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RE: LEGAL CORRESPONDENCE, COVER LETTER

MARK L. BLAKE, JR V. THE STATE

CA: 2016-001715

"ATTENTION", HONORABLE CLERK

PLEASE FILE THE ENCLOSED PRO-SE BRIEF FOR ABOVE APPEAL WITH THIS HONORABLE COURT. I THANK YOU FOR YOUR PROMPT AND PROFESSIONAL ATTENTION IN REGARDS TO THIS MATTER.

RESPECTFULLY SUBMITTED, M. L. B. JR

MARK L. BLAKE, JR

388 REDEMPTION WAY

MCCORMICK, SC. 29899

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
ROBIN B. STILWELL, CIRCUIT COURT JUDGE

THE STATE

RESPONDENT

RECEIVED
JUN 05 2017
SC Court of Appeals

V.

MARK LORENZO BLAKE, JR.

APPELLANT

APPELLATE CASE NO. 2016-001715

APPELLANT'S BRIEFING FOR GROUNDS FOR APPEAL

MARK LORENZO BLAKE,JR
MCCORMICK CORR. INST.
386 REDEMPTION WAY
MCCORMICK, S.C. 29899

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QUESTIONS PRESENTED

SEE NEXT PAGE ATTACHMENT

WITH GROUNDS 1 to 7

STATE F	)	THE STATE OF S. CAROLINA
COUNTY OF CHARLESTON	)	IN THE COURT OF APPEALS
	)	
STATE OF SOUTH CAROLINA	)	INDICTMEN NO. 2012-GS-10-04707
RESPONDENT:	)	
	)	
V.	)	
	)	
	)	APPELLANT'S BRIEFING
MARK L. BLAKE, JR	)	FOR
	)	GROUNDS OF APPEAL
APPELLANT,	)	
	)	

FOR THE 1st GROUND

1. Did the Trial Court err by denying Motion to Dismiss Complaint(s) based on the provision of S.C. Constitution Art. 5 Section IV paragraph,E?

(see Trial Transcript pages 18-29)

FOR THE 2nd GROUND

2. Did the Trial Court err by denying Motion to Dismiss Complaint based on incident didn't fit the criteria of Statute 44-03-370 subsection E ?

(see Trial Transcript pages 29-34)

FOR THE 3rd GROUND

3. Did the Trial Court err by denying Motion to Suppress Evidence based on Fruit of The Poisonous Tree ?

(see Trial Transcript pages 34-80)

FOR THE 4th GROUND

4. Did the Trial Court err by denying Motion challenging jury prejudice ?

(see Trial Transcript pages 109-112)

FOR THE 5th GROUND

5. Did the Trial Court err by denying a Mistrial ?

(see Trial Transcript Page 218)

FOR THE 6th GROUND

6. Did the Trial Court err by denying Direct Verdict ?

(see Trial Transcript page 342)

FOR THE 7th GROUND

7. Did the Trial Court err by denying the Renewal of Pre-Trial Motion(s) ?

(see Trial Transcript Page 388)

QUESTIONS PRESENTED

Did the Trial Court err by denying Motion To Dismiss Complaints based on the provision S.C. Constitution Article 1 Section II and U.S. Constitution Amendment 5

ARGUMENT

Yes the Lower Court erred in dismissing the Complaint. It is well established law in the State of South Carolina for Issues involving a Complaint or Indictment. This Honorable Court must look at the issue with a practical eye in view of the surrounding circumstances. STATE V. HAMILTON, 543 S.E.2d 586, 344 S.C. 344.

QUESTION PRESENTED

Did the Trial Court err by denying Motion to Dismiss Complaint based on incident didn't fit the criteria of Statute S.C.Code 44-03-370(E)

ARGUMENT

Yes the Court erred because the 6th Amendment and S.C. Constitution Article 1 Section 14 requires that an accused "be informed of the nature and cause of the accusation" this in turn has been held to mean that the accusatory instrument filed against and accused must be sufficiently specific so that the accused is appraised with reasonable certainty of accusation against him. This will enable the accused to know what charges he must be prepared to meet at trial. If an accusatory instrument does not set forth the alleged criminal conduct with sufficient specificity it is subject to dismissal, even if the prosecution attempts to supplement it with specifics set forth in a Bill of Particulars. This is so because

QUESTION PRESENTED

Did the Trial Court err by denying Motion to Suppress Evidence based on Fruit of The Poisonous Tree S.C. Constitution Article 1 Section 10, And U.S. Constitution Amendment 4

ARGUMENT STANDARD OF REVIEW DE-NOVO

Yes the Lower Court erred by not suppressing any evidence that was fruit of the poisonous tree because under the Constitution both U.S. Constitution and the South Carolina Constitution Article 1 Section 10 along with U.S. Constitution 4th Amendment it is explicitly clear under the Exclusionary Rule that any such evidence should be suppressed because it is Constitutionally invalid and if used in an trial no matter how relevant the evidence may be it will violate the rights to the Appellate S.C. Constitution Article 1 Section 14 (right to fair trial) S.C. Rules of Evidence 103(a)(1), S.C.R. Evidence 402. In a situation involving a traffic stop Knowels V. Iowa, the Knowels Court indicates once the reasons in which the vehicle was stopped by an officer has been satisfied the driver is free to go. (see pg. 36 of Trial Transcript)

S.C.Digest West Key No. 1158.12. (Criminal Law) States that the S.C. Courts will Review such an error under the following legal standards (1) De-Novo, (2) Clear Error, U.S. V. Meikle, 407 F.3d 670, State V. Khingratsaiphon, 572 S.E.2d 456, 352 S.C. 62, State V. Wilson, 545 S.E.2d 827m 345 S.C. 1, State V. Moore, and also view such error under clearly erroneous standard, State V. Young, 613 S.E.2d 386, 364 S.C. 476. There was no evidence presented at trial to confirm whether or not the Radar Detector used by the Trooper was properly service and calibrated to confirm whether or not the appellant was speeding there's nothing in evidence to present at trial to prove to the jury that the appellant's vehicle speed was shown on an accurate Radar Detector lack of such evidence presented at trial confused and mislead the jury S.C.R. EVID. 403, and denied appellant Due Process and his right to a fair trial and right to be fully heard S.C. Const. Article 1 Section 3, and S.C. Const. Article 1 Section 14 (See Trial Transcript testimony of State Trooper page 132 Lines 18 to 25 page 134 Lines 1 to 25)

(Page 135 Lines 1 to 25) (Page 136 Lines 1 to 25) (Page 137 Lines 1 to 25) There was no evidence of drugs in plain view (see Transcript page 140 Lines 16 to 25) There was no chain of custody information presented at trial to show how the substance used in trial was actually a narcotic no toxicology report or chain of custody, S.C.R. CRIM. PROC. 6, and no expert was there at trial to testify as to the actual substance or purity of substance S.C.R. EVID. 702, the Trooper isn't an expert (see Page 151 lines 1 to 25) It is a well-established exception to the warrant requirement is the automobile, or "Carroll" doctrine. Basically, this doctrine recognizes the automobile as a separate and special entity for Forth Amendment purposes. There two reasons for this special classification, (1) is the inherent exigency of searching a car based on the case with which it may be moved, and (2) is the lesser expectation of privacy in cars due to strict licensing and inspection procedures and their presence on public roadways, Arkansas V. Sanders, 442 U.S. 753, 99 S.Ct. 2586, 61 L.Ed 2d 235

However, in the case at bar the Trooper assumed the tray on the seat of the contain contraband, U.S. V. Johns, 469 U.S. 478, 105 S.Ct. 881, 83 L.Ed 2d 890. California V. Acevado, 500 U.S._____, 111 S.Ct. 1982, 114 L.Ed 2d 619

QUESTION PRESENTED

Did the Trial Court err by denying Motion challenging Jury Prejudice S.C. Constitution Article 1 Section 14.

ARGUMENT

Yes the Lower Court erred because Judge prejudice or bias violates S.C.A.C.R 501 and Code of Judicial Conduct, and Canon 3(E)(1)(a).

QUESTIONS PRESENTED

Did the Trial Court err by denying a Mistrial, S.C.R.CRIM. PROC. 20(b)

ARGUMENT

Yes the Lower Court erred because S.C. Rules of CRIM.PROC. 20(b), allows a defendant to object to jury instruction and move for a Mistrial, STATE V. MCCORD, 349 S.C. 477, 562 S.E.2d 689 Criminal Law Key No. 1037.1(2) and 1044.1(8).

QUESTION PRESENTED

Did the Trial Court err by denying Direct Verdict S.C.Rules Criminal Procedure 19

ARGUMENT

Yes the Lower Court erred because constructive possession is whereas someone can gain readable access; However, it is well-established law in the State of South Carolina the "Due Process" Clause of the 5th Amendment and 14th and S.C Constitution Article 1 Section 3, requires that the prosecution prove beyond a reasonable doubt every essential element of the crime charged. In Re-Winship, 397 U.S. 358 at 364, 25 L.Ed 2d 368, 90 S.Ct. 1068 (1970) Patterson V. N.Y, 432 U.S. 197, at 215, 53 L.Ed 2d 28, 97 S.Ct. 2319 (1977) In the appellant's case in order to prove the crime of TRAFFICKING, there would have been or would have to have "proven beyond a reasonable doubt" and have given jury instructions on constructive possession the Constitution of S.C. Carolina require full jury instructions S.C. Constitution Article V Section 7.

" it is a settled rule that a Bill of Particulars cannot save an invalid indictment" Russell V. U.S., 369 U.S. 749, 82 S.Ct. 1038, 8 L.Ed 2d 240.

QUESTION PRESENTED

Did the Trial Court err by denying the renewal of Pretrial Motions S.C.R.Evidence 103(a)(1), S.C.Rule CRIM.PROC. 17

ARGUMENT

Yes the Lower Court committed error because S.C.Rules of Evidence 103(a)(1) and S.C.R.CRIM.PROC. 17 allows a defendant to renew motions and objections STATE V. WILLIAMS, (S.C.APP. 2013), 405 S.C. 263, 747 S.E.2d 194 Criminal Law 1036.1(6), The same for objecting to jury instructions S.C.R.CRIM.PROC. 20(b).

CONCLUSION

Wherefore, the appellate respectfully pray that this Honorable Court accept this brief along with all other relevant documents and records and set a date for and Oral Argument S.C.A.C.R 218.

Respectfully Submitted,
s/ M.L.B.JR
Mark Lorenzo Blake,JR

Date: 05-31-17

AFFIDAVIT OF SERVICE

I MARK L. BLAKE, JR, declare that I am the appellant in the above encaptioned matter and I have this 31 day of MAY 2017 sent a Prose Brief to the S.C. Court of Criminal Appeals by way of the U.S. Mail with sufficient postage.

Signature
s/ M.L.B.JR
Mark Lorenzo Blake,JR

Sworn to and Subscribed before
me this 31ST day of May 2017
Michael Cassere
Notary Public of South Carolina
My Commission Expires: July 09,2026

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