

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM YORK COUNTY
LEE S. ALFORD, RESIDENT JUDGE

MAR 30 2016

SC Court of Appeals

CASE NO. 2014-002630

THE STATE, RESPONDENT

v

prose, JEFFREY LYNN CHRONISTER, APPELLANT

FINAL BRIEF OF APPELLANT

JEFFREY LYNN CHRONISTER, #189827
KIRKLAND CORR. INST., B-II, #39
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210

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STATEMENT OF ISSUES ON APPEAL

(I) FRAUD ON THE COURT COMMITTED BY DEFENSE COUNSEL'S MISREPRESENTATION, AND SOLICITOR'S PROSECUTORIAL MISCONDUCT WHICH ALSO PRODUCED THE DIRECTED VERDICT, AND ALSO OBSTRUCTED JUSTICE.

(II) THE ARREST MALICIOUSLY MADE FOR THE LACK OF PROBABLE CAUSE WHICH WAS BROUGHT FORTH BY THE FRAUD ON THE COURT.

(III) APPEARING THAT THE GRAND JURY CAME BACK WITH AN NO BILLED INDICTMENT, AND ALSO OTHER FACIAL IRREGULARITIES OF INDICTMENT RAISING DEFECT(S) IN SUBJECT MATTER JURISDICTION.

STATEMENT OF THE CASE

APPELLANT IS PRESENTLY CONFINED AT KIRKLAND CORRECTIONAL INSTITUTION OF SOUTH CAROLINA DEPARTMENT OF CORRECTIONS PURSUANT TO ORDER OF COMMITMENT FROM YORK COUNTY CLERK OF COURT. APPELLANT HAD AN TRIAL BY JURY ON SEPTEMBER 21-22, 1992, AND WAS REPRESENTED BY GERALD W. SMITH, ESQUIRE, OF THE YORK COUNTY PUBLIC DEFENDERS OFFICE. THE TRIAL RESULTED IN APPELLANT BEING FOUND GUILTY AS CHARGED FOR MURDER, AND UNLAWFUL POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME (92-GS-46-1224). THE SOLICITOR WAS LARRY F. GRANT, AND THE HONORABLE DON S. RUSHING IMPOSED A LIFE SENTENCE PLUS FIVE (5) YEARS CONSECUTIVE.

APPELLANT IS AN PRO SE LITIGANT, AND THIS MATTER NOW BEFORE THE COURT AROSE FROM AN MOTION FOR NEWLY DISCOVERED EVIDENCE TO THE YORK COUNTY COURT OF GENERAL SESSIONS. APPELLANT RECEIVING AN WRITTEN ORDER FROM THE HONORABLE LEE

S. ALFORD, RESIDENT JUDGE OF THE SIXTEENTH JUDICIAL CIRCUIT, AND APPELLANT FILING AN TIMELY NOTICE OF INTENT TO APPEAL THE JUDGE'S DECISION. APPELLANT RECEIVING AN CONFORMATION LETTER FROM THE HONORABLE V. CLAIRE ALLEN, DEPUTY CLERK OF THIS COURT, DATED FEBRUARY 13, 2015 (SEE COPY OF LETTER AT PAGE 26) THAT CONFIRMS IT IS PROPER FOR THIS APPEAL TO PROCEED, AND PLEASE SEE APPELLANT'S CERTIFICATE OF SERVICE BY MAIL AT PAGE 24 THAT SHOWS THIS INITIAL BRIEF, AND DESIGNATION OF THE MATTER HAS BEEN PROPERLY SERVED WITHIN THE (30) THIRTY DAY TIME LIMITATION OF THE DATE OF THE LETTER. (COPY OF JUDGE'S ORDER AT PAGE 27)

APPELLANT NOW RESPECTFULLY COMES BEFORE THE COURT OPPOSING THE JUDGE'S DECISION IN THE ORDER OF THE MOTION WAS UNTIMELY MADE. BECAUSE OF IT WAS SUBMITTED UNDER "RULE 29(b) SCR CRIM P", "PURSUANT TO RULE 60(b) SCR CP", AND THE FOLLOWING ARGUMENTS THAT WERE PRESENTED IN THE MOTION SHOWS THE FACTS, AND ELEMENTS FOR CAUSE OF THIS APPEAL. ALSO THE ARGUMENTS HAVE NOT BEEN BAISED TO AN COURT ON ANY ACTION PRIOR TO THE MOTION, AND SUPPORTED IN THE MOTION BY THE TRANSCRIPT OF RECORD, EXHIBITS, AND CASE LAWS.

ARGUMENTS

(1) WAS THE DIRECTED VERDICT PRODUCED BY PROSECUTORIAL MISCONDUCT, AND MISREPRESENTATION BY DEFENSE COUNSEL?

STATEMENT: THE INITIAL DIRECT EXAMINING OF OTIS J. WHITSTINE SHOWS HE WAS WITH THE YORK COUNTY SHERIFF'S DEPARTMENT AND INVOLVED IN AN INVESTIGATION OF THE TRAGEDY ON THE DATE IT OCCURRED [R.p. 37, LINE 12-23]. HE WAS THE PRIMARY LAW OFFICER THROUGHTOUT THE CASE. BECAUSE OF SHOWN AS THE "AFFIANT", "PRO-

SECUTING OFFICER" OF ARREST WARRANT, AND SOLE WITNESS OF INDICTMENT FOR MURDER (SEE EXHIBITS A-B, p. 28-29). ALSO WAS THE ONLY LAW OFFICIAL WHO TESTIFIED INTERVIEWING AND OR HAVING TALKED WITH WITNESS TOMMY AUTEN ON THE MORNING OF TRAGEDY, THE SOLICITOR ADDRESSING WITNESS AS "THE EYEWITNESS IDENTIFICATION AND LINE-UP" [Rp. 23, LINE 19-20], AND THE ARREST WARRANT STATES, "PROBABLE CAUSE BASED ON WITNESS'S".

SUPPORTING FACTS: THE RECORD FAILS TO SHOW ANY INITIAL DIRECT EXAMINING OF OFFICER / DETECTIVE WHITSTINE OF HAVING INTERVIEWED OR TALKED WITH WITNESS AUTEN ON THAT MORNING [Rp. 37, LINE 12- p. 38], AND ONE OF THE MAIN SUBJECTS OF THIS ISSUE THAT RAISES FRAUD UPON THE COURT BY COUNSEL'S MISREPRESENTATION IS THE FOLLOWING SECOND DAY CROSS EXAMINING OF THE DETECTIVE. BECAUSE OF THE FACTS / EVIDENCE THATS FURTHER PRESENTED SHOWS THE ONLY INVOLVEMENT OF THE DETECTIVE IN THE INVESTIGATION WAS PRESENTING OF AN PHOTO LINE-UP TO WITNESS AUTEN AT WITNESS'S RESIDENCE ON THAI AFTERNOON OF THE TRAGEDY, WHICH ALSO SHOWS THE JUDGE'S DECISION IN ERROR. BECAUSE OF THE AUTHORITY GRANTED IN RULE 60 (b) ALLOWS AN INDEPENDENT ACTION THATS NOT SUBJECT TO THE ONE YEAR LIMITATION FOR FRAUD ON THE COURT, OR UNDER THE AUTHORITY IN RULE 60 TO HEAR AN INDEPENDENT ACTION FOR EXCEPTIONAL CIRCUMSTANCES WARRANTING EQUITABLE RELIEF SEE MR. T. V. MS. T., 378 S.C. 127, 135, 662 S.E.2d 413, 417 (CT. APP. 2008) (STATING RULE 60 PERMITS THESE TWO POTENTIAL INDEPENDENT ATTACKS ON JUDGMENT). OUR SUPREME COURT HAS EXPLAINED THAT WHILE IN MOST CIRCUMSTANCES THERE IS A TIME LIMITATION ON A PARTY SEEKING TO REOPEN A FINAL JUDGMENT, THERE IS NO LIMITA-

TION WHEN A PARTY SEEKS TO SET ASIDE A JUDGMENT DUE TO FRAUD ON THE COURT. CHEWNING, 354 S.C. AT 80, 579 S.E.2d AT 609-10; ARATA V VILLAGE WEST OWNERS ASSN. INC., NOT REPORTED IN SE2d 2011, WL 11735004 (S.C. APP. 2011); EXAMINING;

INITIAL CROSS EXAMINING: (Q) "NOW WHEN YOU TALKED WITH HIM DID YOU TALK WITH HIM EARLIER IN THE MORNING THAT DAY?"; (A) "I DON'T RECALL, BUT ITS POSSIBLE THAT I DID" [Rp. 41, LINE 19-21]

THE SECOND DAY DIRECT EXAMINING: (Q) "AND WHERE DID YOU TALK TO HIM PLEASE?"; (A) "THE FIRST TIME I BELIEVE WAS AT DUKE POWER CATAWBA NUCLEAR STATION, AND THE SECOND TIME WAS AT HIS RESIDENCE" [Rp. 101, LINE 10-12]

SECOND DAY CROSS EXAMINING: (Q) "DETECTIVE, YOU SAY THAT YOU HAD TALKED WITH MR. AUTEN OUT AT THE CATAWBA STATION EARLY IN THE MORNING, CORRECT SIR?"; (A) "YES SIR, DOING INTERVIEWS"; (Q) "AND THAT THAT WOULD HAVE BEEN ABOUT 8:00--7:30, 8:00 O'CLOCK, CORRECT, SIR?"; (A) "I ASSUME IT WAS EARLY IN THE MORNING." [Rp. 103, LINE 12-17]

THE EVIDENCE THAT REPUTES THE DETECTIVE'S FOREGOING TESTIMONY OF INTERVIEWING WITNESS, AND SUPPORTS THAT COUNSEL COMMITTED THE MISCONDUCT OF FRAUD ON THE COURT IN MISLEADING THE COURT IN THAT THE ALLEGED INTERVIEW HAD OCCURRED ARE: (1) AFTER THE DETECTIVE TESTIFIED TO BEING INVOLVED IN AN INVESTIGATION OF THE TRAGEDY HIS ANSWERS TO THE VERY NEXT FOLLOWING QUESTIONING SHOW THAT HE MET WITH WITNESS AT WITNESS'S RESIDENCE TO PRESENT THE LINE-UP INSTEAD OF HAVING INTERVIEWED OR TALKED WITH HIM ON THAT MORNING

[R.p. 37, LINE 24 - p. 38] MOST SIGNIFICANT IS WITNESS AUTE-
N'S TESTIMONY SUPPORTS THAT WHEN THE DETECTIVE ARRIVED
AT HIS RESIDENCE AND HAVING TO INTRODUCE, AND ALSO IDENTI-
FY HIMSELF WAS THE FIRST TIME THEY HAD EVER MET. FOR HE TE-
STIFIED CONCERNING DETECTIVE WHITSTINE'S INTRODUCTION THAT;

"HE TOLD ME WHO HE WAS, IDENTIFIED HIMSELF" [R.p. 97, LINE 16
(2) THE RECORD SHOWS THAT THE ONLY TIME WITNESS AUTEU MENTI-
ONED DETECTIVE WHITSTINE'S NAME WAS DURING HIS TESTIMONY
CONCERNING THE PRESENTATION OF THE LINE UP [R.p. 30, LINE 12 - p.
37, LINE 10 - AND - p. 97, LINE 4 - p. 100, LINE 11] AND ALSO THERE IS
NO EVIDENCE ON THE RECORD OF THE DETECTIVE INTERVIEWING, AND
OR HAVING TALKED WITH ANY OF THE OTHER WITNESSES OF THAT MO-
RNING; JOEL SMITH, NO EVIDENCE OF BEING INTERVIEWED OR HA-
VING TALKED WITH AN OFFICER [R.p. 47, - p. 59]; DANNY WILSON, IN-
TERVIEWED BY AN OFFICER JIM WILLIAMS, [R.p. 72, LINE 2-6]; AND
SIDNEY BALLANGER III, NO EVIDENCE OF BEING INTERVIEWED OR HA-
VING TALKED WITH AN OFFICER ON THAT MORNING. ALSO NO NAMES
OF THE AUTHORITIES THAT HE TESTIFIED GIVING PARTIAL TAG REG-
ISTRATION TO OR WHEN THIS WAS GIVEN [R.p. 81, LINE 19 - TO p. 91].

(3) THE ONLY COPY OF AN INCIDENT REPORT FROM THE YORK COUNTY
SHERIFF'S DEPARTMENT THATS BEEN ENTERED INTO APPELLANT'S
TRANSCRIPT OF RECORD SHOWS THAT WITNESS AUTEU WAS THE RE-
PORT'S "COMPLAINANT" [TR. P. 452] THOUGH DUE TO THE COPY BE-
ING ENTERED WITHOUT SHOWING OF THE REPORTING OFFICER(S)
NAME(S) (SEE EXHIBIT - C, AT 30) APPELLANT ASKED FAMILY MEMB-
ER TO OBTAIN COPIES OF ALL INCIDENT REPORTS, AND ALSO NOTES
OF THE TRAGEDY FROM THE SHERIFF'S DEPARTMENT. THERE WAS

NO COPIES OF NOTES PROVIDED, AND THE ONLY COPY OF AN INCIDENT REPORT GIVEN WAS OF THE SAME REPORT THAT ITS COPY WAS ENTERED INTO THE TRANSCRIPT OF RECORD (SEE EXHIBIT-D, p.31) THIS COPY NOT ONLY SUPPORTS THAT THERE IS NO PHYSICAL EVIDENCE TO SUPPORT THE DETECTIVES' TESTIMONY OF HAVING INTERVIEWED WITNESS AUTEN ON THAT MORNING IT ALSO SHOWS THAT THERE IS NO LAWFUL PHYSICAL EVIDENCE THAT ANY OF THE WITNESSES HAD BEEN INTERVIEWED INCLUDING WITNESS AUTEN. BECAUSE OUTSIDE OF THE COPY SHOWING OF AN OFFICER "T.B. SMITH" BEING THE REPORTING OFFICER THE RECORD FAILS TO SHOW ANY EVIDENCE / TESTIMONY OF HIS BEING INVOLVED IN THE INVESTIGATION AT ANYTIME. THE ONLY TIME OFFICER SMITH'S NAME IS MENTIONED ON THE RECORD IS BEING CALLED ON THE FIRST DAY OF THE TRIAL [Rp. 119, LINE 2-], AND BESIDES OF OFFICER SMITH BEING ABSENT THROUGHOUT THE TRIAL THE REPORT IS FURTHER SHOWN IN THIS APPEAL TO HAVE BEEN FABRICATED FROM OUTSIDE SOURCES, AND FALSE STATEMENTS

APPELLANT RESPECTFULLY CONTENTS GIVEN THE FOREGOING EVIDENCE THAT REPUTES AND FAILS TO SUPPORT DETECTIVE WHITSTINE'S TESTIMONY OF HAVING INTERVIEWED THE WITNESS THAT COUNSEL'S CROSS EXAMINING ALSO SHOWED MISREPRESENTATION BY IMPROPER USING LEADING QUESTIONS TO INDUCING FALSE TESTIMONY ABUSING RULE 611 (C) SERC, AND ALSO SHOWING MISREPRESENTATION IN VIOLATING RULE 407 SCACR RULE OF PROFESSIONAL CONDUCT RULE 8.4 MISREPRESENTATION SUBSECTIONS (a), (b), (d), (e), AND (g)

THE FOLLOWING PRESENTMENT EXAMPLES OF OFFICER SMITH'S INCIDENT REPORT AS TO WITNESS AUTEN'S TESTIMONY, AND

WITNESS'S LACK OF TESTIMONY SHOWS THAT THE REPORT WAS FALSELY WRITTEN, AND ALSO FABRICATED FROM OTHER SOURCES / WITNESSES VIOLATING S.C. CODE ANN. 16-9-10(A), (2):

REPORT: "R/P STATED AS HE WAS EXITING THE VEHICLE HE DROVE TO WORK THAT HE HEARD APPROXIMATELY 5 RAPID GUNSHOTS."

WITNESS: "AS I PARKED MY VEHICLE I DID HEAR SOMETHING THAT WAS A LITTLE STRANGE, I HEARD WHAT I THOUGHT WAS A SMALL PACK OF FIRECRACKERS BEING DISCHARGED OVER IN THE ADMINISTRATIONS PARKING LOT"; (Q) "ALL RIGHT SIR WHERE WERE YOU WHEN YOU HEARD THAT?"; (A) "I WAS IN MY VEHICLE IN MY PICK-UP TRUCK." [Rp. 92 LINE 23 p. 93 LINE 3]

WITNESS AUTEN'S PRIOR TESTIMONY SHOWS THE NOISES THAT HE "THOUGHT WAS A SMALL PACK OF FIRECRACKERS" WERE "AT LEAST 5," AND THEY WERE IN A "VERY RAPID SUCCESSION" [Rp. 25 LINE 8-11], THOUGH WITNESS DANNY WILSON'S TESTIMONY SHOWING HE HEARD "AT LEAST 5 SHOTS" THAT "WERE IN FAIRLY RAPID SUCCESSION" [Rp. 69, LINE 2-6] AND ALSO SHOWING THAT THE REPORT'S PRESENTMENT OF "NC PARTIAL REGISTRATION DRL" WAS GIVEN TO LAW ENFORCEMENT BY WITNESS BALLANGER [Rp. 61, LINE 12-14: p. 70, LINE 1-15: p. 88, LINE 1-5, AND p. 90, LINE 7-9] WHEREAS WITNESS AUTEN'S TESTIMONY FAILING TO SHOW HAVING GOT ANY REGISTRATION.

AS TO THE REPORT'S PRESENTMENT OF "R/P SAW A W/M SUBJECT FITTING THE ABOVE DESCRIPTION --", THE RECORD FAILS TO SHOW ANY WITNESS TESTIMONY AS TO THE PRESENTMENTS OF THE SUBJECT'S "AGE 38/42", COLOR OF HIS HAIR BEING "BROWN" NOR TO THE COLOR OF HIS EYES BEING "BROWN". WHEREAS APPELLANT WAS 42 YEARS OLD, HAS BROWN HAIR, AND BROWN EYES. THE ONLY

IDENTITY PRESENTMENT THAT WAS CORROBORATED BY WITNESS AUTEN IS THE SUSPECT WAS "MALE", AND THE NARRATIVE PRESENTMENT OF A "WHITE DODGE VAN". WHICH APPELLANT RESPECTFULLY CONTENDS IS INSUFFICIENT AS EVIDENCE TO OVERCOME THE MAJOR DISCREPANCIES OF REPORT, AND USE AS EVIDENCE TO SUPPORT THE INTERVIEW HAD OCCURRED. ALSO GIVEN THE FOREGOING SHOWING OF IT BEING FABRICATED FROM OTHER SOURCES.

APPELLANT RESPECTFULLY CONTENDS THAT GIVEN THE REPORT BEING THE ONLY POSSIBLE PHYSICAL EVIDENCE THAT COULD HAVE SUPPORTED WITNESS AUTEN WAS INTERVIEWED MISREPRESENTATION BY COUNSEL AND OR PROSECUTORIAL MISCONDUCT BY THE SOLICITOR WAS RAISED IN THEIR NOT ENSURING OFFICER SMITH'S PRESENCE TO PRESENT AND TESTIFY AS TO WRITING OF THE REPORT.

APPELLANT'S CONTENTION IS BASED ON THE FOLLOWING SHOWING OF COUNSEL'S CROSS EXAMINING OF WITNESS AUTEN THAT SHOWS COUNSEL AND THE SOLICITOR HAD KNOWLEDGE OF THE REPORT BEING FALSE PRIOR TO THE TRIAL, AND THIS WOULD HAVE BEEN SHOWN BY WITNESS AUTEN'S, AND ALSO THE OTHER WITNESSES TESTIMONIES. THIS IS SUPPORTED BY THE RECORD FAILING TO SHOW ANY INITIAL DIRECT EXAMINING OF WITNESS AS TO HAVING "TALKED WITH" OR HAVING GAVE "A DESCRIPTION" TO ANY OFFICER ON THAT MORNING WHICH SHOWS THAT COUNSEL HAD KNOWLEDGE OF WITNESS HAD TALKED WITH SOLICITOR PRIOR TO THE TRIAL. ALSO SUPPORTIVE IS THAT WITNESS HAD TESTIFIED UNDER PRIOR DIRECT EXAMINING THAT THE SUSPECT'S HEIGHT WAS "5'10" TO 6 FOOT", AND HIS WEIGHT WAS "PROBABLY 170, 180

POUNDS" [Rp. 28, LINE 24 - p. 29 LINE 4], AND COUNSEL IS SHOWN ATTEMPTING TO INDUCE WITNESS INTO TESTIFYING "APPROXIMATELY 5'9", 160, 170 POUNDS" WHICH NOTED ON THE REPORT THE SUBJECT'S "HEIGHT" IS "5'9", AND "WEIGHT" IS "160" POUNDS. THUS COUNSEL ATTEMPTING TO CORROBORATE THESE PRESENTMENTS IN THE INITIAL CROSS EXAMINING AS FOLLOWS:

(Q) "DID YOU GIVE A DESCRIPTION TO ANY OFFICER AT THE SCENE?" (A) "YES SIR, I DID"; (Q) "AND THAT DESCRIPTION WAS APPROXIMATELY 5'9", 160, 170 POUNDS?"; (A) "YES SIR, THAT SOUNDS ABOUT RIGHT I THINK"; (Q) "AND YOU TOLD THE SOLICITOR THAT YOU TALKED WITH THE ORIGINAL-- GAVE A DESCRIPTION-- ORIGINALLY GIVEN AT APPROXIMATELY 8:30 OR SO IN THE MORNING, VERY EARLY IN THE MORNING RIGHT AFTER THIS HAPPENED?"; (A) "YES SIR." [Rp. 35 LINE 20 - p. 36 LINE 4]

APPELLANT RESPECTFULLY CONTENDS THAT THE CROSS EXAMINING FURTHER SHOWS FRAUD ON THE COURT IN COUNSEL MISLEADING THE COURT TO FALSELY ESTABLISH AN INTERVIEW HAD OCCURRED, WHICH THIS IS SUPPORTED BY HIS NOT QUESTIONING OF THE OFFICER'S NAME, WAS THERE ANY REPORT TAKEN, AND WHEN THAT HE HAD TOLD THE SOLICITOR? ALSO BY COUNSEL'S ACTIVE IMPROPER USE OF LEADING QUESTIONS IN COMMITTING THE MISCONDUCT.

APPELLANT RAISES MISREPRESENTATION BY COUNSEL IN NOT ENSURING OFFICER SMITH'S PRESENCE TO TESTIFY, AND OR OBJECTING TO HIS ABSENCE. BECAUSE OF HIS GOING OVER AN "SUMMARY OF THE INTERVIEW" DURING INITIAL CROSS EXAMINING OF WITNESS WILSON [Rp. 71, LINE 25 - p. 73] WHEREAS THE RECORD FAILS TO SHOW ANY MENTIONING OF THE SUMMARY DURING THE PRIOR DIRECT EXAMIN-

ING OF THE WITNESS [Rp. 60, LINE 5 - p. 70, LINE 24] WHICH THE SUMMARY WOULD ALSO SHOW THERE'S NO LAWFUL PHYSICAL EVIDENCE OF WITNESSES BEING INTERVIEWED ON THAT MORNING. FOR WITNESS WILSON'S TESTIMONY SHOWS THAT THE OFFICER USED HIS OWN INTERPRETATION (TWICE) INSTEAD OF WHAT THE WITNESS ACTUALLY SAID, AND ALSO ERRED IN WRITING SUMMARY [Rp. 71, LINE 25 - p. 75 LINE 7]

PHOTO LINE-UP: APPELLANT RESPECTFULLY CONTENTS THAT THE FOLLOWING FACTS PERTAINING TO THE PHOTO LINE-UP SHOWS FURTHER FRAUD ON THE COURT BY COUNSEL'S MISREPRESENTATION, AND PROSECUTORIAL MISCONDUCT BY THE SOLICITOR.

APPELLANT HAS NEVER SEEN THE ALLEGED PHOTO LINE-UP ITSELF NOR HAS OBTAINED A COPY OF IT THROUGH MOTIONS OR DISCOVERIES, AND PRIOR TO BEGINNING OF TESTIMONIES COUNSEL NOTIFIED THE COURT THAT THERE WOULD BE AN IDENTIFICATION BASED ON IT, AND MOVING TO QUASH THE LINE-UP AS HAVING "TAINTED THE IN-COURT IDENTIFICATION" [Rp. 13, LINE 3-6]. AFTER WHICH WITNESS AUTEN TESTIFIED AS FOLLOWS WHICH NOT ONLY SHOWS HE WAS UNRELIABLE IN IDENTIFICATION IT ALSO SHOWS THE LINE-UP WAS THE LINCH PIN IN IDENTIFICATION.

WITNESS: "NO SIR, WHAT I'M TELLING YOU IS THE PERSON I IDENTIFIED IN THE LINE-UP WAS THE PERSON I SAW IN THE PARKING LOT" [Rp. 34, LINE 1-20]; ALSO, "IF THIS MAN IS THE MAN THAT I IDENTIFIED ON THE PHOTOGRAPH, THEN HE IS INDEED THE SAME PERSON". [Rp. 100, LINE 1-3]

AFTER WITNESS AUTEN'S INITIAL TESTIMONY CAME DETECTIVE WHITSTINE'S UNDER INITIAL DIRECT EXAMINING THAT SHOWS HE HAD THE LIST OF NAMES THAT WAS ASSOCIATED WITH THE NUMBERS BE-
SIDE OF THE SUSPECTS PHOTOGRAPHS OF LINE-UP, AND HAD PRE-

PREPARED THE LINE-UP PRIOR TO GOING TO SEE WITNESS AUTEN [Rp. 38, LINE 24 - p 39, LINE 4]. THEN TO THE QUESTION OF "WHO MADE THAT RECORD" HE ANSWERED, "THE LINE UP WAS MADE BY DETECTIVE JETER IN GASTON COUNTY." [Rp. 39, LINE 14-19]. THE ONLY EVIDENCE ON RECORD OF DETECTIVE JETER'S INVOLVEMENT IS HIS PREPARING OF THE SUSPECTS PHOTOGRAPHS TO MAKE THE RECORD OF THE LINE-UP. THERE IS NO TESTIMONIAL EVIDENCE BY THE DETECTIVE AS TO THE LIST OF NAMES NOR ITS PREPARATION [Rp 106 - p. 108 ATTENTION TO - p 107, LINE 23 - p. 108]. THUS DETECTIVE WHISTINE'S PREPARING OF NAMES TO THE NUMBERS BESIDE OF THE PHOTOGRAPHS WOULD HAVE RENDERED THE LINE-UP UNDULY SUGGESTIVE AND TAINTED THE DETECTIVES IN-COURT IDENTIFICATION WHICH IS FURTHER SHOWN. FURTHERMORE HIS TESTIMONY SHOWS THAT THE PRESENTATION OF THE LINE-UP WAS UNLAWFUL, AND VIOLATED APPELLANT'S CONSTITUTIONAL RIGHT. BECAUSE OF SHOWING OF PRESENTING THE LINE-UP ALONE TO WITNESS [Rp. 411, LINE 4-6] AND THE RECORD FAILS TO SHOW ANY EFFORT BY THE STATE TO HAVE SECURED COUNSEL'S PRESENCE AT THE PRESENTATION, ALSO IT FAILS TO SHOW ANY EFFORT BY COUNSEL TO HAVE PROTECTED APPELLANT'S RIGHT AND APPEAR AT THE PRESENTATION OR OBJECT TO IT. UNDER USC AMEND. VI (20), "AN OUT OF COURT IDENTIFICATION OF AN ACCUSED AT A POLICE LINE-UP IS A CRITICAL STAGE AT WHICH THE ACCUSED HAS A CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL." STATE V LYONS 251, SC 541, 104 SE2d 445; STATE V NORTHCUTT, 372 SC 202, 227, 641 SE2d 873, 880 (2007), THE SOLICITOR'S "DUTY IS NOT TO CONVICT A DEFENDANT, BUT TO SEE JUSTICE DONE".

APPELLANT'S CASE WAS FURTHER PREJUDICED BY COUNSELS, AND THE SOLICITOR'S MISCONDUCT. BECAUSE OF UNDER INITIAL DIRECT

EXAMINING OF WITNESS AUTEN HE TESTIFIED GIVING DETECTIVE WHITSTINE "THE NUMBER THAT WAS BESIDE THE INDIVIDUAL'S PICTURE" OF LINE-UP [Rp. 31, LINE 12-15], AND GIVEN THAT THEY WERE ALONE HIS TESTIMONY AS TO WHICH NUMBER HE GAVE WAS NEEDED IN ORDER TO CORROBORATE THE DETECTIVE'S TESTIMONY OF THE NUMBER. COUNSEL AND SOLICITOR'S MISCONDUCT WAS RAISED BY THEIR ONLY QUESTIONING THE DETECTIVE OF THE NUMBER AND NOT QUESTIONING WITNESS; WITNESS'S DIRECT EXAMINATION [Rp. 31, LINE 12 - p. 34, LINE 10 - AND - p. 98, LINE 12 - p. 99], AND CROSS EXAMINING CONCERNING THIS [Rp. 99, LINE 12 - p. 100]. DIRECT EXAMINING OF THE DETECTIVE [Rp. 40, LINE 17 - p. 41, - AND - p. 103, LINE 22 - p. 104]

AFTER DETECTIVE WHITSTINE'S EXAMINING BY THE SOLICITOR THEN CAME THE CROSS EXAMINING AS FOLLOWS WHICH APPELLANT RESPECTFULLY CONTENTS SHOWS FURTHER FRAUD ON THE COURT BY ACTIVE MISREPRESENTATION IN COUNSEL'S ATTEMPTING TO INDUCE THE DETECTIVE INTO TESTIFYING HAVING NO KNOWLEDGE OF THE LINE-UP'S PREPARATION, ALSO BY NOT QUESTIONING HIM ABOUT HIS TESTIMONY OF HAVING HAD THE LIST OF THE SUSPECTS NAMES, AND HOW HE DID PREPARE THE LINE UP PRIOR TO SEEING THE WITNESS? TO SUPPORT THIS CONTENTION IS COUNSEL ACTIVE IMPROPER USE LEADING QUESTIONS INSTEAD OF PROPERLY SEEKING ANSWERS/FACTS OF MATTER;

(Q) "NOW, YOU DID NOT PREPARE THE LINE-UP, IS THAT CORRECT OFFICER?"; (A) "NO, SIR."; (Q) "AND YOU DON'T KNOW WHERE THE PHOTOGRAPHS CAME FROM OR WHO OBTAINED THEM OR ANYTHING OF THAT NATURE?"; (A) "THEY CAME FROM DETECTIVE JETER WITH THE GASTON COUNTY POLICE DEPARTMENT."; (Q) "BUT THEY PUT

IT TOGETHER?", (A) "YES SIR."; (Q) "AND THE PHOTOGRAPHS WERE IN THE FOLDER AS THEY ARE TODAY?"; (A) "YES SIR, THE FOLDER WAS COMPLETE AS NOW." [Rp. 42, LINE 9-19]

AFTER THE INITIAL CROSS EXAMINATION OF DETECTIVE WHITSTINE COUNSEL MOVED THE COURT TO SUPPRESS ANY IN COURT IDENTIFICATION MADE BY WITNESS AULEN BY STATING, IN PART, THE WITNESS WAS "SIMPLY UNSURE" [Rp. 43, LINE 20 - p. 44]. WHICH APPELLANT RESPECTFULLY CONTENTS THAT FRAUD ON THE COURT WAS FURTHERED BY COUNSEL'S ACTIVE MISREPRESENTATION IN ALLOWING AND NOT REQUESTING ANY IN COURT IDENTIFICATION BY DETECTIVE WHITSTINE BE ALSO SUPPRESSED, THIS CONTENTION IS SUPPORTED BY THE DETECTIVE'S TESTIMONY THAT WOULD HAVE RENDERED THE LINE-UP UNDULY SUGGESTIVE THUS TAINTING THE IDENTIFICATION, ALSO COUNSEL NOT APPEARING AT THE LINE-UP'S PRESENTATION, AND NOT QUESTIONING THE WITNESS AS TO WHICH NUMBER HE PICKED OUT TO CORROBORATE THE DETECTIVE'S TESTIMONY OF THE NUMBER.

COUNSEL NOT REQUESTING SUPPRESSION ALLOWED THE FOLLOWING SHOWING OF THE DETECTIVE'S IDENTIFICATION THAT WAS ALSO "INADMISSIBLE" BY LAW, BECAUSE OF THE RECORD FAILING TO SHOW ANY EVIDENCE OF DETECTIVE HAVING MET OR OBSERVED APPELLANT PRIOR TO THE TRIAL IN ORDER TO HAVE MADE SUCH AN IDENTIFICATION, SEE RULE 801, 1, (C) SCRC, AND WHICH IS SUPPORTED BY THE DETECTIVE'S ANSWER TO THE RE-CROSS EXAMINING OF NOT KNOWING "NO. 3". THIS ~~IS~~ ALSO SUPPORTS THAT THE IDENTIFICATION WAS BASED ON THE LINE-UP / UNDULY SUGGESTIVENESS, AND THE DETECTIVE'S ANSWER TO THE FIRST QUESTION REENTERATES THAT

THE DETECTIVE WAS ALONE WITH WITNESS. UNDER U.S. v WADE, 87 S.Ct. 1926 (1987), "ABSENCE OF COUNSEL AT PRETRIAL LINE-UP RE-NDERS COURT ROOM IDENTIFICATION INADMISSIBLE UNLESS COURT ROOM IDENTIFICATION IS BASED ON OBSERVATION OF SUSPECT OTHER THAN LINE-UP." : "RELIABILITY IS LINCH PIN IN DETERMINING ADMISSIBILITY OF IDENTIFICATION TESTIMONY" SEE STATE v ANDERSON, 422 SE2d 161 (S.C. App. 1992), USCA 5, 6, 14

THE FIRST QUESTION ALSO SHOWS FURTHER FRAUD ON THE COURT BY SOLICITOR'S ACTIVE PROSECUTORIAL MISCONDUCT IN HAVING KNOWLEDGE OF THE PRESENTATION WAS UNLAWFUL/UNCONSTITUTIONAL, CONTINUING QUESTIONING, AND PERMITTING THE INJUSTICE OF THE IDENTIFICATION. Id. NORTH CUT : UNDER S.C. CODE ANN. 17-730 AND 17-3150" REQUIRES THAT THE PROSECUTOR FULFIL AND SEE THAT ALL DUTIES REQUIREMENTS AND RULES OF CRIMINAL PROCEDURES RELATED TO DUE PROCESS AND THE SOUTH CAROLINA CONSTITUTION ARE ADHERED TO AND COMPLETED WITHIN THE COURT". UNDER U.S. v McDONALD 161 F3d 4 (TABLE) CA 4 (N.C. 1998), "THE TERM "FRAUD ON THE COURT" IS A NEBLOUS CONCEPT, A CLEAR EXAMPLE IS CORRUPTION OF JUDICIAL OFFICERS", WILKENS v SUNBEAM CORP. 466 F 2d 711, 714 (10TH CIR 1972)

APPELLANT RESPECTFULLY CONTENTS THAT THE FOREGOING MISCONDUCT BY COUNSEL AND THE SOLICITOR WAS ALSO ALLOWED FROM COUNSEL'S NOT RENEWING HIS REQUEST TO QUASH THE LINE-UP WHEN IT WAS ENTERED AS THE STATE'S EXHIBIT [Rp. 39, LINE 2-24] WHICH ALSO DEPRIVED APPELLANT'S CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL REVIEW ON THE MATTER. USCA CONST. AMEND. 5, 6, 14.

THE IDENTIFICATION AS FOLLOWS:

SOLICITOR: (Q) "WAS ANYBODY THERE BESIDES YOU AND HIM?"; (A) "NO SIR"; (Q) "AND WHO WAS THE PICTURE THAT HE PICKED OUT?"; (A) "JEFFREY LYNN CHRONISTER, NO. 3 IN THE LINE-UP."; (Q) AND DOES MR. CHRONISTER APPEAR DIFFERENT TODAY IN-COURT?"

COUNSEL: "OBJECTION, YOUR HONOR."

SOLICITOR: "IS THERE ANY DIFFERENCE IN MR. CHRONISTER'S APPEARANCE TODAY IN COURT AS IN THE PICTURE LINE-UP?"

COUNSEL: "YOUR HONOR, THE SAME OBJECTION"

THE COURT: "NO SIR, I OVERRULE YOU GO AHEAD."

DETECTIVE: "HE HAS NO BEARD AT THIS TIME." [Rp. 102, LINE 24-P. 103]

RECROSS EXAMINING: (Q) AND YOU DIDN'T KNOW NO. 3 FROM ADAM'S HOUSE CAT OF YOUR OWN KNOWLEDGE DID YOU SIR?"

(A) "NO, SIR." [Rp. 105, LINE 17-19]

THE DETECTIVE'S IDENTIFICATION CAME FORTH BEFORE THE JURY, AND AFTERWARDS CAME COUNSEL'S CROSS EXAMINING, AS FOLLOWS, WHICH SUPPORTS APPELLANT'S CONTENTION OF FRAUD COMMITTED ON THE COURT THAT WAS RAISED IN THE INITIAL CROSS-EXAMINING OF THE DETECTIVE. BECAUSE AGAIN SHOWING OF COUNSEL IMPROPER USE OF LEADING QUESTIONS IN MISLEADING THE COURT, AND TO FALSELY APPEAR THE DETECTIVE HAD NO KNOWLEDGE OR NOTHING TO DO WITH THE LINE-UP'S PREPARATION. WHICH APPELLANT RESPECTFULLY CONTENTS WOULD HAVE FALSELY IMPRESSED THE IDENTIFICATION WAS RELIABLE, AND THE DETECTIVE'S ONLY INVOLVEMENT WAS PRESENTING OF THE LINE-UP.

APPELLANT'S CONTENTIONS ARE SUPPORTED BY COUNSEL AGAIN NOT QUESTIONING ABOUT THE DETECTIVE'S IMPLICATING TESTIMONY OF HAVING HAD THE LIST OF NAMES, AND HIS PREPARING OF THE

LINE UP PRIOR TO SEEING WITNESS. ALSO NOT PROPERLY QUESTIONING OF WHO DID PREPARE THE LINE UP, AND DID YOU HAVE A ROLE IN IT? WHERE AND WHO DID PREPARE THE LIST OF NAMES, WHO DID PREPARE THE NAMES ASSOCIATED TO THE PHOTOGRAPHS NUMBERS? ALSO WHEREAS PREVIOUSLY SHOWN THE DETECTIVE KNEW WHO PREPARED THE RECORDS PHOTOGRAPHS, HE DID NOT QUESTION THE DETECTIVE OF THIS;

COUNSEL: "NOW I BELIEVE YOU YOURSELF DID NOT PREPARE THE LINE UP, CORRECT, SIR?"; (A) "NO SIR."; (Q) "DETECTIVE YOU DID NOT PREPARE THE PHOTO LINE UP?"; (A) "NO SIR."; (Q) "NOR DID YOU PREPARE THE NAMES ASSOCIATED WITH THE NUMBERS DID YOU SIR?"; (A) "NO SIR."; (Q) "ALL YOU KNOW IS THAT NO. 3 WAS THE PERSON THAT WAS PICKED OUT BY MR. AUTEN?"; (A) "ON THE SHEET IT HAS A LIST OF NAMES OF THE PEOPLE IN THE PICTURES, AND MR. CHRONISTER WAS LISTED AS NO. 3."; (Q) "BUT YOU DIDNT PREPARE THAT LIST, YOU DIDNT PREPARE THE PHOTOGRAPHS?"; (A) "NO SIR." [Rp. 105 LINE 5-19]

DIRECTED VERDICT

COUNSEL MOVED FOR A "DIRECTION OF VERDICT" ON THE GROUNDS OF: (1) "THE EVIDENCE VIEWED IN LIGHT MOST FAVORABLE TO THE STATE SHOWS A KILLING, BUT THE IDENTIFICATION ISSUE, IT DOES NOT SHOW THAT MY CLIENT DID THAT, BECAUSE OF THE NATURE OF THE TESTIMONY BY THE PEOPLE AS TO IDENTITY."; (2) "I WOULD ALSO SUBMIT THAT THERE HAS BEEN NO WEAPON PRODUCED, THERE HAVE BEEN NO PROJECTILES", AND (3) "THE PRIMARY FAILURE IN THE STATE'S CASE, YOUR HONOR, IS THAT THERE HAS NOT BEEN ANY EVIDENCE TO MAKE OUT THE NECESSARY CASE FOR MALICE, EVEN THOUGH MALICE MAY BE INFERRED FROM THE USE OF A WEAPON. THERE HAS BEEN NO WEAPON CONNECTED TO MY CLIENT.

AND I SIMPLY FEEL THAT BASED ON THE TESTIMONY THAT WE HAVE, THAT THE STATE HAS FAILED TO MAKE OUT A CASE FOR MURDER. THE PRIMARY FAILURE BEING THE STATE HAS FAILED TO SHOW THE REQUIRED MALICE [Rp 114 LINE 19 - p. 115]

THE COURT: "THE TESTIMONY IN THE CASE IS THAT THE DEFENDANT WAS IDENTIFIED AS BEING THE PERSON AT THE SCENE, THAT HE WAS IN POSSESSION OF A WEAPON THAT GUNSHOTS WERE HEARD, AND VERY SHORTLY IN SECONDS THEREAFTER THE VICTIM'S BODY WAS FOUND, SHE WAS DEAD, OF COURSE THE STATEMENTS MADE BY THE OFFICER-- ALL OF THOSE AND THE USE OF A WEAPON, YOU DON'T HAVE TO FIND THE WEAPON IF THERE'S TESTIMONY OF USE OF A WEAPON"

"USE OF A WEAPON IS SUFFICIENT FOR INFERENCE OF MALICE TO SUPPORT A CONVICTION FOR MURDER, MALICE AFORETHOUGHT."

"FOR THOSE REASONS THE MOTION FOR DIRECTED VERDICT AT THIS STAGE IS DENIED." [Rp. 115, LINE 16 - p. 116]

COUNSEL SUBSEQUENTLY RENEWED THE MOTION ON THE SAME GROUNDS, AND WAS DENIED BY THE JUDGE ON THE SAME REASONS. [Rp. 117, LINE 8-11]

APPELLANT RESPECTFULLY CONTENDS HE WAS ENTITLED TO THE DIRECTED VERDICT BECAUSE OF THE FOLLOWING FACTS OF THE MATTER SHOWS IT WAS PRODUCED BY THE FRAUDULENT IDENTIFICATION TESTIMONY OF DETECTIVE / OFFICER WHITSTINE. UNDER RULE 19(a) SCR CRIM. P., "THE COURT SHALL DIRECT A VERDICT IN THE DEFENDANT'S FAVOR ON ANY OFFENSE CHARGED IN THE INDICTMENT AFTER THE EVIDENCE ON EITHER SIDE IS CLOSED, IF THERE IS A FAILURE OF COMPETENT EVIDENCE TENDING TO PROVE THE CHARGE IN THE INDICTMENT." UNDER U.S. v MCDONALD, 161 F.3d 4 (TABLE) CA 4 (N.C. 1998), "A DECISION PRODUCED BY FRAUD ON THE COURT IS NOT IN ESSENCE A DECISION AT ALL

AND NEVER BECOMES FINAL" SEE 11 WRIGHT AND MILLER, FEDERAL PRACTICE AND PROCEDURE, §2870 AT 409 (1995), QUOTING KENNER v COMMISSIONER OF INTERNAL REVENUE, 387 F2d 689 (7TH CIR 1968)

FACTS: (1) AS TO THE INCLUSION OF "THE TESTIMONY BY THE PEOPLE AS TO IDENTITY," AND THE JUDGE'S STATEMENT OF "THE TESTIMONY IN THE CASE IS THAT THE DEFENDANT WAS IDENTIFIED AS BEING THE PERSON AT THE SCENE." AS PREVIOUSLY SHOWN ON PAGE OF THIS APPEAL WITNESS AULEN MADE NO POSITIVE IN COURT IDENTIFICATION OF APPELLANT BEING THE PERSON THAT HE IDENTIFIED "ON THE PHOTOGRAPH" OR "IN THE PARKING LOT," AND THE RECORD FAILS TO SHOW THE OTHER WITNESSES UP THAT MORNING MAKING AN POSITIVE IDENTIFICATION AS THE JUDGE STATED: JOEL SMITH [Rp. 59, LINE 10-12]: DANNY WILSON [Rp 65, LINE 24 - p. 66], AND SIDNEY BALLANGER [Rp. 89, LINE 10-17] WHICH LEAVES THE FRAUDULENT IDENTIFICATION BY DETECTIVE/OFFICER WHISTINE, AND SUPPORTIVE OF THE JUDGE'S USE OF THIS TESTIMONY IS HIS STATEMENT, "OF COURSE, THE STATEMENT MADE BY THE OFFICER--" WHICH WAS USED IN THE CONTEXTS OF THE TRAGEDY OCCURRENCE ON THAT MORNING.

(2) SHOWING OF COMMISSION OF FRAUD ON THE COURT WAS HAD IS THAT OF THE JUDGE'S USE OF THE DETECTIVE'S/OFFICER'S IDENTIFICATION WHICH WAS AGAINST COUNSEL'S INCLUSION OF THE TESTIMONY BY THE AS TO IDENTITY, AND COUNSEL NOT OBJECTING ALSO SUPPORTS ACTIVE MISREPRESENTATION. WHICH DEPRIVED APPELLANT OF CONSTITUTIONAL DUE PROCESS TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL REVIEW ON THE MATTER. USCA, 6, 14

ARGUMENT II: WAS APPELLANT'S ARREST MADE WITHOUT PROBABLE CAUSE VIOLATING THE CONSTITUTION OF THIS STATE, AND THE 4TH

AND 14TH AMENDMENTS OF THE U.S. CONSTITUTION?

SUPPORTING FACTS: APPELLANT RESPECTFULLY CONTENTS THAT THE FOREGOING FACTS OF ARGUMENT-I SHOWS THAT THE ARREST WAS MALICIOUSLY MADE FOR THE LACK OF PROBABLE CAUSE. BECAUSE THE FACTS SHOW THE FAILURE OF ANY WITNESS TESTIMONY OR ANY LAWFUL PHYSICAL EVIDENCE THAT WOULD HAVE SUPPORTED DETECTIVE WHITSTINE HAD IN FACT INTERVIEWED WITNESS AULEN, OR INVOLVED IN THE INTERVIEWING OF ANY WITNESS THAT MORNING. WHICH WOULD SHOW THAT THE DETECTIVE LACKED ANY SUFFICIENT KNOWLEDGE OF FACTS AND ALSO CIRCUMSTANCES OF THE TRAGEDY'S OCCURRENCE TO HAVE WARRANTED PROBABLE CAUSE IN OBTAINING OF THE ARREST WARRANT. SEE S.C. CONST. 1976 SUPP. VOL. 21, USC CONST. AMEND. IV, NOTE (16), STATE v DUNBAR (S.C. APP. 2003), 354 S.C. 479, 581 SE2d 840, 356 S.C. 138, 587 SE2d 691, 361 S.C. 240, 603 SE2d 615, ARREST 63.4(2); UNDER U.S. v GRAY, 137 F3d 756 (4TH CIR. 1998); "TO COMPLY WITH THE FOURTH AND FOURTEENTH AMENDMENT AN ARREST MUST BE PREDICATED ON PROBABLE CAUSE", SEE PAPCHUN v CITY OF JACKSONVILLE, 405 U.S. 156, 92 S. Ct. 156, 31 LE2d 110.

GIVEN THAT DETECTIVE WHITSTINE'S OBTAINING OF THE WARRANT WAS UNLAWFULLY MADE FOR THE LACK OF PROBABLE CAUSE THE ARREST WAS THEREFORE MALICIOUSLY MADE BY AN SERGEANT MIMS (JOHNNIE). BECAUSE OF HIS TESTIMONY SHOWS TAKING APPELLANT INTO CUSTODY NOT FAR FROM APPELLANT'S HOME IN NORTH CAROLINA AFTER HE FIRST OBSERVED APPELLANT IN HIS VEHICLE "AT 8:01 A.M" ON THAT SAME MORNING OF THE TRAGEDY [Rp. 77, LINE 5- p. 79, LINE 17-18] ID. DUNBAR; ID. GRAY

APPELLANT RESPECTFULLY CONTENTS THAT THIS ISSUE IS PROPER

FOR THE COURT'S CONSIDERATION BECAUSE OF THE LACK OF PROBABLE CAUSE SHOWS THAT THE ARREST WARRANT WAS INVALID, AND RAISES THE ISSUE OF DEFECT IN JURISDICTION OF THE STATE'S GENERAL POWER TO EXERCISE AUTHORITY OVER APPELLANT TO HAVE BEEN ARRESTED, AND "THE ISSUE OF A DEFECT IN SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANYTIME INCLUDING WHEN RAISED FOR THE FIRST TIME ON APPEAL TO THIS COURT", SEE STATE V SCOTT, UNPUBLISHED OP. NO. 2003-UP-037 (S.C. APP. 2003); BROWN V STATE, 343 S.C. 342, 346, 540 SE2d 846, 848-49.

ARGUMENT III: WAS THE CIRCUIT COURT PROPERLY VESTED WITH SUBJECT MATTER JURISDICTION TO HAVE OBTAINED CONVICTION AND SENTENCE?

SUPPORTING FACTS: APPELLANT RESPECTFULLY CONTENDS THAT IT APPEARS THE GRAND JURY CAME BACK WITH AN NO BILLED INDICTMENT, AND THAT THE COURT LACKED SUBJECT MATTER JURISDICTION TO HAVE ACTED IN ACCORDANCE TO THE LAW OVER THE CASE. FOR THE REASON OF THE INDICTMENT FOR MURDER (EXHIBIT-B, P. 29) FAILS TO SHOW ANY INDICATION OF BEING STAMPED "TRUE BILLED", AND AS UNDER Id. SCOTT, "A REVIEW OF THE 1998 INDICTMENTS REVEALS NO INDICATION THAT EITHER OF THEM WAS STAMPED "TRUE BILLED" NOR THAT A WAIVER OF PRESENTMENT WAS EXECUTED BY SCOTT." ALSO "BECAUSE OF ITS FUNDAMENTAL NATURE, THE DEFECT IN SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANYTIME INCLUDING WHEN RAISED FOR THE FIRST TIME ON APPEAL TO THIS COURT" Id. BROWN. "A COURT WITHOUT SUBJECT MATTER JURISDICTION MAY NOT PROPERLY ACT, AND ANY ACTION TAKEN BY THAT COURT IS VOID, AND WITHOUT LEGAL EFFECT"

BROWN, 343 S.C. AT 346, 540 SE2d AT 849; STATE V FUNDERBURK, 259 SC 256, 261, 191 SE2d 520, 522 (1972); STATE V EVANS, 307 SC 477, 415

SE2d 816 (1992), HOLDS, "A VALID INDICTMENT, OR A VALID WAIVER OF PRESENTMENT IS PREREQUISITE FOR CIRCUIT COURT'S SUBJECT MATTER JURISDICTION." ALSO SUBJECT MATTER JURISDICTION IS THE POWER TO HEAR AND DETERMINE CASES OF GENERAL CLASS TO WHICH THE PROCEEDINGS QUESTION BELONGS". BELLS v MONSANTO CORPORATION, 577 SE2d 325 (SC, 2003), AND INASMUCH THE COURT'S POWER TO HEAR AND DETERMINE CASES SUBJECT MATTER JURISDICTION DOES NOT ONLY COVER AND OR INVOLVE WHETHER OR NOT THE MATTER RESOLVES IN A PROPER COURT OF JURISDICTION TO HEAR AND DETERMINE IT, BUT ALSO INVOLVES AN ISSUE THAT MAY AFFECT THE POWER AND OR ABILITY TO ACT IN ACCORDANCE TO LAW. THIS ISSUE CAN BE RAISED AT ANY TIME, CANNOT BE WAIVED BY MOVANT, AND THE COURT SHALL NOT FAIL TO TAKE NOTICE". Id. BROWN v STATE v BROWN, 320 SC At 368, 455 SE2d 359, CITING STATE v MUNN, 357 SE2d 461 (SC 1987).

IN APPELLANT'S CASE THAT'S BEFORE THE COURT A PLEA OF NOT GUILTY TO MURDER WAS ENTERED AT THE TRIAL [Tr. p 256, LINE 12-14], AND THE INDICTMENT FOR MURDER IS THE SUBJECT OF THIS ISSUE. FOR APPELLANT WAS NOT FORMALLY INDICTED UNDER S.C. CODE ANN. 16-23-490 (1976 AND SUPP. 1997) FOR COUNT TWO OF THE INDICTMENT'S FIREARM'S CHARGE. WHICH IS SUPPORTED BY THE INDICTMENT FOR MURDER BEING THE ONLY INDICTMENT INTRODUCED IN COURT BY THE SOLICITOR [Rp. 109, LINE 25- p. 111, LINE 18]. TILLY v STATE, 511 SE2d 689 At 691 (SC. 1999) "S.C. CODE ANN. 16-23-490 (1976 AND SUPP. 1997) PROVIDES FOR A MANDATORY FIVE-YEAR SENTENCE FOR A PERSON CONVICTED UNDER THIS SECTION". ALSO A COPY OF THE INDICTMENT FOR MURDER IS THE ONLY COPY OF AN INDICTMENT THAT'S BEEN ENTERED INTO APPELLANT'S TRANSCRIPT OF RECORD, AND THE RECORD FAILS TO SHOW ANY WAIVER(S) BY APPELLANT

OF ANY STATUTORY OR CONSTITUTIONAL RIGHTS. PATTERSON V U.S., 50 S.Ct. 253 (1930); STATE V PATTERSON 278 S.C. 319, 295 S.C. 2d 264 (1982).

THE ISSUE PRESENTED IS THAT OF THE COURT OF GENERAL SESSIONS FAIL-
ED TO COMPLY WITH STATUTORY LAW JURISDICTIONAL IN NATURE OF TRUE BI-
LLED INDICTMENTS, S.C. CODE ANN. 17-19-10, AND NOT A CHALLENGE TO THE
COURT'S GENERAL GRANT OF AUTHORITY TO HEAR AND DETERMINE CASES.
THAT AUTHORITY IS RIGHTFULLY GRANTED BY OUR CONSTITUTION, STATE V GEN-
TRY, 363 S.C. 93, 601 S.C. 2d 464 (2005), AND WILL NOT BE AN ISSUE HERE.

THE COURT REMANDED SCOTT'S CASE FOR AN EVIDENTIARY HEARING TO
THE CIRCUIT COURT PURSUANT TO GRIM, 341 S.C. 63, 523 S.C. 2d 330 (2000) IN
ORDER TO DETERMINE WHETHER THE ABSENCE OF THE WORDS TRUE BI-
LLED FROM THE FACE OF THE INDICTMENT WAS A MERE SCRIVENER'S ERR-
OR, AND ON REMAND IF THE STATE COULD NOT PROVE THE CIRCUIT COURT
WAS PROPERLY VESTED WITH SUBJECT MATTER JURISDICTION IT WAS
ORDERED TO VACATE SCOTT'S CONVICTION.

UNDER Id. GRIM, 533 S.C. 2d 329, "RELYING ON PRINGLE 339 S.C. 2d 127, 287
S.C. 409, THE COURT OF APPEALS HAS HELD THAT AN INDICTMENT PROPER
EVEN THOUGH IT WAS NOT STAMPED TRUE BILL WHERE THERE IS EVIDENCE
IN FORM OF SWORN TESTIMONY FROM THE GRAND JURY'S DOCKET COORDI-
NATOR, A COURT REPORTER, AND A LEGAL SECRETARY THAT THE INDIC-
TMENT WAS IN FACT TRUE BILLED." IN APPELLANT'S CASE BEFORE THE COU-
RT THE TRANSCRIPT OF RECORD FAILS TO SHOW ANY SUCH TESTIMONIES,
AND UNDER STATE V MUNN SUPRA, "SUBJECT TO CERTAIN MINOR EXCEP-
TIONS, NOT PRESENT, THE TRIAL COURT LACKS SUBJECT MATTER JURI-
SDICTION TO CONVICT DEFENDANT FOR AN OFFENSE WHERE THERE IS
NO TRUE BILLED INDICTMENT AGAINST DEFENDANT" ALSO SEE
CARTER V STATE 329 S.C. 355, 495 S.C. 2d 273; STATE V BEACHUM 288

SC 335, 342 SE2d 598 (1980): UNDER WEST'S SOUTH CAROLINA DIGEST SECOND EDITION "INDICTMENT AND INFORMATION" SECTION III, A TRUE BILL IS ONE OF THE FORMAL REQUISITES FOR AN INDICTMENT.

APPELLANT RESPECTFULLY CONTENDS CUMULATIVE TO THIS ISSUE, AND THE INDICTMENT BEING INVALID IS THE INDICTMENT FAILS TO SHOW TO HAVE BEEN WRITTEN AND PUBLISHED BY THE CLERK. UNDER ANDERSON STATE 527 SE2d 398, 338 EC. 629, "A FACIAL IRREGULARITY DOES NOT RENDER AN INDICTMENT INVALID WHERE INDICTMENT IS IN WRITING AND PUBLISHED BY THE CLERK." WHICH ALSO APPLIES TO THE INDICTMENT'S SHOWING OF THE GRAND JURY'S FOREMAN IMPROPERLY SIGNING "T BILL" BECAUSE OF ITS FAILURE TO COMPLY WITH THE LEGAL FORMALITY PROCEDURES OF INDICTMENTS, ID. WEST'S DIGEST, ID. PRINGLE, HOLDS, "WHILE IT IS PREFERABLE FOR GRAND JURY FOREMAN TO SIGN TRUE BILL, FOREMAN'S SIGNATURE IS NOT ESSENTIAL TO VALIDITY OF INDICTMENT WHERE INDICTMENT IS WRITTEN AND PUBLISHED BY CLERK."

APPELLANT RESPECTFULLY CONTENDS THAT STATUTORY AND CONSTITUTIONAL VIOLATIONS OF DUE PROCESS OF LAW WAS COMMITTED BY PROSECUTORIAL MISCONDUCT BY THE SOLICITOR AND OR MISREPRESENTATION BY COUNSEL, BECAUSE GIVEN THE SERIOUSNESS OF THE CHARGES, AND THE INDICTMENT RAISING FUNDAMENTAL DEFECTS IN SUBJECT MATTER JURISDICTION OF THE CIRCUIT COURT TO ACT WITH LEGAL EFFECT. ID SCOTT: ID. BROWN THE MISCONDUCT WAS RAISED BY THE SOLICITOR IN NOT INVESTIGATING THE INDICTMENT PRIOR TO BEGINNING OF THE TRIAL. ID. NORCUTT: ID. 17-3-150 AND 1-7-730. THUS PERMITTING THE CONVICTION WHERE THE COURT LACKED JURISDICTION, AND DEPRIVING APPELLANT'S DUE PROCESS OF LAW TO EFFECT-

TIVE ASSISTANCE OR APPELLATE COUNSEL REVIEW OF THE MATTER. U.S. CA CONST. AMEND. 6, 14. UNDER 1d. BEACHUM 342 SE2d 577, AFTER THE JURY WAS SWORN IN AND TESTIMONY FROM SEVERAL WITNESSES WAS TAKEN THE SOLICITOR NOTICED THAT THE INDICTMENT WAS NEITHER SIGNED BY THE GRAND JURY FOREMAN NOR HAD BEEN STAMPED "TRUE BILLED," AND EVENTHOUGH WITH CONSENT OF THE DEFENSE COUNSEL TO TEMPORARILY SUSPEND THE TRIAL WHILE INDICTMENT WAS SUBMITTED TO GRAND JURY, TRUE BILLED, AND PUBLISHED BY THE CLERK THIS DID NOT FIX THE DEFECT OF SUBJECT MATTER JURISDICTION.

APPELLANT HAD NO KNOWLEDGE OF THE FORMAL REQUISITES FOR AN INDICTMENT BECAUSE OF HAVING NO PRIOR CRIMINAL RECORD, AND COUNSEL HAD THE ENTRUSTED RESPONSIBILITY TO HAVE INVESTIGATED THE INDICTMENT UNDER RULE 407 SEACR. HIS NOT DOING INVESTIGATION WHICH PERMITTED THE TRIAL TO GO FORWARD AND THE CONVICTION HAD WHERE THE COURT LACKED JURISDICTION VIOLATED THE RULES OF PROFESSIONAL CONDUCT. ALSO U.S. CA CONST AMEND 6, 14.

ON THE OTHER HAND ACCORDING TO THE AMERICAN JOURNAL 2d SECTION 299 "INDICTMENT AND INFORMATION", ALTHOUGH MOVANT DID NOT OBJECT TO BEING TRUE BILLED THE NO BILL RENDERED THE INDICTMENT WHOLLY INVALID. AN NO BILL INDICTMENT IS OF SUCH FUNDAMENTAL CHARACTER AS TO MAKE ^(AND) INDICTMENT WHOLLY INVALID, AND SUBJECT TO WAIVER BY MOVANT.

CONCLUSION

FOR ALL THE FOREGOING REASONS, APPELLANT NOW REQUEST THAT THE CONVICTIONS AND SENTENCES BE VACATED OR GRANT

SUCH EVIDENTIARY HEARING AS THE COURT DEEMS NECESSARY
TO RESOLVE THIS MATTER WITH APPOINTMENT OF AN ATTORNEY
IN THE FIELD OF CRIMINAL APPEALS FOR APPELLANT'S REPRESENTATION.

THIS 18TH DAY OF MARCH, 2016

RESPECTFULLY SUBMITTED:

Jeffrey Lynn Chronister

JEFFREY LYNN CHRONISTER



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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

February 13, 2015

Jeffrey L. Chronister, 189827
Kirkland Correctional Institution
4344 Broad River Road
Columbia SC 29210

Re: The State v. Jeffrey Lynn Chronister
Appellate Case No. 2014-002630

Dear Mr. Chronister:

The Court is in receipt Judge Alford's letter dated November 21, 2014. The Court is construing it as the order on appeal. Therefore, the appeal is to proceed. The appellant's initial brief and designation of matter are due to be served and filed no later than thirty (30) days from the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Alan McCrory Wilson, Esquire



92-1224

State of South Carolina
The Circuit Court of the Sixteenth Judicial Circuit

Lee S. Alford
Judge

Moss Justice Center
1675-1J York Highway
York, SC 29745-7434
Phone: (803) 628-3048
Fax: (803) 628-3139
lalfordj@sccourts.org

November 21, 2014

Jeff Chronister, #189827
Kirkland C.I., B-II, 34
4344 Broad River Road
Columbia, S. C. 29210

Dear Mr. Chronister:

This will acknowledge receipt of your motion and correspondence. This Court cannot grant relief on a motion unless timely made. You would need to file a Post-Conviction Relief Action in order for the Court to consider your motion.

With kind regards, I am

Yours Very Truly,

Lee S. Alford /s/

Lee S. Alford
Resident Judge
of the Sixteenth Judicial Circuit

LSA:rgb

FILED-RECEIVED
2014 NOV 21 PM 2:57
DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

BAIL set by

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

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Name: _____

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Telephone: _____

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Telephone: _____

CODEFENDANTS

EXHIBIT A

443

-28-

Edge _____

pe and Amount: _____

me of Surety: _____

PRELIMINARY HEARING held by

Edge _____

efense Attorney: _____

ecision: _____

DISPOSITION before

Edge _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

sposition: _____

entence: _____

JURORS

D- 228986

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
YorkTHE STATE
against

Lynn Jeffery Chronister

Address:

Belmont N.C.

Phone: _____ SSN: _____

Sex: M Race: W Height: 5'8" Weight: 170

DL State: _____ DL #: _____

DOB: _____ Agency ORI #: 0460000Prosecuting Agency: YCSDProsecuting Officer: WhistineOffense: Murder

Offense Code: _____

Code/Ordinance Sec. 16-3-10This 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.

Signature of Judge _____ (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Lynn Jeffery Chronister
on February 14th, 1992Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

AFFIDAVIT

S.C. Attorney General
July 28, 1990
SOCA 518Personally appeared before me the affiant Otis Whistine
being duly sworn deposes and says that defendant Lynn Jeffery Chronister
did within this county and state on February 14th, 1992 violate the criminal laws of
State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____)
in the following particulars:DESCRIPTION OF OFFENSE: Murder: Section 16-3-10 116I further state that there is probable cause to believe that the defendant named above did do
the crime set forth and that probable cause is based on the following facts: Defendant did wilfully and
unlawfully, and with Malice Aforethought kill Marie Gail Chronister by shooting
her. This unlawful act occurred at the Catawba Nuclear Station, Concord Rd., Clo
York County S.C. All against the Peace and Dignity of the State and against such
Laws as made and provided. Probable cause based on witness's.Sworn to and subscribed before me
on February 14th, 1992
[Signature] (L.S.)
Signature of Issuing Judge

Signature of Affiant

Affiant's Address Court House, South Congress St.
York S.C.Affiant's Telephone 684-8522

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
York

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
on February 14th, 1992 defendant Lynn Jeffery Chronister
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of _____)DESCRIPTION OF OFFENSE: Murder (Section 16-3-10) as set forth below.Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her be
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
defendant at the time of its execution, or as soon thereafter as is practicable.Signature of Issuing Judge
[Signature] (L.S.)
Judge Code: 518Judge's Address South Congress St.York S.C.Judge's Telephone 684-8514

Issuing Court:

☒

Magistrate

☐

Municipal

☐

Circ

FILED-RECEIVED
BOOK
FEB 21 12 03 PM '92
YORK COUNTY
S.C.

WITNESSES

Otis Whistine

YCSD

The State of South Carolina,

County of York

COURT OF GENERAL SESSIONS

April 6, TERM 1992

THE STATE

vs.

Lynn Jeffery Chronister

ARREST WARRANT NO. D-228986

ACTION OF GRAND JURY

Billed 4/6/92

Imreador
Foreman of Grand Jury

VERDICT

Count one - Guilty Murder
Count two - Guilty Possession
of a Firearm when committing
a violent crime

Indictment for

MURDER

AND

UNLAWFUL POSSESSION OF FIREARM OR
KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME

(S. C. Code 16-3-10)
(CDR Code 116)

EXHIBIT B

[Handwritten signature]

FORM 32 (12/87)

CERTIFIED TRUE COPY

JUN 20 10 41 AM '01

STATE OF SOUTH CAROLINA

COUNTY OF York

INDICTMENT FOR

MURDER AND

UNLAWFUL USE OF FIREARM OR KNIFE DURING THE
COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on April 6, 1992

the Grand Jurors of York County present upon their oath:

COUNT ONE

That Lynn Jeffery Chronister did in York County on or about February 14, 1992 feloniously, wilfully and with malice aforethought, kill one Marie Gail Cronister by means of shooting her and that the said victim died as a proximate result thereof.

COUNT TWO

That Lynn Jeffery Chronister did in York County on or about February 14, 1992 while in possession of a firearm or while visibly displaying what appeared to be a firearm, committed the crime contained in Count One of this Indictment.

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

Lynn S. Hearn
SOLICITOR

AGENCY I. D.
SC0460000

YORK COUNTY SHERIFF'S DEPARTMENT
INCIDENT REPORT

CASE NUMBER

N

ING

9 2 - 0 2 - 2 3 |

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE
1. Homicide Offense (Murder)		X YES ☐ NO	☐ YES ☐ NO	parking lot		☒ Individual
2.		☐ YES ☐ NO	☐ YES ☐ NO			☐ Business
3.		☐ YES ☐ NO	☐ YES ☐ NO			☐ Financial
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)		ZIP CODE		WEAPON TYPE		
Administration Building Catawba Nuclear Stat. York, SC		29745		Firearm		
INCIDENT DATE		24 HR. CLOCK		TO DATE		24 HR. CLOCK
2-14-92		06:57		2-14-92		06:58
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE SEX AGE ETH.
Auten, Thomas F.		Unknown		J S O U		W M 32 N
ADDRESS		CITY		STATE		ZIP CODE
		Rock Hill		SC		29730
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT		RACE SEX AGE ETH.
Chronister, Gail Marie		Wife		J S O U		W F 34 N
EIGHT		WEIGHT		HAIR		EYES
510		145		Brn		Brn
ADDRESS		CITY		STATE		ZIP CODE
		Mt. Holly		NC		28120
VISIBLE INJURY (MCT 1)		EXPLAIN -		COMPLAINT OF ANY NON-VISIBLE INJURIES		
X YES ☐ NO ☐		gun shots to head + body		☐ YES ☐ NO ☐		
VICTIM (NO. 1) USING ALCOHOL		☐ YES ☒ NO ☐		TYPE		
TWO-MAN VIEW		ONE-MAN VIEW		DETECTIVE/SPL ASMT		
☒		☐		☐		
X SUSPECT		NAME (LAST, FIRST, MIDDLE)		RACE SEX AGE ETH.		DATE OF BIRTH
☐		Unknown		W M 38		42
☐ RUNAWAY		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		DATE OF BIRTH		HEIGHT WEIGHT HAIR
☐		beard		unknown		509 160 Brn
☐ WARRANT		ADDRESS		CITY		STATE ZIP CODE
☐		Unknown		Unknown		unk unknown
☐ ARREST		SUBJECT (NO. 1) USING ALCOHOL		ARRESTED NEAR OFFENSE SCENE		DATE/TIME OF OFFENSE
☐		☐ YES ☒ NO ☐		☐ YES ☐ NO ☐		DATE/TIME OF ARRES
☐ JAIL		DRUGS		TOTAL # ARRESTED		
☐		☐ YES ☐ NO ☐		☒ TYPE		
RIP stated as he was exiting the vehicle he drove to work that he heard approximately 5 rapid gun shots. RIP saw a w/m subject fitting the above description carrying a rifle walking away from the scene. Subject entered a white Dodge van NC partial registration DRB and left the scene. Victim sustained gunshot wound and was pronounced dead at the scene.						
EXHIBIT - C - 30 -						
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						
JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY						
TOTAL VALUE						
TYPE (GROUP)						
STOLEN						
DAMAGED						
BURNED						
RECOVERED						
SEIZED						
SUBJECT IDENTIFIED						
☐ YES ☒ NO						
SUBJECT LOCATED						
☐ YES ☒ NO						
X ACTIVE ☐ ADM CLOSED						
☐ UNFOUNDED						
ARRESTED UNDER 18						
ARRESTED 18 AND OVER						
EX-CLEAR UNDER 18						
EX-CLEAR 18 AND C						
REASON FOR EXCEPTIONAL CLEARANCE 1 ☐ OFFENDER DEAD 2 ☐ NO PROSECUTIVE MERIT 3 ☐ EXTRADITION DENIED 4 ☐ VICTIM DENIES COOPERATION 5 ☐ JUVENILE - NO CUSTODY 6 ☐ CIVIL MATTER						
REPORTING OFFICER(S)						
DATE						
UNIT NUMBER						
APPROVING OFFICER						
DATE						

1. Mary J. Mueser -

451-A

10212 Harbor Dr., Charlotte, NC 28212

1. Mrs. Lucille Mernard
(work) *704-866-2913#(direct)
704-866-2000
Business office

(3) Mr. Elger Mernard
(work) 704-822-2170
shop

4.2-0.2-2.3.1

INCIDENT TYPE

COMPLETED

FORCED ENTRY

PREMISE TYPE

UNITS ENTERED

TYPE VICTIM
☒ Individual
☐ Business
☐ Financial Inst.
☐ Government
☐ Relig. Orgn.
☐ Soc./Public
☐ Other
☐ Unknown
☐ Police Off.

1. Homicide Offense (Murder)

☒ YES ☐ NO

☐ YES ☐ NO

parking lot

2.

☐ YES ☐ NO

☐ YES ☐ NO

3.

☐ YES ☐ NO

☐ YES ☐ NO

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)

Administration Building Catawba Nuclear Stat. York, SC

ZIP CODE

29745

WEAPON TYPE

firearm

INCIDENT DATE

24 HR. CLOCK

TO

DATE

24 HR. CLOCK

DISP. DATE

DISP. TIME

TIME ARRIVED

DEPART TIME

2-14-92

06:57

06:58

07:02

09:07

LWD

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)

Auten, Thomas E.

RELATIONSHIP TO SUBJECT

unknown

RESIDENT

☒ S ☐ O ☐ U

RACE

W

SEX

M

AGE

32

ETH

N

DAYTIME PHONE

324-8128

EVENING PHONE

327-2831

ADDRESS

2382 Billy Wilson Rd.

Rock Hill

STATE

ZIP CODE

LOCATION NO.

VICTIM'S NAME (LAST, FIRST, MIDDLE)

Chronister, Gail Marie

RELATIONSHIP TO SUBJECT

wife

RESIDENT

☒ S ☐ O ☐ U

RACE

W

SEX

F

AGE

34

ETH

N

DAYTIME PHONE

unknown

EVENING PHONE

unknown

HEIGHT WEIGHT HAIR EYES

510 145 Brn Brn

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC

ADDRESS

1414 Copeland Park

CITY

Mt. Holly

STATE

ZIP CODE

LOCATION NO.

VISIBLE INJURY (VICT. 1) ☒ YES ☐ NO ☐ EXPLAIN -

gun shots to head + body

VICTIM (NO. 1) USING: ALCOHOL

☐ YES ☒ NO ☐ UNK

DRUGS: ☐ YES ☒ NO ☐ UNK

TYPE:

COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO

TWO-MAN VEH. ☐

ONE-MAN VEH. ☐

DETECTIVE/SPL. ASMT. ☐

OTHER ☐

ALONE ☐

ASSISTED ☐

*J - This Jurisdiction. S - State. O - Out of State. U - Unknown

☒ SUSPECT

NAME, (LAST, FIRST, MIDDLE)

unknown

RACE

W

SEX

M

AGE

38

ETH

N

DATE OF BIRTH

unknown

HEIGHT

509

WEIGHT

160

HAIR

Brn

EYES

Brn

☐ RUNAWAY

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

☐ WANTED

beard

☐ WARRANT

ADDRESS

unknown

CITY

unknown

STATE

ZIP CODE

LOCATION NO.

☐ JAIL

SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK

ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO

DATE/TIME OF OFFENSE

DATE/TIME OF ARREST

☐ SUMMONS

DRUGS: ☐ YES ☒ NO ☐ UNK TYPE:

TOTAL # ARRESTED

NARRATIVE

RIP stated as he was exiting the vehicle he drove to work that he heard approximately 5 rapid gun shots. RIP saw a w/m subject fitting the above description carrying a rifle walking away from the scene. Subject entered a white Dodge van NC. partial registration DRL and left the scene. Victim sustained gunshot wounds and was pronounced dead at the scene.

EXHIBIT-D

JURISDICTION OF THEFT
ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY
LAW ENFORCEMENT AGENCY

TYPE (GROUP)

STOLEN

DAMAGED

BURNED

RECOVERED

SEIZED

TOTAL VALUE

SUBJECT IDENTIFIED

☐ YES ☒ NO

SUBJECT LOCATED

☐ YES ☒ NO

☒ ACTIVE ☐ ADM CLOSED

☐ UNFOUNDED

☐ ARRESTED UNDER 18

☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18

☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTIVE MERIT 3 ☐ EXTRADITION DENIED 4 ☐ VICTIM DENIES COOPERATION 5 ☐ JUVENILE - NO CUSTODY 6 ☐ CIVIL MATTER

REPORTING OFFICER(S)

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

UNIT NUMBER

Smith, T. B.

2-14-92

955

FOLLOW-UP

INVESTIGATION

☐ YES ☒ NO

OFFICER

RECEIVED

MAR 30 2016

SC Court of Appeals

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, JEFFREY LYNN CHRONISTER, I/M #189827, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

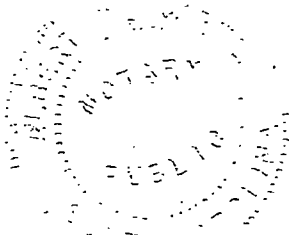
Jeffrey Lynn Chronister
Applicant

SWORN or affirmed to and subscribed before me this

4th day of March, 2015.

Albert W. Carter
Notary Public

My Commission Expires: Sept 11, 2021



STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM YORK COUNTY MAR 30 2016
LEE S. ALFORD, RESIDENTS COURT of Appeals

THE STATE, RESPONDENT

v

JEFFREY LYNN CHRONISTER, APPELLANT

APPELLATE CASE NO. 2014-002630

CERTIFICATE OF SERVICE BY MAIL

I, JEFFREY LYNN CHRONISTER, DO CERTIFY THAT ON THIS 24TH DAY OF MARCH 2016, SERVED THE ORIGINAL COPY OF MY FINAL BRIEF WITH COPY OF LETTER, DATED MARCH 18, 2016, AND COPY OF ORDER, DATED MARCH 8, 2016, ON THE HONORABLE JENNY ABBOTT KITCHINGS, CLERK OF THE SOUTH CAROLINA COURT OF APPEALS, P.O. BOX 11629, COLUMBIA, S.C., 29211, ALSO SERVING TRUE COPIES OF SAME ON THE PARTY LISTED BELOW SEPARATELY AND BY DEPOSITING EACH IN THE UNITED STATES MAIL WITH POSTAGE PREPAID.

ALAN McCRORY WILSON, ESQUIRE
POST OFFICE BOX 11549
COLUMBIA, S.C., 29211

Jeffrey L. Chronister
JEFFREY L. CHRONISTER

JEFFREY L. CHRONISTER, #189827

KIRKLAND CORR. INST. B-II, 39

4344 BROAD RIVER ROAD

COLUMBIA, S.C., 29210

RECEIVED

MAR 30 2016

SC Court of Appeals

HONORABLE CLERK OF COURT;

PLEASE FIND ENCLOSED MY FINAL BRIEF THAT IS DUE TO BE SERVED ON APRIL 7, 2016, (COPY OF ORDER ATTACHED), AND BE ADVISED THAT DUE TO MY USE OF DIFFERENT PAPER IT HAS INCREASED THE NUMBER OF PAGES THAN WHAT WAS USED IN PREPARING OF THE INITIAL BRIEF.

I AM APPRECIATIVE FOR THE TIME, ATTENTION, AND HELP PROVIDED IN THIS MATTER.

MARCH 18, 2016

RESPECTFULLY,

Jeffrey L. Chronister

JEFFREY L. CHRONISTER

Inter Agency

CHRONISTER, #189827
LAND C.I. B-II, 39
BROAD RIVER, RD.
COLUMBIA, S.C., 29210

LEGAL
MAIL
ONLY

THE SOUTH CAROLINA COURT OF APPEALS

JENNY ABBOTT KITCHING **RECEIVED**

POST OFFICE BOX 11629

MAR 30 2016

COLUMBIA, S.C., 29211 SC Court of Appeals

RECEIVED

MAR 23 2016

ARKLAND R&E CENTER
MAILROOM