" to FIT: The FINAL-2003 of August, CONVICTION UPON: "Alton M. Chisolm AND The (FALSE-LEWD ACT), Number in the INDICTMENT, TRAVELLED, FROM: The "GENERAL SESSION CASE, HISTORY (COPY) FOR CASE H-100833" THAT IS: The (SAME), LEWD ACT, indictment in: The 2009 TRIAL TRANSCRIPT ON APPEAL, (146) PAGE, Document on: The LAST (4) PAGES of this (146) PAGE, TRANSCRIPT." APPELLANT, COURT, etc.: You will see, CLEARLY, "NO-TRUE", "INDICTMENTS TO CONVICT, ME" TO: The S.V.P., COMMITMENT PROGRAM, MATTER AND THAT: "ORIGINAL, JULY 19, 2002 (CSC) - FALSE, NOLLE PROSEQUI, \$75,000 FALSE BOND, CONVICTED, Alton M. Chisolm AND THAT CAUSED: The 2014 (ENTRY) CASE LAW, MATTER FOR: The (S.V.P.), MATTER to be: Immediately, dismissed, VACATED AND ESPONGED OFF: MY (RECORD AND) THAT (ENTRY) CASE, LAW, Ruled to Dismiss, (ANY) CASE, upon, 2. COURT AND: MY "April 14, 2010, Anders, Brief" FROM: APPELLATE

PAGE-2 of 3

["Appellate Court Number (1) - Issue - September 7, 2016" 140  
"I SEND THE LAST <sup>3</sup> ~~FOUR~~ COPIES OF (146) COPIES"]

1 treatment. And it is treatment you really need as a  
2 result of your (brain) injury. I hope that you  
3 successfully complete it and that come through it  
4 very quickly so that you can be (released to go home  
5 to your family).

6 Okay, thank you all very much. The Court  
7 stands adjourned.

8 MR. BOGLE: Thank you, Your Honor.

9 (Whereupon, the proceedings in this matter  
10 before the Court were adjourned.)

11 \* \* \* \* \*

Appellate Court Issue (Number) 1  
September 7, 2016  
Learn (My-Family) (Indictments) (False Connection) 141  
2014 ENTRY CASE Entered Before and after Cause: Grants dismissed etc. signed:  
LAW

1 Some Appeal Copies From: Charleston County, Deadra L. Jefferson,  
2 Caution → Not Enough Evidence Circuit Court Judge - Record on Appeal.  
3 NO EVIDENCE TO CONVICT CERTIFICATE  
4 Court officials where is the (Real) (2) Indictment Conviction)  
5 → The Court Reporter did not Make an Error: She didn't  
6 → want to (Fraud or lie some Indictments): 1. Indictment 2003 65-10-0881 ✓  
7 → Nolle Prose and (1) Sexual Registry Indictment, Cause,  
8 a Release for Chisolm. False Indictments → grant dismissed!

9 I, the undersigned, (ANNE BOULEY MEYER),  
10 official Court Reporter for the State of South  
11 Carolina, do hereby certify that the foregoing is a  
12 (true), accurate, and complete transcript of the records →  
13 of (all) the (proceedings) had and (evidence) introduced in  
14 the (trial) of the captioned case, relative to appeal,  
15 in the Circuit Court for Charleston County, South  
16 Carolina, in the Common Pleas Court for the session  
17 week of February 9 through 13, 2009.)

18 I do further certify that I am neither of kin,  
19 counsel, nor interest to any party hereto.

20 Appellate Court, etc.:  
21 From: Pro Se, Alton M. Chisolm  
22 September 2016  
23 Anne Bouley Meyer ✓  
24 Anne Bouley Meyer, RPR  
25 Circuit Court Reporter

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

NIBLOCK, CPD

0215250

ARREST WARRANT NUMBER

H194423

OCTOBER 1, 2002

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

September 7, 2016  
Appellate Court  
Number (1) issue

DOCKET NO. 2003-GS-10-088

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

VS.

ALTON CHISOLM

→ Conviction - July 19, 2002  
"Att. etc. Family" (2014 Entry Case Law) → Newly Discovery  
Evidence and (entering) False Indictments, etc. (Immediately  
Vacate etc Release) an inmate or a Resident.

2003 Honorable Judge etc (change) this Lead Act From July 19, 2002 SC Conviction  
↓  
Indictment for  
LEWD ACT UPON A MINOR  
To (Fit) their Purpose  
in the S.C. Courts.

(Att. Falk etc Family)

↓ etc  
This (Caution Me) that they don't have (no evidence)

if they did they would have had it in this (Newly Discovery)  
146 Page (Appeal Transcript March 25, 2010)

Caution  
My (new) (are)  
Date:

Att. Falk etc Family  
False Document  
that hold me in jail (nd-poss)  
Indictment of a (75,000 Bond) S.C. state  
and the U.S. Constitutional Law, Vacates  
etc. Convictions Because of Indictment Laws.  
The Law it states it Must Be Vacated etc.

JULIA J. ARMSTRONG (SEAL)  
CLERK, C.P. & S.A.  
DEPUTY CLERK

FILED  
2003 FEB -6 PM 3:14  
JULIE CLERK OF COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
LEWD ACT UPON A MINOR

At a Court of General Sessions, convened on February 3, 2003 the Grand Jurors of Charleston County present upon their oath:

That Alton Chisolm being over the age of fourteen years, did in Charleston County on or about July 17, 2002, wilfully and lewdly commit or attempt a lewd and lascivious act upon or with the body of one [REDACTED] a child under the age of sixteen years, with the intent of arousing, appealing to, and gratifying the lust, passions, and sexual desires of himself or such child. This is in violation of §16-15-140 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.

  
ASSISTANT SOLICITOR

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

DET. WHISENANT, D., CCSO

2002-018402-B

ARREST WARRANT NUMBER

H193698

AUGUST 7, 2002

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2003-GS-10-1006 - "Appellate Court-Number (1)  
The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

vs.

ALTON CHISOLM

Indictment for

FAILURE TO CHANGE ADDRESS FOR THE  
SEXUAL OFFENDER REGISTRY

BY

JULIE J. ARMSTRONG  
CLERK OF COURT

2003 FEB -6 PM 1:42

JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., S.S. & F.C.

DEPUTY CLERK

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )

INDICTMENT FOR  
 FAILURE TO CHANGE ADDRESS FOR THE SEXUAL  
 OFFENDER REGISTRY

At a Court of General Sessions, convened on February 3, 2003 the Grand Jurors of Charleston County present upon their oath:

That (Alton Chisolm) did in Charleston County on or about July 3, 2001, fail to change his address for the Sexual Offender Registry after notice of this requirement and after being convicted of (1976 Statute) (Lewd Act) Upon a Minor (1976) (under the Statute Law) (§16-15-140) as amended. This is in violation of §23-3-470 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.

Deborah W. Lee  
 ASSISTANT SOLICITOR

See The [redacted] ENTRY) Att. [redacted] and Family I have these (newly Discovery) → 146 Pg. Document  
Case LAW → new att. (falsely Entered) Evidence? Att. Caution → Pg. 125-126  
Caution My  
CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that (this Record on Appeal complies to the (best) of my (ability) with the August 13, 2007, (order) from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

138  
139  
att.  
Caution

March 25th, 2010

*LaNelle Cantey DuRant*  
LaNelle Cantey DuRant  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

"APPELLATE COURT - Number - (1) - ISSUE  
September 7, 2016."

FROM: Pro se, Alton M. Chisolm

From: Pro Se, Alton M. Chisolm.

ATTORNEY, "LANELLE CANTEY DURANT" GAVE, ME, (<sup>A</sup>TRUE),  
 • ANDERS, Brief; I HAVE THE (COPIES) OF THOSE DOCUMENT,  
 EXHIBITS FOR, YOU, "APPELLATE", COURT: PLEASE, SEE, PAGE (7,  
8, 9) IN THE "ANDERS", BRIEF: THE COPIES (PROVE MY ACTUAL -  
INNOCENCE) STATING THAT: "THE "2003", CONVICTIONS, OF,  
ALTON M. CHISOLM (WERE NOT SUFFICIENT EVIDENCE  
TO SUPPORT AN: "ORDER OF COMMITMENT FOR: ALTON M. CHISOLM  
TO THE (S.V.P.) PROGRAM, ETC., MUST BE: (REVERSE, ETC., DISMISSED)  
UPON, ALTON M. CHISOLM, IN THE (S.V.P.), PROGRAM.

"APPELLATE, COURT, ETC.: THIS IS ANOTHER "EXTRA ORDINARY -  
 CIRCUMSTANCES "RAREST" CASE, BECAUSE: THIS PROVES, NEWLY  
 DISCOVERY, EVIDENCE AND MY ACTUAL INNOCENCE, ON THE RECORDS.  
 3. APPELLATE, COURT, "MY NOTARIZE" WRIT OF HABEAS CORPUS ON PAGE  
 (6, 7, 8 AND 11) BOTTOM PAGE: I HAVE (CHALLENGED) THE "CONFLICT"  
 BETWEEN S.C. CODE (1976) ANN § 16-15-140 - LEWD ACT AS A  
 NON VIOLENT OFFENSE AND: S.C. CODE (1998) ANN § 44-48-30 (1)(2) AS  
 A VIOLENT OFFENSE (THIS IS IN: "VIOLATION OF EXECUTIVE BRANCH V.  
 JUDICIAL BRANCH "FINAL JUDGEMENT" ON THE "RECORD" OF CHARLESTON  
 S.C. COURT AND ALSO ON THE FINAL JUDGEMENT IN: THE "2009 S.V.P.  
 TRIAL TRANSCRIPT ON APPEAL IN COLUMBIA, SOUTH CAROLINA UPON,  
 ALTON M. CHISOLM AND: THOSE MATTERS IN THESE COURTS, "MUST  
 • BE DISMISSED, VACATED AND EXPONGED OFF, MY RECORD: APPELLATE.  
 COURT, PLEASE, NOTICE, AND CAUTION, READ (ALL ISSUES) IN, MY  
 "PRO SE, BRIEF" AND: PLEASE (RULE), RIGHTEOUSLY, UPON, "GOD AND MANS' LAW,  
 AND: DISMISS, VACATE, AND EXPONGED "ALL, LEWD ACT," CONVICTIONS.

"APPELLATE COURT - Number 2 - ISSUE - September 7, 2016."

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Charleston County

\_\_\_\_\_  
Deadra L. Jefferson, Circuit Court Judge

IN THE MATTER OF THE CARE AND  
TREATMENT OF ALTON M. CHISOLM,

\_\_\_\_\_  
APPELLANT

\_\_\_\_\_  
FINAL ANDERS BRIEF OF APPELLANT

LANELLE CANTEY DURANT  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1343

\_\_\_\_\_  
ATTORNEY FOR APPELLANT

RECEIVED

APR 14 2010

SC Court of Appeals

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err in denying appellant's motion to exclude his 2003 conviction for committing a lewd act on a child as evidence that he was a sexually violent predator because a post-conviction relief (PCR) application was pending on that conviction?

---

## STATEMENT OF THE CASE

On February 3, 2003, the Charleston County Grand Jury indicted Alton Chisolm on the charges of lewd act on a minor two counts, and failure to change address for the sex offender registry. On August 29, 2003, Chisolm appeared before the Honorable Deadra L. Jefferson and entered a guilty plea according to North Carolina v. Alford, 400 U. S. 25 (1970) to two counts of lewd act on a minor and failure to change address for the sex offender registry. The State dismissed another charge of lewd act on a minor and one criminal sexual conduct with a minor second degree. Chisolm was on probation at the time of the guilty plea due to a prior conviction for a lewd act on a minor where his sentence was eight years suspended to five years probation. Judge Jefferson sentenced Chisolm to the negotiated sentence of eight years on each lewd act charge to run concurrently and ninety days on the failure to change address on the sex offender registry to also run concurrently. As a result of the guilty plea, Judge Jefferson ruled that his probation was violated and revoked his probation in full to run concurrently with the other sentences.

*C.R. hearing the last part of 2003 - vacated by time over 1000 days Post due without a Court continuance*  
On January 21, 2005, Chisolm filed an application for post-conviction relief (PCR).

His PCR attorney filed an amended PCR application on November 7, 2005. An evidentiary hearing was held on November 14, 2007 before the Honorable J. Cordell Maddox, Jr. Judge Maddox issued an order on January 11, 2008 denying Chisolm's PCR application and dismissing it with prejudice. Chisolm's attorney filed a notice of appeal. The appeal is pending.

Prior to his release from the Department of Corrections, appellant was referred for an evaluation by the Multi-Disciplinary Team to determine if probable cause existed that he was a sexually violent predator. The Multi-Disciplinary decided there was probable cause

that Chisolm met the definition of a sexually violent predator. Probable cause was found at every step of the SVP evaluation process. On February 9 – 10, 2009, Chisolm proceeded to trial before the Honorable Deadra L. Jefferson and a jury. The jury determined that Chisolm met the definition of a (sexually violent predator) according to the SVP Act S.C. Code Section 44-48-30.) Judge Jefferson committed Chisolm to the Department of Mental Health for long term control, care and treatment. Chisolm's attorney filed a notice of appeal. This appeal follows.

→ Caution an order to Reverse, Commitment

This form of dementia was not like Alzheimer's but still a form of dementia. Before the head injuries, he was an (Eagle Scout) and (functioned well) in society. Now, his IQ was in the 60's. ROA. 53, ll. 1 - 25.

Dr. Schwartz-Watts' testimony was that Chisolm did not have good insight due to his brain damage, and did not understand the extent of harm he had done. ROA. 54, ll. 3 - 25. She explained that he had a sexual disorder because of the dementia. ROA. 55, ll. 1 - 25. X She said he could be treated with medication to help his brain function better. ROA. 56, ll. 1

- 22. When Dr. Schwartz-Watts testified about the 2003 convictions, Chisolm's counsel objected. A bench conference was held, and then the judge overruled the objection. (ROA. 58, ll. 12 - 25; ROA. 39, ll. 1 - 23.) *what does this mean att.*

*New att. Caution* After the state rested its case, Chisolm's counsel asked the court to put on the record (a motion) that, and the judge stopped him at that point. The judge told him that the issue was preserved and that she had ruled on it. ROA. 72, ll. 1 - 15. Then the judge stated:

→ It is preserved. And the court placed its basis for the motion, for sustaining or overruling on the record. I think we have already covered the issues regarding the PCR. We have covered that in limine, and I admitted the document subject to your objection.

ROA. 72, ll. 14 - 25.

Rule 403, SCRE provides that relevant evidence may be excluded if the probative value is outweighed by the prejudicial effect. Dr. Schwartz-Watts' testimony concerning the 2003 convictions was more prejudicial than probative because it was based on a conviction that was not final due to the pending PCR ruling.

→ The South Carolina Supreme Court wrote in In re Care and Treatment of Harvey, 355 S.C. 53, 584 S.E.2d 893 (2003), that in an appeal regarding (sufficiency of the evidence)

## ARGUMENT

✓  
The trial court erred in denying appellant's motion to exclude his 2003 conviction for committing a lewd act on a child as evidence that he was a sexually violent predator because a post-conviction relief (PCR)<sup>etc.</sup> application was pending on that conviction.

Alton Chisolm pled guilty to entering a public swimming pool in downtown Charleston on July 19, 2002 where children were swimming. He approached two young girls ages twelve and eleven and (offered)<sup>lewd</sup> to give them swimming lessons. He allegedly fondled them in the water and rubbed against them. Chisolm was arrested for a lewd act on a minor. ROA. 42, ll. 7 – 25.

In 1997, Chisolm was convicted of committing a lewd act on a minor when he allegedly fondled his own thirteen year old daughter. ROA. 42, ll. 1 – 6.

At the SVP trial, Chisolm's attorney told the court that Chisolm had filed a PCR action on the 2003 convictions which was still pending. Counsel made a motion that the (2003 convictions should not be allowed to come) in because the outcome of the PCR<sup>etc.</sup> application had not been decided. Judge Jefferson denied the motion stating that the state could raise incidents that resulted in convictions or non-convictions. ROA. 16, ll. 13 – 25; ROA. 17, ll. 1 – 25.

Dr. Donna Schwartz-Watts, the forensic psychiatrist who evaluated Chisolm, → testified that he had clinical signs of brain damage due to some severe closed head injuries resulting from a car accident. He was in a coma for a period of time. He suffered another head injury when he was struck by a car while riding a bicycle. ROA. 52, ll. 1 – 25.

She explained that the head injury was so severe that she diagnosed Chisolm with a form of dementia<sup>check ✓</sup> (so that) he now functioned at the level of someone with mental retardation. ✓

to support a commitment order under the SVP Act, the appellate court may only reverse if there is no evidence to support the trial court's ruling; the appellate court was concerned with the existence of evidence and not its weight.

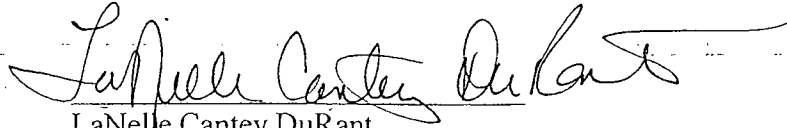
*Caution?* *Reversed* → In Chisolm's case, the 2003 convictions ~~(were not sufficient evidence)~~ to support a commitment under the SVP Act because the conviction could be reversed based on the pending PCR appeal.

→ There was not sufficient evidence to support an ~~order of commitment~~ for Chisolm to the SVP Program.

CONCLUSION

Based on the above, the order of commitment should be reversed. ✓

Respectfully submitted,

A handwritten signature in cursive script, reading "LaNelle Cantey DuRant", written over a horizontal line.

LaNelle Cantey DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of April, 2010.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Deadra L. Jefferson, Circuit Court Judge

IN THE MATTER OF THE CARE AND  
TREATMENT OF ALTON M. CHISOLM,

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Alton M. Chisolm states:

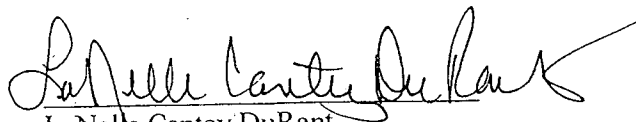
1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

② She has reviewed the record of appellant's trial before Judge Deadra L. Jefferson, which was held on February 2, 2009, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Alton M. Chisolm.

Respectfully submitted,

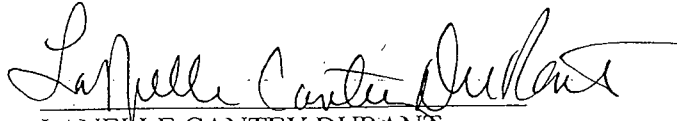
  
LaNelle Cantey DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of April, 2010.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

  
LANELLE CANTEY DURANT  
Appellate Defender

S.C. Commission on Indigent Defense  
Division of Appellate Defense  
1330 Lady Street, Suite 401  
Post Office Box 11589  
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

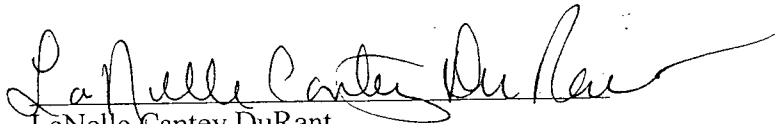
Deadra L. Jefferson, Circuit Court Judge

IN THE MATTER OF THE CARE AND  
TREATMENT OF ALTON M. CHISOLM,

APPELLANT

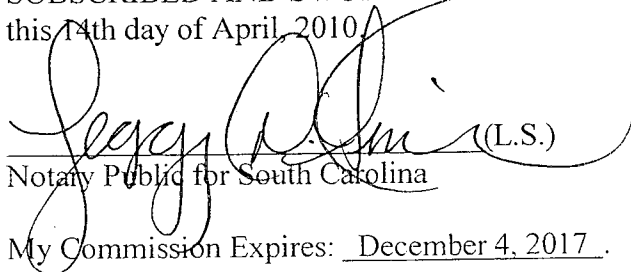
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Deborah R.J. Shupe, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201; and a true copy of the Final Anders Brief of Appellant and Record on Appeal on Alton M. Chisolm, #241794 at DMH c/o Broad River Correctional Institution, this 14th day of April, 2010.

  
LaNelle Cantey DuRant  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 14th day of April, 2010.

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: December 4, 2017.

September 7, 2016  
09/13/2006 10:52 803-896-1274  
INSPN & OPER REV  
PAGE 82  
Petition For a writ of Habeas Corpus → see pg 6-7-8-11 etc  
For: 1976 Code of Laws of S.C. → For LEWD Act → 16-15-140  
Appellate Court This is For The HABEAS CORPUS → Statute 1976 8/116  
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS  
Post Office Box 21787 - Columbia, South Carolina 29221  
September 2016

Pursuant to Code Section 15-9-500, Code of Laws of South Carolina, 1976, the Director of the South Carolina Department of Corrections has designated Cpl. Mitchell D. McCombs As his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA )  
COUNTY OF Dorchester ) AFFIDAVIT OF PERSONAL SERVICE

On the 13<sup>th</sup> day of September, 2006, I served the Order & Petition Pursuant to the Sexually Violent Predator Act (05-CP-10-2715), dated July 18, 2006, on Alton Chisolm #241794, by delivering personally and leaving a copy of the same at Lieber Correctional Institution, Ridgeville, South Carolina. Deponent is not a party to this action.

SWORN TO AND SUBSCRIBED BEFORE

ME this 13 day of September, 2006.

S/ Cpl. Mitchell D. McCombs Badge # 4542

Michelle Blume (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 8/20/2016

RECEIVED

SEP 20 2006

ATTC GENERALS  
OFFICE

ADMISSION OF SERVICE

Service of a copy of the within Order & Petition Pursuant to the Sexually Violent Predator Act (05-CP-10-2715) is admitted at Ridgeville, South Carolina, this 13<sup>th</sup> day of September, 2006.

S/ Trinette Refuse to sign 9-13-06 approx 2:23pm  
Alton Chisolm #241794

Cpl. Mitchell D. McCombs

Witness: Shirley D. McCombs Agent 204pm  
13 Sept 06

NO(S):2003-CP-10-1003

"Att. etc. see page 7 8-11"  
4-5-12

IN THE  
COURT OF COMMON PLEAS  
1996-GS-10-1261, 2003-GS-10-1003,  
2003-GS-10-1005, 2003-GS-10-1006.

September 7, 2016  
"Appellate Court"  
Number-3-Issue

ALTON M. CHISOLM ----- PETITIONER  
Your Name

VS.

SOUTH CAROLINA - RESPONDENTS

ON PETITION FOR A WRIT OF HABEAS CORPUS

THE SUPREME COURT OF SOUTH CAROLINA  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASES)

ALTON M. CHISOLM  
Your name

7901 FARROW ROAD  
Address

BLDG. 3 // 3rd FLOOR

COLUMBIA, SOUTH CAROLINA, 29203  
(City, State, Zip Code)

( Phone Number )

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"ASSIGNMENT OF ERROR"

PETITIONER, ON THIS 10 DAY OF OCTOBER 2015, IS FILING THIS NOTICE OF "ASSIGNMENT OF ERROR" IN REFERENCE TO THE SVP ACT OF ( 1998 ) ANN. § 44-48-30 ( 1 ) ( 2 ) ET SEQ. AND RAISES THE FOLLOWING "ASSIGNMENT OF ERROR:" THE TRIAL COURT ERRED FINDING S.V.P. ACT ANN. § 44-48-30 ( 1 ) ( 2 ) CONSTITUTIONAL AS A MATTER OF LAW."

WITHIN THIS "SOLE ASSIGNMENT OF ERROR", PETITIONER CHALLENGES THE CONSTITUTIONALITY OF THE S.V.P. ACT § 44-48-30 ( 1 ) ( 2 ) ON THE FOLLOWING GROUNDS: ; "RECLASSIFICATION OF PETITIONER CONSTITUTES A VIOLATION OF THE SEPARATION-OF-POWERS DOCTRINE"; "RECLASSIFICATION OF PETITIONER FROM "A NON-VIOLENT OFFENSE" TO "A VIOLENT OFFENSE" WITHOUT TELLING HIM THE DIRECT CONSEQUENCES TO HIS PLEA CONSTITUTES IMPERMISSIBLE MULTIPLE PUNISHMENT UNDER "THE DOUBLE JEOPARDY CLAUSE" OF THE UNITED STATES AND S.C. CONSTITUTIONS"; "RECLASSIFICATION OF PETITIONER CONSTITUTES "A BREACH OF CONTRACT", A VIOLATION OF THE RIGHT TO CONTRACT UNDER THE S.C. AND UNITED STATES CONSTITUTIONS", "AND STATUTE FOR § 16-15-140 IS UNCONSTITUTIONALLY "MOOT" AS TO THIS APPLICANT."

SINCE PETITIONER'S CLASSIFICATION AS A NON-VIOLENT OFFENDER ON THE RECORD OF THE COURT CONSTITUTED A FINAL ORDER OF THE CIRCUIT COURT, PETITIONER CANNOT, UNDER THE SEPARATION-OF-POWERS AND RES JUDICATA PRINCIPLES, NOW BE RECLASSIFIED UNDER THE PROVISIONS OF THE S.V.P. ACT OF ( 1998 ) ANN. § 44-48-30 ( 1 ) ( 2 ) WITH A DIFFERING CLASSIFICATION AS "A VIOLENT OFFENDER"!!

"THE ASSEMBLY HAS ENACTED A LAW, WHICH CHANGES THE DIFFERENT SEXUAL OFFENDER CLASSIFICATIONS "FROM NON-VIOLENT TO VIOLENT OFFENSES" AND IS REQUIRING THAT THE NEW PROCEDURES BE APPLIED TO OFFENDERS CURRENTLY UNDER THE OLD LAW OR OFFENDERS CURRENTLY INCARCERATED FOR COMMITTING A SEXUALLY ORIENTED OFFENSES.

IT DOES NOT MATTER THAT THE LEGISLATURE HAS THE AUTHORITY TO ENACT OR AMEND LAWS : THE FACT REMAINS THAT THE GENERAL ASSEMBLY "CANNOT ANNUL, REVERSE OR MODIFY A JUDGMENT OF A COURT ALREADY RENDERED."

ENACTMENTS OF THE S.C. GENERAL ASSEMBLY ARE PRESUMED CONSTITUTIONAL.\*\*\* THIS "PRESUMPTION APPLIES TO S.C. ANN, § 44-48-30 ( 1 ) ( 2 )" \*\*\* , AND REMAINS UNLESS { THE CHALLENGER } ESTABLISHES, BEYOND REASONABLE DOUBT, THAT THE STATUTE IS UNCONSTITUTIONAL." SMITH 538 U.S. AT 92, QUOTING HUDSON V. UNITED STATES (1997) 522 U.S. 93, 100, QUOTING WARD 448 U.S. AT 249 ( " ONLY THE CLEAREST PROOF WILL SUFFICE TO OVERRIDE LEGISLATIVE INTENT AND TRANSFORM WHAT HAS BEEN DENOMINATED A CIVIL REMEDY INTO A CRIMINAL REMEDY.)

" A PERSON HAS NO STANDING TO ATTACK THE CONSTITUTIONALITY OF A STATUTE UNLESS A DIRECT INTEREST IN THE STATUTE OF SUCH A NATURE THAT [ HIS RIGHTS ] WILL BE ADVERSELY

DIRECT INTEREST IN THE STATUTE OF SUCH A NATURE THAT [ HIS RIGHTS ] WILL BE ADVERSELY AFFECTED BY IT'S ENFORCEMENT." " THE CONSTITUTIONALLY OF A STATE STATUTE MAY NOT BE BROUGHT INTO QUESTION BY ONE WHO IS NOT WITHIN THE CLASS AGAINST WHOM THE OPERATION OF THE STATUTE IS ALLEGED TO HAVE UNCONSTITUTIONALLY APPLIED AND WHO HAS NOT BEEN INJURED BY IT'S ALLEGED UNCONSTITUTIONAL PROVISION."

"ISSUE ONE"

"QUESTION PRESENTED"

" DID THE COURT ERR IN NOT USING THE DECISION BY THE SOUTH CAROLINA COURT OF APPEALS IN " BROCK."

" STATEMENT OF THE CASE "

" SUBJECT-MATTER JURISDICTION"

PETITIONER, IN <sup>August</sup> ~~DECEMBER~~ 2003, WAS IN THE COURT OF GENERAL SESSIONS HE WAS THERE TO PLEAD TO C.S.C FIRST WITH A MINOR .YET, PLEAD TO A LEWD ACT UPON A CHILD. THE HONORABLE JUDGE DEADRA JEFFERSON SENTENCED CHISOLM TO EIGHT ( 8 ) YEARS.

PETITIONER, IS NOW CHALLENGING THE COURTS "SUBJECT -MATTER JURISDICTION " TO HAVE HEARD SAID-CASE, "AS-APPLIED"!

REASON FOR GRANTING THE PETITION

U.S. V. GATEWOOD 173 F.3d 983,986 ( 6<sup>th</sup> CIR. 1999 ), U.S. V. COTTON 535 U.S. 625,630 ( 2002 ) ( "SUBJECT-MATTER JURISDICTION" NEVER FORFEITED OR WAIVED, DEFECT'S REQUIRE CORRECTION REGARDLESS OF WHETHER ERROR RAISED IN DISTRICT COURT.)

WHEN PETITIONER WAS BEING SENTENCED IN 2003, { HE } DID NOT KNOW THAT IN MARCH OF 1999, THAT THE SOUTH CAROLINA APPEALS COURT RULED IN STATE V. BROCK 335 S.C. 267, 516 S.E. 2<sup>nd</sup> 212 ( S.C.APP. 1999 ), IN THAT THEY STATED: " ALSO THE PERPETRATOR "{ MUST }" COMMIT A LEWD OR LASCIVIOUS ACT, " UPON THE BODY OF THE CHILD....". { ACCORDING TO THE DEPT. OF JUSTICE'S BUREAU OF JUSTICE STATISTICS " IT STATES: IS SEXUAL CONTACT WITH THE VICTIM REQUIRED? IN THE STATE OF SOUTH CAROLINA-YES! "AS IS ALSO REQUIREMENT IN STATE V. BROCK "!

THERE IS NO MENTION OF THIS CLARIFICATION IN THE INDICTMENT, ( S.C. 2005 ) 'THE NOTICE THAT-'MUST BE ' CONTAINED IN AN INDICTMENT IS A COMPONENT OF THE 'DUE PROCESS ' THAT IS ACCORDED EVERY CRIMINAL DEFENDANT, U.S.C.A. CONST. AMEND.14, SEE AISO-BROWN-V-MARYLAND 618 F.2d 1057 ( 4<sup>th</sup> CIR. 1980), NOR, IS THERE ANY MENTION IN THE RECORD OF THE COURT AS TO THIS CLARIFICATION, UNDER THE TENETS OF HILL V. UNITED STATES, EX: REL. WAMPLER 298 U.S. 460,56 S.Ct. 760(1936), NOR IS IT STIPULATED IN THE INDICTMENT AS REQUIRED UNDER THE TENETS OF STATE V. DUDLEY 581 S.E.2d 171 (S.C. APP. 2003). ( AN INDICTMENT [ MUST ]: ( 1 )"ENUMERATE ALL THE ELEMENTS OF THE CHARGED OFFENSE "; REGARDLESS OF WHETHER IT IS A STATUTORY OR COMMON

OCCURRED STATE V. DUDLEY(S.C.APP. 2002) 2002 W.L. 31747311,OPINION WITHDRAWN AND SUPERSEDED ON REHEARING 354 S.C.514,581 S.E. 2<sup>nd</sup> 171,CERTIORARI GRANTED.)

THERE IS NO MEDICAL OR SCIENTIFIC EVIDENCE TO SHOW THAT [ I ] { TOUCHED } SAID-VICTIM, SO UNDER THE TENETS OF THE DEPT. OF JUSTICE, UNDER THE TENETS OF STATE V. BROCK { I } COULD NOT BY THE LETTER OF THE LAW AND UNDER "DUE PROCESS OF THE LAW " BE CHARGED WITH A LEWD ACT UPON A CHILD SINCE IT STATES { I } DID NOT TOUCH SAID-CHILD!

#### CONCLUSION

TO WIT: PETITIONER, IS NOW CHALLENGING THE STATUTE AS BEING "MOOT," UNDER MENNA 423 U.S. AT 62,63n.2. { THE DEFENDANT MAY NOT CHALLENGE THE STATUTE, "HOWEVER", IF THE FACTS ADMITTED BY THE GUILTY PLEA RENDER THE STATUTES ALLEGED UNCONSTITUTIONALLY, "MOOT" AS TO THE DEFENDANT . PLEA OF GUILTY TO A CHARGE "DOES NOT" WAIVE A CLAIM THAT JUDGED ON IT'S FACE, THE CHARGE IS ONE WHICH THE [ STATE ] MAY NOT CONSTITUTIONALLY PROSECUTE. }

#### " ISSUE TWO"

##### " QUESTION PRESENTED"

"DID THE COURT ERR IN NOT SEEING THE CONFLICT BETWEEN S.C. CODE ( 1976 ) ANN. §16-15-140 AS "A NON-VIOLENT OFFENSE" AND S.C. CODE ( 1998 ) ANN. § 44-48-30 ( 1 ) ( 2 ) AS" A VIOLENT OFFENSE"??

##### "STATEMENT OF THE CASE"

##### " CONFLICT OF STATUTES"

PETITIONER, IS NOW RAISING ISSUE AS PERTAINING TO ( 1 ): "CONFLICT OF STATUTES; BETWEEN S.C. ANN.§ 16-15-140 AND S.C. ANN. § 44-48-30 ( 1 ) ( 2 ); AND ( 2 ): "FAIR NOTICE" GROUND, DERIVED FROM CONSTITUTIONAL PRINCIPLES OF DUE PROCESS AND BASED ON THE SUPPOSED AMBIGUITY IN THE ACT OF S.C. CODE OF LAWS ( 1998 ) ANN. § 44-48-30 ( 1 ) ( 2 ).

##### " REASON FOR GRANTING PETITION"

PETITIONER, ASSERTS THAT THE SEXUALLY VIOLENT PREDATOR ACT WILL BE IMPOSED IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT, SINCE PETITIONER WAS NOT AFFORDED "FAIR NOTICE" OF THE PENALTY [ HE ] WOULD FACE UPON [ HIS ] CONVICTION FOR LEWD ACT UPON A MINOR, UNDER THE TENETS IN PADILLA AND ARMSTRONG. [ THEY ] STATE THAT PADILLA DEALS WITH A LAWYER NOT INFORMING A DEFENDANT OF THE CONSEQUENCES OF THE PLEA, ~~"BUT "WHAT ABOUT JUDGES"? IN ARMSTRONG IT STATES THAT A JUDGE IS "REQUIRED" TO INFORM~~ THE DEFENDANTS OF THE CONSEQUENCES OF THEIR PLEAS!

• "NOVEL QUESTION OF LAW": "CONFLICT OF STATUTES-( S.C. 2010 ) "STATUTORY INTERPRETATION IS A QUESTION OF LAW." CITY OF NEWBERRY V. NEWBERRY CO-OP, INC., 692 S.E. 2<sup>nd</sup> 510. BASED ON STATUTORY INTERPRETATION ,ARE NOT S.C. ANN. § 16-15-140 AS "A MATTER OF LAW" "A NON-VIOLENT OFFENSE" IN THE CRIMINAL STATUTES, IN CONFLICT WITH S.C. ANN. § 44-48-30 ( 1 ) ( 2 )

AS LAW ON THE CIVIL STATUTES "A VIOLENT OFFENSE??"

THE S.C. LEGISLATURE RULED AS LAW( 1976 ) S.C. ANN. § 16-15-140 AS "NON-VIOLENT," THEN IN 1998 [ THEY ] MADE S.C. ANN. § 16-15-140 AS "VIOLENT" IN THE CIVIL STATUTE ANN. § 44-48-30( 1 ) ( 2 ). "UNDER "THE SAME ELEMENTS TEST " ARE NOT BOTH STATUTES DEALING WITH ANN. § " 16-15-140"" • "NOTWITHSTANDING , " BLOCKBURGER "A COURT MAY CONCLUDE THERE IS " A DOUBLE JEOPARDY VIOLATION", WHEN " THE SAME ELEMENTS TEST" IS MET. WHERE THE LEGISLATURE CLEARLY INTENDS MULTIPLE PUNISHMENT FOR A SINGLE ACT. BLOCKBURGER V. UNITED STATES 284 U.S. 299,52 S.CT. 180 ( 1932 ), SEE ALSO MISSOURI V. HUNTER 459 U.S. 359,1035 S.CT.673 ( 1983 ), STATE V. WILSON 429 S.E. 2<sup>nd</sup> 453 ( 1993 ), OTHER JURISDICTIONS HAVE STATED WHEN APPLYING " THE SAME ELEMENTS TEST," THE FOCUS SHOULD BE ON " THE ELEMENTS OF THE OFFENSE AND NOT ON THEIR APPLICATIONS TO THE FACT OF A SPECIFIC CASE. STATE V. COOK 185 ARIZ. 358,916 P. 2<sup>nd</sup> 1074 ( CT. APP. 1995 ) ( THE COURT SHOULD LOOK ON THE ELEMENTS OF THE OFFENSE.)

### CONCLUSION

• TO WIT: PETITIONER, ASSERTS: AT BEST, THE STATUTES ARE AMBIGUOUS ON THIS MATTER.... [ A ] • STATE CRIMINAL STATUTE VIOLATES "THE DUE PROCESS CLAUSE" OF THE UNITED STATES CONSTITUTION -" IF"- THAT STATUTE IS NOT ' SUFFICIENTLY EXPLICIT TO INFORM THOSE WHO ARE SUBJECT TO IT , WHAT CONDUCT ON [ THEIR ] PART WILL RENDER THEM LIABLE TO IT'S PENALTIES. CONNALLY V. GENERAL CONST. CO., { 269 U.S. 385,391 ( 1926 ) }.... THE STATUTE DOES NOT CLEARLY PUT A PERSON ON NOTICE AS TO THE PENALTY APPLICABLE TO THE CRIME, A FUNDAMENTAL REQUIREMENT OF "THE DUE PROCESS CLAUSE". SEE ALSO MEDIA GENERAL COMM. INC., V. S.C. PUBLIC SERVICE COM'N. 694 S.E. 2d 525 ( 2010 ).

### "ISSUE THREE"

#### "QUESTION PRESENTED"

"ARE THE COURTS IN ERR FOR NOT SEEING THE SEPARATION OF POWERS DOCTRINE VIOLATION?"

#### "STATEMENT OF THE CASE"

#### "SEPARATION-OF-POWERS DOCTRINE"

• THE SOUTH CAROLINA SUPREME COURT SHOULD AGREE THAT TO CHANGE PETITIONER'S • CLASSIFICATION FROM "A NON-VIOLENT OFFENSE" IN S.C. CODE OF LAWS ( 1976 ) ANN. § 16-15-140 TO "A VIOLENT OFFENSE" IN S.C. CODE OF LAWS ( 1998 ) ANN. § 44-48-10 THRU 44-48 170 IS IN VIOLATION OF • THE "EXECUTIVE BRANCH V. JUDICIAL BRANCH."

THE SOUTH CAROLINA SUPREME COURT SHOULD SAY TO DO THIS IS TO: "LEGISLATIVELY VACATE THE SETTLED AND JOURNALISTIC FINAL JUDGMENTS OF THE JUDICIAL BRANCH OF GOVERNMENT."

• THE SOUTH CAROLINA SUPREME COURT SHOULD SAY THAT THE LEGISLATURE'S: "CANNOT VEST AUTHORITY IN THE ATTORNEY GENERAL NOR THE GENERAL ASSEMBLY TO RE-OPEN AND REVISE

• THE FINAL DECISION'S OF A JUDGE'S JUDGMENTS ON THE RECORD OF THE COURT AS TO A DEFENDANT(S) CLASSIFICATION, HILL V. UNITED STATES EX. REL WAMPLER, 298 U.S. 460, 56 S.Ct. 760 ( 1936 ) ( QUOTING BIDDLE V. SHIRLEY 16 F. 2d 566,567 ( 8<sup>th</sup> CIR. 1926 ) SEE ALSO STATE V. BODYKE 2010-OHIO-2424, 126 OHIO ST. 3d 266, 933 N.E. 2<sup>nd</sup> 753 (2010 ). TO ALLOW THE ATTORNEY GENERAL OR THE GENERAL ASSEMBLY TO RE-CLASSIFY OFFENDERS WHO HAVE ALREADY BEEN CLASSIFIED BY COURT ORDER ON THE RECORD OF THE COURT, IT IS IMPERMISSIBLE INSTRUCTING THE EXECUTIVE BRANCH TO REVIEW PAST FINAL JUDGMENTS OF THE JUDICIAL BRANCH AND THEREBY VIOLATE "THE SEPARATION -OF- POWERS DOCTRINE."

"REASON FOR GRANTING PETITION"

IN THE SOUTH CAROLINA CONSTITUTION ( 2009 UNANNOTATED ) IT STATES: IN ARTICLE I, SECTION 8-SEPARATION- OF- POWERS: IN THE GOVERNMENT OF THIS STATE, THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL POWERS OF THE GOVERNMENT " SHALL BE " FOREVER SEPARATE AND DISTINCT FROM EACH OTHER, AND NO PERSON OR PERSONS EXERCISING THE FUNCTIONS OF ONE OF SAID DEPARTMENTS "SHALL" ASSUME OR DISCHARGE THE DUTIES OF ANY OTHER, ( 1970 ( 56 ) 2684; 1971 ( 57 ) 315.)

IN THE SOUTH CAROLINA CONSTITUTION ( 2009 UNANNOTATED ) IT STATES: IN ARTICLE XVII, SECTION 10. LAWS NOW IN FORCE: ALL LAWS NOW IN FORCE IN THIS STATE AND "NOT" REPUGNANT TO THIS CONSTITUTION "SHALL" REMAIN AND BE ENFORCED UNTIL ALTERED OR REPEALED BY THE GENERAL ASSEMBLY, OR " SHALL" EXPIRE BY THEIR OWN LIMITATIONS. PETITIONER, IN 1996<sup>7</sup> AND 2003<sup>3</sup> WAS SENTENCED UNDER THE ( 1976 ) STATUTE ANN. § 16-15-140 AS A "NON-VIOLENT OFFENSE" ON THE RECORD OF THE COURT AND LISTED ON PETITIONER 'S "SENTENCING SHEET." "YET," UNDER THE ( 1998 ) STATUTE ANN. § 44-48-30( 1 ) ( 2 ) IT IS LISTED AS "A VIOLENT OFFENSE" AND USED AS A QUALIFYING OFFENSE FOR THE S.V.P. ACT OF ( 1998 ). { AS NOTED THIS LEGAL ISSUE IS RAISED AS A "QUESTION OF LAW." }

AS NOTED IN THE SOUTH CAROLINA CONSTITUTION ( 2009 UNANNOTATED ) ARTICLE XVII, SECTION II. SCHEDULE-LAWS NOW IN FORCE --FIRST. THAT ALL LAWS IN FORCE IN THIS STATE, AT THE TIME OF THE ADOPTION OF THIS CONSTITUTION, NOT INCONSISTENT THEREWITH, AND CONSTITUTIONAL WHEN ENACTED "SHALL" REMAIN IN FULL FORCE UNTIL ALTERED OR REPEALED BY THE GENERAL ASSEMBLY OR EXPIRE BY THEIR OWN LIMITATION. .... "SO," AT THE TIMES OF BOTH OF PETITIONER CONVICTION(S), ANN. § 16-15-140 WAS (STILL IN EFFECT) AS "NON-VIOLENT OFFENSES", "IT WAS NOT CHANGED TO A "VIOLENT OFFENSE" UNTIL JUNE OF (2010)" AND THE STATE CANNOT PASS AN "EX POST FACTO LAW " SO AT THE TIMES OF PETITIONER'S CONVICTION(S) ANN. § 16-15-140 WAS AND STILL ARE "NON-VIOLENT OFFENSE(S)" AND CANNOT BE CHANGED TO "A VIOLENT OFFENSE" BY ANN. § 44-48-30 ( 1 ) ( 2 ) OF THE S.V.P. ACT OF ( 1998 )!!!! THIS IS IN VIOLATION OF THE ORIGINAL SENTENCING ORDER AND JUDGMENT OF THE COURT(S), ALSO AGAINST THE PLEA AGREEMENT THAT WAS (ENTERED) INTO THE RECORD OF THE COURT(S). HILL V. UNITED STATES EX REL WAMPLER ; BIDDLE V. SHIRLEY ;

BODYKE.

"SEPARATION -OF- POWERS DOCTRINE," THE FIRST, AND DEFINING, PRINCIPLE OF A FREE CONSTITUTIONAL GOVERNMENT IS THE SEPARATION OF POWERS. EVANS V. STATE ( DEL.2005 ), 872 A.2d 539, 543. IN KILBOUM V. THOMPSON (1880 ), 103 U.S. 168, 109-191, 26 L.Ed 377, THE UNITED STATES SUPREME COURT STATED: " IT IS BELIEVED TO BE ONE OF THE CHIEF MERITS OF THE AMERICAN SYSTEM OF WRITTEN CONSTITUTIONAL LAW, THAT ALL THE POWERS INTRUSTED TO GOVERNMENT, WHETHER STATE OR NATIONAL, ARE DIVIDED INTO THE THREE GRAND DEPARTMENTS, THE EXECUTIVE, THE LEGISLATURE, AND THE JUDICIAL. THAT THE FUNCTIONS APPROPRIATE TO EACH OF THESE BRANCHES OF GOVERNMENT "SHALL BE" VESTED IN A SEPARATE BODY OF PUBLIC SERVANTS, AND THAT THE PERFECTION OF THE SYSTEM REQUIRES THAT THE LINES WHICH SEPARATE AND DIVIDE THESE DEPARTMENTS "SHALL" BE BROADLY AND CLEARLY DEFINED. IT IS ALSO ESSENTIAL TO THE SUCCESSFUL WORKING OF THIS SYSTEM THAT THE PERSONS INTRUSTED WITH POWER IN ANY ONE OF THESE BRANCHES "SHALL NOT" BE PERMITTED TO ENCROACH UPON THE POWERS CONFIDED TO THE OTHERS, BUT THAT EACH "SHALL" BY THE LAW OF ITS CREATION BE LIMITED TO THE EXERCISE OF THE POWERS APPROPRIATE TO ITS OWN DEPARTMENT AND NO OTHER."

"THE ESSENTIAL PRINCIPLE UNDERLYING THE POLICY OF THE DIVISION OF POWERS OF GOVERNMENT INTO THREE DEPARTMENTS IS THAT POWERS PROPERLY BELONGING TO ONE OF THE DEPARTMENTS OUGHT NOT TO DIRECTLY AND COMPLETELY ADMINISTERED BY THE OTHER DEPARTMENTS, AND FURTHER THAT NONE OF THEM OUGHT TO POSSESS DIRECTLY OR INDIRECTLY OVERRULING INFLUENCE OVER THE OTHERS."

"WE HAVE HELD THAT " [T]HE ADMINISTRATION OF JUSTICE BY THE JUDICIAL BRANCH OF THE GOVERNMENT CANNOT BE IMPEDED BY THE OTHER BRANCHES OF THE GOVERNMENT IN THE EXERCISE OF THEIR RESPECTIVE POWERS." THUS, THE PEOPLE SPECIFIED IN OUR CONSTITUTION THAT "[ T ]HE GENERAL ASSEMBLY, "SHALL NOT"\*\*\* EXERCISE ANY JUDICIAL POWER, NOT HEREIN EXPRESSLY CONFERRED."\*\*\*

IN CASES SPECIFICALLY INVOLVING THE JUDICIAL BRANCH, THE SUPREME COURT ADVISES VIGILANCE AGAINST TWO DANGERS;" THAT THE JUDICIAL BRANCH NEITHER BE ASSIGNED NOR ALLOWED TASK THAT ARE MORE PROPERLY ACCOMPLISHED BY OTHER BRANCHES, MORRISON V. OLSON [ 1988 ] 487 U.S. [ 654 ] 680-681 [ 108 S.CT. 2597, 101 L.Ed.2d 569], AND, SECOND, THAT NO PROVISION OF LAW IMPERMISSIBLY THREATENS THE INSTITUTIONAL INTEGRITY OF THE JUDICIAL BRANCH, COMMODITY FUTURES TRADING COMM'N V. SCHOR [ 1986 ] 478 U.S. [ 833 ] AT 851 [ 106 S.CT. 3245, 92 L.Ed.2d 675] ~~"MISTRETTA=488 U.S.=AT 383,=109 S.CT.=647,=102 L.Ed.=2d 714. "COURTS ALSO CONDEMN~~ LEGISLATIVE ENCROACHMENTS THAT VIOLATE THE SEPARATION- OF- POWERS BY VESTING OFFICIALS IN THE EXECUTIVE BRANCH WITH THE POWER TO REVIEW JUDICIAL DECISIONS OR BY COMMANDING THAT THE COURTS REOPEN FINAL JUDGMENTS." PLAUT V. SPENDTHRIFT FARM, INC. ( 1995 ) 514 U.S. 211, 218-219, 115 S.CT. 1447, 131 L.Ed. 2d 328.

AS THE SUPREME COURT OF CALIFORNIA RECENTLY EXPLAINED : "JUDGMENTS CANNOT BE

DEPRIVED OF THEIR "FINALITY" THROUGH STATUTORY CONDITIONS NOT IN EFFECT WHEN THE JUDICIAL BRANCH GAVE ITS 'LAST WORD IN THE PARTICULAR CASE' REGARDLESS OF THE POLICY BEHIND THE LEGISLATION. PEOPLE V. KING ( 2002 ) 27 CAL. 4th 20, 115 CAL. RPTR. 2d 214, 37 P. 3d 398, CITING PLAUT 514 U.S. AT 227,230, 115 S.CT. 1447, 131 L.Ed.2d 328." A JUDGMENT WHICH IS FINAL BY THE LAWS EXISTING WHEN IT IS RENDERED CANNOT CONSTITUTIONALLY BE MADE SUBJECT TO REVIEW BY A STATUTE SUBSEQUENTLY ENACTED\*\*\* GOMPF V. WOLFINGER ( 1902 ) 67 OHIO ST. 144, 65 N.E. 2<sup>nd</sup> 878, AT PARAGRAPH THREE OF THE SYLLABUS. SEE ALSO PLAUT, 514 U.S. AT 222, 115 S.CT. 1447, 131 L.Ed. 2d 328, QUOTING THE FEDERALIST NO. 81 ( J. COOKE Ed. 1961 ) 545( ' A LEGISLATURE WITHOUT EXCEEDING ITS PROVIDENCE CANNOT REVERSE A DETERMINATION ONCE MADE ,IN A PARTICULAR CASE\*\*\*\*\*' ). "THE RECLASSIFICATION PROVISIONS VIOLATE THESE BEDROCK PRINCIPLES"!!!!

"THE PETITION THEREFORE, STATES A CLAIM THAT, IF PROVED, WOULD ENTITLE PETITIONER TO THE RELIEF [ HE ] SEEKS."

#### " ISSUE FOUR "

#### " QUESTION PRESENTED "

DID THE COURT ERR IN NOT INFORMING PETITIONER ON THE DIRECT CONSEQUENCES OF HIS PLEA, FROM NON-VIOLENT TO VIOLENT RECLASSIFICATION?

#### "STATEMENT OF THE CASE "

I. AS MANDATORY A SEX OFFENSE IS CONSIDERED FOR THE S.V.P. ACT OF ( 1998 ) AND IS A DIRECT CONSEQUENCE OF A GUILTY PLEA, THE ABSENCE OF ANY(ADVISEMENT) THAT THE PLEA SUBJECTED PETITIONER TO THIS NON-VIOLENT TO VIOLENT RECLASSIFICATION -WITH THE POSSIBILITY OF SIGNIFICANT FURTHER INCARCERATION-- "VIOLATED PETITIONER'S DUE PROCESS RIGHTS". FURTHER, THE HARMLESS ERROR DOCTRINE SHOULD HAVE NO APPLICATION TO THE FAILURE TO(ADVISE) DEFENDANT(S) OF THE SIGNIFICANT DIRECT CONSEQUENCES OF THEIR PLEAS.( NORTH CAROLINA V. ALFORD, 400 U.S. 25; BOYKIN V. ALABAMA, 395 U.S. 238; PEOPLE V. FORD, 86 N.Y. 2<sup>nd</sup> 397; BRADY V. UNITED STATES, 397 U.S. 742; PEOPLE V. LOUDENSLAGER 2 A.D. 3<sup>rd</sup> 1220; PEOPLE V. GROSE, 2 A.D. 3<sup>rd</sup> 1211; PEOPLE V. HAMILTON, 6 A.D. 3<sup>rd</sup> 979; FERGUSON V UNITED STATES, 513 F. 2<sup>nd</sup> 1011; PEOPLE V. SELIKOFF, 35 N.Y. 2<sup>nd</sup> 227, 419 U.S. 1122; SANTOBELLO V. NEW YORK, 404 U.S. 257.)

II. TRIAL COUNSEL WAS INEFFECTIVE IN FAILING TO INFORM PETITIONER ABOUT THE S.V.P. ACT OF ( 1998 ) RECLASSIFICATION(BEFORE HE ENTERED) HIS GUILTY PLEA., ALONG WITH THE COURT.( HILL V. LOCKHART 474 U.S. 52; Mc MANN V. RICHARDSON, 397 U.S. 759; UNITED STATES V. GORDON, 156 F.3<sup>rd</sup> 376; PEOPLE V. BUTLER, 94 A.D. 2<sup>nd</sup> 726; VENTURE V. MEACHUM, 957 F.2<sup>nd</sup> 1048; NELSON V. CALLAHAN 721 F. 2<sup>nd</sup> 397; STRICKLAND V. WASHINGTON, 466 U.S. 668; PEOPLE V. BENEVENTO, 91 N.Y. 2<sup>nd</sup> 708; PEOPLE V. BALDI 54 N.Y. 2<sup>nd</sup> 137)

#### " REASON FOR GRANTING PETITION "

INDICTED FOR C.S.C. 1<sup>st</sup> W/MINOR , YET HE PLEAD TO LEWD ACT UPON A MINOR AS A FELONY, IN EXCHANGE FOR AN AGGREGATED SENTENCE OF TWELVE ( 8 ) YEARS IN STATE PRISON. BECAUSE

PETITIONER WAS A SECOND TIME OFFENDER FOR A SEX OFFENSE, HIS SENTENCE INCLUDED "A MANDATORYNON-VIOLENT TO VIOLENT RECLASSIFICATION FOR THE S.V.P. ACT OF ( 1998 ), OF WHICH HE WAS NOT ADVISED OF BY THE COURT OR BY HIS COUNSEL, "IT IS CONCLUDED THAT THIS FAILURE TO ADVISE PETITIONER OF A DIRECT CONSEQUENCE OF HIS CONVICTION REQUIRES THAT HIS CONVICTION BE VACATED."

WHILE THE TRIAL COURT HAS NO OBLIGATION TO EXPLAIN TO DEFENDANT(S) WHO PLEAD GUILTY THE POSSIBILITY THAT COLLATERAL CONSEQUENCES MAY ATTACH TO THEIR CRIMINAL CONVICTIONS, THE COURT "MUST" ADVISE A DEFENDANT OF THE DIRECT CONSEQUENCES OF THE PLEA. STATE V. ARMSTRONG 211 S.E. 2<sup>ND</sup> 889 ( 1975 ).COLLATERAL CONSEQUENCES " ARE PECULIAR TO THE INDIVIDUAL AND GENERALLY RESULT FROM ACTIONS TAKEN BY AGENCIES THE COURT DOES NOT CONTROL." PADILLA V. KENTUCKY \_\_\_ U.S. \_\_\_ 130 S.CT. 1382 ( 2010 ).A DIRECT CONSEQUENCE " IS ONE WHICH HAS A DEFINITE, IMMEDIATE AND LARGELY AUTOMATIC EFFECT ON DEFENDANT(S) PUNISHMENT."THE S.V.P. ACT IS A DIRECT CONSEQUENCE OF A CRIMINAL CONVICTION.( THE S.V.P. ACT IS " A DISTINCT BUT INTEGRAL PART OF THE DETERMINATE SENTENCE.") WHEREAS THE TERM THE S.V.P. ACT TO BE IMPOSED MAY VARY DEPENDING ON THE DEGREE OF THE CRIME AND THE DEFENDANT(S) CRIMINAL RECORD, IMPOSITION OF S.V.P. ACT IS MANDATORY AND THUS " HAS A DEFINITE, IMMEDIATE, AND AUTOMATIC EFFECT ON DEFENDANT'S PUNISHMENT.

"A TRIAL COURT HAS THE CONSTITUTIONAL DUTY TO ENSURE THAT A DEFENDANT, BEFORE PLEADING GUILTY, HAS A FULL UNDERSTANDING OF WHAT THE PLEA CONNOTES AND IT'S CONSEQUENCES."ALTHOUGH THE COURT IS NOT REQUIRED TO ENGAGE IN ANY PARTICULAR LITANY WHEN ALLOCATING THE DEFENDANT, "DUE PROCESS REQUIRES THAT THE RECORD MUST BE CLEAR THAT THE PLEA REPRESENTS A VOLUNTARY AND INTELLIGENT CHOICE AMONG THE ALTERNATIVE COURSES OF ACTION OPEN TO THE DEFENDANT."

THE S.V.P. ACT OF ( 1998 ) IS SIGNIFICANT IN THAT SIX ( 6 ) MONTHS BEFORE RELEASE FROM PRISON A PROBABLE CAUSE ORDER IS ISSUED AND YOU ARE HELD UNTIL ?????? UPON RELEASE FROM THE UNDERLYING TERM OF IMPRISONMENT, A DEFENDANT IS FURNISHED WITH A WRITTEN NOTIFICATION SETTING FORTH THE CONDITION'S OF THE S.V.P. ACT IN SUFFICIENT DETAIL TO PROVIDE FOR THE DEFENDANTS UNDERLYING DETENTION AND WAITING FOR THE S.V.P. PROBABLE CAUSE HEARING. " YET," THIS WAS NOT TOLD OF ON THE RECORD OF THE COURT."

#### " CONCLUSION "

TO WIT : BECAUSE A DEFENDANT PLEADING GUILTY TO A DETERMINATE SENTENCE, " MUST BE AWARE OF THE S.V.P. ACT OF (1998) COMPONENT OF THAT SENTENCE IN ORDER TO KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY CHOOSE AMONG ALTERNATIVE COURSES OF ACTION, THE FAILURE OF A (COURT TO ADVISE) PETITIONER OF THE S.V.P. ACT REQUIRES REVERSAL OF THE CONVICTION."THE REFUSAL OF THE TRIAL COURT TO VACATE DEFENDANT'S PLEA ON THE GROUND THAT HE DID NOT ESTABLISH THAT (HE WOULD HAVE DECLINED TO PLEAD GUILTY HAD HE KNOWN OF THE S.V.P. ACT) IS THEREFORE ERROR.

"ISSUE FIVE"  
"STATEMENT OF THE CASE"

REMOVED

REMOVED

REMOVED

ISSUE SIX  
CONDITION'S OF CONFINEMENT

I, AM BEING SUBJECTED TO CONDITION'S WORSE THAN PRISON, AND BEING TREATED DIFFERENT THAN THE SAME SUB-CLASS OF PEOPLE WHO ARE PART OF THIS PROGRAM WHO ARE AT GEO-CARE , WHICH IS DISCRIMINATION. BASED UPON THE FOLLOWING THIS IS RAISED UNDER SELING V. YOUNG 531 U.S. 250, 121 S.C.T. 727, 148 L.ED. 734 ( 2001 ). IN ORDER TO RAISE ISSUE OF CRIMINAL PUNISHMENT, AND ALSO AM RAISING A DISCRIMINATION LEGAL ISSUE. THIS IS ALSO TO BE CONSIDERED TO BE IN VIOLATION OF THE UNITED STATES CONSTITUTION, CONST. AMEND. 5<sup>th</sup>, 8<sup>th</sup>, AND 14<sup>th</sup>.

PROTECTED LIBERTY INTEREST UNDER THE DUE PROCESS CLAUSE OF THE 14<sup>th</sup> AMENDMENT. (1) SAFE CONDITIONS OF CONFINEMENT, (2) FREEDOM FROM BODILY RESTRAINTS, (3) AND TRAINING OR HABILITATION), YOUNGBERG V. ROMEO 457 U.S. 307 (1982); CONSTITUTIONAL RIGHT TO SUCH INDIVIDUAL TREATMENT AS WILL GIVE EACH OF THEM A REALISTIC OPPORTUNITY TO BE CURED OR TO IMPROVE HIS MENTAL CONDITION, OLINGER V. WATSON 652 F. 2<sup>nd</sup> 775, HUMPHERY V. CODY 405 U.S. 504.

1) THERE IS NO POWER IN THE ROOMS FOR ANY KIND OF AN APPLIANCE OR CABLE TO HOOK-UP FOR A TELEVISION, IF IT HAD POWER? [ YET PRISON'S HAVE POWER IN THE ROOMS, ALONG WITH CABLE HOOK-UP] NOW THE PEOPLE AT GEO-CARE THEY HAVE TELEVISIONS IN THEIR ROOMS ALONG WITH A TELEVISION IN THE DAY ROOMS, THE SAME GOES FOR SCDC INMATES. THIS IS DISCRIMINATION TO TREAT THEM DIFFERENT THAN US. [ AT GEO-CARE, A THREE MAN ROOM HAS ONE (1) TELEVISION AND FOUR MAN ROOM HAS TWO (2) TELEVISIONS ]. PER THE WARDEN WE CAN NOT HAVE OR PURCHASE A TELEVISION, AND THE WARDEN SHOULD HAVE NO SAY-SO IN THIS MATTER.

2) WE ARE SERVED THE SAME FOOD AS THE PRISON INMATES. THE STATE STATES THAT IT COST THEM \$1.17 PER MEAL TO PREPARE, YET, THEY [ S.V.P. AND D.M.H. ] ARE CHARGING THE RESIDENT'S HERE \$ 5. 00 PER MEAL. NOW IF YOU GO TO GEO-CARE YOU ARE SERVED THE SAME FOOD AS THE REGULAR PATIENT'S IN GEO-CARE. THIS IS DISCRIMINATION TO THE PEOPLE HERE IN THE TREATMENT PROGRAM , AND SINCE YOU CAN NOT TREAT US DIFFERENTLY FROM THEM THIS IS DISCRIMINATION. THE RESIDENT'S WHO GO TO CRAFT-FARROW ARE GIVEN FOR LUNCH THE SAME FOOD AS GEO-CARE, YET WE ARE SERVED STATE FOOD, AGAIN DISCRIMINATION.

3) WE ARE GIVEN THE SAME CLOTHES TO WEAR AS THE STATE INMATES. THE STATE MAKES OUR ~~CLOTHING FOR US TO WEAR, SINCE THEY HAVE A CONTRACT WITH D.M.H. WE SHOULD BE ALLOWED~~ TO HAVE CLOTHES LIKE REGULAR STREET PEOPLE WITH THE SAME AMOUNT OF POCKETS. [ WE HAVE ONLY A BACK POCKET ON OUR PANT'S AND PULL OVER SHIRTS WITH NO BUTTONS]

4) WE ARE LOCKED IN OUR ROOMS AT NIGHT THE SAME AS INMATES, PERSONS AT GEO CARE THEY ARE NOT LOCKED IN THEIR ROOMS. WE HAD THE STATE CREATED RIGHT PREVIOUSLY IN 2008, WE WERE NOT LOCKED IN OUR ROOMS AT NIGHT, THIS IS DISCRIMINATION.

5) ANYTHING WE WANT TO ORDER AS THE INMATES CAN RECEIVE, WE HAVE TO GET THE

WARDEN'S PERMISSION. WE HAVE NO POWER IN THE ROOMS, SO, WE WANTED TO ORDER BATTERY POWERED TELEVISION'S AND LIGHTS FOR THE ROOMS. THE WARDEN SAID NO, YET, INMATES CAN HAVE TELEVISION'S AND LIGHTS , THAT THEY CAN ORDER OFF THE CANTEEN, WE CAN'T SINCE THERE IS NO POWER IN THE ROOMS, THIS IS DISCRIMINATION

6) SCDC INMATES CAN PURCHASE FOOD PACKAGES TWO TIMES PER YEAR WHERE THEY CAN PURCHASE CHILI, ROAST BEEF ETC, UNDER THE POLICY OF SCDMH WE ARE ALLOWED TO PURCHASE PACKAGES FOUR TIMES WHICH IS A STATE CREATED INTEREST, NOW THE SVPTP STAFF TOOK IT UPON THEMSELVES TO STRIP US TO TWICE A YEAR,, AND HAVE RESTRICTED OUR RIGHT TO HAVE OUR FAMILY TO PURCHASE FOOD OR OTHER GIFTS ONCE A YEAR, AND RESTRICTED US TO VENDERS WHO CHARGE HIGH PRICES WHICH IS A HARDSHIP ON US. WHERE I AM RESTRICTED TO TWICE A YEAR ANY OTHER TIME WE CAN ONLY PURCHASE DRY SOUPS AND COFFEE AND TEA. TO DENY ME THE SAME PRIVILEGES AS INMATES, THIS IS DISCRIMINATION, FOR A CIVILLY COMMITTED PERSON.

7) WE ARE IN A DOG KENNEL ENVIRONMENT, DUE TO THE FACT THAT AS SOON AS WE LOOK OUT OUR DOORS WE SEE CYCLONE FENCING [ THE SAME TYPE OF FENCING AS IN SOMEONES YARD ] THEN ALL DAY LONG, ALL YOU SEE IS THIS CYCLONE FENCING AS YOU ARE ON THE ROCK [ WHAT THEY CALL THE MILIEU ]. THEN IF YOU GO TO THE 100 FOOT X 50 FOOT REC. FIELD, ALL YOU SEE AGAIN IS CYCLONE FENCING [ ONLY THIS TIME IT IS DOUBLE FENCING ]. WE AT NO TIME CAN COME IN CONTACT WITH ANY GRASS OR DIRT. THE REC FIELD IS ASPHALT, NO GRASS OR DIRT AT ALL, THIS IS DISCRIMINATION SINCE S.C.D.C. INMATES CAN WALK ON GRASS.

8) THE TREATMENT CONTRACT THAT THEY HAVE YOU SIGN WHEN YOU COME HERE, THIS IS A PUNITIVE CONTRACT AND, IF YOU DO NOT SIGN IT YOU ARE KEEP ON RED LEVEL. YOU HAVE TO BE IN YOUR ROOM EVERY NIGHT DURING THE WEEK AT 9:00 P.M. AND ON THE WEEKENDS AT 10:00 P.M.. ON RED LEVEL YOU ARE LIMITED TO ONLY \$20:00 DOLLARS A WEEK ON CANTEEN -YET- ON GREEN LEVEL \$60:00 DOLLARS ON FOOD ITEMS AND \$ 15:00 ON TOILETRIES. ON RED LEVEL YOU CANNOT PARTICIPATE IN ANY COOKOUT'S OR ACTIVITIES..

9) I AM FORCED TO WEAR A BRIGHT YELLOW JUMP SUIT WITH EIGHT INCH (8') PRINTING ON THE BACK THAT STATES \*\*\* SVPTP\*\*\* WHENEVER I GO OUT IN PUBLIC, THIS IS DEGRADING HUMILIATING,AND AMOUNTS TO CRUEL AND UNUSUAL PUNISHMENT, AND AMOUNTS TO DISCRIMINATION INTENDED TO SINGLE OUT A CIVILLY COMMITTED PERSON WITHIN THE DEPARTMENT OF MENTAL HEALTH, AND VIOLATES MY PROTECTED PRIVACY RIGHTS WHILE BEING IN THE CARE OF ~~THE DEPARTMENT OF MENTAL HEALTH. THIS MAKES ME A TARGET SHOULD SOMEONE WANT TO SEEK~~ REVENGE, FOR MY BEING A SVP. THIS IS DISCRIMINATION TO THE PEOPLE HERE IN THE TREATMENT PROGRAM , AND SINCE YOU CAN NOT TREAT US DIFFERENTLY FROM OTHERS SIMILARLY SITUATED THIS IS DISCRIMINATION..

10) THERE IS NO KIND OF OUTSIDE OVER-CITE SUPERVISION TO PREVENT THE IMPLEMENTATION OF PUNISHMENT TO PERSONS WHO PARTICIPATE IN THE TREATMENT PROGRAM. TREATMENT IS REGULARLY WITHHELD AS PUNISHMENT, ALONG WITH ACCESS TO FOOD/PACKAGES,

JOBS, CANTEEN, AND RECREATION SO THE SVPTP STAFF TO INCLUDE NURSING, PUBLIC SAFETY CAN ASSAULT PEOPLE AND USE SEGREGATION TO PUNISH US. THEY HAVE STRIPPED US OF ALL RIGHTS AND SERVICES AND ARE ATTEMPTING TO INSTITUTIONALIZE US INSTEAD OF PROVIDING US WITH CONSTITUTIONAL TREATMENT AS DETERMINED IN KANSAS V. CRANE, KANSAS V. HENDRICKS AND ACCORDING TO IN: RE MC CRACKEN CITE AS 551 S.E. 2<sup>nd</sup> 235-- THE S.V.P ACT IS DIRECTED AT "**EXTREMELY DANGEROUS GROUP OF VIOLENT PREDATOR'S**". THEY WANT YOU TO JUST SIT HERE AND PLAY CARDS, DOMINOES, SHUFFLE BOARD, MEXICAN DOMINOES OR OTHER CHILDREN GAMES, AND THEN CALL IT TREATMENT, THIS IS DISCRIMINATION, NOT ALL OF US PLAY CHILDREN'S GAMES, AND SOME OF US WANT TO BETTER OURSELVES. ACCORDING TO THE LEGAL ISSUE OF THEM CLAIMING THAT WE HAVE ANTI- SOCIAL DISORDER THERE IS A NEW RELEASE THAT SHOWS THAT THE WAY THAT THE DEPARTMENT OF MENTAL HEALTH ARE TREATING US IS NOT THE PROPER WAY TO TREAT US FOR ANTI-SOCIAL DISORDER.

11) THE OVER CROWDING IN HERE IS CREATING PROBLEMS WITH TRYING TO FIND A PLACE TO SIT TO WATCH TELEVISION. THERE HAS BEEN NUMEROUS ALTERCATIONS OVER THE SEATING IN HERE. THERE IS 106 RESIDENT'S IN HERE AND ONLY SETTING FOR APPROXIMATELY 52 RESIDENT'S, STAFF AND SECURITY TO WATCH TELEVISION, AND THIS IS A MAJOR PROBLEM. [ THIS IS FOR BOTH A-SIDE AND B-SIDE ] YOUNGBERG V. ROMEO 457 U.S. 307

12) CERTAIN CELLS ARE DOUBLE BUNKED, DUE TO THE OVER CROWDING. ACCORDING TO ALL INFORMATION OUT THERE, THERE IS TO BE 77 SQ. FEET PER MAN-- YET - THE SQUARE FOOTAGE OF THE ROOM IS ONLY 84 SQ. FEET, THIS LEAVES THE OTHER MAN 7 SQ. FEET TO LIVE IN. BY ALL CASE LAWS OUT THERE WE ARE TO BE CONSIDERED THE SAME AS PRE-TRIAL DETAINEES, WITH ALL RIGHTS AND PRIVILEGES THAT ARE DUE. YOU ARE NOT SUPPOSE TO BE PUTTING SEX OFFENDER'S IN THE SAME ROOM WITH EACH OTHER, DUE TO THE SEX ACTS THAT ARE SOMETIMES CARRIED OUT. YOUNGBERG V. ROMEO 457 U.S. 307

13) THERE IS NO EDUCATION, ACADEMIC OR VOCATIONAL COURSES OFFERED IN HERE FOR US TO BETTER OUR SELVES. YOUNGBERG V. ROMEO 457 U.S. 307. YET, IN THE PUNITIVE CONTRACT THEY HAVE US SIGN IT STATES A.T. STAFF WILL PROVIDE.

14) OUR TREATMENT PER WEEK, WHEN THEY SHOW UP TO HAVE GROUP, IT IS ONLY ONE AND A HALF HOURS TO ONE HOUR AND FORTY FIVE MINUTES PER WEEK. THIS IS NOT TO THE CONSTITUTIONAL MINIMAL STANDARD REQUIREMENT. THIS IS TO DRAG OUT THE TREATMENT, SO THAT IT BECOMES LONG TERM CARE AND TREATMENT. OLINGER V. WATSON 652 F. 2<sup>nd</sup> 775, HUMPHERY V. CODY 405 U.S. 504. ACCORDING TO KANSAS V. HENDRICKS THEIR TREATMENT IS 31.5 HOURS PER WEEK.

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### CONCLUSION

**"TO WIT":** PETITIONER IS SEEKING THE REMOVAL OF SELF FROM THE SEXUALLY VIOLENT PREDATOR TREATMENT PROGRAM AND HAVE HIS CRIMINAL CONVICTION VACATED BY DUE PROCESS OF LAW AS A MATTER OF LAW.

THE PETITION FOR A WRIT OF HABEAS CORPUS AND PETITION FOR DECLARATORY  
JUDGMENT SHOULD BE GRANTED.

IT IS SO MOVED

RESPECTFULLY SUBMITTED

Alton M. Chisolm

(SIGNATURE)

ON THIS 10 DAY OF OCTOBER 2015

CC//: CLERK OF COURT;

COURT OF COMMON PLEAS;

ATTORNEY GENERAL'S OFFICE:

FILE.

SWORN OR Affirmed And Subscribed  
Before Me this 18 day of

November 2015

Michele [Signature]  
State of S.C. Carolina  
My Commission Expires, July 7, 2018

Alton M. Chisolm  
(SIGNATURE)

From: "Pro Se, Alton M. Chisolm."

Appellate Court, etc.: Number (8) in, MY, Writ of Habeas Corpus, Copies to You, Enlightened, "Clear to See" that: My 1996 of March AND July 19, 2002 to August 2003 Convictions, Lewd Act ANN § 16-15-140-(1976) non-violent offenses CAN'T be <sup>(CHANGED)</sup> to: The Violent offense (Entered)-UNTIL-JUNE 10, 2010. This is in (violation) of: MY (original), July 19, 2002 AND March-1996, Lewd Act, Convictions, (Entered IN Charleston, S.C. Court, Since, 1996 and 2002) AND Also: The Notice (CAUTION) S.C. Code § 44-48-30 (1) (2)-1998 (violent) S.V.P., offense seen (IN 1998).

Appellate, Court, etc.; By: Court, "LAWS", it MUST Be, VACATED, Dismissed, IMMEDIATELY upon, Alton M. Chisolm, Records.

4. Appellate, Court, I, hope AND Pray that you Also Read: The Emergency, Petition For: Writ of MANDAMUS AND Request For AN Evidentiary Hearing to Show CAUSE, IN the (1976) Statute ANN § 16-15-140 AND (1998) Statute ANN § 44-48-30 (1) (2) Issues: "Please Read the Copies (2,3), Statement of CASE AND Arguments in: the (Bracket Area) of this "Copy", Document

AND: The conclusion on PAGE (5,6) of the writ of MANDAMUS.

5. "The "Appellate, Court", Please, Read AGAIN: The "Anders Brief" From: Appellate, Attorney, James K. Falk, because: He MADE "ERR" IN, The TABLE of Authorities. Statute-Area:

"The Code should be (S.C. Code § 44-48-30 (1) (2)-1998)" NOT "This ERR-1978": This Area Violates this Attorney, James K. Falk,

"OPINION: The "APPEAL is without Legal Merit, SUFFICIENT to Warrent A TRIAL? Appellate Court, etc.; Please see that now: I corrected the (ERR) AND: Please Grant Me The (3) CASE LAWS in his Anders Brief, Etc., Punitive AND therefore violated: The EX POST FACTO AND The "Double JEOPARDY CAUSE AND AGAIN: CAUTION, (7,8) where, Attorney For

"APPELLATE COURT-Number-4-ISSUE-September 7, 2016"

NO# :2005-CP-10-267

AND 2012-210607

IN THE  
COURT OF  
COMMON PLEAS

SOUTH CAROLINA - RESPONDENTS

VS.

ALTON M. CHISOLM----- PETITIONER

-----  
"EMERGENCY PETITION FOR WRIT OF MANDAMUS"  
AND "REQUEST FOR AN EVIDENTIARY HEARING  
TO SHOW CAUSE"

-----  
ALTON M. CHISOLM

Your name

7901 FARROW ROAD

Address

BLDG. 3 // 3<sup>rd</sup> FLOOR

COLUMBIA, SOUTH CAROLINA, 29203

IN THE STATE OF SOUTH CAROLINA ]  
COUNTY OF CHARLESTON ]

IN THE COURT OF COMMON PLEAS

C/A# 2005-CP-10-267

AND 2012-210607

THE STATE OF SOUTH CAROLINA. ]  
THE DEPARTMENT OF MENTAL ]

HEALTH, ]

RESPONDENT; ]

"EMERGENCY PETITION"

V. ]

"PETITION FOR WRIT OF MANDAMUS" AND

IN RE: CARE AND TREATMENT OF ]

"REQUEST FOR AN EVIDENTIARY HEARING

ALTON M. CHISOLM ]

TO SHOW CAUSE UNDER S.C. CODE ANN. §§

PETITIONER ]

44-48-30

THE AFORE-NAMED PETITIONER IN AND THROUGH HIMSELF IS NOW COMING TO THIS HONORABLE COURT, SEEKING THIS "PETITION FOR WRIT OF MANDAMUS" AND "REQUEST FOR AN EVIDENTIARY HEARING TO SHOW CAUSE," AS AN "AS-APPLIED ANALYSIS."

I, ALTON M. CHISOLM, DO HEREBY DECLARE UNDER THE PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

WHEN A WAIVEABLE RIGHT OR CLAIM IS INVOLVED, THE FAILURE TO MAKE A RESERVATION THEREOF; CAUSES A LOSS OF THE RIGHT AND BARS IT'S ASSERTION AT A LATER DATE..... U.C.C. 1-207, 1-103:6 COMMON LAW, A STATUTE SHOULD BE CONSTRUED IN HARMONY WITH THE COMMON LAW, UNLESS THERE IS CLEAR LEGISLATIVE INTENT TO ABROGATE THE COMMON LAW, 'THE CODE CANNOT BE READ TO PRECLUDE A COMMON LAW ACTION,' "AS-APPLIED ANALYSIS."

"A PERSON HAS NO STANDING TO ATTACK THE CONSTITUTIONALITY OF A STATUTE UNLESS A DIRECT INTEREST IN THE STATUTE OF SUCH A NATURE THAT HIS RIGHTS WILL BE ADVERSELY AFFECTED BY IT'S ENFORCEMENT." "THE CONSTITUTIONALLY OF A STATE STATUTE MAY NOT BE BROUGHT INTO QUESTION BY ONE WHO IS NOT WITHIN THE CLASS AGAINST WHOM THE OPERATION OF THE STATUTE IS ALLEGED TO HAVE UNCONSTITUTIONALLY APPLIED AND WHO HAS NOT BEEN INJURED BY IT'S ALLEGED UNCONSTITUTIONAL PROVISION."

#### STATEMENT OF CASE

I, BECAME AWARE OF THE SUBSTANTIVE AND PROCEDURAL DUE PROCESS LEGAL ISSUE(S) ON THE 10<sup>th</sup> DAY OF APRIL, 2015. I, BECAME AWARE OF THE LEGAL ISSUE IN S.C. CODE ANN. § 44-48-30 IN THAT S.C. CODE ANN. § 16-15-140 IS NOT A PART OF THE SEXUALLY VIOLENT PREDATOR STATUTES.48-110, AS OF THIS THE 10<sup>th</sup> DAY OF APRIL 2015.

#### ARGUMENT

WHERE STATUTES PROVIDE FOR PERFORMANCE OF ACTS BY PUBLIC OFFICERS PROTECTING PRIVATE RIGHTS OR IN THE PUBLIC INTEREST, THEY ARE MANDATORY.

THIS RULE HAS BEEN ENUNCIATED BY THE UNITED STATES SUPREME COURT, AS FOLLOWS:

"THE CONCLUSION TO BE DEDUCED FROM THE AUTHORITIE'S, THAT WHERE

POWER IS GIVEN TO PUBLIC OFFICERS.... - WHENEVER ..... INDIVIDUAL RIGHTS

CALL FOR ITS EXERCISE --- THE LANGUAGE USED... IS IN FACT PEREMPTORY."

*BD. OF SUPERVISORS V. UNITED STATES EX REL. STATE BANK*, 71 U.S. (4 WALL) 435, 446-47, 18 L.ED. 419 (1867)).

THERE ARE UNDOUBTEDLY, MANY STATUTORY REQUISITIONS INTENDED FOR THE GUIDE OF OFFICERS IN THE CONDUCT OF BUSINESS DEVELOPED UPON THEM, WHICH DO NOT LIMIT THEIR POWER OR RENDER ITS EXERCISE IN DISREGARD OF THE REQUISITIONS INEFFECTUAL, SUCH, GENERALLY, ARE REGULATIONS DESIGNED TO SECURE ORDER, SYSTEM AND DISPATCH IN PROCEEDINGS, AND BY DISREGARD OF WHICH RIGHTS OF PARTIES INTERESTED CANNOT BE INJURIOUSLY AFFECTED... BUT WHEN THE REQUISITIONS PRESCRIBED ARE INTENDED FOR THE PROTECTION OF THE CITIZENS, AND TO PREVENT A SACRIFICE ON HIS PROPERTY, AND BY A DISREGARD OF WHICH BE INJURIOUSLY EFFECTED, THEY ARE NOT DIRECTORY BUT MANDATORY. *FRENCH V. EDWARDS*, 80 U.S. (13 WALL) 506, 571, 20 L.ED. 702 (1871) "IF THE PROVISION IS ESSENTIAL, IT IS MANDATORY."

WHETHER A VIOLATION OF DUE PROCESS HAS OCCURRED IS "A QUESTION OF LAW" THAT SHOULD BE REVIEWED INDEPENDENTLY.

THE MAJORITIES OPINION SHOULD RELAY OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION TO CONCLUDE THAT *CHISOLM* HAS SUSTAINED A DUE PROCESS VIOLATION DUE TO HOLDING HIM UNDER THE SEXUALLY VIOLENT PREDATOR STATUTE, WHEN A LEWD ACT UPON A MINOR --- S.C. CODE ANN. § 16-15-140, IS NOT PART OF THE STATUTORY LAW UNDER S.C. CODE ANN. § 44-48-30. HISTORY: AMENDED BY 2012 S.C. ACTS, ACT NO. 255 (HB 3667) S11, EFF. 6/18/2012.

ACCORDING TO ARTICLE III, SECTION 16, LEGISLATIVE DEPARTMENT:

THE STYLE OF LAWS "*SHALL BE*": 'BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF SOUTH CAROLINA.

ARTICLE XVI, SECTION 1, AMENDMENTS:

... THE AMENDMENT OR AMENDMENTS "*MUST BE*" READ THREE TIMES, ON THREE SEVERAL DAYS, IN EACH HOUSE. (1965 (54) 827; 1967 (55) 3190; 1969 (56) 47; 1972 (57) 3197; 1973 (58) 3007; 1975 (59) 24; 1976 (59) 2215; 1977 (60) 23; 1979 ACT NO. 5; 1985 ACT NO. 6, 1989 ACT NO. 11).

THEN IN ARTICLE XVII, SECTION 10, LAWS NOW IN FORCE:

ALL LAWS NOW IN FORCE IN THIS STATE AND NOT REPUGNANT TO THIS

CONSTITUTION "*SHALL*" REMAIN AND BE ENFORCED UNTIL ALTERED OR REPEALED BY THE GENERAL ASSEMBLY, OR "*SHALL*" EXPIRE BY THEIR OWN LIMITATIONS.

NOW ARTICLE XVII, SECTION 11, SCHEDULE:

.... LAWS NOW OF FORCE... FIRST. THAT ALL LAWS IN FORCE IN THIS STATE, AT THE TIME OF THE ADOPTION OF THIS CONSTITUTION, NOT INCONSISTENT THEREWITH, AND CONSTITUTIONAL WHEN ENACTED "*SHALL*" REMAIN ON FORCE UNTIL ALTERED

OR REPEALED BY THE GENERAL ASSEMBLY OR EXPIRE BY THEIR OWN LIMITATIONS...

INDEED, THE DEPRIVATION OF LIBERTY AT STAKE MAY, ACCORDING TO THE UNITED STATES SUPREME COURT, BE EVEN MORE SERIOUS THAN CRIMINAL INCARCERATION:

IN MANY RESPECTS, CONFINEMENT IN A MENTAL INSTITUTION IS EVEN MORE

INTRUSIVE THAN INCARCERATION IN A PRISON. INMATES OF MENTAL INSTITUTIONS, LIKE PRISONERS, ARE DEPRIVED OF UNRESTRICTED ASSOCIATION WITH FRIENDS, FAMILY AND COMMUNITY; THEY MUST CONTEND WITH LOCKS, GUARDS, AND DETAILED REGULATION OF THEIR DAILY ACTIVITIES.

*IS THE ACT SO INDEFINITE AND UNCERTAIN AS TO MAKE IT VOID?*

CONCEDING THAT IT IS IMPERFECTLY DRAWN, THE STATUTE IS NEVERTHELESS VALID IF IT CONTAINS A COMPETENT AND OFFICIAL EXPRESSION OF THE LEGISLATIVE WILL. *STATE V. PARTLOW*, 91 N.C. 550, 49 AM. REP. 652. JUDICIAL INTERPRETATION CANNOT OPERATE UNTIL THE LAW MAKING DEPARTMENT OF THE STATE HAS SPOKEN INTELLIGIBLY. ON THE OTHER HAND, OUT OF DEFERENCE TO LEGISLATIVE AUTHORITY, WE *MUST* GIVE EFFECT TO ALL ITS ENACTMENTS, ACCORDING TO ITS INTENTION, SO FAR AS WE HAVE CONSTITUTIONAL RIGHT OF POWER. TO THIS END, WE *MUST*, WHEN CONFRONTED WITH A STATUTE WHICH IS SUSCEPTIBLE TO DIFFERENT INTERPRETATIONS, ACCEPT THAT ONE WHICH IS IN CONFORMITY WITH THE PURPOSE OF THE ACT AND IN HARMONY WITH THE PROVISIONS OF THE CONSTITUTION. SEE ARTICLE III, SECTION 16, LEGISLATIVE DEPARTMENT; ARTICLE XVI, SECTION 1, AMENDMENTS; ARTICLE XVII, SECTION 10, LAWS NOW IN FORCE; AND NOW ARTICLE XVII, SECTION 11, SCHEDULE. *GERNADA COUNTY SUPERVISORS V. BROGDEN*, 112 U.S. 261, 55 S. CT. 125, 28 L. ED. 704.

STATUTES "*MUST BE*" SO CONSTRUED AS TO GIVE EFFECT TO EVERY SECTION AND PART, AND WHEN ANY DOUBTS ARISE AS TO THE CONSTITUTIONALITY THEREOF, SUCH DOUBTS "*MUST BE*" RESOLVED IN FAVOR OF THE LAW.

THE FOURTEENTH AMENDMENT GUARANTEES INDIVIDUALS AGAINST INVASIONS BY THE STATE OF FUNDAMENTAL RIGHTS, *PALKO V. CONNECTICUT*, 302 U.S. 319, AND, UNDER MORE RECENT DECISIONS OF THIS COURT, SOME OF THE SPECIFICS OF THE BILL OF RIGHTS, AS WELL. IT THUS SERVES AS A LIMITATION ON THE ACTIONS OF THE STATES, AND LODGES IN THE COURT THE SAME POWER OVER STATE "LAWS, RULES, AND REMEDIES" CREATED BY CONGRESS. THIS POWER HAS CLASSICALLY DESCRIBED BY CHIEF JUSTICE MARSHALL IN *MARBURY V. MADISON*, 1 CRANE 137, 178, SO IF THE LAW BE IN OPPOSITION TO THE CONSTITUTION; IF BOTH THE LAW AND THE CONSTITUTION APPLY TO A PARTICULAR CASE, SO THAT THE COURT "*MUST*" EITHER DECIDE THAT CASE COMFORMABLY TO THE CONSTITUTION, DISREGARDING THE CONSTITUTION; OR COMFORMABLY TO THE CONSTITUTION, DISREGARDING THE LAW; THE COURT "*MUST*" DETERMINE WHICH OF THESE CONFLICTING RULES GOVERNS THE CASE....

AGAIN, IT HAS BEEN SAID; "IT IS THE BURDEN DUTY OF COURTS TO ENDEAVOR BY EVERY RULE OF CONSTRUCTION TO ASCERTAIN THE MEANING OF, AND GIVE FULL FORCE AND EFFECT TO; EVERY ENACTMENT OF THE GENERAL ASSEMBLY NOT OBNOXIOUS TO CONSTITUTIONAL PROHIBITIONS. BUT IF, AFTER EXHAUSTING EVERY RULE OF CONSTRUCTION, NO SENSIBLE MEANING CAN BE GIVEN TO THE STATUTE, OR IF IT IS SO INCOMPLETE THAT IT CANNOT BE CARRIED INTO EFFECT, IT "*MUST BE*" PRONOUNCED INOPERATIVE AND VOID." 1 LEWIS' SUTHERLAND, STATUTORY CONSTRUCTION (2 ED.) PP. 140, 141. SEE ALSO 6 PUNNELL MINN. DIG (2 ED. & SUPP.) § 8995, AN CASES CITED, AIGLER LEGISLATION IN VAGUE OR GENERAL TERMS, 21 MINN. LAW REV. 831, 44 HARV. L. REV. 1139, 45 HARV. L. REV. 160.

GENERALLY, A CONSTITUTIONAL QUESTION "*MUST BE*" RAISED AT THE EARLIEST POSSIBLE OPPORTUNITY IN ORDER TO BE PRESERVED FOR APPELLATE REVIEW.

THE GENERAL RULE OF STATUTORY CONSTRUCTION "*REQUIRES*" A COURT TO DETERMINE THE INTENT OF THE LEGISLATURE BASED ON THE PLAIN LANGUAGE USED AND TO GIVE EFFECT TO THIS INTENT WHENEVER POSSIBLE. STATUTES ARE PRESUMED TO BE CONSTITUTIONAL AND WILL NOT BE INVALIDATED UNLESS CLEARLY VIOLATES A CONSTITUTIONAL PROVISION. TO ASCERTAIN LEGISLATIVE INTENT, THE COURTS SHOULD EXAMINE THE WORDS USED IN THE

STATUTE, "THE CONTEXT," IN WHICH THE WORDS ARE USED AND THE PROBLEM THE LEGISLATURE SOUGHT TO REMEDY BY THE STATUTES ENACTMENT.

APPLYING THESE PRINCIPLES HERE, THE COURT SHOULD AGREE THAT SECTION 44-48-30, READ AS A WHOLE, DOES NOT SHOW CHISOLM'S OFFENSE STATUTE, S.C. CODE ANN. § 16-15-140. AND, THUS SHOULD NOT BE ALLOWED TO HOLD CHISOLM SINCE HIS OFFENSES ARE NO LONGER A REQUIREMENT BY THE STATUTE FOR THE SEXUALLY-VIOLENT-PREDATOR-ACT §§ 44-48-10 THRU 44-48-170.

READ IN CONTEXT, IT IS CLEAR THAT, IN INTERPRETING STATUTES, WE "MUST" BOTH STRIVE TO IMPLEMENT THE POLICY OF THE LEGISLATURE, AND ALSO HARMONIZE ALL PROVISIONS OF THE STATUTE. DESPITE THE FACT THAT THE LEGISLATURE HAS CLEARLY CHOSEN TO WRITE THESE VARIOUS... STATUTES IN SLIGHTLY DIFFERENT WAYS AND WITH SLIGHTLY DIFFERENT LANGUAGE, THEIR PLAIN MEANING, AS IN THE STATUTE BEFORE US, IS CLEAR." AS THE STATE WILL RELUCTANTLY NOTE, A CONSTITUTIONAL ISSUE HAS BEEN FOUND TO BE PRESERVED, EVEN IF NOT RAISED AT THE INITIAL PROCEEDINGS, IF IT WAS RAISED SUFFICIENTLY EARLY IN THE PROCESS TO ALLOW THE TRIAL COURT TO IDENTIFY AND RULE ON THIS ISSUE AND TO GIVE ADEQUATE NOTICE.

DEPRIVATION OR INFRINGEMENT OF A FUNDAMENTAL RIGHT, TRIGGERS STRICT SCRUTINY BY A REVIEWING COURT, A LEVEL OF SCRUTINY WHICH "REQUIRES" THE STATE TO PROVE THE EXISTENCE OF A "COMPELLING GOVERNMENTAL INTEREST" AND TO DEMONSTRATE THAT NO ALTERNATIVE MEANS ARE AVAILABLE THAT INVOLVE A LESSER DEPRIVATION OF LIBERTY. SEE E.G., *ROE V. WADE*, 410 U.S. 113, 155, 93 S. CT. 705, 728, 35 L. ED. 2d 147 (1973); *JAMES W. ELLIS*, LIMITS ON THE STATE TO CONFINED DANGEROUS PERSONS: CONSTITUTIONAL IMPLICATIONS OF *FOUCHA V. LOUISIANA*, 15 U. PUGET SOUND L. REV. 635, 644 (1992).

### CONCLUSION

STATUTES ARE PRESUMED CONSTITUTIONAL; THE COURT WILL UPHOLD A STATUTE'S CONSTITUTIONALITY WHENEVER REASONABLY POSSIBLE, AND ANY DOUBTS WILL BE RESOLVED IN FAVOR OF THE LAWS VALIDITY. "THE PARTY CHALLENGING A STATUTE" BEARS THE BURDEN OF CLEARLY ESTABLISHING ITS UNCONSTITUTIONALITY.

GENERALLY, COURTS APPLY THE RATIONAL BASIS TEST IN EXAMINING THE CONSTITUTIONALITY OF A STATUTE UNDER SUBSTANTIVE DUE PROCESS. TO SATISFY THIS TEST, A STATUTE NEED ONLY BEAR A RATIONAL RELATION TO A LEGITIMATE LEGISLATIVE PURPOSE AND BE NEITHER ARBITRARY NOR DISCRIMINATORY. IF, HOWEVER, THE CHALLENGED LEGISLATION INFRINGES UPON A FUNDAMENTAL CONSTITUTIONAL RIGHT, THE COURT WILL EXAMINE THE STATUTE UNDER THE STRICT SCRUTINY STANDARD, A STATUTE VIOLATES SUBSTANTIVE DUE PROCESS UNLESS IT IS NARROWLY TAILORED TO SERVE A LEGITIMATE AND COMPELLING LEGISLATIVE INTENT.

BOTH THE "SOUTH CAROLINA AND THE UNITED STATES CONSTITUTIONS" PROTECT INDIVIDUALS FROM DEPRIVATION OF LIBERTY WITHOUT DUE PROCESS OF LAW. U.S. CONST. X, XIV, S.C. CONST. ART. § 3. THE DUE PROCESS CLAUSE "INCLUDES A SUBSTANTIVE COMPONENT THAT PROVIDES HEIGHTENED PROTECTIONS AGAINST GOVERNMENT INTERFERENCE WITH CERTAIN FUNDAMENTAL RIGHTS AND LIBERTY INTEREST. *TROEL V. GRANVILLE*, 530 U.S. 57, 65, 120 S. CT. 2054, 2059-60, 147 L. ED. 2d 49, 56 (2000), QUOTING *WASHINGTON V. GLUCKSBURG*, 521 U.S. 702, 720, 117 S. CT. 2258, 267, 138 L. ED. 2d 772, 787 (1997). THE RIGHT INVOLVED IN THIS CASE IS FREEDOM FROM PHYSICAL RESTRAINT, A FUNDAMENTAL RIGHT. *FOUCHA V. LOUISIANA*, 540 U.S. 71, 80, 112 S. CT. 1780, 1785, 118 L. ED. 2d 437, 448 (1992). THE RIGHT TO BE FREE FROM PHYSICAL RESTRAINT IS A FUNDAMENTAL RIGHT AT STAKE IN CIVIL COMMITMENT PROCEEDINGS. IN RE *LINEHAN*, 594 N. W. 2d 867, 872 (MINN. 1999); IN RE *DUTIL*, 437 MASS. 9, 13, 768 N. E. 2d 1055, 1061 (2002). THEREFORE, THE COURT SHOULD HOLD THAT THE ACT IS SUBJECT TO STRICT SCRUTINY.

I, PRAY THAT THE COURT CAN SEE THE MATTER OF LAW AT ISSUE AND PRAYS THAT IT WILL ANSWER "THE CERTIFIED QUESTION OF LAW" IN AN "AS-APPLIED ANALYSIS."

~~ALTON M. CHISOLM, IS SEEKING DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF,~~  
BASED UPON THE ABOVE-ENTITLED PLEADINGS.

BASED UPON THE FORGOING, ALTON M. CHISOLM IS REQUESTING AN EVIDENTIARY HEARING TO SHOW CAUSE FOR THE BY DUE PROCESS OF LAW, AS AN "AS-APPLIED ANALYSIS." NOR, DOES THIS COURT HAVE "SUBJECT-MATTER JURISDICTION OVER HIS PERSON," SINCE HIS OFFENSES ARE NOT PART OF THE STATUTE FOR THE SEXUALLY VIOLENT PREDATOR ACT S.C. CODE ANN. § 44-48-30.

IT IS SO MOVED

ON THIS 10<sup>th</sup> DAY OF APRIL, 2015.

RESPECTFULLY SUBMITTED

*Alton M. Chisolm*

WITHOUT PREJUDICE U.C.C. 1-207; 1-103:6

*Notarized on 10<sup>th</sup> of April 2015*

*Shelia Lindsay*

*my commission Expires 3/6/20*

CC:// CLERK OF COURT, BERKELEY COUNTY;

CLERK OF COURT, SUPREME COURT OF SOUTH CAROLINA;

OFFICE OF THE ATTORNEY GENERAL;

FILE.

"APPELLATE - COURT - NUMBER - 5 - ISSUE - September 2016,"  
FALK LAW FIRM, LLC.

James K. Falk

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Admitted to practice: KY(1984) S.C. (2010) jfalklaw@gmail.com

June 14, 2016

Mr Alton Chisolm

SVPTP

7901 Farrow Road  
Columbia, SC 29203

Mr Chisolm

I have enclosed a copy of the Appellate Brief I filed on your behalf along with a copy of the Record on Appeal.

Regards



James Falk

"South Carolina Court of Appeals"

September 7, 2016

From: "Pro Se, Alton M. Chisolm"

Appellate, "enlightened" A "Challenge" upon: The "Argument" that, <sup>(Dr. SWAN)</sup> (Dr. DOMINO), states that, (PARAPHILIC-Disorder-NOS diagnosis) Indicating A history of (Six Month) etc. For, Alton M Chisolm EVALUATION AND SINCE: Dr DOMINOS "Report EVALUATION Review Period For, Alton M. Chisolm; "October 23, 2012 to October 9 2013" IS OVER (Six Month) AND From: "October to now September-2016" IS (4) YEARS, IN: "Violation OF MY Rights, etc?" <sup>1. 2014 CASE ENTRY LAW:</sup> (PUNITIVE - DAMAGE) Holding-Me IN: The (S.V.P. Program) over the (Six Month) Review of: the (PARAPHILIC-Disorder), <sup>(Dr. SWAN)</sup> (Dr. DOMINOS), "Cautioned" (ON the Record), (S.V.P.), Documents: Appellate, Court ALSO: the (Violations) of the "EX POST FACTO AND Double JEOPARDY, CAUSE" Have Been "Enlightened", By: South Carolina AND the U.S. CONSTITUTIONAL LAWS, UPON, Double JEOPARDY, MATTERS. The (S.V.P.), MATTERS by: LAW Must be, DISMISSED, Immediately due over (4) years UPON, Alton M. Chisolm; Appellate, Court, Please, GRANT: MY "Immediate Release", From The "S.V.P." Program, UPON: Such other AND "Further Relief" AS IS just AND proper. 6. Appellate, Court, etc.: Quare (1), July 19, 2002, Concurrent With: MARCH 1996, LEWD ACT, PLEA, CONVICTIONS. This is The LAST "ANY" ISSUE, "ORIGINAL Direct Evidence", Exhibits in Newly Discovery, Evidence, Actual Innocence AND: This is AN EXTRA Ordinary Circumstances "Rarest", CASE, CAUSED: "FALSE NOLE PROSEQUI, (Indictment) that is" (\$75,000 BOND) AND CAUSED ME To be INCARCERATED For, About (17), YEARS, (Falsely ACCUSED) UPON: "The Court of Charleston S.C. AND Columbia, S.C., (S.V.P.), Program, MATTERS." Appellate, Court, I will "ENLIGHTEN you" with About: (4, 5) "Direct

ISSUE, Number, (5)

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable R. Markley Dennis, Jr., Circuit Judge

---

Appellate Case No. 2014-002351

In the Matter of the Care and Treatment of Alton Chisolm

---

ANDERS BRIEF OF APPELLANT

---

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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable R. Markley Dennis, Jr., Circuit Judge

---

Appellate Case No.: 2014-002351

---

RECORD ON APPEAL

---

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In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Honorable R. Markley Dennis, Jr., Circuit Judge

---

Appellate Case No.: 2014-002351.

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DESIGNATION OF MATTER  
TO BE INCLUDED ON APPEAL

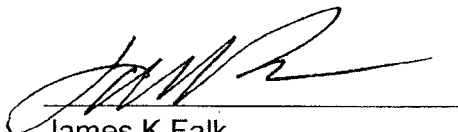
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Appellant proposed the following be included in the Record on Appeal:

- (1) Appellant's Annual Notice of Right to Petition for Release and Election to Waive or Exercise Rights, date November 12, 2013.
- (2) Appellant's Annual Examination and Review Hearing Notice, dated November 12, 2013.
- (3) Annual Review by evaluator Marla L. Domino, PhD, dated November 11, 2013.
- (4) Complete Transcript of October 21, 2014 Probable Cause hearing before the Honorable R. Markley Dennis.

I certify that this designation contains no matter which is irrelevant to this appeal.

May 27, 2016



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**Attorney for Appellant**

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| American Psychiatric Association, (2013). Diagnostic and<br>Statistical manual of mental health disorders: DSM-5 (5th ed.).<br>Washington, DC: American Psychiatric Publishing..... | passim |
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### STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in finding no probable cause existed as to whether Appellant's mental abnormality or personality disorder had so changed that Appellant was no longer a sexually violent predator because the Appellant's mental health diagnosis<sup>D.</sup> stated in Appellant's 2013 Annual Evaluation was (no longer) a generally accepted diagnosis?

### **STATEMENT OF THE CASE**

Following a jury trial in Charleston County Court of Common Pleas, Appellant was committed to the care and custody of the Department of Mental Health as a sexually violent predator as defined in SC Code Ann. § 44-48-30(1). On November 12, 2013, Appellant received his annual notice of petition for release pursuant to SC Code Ann. §§ 44-48-110 and 130. Appellant exercised his right to petition for a release hearing. On October 21, 2014, a probable cause hearing was held in Charleston County Court of Common Pleas, where Judge Dennis found ~~(no probable)~~ cause. This appeal follows.

## ARGUMENT

The trial judge erred in finding no probable cause existed as to whether Appellant's mental abnormality or personality disorder had so changed that Appellant was no longer a sexually violent predator because (Dr. Domino's was no longer a generally accepted diagnosis).

- Pursuant to § 44-48-110, Dr. Marla L. Domino prepared a report of her October 9, 2013 evaluation of the appellant. Dr. Domino's report, dated November 7, 2013, covered the review period of October 23, 2012 through October 09, 2013. The State submitted Dr. Domino's report as part of the file for the hearing. (R. p. 19, ll. 12- 24). "The State's (only witness) was Dr. Domino who was qualified and testified as an expert in the fields of psychology, forensic psychology with regard to sexually-violent predators. (R. p. 23, l. 7 – p. 24, l. 2).

- Dr. Domino testified that Appellant's mental abnormality had not so changed as to render him safe to be at-large in the community. (R. p. 24, ll. 21-24.). (Dr. Domino testified further that (Appellant suffered from Paraphilia Not Otherwise Specified (NOS), and that it was this (mental abnormality) that justified his further confinement in the Sexually Violent Predator Treatment Program) (R. p. 24, l. 25- p. 25, l. 3). In her report Dr. Domino states that Paraphilic Disorder NOS diagnosis is supported (by data) indicating a (history of longer than six months) in which Mr. Chisolm has experienced sexual arousal involving (non-consenting individuals). (R. p. 14).

The Diagnostic and Statistical Manual (5th ed.) (hereafter DSM-V) classifies (eight named paraphilic disorders (not including the disorder at issue here). It defines the word "paraphilia" as "any intense and persistent sexual interest other than sexual interest in

genital stimulation or preparatory fondling with phenotypically normal, physically mature, consenting human partners" Id. at 685. One may have a paraphilia, however, without having a paraphilic disorder. A paraphilia describes a sexual interest and is a "necessary

• but not . . . sufficient" predicate for a paraphilic disorder. Id. at 686. A paraphilic disorder •

- → • "is a paraphilia that is currently causing distress or impairment to the individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to others" Id. at 685-686. The eight listed paraphilic disorders are: Voyeuristic Disorder, Exhibitionistic Disorder, Frotteuristic Disorder, Sexual Masochism Disorder, Sexual Sadism Disorder, • Pedophilic Disorder, Fetishistic Disorder and Transvestic Disorder.

The DSM-5 also includes the diagnosis "Other Specified Paraphilic Disorder"

- ("OSPD"), which, with the specifier "Non-Consent" is at issue here. When publishing the DSM -V, the APA (change) the description of this disorder from Paraphilia NOS to OSPD. State v Jason C., 51 Misc.3d 553, 554, 26 N.Y.S. 3d 423, 423 (Supreme Court, Kings County 2016). Unlike the other eight named paraphilic disorders, the DSM-V contains no specific diagnostic criteria for OSPD. Instead the DSM-V describes OSPD as follows:

This category [Other Specified Paraphilic Disorder] applies to presentations in which symptoms characteristic of a paraphilic disorder that cause clinically significant distress or impairment in social, occupational or other important areas of functioning predominate but (do not meet the full criteria for (any) of the disorders in the paraphilic disorders diagnostic class. The other specified paraphilic disorder category is used in situations in which the clinician chooses to communicate the specific reason that the presentation (does not meet the criteria for any specific paraphilic) disorder. This is done by recording "other specified paraphilic disorder" followed by the specific reason (e.g., "zoophilia").

This passage goes on to provide (six non-exclusive examples of OSPD) diagnoses: the sexual attraction to <sup>1.</sup>obscene phone calls, <sup>2.</sup>corpses, <sup>3.</sup>animals, <sup>4.</sup>feces, <sup>5.</sup>enemas and <sup>6.</sup>urine. Id at 705.

According to the manual, the eight listed disorders were chosen because "they are relatively common, in relation to other paraphilic disorders" and because some are classified as crimes. The manual notes that this list is not exhaustive and that "[m]any dozens" of paraphilias have been identified and named". The OSPD diagnosis is therefore "indispensable and will be required in many cases" Id. at 685. The DSM-5 also includes a section entitled "Conditions for Further Study" described as "conditions on which future research is encouraged" Id. at 783. (OSPD Non-Consent is <sup>✓</sup>not listed) as one of these conditions.

Non-consent as a specifier for an OSPD diagnosis would appear to describe an *intense and persistent sexual interest*, in non-consensual sex. Participation in non-consensual sex represents criminal <sup>✓</sup>conduct. The desire to participate therein is the *mens rea* required for a conviction of a (sexually violent crime) and not a mental disease or defect listed in the DSM-V. The fact that "non consent" is not one of the eight listed specifiers for OSPD nor is it included in the list for further study, strongly questions the current acceptance of the diagnosis as a basis justifying (continued civil) commitment.

- Caution*
- In State v Jason C., 51 Misc.3d 553, 26 N.Y.S. 3d 423 (Supreme Court, Kings <sup>✓</sup>County 2016) the New York trial court held a Frye hearing which resulted in the exclusion of the State's experts' testimony that regarding concerning a diagnosis of paraphilia NOS.
- In its ruling The New York Court Noted:

Other than giving the general definition of what this proposed disorder is, namely arousal to non-consent, the State has not provided this court with a clear understanding of what the agreed upon criteria is for the diagnosis. Each of the State's experts proffered his own understanding of how it would be diagnosed. Further, it was also very clear from the literature that there is no agreed upon criteria for this condition even among SVP practitioners. As a starting point then, the court cannot find a diagnosis "generally accepted" when there is not at the very least, a generally accepted criteria that defines the condition. In this context, a judicial finding that this diagnosis is generally accepted would provide no clarity as to what "this diagnosis" actually is—other than in name and general definition. *Id.* 51 Misc.3d 553, 554, 26 N.Y.S. 3d 423, 423

Similarly in McGee v Bartow, 593 F.3d 556 (7<sup>th</sup> Cir 2010) the court noted that even the most ardent advocates of the diagnosis of paraphilia NOS as a mental health disease recognize that the diagnosis is "probably ... the most controversial among the commonly diagnosed conditions within the sex offender civil commitment realm." citing Dennis M. Doren, *Evaluating Sex Offenders: A Manual for Civil Commitments and Beyond* 63 (2002). 593 F.3d 556, 579 (7<sup>th</sup> Cir 2010)

Justice Anthony Kennedy provided the fifth vote in the 5-4 decision of the United States Supreme Court upholding the constitutionality of Kansas' (SVP statute against a challenge that it was punitive and therefore violated the ex post facto and double jeopardy clauses) Kansas v. Hendricks, 521 U.S. 346, 371-72 (1997). Justice Kennedy wrote separately "to caution against dangers inherent when a civil confinement law is used in conjunction with the criminal process, whether or not the law is given retroactive application." *Id.* He concluded his concurrence by stating that if "it were shown that mental abnormality is too imprecise a category to offer a solid basis for concluding that civil detention is justified, our precedents would not suffice to validate it." *Id.* at 372. Judge Kennedy went on to state:

"Caution" → If the civil system is used simply to impose punishment after the State makes an improvident plea bargain on the criminal side, then it is not performing its proper function. These concerns persist whether the civil confinement statute is put on the books before or after the offense. We should bear in mind that while incapacitation is a goal common to both the criminal and civil systems of confinement, retribution and general deterrence are reserved for the criminal system alone. Id. at 373

The use of OSPD non-consent as diagnosis to support Appellant's continued civil commitment amounts to nothing more than an increase in punishment for Appellant's

- past crimes as (is not) a reflection of a current mental disease or personality defect •

justifying continued confinement.

### CONCLUSION

Because of the questionable validity for the rationale in Dr. Domino's report, the trial court should have found probable cause existed for a jury to determine whether appellant would continue to be a threat if released.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Falk', is written over a horizontal line.

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SC Bar 80125

ATTORNEY FOR APPELLANT

This May 27, 2016

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
Honorable R. Markley Dennis, Jr., Circuit Judge

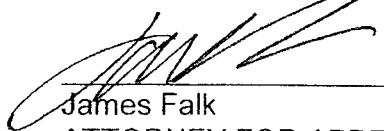
Appellate Case No.: 2014-002351

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Alton Chisolm states:

1. He has a contract with the South Carolina Commission for Indigent Defense and authorized by that office to file on Appellant's behalf.
  2. He has reviewed the record of appellant's probable cause hearing before R. Markley Dennis, Jr., which was held on October 21, 2014, and , in his opinion, the appeal is without legal merit sufficient to warrant a trial.
  3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the probable cause hearing.
- WHEREFORE <sup>(He)</sup>she asks the Court to relieve <sup>(Her)</sup>her as counsel for Alton Chisolm.

Respectfully submitted,

  
James Falk  
ATTORNEY FOR APPELLANT

This 27<sup>th</sup> day of May, 2016.

**CERTIFICATE OF COUNSEL**

The Undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order of the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

May 27, 2016

A handwritten signature in black ink, appearing to read "J. Falk", is written over a horizontal line.

James K Falk  
Falk Law Firm  
PO Box 1058  
Charleston, SC 29402  
(843) 606 6007

ATTORNEY FOR APPELLANT

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

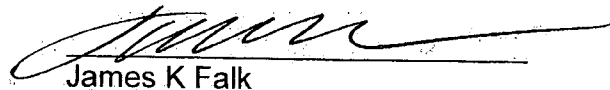
Court of Common Pleas

Honorable R. Markley Dennis, Jr., Circuit Judge

Appellate Case No.: 2014-002351

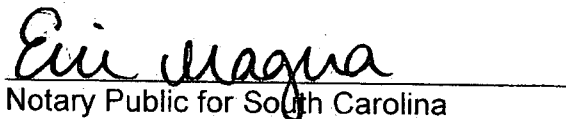
CERTIFICATE OF SERVICE

The undersigned certifies that on May 27, 2016 he deposited a true and accurate copy of the Record on Appeal in the above referenced case with the United States Post Office, sufficient first class postage affixed, and addressed to Deborah R.J. Shupe, Esq. Office of the South Carolina Attorney General PO Box 11549 Columbia SC 29211-1549; and, copy of the same was also deposited with the United States Post Office, sufficient first class postage affixed, and addressed to Alton Chisolm, SVPTP, 7901 Farrow Road, Columbia, SC 29203; and, I further certify that all parties required by Rule to be served have been served this May 27, 2016.

  
James K Falk

Attorney for Appellant

SUBSCRIBED AND SWORN TO before me  
This May 27, 2016.

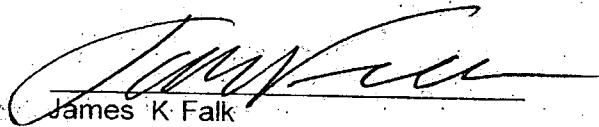
  
Notary Public for South Carolina

My Commission Expires: 10-30-2020

**CERTIFICATE OF COUNSEL FOR APPELLANT**

Counsel for appellant certifies that this Designation of Matter contains all material proposed to be included for review pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967) to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

May 27, 2016



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ATTORNEY FOR APPELLANT



*State of South Carolina*  
*Department of Mental Health*

**MENTAL HEALTH COMMISSION:**

Alison Y. Evans, PsyD, Chair  
Joan Moore, Vice Chair  
Jane B. Jones  
Everard Rutledge, PhD  
J. Buxton Terry

**STATE DIRECTOR**

John H. Magill

Division of Inpatient Services  
Sexually Violent Predator Treatment Program  
7901 Farrow Road, Building #3  
Columbia, SC 29203  
Information: (803) 935-5751

November 12, 2013

The Honorable Roger M. Young, Sr.  
Chief Administrative Judge  
Ninth Judicial Circuit  
100 Broad St., Suite 368  
Charleston, SC 29401

Re: Chisolm, Alton  
Case No: 2006-CP-10-2715

Dear Judge Young:

Mr. Alton Chisolm was committed to the South Carolina Department of Mental Health, Sexually Violent Predator Program, on February 10, 2009, pursuant to SC Code of Laws §44-48-100, Sexually Violent Predator Act.

Pursuant to SC Code of Laws §44-48-110, "The court shall conduct an annual hearing to review the status of the committed person." Therefore, please find enclosed the required documents in order to conduct such a hearing:

1. Annual Examination and Review Hearing, Annual Notice of Right to Petition for Release and Elections to Waive or Exercise Rights form.
2. Annual Treatment Review Summary, dated November 7, 2013.

RECEIVED

NOV 15 2013

ATTORNEY GENERALS  
OFFICE

**MISSION STATEMENT**

To support the recovery of people with mental illnesses.

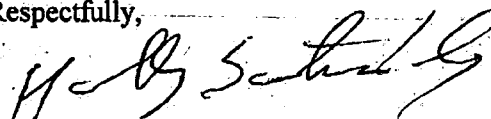


Based on our re-evaluation of Mr. Chisolm, it is our recommendation, to the Courts, that Mr. Chisolm remain in inpatient treatment in the South Carolina Department of Mental Health, Sexually Violent Predator Program.

The Attorney General's Office will contact you if a hearing needs to be scheduled to address Mr. Chisolm's review hearing.

If I can be of further assistance to the Court, please feel free to contact me or Ms. Cathy B. Garner, Paralegal, (803) 935-5540.

Respectfully,



Holly Scaturro  
Director  
Sexually Violent Predator Treatment Program  
(803) 935-5530

c James Bogle, Assistant Attorney General  
Scarlett Wilson, Solicitor, Ninth Judicial Circuit  
Charles Brooks, Attorney at Law  
Julie J. Armstrong, Clerk of Court, Charleston County  
Jeffrey E. Musick, Ph.D., Multidisciplinary Team  
Alton Chisolm, Resident, SVPP

**ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE  
ELECTIONS TO WAIVE OR EXERCISE RIGHTS**

TO: Alton Chisolm  
Name of Resident

FROM: Carolyn Sutton, Case Manager

DATE: Nov. 12th, 2013

**II. ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE**

Pursuant to Section 44-48-110 and 130, South Carolina Code of Laws,

- A. You have the right to petition the Court for release at any time, with or without the approval of the Department of Mental Health. However, it is important that you understand that if you do petition the Court for release without the approval of the Director of the Department of Mental Health, and the Court finds that either: (1) the petition was frivolous or (2) your condition has not changed so that you (the petitioner) are now safe to be at large, then the Court may deny any subsequent petitions without a hearing unless the petition contains facts upon which a Court could find your condition has so changed as to warrant a hearing.

Please initial and check the box below:

AC ☒ I am aware of the fact that I have the right to petition the Court for release at any time and I am aware that this document does not constitute a "Petition for Release."

**III. ACKNOWLEDGMENT**

I have received and reviewed the foregoing ANNUAL NOTICE OF RIGHT TO PETITION FOR RELEASE form.

Alton M. Chisolm  
Resident: PRINT Name

Alton M. Chisolm 11/12/13  
Resident: SIGN Name Date

[Signature] 11-12-13  
Witness Date

Or, resident refused to sign.

\_\_\_\_\_  
Witness Date

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH  
SEXUALLY VIOLENT PREDATOR PROGRAM**

**ANNUAL EXAMINATION AND REVIEW HEARING NOTICE**

**TO:** Alton Chisolm  
Name of Resident

**FROM:** Carolyn Sutton, Case Manager

**DATE:** Nov. 12<sup>th</sup>, 2013

**I. ANNUAL EXAMINATION AND REVIEW HEARING**

Pursuant to Section 44-48-110, South Carolina Code of Laws,

A. You are entitled to an annual re-examination of your condition. A report of such examination is attached and will be furnished to the Court which committed you, the Attorney General, the Solicitor in the Circuit you were convicted of the qualifying offense(s), your attorney (unless you do not have one), and the multi-disciplinary team.

B. The Court conducts an annual hearing to review your status.

Please initial and check one (1) box below:

I am aware that I have the right to an annual hearing to review the status of my case.

☐ I choose to waive my right to an annual hearing. Do NOT complete I. C. or D.

A.C. ☒ I do not waive my right to an annual hearing.

C. You have the right to have an attorney represent you at the hearing, but you are not entitled to be present at the hearing. If you do not have an attorney and are indigent, you may request the Court to appoint an attorney to represent you at the review hearing.

Please initial and check one (1) box below:

I am aware that I have the right to be represented by an attorney at the annual hearing to review the status of my case.

☐ I choose to waive my right to representation by an attorney.

☐ I will exercise my right to counsel by hiring an attorney to represent me.

☐ I want to exercise that right, do not have an attorney, I am indigent, and request the Court to appoint an attorney for me.

A.C. ☒ Charles Brooks is my Court appointed attorney.

- D. You may retain or, if you are indigent and so request, the Court may appoint a qualified expert to examine you, and the expert shall have access to all your medical, psychological, criminal offense and disciplinary records and reports.

Please initial and check one (1) box below:

I am aware that I have the right to have a qualified expert examine me and that I may present the results of that examination to the Court at the annual review hearing.

☐ I choose not to exercise that right at this time.

☐ I choose to exercise that right and will hire a qualified expert to examine me.

A/C. ☒ I am indigent and I wish to have the Court appoint a qualified expert to examine me. I understand that the appointment of an expert is discretionary with the Court.

### III. ACKNOWLEDGMENT

I have received and reviewed the foregoing ANNUAL EXAMINATION AND REVIEW HEARING form.

Alton M. Chisolm  
Resident: PRINT Name

Alton M. Chisolm 11/12/13  
Resident: SIGN Name Date

[Signature] 11-12-13  
Witness Date

Or, resident refused to sign.

\_\_\_\_\_  
Witness Date

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH  
SEXUALLY VIOLENT PREDATOR PROGRAM**

**ANNUAL REVIEW**

Pursuant to §44-48-110

|                                   |                           |
|-----------------------------------|---------------------------|
| <b><u>Name:</u></b>               | CHISOLM, Alton M.         |
| <b><u>SCDMH #:</u></b>            | 1017-6645                 |
| <b><u>SCDC #:</u></b>             | 241794                    |
| <b><u>Date of Birth:</u></b>      | [REDACTED] [56 years old] |
| <b><u>Date of Commitment:</u></b> | 02/07/09                  |
| <b><u>Date of Admission:</u></b>  | 02/11/09                  |
| <b><u>County:</u></b>             | Charleston                |
| <b><u>Review Period:</u></b>      | 10/23/12 – 10/09/13       |
| <b><u>Date of Evaluation:</u></b> | 10/09/13                  |
| <b><u>Date of Report:</u></b>     | 11/07/13                  |
| <b><u>Evaluator:</u></b>          | Marla L. Domino, Ph.D.    |

**Referral Information:**

Alton M. Chisolm was committed to the Sexually Violent Predator Program (SVPP) of the South Carolina Department of Mental Health (SCDMH) after adjudication as a Sexually Violent Predator, pursuant to statute. In accordance with §44-48-110, the purpose of the current exam is to assess whether Mr. Chisolm's *"mental abnormality or personality disorder has so changed that the person is safe to be at large and, if released, is not likely to commit acts of sexual violence."*

**Notification:**

At the outset of this evaluation, Mr. Chisolm was notified of this examiner's role, the purpose of this evaluation, and the limits on confidentiality. He was specifically informed that anything he disclosed could be included in a report to his lawyer, the Attorney General's office, the Court, and the SVPP treatment team. He voiced an understanding of this information and indicated a willingness to proceed.

**Sources of Information:**

1. Interview with Mr. Chisolm on 10/09/13 for approximately 40 minutes.
2. Completion of the Static-99R.
3. Review of Mr. Chisolm's current documentation from the Sexually Violent Predator Program (e.g., progress notes, homework assignments).
4. State of South Carolina, County of Charleston, Petition Pursuant to the Sexually Violent Predator Act.
5. Documentation regarding Mr. Chisolm's legal history (e.g., arrest warrants, victim statements, incident reports).
6. Sexually Violent Predator Program Commitment Evaluations by Donna Schwartz-Watts, M.D. (date of report: 05/06/08) and Pamela Crawford, M.D. (date of exams: 12/29/06 and

10/18/06).

7. Memorandum to Brandy Duncan, Esq., Assistant Attorney General, from Latoshia Spearing, LPC, of the Family Violence Treatment Centre (dated 06/18/06).
8. Psychological evaluation conducted by Tora Brawley, Ph.D. (date of exam: 04/01/08).
9. Annual Reviews authored by Peggy Wadman (January 2010) and Marla Domino, Ph.D. (dates of exams: 10/10/11 and 10/22/12).

**Brief Personal History:**

Available records indicate Mr. Chisolm was raised in the Charleston, South Carolina, area by his biological parents. There is no indication of a history of abuse. He completed high school and has been employed as a carpenter, painter, and auto mechanic.

A report by Dr. Donna Schwartz-Watts indicates Mr. Chisolm reported a history of mental health treatment in the community, although few specifics are provided. He reported to her a prescription of Prozac (antidepressant) while incarcerated.

Per available records, Mr. Chisolm was in a coma for three days secondary to a motor vehicle accident in 1980. He then suffered a closed head injury in 1996 after he was struck by a car while riding his bicycle. Since that time, per his report to Dr. Brawley in April 2008, he has experienced diminished ability to concentrate, deficits in his capacity to retain new information, memory problems, headaches, dizziness, irritability, and increased frustration. Neuropsychological testing conducted by Dr. Brawley resulted in a diagnosis of dementia, revealing IQ scores in the borderline and mild mental retardation ranges, among other cognitive deficits.

During today's exam, Mr. Chisolm reported current medication for high blood pressure and surgery for hernia repair two months ago. During the current review period, his chart reflects prescriptions of Trazodone (mood stabilizer) for insomnia, Aricept for dementia, and Benadryl for anxiety/insomnia. A prescription of Invega (antipsychotic) was discontinued due to repeated refusal.

**Legal History:**

**Sexual Offenses**

According to available records, in June 1997, Mr. Chisolm pleaded guilty to Lewd Act Upon a Minor stemming from allegations he repeatedly fondled the vagina of his 13-year-old daughter and rubbed his penis on her genitals until he ejaculated; she also reported to police that he unsuccessfully attempted to penetrate her vagina with his penis and at least one time digitally penetrated her. Mr. Chisolm reported to police that he was under the influence of alcohol and crack-cocaine at the time. His probation for this offense was revoked due to subsequent convictions for sex offenses (see below). Mr. Chisolm's initial recommendation for commitment to the SVPP was made towards the completion of his sentence for this charge but was dismissed by the presiding judge in September 1999. In December 2000, Mr. Chisolm was arrested for Failure to Re-Register as a Sex Offender.

During a previous exam with the undersigned, when asked about these offenses, Mr. Chisolm: ... admitted to sexually assaulting his 13-year-old daughter in 1996; he stated he later discovered she was not his biological child. Per his report, prior to the offense, he was informed by a family member that his daughter was having sex with older men. Mr. Chisolm stated he wanted to determine that for himself and so attempted to have sexual intercourse with her reasoning that, if she was sexually active, her vagina would have 'expanded.' He admitted to being sexually aroused by his daughter during the incident and, unsuccessfully, attempted to penetrate her (therefore, in Mr. Chisolm's mind, establishing her virginity); he reportedly ejaculated near her ... [he noted] being intoxicated on alcohol and marijuana at the time, a recent history of sexual fantasies about the victim, and 'brain damage' from a motor vehicle accident, led to the offense(s).

When read the above during today's exam, Mr. Chisolm added that he did not raise this child and only intermittently lived with her; after he was convicted of this offense, he learned that he was not her biological father. He also stated that "I was going to talk to her" about information provided to him by a family member that his daughter was sexually active; this is in contrast to information Mr. Chisolm provided to the undersigned in previous exams that he had not considered alternatives to determining if she was sexually active before assaulting her.

In July 2002, per records, Mr. Chisolm was charged with three counts of Lewd Act on a Minor and Criminal Sexual Conduct - 2<sup>nd</sup> Degree, stemming from allegations that he sexually assaulted two, 11-year-old girls in a public swimming pool. Records regarding these charges provide varying accounts of the alleged acts including anal rape of one or both victims, attempted (but unsuccessful) anal and vaginal penetration of one or both victims, rubbing of his erect penis against the anus of one victim (over or under her bathing suit), and/or fondling the vagina of at least one victim. The victims alerted a camp counselor at which time Mr. Chisolm was asked to exit the pool; he did so with a visibly erect penis, per records. At that time, a 13-year-old girl at the scene reported to police that Mr. Chisolm had offered her swimming lessons several weeks earlier at that same pool when he rubbed his penis against her; she declined to file a report. During the investigation of these offenses, police obtained information about a possible fourth victim (a 12-year-old female) who reported to a third party that Mr. Chisolm attempted to "rape" her. When apprehended, Mr. Chisolm stated, "My hands may have touched some areas inappropriate by mistake." Upon execution of a search warrant in the investigation of these charges, police discovered a revolver, pornography, 16 photos of female juveniles, and a large sword in Mr. Chisolm's home.

Mr. Chisolm denied wanting to make editions to the following account of the above incident(s) he provided to the undersigned in a previous exam:

... Mr. Chisolm denied the accusations of sexual assault against the two, 11-year-old girls in the public swimming pool. As before, he acknowledged being in the pool at the time and stated one of the victims asked him for swimming lessons; he indicated that her buttocks rubbed against his genitals by accident at which point, 'I backed away and said 'let's do something else.' Per his account, the lifeguard requested that he exit the

pool and he was subsequently apprehended by police. He acknowledged that one or two additional victims accused him of sexually assault in the same pool, but he denied these accusations. Mr. Chisolm spent a substantial amount of time during today's exam explaining why he was innocent of these charges and that he was pressured by his public defender and family to 'take a plea.'

About these offenses, Mr. Chisolm did comment today that, "There was a choice that was made - wrong place at the wrong time ... inappropriate in the pool, some things happen like that."

According to records, Mr. Chisolm submitted an Alford plea in August 2003 to two counts of Lewd Act Upon a Minor; the other charges were nolle prossed. During today's exam, Mr. Chisolm explained that that plea was to the charges in the pool, above. Around that time, Mr. Chisolm was also convicted and sentenced for failure to change his address in the sex offender registry. As noted, he was on probation for a previous sexual offense (see above) at the time of these incidents; he was also participating in outpatient sex offender therapy at the time. Mr. Chisolm denied having any undetected/off-the-record victims.

#### Non-sexual Offenses

Per available records, Mr. Chisolm has convictions for Disorderly Conduct, Open Container (two), Possession of Marijuana, Driving Under Suspension, and Blocking a Traffic Lane. Records also note that in 1980 and 1986, he was convicted of Burglary after entering the homes of females during the night; in neither case did Mr. Chisolm make physical contact with the victims. In May 1995, Mr. Chisolm was arrested for Contempt of Court for failure to pay, although further specifics and disposition of this charge is unknown.

#### Institutional Infractions

While in the South Carolina Department of Corrections (SCDC), Mr. Chisolm received two Sexual Misconduct convictions based on allegations he was fondling his penis through his pants (2004) and placed his erect penis on the leg of a female SCDC officer (1998).

#### Previous Sex Offender Treatment:

While on probation for the July 1997 conviction involving his daughter, Mr. Chisolm attended outpatient sex offender therapy at the Family Violence Treatment Center; a memo from a staff member at that facility indicates he appeared for his first group session under the influence of alcohol and sporadically attended subsequent treatment for which he was infrequently prepared. Per records, Mr. Chisolm completed Phase I of SCDC's sex offender treatment program.

#### Previous Evaluations and Diagnoses:

Mr. Chisolm initially participated in an independent evaluation to determine whether he met criteria for commitment under the Sexually Violent Predator Act in October 2006 and January 2007 with Pamela M. Crawford, M.D.; he refused to participate in both evaluations. He was seen by Donna Schwartz-Watts, M.D. in January 2008 for this same purpose, when it was

opined that he met criteria for commitment due to symptoms of dementia due to closed head injury and sexual disorder, not otherwise specified (nos). An annual review conducted by Dr. Peggy Wadman in January 2010 lists diagnoses of personality change due to head injury, disinhibited type; somatization disorder; and post-concussive syndrome. The two past annual reviews, conducted by the undersigned, offered diagnoses of paraphilia, not otherwise specified (nos), and dementia due to head trauma. His SVPP chart lists current psychiatric diagnoses of paraphilia, nos, and dementia due to closed head injury.

#### **Actuarial Risk Assessment:**

The Static-99R is an instrument designed to assist in assessing the risk of sexual recidivism. The Static-99R's recidivism estimates were derived from rates of charges and reconvictions of groups of offenders and do not directly correspond to the recidivism risk of one, specific individual. Because of his adjudication as a sexually violent predator who is currently under indefinite civil confinement, Mr. Chisolm's score was compared to a reference group identified as "high-risk/need." On average, 25.2% of sex offenders from this high-risk/need group with a score similar to Mr. Chisolm's sexually recidivated within five years, and 35.5% sexually recidivated within ten years.

#### **Resident's Recent Functioning in the SVPP & Treatment Progress:**

In his most recent Master Treatment Plan (dated 11/01/12), Mr. Chisolm's strengths were listed as "creative and artistic, good reading and writing skills." His liabilities were noted to be "multiple head injuries, persistent feelings of persecution." That treatment plan indicated Mr. Chisolm has difficulty regulating his mood and he becomes upset in group "which escalates to anger within a very short timeframe. Attempts at discussion are ineffective and met with resistance. Mr. Chisolm frequently must be calmed down through distraction." That treatment plan also notes that Mr. Chisolm has a "poor understanding of the factors that contributed to his offending ... resident shows a lack of comprehension about being sexually attracted to young and non-consenting females." In addition it is stated that, "Mr. Chisolm feels that he is being 'stalked' by staff and residents, which distracts from focusing on treatment goals. He has difficulty understanding the purpose of treatment and practical applications to daily behavior." Mr. Chisolm was reported to not be involved in daily activity therapy events but when he does interact with peers, uses "appropriate pro social skills." That treatment plan indicates that Mr. Chisolm does not have a job because of his behavioral dysregulation. Mr. Chisolm apparently wrote a response to this treatment plan which is difficult to follow but suggests he disagreed with the above feedback and believes he should not be in the SVPP.

A Quarterly Progress Report (for review period 02/01/15 to 05/01/13) reflects little if any progress in the above goals. Furthermore, it is noted that Mr. Chisolm has had a number of difficulties in group to include calling peers derogatory names (e.g., "drag queen" and "mentally disturbed"); being disrespectful; aggressive behavior; interrupting; immaturity (e.g., rolling his eyes, pointing his finger); and poor hygiene. He was suspended from group during that review period and was given individual assignments due to his behaviors, with minimal benefit. That report also notes that he continued to exhibit a poor understanding of the factors

that contributed to his offending and continued to place blame on the victim(s).

In addition, per that quarterly report, Mr. Chisolm continued to have difficulty with having erections in public (e.g., in group, in the milieu) and apparently goes to great lengths to conceal them (e.g., wears excessive large pants, wears two pairs of pants). When confronted about his behavior in group, per that report, he "appeared aggressive, agitated, paranoid, and disruptive. These behaviors continued in the following group, despite continued re-direction ... Mr. Chisolm continues to justify these behaviors by insisting that he needs larger pants because he is too 'big' (referring to his penis size) ... Mr. Chisolm does not understand how these behaviors relate to his offense cycle and chooses to blame others for 'staring' at him." Regarding his participation in Activity Therapy, it is noted, "Mr. Chisolm is often non-participatory or uncooperative with activities targeting the specific treatment need and makes minimal effort to demonstrate skills associated with this treatment need. Mr. Chisolm rarely participates in any [activity therapy] activities or events. Mr. Chisolm [often] sits alone on the milieu." Since his Master Treatment Plan was completed, Mr. Chisolm obtained a unit job in which it was recommended that he "work on coping skills to help control his behavior, which will help him keep his job."

A more recent Quarterly Review Report (for 05/01/13 – 08/01/13) notes that Mr. Chisolm has "started using coping skills to manage his moods" and has "attempted to overcome his tendency to be isolated and distressed." However, it is also indicated that Mr. Chisolm continues to present with a poor understanding of the factors that led to his offenses and

- continues to maintain that one of his victims (from 2002) lied about the offense. While it is indicated that he has improved in terms of behaviors associated with erections in group and the
- milieu, per that quarterly report, he continues to assert that staff are "targeting" him in regard to repeated disciplinary infractions associated with this behavior and denies any wrongdoing. That report notes that Mr. Chisolm continues to choose not to participate in unit activities. In a meeting with his treatment team during that review period (on 07/11/13), it was noted that Mr. Chisolm was calm and fairly receptive to feedback, took "some" responsibility for the offense against his daughter, but "largely denied and minimized" his involvement in his other offenses. It is noted that "he acknowledged sexual attraction to young girls 'in the past' but denied that this was a current concern." In a treatment assignment in July 2013, of five thinking errors he uses in treatment, he blamed others in four.

During the current review period, Mr. Chisolm has received multiple behavioral observation notes ("BONs"). In October 2012 (a week after his previous annual review with this examiner), he received disciplinary action for masturbating in public and insolence (calling a female officer a "girl"). When confronted by staff, he denied the accusations, stated the staff was "out to get him," required redirection, and expressed frustration regarding the outcome of that meeting. In February 2013, Mr. Chisolm received disciplinary action for having an erection in the milieu; he reportedly was redirected successfully and so received no consequences. In April 2013, he was

- accused of possession of alcohol (buck) which he denied and violation of a previous room-restriction by speaking to a peer through his door flap which he admitted to. In May 2013, he

reportedly violated another previous restriction by having food in his room. In July 2013, he was placed on "sexual behavior precautions" for masturbating in public.

Group progress notes from the current review period describe Mr. Chisolm as inattentive; unengaged and non-participatory; providing no, limited, or inappropriate feedback; resistant to sharing his notes with the case manager; engaging in distracting activities (e.g., shuffling papers); becoming angry and aggressive when confronted by a peer regarding his (Mr. Chisolm's) hygiene; being "extremely resistant" and unreceptive to feedback; appearing angry and aggressive; accusing others of lying about him; sarcastic and immature (e.g., sighing when redirected); loud; and overly dramatic (e.g., shuffling his papers, rolling his eyes). At one point (February 2013) it was noted that Mr. Chisolm was suspended in group due to his distracting behavior.

Furthermore, group progress notes indicate Mr. Chisolm has reported a lack of understanding regarding how a peer's touching of a victim's buttocks constitutes a crime and also voiced a request to limit check-in at the beginning of group, despite his monopolization of the previous group's check in. In April 2013, it was noted that he had been engaging in "sexual behaviors in group" such as staring at his case manager, repositioning his pants, moving in his chair, and presenting with a visible erection.

It is noted that Mr. Chisolm again presented a disclosure assignment during the current review period which was the "same as last time" and Mr. Chisolm maintained that he was "falsely charged" in both offenses; regarding the charge against his daughter, he reported that he attempted to wake her but, when unsuccessful, decided to "check" her [virginity status]. Regarding the offense in the public pool, Mr. Chisolm reiterated that he was innocent. When discussing an off-the-record victim, Mr. Chisolm reported having sexual intercourse with a 16-year-old female at the age of 27 years; per progress notes, he became "aggressive" when provided feedback about this incident from peers, called the victims "liars," and insulted group members. In a recent (October 2013) homework assignment, he reported to "wrongly touching" women on their buttocks in a club, in his car, in their cars, and at his house. As noted below, Mr. Chisolm denied to this examiner that he had any off-the-record victims.

In addition to the above, progress notes from the current review period indicate Mr. Chisolm can be attentive, apologetic, and occasionally responds well to redirection. His presentation of his autobiography in January 2013 was criticized for lacking details but it is noted that Mr. Chisolm was receptive to feedback about it. During the current review period, a number of groups were cancelled due to facilitators' absences and/or illness.

#### **Resident's Responses:**

According to Mr. Chisolm, he was moved into a single room three weeks ago due to his multiple Behavioral Observation Notes. He reported positive relationship with other residents but noted, "I just don't like anybody bothering me - nagging, drama ... pick on you for nothing, lie on you, drama about you just to get you in trouble." He did state, "I may flare up just to

protect my own self" if bothered by others. He noted that his peers would describe him as "trustworthy, honest, caring, nice, dependable sometimes." He described positive relationships with staff as well but then noted that staff and officers "lie" on him. He guessed that staff would describe him as "kind, caring, trustworthy, sometimes not honest." Mr. Chisolm reported that he has been accused of sexual misconduct multiple times. When asked if any of those accusations have been true, he answered in the negative barring one incident in which "I wasn't really masturbating, just cleaning myself up."

Mr. Chisolm rated his likelihood of future sexual offending on a scale from 0 (not likely) to 10 (very likely) as a "10" [sic], explaining there is "I'll put it up to 10. A 9 to a 10 chance I wouldn't get into any trouble. Not a 10 because anything can happen," referring to the possibility he will be falsely accused. He denied having any risk factors explaining that if ever in the vicinity of a child, he would leave. When asked how he has changed during the current review period, Mr. Chisolm stated "I changed a lot. I learned a lot of stuff about my behavior on the street - being so nice to people, being around kids." He denied there to be anything he continues to need to work on but noted, "I can always keep learning." He stated he recently completed assignments addressing self-esteem, disclosure, and his autobiography, and is currently working on victim diary, letters to and from the victim, distressing experience, anger and coping skills.

In the future, Mr. Chisolm stated he would like to be married, father another child, be involved in multiple churches, volunteer, travel and visit with family. He denied there to be obstacles to attaining these goals. He identified his family, his children, his church communities, and friends as being on his support team if released.

#### **Mental Status Examination:**

A mental status examination performed today revealed a 56-year-old, African-American male who presented with adequate, personal hygiene and clean attire. No auditory or motor abnormalities were noted, although Mr. Chisolm wore eyeglasses. He exhibited poor eye contact and his use of mannerisms and gestures was within normal limits. He was cooperative with the evaluation.

Mr. Chisolm did not exhibit significant deficits in his recent memory, concentration, attention or fund of knowledge. He recalled only one of three words after a brief delay, and recalled the remaining two with multiple cues, suggesting memory deficits. While he identified the current U.S. President, he had difficulty recalling additional prior presidents which may suggest deficits in his long-term memory. His identification of the similarities between objects suggested mild deficits in his ability to think in the abstract.

Mr. Chisolm correctly identified the date, day of the week, location, approximate time, and situation. In general, his speech was clear, of somewhat low volume, and of average rate. At times he provided excessive, irrelevant details but was amenable to redirection. He appeared to be spending a significant amount of energy trying to impress upon this examiner his positive attributes.

When asked, Mr. Chisolm described his current mood as "good" and typical mood as "very good." He denied current thoughts of wanting to hurt himself or others. He described his sleep, energy, and appetite in positive terms. During today's exam, Mr. Chisolm's affect [observed emotional expression] appeared consistent and within normal limits. He did not endorse current symptoms of significant mood disturbance (e.g., depression) or psychosis (e.g., hearing voices) and no overt signs of such were observed.

#### Diagnostic Impressions:

Based on the available data, it appears Mr. Chisolm's symptoms are best characterized by a diagnosis of *paraphilia, not otherwise specified*. According to the Diagnostic and Statistical Manual-Fourth Edition-Text Revision (DSM-IV-TR), a paraphilia describes an individual who experiences "recurrent, intense sexually arousing fantasies, sexual urges, or behaviors generally involving 1) nonhuman objects, 2) the suffering or humiliation of oneself or one's partner, or 3) children or other nonconsenting persons that occur over a period of a least 6 months." The "not otherwise specified" subtype indicates that the symptoms do not meet criteria for any specific paraphilia (e.g., pedophilia, fetishism). This diagnosis is based on data indicating a history of longer than six months in which Mr. Chisolm has experienced sexual arousal involving nonconsenting individuals (e.g., 11 - 13 year old girls).

In addition, Mr. Chisolm's memory deficits and other cognitive difficulties (e.g., executive functioning, ability to think in the abstract) meet criteria for *dementia due to head trauma*. Dementia describes an individual who suffers from memory impairment and other cognitive disturbances (e.g., language disturbance, problems with executive functioning), that often represent a significant decline from previous functioning and cause substantial impairment in the ability to function in the social and occupational realms.

#### Opinion:

Based on evidence that Mr. Chisolm has a mental abnormality or personality disorder and is likely to sexually reoffend, the Court previously determined that he met the criteria as an SVP and he was subsequently committed to the SVPP. His diagnoses of paraphilia, not otherwise specified, and dementia due to head trauma are generally chronic. He has not adequately addressed relevant dynamic risk factors for sexual recidivism (e.g., self-regulation difficulties, poor problem-solving, resistance to rules and supervision, hostility). As such, at this time, there is insufficient basis to opine that his mental abnormality or personality disorder has so changed that he is now safe to be at large and no longer likely to engage in acts of sexual violence.



Marla L. Domino, Ph.D.  
Licensed Clinical Psychologist

11/07/13

Date

|                          |   |                        |
|--------------------------|---|------------------------|
| STATE OF SOUTH CAROLINA  | ) |                        |
|                          | ) | COURT OF COMMON PLEAS  |
| COUNTY OF CHARLESTON     | ) |                        |
| STATE OF SOUTH CAROLINA, | ) |                        |
|                          | ) |                        |
| Plaintiff,               | ) |                        |
| v.                       | ) | Case No. 06-CP-10-2715 |
|                          | ) |                        |
| ALTON CHISHOLM,          | ) |                        |
|                          | ) |                        |
| Defendant.               | ) |                        |

### TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on October 21, 2014, before The Honorable R. Markley Dennis, Jr. in Courtroom 3E of the Charleston County Courthouse, 100 Meeting Street, Charleston, South Carolina; attended by counsel as follows:

#### APPEARANCES:

Jim Bogel, Esq.  
Appearing for State of South Carolina

Charles Brooks, Esq.  
Appearing for Alton Chisholm.

Deborah Garrison  
Circuit Court Reporter – 9<sup>th</sup> Judicial Circuit  
P O Box 901  
Johns Island, South Carolina 29457  
[dgarrison@sccourts.org](mailto:dgarrison@sccourts.org)

## In the Matter &amp; Care of Alton Chisholm

Case No. 06-CP-10-2715

Hearing of October 21, 2014

Before The Honorable R. Markley Dennis, Jr.

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1 THE COURT: Good morning.

2 MR. BOGEL: Was there a message  
3 from Mr. Brooks?

4 CLERK: He's on his way.

5 THE COURT: There was an accident  
6 on I-26 this morning, a fender bender. That  
7 stops everybody.

8 (DEFENDANT PRESENT)

9 (MR. BROOKS PRESENT)

10 THE COURT: Please be seated.  
11 This is in the matter of care and treatment  
12 of Alton Simmons (sic) -- excuse me,  
13 Chisholm. Alton Chisholm.

14 The Respondent is present. Mr.  
15 Chisholm, good morning.

16 MR. CHISHOLM: Good morning.

17 THE COURT: All right. This is  
18 your Motion?

19 MR. BROOKS: It is, Judge.

20 THE COURT: All right.

21 MR. BROOKS: Basically in this  
22 situation, Judge, I've got to tell you that  
23 we don't have an expert in this case.

24 THE COURT: That's what I was  
25 going to ask you, whether there was anything

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1 to contradict or to create an issue with the  
2 report that has been submitted or attached to  
3 your Motion?

4 MR. BROOKS: There is not, Judge.

5 THE COURT: Okay.

6 MR. BROOKS: Which is different  
7 than the other cases that I've had before  
8 you.

9 THE COURT: Absolutely.

10 MR. BROOKS: In this situation,  
11 Judge, my argument on behalf of my client is  
12 just that, you know, the State is delaying  
13 his annual review. Bogel's report comes from  
14 a year ago. He's been waiting for an annual  
15 review.

16 It's our position that the delay --  
17 not getting an annual review, sometimes that  
18 is common for some of the residents in the  
19 facility. My client should, obviously,  
20 should be able to bypass and have a trial.  
21 That's the argument that we would present to  
22 the court today.

23 THE COURT: Okay.

24 MR. BROOKS: I just didn't want to  
25 weigh you down with ---

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1 THE COURT: Oh, I understand. I  
2 don't fault him for that.

3 MR. BROOKS: Yes, sir.

4 THE COURT: Mr. Bogel.

5 MR. BOGEL: Thank you, Your Honor,  
6 may it please the court?

7 THE COURT: Yes, sir.

8 MR. BOGEL: The records we have  
9 show that Your Honor, and Your Honor has ---

10 THE COURT: I do.

11 MR. BOGEL: The chief administra-  
12 tive judge at the time, Judge Young, was  
13 notified of this annual review situation by  
14 letter dated November 12, 2013.

15 We received an Order filed on  
16 November 25, 2013, from an independent expert  
17 on behalf of the defense to do an independent  
18 examination of ---

19 THE COURT: Which was part of the  
20 reason for the delay?

21 MR. BOGEL: Right. For some  
22 reason -- and I can't explain it, but for  
23 some reason he did not see that document  
24 until April 22, 2014, about five months  
25 later.

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1           There was a transport Order that I  
2           got on April 9<sup>th</sup>. I then received a phone  
3           call from Mr. Brooks on April 22 that their  
4           guy could not help but their man didn't want  
5           to waive the hearing.

6           So the next step was to try to  
7           schedule a hearing. I e-mailed Mr. Michelle.  
8           We tried for June 18<sup>th</sup>, but the State's expert  
9           doctor, Dr. Domino, was not available on that  
10          date. So then it got set for today.

11          THE COURT:     Okay.

12          MR. BOGEL:     The State is prepared  
13          to go forward. We've got Dr. Marla Domino up  
14          here to testify. She did his last two annual  
15          reviews, including the one that we are here  
16          for today. If the court please, I can call  
17          her as a witness and put her under ---

18          THE COURT:     Well, let me ask a  
19          question because it unusual -- not unusual  
20          but -- I've noticed that you've submitted a  
21          report.

22          MR. BOGEL:     (Affirmative nod).

23          THE COURT:     The report is part of  
24          the file. He's submitted a report, as well.  
25          Are you relying on -- do you challenge the

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1 report?

2 MR. BROOKS: In all candor, Judge,  
3 I don't have anything to challenge ---

4 THE COURT: Yeah.. We appointed an  
5 independent. While certainly -- and I'm now  
6 the fact finder and the judge of the law,  
7 clearly an independent witness was -- we  
8 appointed, allowed you to have that, and that  
9 was retained. Obviously there -- the court  
10 could easily infer from that a negative  
11 result insofar as negative to this position.

12 MR. BROOKS: In all candor to the  
13 court, Judge, you know the only expert that I  
14 use is Thomas Martin.

15 THE COURT: I do.

16 MR. BROOKS: He's testified before.

17 THE COURT: He has.

18 MR. BROOKS: That's ---

19 THE COURT: And he was unable to  
20 provide any assistance in this case?

21 MR. BROOKS: Unfortunately,  
22 (affirmative nod), Judge.

23 THE COURT: I will leave it to  
24 you. From the standpoint of appeal, if you  
25 feel you -- I think the report is a part of

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1 the record, and the court can rely on the  
2 report. There is nothing to challenge the  
3 report. But if you want to have live  
4 testimony, please feel free to call. ---

5 MR. BOGEL: The only thing --  
6 excuse me. The only thing that we could  
7 provide the Court that you haven't already  
8 got is -- since the report was almost a year  
9 ago and a lot of time has passed, what these  
10 doctors always do is they check these guys'  
11 files since the report to see if there's any  
12 behavioral problems, changes or anything like  
13 that. She's prepared to testify about that,  
14 if Your Honor thinks it's necessary.

15 I mean, she's here if we need her.  
16 But given the posture of the case, I think  
17 it's set for a denial of annual review.

18 THE COURT: Well, if we had not  
19 had an independent evaluation then I would be  
20 incline to -- that's the time to get some  
21 follow up. But the fact of the matter is  
22 that we did have.

23 MR. BOGEL: Yes, sir.

24 THE COURT: The report indicates  
25 significant differences but -- why don't we

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1 do this? Let's put her on just for the sake  
2 of -- to talk about the submission of the  
3 report. Why don't we do that?

4 MR. BOGEL: All right. Thank you,  
5 Your Honor. Dr. Domino, would you step  
6 forward, please?

7 MR. BROOKS: Your Honor, before we  
8 do ---

9 THE COURT: Yes, sir?

10 MR. BROOKS: My client is itching  
11 to address the Court.

12 THE COURT: Well, I will be happy  
13 to let him address the Court after we take  
14 the testimony so that this witness can be  
15 released to return to her work. Okay?

16 MR. BROOKS: Thank you, Judge.

17 (WITNESS TAKES STAND)

18 MARLA DOMINO, having been sworn to  
19 tell the truth, and nothing but the truth,  
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. BOGEL:

23 Q. Just very briefly, Dr. Domino, are  
24 you the chief psychologist employed by the  
25 Department of Mental Health?

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1 A. Yes, I am.

2 Q. And has one of your responsibilities  
3 been doing annual reviews of people that have  
4 been committed under the sexually violent  
5 predator Act?

6 A. That's correct.

7 Q. Having previously testified and  
8 having been recognized as an expert witness  
9 in the field of Psychology and Forensic  
10 Psychology with regard to sexually-violent  
11 predator cases such as the one that we are  
12 here for today?

13 A. Yes, I have.

14 Q. About how many times?

15 A. Approximately sixty times.

16 Q. Okay. And are you licensed to  
17 practiced psychology in the state of South  
18 Carolina?

19 A. Yes, I am.

20 MR. BOGEL: Your Honor, with that  
21 preliminary, we would like to offer her as an  
22 expert witness in those fields.

23 THE COURT: Do you care to examine  
24 her as to her qualifications?

25 MR. BROOKS: No, sir.

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1 THE COURT: She will be permitted  
2 to render opinions in that area.

3 DIRECT EXAMINATION CONTINUED

4 BY MR. BOGEL:

5 Q. Dr. Domino, we have seen a copy of  
6 your report dated November 7, 2013; is that  
7 right?

8 A. Yes.

9 Q. Now, at the time that you wrote that  
10 report, what did -- did you have an opinion,  
11 to a reasonable degree of psychological  
12 certainty, as to whether or not Mr.  
13 Chisholm's mental abnormality had so changed  
14 that he was safe to be at-large and, if  
15 released, was not likely to commit acts of  
16 sexual violence?

17 A. Yes.

18 Q. And what is your opinion that you  
19 wrote in your report as far as that question  
20 goes?

21 A. That it was my opinion, that his  
22 mental abnormality had not so changed as to  
23 render him safe to be at-large in the  
24 community.

25 Q. Okay. What was the mental

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1 abnormality that was diagnosed by you on Mr.  
2 Chisholm?

3 A. Paraphilia not otherwise specified.

4 Q. Was there any other condition that  
5 he has, regarding a head injury or anything  
6 like that, that also factored into your  
7 findings?

8 A. Yes, I also diagnosed his symptoms  
9 of dementia to be due to head trauma.

10 Q. Okay. Now, have you -- in  
11 preparation for today's testimony, have you  
12 gone back and looked over his treatment  
13 reports and treatment records since the time  
14 that you last interviewed him for your report  
15 dated November of last year?

16 A. I did. It's not as thorough a  
17 review as I did for my report, but I do look  
18 to see if there have been any significant  
19 behavioral infractions or positive reports.  
20 I look at the latest quarterly or annual  
21 treatment plan.

22 Q. Okay. There is something called a  
23 BON, stands for Behavior Observation Note.  
24 What is a BON in the parlance of the  
25 Department of Mental Health?

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1           A.   Basically it's when a resident  
2           violates any rule of the program, they're  
3           given a behavioral observation note. They  
4           then go in front of the BMC, the Behavioral  
5           Management Committee, and they're able to  
6           either argue why they shouldn't have  
7           disciplinary action and, uh, -- they have  
8           conversation with the committee and  
9           ultimately the committee decides whether or  
10          not there should be any kind of room  
11          restriction or any kind of privileges taken  
12          away.

13          Q.   All right. Dr. Domino, in  
14          preparation for this hearing today, in  
15          reviewing Mr. Chisholm's records since the  
16          time that you did your report, what did you  
17          review and what have you found; as far as his  
18          activities, treatment; his behavior -- as far  
19          as behavior observation notes and things like  
20          that. What have you found since -- if you  
21          could update us, if you would, since the date  
22          of the report which was November of last  
23          year.

24          A.   Well, again, I just want to  
25          emphasize that it was a fairly cursory review

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1 of the records. What I did learn was that  
2 since seeing him last October, he has  
3 committed quite a number of violations in  
4 the program. I wish that I could give you a  
5 number. It's been at least twenty. It's  
6 difficult to discern from the records because  
7 there were multiple violations on the same  
8 day or the Behavioral Management Committee  
9 would address multiple violations in the past  
10 week on one day.

11 But there were things as minor as feeding  
12 the birds and as major as Mr. Chisholm was  
13 accused of having an erection in treatment  
14 group, standing naked at his cell door, being  
15 hostile to peers and staff. There was also,  
16 this past September they accused him of  
17 having, uh, fermenting juice in his room.

18 Q. What -- permitting?

19 A. Fermenting juice in his room.

20 Q. Oh, fermenting.

21 A. Yes. And one of the staff actually  
22 commented in the behavioral observation note  
23 that "this may explain why resident Chisholm  
24 has been more aggressive and violent lately."

25 Q. Is aggression and anger a fact that

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1       you are picking up on as you review, not just  
2       the stuff in your report from November of  
3       last year but the stuff you're looking at  
4       since then?

5           A.   Yes, this seems to be a very  
6       consistent theme with Mr. Chisholm, that he  
7       has a lot of aggression, a lot of hostility.  
8       He tends to blame others. And a reason that  
9       is important from my perspective is that  
10      research shows that the antisocial traits and  
11      hostility, blaming others, is significantly  
12      correlated with recidivating, uh, and sexual  
13      offenses in the future.

14          Q.   Is blaming others, such as his  
15      victims, is that also a factor that you  
16      discovered in your report that was dated  
17      November '13?

18          A.   Yes. The incident that occurred in  
19      the public swimming pool, Mr. Chisholm has  
20      consistently typified that as an accident,  
21      basically said the victim -- that the victims  
22      were brushing up against his genitals while  
23      he was teaching them to swim.

24          Q.   These were young girls, preteen  
25      girls?

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1 A. They were, (affirmative nod) around  
2 eleven years old.

3 Q. Based on your review of his records  
4 since the date of your report, has anything  
5 occurred that would change your ultimate  
6 opinion on whether or not his mental  
7 abnormality has so changed that he is safe to  
8 be at-large; and, if released, would not  
9 likely to engage in acts of sexual violence?

10 A. No.

11 Q. Is it still your opinion that he  
12 should remain in treatment right now?

13 A. Yes.

14 MR. BOGEL: Thank you. Please  
15 answer any questions that Mr. Brooks may have  
16 or that the judge may have.

17 THE COURT: Mr. Brooks?

18 MR. BROOKS: Yes, sir.

19 CROSS EXAMINATION

20 BY MR. BROOKS:

21 Q. You said that for the past year that  
22 Mr. Chisholm has gotten additional write-ups  
23 for bad ---

24 A. Yes.

25 Q. --- behavior or violating rules?

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1 A. Yes. Correct.

2 Q. Is that correct?

3 A. That is correct.

4 Q. All right. And did I hear you give  
5 a number?

6 A. I did not.. It's at least about --  
7 it seems to be about twenty. It could be a  
8 little more, a little less. It's difficult  
9 to discern the way that the minutes are  
10 written up and the way that they are dated.  
11 It's sort of difficult to follow the paper  
12 trail but that is my best estimate.

13 Q. I know that it's in your report that  
14 you talk about the onset or problems with  
15 dementia as a result of head trauma.

16 A. Yes.

17 Q. That's been a significant factor  
18 with Mr. Chisholm?

19 A. That was -- yes, one of the  
20 diagnosis that I gave.

21 Q. He's fifty-six, fifty-seven now?

22 A. Yes, I believe so.

23 Q. And I guess my question would be --  
24 he's been in the program for, what? I want  
25 to say five or six years now?

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1 A. Since February of 2009.

2 Q. Okay. Five years, going on six  
3 years?

4 A. (No verbal response).

5 Q. What would he have to do, in your  
6 opinion, in order to get out? What would he  
7 have to do in order to change your opinion  
8 that he would be safe to let go?

9 A. Well, there are a number of factors,  
10 some of which I have already discussed which  
11 are related to recidivating in the future.  
12 So I would like to see Mr. Chisholm improve  
13 dramatically on these factors.

14 Some of them have been poor self-  
15 management strategies. For example, poor  
16 coping, mood swings with self-regulation.  
17 These are things that are in his treatment  
18 plan, including the latest one that they have  
19 indicated as a goal for Mr. Chisholm: to  
20 regulate his moods, more to not use emotion  
21 to deal with things when he is upset. He is  
22 often noted to threaten staff, threaten  
23 peers. He's gotten in several physical  
24 fights when he has been upset. So these are  
25 things that I'd like to see him improve on.

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1 Another factor that has been shown to be  
2 related to recidivism is cooperation with  
3 supervision. So just to, uh, keeping  
4 consistent with the rules of the program.

5 Even though feeding the birds seems so  
6 minor to us -- and it is, in and of itself.  
7 It is minor but one of the factors that we  
8 look at is, can this individual keep the  
9 rules that are imposed on them? That says  
10 something about whether they're able to keep  
11 the rules that society imposes on them when  
12 they are released in the community. So I  
13 would like to see much fewer observation  
14 notes for Mr. Chisholm.

15 He often demonstrates what is called  
16 aggravance hostility attitude in that the  
17 behavioral management committee has noted,  
18 when they meet with him about his infractions  
19 that it is very rare that he accepts  
20 responsibility for what he did and he often  
21 blames whoever else was involved: a peer, a  
22 staff member, or he makes excuses for his  
23 behavior.

24 So these are things that I would like to  
25 see Mr. Chisholm improve upon before I would

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1 change my opinion.

2 Q. A question, Doctor, is dementia --  
3 is his dementia a significant factor in his  
4 not conforming to the rules? Not doing what  
5 he is supposed to do per the program?

6 A. Not at this point, from my reading  
7 of the records. From what I can tell, he is  
8 still able to understand the rules. He knows  
9 what is expected of him. In the future, I  
10 would expect -- dementia is a progressive  
11 disorder, so I would guess in the future --  
12 and I can't tell you -- you know, five, ten,  
13 fifteen years, it would be a factor. But  
14 from what I glean from the records, right now  
15 it is not a significant factor to adhering to  
16 those rules.

17 Q. If the dementia progresses, as you  
18 anticipate that it would, would that put him  
19 in a position to where he could never  
20 conform, change his behavior?

21 A. I suppose. I mean, I can think of a  
22 scenario where somebody is so incredibly  
23 demented that they cannot control their own  
24 behavior. But Mr. Chisholm, from my clinical  
25 perspective, is nowhere near that.

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Before The Honorable R. Markley Dennis, Jr.

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1 MR. BROOKS: Beg the court's  
2 indulgence.

3 THE COURT: Certainly.

4 MR. BROOKS: (Sidebar with Mr.  
5 Chisholm) -- thank you. No other questions.

6 THE COURT: Redirect, Mr. Bogel?

7 MR. BOGEL: I have nothing  
8 further. Thank you.

9 THE COURT: Thank you, Doctor.  
10 You may step down.

11 (WITNESS STEPS DOWN)

12 MR. BOGEL: With the court's  
13 permission, may she be excused?

14 THE COURT: Any objection?

15 MR. BROOKS: No objection.

16 THE COURT: You are also free to  
17 leave. Thank you so much.

18 MR. BROOKS: Your Honor, back to  
19 the fact ---

20 THE COURT: Yes, sir?

21 MR. BROOKS: --- that my client  
22 wants to address the court, he wants me to  
23 put him on the stand. May I?

24 THE COURT: Sure.

25 MR. BROOKS: We call Alton

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1 Chisholm.

2 (WITNESS TAKES STAND)

3 ALTON CHISHOLM, having been sworn to  
4 tell the truth, and nothing but the truth,  
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BROOKS:

8 Q. All right. Alton, you said you  
9 wanted to tell the court some things about  
10 this annual review, for me to put you on the  
11 stand. What is it that you want to tell the  
12 court?

13 A. What I want to tell the court about  
14 the annual review was that, uh, uh, -- for  
15 one, the reason why I'm here, and some other  
16 situations that Ms. Domino said that, uh, --  
17 it's a bunch of lies. And I can prove that  
18 with evidence and stuff, you know.  
19 Especially about me being buck-naked in my  
20 room and stuff like that. And one day if I  
21 could address that, I could prove that all of  
22 that is lies, even with a bunch of situations  
23 that she said ---

24 Q. What proof do you have that that is  
25 a lie?

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1 A. What proof do I have?

2 Q. (Affirmative nod).

3 A. That no one ever seen me in my room  
4 buck-naked. The officer was lying on me  
5 because -- that just happened recently and  
6 all, by the officer driving -- choking me  
7 outside my -- choked me on September 24<sup>th</sup>.

8 I mean, they got all kinds of situations  
9 going on in there, which basically I  
10 addressed to you a number of times on the  
11 telephone, telling you that I'm fearing for  
12 my life in that program, how the officers --  
13 some officers said, not all of them, that  
14 they -- I got about a thousand complaints  
15 that I've put in the last five years about  
16 what's been going on, about how they have  
17 neglected me, denying me. I can prove all of  
18 it.

19 I mean, I don't have any way into court  
20 to prove the situation but it's how I -- but  
21 there's things that I know about what's going  
22 on in the program that I can prove all --  
23 nobody in that program can tell you that I  
24 was standing there buck naked in the room or  
25 no sexual acts of what-have-you. They can't

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1 tell you that they've seen me with my penis  
2 in my hand or whatever. They might have seen  
3 me looking through my window, the one room  
4 (sic) that we have in that place. I have  
5 heard so many times about so many things  
6 about what they tell me about -- and I got so  
7 many charges, this and that. I mean, there  
8 are about five or six officers that I've been  
9 knowing since I've been there, about five or  
10 six.

11 They are just shooting at me, left and  
12 right, the -- giving me charges because they  
13 know that I'm going to annual review. I  
14 mean, you know, just lying on me. I've got  
15 about -- twenty, thirty or forty charges in  
16 the last three months. Like she said, I'm,  
17 uh, -- what you call it? They say I'm  
18 'disturbed', fussing and carrying on, this,  
19 that and the other. The only way that I know  
20 I'm fussing is when someone is lying on me  
21 and stuff like that. When they lying on me,  
22 I try to protect myself, speak up if they're  
23 saying the wrong things or doing the wrong  
24 things to me. They say I disobey all the  
25 rules.

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1           You know, I've got the proof saying -- if  
2           you got the proof, you know, that I saying  
3           all these things to you, you -- you  
4           definitely are worse than me. They keep  
5           saying that I be trying to disobey orders and  
6           what not, and that's a lie.

7           I got evidence here that I want to speak  
8           to the honorable judge about, uh, why I'm --  
9           why I shouldn't have been in the program from  
10          square one. I don't have any right to be in  
11          program.

12          I want to speak to you, The Honorable  
13          Judge Dennis, Jr. if you don't mind about  
14          some stuff that I've written down. It  
15          wouldn't take too long to read it, if you  
16          wouldn't mind. I just need to speak to this.

17          Q. Let me stop you. Remember I told  
18          you, we're just here for that annual review  
19          hearing? You're already in the program.  
20          That issue has already been decided.

21                 THE COURT: That is the not the  
22          issue today. The question is whether or not  
23          you should continue in the program, for a  
24          later date. This is an annual review and  
25          you're not there yet.

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1 MR. CHISHOLM: Yes, I understand  
2 that.

3 THE COURT: Because you've got  
4 to get to the point of being released, and  
5 you're not there yet.

6 MR. CHISHOLM: Yes, sir, I  
7 understand that but I'm saying that Judge  
8 Williams, Judge, uh, ---

9 MR. BROOKS: He's rehashing ---

10 THE COURT: I understand that and I  
11 understand that -- he certainly could have --  
12 I don't know whether he could have appealed  
13 that or not, but that's a review that could  
14 have already -- that is already passed. The  
15 only purpose of this is to determine whether  
16 or not, based on the annual review, you  
17 should continue in the program. I don't have  
18 any evidence to the contrary.

19 In fact, you've done nothing but  
20 really support what the psychiatrist said  
21 this morning, with your testimony. You've  
22 really confirmed by your testimony that she  
23 is correct in her assessment.

24 I appreciate it, but this is not the  
25 time for that hearing.

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1           Let me ask a question since I've not  
2           -- since the administrative law judge's  
3           appeal now go directly to the Supreme Court,  
4           is this not an agency where persons can file  
5           matters to be heard by the administrative law  
6           judge.

7           MR. BROOKS: As far as the issue  
8           that he's talking about?

9           THE COURT: Yeah. I mean, I --  
10          it seems to me to be the same availability  
11          that they have in prisons. I've never seen  
12          one. Certainly this is an executive branch  
13          and I would assume that they have access to  
14          the administrative law judges. Do they?

15          MR. BOGEL: I've only practiced in  
16          that court three times.

17          THE COURT: Yeah, I don't know.

18          MR. BOGEL: From what I've read  
19          and from talking to judges that work there,  
20          like Judge Anderson, that is kinda what they  
21          do, handle ---

22          THE COURT: Yeah.

23          MR. BOGEL: --- grievances from  
24          prisoners and ---

25          THE COURT: That is precisely my

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1 point. You keep talking about waiting to get  
2 to court, a way to get to court. There is a  
3 court. It's the administrative law court.  
4 For me to go any further in advising, it  
5 would be practicing law and I -- I haven't  
6 practiced law in twenty-one years, so it is  
7 probably a good idea that I not give any  
8 advice in that regard.

9 The court is not concerned about  
10 your ability to have your concerns grieved in  
11 a proceeding. That is available. That is  
12 not what this proceeding is for today. That  
13 is the concern that I had.

14 Mine is restricted really to the  
15 pleadings that bring me here. The pleadings  
16 that bring me here are your Motion to have a  
17 trial, basically. But there's no evidence to  
18 conflict or challenge the finding which the  
19 statute provides. Based on that, I think the  
20 statute is pretty clear as to what the  
21 recourse is. So mine is a matter of law.

22 Mr. Chisholm, you seem to want to  
23 speak some more.

24 MR. CHISHOLM: Yes, sir, I do.  
25 I do have evidence. I have a little bit of

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1 evidence, I have a bunch of evidence that I  
2 want to speak on.

3 THE COURT: I appreciate that.  
4 The evidence that you're wanting to address  
5 has nothing to do with the issues that I am  
6 handling today.

7 MR. CHISHOLM: Yes, sir, but I  
8 just want to speak on the issue of the papers  
9 that they gave me today. It says, "Where-  
10 fore, the State will present and" -- quote --  
11 "grant such other and further relief as is  
12 just and proper."

13 THE COURT: Yeah. Well, it's  
14 being denied because that's what the law  
15 says.

16 MR. CHISHOLM: (Negative  
17 gesture).

18 THE COURT: Your Motion is denied.  
19 It's that simple.

20 MR. CHISHOLM: But ---

21 THE COURT: There is no evidence  
22 to refute the findings by the agency and,  
23 therefore, by law it is denied. Thank you.

24 Mr. Bogel, if you would prepare the  
25 appropriate Order, please, sir.

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1 MR. BOGEL: Yes, Your Honor, I  
2 will.

3 MR. CHISHOLM: I don't ---

4 MR. BOGEL: E-mail a copy to your  
5 law clerk?

6 THE COURT: That would be fine.

7 MR. BOGEL: Send a copy to Mr.  
8 Brooks?

9 THE COURT: Yes, sir. Copy Mr.  
10 Brooks.

11 MR. BOGEL: Thank you, Your Honor.

12 THE COURT: Thank you very much.  
13 Thank you, Mr. Chisholm.

14 MR. BROOKS: Thank you, Judge.

15 THE COURT: Thank you, Mr. Brooks.  
16 Appreciate it.

17 (HEARING CONCLUDED)  
18  
19  
20  
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22  
23  
24  
25

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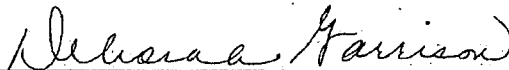
STATE OF SOUTH CAROLINA )

) CERTIFICATE

COUNTY OF CHARLESTON )

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9<sup>th</sup> Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held in the within action heard on October 21, 2014, before The Honorable R. Markley Dennis, Jr.;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison

Charleston, South Carolina  
May 7, 2015

From: "Pro Se, Alton M. Chisolm." "ISSUE Number (6) over"

"Issues" in Exhibits, Motion of Discovery, etc., CASE LAWS. Appellate, Court, I will <sup>(have)</sup> ~~(staple)~~ the (Copy), Exhibits, etc., Motion of Discovery with: The "Pro Se, Brief" so that: You, Appellate Court, etc., CAN "See" these "Direct ISSUES in Newly Discovery Evidence AND Evidence" that (was not Presented) From: The "Original," Court, "Matters" From, "July 19, 2002 to August, 2003, False Lewd Act," Conviction.

Appellate, Court, etc.: These Exhibit Copies in: MY, "Pro Se, Brief" will "enlighten, you" with: The 2014-(ENTRY) CASE, LAW: MATTHEW JAMISON V. SOUTH CAROLINA, (APPELLATE), CASE, NO. 2012-212996 OPINION NO. 27454 (State of South Carolina IN The Supreme Court) Heard-MARCH 5, 2014-October 22, 2014 (S.C. Code ANN § 17-27-45 (C) 2014). Appellate, Court, I will - Enlighten: you with "Some CASE), LAWS," For, this July 19, 2002, Lewd Act, Conviction-Concurrent with MARCH, 1996, Plea, Conviction.

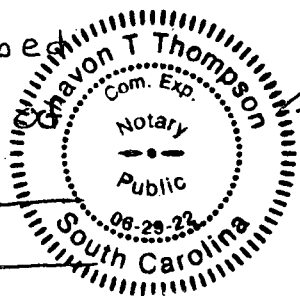
Appellate, Court, etc.: "Please, ENLIGHTEN, yourself with "CAUTION" AND UPON: "Reading "All" these ISSUES, etc., CASE, LAWS". I hope AND PRAY that: you will, "Grant, My, IMMEDIATE Release" in the "S.V.P., MATTERS upon, Me.

SWORN or AFFIRMED AND SUBSCRIBED

Before Me This, 8th day

September, 2016

[Signature]



Sincerely,

Alton M. Chisolm

Alton M. Chisolm

My Commission EXPIRES, 08-29-22

Sign: Alton M. Chisolm

South Carolina Court of Appeals  
County of Columbia  
Alton M. Chisolm #241794

Applicant,

VS.

The STATE of South Carolina  
Respondent

(IN The General Session  
(NINTH Judicial Circuit Etc.)

(CASE No.: 05-CP-10-267 - CASE

(NO.: 06-CP-10-2715-CA. NO.: 2014-002351

(Please, See, Motion of Discovery,  
(Original, Exhibits.

(Pro Se Brief For Relief,

(ARGUMENTS, ACTUAL INNOCENCE

(Jurisdictional, Defects, etc.,

(Newly Discovery Evidence, Issues,  
(For: (Number) etc., Issues.

I, Alton M. Chisolm, Hereby files The "Pro Se,  
Brief, For, Relief: ACTUAL INNOCENCE Jurisdictional  
Defects, etc., Original Document ARGUMENTS, Newly Discovery  
Evidence, Issues For Number (6), etc., ISSUES AND  
Seeks To show The Follow:

(1). The Applicant's Guilty Plea was Not Freely Knowingly  
Voluntarily AND Intelligently given to the court because:  
"The Applicant was Not Advised of the Critical elements  
OF: The Offense(s) "ON The "Original" RECORD" (1). July 19, 2002,  
There was AN "Indictment (csc)" that was "FALSE" AND WAS A  
"\$75,000 - BOND" For, Alton M. Chisolm: There was "The (Real  
Suspect - James Jones) AND (1) victim, (UNCLE - Clifford White)  
(Pee wee) The Real Suspects who Did The Lewd ACT, etc.,  
(CSC), Convictions: The Court "ENTERED" Me AS the  
the SUSPECT IN the Pool AND: The (False ENTRY) -  
"ON The "Original", court, Sentence, Records, Cause".  
PAGE 1 of 2

A CASE LAW, VIOLATION, "2014 "ENTRY" CASE, LAW: MATTHEW JAMISON V. SOUTH CAROLINA-(APPELLATE) CASE NO. 2012-212996-OPINION NO. 27454 (STATE OF SOUTH CAROLINA IN THE SUPREME COURT)-HEARD MARCH 5, 2014, OCTOBER 22, 2014-(S.C. CODE ANN § 17-27-45(C) 2014) IN AS MUCH UNDER CONTROLLING LAWS IT IS WELL RECOGNIZED THAT: A (DEFENDANT MUST BE "ADVISED" OF THE CRITICAL ELEMENTS) OF: THE OFFENSES TO WHICH HE IS CHARGED OR: THE "PLEA IS CONSTITUTIONALLY INFIRM" HENDERSON V. MORGAN 426 U.S. 637 (1976); PITMAN V. STATE 337 S.C. 597 S.E. 2d 623 (S.C. 1999).

IN SO MUCH IN BOYKIN V. ALABAMA 395 U.S. AT 245, 89, S.C. 1713 (1969). THE NATION'S HIGH COURT MADE IT CLEAR THAT RULE (11) FEDERAL, RULES OF CRIMINAL PROCEDURE ARE BINDING ON THE STATE COURTS AS: A MATTER OF (FEDERAL CONSTITUTIONAL), LAWS AND THAT: THE (TRIAL COURT), JUDGE WAS REQUIRED TO "EXPLAIN" THE (CRITICAL ELEMENTS ON THE RECORDS): HE, ETC. I, WOULD HAVE NOT PLEADED (GUILTY) AND WOULD HAVE INSISTED UPON GOING TO TRIAL.

(2). THE APPLICANTS GUILTY PLEA WAS NOT FREELY, KNOWINGLY VOLUNTARILY AND INTELLIGENTLY GIVEN IN: VIOLATION OF HIS "5<sup>TH</sup>, 6<sup>TH</sup>, 14<sup>TH</sup> AMENDMENT RIGHTS AND HIS RIGHTS OF DUE PROCESS", BECAUSE: I WAS NOT GIVEN (FULL DISCOVERY), EVIDENCE IN: "PURSUANT TO RULE NO. (5)" BEFORE: ~~I~~ **I** GAVE MY GUILTY PLEA.

S.C.R.C.P. RULE 5(A)(1)(d) DISCLOSURE IN CRIMINAL CASES: DISCLOSURE OF EVIDENCE BY THE PROSECUTION; INFORMATION.

REPORTS OF EXAMINATION AND TESTS (ETC), UPON REQUEST OF THE DEFENDANTS: THE PROSECUTION SHALL PERMIT THE DEFENDANT TO INSPECT AND "COPY ANY RESULTS" OR REPORT OF PHYSICAL OR MENTAL EXAMINATIONS, (ETC), COPIES THAT ARE WITHIN "THE

Possession, etc., Control of the Prosecution, etc. to the Attorney."

The Applicant contends he was Arrested with (1) Lewd ACT CONVICTION AND there upon: INDICTED with A <sup>\$75,000</sup> (False, <sup>BOND</sup> C.S.C.) ON The "Original Court," Records). The Prosecuting body involved (Ordered AND Demanded) that: The Applicant submit Various Samples For (DNA) ANALYSIS that by: "Order was Supposedly Taken to the Sled Laboratory to obtain A Possible (DNA) MATCH to the Applicant: IT becomes Perspicuous with the Applicant being "Alleged to have committed A Sexual," Battery that such laboratory testing is "Crucially Material to Aid in Determining AND or Establishing guilt or innocence" of the Accused; It is the Applicant's position that such laboratory testing is exculpatory in nature: "with there being (ANOTHER ASSAILANT) being Arrested AND DETAINED, (specifically, JAMES JONES; Clifford white) AND NOT the Applicant, Alton M. Chisolm: IN Order For the Applicant, Guilty Plea to be Deemed AS ON that is freely, knowingly, Voluntary or intelligently given, the Applicant, by: The Applicant, Rights OF (DUE PROCESS) UPON Request which the Applicant did make Must be given: The (Crucially-Material) portion of his (MANDATORY DISCOVERY), Evidence: Due to this (Error), the Applicant in Giving said guilty Plea such A guilty

"Plea is infirm"-TURNER V. State (S.C. 1999) 335 S.C. 362 517 S.E. 2d 442; U.S. V. JONES 143 F3d 1417, 1418 (11th Cir 1998)"  
Thus (ANY-violation) OF (Rule 11's) Core terms/CONCERNS Absence OF (Coercion), understanding OF: The Charges AND Knowledge OF (the CONSEQUENCES OF that Plea)-MANDATE that: The "Plea be set ASide" United States V. JONES SUPRA. Suppression OF Evidence,

Deemed Favorable to the: The Defense irrespective of the (Good Faith) or (Bad Faith) of: The (Prosecution) ~~is~~ Is (Grounds For VACATION) OF the Sentence AND Convictions For: The July 19, 2002 - August-2003 - (Lewd-Act), Conviction, Concurrent, Plea with (1996 Lewd ACT), Convictions, For: The Prosecution to seek the Applicant's Guilty Plea (well-knowing): They "Did Not" (release) to the Applicant his (Full-Discovery) - Evidence in: Pursuant to rules constitutes AN ACT OF: (Prosecution-Misconduct) AND violates, (rule 11's Core terms) concerns United States v. Simmons 763 F2d 529, 533 (2<sup>nd</sup> Cir 1985) United States v. Muriel Supra, DUE to this Action the Applicant's guilty Plea was not Freely, knowingly-voluntarily AND intelligently given in: Violation of his-5<sup>th</sup>, 6<sup>th</sup> AND 14<sup>th</sup>, Amendments rights AND his Rights of Due Process. "Had this not been done the Applicant would not have Plead guilty AND would have insisted upon going to Trial."

(3). was the Applicant's 5<sup>th</sup> 6<sup>th</sup> AND 14<sup>th</sup> Amendment Rights OF, the U.S. Constitution AND his Right OF, Due Process-violated IN Accepting the Application's guilty Plea when: There was A "Procedural-Defect" in the Establishing OF Indictment Number (96-GS-10-1261) For: Lewd ACT UPON A MINOR Child Convened ON March 4 1996? SCRC P-Rule-3 (c) States in haec-Verba:

ACTION ON warrants within (90) days - After - Receipt OF AN Arrest Warrant From the Clerk OF Court, the "Solicitor shall take Action ON the Warrant by (1) Preparing AN indictment For Presentment to the Grand Jury, which Indictment shall be FILED with

The Clerk OF Court Assigned A Criminal (case) Number, AND Presented to the Grand Jury; (2) Formally dismissing the Warrent, Noting on the (Face of the warrent) the Action taken; or (3) Making (other) Affirmative disposition IN Writing AND Filing Such Action with the Clerk of court."

Rule 3(d) states in haec verba:

"Extension of time: The Solicitor MAY Petition the Circuit Court For AN (order) delaying on the Warrent as Set forth above," For Successive (90) day Period if the Circuit Court Specifically Finds good Cause For Such delay For each Successive (Ninety), day period."

S.C. Code ANN § 17-7-730 AND S.C. Code ANN § 17-13-150 requires that: The Prosecuting body Fulfill ~~and~~ See that all the duties requirements and rules of Criminal Procedure related to: "Due Process" are adhered to be Completed within the Court.

IN Order to understand the Meaning of ANY "Statute or Phrase of law," it is necessary to Determine OF the language as it is used in the Particular Context; ROBINSON V. Shell Oil Company 117 S.Ct. 843 (1997). Article 12 § 2 utilizes the words "Shall Provide..." IN this Context "Shall" is MANDATORY. See UNITED STATES V. MYERS 106 F3d 936, 941 (CA 10 1997). The Warrent (ENTERED) Should have been "Nol Pros" ~~and~~ IF The Prosecuting body wanted to Continue the Cause, a (New warrent or direct Indictment) Should have been issued. This was Not done AND

IN "Violation" OF the law: The (Double Jeopardy), Clause embodied in the 5<sup>th</sup> Amendment. Protects against-- (Second Prosecution) For the (Same offenses) after ACQUITTAL or Conviction and Protects against Multiple Punishment For the Same offenses. State v. Easter (S.C. 1997) 327 S.C. 121, 489 S.E.2d 617. The Applicant did NOT have (Factual Knowledge) regarding the Over-Whelming "Violations of My Due Process," Rights.

(4). Counsel for the "applicant inept and Constitutionally Ineffective in violation" of: The Application's (5<sup>th</sup>, 6<sup>th</sup> AND 14<sup>th</sup> AMENDMENT), Rights of the U.S. Constitution AND: the (LAW of Due Process) AND "erroneously", Advised the Applicant to give: A Guilty Plea that was NOT freely, knowingly, voluntarily and Intelligently given for the following reasons: (1). The (<sup>JULY 19, 2002</sup> Charge) Against (ALTON M. CHISOLM). (1) Particular (Alleged-Victim) to wit. (Jaelee Walls), when the (Portion of Discovery) that were released to: The Applicant (clearly) indicated that (Jaelee Walls): "Identified (ANOTHER INDIVIDUAL) AS the Perpetrator of: The "Alleged" Crime AND NOT the Applicant, Chisolm. "Counsel "fell well below" standard of Counsel, Appointed in such matters". If it had not been for, Counsel's, Performance: The Applicant, ALTON M. CHISOLM would not have "Plead Guilty" and would have (Insisted) upon going to trial. (2). Counsel was "inept"

AND Constitutionally (ineffective and erroneously) Advised: The "Application to Plea ON (Indictments) that were: (Defective) and (ENTERED) "ON THE RECORD," to, Convict, "Alton M. Chisolm". Counsel should have (Motion) to "Quash" The Indictments."

(5). Counsel was inept and Constitutionally (ineffective) Because: Counsel Failed to Protect the Applicants' (due-Process) Rights and (erroneously Advised), Alton M. Chisolm to: Plea ON INDICTMENT that had AN (additional) — "Procedural Defect" in that "they were not (properly-filed) with the (clerk) of court. If the Applicant knew Counsel would have allowed these "Numerous-Violations" of his "Due Process, rights" to occur: The Applicant would not have Pleaded guilty: He would have (relieve) Counsel, Requested, "new counsel" and would have insisted upon going to "Trial". Counsel did not bring this to The (Attention on the Court) Or the Applicant, "Alton M. Chisolm". Counsel also should have moved to (Quash) the Indictments. Thus it is "Federal-Law AS determined by the (U.S. Supreme Court)" that A "guilty-Plea" is (void) if defendants' Counsel was "inept and Constitutionally, ineffective". "Pennsylvania EX Rel Herman V. Chaudy" 350 U.S. 116, 76, S. Ct. 223 (1956), UPON, Alton M. Chisolm.

(6). Did the indictments of "South Carolina AS Constructed By the language AND OR Charge Contained therein Create AND OR form Conclusive Presumption(s) that took away the Defendants' "Presumption of innocence"

AND automatically shift the burden of Persuasion to the defendant in regard to the "Crucial elements of dispute in violation of the applicants' 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendment, rights of the "U.S. Constitution" AND the law of due Process". Thus such was utilized to "Manipulate, Mentally AND Psychologically", (Coerce and force) the applicant-to-give A guilty Plea that was not Freely, Knowingly, voluntarily and intelligently given. AN: "Abuse of discretion" occurs when: the Court is controlled by some (error of LAW) or when the (order), based upon finding is without: (Evidentiary Support or facts). "Sharpes v. Sharpes 535 S.E. 2d 913, 342 S.C. 71 (S.C. 2000). "The Criminal court can have (Subject Matter Jurisdiction) All day long, but " (without the Indictments)" that "power" is useless: The " (Lack thereof does effect their Ability to hear cases)" of: this general class to which the Proceedings is Question belong. "To determine otherwise is AN (error) of LAW."

(7). Did the trial Court lack (Subject-Matter-Jurisdiction) due to the (Indictment defects) Embodied in My "Brief" OR Petition. The Applicant contends "Subject Matter Jurisdiction" is the "Power" to "hear AND Determine", Cases of: A General CLASS" to, which the "Proceedings is Question" Belong. "Bell V. Monsanto Corp. 579 S.E. 2d 325 (S.C. 2003)", Subject-Matter Jurisdiction does not only cover AND or involve whether or NOT: The "Matter resides in A Proper Court of Jurisdiction". The Court (power) To, "Hear AND Determine Cases" is also "(define as the Courts Ability to hear AND Determine, Cases Thus (Subject Matter Jurisdiction) Also involves (ANY Issue) that may (affect) that (power) AND"

Ability to ACT IN ACCORDANCE to law AND such issues CAN be raised AT (ANY Time) AND: The Court Shall NOT Fail to Take Notice. BROWN V. STATE 343 S.C. 342, 540 S.E. 2d 846 (2001); BROWNING 320 S.C. AT 368, 465 S.E. 2d AT 359 Citing State V. MUNN 357 S.E. 2d 461 (S.C. 1987), The Applicant did NOT Make AN Objection About these Matters at his Plea, hearing. Never- The less: The "Indictment (Defects)" "Argued" in the Applicant's, • (BRIEF) Serve to MAKE the indictment wholly INVALID." • "Defects in "AN Indictment" that Are of: Such A "Fundamental Character" AS to Make AN Indictment (wholly invalid) Are NOT subject to Waiver by: The Defendant 41 AM. JUR. 2d Indictments AND Information §299 (1968)

(8). The Applicant for the Sake of this (Argument) Will NOT Dispute the findings Made in "State V. GENTRY." • 363 S.C. 93 610 S.E. 2d 494 (2005). IN AS MUCH what The "Applicant, ATTON M. Chisolm" does dispute is whether or NOT the holdings made there Are to be Applied (Retroactively) in this case. The (Supreme Court) was unequivocal when it stated in Haec Verba:

"Newly ANNOUNCED Constitutional, Rules" should NOT be Applied "Retroactively to Cases Pending ON Collateral, Review" unless the Rule PLACE Certain Kind OF Primary, Private individual Behavior OR CONDUCT beyond the (Power of criminal) law-making Authority to Proscribe. MAKEY V. UNITED STATES 401 U.S. 667, 692 (1971) holding that BATSON V. KENTUCKY 476 U.S. 79 (1986); UNITED STATES does NOT APPLY "Retroactively to Cases ON Collateral Reviews) YATES V. AIKEN 484 U.S. 211 1988; UNITED STATES V. JOHNSON 457 U.S. 537 (1982).

IN AS MUCH IN State V. Anderson 439 S.E. 2d 835 (1993),  
The Court Reasoned A (New Rule) OF Criminal Procedure  
would be Applied Prospectively only AND that (Full-  
Retroactivity) Should be Permitted only in those cases  
in which: The Trial Courts' Action is "without Jurisdiction"  
OR is Made Void because: The defendants' Conduct is  
NOT Subject to criminal SANction. A "New" Rule of criminal  
law which does NOT Fall into one OF those Categories  
Should be Applied Retroactively, but (ONLY) to those cases,  
Pending ON (direct Review) At the (Rule) Set Forth in  
STATE V. ANDERSON SUPRA. This case does not FALL <sup>(into)</sup> (either)  
OF: The Categories Warranting (Full) Retroactivity;  
It Applies only to those cases (Pending) ON (Direct-  
Review) "At the time it was decided" State V. Jones  
439 S.E. 2d 282 (1994). HENCE by the Doctrine  
OF STARE DECISIS, Since it would be A Contradiction  
OF (clearly Established LAW), it is NOT Permissible  
to Apply the "(Newly ANNounced LAW AND Holdings)  
Made in State V. Gentry Supra, Retroactively  
to Appeals ON (Collateral Review) which is what  
the Applicant's case is". IN AS MUCH due to the -  
(Numerous Defects) in the INDICTMENTS AND -  
the (Holding) Made in the (Gentry) Court NOT being  
Applicable (Retroactively) ON (COLateral), Appeal:  
The Court "does-lack-Subject-Matter-Jurisdiction"  
STATE V. ELMORE, 279 S.C. 417, 308 S.E 2d 981 (1983)."

(9). The Application APPLY these (Arguments)

To "All" (The Indictments Defects) issues contained  
• Within his "Brief," etc with: The Sufficiency of AN  
INDICTMENT - being: A Jurisdictional (Prerequisite) in case  
"where AN INDICTMENT is need": The Results AND or  
Outcome is the Same: The Trial Courts' "Subject  
• Matter JUDICIARY ACTION is thereby (Nullified) by:  
The use of the (INSUFFICIENT, INDICTMENT) AND:

The Trial Court is Prohibited From INVOKING AND  
OR ENACTING its' (POWERS) OF "Subject MATTER Jurisdiction".  
EVEN if you Seperate the "two" Concepts: The Result  
AND OR Outcome is the "Same". To View otherwise is  
AN "(ERROR) OF LAW". IN-AS-MUCH there was NO-  
HOLDINGS Made there that would Serve to Detach  
From: The (INDICTMENT), OF The 5<sup>th</sup>, 6<sup>th</sup> AND 14<sup>th</sup> AMENDMENT,  
• Issue, Embodied in the ISSUES of the "Brief," etc, Documents

There was no holding Made in that Same  
(Gentry) Court that would Serve to Detach From:  
The INDICTMENT the Issues Related to (Due-Process)  
• Embodied in the "Brief" of, ALTON M. CHISOLM

Pursuant to Rule 59(E). Did the Trial Court Lack  
Subject MATTER Jurisdiction due to the (Procedural  
Defects) in that the Prosecution went Beyond  
the (180) DAY Rule? IN AS MUCH in Pursuant to Article

- V § 4 of: The South Carolina Constitution. It is (Ordered)
- that "All" (Criminal - Civil - cases) in: The (STATE of South Carolina), "shall be disposed of within (180) days From: The Date of the "Defendant, Alton M. Chisolm", ARREST. Provided, however, that the Circuit Court May (Continue) A Criminal or Civil, Case beyond (180) DAYS By: A (written ORDER) if: The Court DETERMINE that "EXCEPTIONAL, Circumstance, EXIST"

This (ORDER) does not create or define A Right of A Defendant to A (Speedy), Trial AND: "A Written 'order' wasn't ORDERED."

S.C. Code ANN § 1-7-730 AND S.C. Code ANN § 17-13-150. REQUIRES that Prosecution (Fulfil) and See that (All) duties Requirements AND Rules of Criminal AND Civil, Procedure Related to (Due Process) AND the (Constitution) Are adhered to AND completed within the Court. Article 12 § 2 of South Carolina, Constitution is clear AND UNambiguous "shall is Mandatory? State V. Carson 317, S.C. 430, 431, 454, S.E. 2d 888, 889 (1995).

Therefore it can be Factually stated that - NOT ONLY by the Applicants, Right of (Due Process) But Also by: The Provisions of (Article V. § 4 of The South Carolina, Constitution), it is (Mandatory) that the Defendants (Due Process), Matters be Disposed of before the (Criminal or Civil, Court) within (180) DAYS After the Applicants Arrest.

The warrants in Question For the Most recent - Charges Never the Less, the "Warrants Specified were Served on the Applicant; July 20, 2002 AND August 7, 2002" This include the (Direct) Indictment. This Means by the - Provision set Forth Pertaining to the (Article V. § 4 of the -

S.C. Constitution). The (Prosecution AND Trial), Court had UNTIL ON OR ABOUT (JANUARY 20, 2003 AND FEBRUARY 7, 2003) to have: These Matters (Disposed of) Before the Court: to go Beyond the (Prescribed Deadline) without AN (Order of CONTINUANCE): This creates A (Procedural Defect) - which (deprives) The Trial Court of (Subject Matter Jurisdiction) AND or the (Power) AND or Ability to ENACT its' Subject Matter (Judiciary Powers) to Adjudicate AND Accept: The Applicant (guilty Plea) without AN (Order of - CONTINUANCE) being issued.

(10). The Parties were Prohibited From, (CONTINUING) the Cause. The (Lack of said Order) deprives the "Trial Court" OF: "Subject Matter Jurisdiction AND or the Right to ENACT AND or INVOKE its: Subject Matter Judiciary, Powers to Adjudicate the Applicants guilty Plea: There For, the "Sentence AND - The Convictions should be VACATED AND ESPONGED". -

WAS the Applicants' "14th Amendment, Rights of the U.S. Constitution, his (Due Process) Rights, AS well AS Rules OF Court AND Rules OF Criminal or Civil, Procedure, By, The "Procedural Defects" of the (Prosecuting Agents) Acting "AS Sole witness for the warrants AND or Indictments."

The Applicant Humbly Contends it is the Applicants, 6th Amendment Rights to be (Fully-Apprised) AS the "Cause AND Nature OF the ACCUSATION AS well AS his Rights to be Fully Apprised" of: The (Circumstances) Related to the Charges. State V. TABORY 262 S.C. 136, 141, 202, S.E. 2d 852 (1974).

It is Also the Applicant, "Alton M. Chisolm" 5th Amendment, Rights "NOT to be tried on evidence that was Not Alleged"

IN the INDICTMENT," Passed upon by: The Grand Jury whose Basic is given by, (hearsay), testimony. Thus IN order that the Applicants Rights of (Due Process) NOT Forgotten the name of: The witness bringing "Accusations" AGAINST the defendant AND PASS upon the (Grand Jury). The (Supreme Court), "Prohibits the Practice" of the "Prosecutor AND or Prosecuting, Agents" (Appearing AS sole witness) Before: The Grand Jurors AND even initiating Warrants: State V. Anderson 439, S.E. 2d 835 (1993); State V. Jones 439, S.E. 2d. 282 Such Creates A (procedural Defect) IN: Alton M. Chisolm, 2009 Trial Transcript on Appeal upon the (S.V.P.) Matters, in March 25, 2010 (146) PAGE (Transcript) last (4) PAGES AND in: the "April 14, 2010, Anders Brief on Page (7, 8, 9) "Direct, Issues, Evidence that is (False) AND: Serves to (Nullify) the warrants AND (Indictment, etc.), that (ENTERS), Court Documents: The Proceeding Must-remain (non) Adversarial. IN (EX parte McLeod) IN RE: Investigation in (Charleston Magistrate), Court 272 S.C. 373, 252, S.E. 2d. 126 (1979), the Court in (Adhering) to Rule) that the Grand Jury Proceeding Should Remain NON Adversarial. The Practice of using the (Solicitor) or other officer of the State AS A (Sole witness) Before the Grand, Jury. To Provide only A Summary of evidence could be (Abandoned) UNLESS (NO) Alternative is AVAILABLE. "Ethical Conderation Rule (5.9) of the Code of "Professional Responsibility", Provides. The Role of AN "Advocate AND of A witness" Are INCONSISTENT: The Function of AN Advocate is to "Advance the "Cause" of ANother while that of: A (Witness) is to State The

"FACTS, Objectively AS IN (INDICATIVE OF ATTORNEY-witness the Enviroment of "ONE" Sided) Proceeding before: The (GRAND JURY) increases the (potential or Abuse) of the relationship: "Members holding A (Prosecutorial Function) May NOT Additionally Appear Before the "Grand Jury" AS A witness. The Routine Acquisition of AN (Indictment)... Based solely on (Hearsay), Evidence, REQUIRE the Indictment be Dismissed." This also Renders the (evidence) in Admissable. "U.S. V. Gramolini" 301 F. Supp 39.

• <sup>CONCLUSION</sup> "Therefore" The Sentence AND Convictions - MUST BE: REVERSED, VACATED AND ESPONGED UPON: The July 19, 2002 to AUGUST-2003 CONCURRENT with MARCH 1996 Lewd ACT Plea Convictions AND: The (S.V.P.) Trial in 2009, UPON, ALTON M. CHISOLM

• The New (ENTRY) Case LAW "JAMISON V. STATE" OPINION NO. 27454, OCTOBER 22, 2014: This is A (Supreme), Court (direct Evidence) Issues-Law that: VACATES, Conviction, For, (False Entry) UPON, (INDICTMENTS), etc., COURT, LAW VIOLATIONS: "HONORABLE COURT of Common, PLEAS, etc., Courts: Please, RULE ON "EVERY-ISSUE", EMBODIED WITHIN THIS "PRO-SE, BRIEF, DOCUMENTS, RELIEF AND: ARGUMENTS, UPON: "ACTUAL INNOCENCE JURISDICTIONAL, DEFECTS, NEWLY DISCOVERY, EVIDENCE, "ENTRY", ISSUES etc.: MY other ISSUES, MARCH 25, 2010, (S.V.P.) - TRIAL, TRANSCRIPT, 2009 ON APPEAL, etc., MY, APRIL 14, 2010, ANDERS, BRIEF AND "ALL" MY, EXIBITS.

THE STATE OF South Carolina  
IN the Court of APPEALS

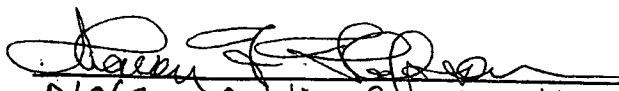
Pro Se Brief From: Alton M. Chisolm

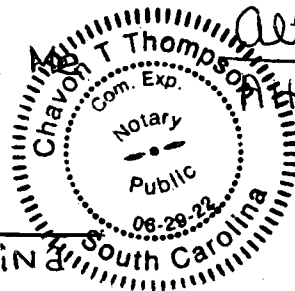
Appellate case No.: 2014-002351

Certificate of SERVICE

I The undersigned Certifies that ON September 7, 2016 I deposited a true and accurate copy of MY, "Pro Se, Brief of APPELLANT" and Designation of Matter in the Above referenced case with the United States Post office, sufficient first class postage affixed, and Addressed to Deborah R.J. Shupe, Esq. Office of the South Carolina Attorney General, P.O. BOX 11549, Columbia, S.C. 29211-1549, AND, copy of the same was also deposited with the United STATES, POST office, sufficient first class, postage affixed, and addressed to South Carolina, Court of APPEALS JENNY ABBOTT KITCHINGS, CLERK, POST office BOX 11629 Columbia, South Carolina 29211; AND, I further Certify that all parties required by Rule to be Served have been Served this September 7, 2016.

Subscribed AND SWORN to before  
This September 8<sup>th</sup> 2016.

  
Notary Public for South Carolina



Alton M. Chisolm  
Alton M. Chisolm  
Pro Se

My Commission EXPIRES: 6-29-22

SIGNED: Alton M. Chisolm

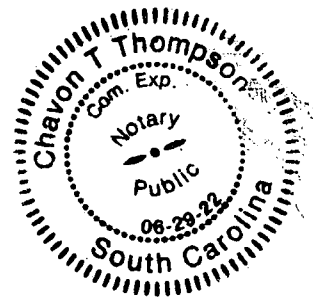
# Affidavit of Mailing

I, Alton M. Chisolm do Certify that: I have Mailed A Copy OF: MY, PRO SE, BRIEF, FOR: RELIEF UPON, ARGUMENTS, ACTUAL, INNOCENCE, JURISDICTIONAL, DEFECTS, etc., NEWLY DISCOVERY, EVIDENCE, ISSUES, "ENTERED" FROM: MY "ORIGINAL" JULY 19, 2002 to AUGUST 2003, LEWD ACT, etc., CONCURRENT WITH: A MARCH 1996, LEWD ACT, CONVICTION, PIERA. I HAVE EXIBITS IN THIS PRO SE, BRIEF AND. I HAVE "SOME WRITINGS" ON: THESE "OLD" NEWLY DISCOVERY, EVIDENCE: PLEASE, READ, "ALL" THE EVIDENCE. APPELLATE COURT, CLERK OF COLUMBIA, S.C., THE - HONORABLE, JUDGE AND THE ATTORNEY GENERAL'S, OFFICE: Affidavit of Mailing by: THE UNITED STATES, Mail, POSTAGE, PREPAID ON.

SWORN OR AFFIRM AND SUBSCRIBED  
Before ME this 8<sup>th</sup> day OF  
September 2016

[Signature]

My Commission EXPIRES 6-29-22



Alton M. Chisolm

Signature

Bddan

7-20-02

BAIL SOLICITOR

Att. etc, Check (2014 Entry) Case Law) → WITNESSES Connections?

ALTON M. Chisso/M  
SEPTEMBER 7, 2016

APPEALS COURT

The <sup>FALSE</sup> (\$95,000) Bond

(CSC) Prove that: ~~the~~

Court (ENTERED) 7/19/2002

This (CSC) TO CONVICT  
ME AND (I WAS getting

Ready to Bond out

ON The (I) charge (L.A.)  
\$125,000 Bond AND THATS:

→ A (STRESSFUL Feeling) when  
you get (Accused FABLE)  
AND DID TIME FOR THE  
Court, SOLICITOR, ETC ATTORNEY

### NOTICE TO REPORT

YOU MUST REPORT FOR ARRAINGMENT OR  
PLEA ON THE CHARGE HEREIN TO THE  
COURT OF GENERAL SESSIONS, LOCATED  
IN THE RUSSELL BUILDING, 2144 MEL-  
BOURNE STREET, NORTH CHARLESTON, ON  
THE 2ND FLOOR AT

SEP 20 2002 @ 8:30 AM

ON  
IF YOU DO NOT REPORT, AN ARREST  
WARRANT WILL BE ISSUED FOR YOU.

75,000

PRELIMINARY HEARING held by

This (False CSC) was (Entered)  
(on 2002 July 19 Court Record)

2002 JUL 22 PM 1:26  
JUL 22 2002  
CLERK OF COURT  
DISPOSITION before

JURORS

CHECKLIST

J.M. CRT. CASE # 5977 CT 2

W CASE # 3476 (1)

REPORT GROUP 0161

ISP. CODE

CODEFENDANTS

RAIL set by

# WITNESSES

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

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Name: \_\_\_\_\_

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Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

# CODEFENDANTS

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: Baldwin

Date: 7-20-02

City: CHARLESTON, W. VA.

Type and Amount: 25,000

Name of Surety: [Signature]

Address of Surety: \_\_\_\_\_

Telephone of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Court: Attorney

By: [Signature]

Date: 2002 JUL 22

Time: 12:26

Location: DISPOSITION before

Judge: [Signature]

Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_

JURORS

CASE # 5971

CASE # 3478 (2)

REPORT GROUP 2468

ISP CODE \_\_\_\_\_

## NOTICE TO REPORT

YOU MUST REPORT FOR ARRAJNGMENT OR PLEA ON THE CHARGE HEREIN TO THE COURT OF GENERAL SESSIONS, LOCATED IN THE RUSSELL BUILDING, 2144 MELBOURNE STREET, NORTH CHARLESTON, ON THE 2ND FLOOR AT

ON SEP 20 2002 @ 8:30am

IF YOU DO NOT REPORT, AN ARREST WARRANT WILL BE ISSUED FOR YOU.

"False" \$100,000 Bond - (Entered) July 19, 2002, etc.

WITNESSES

OCT 02 2002

CLERK OF COURT

100,000

BY

JULIE A. HARRIS  
CLERK OF COURT

2002 OCT 14 AM 10:40:40

CHECKLIST

SOM. CRT. CASE # 8449

OW CASE # 4901

REPORT GROUP 2468

DISP. CODE

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

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Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

CODEFENDANTS

MVA#86784

NOTICE TO REPORT

YOU MUST REPORT FOR ARRAIGNMENT OR  
PLEA ON THE CHARGE HEREIN TO THE  
COURT OF GENERAL SESSIONS LOCATED IN  
THE CHARLESTON COUNTY JUDICIAL CENTER  
100 BROAD STREET, CHARLESTON AT 2:00 PM  
ON NOV 15 2002 IF YOU DO NOT  
REPORT, AN ARREST WARRANT WILL BE ISSUE  
FOR YOUR ARREST

## ARREST WARRANT

H-100832

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
**CHARLESTON**

 THE STATE  
 against
**ALTON MCGINNIS CHISOLM**
 Address: **92 MORRIS STREET**  
**CHARLESTON, SC 29403**

 Phone: **723-7272** **251-11-2448**  
 SSN: **54**

 Sex: **M** Race: **B** Height: **5'4"** Weight: **140**

 DL State: **SC** DL #: **009148987**

 DOB: **12-3-1956** Agency ORI#: \_\_\_\_\_

 Prosecuting Agency: **CPD**

 Prosecuting Officer: **K. WILSON**

 Offense: **LEWD ACT ON MINOR**

Offense Code: \_\_\_\_\_

 Code/Ordinance Sec: **16-15-140**

 This warrant is **CERTIFIED FOR SERVICE** in the  
☐ County/ ☐ Municipality of

 The accused  
 is to be arrested and brought before me to be  
 dealt with according to law.

 \_\_\_\_\_ (L.S.)  
 Signature of Judge

Date: \_\_\_\_\_

## RETURN

 A copy of this arrest warrant was delivered to  
 defendant **Chisolm**

 on **7/20/02**  
 Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 STATE OF SOUTH CAROLINA )  
☒ County/ ☐ Municipality of )  
**CHARLESTON** )

## AFFIDAVIT

 Form Approved by  
 S.C. Attorney General  
 July 26, 1990  
 SCCA 518

 Personally appeared before me the affiant **Darryl Watkins** who  
 being duly sworn deposes and says that defendant **ALTON MCGINNIS CHISOLM**  
 did within this county and state on **7-19-2002** violate the criminal laws of the  
 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **CHARLESTON**)  
 in the following particulars:

 DESCRIPTION OF OFFENSE: **LEWD ACT ON MINOR**  
**16-15-140**

 I further state that there is probable cause to believe that the defendant named above did commit  
 the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

 Sworn to and subscribed before me )  
 on **July 20, 2002** )  
 Signature of Issuing Judge (L.S.)

 Signature of Affiant  
 Affiant's Address **180 LOCKWOOD BLVD**  
**CHARLESTON, SC 29403**  
 Affiant's Telephone **843-720-3937**

 STATE OF SOUTH CAROLINA )  
☒ County/ ☐ Municipality of )  
**CHARLESTON** )

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that  
 on **7-19-2002** defendant **ALTON MCGINNIS CHISOLM**  
 did violate the criminal laws of the State of South Carolina (or ordinance of  
☒ County/ ☐ Municipality of **CHARLESTON**) as set forth below:  
 DESCRIPTION OF OFFENSE: **LEWD ACT ON MINOR**  
**16-15-140**

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
 me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
 defendant at the time of its execution, or as soon thereafter as is practicable.

 Signature of Issuing Judge (L.S.)  
 Judge Code: **749**

 Judge's Address **3841 LEEDS AVENUE**  
**CHARLESTON, SC 29405**  
 Judge's Telephone **529-7482**  
 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

## General Sessions

## CASE HISTORY FOR CASE H100832

The State of South Carolina VS Alton McGinnis Chisolm

STATUS: Disposed

DATE: 7/22/2002

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

ARRESTING AGENCY: Charleston City Police Department

Attorney:  
Very Important to  
The Not Pore Victim (Page)  
7/19/02  
2 CONVICTION (SAME) Victim  
Jaelee HALL - FALSE  
CONVICTION - \$75,000 Bond?

## PARTIES:

Defendant Chisolm, Alton McGinnis  
92 Morris Street, Charleston, SC 294036039

Officer Niblock, Officer

Defendant Attorney Smiley, James Watson IV  
Attorney At Law, 178 1/2 King St., Charleston, SC 29401

Court Reporter Garrison, Deborah  
Post Office Box 901, Johns Island, SC 29457

Victim Hall, Jaelee (minor)

Victim Hall, Javea  
1117 Green Hill Road, Charleston, SC 294070000

Victim Daniels, Ayanna (minor)

Victim Daniels, Brandon  
1005 10th Drive, Charleston, SC 29403

## CASE HISTORY FOR CASE H100832

Chisolm, Alton McGinnis  
92 Morris Street

Age: 56  
DL#: 009148987

DOB: 12/3/1956  
SSN: 251-11-2448

Charleston, SC 294036039

| CHARGE                     | VIOL. DATE            | DISPOSITION | DISP. DATE |
|----------------------------|-----------------------|-------------|------------|
| 1468 LEWD ACT UPON A MINOR | (Real Date 7/19/2002) | Pled Guilty | 8/29/2003  |

## SENTENCING

8 YRS/CONC WITH 03-1005,1006 & 96-1261/CRED GIVEN 8 YRS/CONC WITH 03-1005,1006 & 96-1261/CRED GIVEN

FOR TIME SERV BY SCDC FOR TIME SERV BY SCDC

| POST                                  | ORIGINAL | BALANCE DUE | DISBURSED | PAY PRIORITY |
|---------------------------------------|----------|-------------|-----------|--------------|
| Charge: LEWD ACT UPON A MINOR         |          |             |           |              |
| Collection Fee for Converted Cases    | \$3.75   | \$3.75      | \$0.00    | 999          |
| Law Enforcement Funding Surcharge \$: | 25.00    | 25.00       | 0.00      | 999          |

Print Date: 06/14/2013  
Print Time: 9:25:24AM  
Requested By: COCMDG

CaseHistory.rpt V6.1

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & J.C.  
By: [Signature]  
DEPUTY CLERK

Page 1 of 2

(Crucial Important Document)  
- Exhibit - A -

General Sessions

CASE HISTORY FOR CASE H100833

(2) conviction - (same victim) Jaelee Hall

ation, Attorney, Family

The State of South Carolina VS Alton McGinnis Chisolm

CASE TYPE: GS

STATUS: Disposed

DATE: 7/22/2002

JUDGE: Clerk Of Court C P, G S, And Family Court

ARRESTING AGENCY: Charleston City Police Department

attorney: Same (Victims) - Nol-Prose

Attorney

E PARTIES: @ -> False (Conviction) on the Record - Vacates Convictions Entered From the 2002 convictions To August 2003 conviction

Defendant Chisolm, Alton McGinnis

92 Morris Street, Charleston, SC 294030000

Officer Niblock, Officer

efendant Attorney Smiley, James Watson IV

Attorney At Law, 178 1/2 King St., Charleston, SC 29401

Victim: (minor)

Victim: Hall, Joyce

1117 5th Street, Charleston, SC

Victim: Daniels, Ayatpa (minor)

Victim: Daniels, Gordon

1345 Miles Drive, Charleston, SC

SE HISTORY FOR CASE H100833

isolm, Alton McGinnis  
92 Morris Street

Age: 56  
DL#: 009148987

DOB: 12/3/1956  
SSN: 251-11-2448

Charleston, SC 294030000

| CHARGE                                                                                      | VIOL. DATE | DISPOSITION                                                                                                                                                                                                                                   | DISP. DATE |
|---------------------------------------------------------------------------------------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 161 C.S.C. 2ND<br>ENTENCING<br>NOL PROS/DEF PLEAD TO OTHER CHARGES<br>JST Connection - 2016 | 7/19/2002  | Nolle Prosequi<br>Att. Court Charge 15,000 Bond (False Charge) and changed it to a few act.<br>NOL PROS/DEF PLEAD TO OTHER CHARGES<br>attorney Court (Entered) in 7/19/02 (False) commitment (75,000 Bond) on Me (Cause) this to dismiss 2002 | 8/29/2003  |
| ORIGINAL BALANCE DUE DISBURSED PAY PRIORITY                                                 |            |                                                                                                                                                                                                                                               |            |
| Caution -> Attorney -> 2014 - (Entry) - Case - Law - Vacate - Convictions                   |            |                                                                                                                                                                                                                                               |            |

Total:

| TE     | TIME     | EVENT DESCRIPTION         |
|--------|----------|---------------------------|
| 0/2002 | 11:00 AM | Court event: Bond Hearing |

nt Date: 06/14/2013  
nt Time: 9:25:39AM  
quested By: COCMDG

CaseHistory.rpt V6.1

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK/C.P. G.S. & F.C.  
By: [Signature]  
DEPUTY CLERK  
Page 1 of 2

DOCKET NO. 2003-GS-10- 1004

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

VS.

ALTON CHISOLM

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

WILSON, K., CPD

0215250

ARREST WARRANT NUMBER

H100833

JULY 20, 2002

ACTION OF GRAND JURY

CRIME CRILL

FEB 03 2003

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Entered In 2003 day of Court False  
Conviction To be (dismissed)  
By: Law

False NOL - Posse

75,000 Bond

This Indictment False Bond kept Me  
incarcerated: I am Damaged  
Stressed and My Family

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A MINOR -

2ND

BY

RA

CLERK OF COURT

2003 FEB -6 PM 1:42

CLERK OF COURT

JULIE J. ARMSTRONG (SEAL)

CLERK, C.P. & G.S. REC.

DEPUTY CLERK

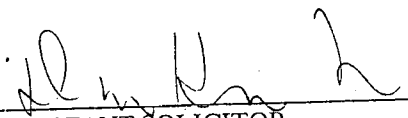
STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
LEWD ACT UPON A MINOR

At a Court of General Sessions, convened on February 3, 2003 the Grand Jurors of Charleston County present upon their oath:

That Alton Chisolm being over the age of fourteen years, did in Charleston County on or about July 19, 2002, wilfully and lewdly commit or attempt a lewd and lascivious act upon or with the body of one Jaelee Hall, a child under the age of sixteen years, with the intent of arousing, appealing to, and gratifying the lust, passions, and sexual desires of himself or such child. This is in violation of §16-15-140 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.

  
ASSISTANT SOLICITOR

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a magistrate of this county one Darryl Watkins, who first being duly sworn deposes and says that ALTON CHISOLM did within this county and state on the 19 July 2002 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

CRIMINAL SEXUAL CONDUCT 2ND DEGREE

16-3-653

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

THAT ON 19 JULY 2002, WHILE AT 155 JACKSON ST. (MARTIN PARK POOL) IN THE CITY AND COUNTY OF CHARLESTON, SC, THE DEFENDANT DID VIOLATE CODE 16-3-653, CRIMINAL SEXUAL CONDUCT 2ND DEGREE, THE DEFENDANT DID SO IN THAT HE DID PENETRATE THE ANUS OF A 12 YEAR OLD FEMALE JUVENILE. SAID ACT WAS DONE SO WITH THE INTENT OF PERSONAL SEXUAL GRATIFICATION.

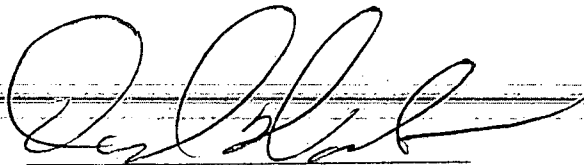
(THE ABOVE IS TRUE AND BELIEVABLE BASED ON THE DIRECT EXPERIENCE OF THE VICTIM, JAELEE HALL (B/F. DOB: 10/90), THE OBSERVATIONS OF POOL LIFEGUARD OHNRE WHALEY (B/M, DOB: 4/03/80). STATEMENTS GIVEN BY THE DEFENDANT AFTER MIRANDA, AND THE INVESTIGATION OF CPL. NIBLOCK OF THE CHARLESTON POLICE DEPARTMENT.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 20 DAY OF July, 2002

SIGNATURE OF JUDGE

(L.S.)



AFFIANT

CHARLESTON POLICE DEPT  
18 LOCKWOOD BLVD  
CHARLESTON, SC 29403  
(843) 577-7434

COMPLAINT #

CPD Form OT3

H-100833 → See

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CHARLESTON

THE STATE

against

ALTON MCGINNIS CHISOLM

Address: 92 MORRIS STREET

CHARLESTON, SC 29403

Phone: 723-7272 SS: 251-11-2448

Sex: M Race: B Height: 5'4 Weight: 140

DL State: SC DL #: 009148987

DOB: 12-3-1956 Agency ORI#: \_\_\_\_\_

Prosecuting Agency: CPD

Prosecuting Officer: K. WILSON

Offense: CRIMINAL SEXUAL CONDUCT II

Offense Code: \_\_\_\_\_

Code/Ordinance Sec: 16-3-653

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused  
is to be arrested and brought before me to be  
dealt with according to law.\_\_\_\_\_  
Signature of Judge (L.S.)

Date: \_\_\_\_\_

## RETURN

A copy of this arrest warrant was delivered to  
defendant \_\_\_\_\_

on \_\_\_\_\_

\_\_\_\_\_  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CHARLESTON

Personally appeared before me the affiant

being duly sworn deposes and says that defendant

did within this county and state on 7-19-2002

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CHARLESTON

in the following particulars:

DESCRIPTION OF OFFENSE:

CRIMINAL SEXUAL CONDUCT II

16-3-653

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:

(First And

Second Conviction)

False

(15,750.00 Bond  
Indictment  
Entered in Court  
Dismiss Case  
"My Att. etc. Family")Sworn to and subscribed before me  
on July 20, 2002\_\_\_\_\_  
Signature of Issuing Judge (L.S.)

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CHARLESTON

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that  
on 7-19-2002 defendant ALTON MCGINNIS CHISOLM

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CHARLESTON as set forth below:DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT II Entered (false) in 2002  
16-3-653Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
defendant at the time of its execution, or as soon thereafter as is practicable.\_\_\_\_\_  
Signature of Issuing Judge (L.S.) Judge's Address 3841 LEEDS AVENUE  
CHARLESTON, SC 29405Signature of Issuing Judge  
Judge Code: 749

Judge's Telephone 529-7482

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

## AFFIDAVIT

Form Approved by  
S.C. Attorney General  
July 26, 1990  
SCCA 518

Darryl Watkins

ALTON MCGINNIS CHISOLM

7-19-2002

violate the criminal laws of the

CHARLESTON

CRIMINAL SEXUAL CONDUCT II

16-3-653

SEE ATTACHED AFFIDAVIT

Signature of Affiant

Affiant's Address 180 LOCKWOOD BLVD  
CHARLESTON, SC 29403

Affiant's Telephone 843-720-3937

## ARREST WARRANT

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CHARLESTON

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe that  
on 7-19-2002 defendant ALTON MCGINNIS CHISOLM

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CHARLESTON as set forth below:DESCRIPTION OF OFFENSE: CRIMINAL SEXUAL CONDUCT II Entered (false) in 2002  
16-3-653Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
defendant at the time of its execution, or as soon thereafter as is practicable.\_\_\_\_\_  
Signature of Issuing Judge (L.S.) Judge's Address 3841 LEEDS AVENUE  
CHARLESTON, SC 29405Signature of Issuing Judge  
Judge Code: 749

Judge's Telephone 529-7482

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

JULIA J. ARMSTRONG (SEAL)  
CLERK, C.R. & S.C.  
DEPUTY CLERK

STATE OF SOUTH CAROLINA )  
COUNTY OF Charleston )  
STATE vs. )  
Alton Chisolm )  
AKA: )  
Race: Sex: Age: )  
DOB: SS#: )  
Address: )  
City, State, Zip )  
DL# SID# )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 03 -GS- 10 - 1006  
A/W#: H193698  
Date of Offense: 7-3-01  
S.C. Code §: 23-B-47D (B)(1)  
CDR Code #: 2161016  
☐ CASE RESTORED  
☒ SENTENCE  
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS  
TO: Felony to Charge Adultery for Sex Offender Registry  
in violation of § 23-3-470(D) of the S.C. Code of Laws, bearing CDR Code # 2161016  
☒ 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: Alan Nason Jr. Solicitor Alton M. Chisolm Defendant James [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,  
for a determinate term of 90 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: 03-GS-10-1003 and 1005 and 96-GS-10-1261  
☒ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
☐ set by SCDPPPS \_\_\_\_\_  
Recipient: \_\_\_\_\_  
\*Fine: \$ \_\_\_\_\_  
\$14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_  
\$14-1-211(A)(1) (Surcharge) \$ 100.00  
\$14-1-211(A)(2) (Surcharge) \$ \_\_\_\_\_  
\$56-5-2995 (DUI Assessment) \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ 3.75  
\$73.3, 1B TP (Law Enforce. Funding) \$ 25.00  
\$33.7, 1B TP (Drug Court Surcharge) \$ \_\_\_\_\_  
\$50-21-114(BUI Breath Test Fee) \$ \_\_\_\_\_  
\$56-5-2942(J) (Vehicle Assessment) \$ \_\_\_\_\_  
TOTAL \$ 128.75

PTUP \_\_\_\_\_ 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: \_\_\_\_\_

D. Garrison  
Clerk of Court/ Deputy Clerk  
Court Reporter: D. Garrison

☐ Appointed PD or appointed other counsel, \$35.13 TP  
Requires \$500 be paid to Clerk during probation.  
PRESIDING JUDGE A. R. Jaffer  
Judge Code: 017  
Sentence Date: 8/29/03

HER 2002-08-03030

WITNESSES

HN BURNETT AND/OR

ITH HAIR

ELSON, K., CPD

45250

ARREST WARRANT NUMBER

H100832

JULY 20, 2002

ACTION OF GRAND JURY

Preperson of Grand Jury

VERDICT

Preperson of Petit Jury

Date:

DOCKET NO. 2003-GS-10- 1003

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

vs.

ALTON CHISOLM

25,000 Bond ✓

Indictment for

LEWD ACT UPON A MINOR

MISSING C.D.R. CODE ✓

MISSING S.C. CODE (1976)

FILED

2003 FEB -6 PM 1:42

JULIA J. IRONG  
CLERK OF COURT

BY

RA

✓  
MISSING THIRD SECTION

THE WAIVER SECTION

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charles  
STATE

VS.

Alton Chisolm

AKA:

Race: Sex: Age:

DOB: SS#:

Address:

City, State, Zip

DL# SID#

INDICTMENT/CASE#:

03 -GS- 10 - 1003

A/W#:

17100032

Date of Offense:

7-19-02

S.C. Code §:

16-15-140

CDR Code #:

21 41 6 18

☐ CASE RESTORED

SENTENCE

☒ PLEA☐ TRIAL

ALFORD

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: David Del Cerna a Minorin violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 21 41 6 18☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The 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:

Deborah Harris  
SolicitorAlton M. Chisolm  
DefendantSamuel Smith  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 8 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: 03-GS-10-1005 and 1006 and 96-GS-10-1261  
☒ 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.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ OrderedTotal: \$        plus 20% fee: \$       

Payment Terms:

☐ set by SCDPPPS

Recipient:

\*Fine: \$       \$14-1-206 (Assessments 107.5%) \$       \$14-1-211(A)(1) (Surcharge) \$ 100.00\$14-1-211(A)(2) (Surcharge) \$       \$56-5-2995 (DUI Assessment) \$       3% to County (if paid in installments) \$ 3.75\$73.3, 1B TP (Law Enforce. Funding) \$ 25.00\$33.7, 1B TP (Drug Court Surcharge) \$       \$50-21-114 (BUI Breath Test Fee) \$       \$56-5-2942(J) (Vehicle Assessment) \$       TOTAL \$ 128.75

PTUP

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 FundOther:       

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

PRESIDING JUDGE

Judge Code:       Sentence Date: 8/29/03

Clerk of Court/ Deputy Clerk

Court Reporter: D. Garrison

HER 2002-08-03030

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

Officer, Agency

OCA #

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2003-GS-10- 1005

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

vs.

ALTON CHISOLM

\$75,000 Bond

False

Where is (CSC) → July 19 2002 original Document  
Indictment  
You (changed) this (CSC) to a Direct-Lewd Act ✓

Indictment for

LEWD ACT UPON A MINOR

BY

TCN

CLERK OF COURT

2003 FEB -6 PM 1:42

FILED

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA )  
COUNTY OF Charleston )  
STATE vs. )  
Alton Chisolm )  
AKA: )  
Race: B Sex: M Age: )  
DOB: 12-3-56 SS#: 251-11-2448 )  
Address: )  
City, State, Zip )  
DL#                      SID#                      )

INDICTMENT/CASE#: 03-GS-10-1005  
A/W#: 07  
Date of Offense: 7-19-02  
S.C. Code §: 16-15-140  
CDR Code #: 2141618  
☐ CASE RESTORED  
☒ SENTENCE 0-15  
☒ PLEA ☐ TRIAL ALFORD

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS  
TO: David Lee Upen & Mung  
in violation of § 16-15-140 of the S.C. Code of Laws, bearing CDR Code # 2141618  
☒ 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: Debra H. Dashi Alton M. Chisolm James Mung  
Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 8 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: 03-GS-10-1003, 1006 and 96-GS-10-1261  
☒ 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.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered  
Total: \$            plus 20% fee: \$             
Payment Terms:             
☐ set by SCDPPPS             
Recipient:            \$             
\*Fine:            \$             
\$14-1-206 (Assessments 107.5%) \$             
\$14-1-211(A)(1) (Surcharge) \$ 100.00  
\$14-1-211(A)(2) (Surcharge) \$             
\$56-5-2995 (DUI Assessment) \$             
3% to County (if paid in installments) \$ 3.75  
\$73.3, 1B TP (Law Enforcement Funding) \$ 25.00  
\$33.7, 1B TP (Drug Court Surcharge) \$             
\$50-21-114(BUI Breath Test Fee) \$             
\$56-5-2942(J) (Vehicle Assessment) \$             
TOTAL \$ 128.75

PTUP            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.

Don Mink  
Clerk of Court/ Deputy Clerk  
Court Reporter: D. Garrison

PRESIDING JUDGE D. K. Jumper  
Judge Code: 01  
Sentence Date: 8/29/03

HER 2002-08-03423

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

DET. WHISENANT, D., CCSO

2002-018402-B

ARREST WARRANT NUMBER

H193698

AUGUST 7, 2002

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2003-GS-10-1006

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2003

THE STATE

vs.

ALTON CHISOLM

Indictment for

FAILURE TO CHANGE ADDRESS FOR THE  
SEXUAL OFFENDER REGISTRY

FILED

2003 FEB -6 PM 1:42

JULIA KONG  
CLERK OF COURT

BY          CN

County of Charleston  
STATE VS.  
Alton Chisolm  
AKA: \_\_\_\_\_  
Race: B Sex: M  
DOB: 12-3-56 BY [Signature]  
SSN: 251-11-2448  
SID#: 140741

IN THE COURT OF GENERAL SESSIONS  
INDICTMENT# 96-GS-10-1261  
C/W# C-10-03-0537 8-29-03  
Name of Original Offense: Leud Act on Minor  
Conviction S.C. Code §: 16-15-140  
Conviction CDR Code #: 011013  
Date of Original Offense: 94 and 95 Sept  
Original Sentence: 8 yrs 5 mos upon 4 yrs w/5 yrs prob  
**ORDER**

The above named defendant has been charged with violating the conditions of probation ordered on 9-11-99 in the Court of General Sessions of Charleston County as set forth in the attached warrant or citation dated 9/1/03. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special condition as provided in the affidavit) 6 & 10

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 8 months/years, the remainder of the original sentence, and/or pay \$ \_\_\_\_\_.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☒ Additional Conditions ordered by the Court:  
Concurrent with new convictions Final # 03-61-10-1003  
03-61-10-1001  
03-61-10-1006

- ☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☒ The defendant has previously served 4 months/years on this sentence.  
(split sentence time and/or prior partial revocation time)

This 29 day of August, 2003  
Charleston SC. [Signature] Presiding Judge  
Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature] Witnessed by [Signature]  
Signed this 29 day of August, 2003, at Charleston, SC

95-12-HER-4698

WITNESSES

JOHN BURNETT AND/OR

KEITH HAIR

HARPER, CPD  
ALTON CHISOLM

OCA#: 95-0022167

ARREST WARRANT NO.

ACTION OF GRAND JURY

**TRUE BILL**

GREG L. SCHULER

MAR 04 1996

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date

DOCKET NO. 96-GS-10-

1261

**The State of South Carolina,**

County of CHARLESTON

COURT OF GENERAL SESSIONS

MARCH

TERM 1996

THE STATE

vs.

ALTON CHISOLM

DOA: DECEMBER 22, 1995

AW#: E617361

**Indictment for**

LEWD ACT UPON CHILD

MISSING C.O.D.R. CODE

MISSING S.C. CODE (1976)

Name Alton Chisolm

ADDRESS 92 Morris Street

Charleston, SC 29403

Race BLACK MALE

Date of Birth 12/3/56 Age 41

SSN 251-11-2448

Attorney Anthony D'Neale

Guilty under A/Ford  
no contest

WE APPEAR IN PERSON AND PLEAD GUILTY  
TO THE WITHIN INDICTMENT.

Alton Chisolm

WITNESS

DATE 6/09/97

Don Miller

NO Evidence  
(Speculations)

MAX SENTENCE

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
LEWD ACT UPON CHILD

At a Court of General Sessions, convened on MARCH 4, 1996,  
the Grand Jurors of CHARLESTON County present upon their oath:

THAT ALTON CHISOLM BEING OVER THE AGE OF FOURTEEN YEARS, DID IN  
CHARLESTON COUNTY BETWEEN (1994 AND SEPTEMBER 1995,) wilfully and lewdly  
commit or attempt a lewd and lascivious act upon or with the body of Maurica Josey a child  
under the age of fourteen years, with the intent of arousing, appealing to, and gratifying the lust,  
passions, and sexual desires of himself or such child. This being in violation of §16-15-140 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.

Deborah H. Herring  
ASSISTANT SOLICITOR

CONFIDENTIAL INFORMATION

ARGUS + 2002

**Thought Process:** ☒ Normal ☐ Tangential ☐ Dissociation ☐ Disoriented  
☐ Thoughts of SI/HI ☐ Hallucinations ☐ Paranoid ☐ Compulsive  
☐ Delusional ☐ Sexual Preoccupation ☐ Other

Other Observations:

**Speech:** ☒ Age Appropriate ☐ Articulation Problems ☐ Delayed ☐ Rapid  
☐ Loud ☐ Limited due to age ☐ Incoherent ☐ Stuttering ☐ Other

Other Observations:

Child's Strengths (Family/School/Neighborhood/Peers/Other)

CHILD PRESENTED AS SOCIAL AND VERBAL.

Caretaker's Strengths (Family/Community/Job/Other)

AM PRESENTED AS SUPPORTIVE, PROTECTIVE, AND EXPRESSED A WILLINGNESS TO FOLLOW THROUGH WITH ALL TREATMENT REFERRALS.

Problematic Area (Include any psychosocial/family stressors, level of functioning, developmental delay, information to support diagnosis, and treatment/safety recommendations)

IT IS PROBLEMATIC THAT CHILD ALSO REPORTED ABUSE BY A FAMILY MEMBER WHICH AM STATED SHE WAS UNAWARE OF.

BY - Clifford White (see note)

New Att. & Family Check.

Summary of Information Regarding Response to Risk

538

What was the index child's current living situation at the time of the alleged abuse?  
 in parents' or primary caregivers' home Other:

What was the non-offending caregiver's knowledge of the abuse when it was actually occurring?  
 Had no knowledge of the incident while occurring

What was the initial response of the caregiver regarding allegation?  
 Believed

What is the current response of the caregiver regarding the allegation?  
 Believed

What was the initial reaction to index child by caregiver regarding the allegation?  
 Supported/Protected

What is the current reaction to index child by caregiver regarding the allegation?  
 Supported/Protected

Is there another adult/caregiver who does protect/support the child?

No

If, Yes Relationship?

Narative regarding response to concern: (to include dates, details and resources)

RULES

ARGUS + 2002

CONFIDENTIAL INFORMATION

What type of abuse was the child alleged to have been exposed to? (check all that apply)

- ☐ None ☐ Physical Neglect ☐ Physical Abuse  
☒ Sexual Abuse ☐ Medical Neglect ☐ Domestic Violence  
☐ Emotional Abuse ☐ Emotional Neglect ☐ Educational Neglect

Other:

and I was (falsely) accused from her with  
a C.S.C. \$75,000 Bond  
indictment

## Threat of Harm

- ☐ None ☐ Physical Neglect ☐ Physical Abuse  
☐ Sexual Abuse ☐ Medical Neglect ☐ Domestic Violence  
☐ Emotional Abuse ☐ Emotional Neglect ☐ Educational Neglect

Please describe risk:

Type of physical contact? Did the child report any of the following? (Please select all that apply)

None, no physical abuse identified

Type of sexual contact? Did the child report any of the following? (Please select all that apply)

Anal intercourse (including unsuccessful attempts)

Please describe physical and/or sexual contact:

PENETRATED CHILD'S ANUS WITH HIS PENIS OVER HER BATHING SUIT, CHILD REPORTED BATHING SUIT WENT INTO HER ANUS ALONG WITH HIS PENIS

Could the child describe when the abuse first began?

Yes

What was the duration of the abuse the child was exposed to?

One single incident

How often was the child abused in the current episode under investigation?

1

To whom did the child disclose the allegation? (Please select all that apply)

Other than listed: PRIVATE INVESTIGATOR

Sibling/stepsibling

Biological mother

Law enforcement professionals

Other adult - Specify below

Has the child recanted a prior verbal report?

No

If yes, to whom? (Please check all that apply)

- ☐ Biological mother ☐ Biological Father ☐ Parent's paramour ☐ Mental Health Provider  
☐ Foster parent ☐ Grandparent ☐ Other relative ☐ Law enforcement professionals  
☐ Social worker ☐ Clergy ☐ Health Care Provider ☐ School Professional  
☐ Sibling/stepsibling ☐ Friend ☐ Legal representatives ☐ Rape crisis center/victim services  
☐ Stepparent ☐ Mandated reporter

Other than listed:

Did the child identify other alleged victims?

Yes

If yes, identify

HER FRIEND SWIMMING WITH HER AT THE POOL JAYLEE

Did the child identify other witnesses?

No

If yes, identify

Did the child identify potential evidence? (ie. lubricants, ejaculant, objects)

No

Please describe:

Was the alleged offender reported to have given alcohol or drugs to the child as part of the abusive act?

No

Specify, other drugs:

RULE 5

Attorney  
Caution  
This  
Area

Check False Indictment  
75,000 Bond  
Not My Victim - Altan M. Chisolm

Please describe

## 538 FORENSIC INFORMATION ELICITED FROM CHILD REGARDING RISK

Child's Name: [REDACTED]

Was a forensic interview of the child completed?

Yes

If no, identify barriers

☐ Psychiatric☐ Age☐ Developmental Level☐ Cognitive Limitation☐ Disability☐ Subsequent no show☐ Would not separate☐ Emotional☐ Limited Verbal Ability☐ Inability to Pay Attention

Please describe

Did the child report risk?

Yes

If no, move to summary of observation section.

If yes, check all that apply.

☐ None☐ Physical Neglect☐ Physical Abuse

Other: [REDACTED]

☒ Sexual Abuse☐ Medical Neglect☐ Domestic Violence☐ Emotional Abuse☐ Emotional Neglect☐ Educational Neglect

Does the child identify an alleged offender/s?

Yes

If yes, relationship?

Stranger/Adult

Name of offender?

"MAN IN THE POOL" (CHISOLM, ALTON)

Name: (LAST, FIRST, MI)

Number of alleged offenders identified?

2

Was the child able to give any descriptive information about the alleged offender/s?

Yes

Please describe:

CHILD STATED THAT "THE MAN IN THE POOL" IS TALL, SKINNY, AND HAS NO HAIR ON HIS FACE

Please describe risk:

CHILD IS NO LONGER ATTENDING THE DAY CAMP AND THE AO HAS BEEN ARRESTED.

Type of physical contact? Did the child report any of the following? (Please select all that apply)

None, no physical abuse identified

Type of sexual contact? Did the child report any of the following? (Please select all that apply)

Anal intercourse (including unsuccessful attempts)

Please describe physical and/or sexual contact:

CHILD REPORTED THAT "THE MAN AT THE POOL" PULLED HER BATHING SUIT TO THE SIDE AND PUT HIS "STUFF" (PENIS) IN HER "BOODIE" (BOTTOM).

Could the child describe when the abuse first began?

Yes

What was the duration of the abuse the child was exposed to?

One single incident

How often was the child abused in the current episode under investigation?

1

To whom did the child disclose the allegation? (Please select all that apply)

Other adult - Specify below

Other than listed: CAMP COUNSELORS.

Has the child recanted a prior verbal report?

No

If yes, to whom? (Please check all that apply)

☐ Biological mother☐ Biological Father☐ Parent's paramour☐ Mental Health Provider

██████████ STATED THAT HER CAMP COUNSELORS, BRANDON, DANIELLE, SHANNON, JERMAINE, AND JOHN, AND THE LIFEGUARDS WERE ALL AT THE POOL. SHE STATED THAT BRANDON, DANIELLE, AND JERMAINE WERE IN THE WATER WHEN THE MAN PUT HIS STUFF INSIDE HER BOODIE. ██████████ STATED THAT SHE TOLD BRANDON, DANIELLE, AND ANOTHER COUNSELOR WHOSE NAME SHE COULD NOT REMEMBER WHAT THE MAN IN THE POOL DID. ██████████ DENIED THAT THE MAN TOUCHED HER ANYWHERE ELSE ON HER BODY OR THAT HE MADE HER TOUCH HIM ANYWHERE ON HIS BODY.

██████████ PROVIDED A CONSISTENT REPORT OF ABUSE BY HER UNCLE ██████████ (Clifford White) STATING THAT HE RUBBED HER CHEST LOTS OF TIMES WITH HIS HANDS UNDERNEATH HER CLOTHES. SHE STATED THAT HE RUBBED HER CHEST WITH BOTH HIS HANDS ██████████ DEMONSTRATED BY HOLDING BOTH HER HANDS IN THE AIR AND MOVING THEM AROUND). ██████████ DENIED THAT HER UNCLE ██████████ TOUCHED HER ANYWHERE ELSE ON HER BODY AND DENIED THAT HE MADE HER TOUCH HIM ANYWHERE ON HIS BODY. ██████████ DENIED THAT SHE HAS SEEN HER UNCLE ██████████ SINCE SHE TOLD.

WHEN ASKED AGAIN ABOUT RULES AT HOME AND CONSEQUENCES FOR BREAKING A RULE, ██████████ STATED THAT WHEN SHE GETS INTO TROUBLE SHE GETS A POP ON THE HAND AND DENIED THAT SHE GETS SPANKINGS. ██████████ DENIED THAT ANYONE TOLD HER WHAT TO SAY OR WHAT NOT TO SAY AND WOULD NOT ACKNOWLEDGE THAT SHE TOLD INTERVIEW ABOUT SPANKINGS DURING THE INITIAL INTERVIEW.

██████████ WAS TOLD ABOUT GROUP AND EXPRESSED A WILLINGNESS TO ATTEND.

██████████ PROVIDED NO FURTHER NEW INFORMATION.

Check only one box that applies to this Victim:

☐ Sibling Victim

☐ Sibling Victim Multiple Offender

538

☒ Indexed Victim with Multiple Offenders

Child's Name: ██████████

If no, identify barriers

☐ Psychiatric

☐ Other, list below

☐ Age

☐ Developmental Level

☐ Cognitive Limitation

Was a forensic interview of the child completed? ☒ Yes

☐ Disability

☐ Subsequent no show

☐ Would not separate

☐ Emotional

☐ Limited Verbal Ability

☐ Inability to Pay Attention

Please describe

Did the child report risk? ☒ Yes

If no, move to summary of observation section.

If yes, check all that apply

☐ None

☒ Sexual Abuse

☐ Emotional Abuse

☐ Physical Neglect

☐ Medical Neglect

☐ Emotional Neglect

☐ Physical Abuse

☐ Domestic Violence

☐ Educational Neglect

Other: \_\_\_\_\_

Does the child identify an alleged offender/s? ☒ Yes

If yes, relationship?

Name of offender? UNCLE ██████████

Number of alleged offenders identified? 2

Name: (LAST, FIRST, MI) Clifford White - Pee Wee

Was the child able to give any descriptive information about the alleged offender/s? ☒ Yes

Please describe:

Please describe risk:

CHILD IS NO LONGER HAVING CONTACT WITH HER UNCLE ██████████

Type of physical contact? Did the child report any of the following? (Please select all that apply)

None, no physical abuse identified

Type of sexual contact? Did the child report any of the following? (Please select all that apply)

Alton M. Chisolm  
I am not a Risk  
OR A Threat  
ARGUS + 2002

See also Page 15 of 16 -> I am not a Risk (Threat) someone is lying on Me.

CONFIDENTIAL INFORMATION

- |                                              |                                      |                                                |                                                             |
|----------------------------------------------|--------------------------------------|------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Foster parent       | <input type="checkbox"/> Grandparent | <input type="checkbox"/> Other relative        | <input type="checkbox"/> Law enforcement professionals      |
| <input type="checkbox"/> Social worker       | <input type="checkbox"/> Clergy      | <input type="checkbox"/> Health Care Provider  | <input type="checkbox"/> School Professional                |
| <input type="checkbox"/> Sibling/stepsibling | <input type="checkbox"/> Friend      | <input type="checkbox"/> Legal representatives | <input type="checkbox"/> Rape crisis center/victim services |
| <input type="checkbox"/> Stepparent          | <input type="checkbox"/> DSS Worker  | <input type="checkbox"/> Mandated reporter     | <input type="checkbox"/> Neighbor                           |

Other than listed: \_\_\_\_\_

Did the child identify other alleged victims? ☒ Yes If yes, identify \_\_\_\_\_

HER FRIEND \_\_\_\_\_  
Did the child identify other witnesses? ☒ Yes If yes, identify \_\_\_\_\_

False Victim  
False

CHILD STATED THAT SEVERAL CAMP COUNSELORS, AND HER FRIEND \_\_\_\_\_ WERE IN THE POOL WITH HER AT THE TIME OF THE INCIDENT

Did the child identify potential evidence? (ie, lubricants, ejaculant, objects) ☒ No Please describe: \_\_\_\_\_

Was the alleged offender reported to have given alcohol or drugs to the child as part of the abusive act?

Q \_\_\_\_\_ Specify, other drugs: \_\_\_\_\_

Was the alleged offender reported to be under the influence of alcohol or drugs at the time of the alleged abuse?

Q \_\_\_\_\_ Specify, other drugs: \_\_\_\_\_

Did the child report being physically injured as a result of alleged abuse? ☒ No  
Please describe: \_\_\_\_\_

Sept. 7, 2016  
Appellate Court  
See Page 15 of 16

What was the alleged offender's response to the Child being hurt? \_\_\_\_\_

Please describe: \_\_\_\_\_ I AM NOT A S.V.P. EVIDENCE PROVED IN DOCUMENTS

Alton M. Chisolm is not a Threat to the Community

Did the offender use injunctions against the child to discourage disclosure? ☒ No If yes check all that apply

- |                                             |                                           |                                                   |                                                               |
|---------------------------------------------|-------------------------------------------|---------------------------------------------------|---------------------------------------------------------------|
| <input type="checkbox"/> Threat to offender | <input type="checkbox"/> Threat to child  | <input type="checkbox"/> Threat to family members | <input type="checkbox"/> Warning that child won't be believed |
| <input type="checkbox"/> Secret             | <input type="checkbox"/> Threat to others | <input type="checkbox"/> Threat of death          | <input type="checkbox"/> Other, specify below                 |

Please describe: \_\_\_\_\_

Did the child report the use of any of the following to gain his/her compliance? ☒ Yes If yes, check all that apply

- |                                                |                                                      |                                                     |                                                    |                                              |
|------------------------------------------------|------------------------------------------------------|-----------------------------------------------------|----------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Bribes                | <input checked="" type="checkbox"/> Threats to child | <input type="checkbox"/> Threats to family Members  | <input checked="" type="checkbox"/> Physical Force | <input type="checkbox"/> Threats to others   |
| <input type="checkbox"/> Grooming              | <input type="checkbox"/> Justification               | <input type="checkbox"/> Threats to Offender        | <input type="checkbox"/> Threat of death           | <input type="checkbox"/> Threats with weapon |
| <input type="checkbox"/> Other, specify below: | <input type="checkbox"/> Behavioral ritual           | <input type="checkbox"/> Injunction against telling |                                                    |                                              |

Please describe: \_\_\_\_\_

CHILD STATED THAT WHEN SHE RETURNED TO THE POOL HE WOULD "DO IT TO HER AGAIN".

Did the child report that the alleged offender tried to justify his/her behavior? ☒ No

If yes, please check any methods used then describe below:

- |                               |                               |                                |                                   |                                            |
|-------------------------------|-------------------------------|--------------------------------|-----------------------------------|--------------------------------------------|
| <input type="checkbox"/> Love | <input type="checkbox"/> Game | <input type="checkbox"/> Trust | <input type="checkbox"/> Teaching | <input type="checkbox"/> Other, list below |
|-------------------------------|-------------------------------|--------------------------------|-----------------------------------|--------------------------------------------|

Other at Risk behaviors

Has the child's report indicated that the child has been adequately supervised? ☒ Yes Please describe: \_\_\_\_\_

Has the child's report indicated that the basic needs of the child have been met? ☒ Yes Please describe: \_\_\_\_\_

September 7, 2016  
Appellate Court etc  
See Pg 15 of 16

See Pg. Threat dies Caution NO Risk etc Page 15 of 16  
dies have a Report of the statement like this (No Threat to a child)

Child's Name (Last Name, First Name, MI) [REDACTED]  
Alleged Offender's Name : [REDACTED]  
Alleged Offender Relationship to Victim: Uncle  
Typology of Maltreatment: Sexual Abuse  
Professional Opinion Regarding Information elicited from Assessment? Disclosure of abuse  
Basis of professional opinion: See Pg. 2 of 6 I am a risk  
This Pg. says I am not a (Risk-Threat)

Copy Home: Bottom 6  
or Real Name  
Copy from My att.  
Att. check  
Att. check

CHILD REPORTED FONDLING TO HER BREASTS BY HER UNCLE ON MULTIPLE OCCASIONS AND OVER THE COURSE OF A YEAR.

2) Impressions of Adult Caregivers (consider response to disclosure, focus, functioning and ability to protect)  
AM PRESENTED AS SUPPORTIVE, PROTECTIVE, AND EXPRESSED A WILLINGNESS TO FOLLOW THROUGH WITH ALL TREATMENT REFERRALS.

3) Impressions of child/children: (Consider emotional and behavioral reactions; i.e. anxious, relieved, sexually reactive, etc.)  
CHILD PRESENTED AS SOCIAL AND VERBAL.

4) Barriers to Child Safety/Protection (i.e. contact with non-believing/non-protective individuals)  
CHILD IS NOT AT RISK FOR CONTINUED CONTACT WITH MR. CHISOLM. CHILD DID REPORT ABUSE BY A FAMILY MEMBERS WHICH AM STATED SHE WAS UNAWARE OF. CHILD WOULD BE AT RISK OF CONTINUED ABUSE IF ALLOWED CONTACT WITH HER UNCLE.

5) Family/Community Resources:  
LCC, LE.  
galee caution why did they say that: they know I did not do / no wrong - Victim stated that in my motion of divorce

6) Recommendations regarding safety for child/family (To include placement/visitation):  
[REDACTED] IS NOT AT RISK OF CONTACT WITH MR. CHISOLM. DUE TO [REDACTED]'S REPORT OF ABUSE BY HER UNCLE. [REDACTED] IT IS RECOMMENDED THAT AM NOT ALLOW HER CHILDREN TO HAVE CONTACT WITH THEIR UNCLE, UNTIL INVESTIGATION IS COMPLETE, [REDACTED] HAS COMPLETED A RISK ASSESSMENT, AND UNTIL [REDACTED] PROVIDES WITH AN ABUSE CLARIFICATION. IN ADDITION, IT IS RECOMMENDED THAT AM'S OTHER CHILDREN, WHOM HAVE HAD CONTACT WITH [REDACTED] HAVE AN ASSESSMENT AT A CAC TO RULE OUT POSSIBLE RISK.

7) Recommendations for treatment/client/family needs:  
DUE TO [REDACTED]'S REPORT OF ABUSE BY MR. CHISOLM AND HER UNCLE [REDACTED] IT IS RECOMMENDED THAT SHE CONTINUE WITH INDIVIDUAL TREATMENT AND BEGIN GROUP TREATMENT WHEN AVAILABLE. IT IS RECOMMENDED THAT AM BEGIN TREATMENT WITH THE MOTHER'S GROUP AT LCC OR WITH ANOTHER APPROPRIATE TREATMENT PROVIDER TO GAIN SUPPORT IN ADDRESSING HER DAUGHTER'S REPORT OF ABUSE. IT IS RECOMMENDED THAT MR. CHISOLM HAVE AN OFFENDER RISK ASSESSMENT, FOLLOW ALL RECOMMENDATIONS FROM THAT ASSESSMENT, AND PROVIDE [REDACTED] WITH AN ABUSE CLARIFICATION CONTINGENT UPON THE RECOMMENDATIONS BY MR. CHISOLM'S THERAPIST. [REDACTED]'S THERAPIST, AND AM. IT IS ALSO RECOMMENDED THAT [REDACTED] HAVE A RISK ASSESSMENT, FOLLOW ALL RECOMMENDATIONS FROM THAT ASSESSMENT AND PROVIDE [REDACTED] WITH A CLARIFICATION REGARDING HER REPORT. ANY CONTACT [REDACTED] HAD WITH [REDACTED] AT THAT POINT SHOULD BE ON THE RECOMMENDATIONS OF [REDACTED]'S THERAPIST, AND AM.

8) Other Observations/Actions taken (i.e. coordination):  
CAFTA PROVIDED FOR LE, AM'S ATTORNEY, AND SOLICITOR'S OFFICE.

P. 008

PAGE 02/05

20: The Attorney etc Families

MAY/12/2008/MON 09:40 AM SCDCM FORENSICS CTR

FAX No. 803 935 5599

05/07/2008 22:00 8834342367

FORENSIC SERVICE LLC

- Statement of Shirley Curnell Scott 07/19/02
- Statement of Danielle Daniels 07/23/02
- Statement of Mr. Chisolm - why no date
- Letter to Honorable James B. Gosnell 08/19/02
- MUSC Records of Victim
- Dean Norton Low County Children Center Victim Records
- MUSC Psychological Report for the Victim 09/04/02
- Psychological Report for the Victim 08/20/02
- Sentence of 8-years for Lewd Act on a Child Suspended to 4 years with a 5-year Probation 06/10/97
- Indictment for Lewd Act 03/04/96
- Arrest Warrants
- Order for Violation of Probation 08/29/03
- Probation Citation 08/29/03
- Probation Order 06/19/97
- Incident Report for Sex Assault 09/5/95
- Supplemental Report
- SCDC Inmate Statement 06/13/097
- Arrest Warrants for Failure to register 11/28/01
- Arrest Warrant for Failure to Register
- Incident Report for Failure to register 11/2/00
- Sentence of 5 Years with 3-years Probation with Condition of Mental Health Counseling And Intensive Probation 03/27/86 for Burglary 1<sup>st</sup>
- Report for Charge Simple Possession of Marijuana 12/12/76
- SCDC Inmate Offense History Showing Sexual Misconduct Charges 2004 and 1998
- SCDC Mental Health Services Note 5/17/06
- SCDC Program Services Summary Showing SC C Star Treatment Phase I Completed
- RAP Sheet
- PPG Testing 02/15/08
- Neuropsychological Testing 04/15/08
- Psychiatric Evaluation 01/25/03, with attorney present

*I didn't give. Very Important NO Miranda Statement (They Lied the Court)*  
*I wrote a (Statement) on a (Statement Form) (Nillack) Detective*  
*From the C.S.C. Police Dept. not a Miranda Form with a Statement area below the Miranda and this is Proof*

*Just check* → *I register (Oct. 11/2001)*  
*I payed in jail for 2000*

**Pertinent Statements:**

**Developmental History:** Mr. Chisolm reports that he was raised in an intact family. His mother and father are presently 89 and 84 years old respectfully, and they reside in Charleston. He denies any history of physical or sexual abuse as a child. He does report that he witnessed people getting stabbed and shot in his community. He denies any of the criteria for Post Traumatic Stress Disorder. He does report that his brother and sister would hit on him and that his father would occasionally corporally punish them.

**School History:** Mr. Chisolm reports that he attended school through 12<sup>th</sup> grade and he did not repeat any grades. He reports that vocationally he had a trade as a carpenter. He was an Eagle Scout. He states his longest employment was at Cumming Engines for 4 years where he was a worked on Diesel Engines.

MAY/12/2008/MON 09:40 AM SCDMH FORENSICS CTR

FAX No. 803 935 5599

P. 007

05/07/2008 22:00 8034342367

FORENSIC SERVICE USC

PAGE 01/05



UNIVERSITY OF SOUTH CAROLINA  
SCHOOL OF MEDICINE

UNIVERSITY SPECIALTY CLINICS,

### Psychiatric Evaluation

Name: Alton Chisolm  
SCDC #: 241794  
County of Proceedings: Charleston  
Date of Evaluation: 01/25/08  
Date of Report: 05/06/08

Identifying Information: Mr. Chisolm is a 51-year-old male evaluated pursuant to a court order for the Charleston County Court of Common Pleas to determine whether he suffers from a mental abnormality or personality disorder that makes him likely to engage in act of sexual violence if not confined in a secure facility for long-term care control and treatment.

Statement of Non-confidentiality: Mr. Chisolm understood a written report of this evaluation would be sent to his attorney and that his communication was not confidential. His attorney Jeffrey Gerardi was present during the evaluation.

*(Entered) SVP MATTERS AFTER MY 2003 CONVICTION*

#### Sources of Information:

- Order for Evaluation Pursuant to SVP Act
- Amended Order for Evaluation Pursuant to the SVP Act
- Petition Pursuant to the Sexual Violent Predator Act
- Offer Plea to Lewd Act Upon A Minor with A Sentence of 8 Years 08/29/03
- Indictment for Lewd Act on a Minor
- Arrest Warrant for Lewd Act on Minor 2 Counts
- Guilty Plea with 90-Day Sentence for Failure to Change Address for Sex Offender Registry 08/29/03
- Indictment for Failure to Change Address for Sex Offender Registry
- Arrest Warrant for Failure to Register
- Indictment for CSC with Minor Null Pros
- Arrest Warrant for CSC with a Minor 2<sup>nd</sup>
- Indictment for a Lewd Act on a Minor Null Pros
- Arrest Warrant for Lewd Act on a Minor Null Pros

*September 7, 2016*

*Appellate Court*

*(Confusion Hear) AND I dont have (no conviction)*

Incident Report for Criminal Sexual Conduct 2<sup>nd</sup> Degree Lewd Act on a Minor 07/19/02

Supplemental Incident Report

Incident Report for CSC with a Minor and Lewd Act 7/19/01

Supplemental Report 7/31/02

Incident Report for Failure to Register on the Sex Offenders Registry on 8/7/02

Statement of Victim 07/19/02

Statement of O. Whaley 7/23/02

*ERR*

*NO CONVICTION*

*11-28-01*

#### NEUROPSYCHIATRY

#### AND BEHAVIORAL SCIENCE

15 Medical Park, Suite 141, Columbia, SC 29203  
803-434-4300, FAX 803-434-4351



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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August 12, 2016

Alton Chisolm  
S.C. Dept. of Mental Health  
SVP Program  
7901 Farrow Rd  
Columbia SC 29203

**RECEIVED**  
SEP 12 2016  
SC Court of Appeals

Re: In the Matter of Alton Chisolm  
Appellate Case No. 2014-002351

Dear Mr. Chisolm:

Your counsel has filed a brief indicating that this appeal is without merit and moves to be relieved as your counsel. *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L.E.2d 493 (1967). The records in this office reflect counsel has served you with a copy of the brief and record on appeal.

You may, within forty-five (45) days of the date of this letter, file with this Court a *pro se* brief addressing any issues you believe the Court should consider in this appeal. Upon receipt of your *pro se* brief or the expiration of forty-five (45) days, this appeal will be submitted to the Court for its consideration.

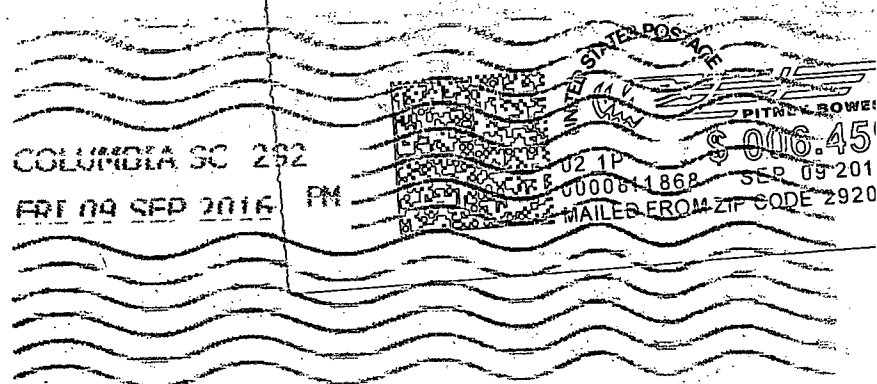
Very truly yours,

*V. Claire Allen, Deputy*

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cc: Deborah R.J. Shupe, Esquire  
Alan McCrory Wilson, Esquire  
James Kristian Falk, Esquire

Alton M. Chisolm  
7901 Farrow Road  
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SC Court of Appeals

The South Carolina Court of Appeals  
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