

RECEIVED

AUG 24 2017

August 24, 2015

S.C. SUPREME COURT

Dear Honorable Clerk,

I would like to request a full printout of your "Chronological List" or "Clerks Appearance Docket" of all Documents, Motions, Proceedings, and Exhibits filed into your court in the following cases:

- 1. 2004-GS-02-1333-1334-1335; - ~~Document~~
- 2. 2008-CP-02-00734; - ✓
- 3. 2011-CP-02-002726; - ✓
- 4. 2013-CP-02-00478; - ✓
- 5. 2015-CP-02-01730 - ✓

} Sending public index list.

Thank you very much for your time and help in this urgent matter.

See enclosed
THANKS

Respectfully Requested.

Noel E Gray Jr. #307550
Noel E Gray Jr.
Waterer # 251
Broad River Corr. Inst.
4460 Broad River Rd
Columbia, SC 29210

Sworn and Subscribed before me

this 24th day of August, 2015

by Susan D. Frye /s/

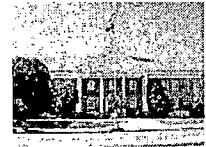
Notary Public for South Carolina

My Commission Expires: March 8, 2018

cc/file



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Noel Eugene Gray

Case Number:	F718991	Court Agency:	General Sessions	Filed Date:	02/12/2004
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Edmonds, Rodger Emerson	Disposition Judge:	Gregory, Jackson V.
Disposition:	Trial Guilty				
Disposition Date:	02/02/2005	Date Received:	02/12/2004	Arrest Date:	02/10/2004
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2004GS0201333	Waiver Date:	
Probation Case:					

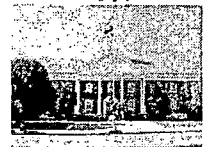
[Case Parties](#)
[Charges](#)
[Sentencing](#)
[Associated Cases](#)
[Actions](#)
[Financials](#)
[Bonds](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel Eugene	Letter/Letter	Filing		08/17/2015-00:00		
Gray, Noel Eugene	Letter/Letter inmate	Filing		07/29/2015-15:33		
Gray, Noel Eugene	Application/Copy PCR Application	Filing		07/21/2015-09:53		
Gray, Noel Eugene	Motion/Motion misc pcr	Motion		04/17/2014-09:11		
Gray, Noel Eugene	Order/Order that subsequent motions be stricken from record	Order		04/09/2014-14:42		
Gray, Noel Eugene	Filing/Filing Of Motion to Consolidate Notice (Copy)	Filing		04/01/2014-14:33		
Gray, Noel Eugene	Filing/Filing Of Attorney General (Copy of Remittitur)	Filing		03/14/2014-13:19		
Gray, Noel Eugene	Motion/Motion To Consolidate (Copy)	Motion		03/06/2014-10:18		
Gray, Noel Eugene	Filing/Filing of Remittitur	Filing		02/26/2014-13:15		
Gray, Noel Eugene	Appeal/Affirmed	Filing		01/30/2014-14:14		
Gray, Noel Eugene	Letter/Letter from Attorney General	Filing		04/18/2013-15:00		
Gray, Noel Eugene	Letter/Letter	Filing		04/11/2013-10:46		
Gray, Noel Eugene	Application/Copy PCR Application	Filing		02/28/2013-08:57		

Gray, Noel Eugene	Letter/Letter from SCCID	Filing		02/12/2013-14:09		
Gray, Noel Eugene	Letter/inmate	Filing		12/26/2012-09:52		
Gray, Noel Eugene	Letter/Letter from SCCID	Filing		12/20/2012-14:32		
Gray, Noel Eugene	Notice/Notice/Intent to Appeal filed by def	Filing		12/10/2012-14:59		
Gray, Noel Eugene	Order/Order/Motion for New Trial Denied	Order		12/04/2012-13:01		
Gray, Noel Eugene	Letter/Inmate	Filing		10/10/2012-15:24		
Gray, Noel Eugene	Letter/Letter/def	Filing		09/24/2012-10:35		
Gray, Noel Eugene	Motion/Motion For appt counsel	Motion		09/24/2012-10:25		
Gray, Noel Eugene	Motion/Motion For New Trial	Motion		09/24/2012-09:40		
Gray, Noel Eugene	Letter/Letter Def	Filing		03/29/2012-09:59		
Gray, Noel Eugene	Letter/Letter/def	Filing		11/10/2011-15:18		
Gray, Noel Eugene	Letter/Letter	Filing		09/30/2011-13:59		
Gray, Noel Eugene	Letter/Letter	Filing		07/11/2011-09:25		
Gray, Noel Eugene	Notice/Notice of Appeal filed by Defendant	Filing		09/16/2010-13:35		
Gray, Noel Eugene	Order/Order of Dismissal on PCR	Order		04/06/2009-15:13		
Gray, Noel Eugene	Indictment/sentence sheet	Filing		02/02/2005-15:40		
Gray, Noel Eugene	Active - Non Probation	Filing		02/02/2005-00:00		
Gray, Noel Eugene	Filing/Case File	Filing		02/12/2004-15:42		



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

The State of South Carolina VS Noel Eugene Gray

Case Number:	F718990	Court Agency:	General Sessions	Filed Date:	02/12/2004
Case Type:	Criminal-Clerk	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Edmonds, Rodger Emerson	Disposition Judge:	Gregory, Jackson V.
Disposition:	Trial Guilty				
Disposition Date:	02/02/2005	Date Received:	02/12/2004	Arrest Date:	02/10/2004
Law Enf. Case:		True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:	2004GS0201334	Waiver Date:	
Probation Case:					

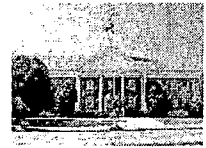
Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel Eugene	Letter/Letter	Filing		08/17/2015-00:00		
Gray, Noel Eugene	Letter/Letter inmate	Filing		07/29/2015-15:33		
Gray, Noel Eugene	Application/Copy PCR Application	Filing		07/21/2015-09:53		
Gray, Noel Eugene	Motion/Motion misc pcr motions	Motion		04/17/2014-09:08		
Gray, Noel Eugene	Order/Order that subsequent motions be stricken from record	Order		04/09/2014-14:44		
Gray, Noel Eugene	Filing/Filing Of Motion to Consolidate Notice (Copy)	Filing		04/01/2014-14:37		
Gray, Noel Eugene	Filing/Filing Of Attorney General (copy Remittitur)	Filing		03/14/2014-13:17		
Gray, Noel Eugene	Motion/Motion To Consolidate (Copy)	Motion		03/06/2014-10:18		
Gray, Noel Eugene	Filing/Filing of Remittitur	Filing		02/26/2014-13:15		
Gray, Noel Eugene	Appeal/Affirmed	Filing		01/30/2014-14:17		
Gray, Noel Eugene	Letter/Letter from Attorney General Office	Filing		04/18/2013-14:59		
Gray, Noel Eugene	Letter/Letter	Filing		04/11/2013-10:45		
Gray, Noel Eugene	Application/Copy	Filing		02/28/2013-		

Eugene	PCR Application			08:57		
Gray, Noel Eugene	Letter/Letter from SCCID	Filing		02/12/2013-14:10		
Gray, Noel Eugene	Letter/inmate	Filing		12/26/2012-09:52		
Gray, Noel Eugene	Letter/Letter from SCCID	Filing		12/20/2012-14:28		
Gray, Noel Eugene	Notice/Notice/Intent to Appeal filed by def	Filing		12/10/2012-15:05		
Gray, Noel Eugene	Order/Order/Motion New Trial/App. Denied	Order		12/04/2012-12:51		
Gray, Noel Eugene	Letter/inmate	Filing		10/10/2012-15:31		
Gray, Noel Eugene	Letter/Letter/def	Filing		09/24/2012-10:36		
Gray, Noel Eugene	Motion/Motion For appt of counsel	Motion		09/24/2012-10:24		
Gray, Noel Eugene	Motion/Motion For New Trial	Motion		09/24/2012-10:22		
Gray, Noel Eugene	Letter/Letter Def	Filing		03/29/2012-10:06		
Gray, Noel Eugene	Letter/Letter/def	Filing		11/10/2011-15:19		
Gray, Noel Eugene	Letter/Letter	Filing		09/30/2011-13:59		
Gray, Noel Eugene	Notice/Notice of Appeal filed by Defendant	Filing		09/16/2010-13:35		
Gray, Noel Eugene	Order/Order of Dismissal on PCR	Order		04/06/2009-15:12		
Gray, Noel Eugene	Indictment/sentence sheet	Filing		02/02/2005-15:35		
Gray, Noel Eugene	Active - Non Probation	Filing		02/02/2005-00:00		
Gray, Noel Eugene	Filing/Case File	Filing		02/12/2004-15:38		



Aiken County Second Judicial Circuit Public Index



Aiken County Home Page [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

Noel Gray VS SOUTH CAROLINA, THE ST

Case Number:	2008CP0200734	Court Agency:	Common Pleas	Filed Date:	04/18/2008
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	PCR
Status:	Ended	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Dismissed by Court - not Rule 40J	Disposition Date:	04/06/2009	Disposition Judge:	Early, Doyet A. III
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

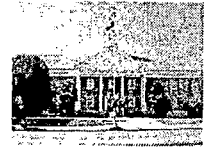
Case Parties Judgments Tax Map Information Associated Cases Actions Financials

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel	Affidavit of Noel Gray Jr, objection to resp. erroneous deni	Filing		04/14/2014-09:04		
Gray, Noel	Order:all subsequent motions are to be sticken from the reco	Order		04/09/2014-13:51		
Gray, Noel	Motion Filing Fee Waived	Filing		04/01/2014-13:50		
Gray, Noel	Motion/Consolidate,Notice Intent Def J'ment,Motion Def J'men	Motion		04/01/2014-13:49	04/01/2014-13:49	
Gray, Noel	Motion to Amend; Certificate of Service	Filing		03/24/2014-10:16		
Gray, Noel	Motion Filing Fee Waived	Filing		03/05/2014-14:27		
Gray, Noel	Motion/Consolidate	Motion		03/05/2014-14:25	03/13/2014-14:25	
Gray, Noel	Motion/Appointment of Counsel; Motion/Funding; Aff; Cert/Svc	Filing		02/05/2014-09:33		
Gray, Noel	Motion/vacate sentence and conviction	Filing		01/23/2014-15:36		
Gray, Noel	Letter/Letter	Filing		01/22/2014-15:39		
Gray, Noel	Letter requesting subpoenas	Filing		01/08/2014-16:37		
Gray, Noel	Motion/reverse judgment & remand for new PCR hearing	Filing		06/08/2012-09:51		
Gray, Noel	Remittur From Supreme Court	Filing		12/22/2010-13:23		
Gray, Noel	Appeal/Court of Appeals	Filing		09/16/2010-	11/02/2010-	

				10:39	10:39
Gray, Noel	Letter/Letter from inmate with response from clerk	Filing		05/18/2009-08:43	
Gray, Noel	Order/Dismissal with prejudice	Order		04/06/2009-13:29	04/06/2009-13:29
Gray, Noel	copy of letter to inmate inst. to make req. through atty	Filing		02/27/2009-10:45	04/06/2009-10:45
Gray, Noel	LETTER FROM INMATE	Filing		02/11/2009-00:00	02/11/2009-00:00
SOUTH CAROLINA, THE ST	RETURN (APPOINTMENT OF	Filing		01/09/2009-00:00	01/09/2009-00:00
SOUTH CAROLINA, THE ST	COUNSEL REQUESTED) CERT/	Filing		01/09/2009-00:00	01/09/2009-00:00
SOUTH CAROLINA, THE ST	SVC	Filing		01/09/2009-00:00	01/09/2009-00:00
Gray, Noel	APPOINTMENT OF COUNSEL	Filing		05/01/2008-00:00	05/01/2008-00:00
Gray, Noel	RECOMMENDATION GRANTED	Filing		05/01/2008-00:00	05/01/2008-00:00
Gray, Noel	ORDER OF APPOINTMENT FOR	Filing		05/01/2008-00:00	05/01/2008-00:00
Gray, Noel	LEGAL COUNSEL	Filing		05/01/2008-00:00	05/01/2008-00:00
Gray, Noel	PCR APPLICATION	Filing		04/18/2008-00:00	04/18/2008-00:00
Gray, Noel	04-GS-02-1333	Filing		04/18/2008-00:00	04/18/2008-00:00
Gray, Noel	04-GS-02-1334	Filing		04/18/2008-00:00	04/18/2008-00:00



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

Noel Eugene Gray Jr VS South Carolina State Of

Case Number:	2011CP0202776	Court Agency:	Common Pleas	Filed Date:	12/09/2011
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	PCR
Status:	Dismissed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Dismissed by Court - not Rule 40J	Disposition Date:	07/05/2012	Disposition Judge:	Early, Doyet A. III
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

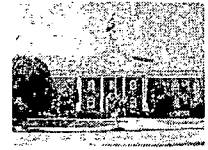
[Case Parties](#)
[Judgments](#)
[Tax Map Information](#)
[Associated Cases](#)
[Actions](#)
[Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel Eugene Jr	Remittitur From Supreme Court	Filing		09/21/2012-14:18		
Gray, Noel Eugene Jr	Remittitur From Supreme Court	Filing		07/17/2012-15:44		
South Carolina State Of	Final order of dismissal	Order		07/05/2012-08:40		
Gray, Noel Eugene Jr	PCR - no filing fee	Filing		07/05/2012-08:39		
Gray, Noel Eugene Jr	Traverse Mot to Return/Mot Dismiss/Mot Sum Judg/Attachments	Motion		07/03/2012-15:47	07/03/2012-15:47	
Gray, Noel Eugene Jr	Motion/strike pro se amendment PCR successive application	Filing		06/29/2012-16:05	07/05/2012-16:05	
Gray, Noel Eugene Jr	Notice of intent to appeal	Filing		05/30/2012-14:43	07/05/2012-14:43	
Gray, Noel Eugene Jr	Filing/Filing Of pcr amendment	Filing		05/29/2012-08:40	07/05/2012-08:40	
Gray, Noel Eugene Jr	Letter/Letter (sent to AG's office for answer)	Filing		05/25/2012-14:16	07/05/2012-14:16	
Gray, Noel Eugene Jr	Amendment to PCR application	Filing		05/14/2012-13:50	07/05/2012-13:50	
Gray, Noel Eugene Jr	PCR successive application amendment	Filing		04/18/2012-14:33	07/05/2012-14:33	
Gray, Noel Eugene Jr	Letter/Letter from inmate & response back to him	Filing		03/07/2012-09:00	07/05/2012-09:00	
Gray, Noel	Order denying	Order		02/10/2012-	07/05/2012-	

Eugene Jr	Motion Default Judgment			15:10	15:10	
Gray, Noel Eugene Jr	Response to Respondents Return and Motion to Dismiss	Filing		02/03/2012-09:41	07/05/2012-09:41	
South Carolina State Of	Return to motion for Default Judgment w/svc	Filing		02/03/2012-09:40	07/05/2012-09:40	
South Carolina State Of	Order/Conditional Order of Dismissal	Order		02/02/2012-09:48	07/05/2012-09:48	
Gray, Noel Eugene Jr	Memo/Memo of Law in Support of SJ/Service	Filing		01/23/2012-10:19	07/05/2012-10:19	
South Carolina State Of	Return and Motion to Dismiss/Aff Service with Attachments	Filing		01/23/2012-10:04	07/05/2012-10:04	
Gray, Noel Eugene Jr	Motion/Summary Judgment	Motion		01/23/2012-10:14	01/23/2012-10:14	
Gray, Noel Eugene Jr	deciaration for entry of default	Filing		01/19/2012-09:35	07/05/2012-09:35	
Gray, Noel Eugene Jr	Appointment of Counsel Recommendation Denied	Filing		01/09/2012-09:14	07/05/2012-09:14	
Gray, Noel Eugene Jr	Post Conviction Relief	Filing		12/09/2011-13:04	07/05/2012-13:04	



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

Noel E Gray Jr VS South Carolina State of

Case Number:	2013CP0200478	Court Agency:	Common Pleas	Filed Date:	02/27/2013
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	Non-Jury
Status:	PCR	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

[Case Parties](#)
[Judgments](#)
[Tax Map Information](#)
[Associated Cases](#)
[Actions](#)
[Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel E Jr	Motion for Appt of Counsel, Svc, Affidavit	Filing		02/23/2015-10:47		
Gray, Noel E Jr	Addendum pursuant to Rule 71.1(e)	Filing		11/26/2014-13:24		
Gray, Noel E Jr	Thanksgiving card (not scanned)	Filing		11/26/2014-13:24		
Gray, Noel E Jr	Letter/Letter (Emailed to AG's Office)	Filing		11/03/2014-09:37		
Gray, Noel E Jr	Declaration/Entry of Default Pursuant to Rule 55(a); Cert/Svc	Filing		08/15/2014-14:11		
Gray, Noel E Jr	Letter/Letter w/Svc-COPY	Filing		07/30/2014-14:03		
South Carolina State of	Conditional order of dismissal	Order		07/28/2014-14:42		
Gray, Noel E Jr	Objections to return and motion/dismiss and conditional orde	Filing		07/22/2014-14:19		
South Carolina State of	Return and motion to dismiss w/svc	Filing		07/17/2014-13:42		
Gray, Noel E Jr	Letter from litigant requesting post trial motion roster and	Filing		07/11/2014-13:52		
Gray, Noel E Jr	Motion Filing Fee Waived	Filing		07/11/2014-13:51		
Gray, Noel E Jr	Motion/Declaration for Entry of Default w/ Service	Motion		07/02/2014-13:47	07/02/2014-13:47	
Gray, Noel E Jr	Motion Filing Fee Waived	Filing		06/02/2014-09:54		

Gray, Noel E Jr	Motion/Motion For Pre-Trial Hearing; Aff and Cert Svc	Motion		06/02/2014-09:54	06/02/2014-09:54	
Gray, Noel E Jr	Motion for Judge to Grant PCR; Aff of Appellant; Cert/Svc	Filing		05/15/2014-16:05		
Gray, Noel E Jr	Motion/Replace PCR App & Motion to Grant Funding/Svc	Filing		04/24/2014-14:44		
Gray, Noel E Jr	Easter card from inmate (not scanned)	Filing		04/22/2014-11:01		
Gray, Noel E Jr	Motion/strike motion for appointment of counsel filed 2-5-1	Filing		04/16/2014-14:27		
Gray, Noel E Jr	Letter/Letter	Filing		01/23/2014-15:10		
Gray, Noel E Jr	Motion/dismiss PCR until pending appeal is complete	Filing		07/12/2013-13:45		
Gray, Noel E Jr	motion for order compelling discovery pursuant to rule 37	Filing		06/17/2013-09:37		
Gray, Noel E Jr	Motion for production of documents and things Rule 34	Filing		05/15/2013-08:34		
Gray, Noel E Jr	Motion for production of complete discovery	Filing		04/24/2013-15:46		
Gray, Noel E Jr	Letter/Letter	Filing		04/16/2013-12:21		
Gray, Noel E Jr	motion for appt. of pcr appointment of counsel	Filing		04/15/2013-12:23		
Gray, Noel E Jr	Motion to Recuse Doyet A Early III	Filing		03/13/2013-11:29		
Gray, Noel E Jr	Motion/Alter and/or Amend/Affidavit/Cert of Service w/ attac	Filing		03/13/2013-11:29		
Gray, Noel E Jr	Filing/Filing Of appointment of counsel recommendation DENIE	Filing		03/05/2013-16:41		
Gray, Noel E Jr	Post Conviction Relief	Filing		02/27/2013-15:58		



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

Noel E Gray Jr VS South Carolina State Of

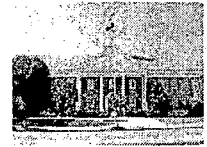
Case Number:	2015CP0201730	Court Agency:	Common Pleas	Filed Date:	07/20/2015
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	Non-Jury
Status:	PCR	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

[Case Parties](#)
[Judgments](#)
[Tax Map Information](#)
[Associated Cases](#)
[Actions](#)
[Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel E Jr	Letter from inmate	Filing		05/26/2016-16:19		
Gray, Noel E Jr	Remittitur From Supreme Court	Filing		01/28/2016-14:21		
Gray, Noel E Jr	Service/Certificate Of Service & Sworn Affidavit	Filing		12/21/2015-11:35		
Gray, Noel E Jr	Notice/appeal pursuant SC App Cr Rule 243(b); SC App Ct R	Filing		12/21/2015-09:59		
Gray, Noel E Jr	Letter from Judge Murphy to file cert/svc	Filing		12/14/2015-14:32		
South Carolina State Of	Conditional Order of Dismissal; Cert/Svc	Order		11/16/2015-13:30		
Gray, Noel E Jr	Letter with attachments	Filing		11/05/2015-11:51		
South Carolina State Of	Return & motion to dismiss w/svc	Filing		10/05/2015-11:07		
Gray, Noel E Jr	Combined motion to properly file a PCR application w/attachm	Filing		10/05/2015-11:00		
Gray, Noel E Jr	Letter from SC Court Administration	Filing		07/29/2015-15:32		
Gray, Noel E Jr	Post Conviction Relief	Filing		07/20/2015-13:43		



Aiken County Second Judicial Circuit Public Index



[Aiken County Home Page](#)
[South Carolina Judicial Department Home Page](#)
[SC.GOV Home Page](#)

Switch View

Noel E Gray Jr VS South Carolina State Of

Case Number:	2015CP0201730	Court Agency:	Common Pleas	Filed Date:	07/20/2015
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	Non-Jury
Status:	PCR	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

[Case Parties](#)
[Judgments](#)
[Tax Map Information](#)
[Associated Cases](#)
[Actions](#)
[Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Gray, Noel E Jr	Letter from SC Court Administration	Filing		07/29/2015-15:32		
Gray, Noel E Jr	Post Conviction Relief	Filing		07/20/2015-13:43		

CMSWeb 6.1 © 2013 South Carolina Judicial Department • All rights reserved

THE STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN)

SECOND JUDICIAL CIRCUIT

NOEL E. GRAY, JR., # 307590)

Case No: 2013-CP-02-00478

APPELLANT,)

FILED: APRIL 24, 2014

11. 24. 2014
Liz Godard
Clerk of Court
Anita Knoepfle
Deputy Clerk

V.)

) APPLICANT'S ADDENDUM pursuant to

) Rule 71.1(e) SCRCiv.P. citing: Bell v. State, -

STATE OF SOUTH CAROLINA)

) --- S.E. 2d. --- (2014) WL 5654265 (S.C. App. Ct.

RESPONDENT.)

) 2014) and S.C. Code Ann. § 17-27-20 (a)(4) (1976)

THIS MATTER COMES BEFORE THE Honorable Perry M. Buckner Chief Admin. Judge for the Fourteenth Circuit pursuant to the above referenced Citings to incorporate a newly discovered case that deals with the applicant's issue at hand see Coats v. State, 575 S.E. 2d 557 (S.C. 2003).

The issues raised in this application is not successive, defaulted, or barred, because "new facts" and "evidence" that was "not" available at the time of applicant's prior PCR dated February 2, 2009 has been discovered at it will vacate or void the Sentence and/or Conviction.

Pursuant to Rule 77(b) SCRCiv.P. the applicant gives the Honorable Buckner full jurisdiction to rule in chambers for this Post-Trial Motion see Article 5 § 4 of the S.C. State Constitution, to enforce the Constitutional Rights of an Indigent defendant and grant this said hearing according to Rule 40(h) SCRCiv.P. by written disposition Overriding the Respondent's eregenerous Conditional Order of dismissal, see S.C. R.Civ.P. 71.1(d) and also: -

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

NOV 26 2014

Liz Godard
C.C.C.P. & G.A., Aiken County, S.C.
Anita Knoepfle
Deputy Clerk

Sharper v. State, 274 S.C. 264, 305 S.E.2d 247 (1983) to fully resolve the vital issues at hand.

In this current application, the issue of "Trial Counsel's failure to convey a non-violent plea offer contributed to an Un-Constitutional Structural defect at the Sentencing phase" in which was extremely Criticle Violated due process and Applicant's Sixth and Fourteenth Amendments to the United States Constitution and Article I § 3 of the South Carolina State Constitution.

February 2, 2005 the applicant was sentenced by the Honorable Jackson V. Gregory to a term of Life with out the Possibility of Parole pursuant to S.C Code Ann. § 17-25-45 Recidivist Statute.

The applicant appealed this to the South Carolina Court of Appeals and he filed a Pro-Se Brief on November 9, 2006

Appellate Counsel filed her everenerous Anders Brief on September 21, 2006 with the issue of Trial Judge erred, ... see (2008-UP-040) filed January 11, 2008, but never gave reason why the case had no merit.

Applicant filed for Post-Conviction Relief on April 18, 2008 with a Pro-Se Brief along with the issues of 1) Subject Matter Jurisdiction; 2) violation of Federal Interstate Agreement on Detainer's Act Contract; 3) Unlawful Sentence enhancement pursuant to S.C. Code Ann. § 17-25-45 Recidivist Statute; 4) Vendetta; 5) Ineffective Assistance of Counsel; 6) Prosecutorial Misconduct; 7) Failure to subpoena vital witness; 8) Failure to subpoena vital documents; 9) States witnesses committing perjury; 10) Rogers v. State violation; 11) Judicial's abuse of Discretion and law.

In the Respondent's evenerous proposed Order of Dismissal filed on April 6, 2009 signed by the Honorable Doyet A. Early III, Circuit Court Judge for the Second Judicial Circuit clearly showed that the issues raised were severely twisted by the Respondent; and there were letters showing that defense Counsel lied as well as Official Court documents to support it.

The Honorable Early knew that the Dismissal with prejudice would cover the fact that the applicant did correspond to his office on December 29, 2004 in connection to the serious denial of due process and Defense Counsel's Ineffectiveness; and that the Trial list for the month of October only consisted of the Eighteenth through the Twenty fifth, and that October 29, 2004, there was no court reporter needed therefore, there was no open Court and there was no possible way that the State was prepared to try this case on October 18, 2004 pursuant to the Federal IADIA Contract.

Also the Twenty ninth was on a Friday and no court was in session on Record according to the Honorable Clerk of Court's office.

Pursuant to Martinez v. State, 653 S.E.2d 266, 267 (S.C. 2007) (per curiam) PCII Counsel failed to file a Rule 59(e) SCRCIOP to preserve all of applicant's issues "even though the applicant instructed him to do so. He refused to do so. And material facts do exist to this issue. see Martinez v. Ryan, 132 S.Ct. 1309 (2012); Trevino v. Thaler, 133 S.Ct. 1911 (2013)

Applicant appealed this denial to the South Carolina State Supreme Court by means of a Writ of Certiorari and filed a Pro-se Brief on December 29, 2009,

Appellant Counsel filed her evenerous Johnson Petition on the

issue of Trial Counsel erred in failing to object to LWOP Sentence,,, in which violated due process under the Sixth and Fourteenth Amendments to the United States Constitution at Sentencing and Article I § 14 of the South Carolina State Constitution see State v. Rice, 375 S.C. 302, 652 S.E.2d-409 (Ct. App. 2007) in order to preserve the issue for appellate review.

However, the applicant "lost all" of his issues due to so many procedural irregularities during his judicial processes in which deprived him of his due process see Washington v. State, 478 S.E.2d 833 (1996); and a Re-hearing shall be remanded when the Order from (2008-CP-02-00734) due to failing to directly address the applicant's claim of Ineffective Assistance of Counsel see: SCCL § 17-27-80 and Pruitt v. State, 423 S.E.2d 127

Also a successive application is allowed by the South Carolina Supreme Court where the applicant has been denied complete access to the appellate process see Edom v. State, 523 S.E.2d 753 (1999); Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991) and under the Post Conviction Rules, the applicant is entitled to a full adjudication on the merits of the Original petition see also: Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991).

On Tuesday January 11, 2005, the Solicitor of Aiken County made an Negotiated Plea offer for a lesser- included offense charge, but because of the animosity Defense Counsel had towards the applicant because of his charges against him, she refused to communicate this deal, but instead remained silent, and the applicant received a LWOP Sentence pursuant to S.C. Code Ann. § 17-25-45 Recidivist Statute.

See applicant's Anders and Johnson Brief's Trial Counsel

remained silent in which deprived the applicant his Procedural Legal due process, both Courts stated that the applicant should not have been sentenced under this Statute.

Applicant filed a Motion pursuant to Rule 29(b) SCR Crim. P. because he discovered evidence that would change the whole outcome if a New Trial was held, "including the lesser-included offense plea offer that was discovered October 12, 2011 by a Rule 5 Discovery Package from Trial Counsel see also (2011-CP-02-02776) in which Judge Early generously denied and the issues raised were all ignored by appellate Counsel Robert M. Pichak Esq. and Appellate Case No. (2014-UP-036) was denied and a Remittitur was sent on February 24, 2014, Ineffective Assistance of Appellate Counsel.

On February 4, 2014 appellate Counsel instructed applicant to file for a PCR in which was done on April 24, 2014. And in this current application the issues raised contributed to an Un Constitutional Structural defect at sentencing and violated applicant's Sixth and Fourteenth Amendments to effective assistance of Counsel in which was critical because there is material evidence of probative value that exists to support the granting of this PCR Hearing (2013-CP-02-00478) see: Davis, 381 S.C. at 608, 675 S.E.2d at 420 and Strickland v. Washington, 466 U.S. 668, 685-86, 104 S.Ct. 2052, 80 L.Ed. 2d at 419 and Missouri v. Frye, 132 S.Ct. 1399 (2012).

Under Rule 407 Professional Conduct Rule 1.3 "Defense Counsel failed to act as an active advocate and act with due diligence

to protect the applicant from arbitrary exercise of the Government powers "emphasis added" Kentucky Dept. of Corr. v. Thompson, — U.S. — 109 S. Ct. 1094, 104 L.Ed. 2d 507 (1989). And violated applicant's contract clause of Article 1 § 4 of the South Carolina State Constitution; and, Article 1 § 10, Cl. 1 U.S. Const. Due Process includes substantive component which guards against arbitrary and capricious government actions.

Under Rule 407 Professional Conduct Rule 1.4 Defense Counsel failed to communicate with the applicant to established working relationship under professional norms and failed to communicate the non-violent plea offer constituted Ineffective Assistance.

In the newly discovered case found on November 21, 2014 at 18:00 hrs. the applicant found Bell v. State, WL 5654265 the South Carolina State Supreme Court Short, J., held that; 1) Defense Counsel's failure to extend a plea offer to the defendant prior to sentencing phase constituted deficient performance; and; 2) the defendant showed that he was prejudiced by Counsel's deficient performance in clear violation of U.S.C.A. Const. Six.

As a general rule, Defense Counsel has the duty to communicate formal offers from the prosecution and to accept terms that may be favorable to the accused see also U.S.C.A. Const. 6

The applicant contends that 10 years non-violent is far better than dying in the South Carolina Dept. of Corrections.

Also pursuant to the Sixth and Fourteenth Amendments to the

United States Constitution and Article 3 § 4 of the South Carolina State Constitution the applicant has the right to effective assistance of Counsel see Mann v. Richardson, 397 U.S. 759, 90 S.Ct. 1441, 25 L.Ed. 2d 763 (1970); Beasley v. U.S. 941 F.2d 687, (6th Cir. 1974); Strickland v. Washington, id. at 466 U.S. at 694, 104 S.Ct. at 2068 (1984) ("Counsel's errors were prejudicial, and undermined the trial and appeal process, and confidence in the outcome, see also. Moore v. U.S. 432 F.2d 730 at 739 (3rd Cir. 1970); Evitts v. Lucy, 469 U.S. 387, 105 S.Ct. 830 (1976) ("A hearing is required to be held on the issue of ineffective assistance of Counsel and is an independent ground for relief."). see also In Re: Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 1072 (1970) in which sets the due process standards for a Criminal Trial in which was violated.

These multi-layered deficiencies in Defense Counsel's performance was objectively unreasonable and hugely prejudicial. A lesser-included offense instruction in which material facts exists to support claim pursuant to S.C. Code Ann. § 17-27-10 through -160 (2003); and Rule 41.1(e) S.C.R.C.P. See also S.C. Code Ann. § 17-27-20(a)(4) (1976); § 17-27-20(b). was never developed and communicated to the jury. In short, defense Counsel never forced the prosecution's case to "survive the crucible of meaningful adversarial testing. U.S. v. Cronie, 466 U.S. 648 (1984) under these circumstances, applicant's guilt phase conviction must be set aside citing Strickland v. Washington, 466 U.S. 668, 696 (1984); Appel v. Horn, 1999 WL 323805 (E.D. Pa. 1999)

Defense Counsel's dereliction of her duties in preventing prosecutorial

Overreaching also deepened the damage done to the applicant's interests. Citing Kimmelman v. Morrison, 477 U.S. 365 (1986) ("Failure to make obvious objections"). The Trial Court simply disregarded the fact that a disintegration in the attorney-client relationship led to a breakdown in the adversarial process, where unbridgeable rift between counsel and client causes the communication between them to break down, counsel's ability to perform the constitutional function contemplated by the Sixth Amendment is fatally compromised, for the adversarial process demands that the accused have "counsel acting the role of an advocate," Anders v. California, 386 U.S. 738, 743 (1967);

Please take judicial notice to the applicant's PCR transcripts dated February 2, 2009, the Honorable Court will see the Defense Counsel and her animosity towards him infra

App. pg. 273 at 24 the Honorable Court asked Ms. Williams Assistant Attorney General if the applicant had an appeal?

at 25 she stated yes.

But on App. pg. 274 at 3-6 she lied and said that the court said the Georgia charge was fine to be used as a prior offense to activate the recidivist statute "This is not so!". Perjury S.C. Code Ann. § 16-9-10 (a)(1)-(2). see also Rule 407 Professional Conduct Rule 3.3(a)(1)-(4)

"make a false statement of material fact or law to a tribunal

App. pg. 279 at 2-11 the applicant told Honorable Early that he communicated to his office and Defense Counsel's boss Ms. Willis Alues regarding Defense Counsel's neglect.

App. pg. 281 at 22-25 Ms. Williams inconsistent statements comes out "They issued ... Trial Judge erred by allowing the prior out of State charge ..."

App. pg. 282 at 1-4 ... to be classified as a most-serious offense in South Carolina ... the Court of Appeals dismissed that appeal on that exact allegation.

at 5-9 Mr. Boni ... it was not an appealable issue ... PCR Relief ... ineffective assistance of Counsel for not raising this issue at Sentencing. Therefore, the Respondent erred in its conclusion of law that the prior conviction was fine to be used.

App. pg. 283 at 5-10 Mr. Boni questioned Counsel regarding the correspondence to her office regarding the IRDA issue.

at 8 Trial Counsel "well he had questions about that ... December of 2004 see letter dated December 25, 2004,

at 12-25 This Honorable Court will see Trial Counsel lied regarding the State being prepared to try this case ... he agreed for me to seek a continuance on his behalf.

App. pg. 285 at 11-13 the Honorable Early questions Defense Counsel regarding the prior conviction

at 14 the Respondent lied to the Court because the interpretation of the Direct Appeal was different to Defense Counsel's interpretation.

at 15-17 the Tribunal was deceived in its interpretation of the Anders Brief. "It seems like it's the same argument that you just made and the same thing you're testifying about."

at 18 Defense Counsel violates Rule 407 professional Conduct
Rule 3.3, Candor toward the Tribunal (a) (1) and Ms. Williams and
Defense Counsel violates Rule 3.4, Fairness to Opposing Party and Counsel
(a)-(b) and Rule 3.5 Impartiality and Decorum of the Tribunal
at (a) (c) due to the Direct Appeal never stated that the prior was
fine to be used as both Respondent and Defense Counsel Stated.

This alone is also perjury.

Appointed Counsel Boni had an obligation to serve as an
active advocate in this PCR Proceeding dated February 2, 2009.

In the Transcripts, it clearly showed that Mr. Boni never
done any research, nor had any case law to support his argument,
see Martinez v. Ryan, 132 S.Ct. 1309 (2012); Trevino v. Thaler, 133 S.Ct.
1911 (2013) and Rule 59(e) SCRCiv.P. see also: Marler v. State, 653 S.E.2d
266, 267 (S.C. 2007) per Curiam and see, e.g., McCullough v. State, 464 S.E.2d
340, 341 (S.C. 1995).

The applicant sent the Honorable Clerk of Court a Rule 59(e)
SCRCiv.P. on January 5, 2009 to be filed in advance, but was
refused and sent back with instructions to be sent to appointed
Counsel in which was done on January 15, 2009.

Material facts do exist to support this issue and the Deputy
Clerk as a witness. therefore, the applicant never waived any of
his issues.

Justice Brennan put it best in his dissent in Jones v.
Barnes, 463 U.S. 745, 758 (1983) 'to satisfy the Constitution,

Counsel must function as an advocate for the defendant, as opposed to a friend of the court." It is well settled that the Sixth Amendment right to counsel contains a correlative right to representation that is unimpaired by conflicts of interest, by divided loyalties, see, e.g., Wood v. Georgia, 450 U.S. 261, 271 (1981); Von Moltke v. Gillies, 332 U.S. 708, 725 (1948); Smith v. Lockhart, 923 F.2d 1314, 1320 (8th Cir. 1991).

Consequently, courts have held that it offends the fundamental precepts of the Sixth Amendment to foist upon a defendant a lawyer with whom he cannot trust or communicate too see: U.S. v. Williams, 594 F.2d 1258, 1259-61 (9th Cir. 1979); Brown v. Craven, 424 F.2d 1166 (9th Cir. 1970). In Brown, the defendant was forced into a trial with the assistance of a particular lawyer with whom would not communicate nor cooperate. As a result of this conflict between defendant and attorney, the Ninth Circuit concluded that the defendant was denied effective assistance of counsel.

The applicant is entitled to a new trial, because to compel one charged with a grievous crime to undergo a trial with the assistance of an attorney who has become embroiled in irreconcilable conflict deprived the applicant of his effective assistance of counsel.

Also see Rickman v. Bell, 131 F.3d 1150 (6th Cir. 1997) cert. denied 118 S.Ct. 1827 when Defense Counsel questioned a State witness Mike Williams see App. pg. 96 at 2-4, this error alone rung the bell that constituted a "total failure to actively advocate her client's case."

" I had --- I had him investigated by law enforcement and they came to my house and picked him up. Harri Al error to Defense Counsel's part. She acted as a second Solicitor." also see "Linda Brown".

Pursuant to S.C. Code Ann. § 17-27-70 (a); and 17-27-80 the applicant testified in his prior PCR that Defense Counsel violated his due process, corresponded to Judge Early and Defense Counsel's boss Ms. Willis Alves. Chapman v. California, 386 U.S. 18, S.Ct. 24, 17 L.Ed. 2d - 705 (1967) the Court held: "Errors that deny a defendant the basic trial process can never be harmless". Such errors has nothing to do with established guilt or innocence, and in Rose v. Clark, 106 S.Ct. 301, 478 U.S. 579 (1986) citing Chapman, at Ante, at 3105-06 Counsel's deficient performance constituted ineffective Assistance in violation of the Sixth and Fourteenth Amendments of the United States Constitution, and Article 183 of the South Carolina State Constitution.

This case should be reviewed for unique facts and the rules shall not be a trap for the unwary, see Gamble v. State, 389 S.E.2d - 176, 379, 118 (S.C. 1989) and it is improper for the PCR Court to deny a defendant's Motion for relief on his allegation of Ineffective Assistance of Counsel's Claims see: McGowan v. State, 305 S.C. 329, 408 S.E.2d 241 (1991).

Pursuant to the interest of justice, the applicant respectfully moves the Honorable Perry M. Buckner Chief Administrative Judge for the Fourteenth Circuit full permission to rule in chambers pursuant to Rule 40(h) by written disposition to enforce the granting of PCR Hearing (2013-CP-02-00478) and Rule 77(b) SC Civ.P. Article 534

for a full and fair hearing as to S.C. Code Ann. § 17-27-90 see Odem v. State, 523 S.E.2d 753 (1999) id at [n.2] pg. 753.

Due process prohibits stopping litigant's who never has a chance to present their evidence and arguments on a claim, despite one or more existing adjudications of the identical issue which stand squarely against their position see: Robert v. Recovery Bureau, 450 S.E.2d 616 (1994 App. Ct.).

The appellant is suffering continuing consequences as a result of ineffective assistance of defense counsel and an invalid sentence and conviction citing, Jackson v. State, 489 S.E.2d at 916; and Counsel is responsible for and expected to present an accused a "fair" and "best" defense citing: Richardson v. State, 310 S.C. 366, 363, 426 S.E.2d 795, 797 (1993); Rogers v. State, 261 S.C. 288, 199 S.E.2d 761 (1973). In which was not done.

It is clear that the issues contained in PCR Application (2013-CP-02-00478) is justified with supporting case law and material facts, and the Respondent is violating the applicant's due process and denying him access to the courts in violation of the First Amendment due to Allen v. Leeks, 288 F.Supp. 292 (D.C. S.C. 1071). The Court held: an inordinate unjustified delay in the State's corrective process may well result in the frustration of the petitioners rights, and be such circumstances as to render that process ineffective in which is sufficient to meet due process standards of the Fourteenth Amendment.

So the applicant respectfully moves this Honorable Court to Grant applicant his PCR Hearing that he is entitled to.

Respectfully Submitted.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Noel E. Gray, Jr. #307590)

2013-CP-02-00478

Applicant.)

) AFFIDAVIT OF APPLICANT

v.)

STATE OF SOUTH CAROLINA)

RESPONDENT)

I Noel E. Gray Jr. #307590 respectfully submits this Affidavit, and all information's are true and correct to the best of my knowledge and beliefs, under the penalty of perjury. The applicant does not have any animosity towards the Honorable Early, Defense Counsel nor Respondent, he only wants what he is entitled too. And that is his fair and full chance at the Bite of the Justice Apple per Wilson Supra. Executed this 24th day of November, 2014

Respectfully Submitted,

Noel E. Gray Jr. #307590

Noel E. Gray Jr.

Pro Se Applicant

SUBSCRIBED AND SWORN BEFORE ME

this 24th day of November, 2014

X Sandra N. Frye /s/

Notary Public for South Carolina

My Commission Expires March 31, 2018 My Commission Expires

THE STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Noel E. Gray Jr. #307590)
Applicant,)

2013-CP-02-00478

CERTIFICATE OF SERVICE

v.) EXECUTED this 24th day of November;
) (2014)

STATE OF SOUTH CAROLINA.)
RESPONDENT)

I Noel E. Gray Jr. #307590 respectfully submits that an Original Copy of applicants ADDENDUM pursuant to Bell v. State, and S.C. Code Ann. § 17-27-20 (a)(4) has been deposited in the U.S. Mail postage prepaid and addressed to the following:

1. Honorable Clerk of Court, P.O. Box 583 Aiken, SC. 29802-0583
- and, 2. Honorable Perry M. Buckner Chief. Admin. Judge 14th Cir. po Drawer 470, Walterboro, SC. 29488-0470

The applicant is no longer able to get photo-copies of hand generated Documents, Please Send a Clock Stamped Copy back to the Applicant in the Self Addressed Envelope Enclosed.

Respectfully Submitted.

SUBSCRIBED AND SWORN BEFORE ME
THIS 24th day of November, 2014
Noel E. Gray Jr.

Noel E. Gray Jr. #307590
Noel E. Gray Jr.
4460 Broad River Rd.

Notary Public for South Carolina My Commission Expires Columbia, SC. 29210
My commission Expires: March 3, 2013

~~EXHIBIT # 25~~ →

November 23, 2014

Dear Honorable Clerk,

Please find enclosed applicants Original ADDEN
Duro to be filed on the non-Jury docket pursuant to Rule 77(b)
SCRCiv.P and Rule 40(b) to have the Honorable Buckner to Rule
In-chambers overriding the Respondent's unlawful attempt to
deprive the applicant his due process, by written disposition to
Grant PCR Application (2013-CP-02-00478) for a hearing pursuant
to SC Code Ann. § 17-27-20(a)(1). I'm no longer able to copy hand
generated Documents so please send me a clock stamped copy
back in the self addressed envelope enclosed. Also, there are
several motions filed within this Court, please send me a
printout on the days the motions were heard and the judge who
ruled upon them.

It appears that you all forgot to send me a copy of the
dispositions filed.

Thank you all for your time and help in this matter.
Happy Thanks Giving to Ya'll.

God Bless You!

Respectfully Requested,

Noel E. Gray Jr. #302590

Pro-Se Applicant.

P.S. A Copy was sent to the Honorable Buckner.

EXHIBIT ~~A~~^K-1

November 2, 2015

2015 CP 0201730

Dear Clerk of Court,

Please find enclosed a Original and a true copy of another Motion pursuant to Rule 40(b) and TRC(b) SCRPC to have the Honorable Maite' Murphy Chief Administrative Judge to order this Office to properly file and Index the April 16, 2014 PCR Application that was sent to you pursuant to Rule 71.1(c) SCRPC. in violation of Rule 506 Code of Conduct for Staff Attorney's and Law Clerks.

And motion for Relief from an erroneous Order that contains fraud, Misrepresentation of legitimate Material Facts, perjury and Acts of Bad Faith violating the Applicants 1st and 6th and 14th Amendments. under the U.S. Constitution.

Also, I would move this office to send me a printout on all of my motions filed in this Court, the date and Docket Numbers and the Judge that heard them and a copy of the disposition that is required by Article 5-34 of the SC State Constitution. "Including this Motion request"

I don't mean any harm nor disrespect, but this Court has violated Rules of Civil procedure and violated my Constitutional rights to have equal access to this Court and proper filings and hearings, due to my indigent status.

Please send a clock Stamp Copy back to the applicant

Respectfully Requested

Noel Henry #307590

Pro-se Applicant/Indigent

"In praying for you! God don't like ugly..."

Due to indigent status, I can only make 1 copy.

FILED 11-4-2015
Christa Kinross
Deputy Clerk 105

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Noel Gray, #307590
Applicant,

) 2014-CP-02- _____

) - ON COMBINED MOTION'S -

) 1) MOTION TO HAVE PCR APPLICATION DATED

) APRIL 16, 2014 PROPERLY FILED PURSUANT TO

) RULE 71.1(C) SCRPC

) 2) MOTION FOR RELIEF FROM AN ERRONEOUSLY

) PREPARED ORDER THAT CONTAINS "FRAUD";

v.

) MISREPRESENTATION OF LEGITIMATE MATERIAL

) FACTS, PERJURY, ACTS OF BAD FAITH PURSUANT

) TO RULE 60(b)(3) SCRPC and THE JUDGMENT IS

) VOID PURSUANT TO STATEV. HOLBROOK, SUPRA,

) S.C. CODE ANN. § 17-11-10 et seq. ARTS) (UC); UC1

) (1979) citing the 1st, 6th, 8th, and 14th Amend's

State of South Carolina

) OF THE U.S. CONSTITUTION.

Respondent.

This matter is before this Court by way of an improperly filed and indexed PCR Application that was erroneously filed and indexed on July 9, 2015 see 2015-CP-02-01730 after 441 days of the original application being sent to the Clerk's office on April 16, 2014 with an attached Motion to be filed as well,

The Clerk's office filed the Motion on April 24, 2014, but failed to file and index the PCR Application in violation of Rule 71.1(C) SCRPC.

The Applicant herein respectfully request this Court to Render the erroneous Order dated September 29, 2015 prepared by Daniel Gourley Asst. Atty. General that Contains fraud: Misrepresentation of Legitimate Material Facts, Perjury, Acts of Bad faith Void and by written Order, Grant the applicant's Motions to have this PCR Application properly filed and indexed pursuant to Rule 71.1(c) SCRPC and Grant an Evidentiary Hearing pursuant to Rule 71.1(d) SCRPC with appointment of a proper Criminal law Counsel citing: Sharpe v. State, 274 S.C. 264, 305 S.E.2d 247 (1983).

Your Honor, please take Judicial notice to page 6 of 9 at H10 in the Motion's Section, pursuant to Rule 71.1(c) SCRPC A PCR application is to be filed as an independent action; and to be separately filed and indexed by the Clerk of Court.

The Clerk has violated this Procedural Rule and the Respondent has committed fraud and Acts of Bad faith upon this Court in violation of Rule 506 Code of Conduct for Staff Attorney's and law Clerks, at Canon 1; 2; 3 SCACR.

"Fraud" a deliberate deception for unfair or unlawful gain, to swindle, or one that defrauds, cheat or one who assumes a false pose or a imposter.

"Bad Faith" a dishonesty of belief or participation in negotiation, to act in "bad faith" to prompt the performance or actions of another to achieve a desired result or to act in "bad faith" is to mis-lead another into a action that results in an unfair advantage.

Your Honor, it is clear that the Respondent is attempting to deceive this Honorable Court by not telling the truth and misrepresenting

relevant material facts in which is fraud and Bad faith Acts.

On page 6 of 9 at 10 in the Motions Section the Respondent has cut a good portion out of the Original Motion filed and it's Original Context.

The Respondent's Claim's "Motion to replace PCR application dated February 27, 2013 with Subject Matter and Supplemental Jurisdiction Amendment dated January 23, 2014 with exhibit's filed on April 24, 2014, this is clearly a bold face lie and a deliberate deception to mislead the Honorable Court.

The Original Motion Stated "Motion to Replace PCR Application dated February 27, 2013 with PCR Application dated April 16, 2014 and Subject Matter Jurisdiction and Supplemental Jurisdiction with attached Exhibits dated January 23, 2014 filed on April 24, 2014.

As of Rule 407 COPC SCAR Rule 3.3(a)(1) A lawyer shall not knowingly make a false statement of fact to a Tribunal when disclosure is necessary to avoid assisting in a criminal or fraudulent act by the Client "in this case the State"

And Rule 3.5 the Respondent is seeking to influence a judge by means that are prohibited by law "Perjury" and (C) Engaging in Conduct intended to disrupt the Tribunal.

Also Rule 8.4 Misconduct (a) The Respondent has violated the Rules of Professional Conduct, and knowingly assist the State in doing so,

(b) This is a criminal act that reflects adversely on the Respondent's honesty, trustworthiness and fitness as a lawyer in other respects;

(c) Engaged in unlawful conduct involving moral turpitude;

(d) Engaged in conduct involving dishonesty; fraud, deceit; and misrepresentation.

(e) Engaged in conduct that is prejudicial to the administration of Justice;

(f) State or imply an ability to influence improperly a government official;

(g) Knowingly assist The Honorable Buckner and the Clerk of Court and The Honorable Doye A. Early III in conduct that is a violation of applicable rules of Judicial Conduct and other law.

The Respondent deliberately cut out the Application that is before this Honorable Court.

The PCR Application Dated February 27, 2013 2013-CP-02-0478 the applicant had dismissed on July 12, 2013 see page 5 of 9 at # 7 pursuant to Rule 71.1(b) SCRCP due to a Direct Appeal was being perfected.

And the application was never re-opened by the applicant, but notice the Respondent and Judge Buckner and the Clerk of Court continued running this application and violating the Applicant's due process of law under the Fourteenth Amendment. That Court did not have the jurisdiction to entertain a dismissed application, but done it anyway.

In this current application the following issues were raised:

1. Ineffective assistance of Counsel
(a) failure to convey a plea offer
2. Subject Matter Jurisdiction

Your Honor, this application was filed on April 24, 2014 after the final ruling of the S.C. Court of Appeals on January 29, 2014 and a.

Remittitur was sent on February 24, 2014. Therefore, the Clerk of Court and the Respondent have deliberately denied a Pro-se indigent applicant his Constitutional Right to equal access to have his documents and Motions to be properly filed and indexed according to Rule 71.1(c) SCRPC and has denied the applicant of his physical access to the Courts.

How can a pro se indigent inmate bring his new evidence into Court when the Respondent who is the adversary, files erroneous Orders lies to the Court and plays unfair ball. "The applicant wonders who is a criminal, the one who is accused or the one who works for the State.

Fundamental Fairness entitles indigent defendant's to an adequate opportunity to present their claims fairly within the adversary system Ake v. Oklahoma, 470 U.S. 68, 77 (1985) (internal quotations omitted).

Therefore, the applicant's Direct Appeal State v. Gray, Op. No. 2014-4P-036 (S.C. Ct. App. filed January 29, 2014) a Remittitur was sent on February 24, 2014 and a Application was sent with a Motion to incorporate the Subject Matter Jurisdictional Issues and Exhibits on January 23, 2014 on April 16, 2014 and filed on April 24, 2014 is ripe for review.

The Respondent has failed to file its response within the 30 days allotted by the Uniform Post-Conviction Relief Act citing: S.C. Code Ann. § 17-27-70(a) (2003) And was prejudiced because of (3) reasons:

1. A PCR Hearing is required after the conclusion of a Direct Appeal pursuant to S.C. Code Ann. § 17-27-45(a) (2003) after the sending of the

Remittitur to the lower Court from an appeal.

2. The Clerk of Court's failure to properly file and index this valid PCR Application not only deprived the indigent applicant who is Pro-se of his PCR that he is legally entitled to, but cost him his 1 year over the Statute of limitations of being able to file his 28 U.S.C. § 2254 Federal Habeas Corpus Application, and:

3. This deprived an indigent Pro-se Applicant of his Procedural and Substantive due process of law rights to partake in a judicial review to correct an unlawful confinement due to his suffering a continuing consequence as a result of an invalid sentence and conviction citing: Jackson, 489 S.E.2d at 916 at N. C.J. in violation of the 1st; 6th; 8th; and 14th Amendments under the U.S. Constitution, and the Applicant is entitled to the relief requested in the application. Citing: Kneese v. State, 236 S.E.2d 746, 747 (S.C. 1977) (per curiam) (Citing: Herring v. State, 206 S.E.2d 885 (S.C. 1974) (per curiam); see also Slezacek v. South Carolina, No. 2003-CP-10-766, 2003 WL 25459562 at *8 (S.C. Com. Pl. Nov. 24, 2003) (Citing Kneese with approval).

The Respondent's inordinate and unjustified delay in the State's Correctional process has resulted in the frustration of the applicant's Constitutional rights; and be such circumstances as to render this process ineffective Allen v. Lecke, 328 F. Supp. 292 (D.S.C. 1971)

The Constitution has been interpreted to mandate that all indigent prisoners have physical access to the courts, and a full and fair opportunity to present their claims Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491, 1494, 52 L.Ed. 2d 72 (1977); Ex parte Hull, 312 U.S.-

546, 549; 61 S.Ct. 640, 641, 85 L.Ed. 1034 (1941); Chambers v. Baltimore-Ohio, RR. 207 U.S. 142, 148, 28 S.Ct. 34, 52 L.Ed. 143 (1907) "The right Springs in part from the due process clause of the 5th. and 14th. Amendment's and rights to petitions found in the 1st. Amendment Crowder, 844 F.2d at 811 at N.(7). See generally Ryland, 708 F.2d 967, - 971-72 (5th Cir. 1983). The Right to access is fundamental Bounds v. - Smith, 430 U.S. at 828, 97 S.Ct. at 1498 "Reasonable access to the Courts is a right [Secured] by the Constitution and laws of the United States, being guaranteed as against a State action by the due process clause of the 14th. Amendment White v. Ragan, 34 U.S. 700, 762 at N. (17). 65 S.Ct. - 978, 89 L.Ed. 1348; Hatfield v. Baillieux, 290 F.2d 632, 636 (9th Cir. 1961). Constitutional rights to access to the Courts and equal protections for Citizens in a like manner must be recognized and protected O'Conner v. Mumbray, 504 F. Supp. 139 at 142 (Esq:io v. - Ulibani, 507 F.2d 721 (9th Cir. 1974).

Rights Secured by the 1st Amendment are fundamental, and convicted prisoners retain all 1st. Amendment rights not incompatible with their status as prisoners Burton v. Nault, 902 F.2d 4 (6th Cir.) - Cert. denied, - U.S. -, 111 S.Ct. 198, 112 L.Ed. 2d 160 (1990) The Supreme Court has recently noted that "Prison walls do not form a barrier separating prison inmates from the protections of the Constitution". Thornburgh v. - Abbott, 490 U.S. 401, 407, 109 S.Ct. 1874, 1878, 104 L.Ed. 2d (1989).

The unjustified delays and lack of Court action and the Attorney General's Offices' failures to enforce State and Federal law's of this State and Country, equally and fairly and lawfully, and the

degree of restricting the applicant's 1st Amendment rights and deprivations of the 14th Amendment Right to due process, equal protection of the law under the 8th Amendment, as well as his property and liberty interests is a State Created Right of the Post-Conviction Relief Act. has not been determined to its greater depths. However, the delay's, lack of Court Action, and the Attorney General's Office inactions are clearly obvious. The applicant's 1st Amendment right has been restricted and the violation of the 14th Amendment is also quite clear.

In exactly what manner, and by whom, or for what purpose, the Applicant's PCR Action has been affected and influenced by someone.

However, Circumstances and Circumstantial facts in conjunction with this unlawful delay, while comparing with the known facts of the erroneous denial of PCR Action 2011-CP-02-02776 and the Rule 29 (b) SCR Crim P and the April 24, 2014 Actions makes it clearly obvious that the fraudulent denials of these relevant actions have been influenced by someone for some reason.

Loss of Constitutional rights, even for a short period of time constitutes irreparable injury. Elrod v. Burns, 427 U.S. 347, 373- (1976); Deerfield Medical Center, v. City of Deerfield Beach, 661 F.2d - 328, 338 (5th Cir. 1981).

Also, this Honorable Court, pursuant to the interest of justice, would devote extensive attention to the importance of the "checking function" against "abuse" of Government power, and "fundamental rights" are extremely important when the abuse directly effects and harms the person who

Seeks to challenge it's abuse in the Court's, as the applicant does citing: Globe News Paper Co. v. Superior Court for County of Norfolk, 457 U.S. 596, 606, 102 S.Ct. 2613, 2619, 73 L.Ed. 2d 248 (1982).

The applicant asserts and firmly claims that this Court has a duty to protect us "indigent pro se" applicant's against actions of infringement's upon our protected rights of Equal protection, and from the vindictiveness and falsehoods that contains unlawful acts of unprofessional conduct, fraud; mis-representation of relevant material facts, perjury and give us a "full and fair opportunity" to present our claims in these Judicial Hearing reviews.

The State's Attorney General's Staff Attorney's has no authority under State or Federal law or under Statute to Cancel; bar or rule as successive any PCR Application's from the Judicial Hearing Schedule Docket, because to bar a person from asserting new facts and evidence see PCR 2011-CP-02-02776 and Rule 29(b) SCRCP deprives a pro-se Applicant's due process of law, because Sr. Code Ann. § 17-27-20 does not act as a bar or successive. The due process requires the Court to ascertain whether any errors are sufficient causes to excuse the alleged procedural rule, by means of an Evidentiary Hearing, pursuant to Sharper v. State, Supra, to fully resolve this issue.

These illegal and unconstitutional infringement's of the Aiken County Clerk of Court not following procedural rules and failing to properly file and index the PCR Application that was sent along with a Motion on April 16, 2014 and Cited April 24, 2014 has violate the 13th Amendment and violated Rule 71.1(c) SCRCP in violation of the 14th.

Amendment to Procedural and Substantial Due process of law. Material facts clearly support a Direct Appeal was concluded on January 29, 2014; and the Remittitur was sent on February 24, 2014 and a PCR Application was sent to the Clerks Office on April 16, 2014. This failure to follow procedural rule has infringed in the State Protected Constitutional right in clear violation of the Uniform PCR rules and procedures, violating the 1st, 8th and 14th Amendments under the U.S. Constitution.

The Application can not be successive nor barred by the Statute of limitations pursuant to the erroneous conclusions of the Respondent's UnConstitutional Order as follows:

In the Appointed Counsel's Mr. Robert M. Pachak Esq. filed his Brief on April 12, 2013 and in his Brief he filed a Designation of Matter to be included in Record on Appeal.

Material facts clearly show The Honorable Doyt A. Early, III Circuit Court Judge was covering up for a "State Official" A Public Defender who lied to him in the initial PCR dated February 2, 2009.

On December 9, 2011 the applicant filed PCR Application (2011-CP-02-02776) after he discovered new evidence and facts that would have won the initial PCR, pursuant to S.C. Code Ann. 17-27-20(a)(1) (1976) citing Coats v State, 575 S.E.2d 557 (S.C. 2003), that fell under the "discovery-Rule" and this new evidence was filed within the 1 year after the discovering trial Counsel's errors, the petition was timely and he was entitled to an evidentiary hearing to determine if his trial Counsel was in fact ineffective Id. at 558.

Two plea offers were discovered in which one was a non-violent offence.

Pursuant to Davis v. State, 381 S.C. 601, 675 S.E.2d 416 (2009):

(1) Defense Counsel performed deficiently with respect to the State's Initial Plea Offer; (2) defendant showed that he was prejudiced by defense Counsel's deficient performance; Remand for New Sentencing Hearing. Also citing: Kolle v. State, 696 S.E.2d 73 (S.C. 2010).

Missouri v. Frye, 132 S.Ct. 1399 (2012) This Court held:

1. Defense Counsel has the duty to communicate formal offers from the prosecution, to accept a plea on terms and conditions that may be favorable to the accused;
2. Counsel's was deficient in failing to communicate to defendant Prosecution's written plea offer before it expired on January 21, 2005. Sentence vacated / Remanded. also citing:

Bell v. State, --- S.E.2d --- (2014), WL 5654265

The Court of Appeals Short, J. held;

- (1) defense Counsel's failure to extend plea offer to defendant prior to sentencing constituted deficient performance; and
- (2) defendant showed that he was prejudiced by Counsel's deficient performance U.S.C.A. Const. Amend 6

As a general rule, defense Counsel has a duty to communicate formal offers from the prosecution to accept a plea on terms that may be favorable to the accused U.S.C.A. Const. Amend 6.

Also, Judge Early's unconstitutional denial of PCR Action (2011-CP-02-02776) fell under the "erroneous abuse of Discretion" Standard

Citing: e.g. State v. Edens, 250 S.E.2d 116, 118 (S.C. 1976); State v. - Pierce, 207 S.E.2d 414, 417 (S.C. 1974).

The applicant also discovered a valid issue that would won a new-trial on November 22, 2011, The Aiken County Sheriffs Dept. Sent a Document Stating that Linda Brown was not charged nor indicted for her "Alleged Sexual Assault on her Own daughter" that was also enclosed in the 2011-CP-02-02726 PCR.

A conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and the conviction must be set aside if there is any reasonable likelihood that the false testimony could have affected the jury's judgement citing: Simpson v. Moore, 627 - S.E.2d 701 (S.C. 2006); Giglio v. U.S. 405 U.S. 150, 31 L.Ed. 2d 104, - 92 S.Ct. 763 (1972) held:

The Supreme Court reversed and remanded for a new trial in the defendant's case after evidence was newly discovered that the Government failed to disclose a promise of leniency to its key witness in return for testimony.

Since the Government's case depended entirely on that witness its relevant to her credibility was an important issue.

Evidence of an agreement between the Government and the witness is relevant and the jury was entitled to know of it. When the credibility or the reliability of a given witness may well be determinative of guilt or innocence, non-disclosure of evidence affecting credibility of that witness justifies a new trial (Citations Omitted).

Also the erroneous admissions of Linda Brown's hearsay statements about Michelle Cesimano telling her about the alleged sexual abuse by the defendant was reversible error, in prosecution of CSC 2nd with a minor, Linda Brown's testimony was cumulative, because the State did not introduce any physical evidence of sexual abuse, and Linda Brown's testimony and the State's case was essentially a contest, pitting defendant's word against the alleged victims as to whether the incident occurred, and her mother's testimony mirrored the alleged victim's testimony improperly bolstering the alleged victim's testimony in the minds of the jury. Citing: State v. Whisonant, 335 S.C. 148, 515 S.E.2d 768 (S.C. App. Ct. 1999); State v. P. Schmidt, 342 S.E.2d 461 (1986).

Also, see the Rule 29(b) SCR Crim. that Judge Early erroneously denied that led to the PCR Application dated April 16, 2014.

And no PCR Application can be barred by Judicial Doctrine of res-judicata or defaulted or Successive pursuant to S.C. Code Ann. § 17-27-20 (a) (1) (1976) New facts and evidence that was after discovered and was not available at the time of initial (PCR) that if true would vacate or void the Sentence and Conviction Brown v. State, 540 S.E.2d - 846 at N. [2-5] (2002). In a PCR Action the Judicial Doctrine of Res-judicata does not apply to issues of Subject-Matter Jurisdiction, where a claim is raised that a conviction is void for lack of Jurisdiction, see also: State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 (1972); The acts of a Court with respect to a matter as to which it has no jurisdiction is void see 259 S.C. at 261, 191 S.E.2d at 522 also citing: Anderson v. -

Anderson, 299 S.C. 110, 115, 382 S.E. 2d 897, 900 (1989) Lack of Jurisdiction to Subject Matter cannot be waived, even by consent of either party; that the Jurisdiction of a Court over the Subject Matter of a proceeding is fundamental.

Pursuant to Land v. State, 274 S.C. 243, 262 S.E. 2d 735 (1980) S.C. Code Ann. § 17-27-90 (1985) the applicant can give sufficient reasons why the Subject Matter Jurisdiction; Violations of a Federal INDIA Contract; and Ineffective Assistance of Counsel claims were inadequately raised in the initial PCR dated April 2, 2009. This Application would be classified as Successive if the issues were properly raised and adjudicated in a proper manner.

Alce v. State, 305 S.C. 448, 409 S.E. 2d 392 (1991) the Plea offer never existed until October 12, 2011 See PCR 2011-CP-02-02776 and because of State interference, the Honorable Early signed an erroneous proposed Order in which he substituted his judgement over a State Agency's

Also, an Evidentiary Hearing was not had pursuant to Sharper v. State, Supra, therefore, the Court did not have the Jurisdiction of the Subject matter to frivolously deny a action without giving a pro-se indigent applicant physical access to the Court to administer his evidence, in which was a Severe case of Miscarriage of Justice and violated an indigent's 1st; 6th; 8th and 14th Amendment's under the U.S. Constitution.

Your Honor, please take Judicial notice to the following grounds that are valid "Sufficient Reasons" why the indigent applicant's issues were inadequately raised in all of his State and Federal proceedings.

State v. Struckey, 333 S.E. 56, 308 S.E. 2d 564 (1998) "Once Counsel is obtained, the applicant's hands are tied due to hybrid representation. Therefore, any failures that violate the S.C. Code Ann. § 17-27-80 (2003) Clause or failure to provide adequate case law or Material facts fall upon a "State Created Structural Defect" and the "State's failure to provide adequate Counsel who can follow the rules, or who can represent a indigent applicant in a Criminal Case.

- PROCEDURAL HISTORY -

Applicant's Counsel filed a direct Appeal on February 7, 2005 and both a frivolous Anders Brief and a Pro-se Brief were submitted. The Appeal was dismissed State v. Gray, Op. No. 2008-LP-040 - (S.C. Ct. App. filed January 11, 2008) and a Remittitur was sent on January 30, 2008.

Appellate Counsel Eleanor Duffy Cleary Esq. filed her erroneous Anders No Merit Brief pursuant to Anders v. California, 386 U.S. 739, 18 L.Ed. 2d 493, 87 S. Ct. 1396 (1967), and there was several serious violations that were unethical; unconstitutional and illegal, that violated the 5th, 6th, 8th and 14th Amendment's under the U.S. Constitution.

In her erroneous Anders Brief she raised her only one issue: "The Judge erred by sentencing applicant to a (LWOP) Sentence where his prior Conviction from Georgia, was not for an offense that would be classified as a most serious offense in South Carolina citing: - Brownlow v. State, 544 S.E. 2d 472 (Ga. App. 2001); Holland v. State, - 434 S.E. 2d 808 (Ga. App. 1993); State v. Lindsey, 355 S.C. 15, 583 S.E. 2d - 740 (2003); State v. Morgan, 352 S.C. 359, 574 S.E. 2d 203 (Ct. App. 2002); -

Ga. Code Ann. § 16-3-651(h); Ga. Code Ann. § 16-6-2(a) (Supp. 2005); S.C. Code Ann. § 17-25-45(a)(2) (Supp. 2005).

Also the (2) 16-3-655 (2) Charges were not of a Most-Serious offense as well. ' CSC with a minor is a "Most Serious Offense" except where evidence presented at the Criminal Proceeding and the Court, after the Conviction, makes a Specific finding on the record, that the Conviction obtained for this offense resulted from Consensual Sexual Conduct where the victim was younger than the actor as in Section § 16-3-655 (3).

And the final statement of the erroneous Andor's Brief stated " therefore, appellant's prior Conviction is not necessarily for an offense that would be classified as a Most-Serious offense as required by the S.C. Code Ann. § 17-25-45 Statute. ' therefore, he should not have been sentenced to LWOP under the Recidivist Statute.

Let's take Judicial notice to the Charges, shall we, Your Honor. S.C. Code Ann. § 16-3-655 (2) states: A person is guilty of this offense if the actor engages in " Sexual Battery " with a person who is no more than 14 years old and no less than 11 years old.

" Sexual Battery " means Sexual Intercourse, cunnilingus, - Fellatio, anal Intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body cavity.

In the Trial A Doctor " States Witness Dr. Bethea testified that She performed a Complete Physical Exam on the alleged victim and her "Sexual Assault" exam was normal, no bleeding, no scars, no -

abrasions, no vaginal discharges and no Multiple Abnormalities
see ROR pg. 121 at 2-14 This testimony also cleared the applicant of
any Sexual Assault.

The Applicant filed his Pro-se Brief on November 9, 2006 and
raised the following issues:

1. Prosecutorial Misconduct; Citing Giglio v. U.S.
2. Using Unfair Prosecutorial Tactics;
3. Perjury of State's witnesses;
4. Violated Federal IADA Contract;
5. Unlawful Sentence Enhancement;
6. Judicial Misconduct;
7. Elements not met to establish Sexual Battery";
8. Rogers Violations "Using Professional Medical Experts to bolster
the Credibility of the alleged victim";
9. Ineffective Assistance of Counsel;
10. Vindicta, pursuant to State v. P. Schmidt, 342 S.E.2d 401 (1986);
11. Counsel not giving a lesser included offense instruction to the
Jury due to the element's not being met.
12. 6th, 8th, and 14th Amendment violations of the U.S. Constitution;
13. Sentence Void for lack of Subject Matter Jurisdiction.

The appellant's Direct Appeal was dismissed pursuant to
e.g. State v. Prioleau, 305 S.C. 404, 411, 508 S.E.2d 213, 216 (2001) an
objection should be addressed to the Trial Court in a sufficiently specific
manner that brings attention to the exact error); State v. Watts, -
321 S.C. 158, 167, 467 S.E.2d 272, 278 (Ct. App. 1996) "to be preserved -

for appellate review, an issue must be both presented to and passed upon by the Trial Court").

The Court of Appeal's could not have considered any of the issues raised by the applicant's Pro-Se Brief or the issue raised by the appellant Counsel because none of these issues were preserved by a Contemporaneous objection.

The Appeal was Dismissed with No Precedential Value and after careful research, Appellant Counsel's Ander's Brief was clearly Frivolous as follows:

Trial Counsel Motioned for a Directed Verdict on the element's of the offense not being met and a Motion for a new Trial was preserved by a Contemporaneous Objection see ROA pg. 153 at 11-25; ROA pg. 154 at 1-25; ROA pg. 155 at 1-14 and preserved on ROA pg. 252 at 24-25, and ROA pg. 253 at 1-19. This is clearly a Ineffective Assistance of Appellate Counsel claim for "abandoning" the relevance argument. citing: Menefield v. Burg, 881 F.2d 696 (CA9 1989) citing, Wade, 388 U.S. at 227, 87 S.Ct. at 1932 in which is found; misrepresentation of relevant material facts and a clear Act of Bad Faith.

Pursuant to Evitts v. Lucey, 469 U.S. 392, 83 L.Ed. 2d 821, 105 S.Ct. 830 (1985) A First-Appeal as of right is not adjudicated in accord with the due process of law if the applicant does not have the effective assistance of an attorney. This result is hardly novel. [...].

A Criminal Defendant has a Constitutional right to Counsel -

On Appeal --- like the promise of Gideon that a Criminal defendant has a Constitutional right to Counsel at trial, --- would be a futile gesture unless it comprehended the right to the effective assistance of Counsel.

Recognition of the right to effective assistance of Counsel on Appeal requires that we affirm the 6th Circuit's decision in this case.

And because of these unprofessional errors, Appellate Counsel did not abide by the Anders procedures violating the 6th and 14th Amendment's under the U.S. Constitution citing: Penson v. Ohio, 488 U.S. - 75, 102 L.Ed. 2d 300, 109 S.Ct. 346 (1988), and she failed to prosecute - this Appeal citing: M^S Hale v. U.S., 175 F.3d 115 (CA 2 1999).

Therefore, the applicant was deliberately denied the right to adequate representation on Direct Appeal citing: Anders v. California, Supra, because of his indigent status.

And she failed to raise other issues that were in the record citing: Smith v. Robbins, 528 U.S. 259, 145 L.Ed. 2d 756, 120 S.Ct. 746 (2000); Pennsylvania v. Finely, 481 U.S. 551 [Omitted] and citing: Penson v. Ohio, 488 U.S. 74 [Omitted].

Because of her violating a indigent's due process of law and filing a frivolous Anders, she failed to follow the Anders mandate, Freels v. Hills, 843 F.2d 956 (CA 6 1998), that is clear prejudice citing: Lombard v. Lynaugh, 868 F.2d 1475 (CA 5 1989). And a clear Constitutional violation and a deliberate constructive denial of Counsel citing: - Lofton v. Whiteley, 905 F.2d 885 (CA. 5 1990), also citing: Evitts v. Lucey, Supra; Davis v. Mississippi, 394 U.S. 721, 89 S.Ct. 1394 (1969).

Your Honor, if this court would do an independent analysis, [,,,] this Court would properly determine that Appellate Counsel Eleanor Duffy Cleary was ineffective because she failed to raise the relevant arguable issues in her erroneous Anders Brief in violation of the procedure announced in Anders v. California, Supra.

Under clearly established law, all Criminal defendant's have a right to an advocate in mandatory appeals citing: Douglas v. California, 372 U.S. 353, 83 S.Ct. 814 (1963). On the face of the record, Appellate Counsel failed to satisfy Anders by refusing to identify any legitimate appellate issues, despite of Appellant's Pro-se Brief, and then seeking to withdraw as counsel.

Pursuant to Strickland, applicant does not need to show any prejudice because the failure of his "State appointed Counsel" to raise any arguable issues in the appellate brief creates a presumption of prejudice see Delgado v. Lewis, 181 F.3d 1087 (9th Cir. 1999); and citing Delgado v. Lewis, 168 F.3d 1148 (CA 9 1999). And this violation of due process of law clearly shows Appellate Counsel was a friend to the State, and deliberately violated her sworn duty to defend an indigent inmate, pursuant to Rule 407 COPC SCAR;

An indigent lost his Appeal for being poor. Violating the First; Sixth and Fourteenth Amendments.

• Because of Appellate Counsel's deliberate violation's the Applicant wrote her up with the Office of Disciplinary Counsel OS-DE-L-1221 with MS Barbara W. Hinson Administrative Assistant. And because she was a State official, they covered up her errors by dismissing this action.

There are plenty of relevant Material Facts that clearly show that the applicant did not have a fair Direct Appeal due to his indigent status and being charged with a frivolous sex charge in which Material facts clearly show the applicant did not commit. See ROA pg. 172 at 7-12; iii The State does not have to offer any other corroborating evidence, other than the victim's testimony, that she had been sexually abused. "But the State will still have to prove it beyond a reasonable doubt." Solicitor Chandler:

Wrong, the alleged victim's testimony does have to be corroborated pursuant to State v. White, 273 S.C. 487, 257 S.E.2d 239 (1979). Defendant is allowed to impeach a victim as a witness on cross exam regarding the evidence. Also citing: Tucker v. Pralesnik, 181 F.3d 747 (CA 6 1999) "Trial Counsel failed to obtain Medical Records to challenge victim's credibility, in which was extremely critical. Citing [Strickland], 466 U.S. 669 (Affirm grant of writ.)"

Also, when the alleged victim's testimony does not meet the evidence provided by the elements of the offense and a Doctor's testimony stating a Normal Genital Exam. This opens the door to the alleged victim being coached by her mom to lie in order to get even with him for leaving her see ROA pg. 87 at 6-20 the alleged victim supported a vendetta argument citing State v. P. Schmidt, 342 S.E.2d 401 (1986) see also State v. Whisonant, 335 S.C. 148, 515 S.E.2d 768 (S.C. Ct App. 1999).

Also citing: S.C. Code Ann. § 16-9-10 Perjury

(A)(1) It is unlawful for a person to willingly give false or misleading or incomplete testimony under oath in any court of record,

Judicial, administrative or regulatory proceedings in this State.

(A)(2) It is unlawful for a person to willfully give false or misleading, or incomplete information on a document, record, report, or form that is required by the laws of this State.

(B)(1) A person is guilty who violates the provisions of Subsection (A)(1) or (A)(2) and is guilty of a "felony offense" and upon conviction, must be fined in the discretion of the court or imprisoned for not more than 5 years or both.

Applicant has filed an Application for Post Conviction Relief (PCR) on April 18, 2008 (see 2008-cp-02-0734) In his application and Prose Brief he raised the following issues:

1. Ineffective Assistance of Counsel;
2. Violated Federal IADA Contract;
3. Subject Matter Jurisdiction;
4. 6th and 14th Amendment Violations;
5. Unlawful Sentence Enhancement;
6. Elements of Sexual Battery not met; Insufficient Evidence
7. Judicial Misconduct;
8. Perjury of State's Witnesses; (Citing Giglio Violations)
9. Vendetta;
10. Rogers Violations;
11. Prosecutorial Misconduct;
12. Prosecution using Unfair Prosecutorial Tactics;

On May 1, 2008 the State appointed Mr. Bradley L. Boni Esq. to represent the applicant in his PCR.

An Evidentiary was convened on February 2, 2009, at which the applicant was present.

PCR Counsel never filed for Trial Transcripts pursuant to Gunter v. State, 299 S.E.2d 723, 724 (S.C. 1976) at no cost.

PCR Counsel never filed for any Discovery pursuant to S.C. Code Ann. § 17-27-150 (2003);

PCR Counsel never filed for funds to obtain any investigative or expert services pursuant to S.C. Code Ann. § 17-3-50 (b), (c) (2003).

Several times the applicant on his own has attempted to obtain discovery pursuant to Rule 5 Brady v. Maryland, Supra. In The Matter of Heddock, 321 S.E.2d 601 (1986) the files belong to the applicant and not to the State, or Trial Counsel Sup. Ct. Rule 32, Code of Prof. Resp. DR6-101 (A)(3); Rules of Disciplinary procedure § 7 Subd. (A)(3) And was erroneously denied by Trial Counsel and the Lower Court.

After the initial PCR dated February 2, 2009, Trial Counsel sent a Rule 5 Discovery Package containing every document raised in the applicant's testimony (R.A. pg. 279 at 2-11 (PCR Hearing)), to show Trial Counsel committed perjury by lying to Judge Early, citing: Layman v. Armontrout, 923 F.2d 578 (CA 8 1991). Counsel commits perjury At Post-Trial Hearing.

A letter from Trial Counsel dated October 11, 2011 informing him she will not send the full discovery he requested.

Medical Records she did not have at the Trial that showed there was no Sexual Assault that would have impeached the alleged victims

Testimony Tucker v. Prelesnik, 181 F.3d 747 (CA 6 1999).

A DNA Test was performed on the Staged Victim on October 4, 2002 that was not afforded to the applicant that was exculpatory evidence to established guilt or innocence, "Exculpatory Forensic Evidence" that would have rebutted the erroneous "Hymen Theory" that does not exist and regarding "Sexual Battery". Thompson v. Calderon, 120 F.3d 1045 (CA 9 1997).

Trial Counsel or PCR Counsel never consulted with or hired a Medical Expert regarding the "Sexual Abuse" Gersten v. Senkowski, 426 F.3d 589 (CA 2 2005), in which rendered deficient performance,

These prejudicial errors clearly support the Counsel's were a friend of the State and failed to defend an indigent by obtaining relevant medical evidence in which was not sought. Holsomback v. White, 133 F.3d 1382 (CA 11 1998).

Also (2) Statements were found in the Discovery that would have killed the States case a) to Sexual Assault, (i) by Lori Becky Williams "Mike Williams's wife" and Michael Williams Jr. Mike Williams Son "who slept in the living room with the alleged victim" on a couch next to her". both dated September 22, 2001 and November 20, 2001. in which Trial Counsel failed to obtain as witnesses, U.S. v. Jasin, 215 F.Supp. 2d 552 (E.D. PA. 2002); Hargrove v. Thomas v. Yukins, 236 F.Supp. 2d 750 (E.D. Mich. 2002); Bryant v. Scott, 28 F.3d 1412, 1415 (5th Cir. 1994).

(2) Plea offers were discovered in which one was a lesser-included offense and Non-violent Davis v. State, Supra; Missouri v.

Frye; Supra, Bell v. State, Supra.

The Complete Federal IDEA Contract was enclosed,
Counsel's failure to obtain discovery and expert and investigative
Services infringed upon the applicant's Constitutional rights.

And allowing the Respondent to participate in these requests
violated due process of law. Fundamental Fairness entitles indigent
defendants to an adequate opportunity to present their claims
fairly within the adversary system Ake v. Oklahoma, 470 U.S. 68,
77 (1985) (internal citations omitted).

This promise of "adequate opportunity" vanished when the
Respondent, with its nearly unlimited resources to investigate a
PCR Applicant's case at all phases of litigation and has access to
privileged information only because of an applicant's indigent
status.

The South Carolina State Supreme Court has explained: Anytime
Criminal procedures discriminate against defendants by reason of
their indigent status, such procedures violate the guarantee of
equal protection. Where the indigent defendant is subjected to
a process which is required of an indigent defendant and not of
a non-indigent defendant, then that process becomes invidiously
discriminatory and violative of equal protection Ex parte Lexington
County, 442 S.E.2d 589, 594 (S.C. 1994).

In which material facts clearly show by the preponderance
of evidence, the applicant did not commit this CSC offense and
the State has withheld exculpatory evidence that would have

Exonerated the applicant on all charges. And a testimony does not prove the elements of an offense only conjecture or Suspicion.

Also perjury cannot sustain a Conviction.

The South Carolina Rule's of Civil Procedure 71.1 instructs all parties to follow the rules of Civil procedure to the extent that they are not inconsistent with the PCR Act S.C. Code Ann. - § 17-27-80 (2003) Citing Wade v. State, 559 S.E.2d 843, 846-47 (SC2002) Rule 71.1 SCRPC.

The South Carolina State Supreme Court has recognized that PCR Proceedings are unlike other Civil proceedings in that they are "rooted in a Criminal Case", which means "important Constitutional protections and Criminal law concepts are regularly implicated." Citing: Sutton v. State, 606 S.E.2d 779, 781 (S.C. 2004); overruled on other grounds by Bray v. State, 620 S.E.2d 743 (S.C. 2005). PCR cases are treated differently from traditional Civil cases, requiring for example, that appellate Counsel brief all arguable issues despite Counsel's belief the appeal is frivolous and requiring, by statute, Court appointed Counsel for an indigent applicant who is granted a hearing Citing Wade, 559 S.E.2d. - 847.

It is clearly established applicant lost his Direct Appeal due to Counsel's failure to preserve any issues for direct review "as to the erroneous belief of Appellate Counsel Eleanor Duffy Cleary in which was clearly fraud and a Act of Bad faith Citing Wade, Supra. Trial Counsel did preserve the Directed Verdict and Mis-trial for appellate review, in which made the appellate Counsel ineffective for failing to

raise all arguable issues and clearly abandoning the relevance argument's citing the 6th and 14th Amendments under the U.S. Constitution

After 2 attempts to correspond to PCR Counsel Boni, he finally returned correspondence on December 18, 2008, he stated that his practice is limited to only Real Estate and Probate, and he has never brought a CSC case to bar before. This alone is clearly established prejudice. It's like having a janitor upon the bench hearing a murder case, 'Sir you just killed 15 women in a span of 6 months, Sir, I can't have this in my town. Clean your act up or you're going to jail. Okay. Dismissed. What an injustice. That's why you're on the bench, ma'am.

My question to this Honorable Court, how can a person receive a full and fair opportunity to present his claims in a PCR when his Counsel is clearly incompetent. He knows nothing about Criminal law, and his failure to research, investigate or subpoena any witnesses or file for any documents, Transcripts clearly shows his inexperience.

Judge Early sat on his bench for a good 15 minutes questioning Counsel Boni about a 2 page case law State v Holbrook, 274 S.C.4, - 260 S.C.2d 181 (1979). See PCR Tr. pg. 276 at 12-13; 19; 21; 23; - Pg. 277 at 1; 3; 9; 13; 16; 24-25; Pg. 278 at 7; 10 in which he did not have.

My question to this Honorable Court, is how can you raise an issue on a certain subject, when you don't even know what that issue contains?

The applicant presented his evidence by oral testimony pursuant to SC Code Ann. § 17-27-80 (2003) citing: Simpson v. Moore, 627 S.E.2d 701, - 712 (S.C. 2006). Judge Early knew the applicant did correspond to his office

on December 29, 2004 regarding Trial Counsel and the Violated Federal IADIA Contract. See also PCR Action 2011-CP-02-02776 and the Rule 29(b) SCR Crim. P. in which Judge Early erroneously denied because the evidence by material facts clearly supported that Trial Counsel did lie in the initial PCR in which is perjury under oath and his ruling dismissing with prejudice was clearly a miscarriage of Justice and this met the erroneous abuse of discretion standards citing: State v. Edens, - 250 S.E.2d 116, 118 (S.C. 1978); State v. Pierce, 207 S.E.2d 414, 417 - (S.C. 1974); Lahay v. Arontrout, 923 F.2d 578 (CA 8 1991).

Because of these UnConstitutional actions of the Court; Trial Counsel and PCR Counsel Boni, the applicant filed grievances on them with the Office of Disciplinary Counsel on Trial Counsel Kelly P. Brown Esq. August 6 2009 (09-DE-L-0877) by Ms. Ericka M. Williams; and October 14, 2009 Trial Counsel lied to the Disciplinary Counsel again "Material facts support this". Bradley L. Boni Esq. (09-DE-L-0876); Circuit Court Judge Doyet A. Early III. (09-DE-J-0199). In which material facts were presented and the Office of Disciplinary Counsel covered up their illegal and UnConstitutional action by dismissing the grievances. This violated an indigent applicant's due process of law, denied him of equal protection; and this is clearly established Fraud and Act of Bad Faith. citing the 5th; 6th; 8th and 14th Amendments under the U.S. Constitution.

Your Honor, the SC. Supreme Court has mandated (1) that Specific findings of fact and conclusions of law were required; and (2) Rule 59(e) Motion must be filed if the issues are not adequately addressed in order to preserve for Appellate review citing Marlar,

653 S.E.2d at 267. For the Record, the applicant attempted to file a Rule 59(e) SCRCP to the Clerk of Court's office on January 5, 2009 to be amended to his Pro-se Brief, but was denied and returned by the Clerk of Court with instructions to send it to his appointed Counsel to be filed in which was done on January 15, 2009.

Therefore, pursuant to State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998) Once Counsel is obtained, the applicant's hands are tied

These failures fall under a State Created Structural Defect, Court Appointed Indigent Counsel's, in which violated the 1st, 5th, 6th and 14th Amendment, and violated the 8th Amendment to equal protection of the law.

The applicant also wrote Appellate Counsel up see Elearor D. Cleary Esq. 05-DE-L-1221 on October 27, 2005 by Ms. Barbara W. Hinson.

On August 26, 2009 the Applicant was appointed Ms. Wonda H. Carter Esq. to represent him in his writ of Certiorari.

The appendix did contain the entire PCR Transcripts pursuant to S.C. App.Ct. R. 243(f).

Counsel was to be sure to raise every issue in the petition for writ of Certiorari to prevent procedural default in Federal Habeas Corpus review in which she failed to do see PCR Tr. Pg's 273 at 12; 274 at 11; 275 at 1-25; 276 at 1-25; 277 at 1-25; 278 at 1-14; 279 at 1-13; 282 at 19-25; 283 at 1-25; 284 at 1-10; 286 at 1-25; 287 at 1-2 All contains matter of the Federal IADIA Contract Violations, in which Appellate Counsel failed to raise a dead Bang winner coming: -

U.S. v. Cook, 45 F.3d 388 (CA 10 1995). See also Wade, 559 S.E.2d 847, S.C. App. Cr. R. 243(a) Appellate Counsel only raised that same issue the First Appellate Counsel raised except this time it was Trial Counsel's fault and not the Trial Judge in violation of the Sixth and Fourteenth Amendment's at Sentencing and Article 1 § 14 of the S.C. St. Const. for failing to preserve this issue for Appellate review citing State v. Rice, 375 S.C. 302, 652 S.E.2d 409 (Cr. App. 2007). Also see PCR Tr. pg. 274 at 3-6; 285 at 9-10 clearly shows Trial Counsel and Mrs Mary S. Williams committed fraud and perjury in a Court of law regarding the prior conviction, the S.C. Appellate Court did not say the prior was fine to be used as they stated. Perjury and fraud also see PCR Tr. 285 at 1-4 citing U.S. v. Allen, 88 F.3d 265 (CA 9 1996) The Trial Counsel testified at the PCR at 4 it seemed on its face, this clearly showed trial Counsel failed to research or challenge the Prior Conviction in which was uncoerced. Citing Custis v. U.S., 511 U.S. 485, [128 L.Ed. 2257], 114 S.Ct. 1732 (1994). at the Sentencing phase, a defendant can challenge the constitutionality of a prior Out of State State Conviction on the grounds that he was denied his 6th Amendment right to counsel. However, a defendant may not, during Sentencing proceedings, collaterally attack prior convictions on any other grounds [114 S.Ct. at 1734]

The S.C. Ct. Appeals and the Writ of Certiorari both stated that the applicant should not have been sentenced to LWOP under S.C. Code Ann. § 17-25-45 Recidivist Statute, Remand for Re-Sentencing.

The issues in his Pro-se Brief in Direct Appeal dated November 9, 2006; PCR April 18, 2008; Writ of Certiorari dated-

December 29, 2009 the applicant is entitled to res-judicata on the merits that the valid issues were not properly adjudicated or was inadequately raised by a State Appointed Counsel Citing State v. Stuckey, Supra. The Blame game falls on the Respondent.

Appellate Counsel was ineffective for failing to raise the legitimate issues that would have freed the applicant in which he is suffering a continuing consequences as a result of an invalid conviction citing: Jackson, 489 S.E.2d at 916 at N. (1)

Applicant never was afforded a full and fair chance to present his claims in the lower courts due to vindictive State Appointed Attorney's and their Ex parte Communications with their Boss the Respondent. In violation of Rule 407 COFC SCACR, 1st, 5th, 6th, - and the 14th Amendment under the U.S. Constitution.

Jurisdictional or Subject Matter Jurisdictional Claims cannot be waived, barred or Defaulted or Successive pursuant to S.C. Code Ann § 17-27-20 (a) (4) (1976) New facts and/or evidence that was discovered after the initial PCR that if true would void or vacate the sentence and/or the conviction also citing Coats v. State, 575 S.E.2d-557 (S.C. 2003) was entitled to a Evidentiary Hearing citing Sharper v. State, 274 S.C. 264, 305 S.E.2d 247 (1983).

In Brown v. State, 540 S.E.2d 864 at N. (2-5) (2002) Judicial Doctrine of res-judicata does not apply to issues of subject-matter, Jurisdiction, when claims raised deals with the sentence and conviction are void. for the States lack of Jurisdiction Accord, - Carter v. State, 329 S.C. 355 S.E.2d 773 (1989); Hope v. State, 328 S.C. 78,

429 S.E.2d 76 (1989).

Also in Anderson v. Anderson 299 S.C. 110, 115, 382 S.E.2d 987, 900 (1989) 'The Court held: We think it's elementary with no need of Citation of Authority, that the acts of a Court with respect to matters in which it has no jurisdiction are void. (Lillard v. Searson, 170 S.C. 304 S.E. 499 (1933); State v. Funderburk, 191 S.E.2d 520 (S.C. 1972); - State v. Sowell, 85 S.C. 278, 67 S.E. 316 (1910) .

Wherefore, Judge Early's erroneous conclusion that the applicant waived the Subject Matter Jurisdictional issue is clearly Unconstitutional and abuse of Discretion Citing Edens Supra; Pierce Supra.

The applicant also lost his Federal Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 due to State Appointed Counsel's non arguing relevant issues and failure's to represent an indigent person according to Rule 407 COPC SCACR, in clear violation of the Sixth and Fourteenth Amendments.

Applicant filed a Second PCR Application on December 9, 2011. (See 2011-CP-02-02776) Citing Coats v. State, 575 S.E.2d 557 (S.C. 2003) and "it fell under the "One year after discovering" new evidence" and see also: S.C. Code Ann. § 17-27-20 (a)(4) see page 2 of 9 in the erroneous order, and page 3 of 9 and 4 of 9 these issues were vital, and they did require an Evidentiary Hearing pursuant to Sharper, Supra, but Judge Early denied this hearing in order to cover for a State Attorney's perjury, fraud and Acts of Bad faith. on July 5, 2012 violating Rule 501 - COJC Canon 3 and the 1st; 5th; 6th, 8th; and 14th Amendments due to the Honorable Knowing these documents were verbally raised

and material facts to clearly support Trial Counsel's lies.

The new documents provided to Judge Early clearly showed the following:

1. Trial Counsel was ineffective;
2. Trial Counsel violated the Federal IAWA Contract;
3. Trial Counsel lied to a Chief Admin. Judge on October 29, 2004;
4. Trial Counsel lied to Judge Early;
5. Trial Counsel lied to the Disciplinary Counsel;
6. PER Counsel did deprive an indigent of a full and fair PER Hearing;
7. 2 plea offers were not communicated to an indigent;
8. The Judicial Process were completely unfair, unconstitutional, and illegal; due to the Judge covering up Trial Counsel's perjury.
9. The State do not have the jurisdiction over the Subject-Matter to Sentence or Convict a Federal Prisoner;

The Applicant Appealed this erroneous denial and on April 30, 2012 it was erroneously denied again due to no evidentiary hearing being held clearly unconstitutional.

The Applicant filed a Rule 29(b) SCR Crim P for a new trial on September 24, 2012 see Page 4 of 9 and the SC Court of Appeal's erroneously denied this appeal citing that the After-Discovered Evidence is not favored in which was clearly erroneous.

Pursuant to Cox v. State Supra, the after-discovered evidence did fall under the discovery Rule Id at 558 because the

Claims were filed within the "one year" after discovering trial Counsel's serious errors, and he was timely and he was entitled to an Evidentiary hearing to determine if his Trial Counsel was in fact ineffective.

- Discovery Package Dated October 12, 2011 -
 1. Letters from Lora Becky Williams not subpoenaed; (eye witness)
 2. Letter from Michael Williams Same
 3. Statement from Mike Williams
 4. Statement from Michael Williams
 5. Plea Agreements 1-2
 6. Illegal Order of Continuance
 7. Exhibits Material found on November 22, 2011

Also New Evidence was sent from the Clerk of Court on April 8, 2013 Ms. Cheryl S. Westall and was sent to Appellate Counsel Robert M. Pachak Esq. see State v. Gray, Op. No. 2014-UP-036 (S.C. Ct. App. filed January 29, 2014) and a Remittitur was sent on February 24, 2014, on December 20, 2014.

The Respondent in this case Ms. Daniel Courley has committed fraud and misrepresentation of relevant material facts in this illegal Order in clear violation of Rule 401 COPC and Rule 506 COC for State Attorney's and law clerks, and a Act of Bad Faith as follows:

The third application was dismissed on July 12, 2013 see page 5 of 9 at #7 in motions, pursuant to Rule 71.1 (b) SCRPC due to a Direct Appeal was being had.

The Respondent and the Honorable Perry M. Buckner chief-

Administrative Judge for the 14th Circuit violated the applicant's dismissal of PCR Application (2013-CP-02-0478) on July 12, 2013 and continued to adjudicate a dismissed Action in which the Respondent filed her erroneous Order on July 28, 2014 and Judge Duckner filed his erroneous final Order on September 9, 2015 even after this action was dismissed see page 6 of 9 this is clearly a violation of due process and a denial of equal protection and fundamentally unfair and shocking to the Universal Sense of Justice citing Bepler v. State, - 397 S.E.2d 87, 88 (S.C. 1990) (italics omitted) quoting State v. Miller, - 84 A.2d 459, 463 (N.J. Super. Ct. App. Div. 1951).

The Applicant has never re-opened this case, but has replaced the PCR Application dated February 27, 2013 with PCR Application dated April 16, 2014 and the Subject Matter Jurisdiction and Jurisdiction Amendment dated January 23, 2014 with exhibits. See page 6 of 9 at #10 if this Court would direct it's attention, it will reveal that the Respondent has committed fraud and Acts of Bad faith in trying to deceive this Court in the Clerk of Court's failure to properly file and index an Independent Action pursuant to Rule 71.1 (c) SCRPC and Judge Duckner's failure to administer Justice equally and fairly. These Serious Constitutional Violations fall under Rule 501 COJC SCACR Canon 1-2-3 and Rule 407 COJC SCACR. And Respondent has cut out portions of the original motion to lie and commit fraud is illegal.

Pursuant to Rule 501 COJC Canon 3 (D)(1), (D)(2) of the Disciplinary Responsibilities, the Applicant has hereby reported these

illegal ; unconstitutional and Acts of Bad faith . This is clearly an injustice and they have used the U.S. Mail to commit these unlawful acts, in which is illegal and a Federal Offense .

It has been proven by the perponderance of relevant material facts that (1) the Applicant did file his PCR Application on April 16, 2014 ;

(2) The Clerk of Court has failed to properly file and index it according to Rule 71.1(c) SCRPC in which was done over 441 days ago. Clearly Prejudicial.

(3) The Respondent has lied about it.

pursuant to S.C. Code Ann. §17-27-20(A)(2003) the Respondent failed to answer the allegations within 30 days and pursuant to the Clerk of Courts unlawful actions violating a pro-se indigent Applicant's 1st. Amendment right to have access to the Courts by violating Rule 71.1(c) SCRPC. The Applicant was denied the right to proper filings. Of a PCR Application that was ripe for review and the applicant is suffering a continuing consequence as a result of Ineffective Assistance of Trial PCR and Appellate Counsel's and an invalid Sentence and Conviction citing JACKSON, 489 S.E.2d at 916 at N.C.13.

Therefore, the Applicant's Application for PCR cannot be summarily dismissed due to the filing procedures were complied with, pursuant to S.C. Code Ann. § 17-27-10 to -16D and S.C. Code Ann. § 17-27-45(a) SCRPC.

Direct Appeal Perfected January 29, 2014 ;

Application Sent on April 16, 2014 ;

Filed on April 24, 2014

= 58 days

365 days - 58 days = 307 days left.

The Applicant is the one who is entitled to Summary Judgement as a matter of law. And a PCR Hearing.

The Plea offer was never communicated nor was it raised in the initial PCR pursuant to S.C. PCR Act. § 17-27-20 (a)(4) (1976).

The Respondent cannot claim this PCR Action as Successive, defaulted, or barred, because the Judicial Doctrine of res-judicata because new evidence and facts were discovered after the initial PCR that if true would void or vacate the sentence and/or conviction.

This PCR Action is Ripe for Review citing Shorper v. State, Supra. Also, Judicial review is restricted to the records and evidence submitted and this Court is restricted by due process from substituting its judgement for that of a Agency who commits fraud, perjury, and Acts of Bad Faith. by signing erroneously proposed orders.

Also sufficient Reasons have been rendered as to why these issues were not fairly presented, adjudicated and inadequately raised. Citing Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980) S.C. Code Ann. § 17-27-90 (1985). And the new ground could not have been raised in the PCR dated February 2, 2009 because it never existed citing: Rice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991).

Subject Matter Jurisdiction can not be waived by any party pursuant to the 14th Amendment.

The Federal (IADA) Contract was raised, but for Counsel Boni's failure's to abide by the Uniform PCR Act and failures to research; investigate; hire a professional, obtain Trial Transcripts; Obtain Discovery; file a Rule 59(e) SCRPC, pursuant to Prunt; Marlar; and Hall Supra, violated Rule 71.1(d) SCRPC and Rule 71.1(e) SCRPC. violated the applicants due process of law.

Also, the Respondent cannot tell this Court that the Applicant has had a full and fair Opportunity to litigate his Claims of Ineffective Assistance of Trial and Appellate Counsel; Subject Matter Jurisdiction on the violated Federal IADA Contract due to State v. Stucky Supra, the Applicants' hands are tied once Counsel is obtained (Hybrid Representation).

PCR Application (2011-CP-02-02774) or (2013-CP-02-0478) could not be Successive either, A Evidentiary Hearing was never had, and the Same Judge who is covering up for a perjured Lawyer who is a "Public Defender" violation of Rule 407 COPC. SCRPC there's no possible way the applicant could have brought these errors to bar.

These issues will come to an end as the Respondent quotes in page 9 of 9 when she quits lying, committing fraud, misrepresenting relevant material facts and Act of Bad Faith. And an Evidentiary hearing is Ordered by written Order overriding the Respondent's illegal Order filed on September 29, 2015 pursuant to Rule 71.1(d) SCRPC and a Appointment of Criminal Counsel is obtained.

Your Honor, the Applicant's Sentence or Conviction has never been affirmed only Dismissed due to Ineffectiveness.

Also, the Applicant would respectfully move this Court by Motion pursuant to Rule 34 SCRCP. The applicant would move this Court to order copies of the Applicant's Direct Appeal Pro-se Brief dated November 9, 2006; PCR Pro-se Brief April 18, 2008; and the Writ of Certiorari; Pro-se Brief dated December 29, 2009; PCR Application (2011-CP-02-02776) with Exhibits; and the Rule 29(b) SCRcrimP. filed on September 25, 2012 with exhibits. in order to examine the contents to see if they have been filed or not.

Also pursuant to Priddy v. State, Supra, S.C. Code Ann. § 17-27-70(a) the Applicant moves this Court to Order a Complete Discovery pursuant to The Factual Material Evidence clause and S.C. Code Ann. § 17-27-150 (2003) along with the (DNA) Records of the Applicant and the Alleged victim on October 4, 2002 at the Aiken Regional Medical Center for the Alleged victim and February 15, 2005 for the Applicant. from S.L.E.D.

It is clear that the State is hiding exculpatory evidence that was never afforded in the discovery pursuant to Brady Rule 5 Disclosure. And an indigent applicant has a constitutional right to have all of the evidence the State has in its possession.

And due to the Respondent's fraud, perjury, misrepresentation of relevant material fact and act of Bad Faith, the Applicant is severely prejudiced and he is entitled to Summary Judgement as a matter of law and a Evidentiary hearing with appointment of Counsel "shall be granted"

To fully resolve these issues in the interest of Justice and pursuant to the First, Fifth, Sixth, Eighth and Fourteenth Amendments under the United States Constitution, and Rule 71.1(d) SCRCP and S.C. Code Ann. § 17-27-20(a)(1)-(6) with all due respect, ma'am.

Also this Court will see that the Honorable Early did not have the Authority to file an erroneous Order that contained fraud, perjury; the Prior Conviction was not fine to be used as the Respondent Mary S. Williams Esq. Stated in "perjury" and violation of Rule 407 COPC. Trial Counsel also lied "Perjury" violation of Rule 407 COPC.

Judge Early erroneously denied PCR 2011-CP-02-02776 even when material facts clearly proven that Trial Counsel was a lie, violated a Federal IDA Contract and withheld vital Exculpatory Evidence and 2 Plea Agreements.

Judge Early again erroneously denied a Rule 29(b) SCR Crim P. even when the Giglio Material dated November 22, 2011 automatically would have reversed the whole complete Conviction. And if Linda Brown did not testify to her "false involvements", the applicant would not have been found guilty.

The Applicant is unlearned in the law and very unfamiliar with the complicated rules of pleading, and has to act as his own Counsel due to the prejudice suffered because of "Inadequate State Appointed Counsel's" in all of his State Court proceedings.

This Court should not impose on the applicant the same high standard of legal art, in which this Court places on the members of the legal profession, Price v. Johnson, 334 U.S. 266, 292 (1948). or-

to punish him for acting on his own behalf for mistakes in his pleadings that was caused by "Highly Trained Professionals" that are Court Appointed Counsel's, would be exceedingly harsh thing to do Chapman v. Texas, 242 F. Supp. 378, 381 (SC Texas 1965).

The applicant is suffering a continuing consequences as a result of an invalid State Sentence and Conviction citing: JACKSON, 489 S.E.2d 916 an N.(17).

Also pursuant to Brown v. State, 510 S.E.2d 864 or N. (2-5) (2002) Judicial Doctrine of res-judicata does not apply to issues of Subject Matter Jurisdiction where the Claim is that the Conviction was void for the lack of Jurisdiction Accord. Carter v. State, 329 S.C. 355, 52-2d-773 (1991).

Also, the applicant would also move this Honorable Court to Re-open the 2008-CP-02-0734 PCR by Reversing the erroneous "abuse of Discretion" ruling with prejudice, to give the applicant a full and fair opportunity to re-judicate these serious Constitutional errors of Due Process "Judge Early's rulings were in conflict of Interest and Material Facts in the 2011-CP-02-02776 filings Proven that theory,

This request does not fall under the Successive, defaulted, or barred by res-judicata pursuant to PCR Act §17-27-20(a)(4) (1976): New Evidence and Facts that was not available at the time of alleged PCR, that if true would vacate or void a Conviction or Sentence is a legitimate claim

Also, Your Honor, Due process prohibits stopping litigant's who never has a chance to present their evidence and arguments on.

a claim, despite one or more existing adjudications of the identical issue which stands squarely against their position citing: -

Robert v. Recovery Bureau, 450 S.E.2d 616 (S.C.App.Ct. 1994).

Also, denial of due process occurs when a pro-se defendant or a represented defendant in a criminal trial is denied fundamental fairness essential to the concept of justice citing: State v. Hornsby, - 481 S.E.2d 869 (S.C. 1999) see also: In Re Winship, 397 U.S. 358, 364, - 90 S.Ct. 1068, 1072 (1970).

Pursuant to the Sixth and Fourteenth U.S.C.A.; S.C. Const. - Art. 133, citing: Moore, 432 F.2d 730 at 739 (3rd Cir. 1970) the Court held: "If a Attorney makes a serious mistake which could effect the Verdict, reversal is required, even if the Attorney was generally competent." see Hyman v. Aiken, 824 F.2d 1405 (4th Cir. 1987). The test of effectiveness goes to the substance of representation, not merely the formal qualifications of counsel. citing: State v. Pendergrass, 720 S.C. -, 239 S.E.2d 750 (1977).

And the plea offer that was not communicated to the applicant clearly shows a Complete Breakdown in Attorney/Client relationship citing: U.S. v. Moore, 159 F.3d 1154 (CA 9 1998). citing Brown, - 424 F.2d at 1169. and errors that deny the defendant the basic trial process can never be harmless, Such errors has nothing to do with established guilt or innocence citing: Chapman v. California, 386 U.S. - 18 S.Ct. 24, 17 Cl.Ct. 2d 705 (1967). see also: Rose v. Clark, 106 S.Ct. 301, - 478 U.S. 529 (1986)

Judicial Records are assumed to be correct, and the Applicant's un-disputed Trial Records and PCR Records are factual Material Evidence in support of these claims and issues raised.

And the Respondent cannot refute the Material Evidence nor the plea offers "failure to communicate, therefore, material facts are uncontested and are held to be true Bland v. California, Dept. of Corrections, 20 F.3d 1469 (CA 9 1994) see also: Farp v. Stokes, 423 F.3d 1024 (CA 9 2005) in which the Respondent has lied to a tribunal filed frivolous Orders and committed fraud in order to prevent an indigent person from obtaining an Evidentiary Hearing that he is entitled too, citing: Standewitz v. Woodford, 365 F.3d, 706, 708 (9th Cir. 2004). The evidence supported by material facts in the 2011-CP-02-02776 PCR; Rule 29(b) SCR Crim. P. and the Direct Appeal dated January 29, 2014 and the Remittitur on February 24, 2014 would entitle the applicant to relief sought Ortiz v. Stewart, 149 F.3d 923, 934 (9th Cir. 1998).

These are sufficient Reasons these claims were inadequately raised in the Original, Supplemental and amended application citing: State v. Stucky, Supra. The applicant's hands are tied once counsel is obtained and the failures fall on the Respondent, and the Counsel's who the Respondent picks to represent an indigent applicant, citing: Land v. State, Supra, and the Plea offers did not exist until October 12, 2011 therefore it was impossible to raise that issue. Citing Alice v. State, Supra.

But, if that Real Estate and Probate Attorney would have filed for Free Transcripts pursuant to Gunter v. State, 229 S.E.2d-723, 724 (S.C. 1976), he would have been able to raise the violations properly. violated due process; In which he did not ~~violate due process~~.

If that same Attorney would have filed for Discovery pursuant to S.C. Code Ann. § 17-27-150 (2003) he would have found the new evidence in the 2011-CP-02-02776 Application dated December 9, 2011, including the ZMDA Contract he did not have before him. violated due process.

If the same Attorney would have filed for Funds for Investigative and Expert Services, the applicant would have one his PCR and would have received the Relief sought see: - S.C. Code Ann. § 17-3-50 (B)(C) (2003). violated due process.

If the same Attorney would have filed the Rule 59(R) SCRPC that is mandated by the PCR Rules and procedures citing: Pruitt; Marler; and Hall Supra, and amended the 2 page case law that Judge Early got all over him about not having see PCR Tr. pg. 276 at 12-25; 277 at 1-25; 278 at 1-14. see also 279 at 1-15. the applicant corresponded to Judge Early on December 29, 2009 and it was uncontested.

Please note, the 2 plea offers were raised in the 2011 PCR in which Judge Early denied "clearly establishes the 'erroneous abuse of Discretion Standard' as held in State v. Edens, 250 S.E.2d 116, 118 (S.C. 1978); State v. Pierce, 207 S.E.2d 414, 417 (S.C. 1974)

For good cause showing the PCR Application sent to the Clerk

of Court on April 16, 2014 was ripe for an Evidentiary hearing pursuant to S.C. Code Ann. § 17-25-45 (A) (2003)

The 2011-CP-02-02776 PCR Application filed on December 9, 2011 was ripe for an Evidentiary Hearing pursuant to S.C. Code Ann. - § 17-27-20 (a)(4) citing Cott v. State, 375 S.E.2d 537 (S.C. 2003) that material evidence supported and Judge Early denied in order to cover for a Public Defender's Rule 407 COPC violations and perjury in which is a Felony offense.

The Rule 29 (b) SCR Crim.P. filed on September 24, 2012 pursuant to Gioglio v. U.S., was ripe for a Evidentiary Hearing and as Judge Early erroneously denied violated due process of law and denied on indigent Applicant equal protection of the law citing the 5th, 6th, 8th, and 14th Amendments. Under the U.S. Constitution.

Based on the foregoing information, the applicant is entitled to relief sought in his prior PCR Actions pursuant to S.C. Code Ann. - § 17-27-20 (a)(1)-(6) and entitled to re-open the 2008-CP-02-0734 PCR Application pursuant to Gonzalez v. Crosby, 548 U.S. 528, 162 L.Ed. 2d 480, 126 S.Ct. 2641 (2005) citing Rule 60 (b)(3) and (4) SCRCP. in which to re-open the case pursuant to fraud, or newly discovered evidence or any other kind of neglect does not warrant that case to be successive or even when the sentence and conviction is void due to a violated Federal (ZADRA) Contract in which made the current sentence unconstitutional, illegal, and in violation of State and Federal Law.

Respectfully Submitted.

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Noel Gray # 307590) 2014-CP-02- _____
Applicant.)
) ENCLOSED EXHIBITS IN SUPPORT OF;
V.)
)
STATE OF SOUTH CAROLINA)
Respondent)

The following documents are true copies of the originals.

1. Denial of Rule 29(b) SCR crim. P. dated November 30, 2012 1-2 ;
2. Notice of Intent to Appeal dated December 4, 2012 pages 1-3 ;
3. Appeal received dated December 18, 2012 pages 1-2 ;
4. NO Evidentiary Hearing NO Transcripts dated December 18, 2012 ;
5. Appellate Counsel assigned January 11, 2013 pages 1-2 ;
6. Judge Early recused Motion dated March 13, 2013 ;
7. Appellate Counsel Brief Dated April 12, 2013 ; pages 1-13 ;
8. Motion to dismiss PCR 2013-CP-02-0478 pending Appeal dated July 12, 2013 ;
9. Appellate Correspondence sent PCR Application dated February 4, 2014 ;
10. Appeal Affirmed "Not Sentence or Conviction" dated January 29, 2014 pages 1-2 ;
11. Remittitur dated February 24, 2014 page 1 ;
12. Motion "See erroneous Order page 6 of 9 at 10" dated April 23, 2014.

in which is evidence to prove Respondent's fraud and misrepresentation in order to deceive a tribunal violation of Rule 407 COPC SCACR Rule 3.3 Candor Toward The Tribunal (a)(1); Rule 3.4 Fairness To Opposing Party (a)(b)(d); Rule 3.5 Impartiality and Decorum of the Tribunal (a)(b)(c); Rule 3.8 Special Responsibilities of a Prosecutor (a)(b)(d) Rule 4.1 Truthfulness In Statements To Others (a)(b); Rule 8.3 Reporting Professional Misconduct (a)(b); Rule 8.4 Misconduct (a)(b)(c)-(d)(e)(f)(g) Respondent Out the PCR Application out of the original context in order to prevent the PCR hearing from being granted "Perjury".
pages 1-4;

13. PCR Application sent with above motion pages 1-7;

14. Erroneous filing and Index violation Rule 7.1(c) SCRPC as an Independent Action filed 546 days ago, on April 24, 2014.

The 2015-CP-02-01730 Index is fraudulent and void clearly established prejudice and denial of fundamental fairness in which is shocking to the Universal Sense of Justice citing Butler Supra, and the 1st, and 14th Amendments U.S. Const. Amend(s).

15. PCR Transcript 3 pages 1-19; (2008-CP-02-0734)

16. Motion/request for Clerk to fix her mistake dated June 19, 2015 pages 1-4 and her erroneous reply on page 5

17. Clerk still refusing to properly file and Index Application see September 30, 2015 Motion pages 1-9;

18. Motion for Relief dated September 30, 2015 pages 1-54

19. Correspondence to Judge Bucner, dated July 6, 2015 pages 1-3

20. S.C. Court Administration dated July 6, 2015 1-4

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

Noel Gray, #307590

Applicant.

) C/A No. 2014-CP-02-_____

) CERTIFICATE OF SERVICE AND SWORN AFFIDAVIT

v.

) IN SUPPORT OF "COMBINED" pursuant to

) Rule 60(U)(3)-(4) SCRCP. Citing State v. Holbrook,

STATE OF SOUTH CAROLINA

) Supra, Art's VI(c); VI(c) U.S. Const. 6th and 14th.

Respondent.

) Amend(s).

I Noel Gray #307590 had deposited a Original and a true copy of the Above cited case in the U.S. Mail postage prepaid to the Honorable Clerk's Office for the Second Judicial Circuit Court of Common Pleas, forward a copy to the Honorable Maité Murphy Chief Admin. Judge 1st Judicial Circuit P.O. Box 802 St. George, SC. 29477. Please send clock stamped copy back to the Applicant.

Also under the penalty of perjury I Noel Gray #307590 Applicant Pro-se do hereby submit under the 14th Amendment to Procedural and Substantive Due process of law declares that the information contained in this Pro-se Brief is true and correct to the best of my knowledge and belief's also the documents contained herein are true copies of the Original texts, in which contains evidence that the Respondent has committed an unlawful act of Fraud, Misrepresentation of relevant material facts and Acts of Bad Faith.

Respectfully Submitted

Noel Gray #307590

SUBSCRIBED AND SWORN BEFORE ME

this 2nd day of November, 2015 Noel Gray Pro-se (Indigent)

Judith N. Frye,

Notary Public for South Carolina

My Commission Expires:

My Commission Expires

March 5, 2018

CC/FILE/2254

Noel Gray H 307590
Wateree # 281
Broad River Corr. Inst.
4460 Broad River Rd.
Columbia, SC 29210

November 2, 2015

The Honorable Maité Murphy
Chief Administrative Judge; First Judicial Circuit
PO Box 802
Saint George, South Carolina
29477

Re: Motion to Order proper filing and indexing of PCR Application pursuant to Rule 71.1(c) SCRPC; (2) Motion for Relief from an erroneously prepared Order pursuant to Rule 60(b)(3) SCRPC that contains Fraud; Misrepresentation of relevant material facts; Perjury; and Acts of Bad Faith and pursuant to State v. Holbrook, Supra. SC Code Ann. § 17-11-10 et. seq. Art's 10(c); 11(1979) and Rule 60(b)(4) The Judgment is void due to a violated Federal IADA Contract violating the First; Fifth; Sixth; and Fourteenth Amendments under the U.S. Constitution. pursuant to Rule 40(b) and Rule 77(b) SCRPC.

Your Honor,

Please find enclosed a Original Copy of the above cited State and Federal Authorities pursuant to Clerical error; Fraud; -

misrepresentation of relevant Material Facts; Perjury and Acts of Bad Faith by the Respondent who has violated the Applicant's First; Fifth; Sixth; and Fourteenth Amendment's to "equal access of the Courts", a violated Federal (ZADA) Contract was obtained due to "Trial Counsel's perjury" and "Fraud" violations to a Chief Administrative Judge on October 29, 2004.

A "fundamentally unfair denial of equal protection of the law" by the Honorable Doyet A. Early III Circuit Court Judge was committed. also "a erroneous denial of procedural and Substantive Due process of law" by the Respondent and the Clerk of Court "lying" about the PCR Application being properly filed and Indexed also stating this PCR Application being Successive and cutting the Context out of previous Motions filed.

Your Honor, a Direct Appeal was completed on January 29, 2014, and a Remittitur was sent on February 24, 2014 and the Applicant sent a Motion to the Clerk of Courts office with a PCR Application to be filed on April 16, 2014, the Clerk filed the Motion but not the Application pursuant to Rule 71.1 (c) SCRPC. see erroneous Order on page 6 of 9 at #10.

The Respondent is filing frivolous Orders and she is in violation of Rule 407 COPC SCACR Rule 3.3 Candor toward a Tribunal at (a) Making false statements of Material Facts and law to a tribunal. Rule 3.4 Fairness to opposing party at (a); (b) and Rule 3.5 Impartiality and Decorum of the Tribunal at (a); (c); Rule 8.4 Misconduct at (a) - (g) and Rule 506 COC for Staff Attorney's and law Clerks at Canon 1; 2; 3 (A) - (E) (1). and the First; Sixth and Fourteenth Amendment's. under the U.S Constitution.

Your Honor, pursuant to Rule 501 COJC SCACR Canons 1 - 2 - 3 (b) 2 - 8; (c) 1 - 4; (d) 1 - 3, the applicant is hereby reporting the Honorable

Doyet A. Early III Circuit Court Judge of Aiken County, The Honorable Perry M. Buckner Chief Administrative Judge of Walterboro; the Clerk of Court of Aiken County and the Respondent Daniel Courtney Assistant Attorney General for the Respondent 'unlawful acts of Judicial Misconduct; filing erroneously prepared Orders, violating proper filing procedures; violating Rules 301 COJC SCACR; Rule 407 COJC SCACR; Rule 506 COC for SA + LC. SCACR Fraud, misrepresentation of legitimate and relevant Material Facts; and acts of Bad Faith, and the Sixth; Eighth and Fourteenth Amendments, Also, I am reporting misconduct, fraud, Perjury and Acts of Bad Faith from Trial Counsel Kelly P. Brown Esq, Public Defender for Aiken County. "Material Facts do Support this Cause". and citing: Lahay v. Armontrout, 923 F.2d 578 (CA. 8/1991), when counsel commits perjury at a PCR and Judge Early knew she lied, and he covers this up by signing an erroneous order of Dismissal with Prejudice to prevent that person from proving it is clearly unconstitutional, and a clear violation of Rule 501 COJC Canon 3 (b)(2); c (2); d (2), see Rule 407 COJC SCACR Rule 3.3 Candor towards a Tribunal a+(a)(1); Rule 3.4 Fairness to opposing parties a+(a)(8); Rule 3.5 Impartiality and Decorum of the Tribunal a+(a)(c), and Rule 8.4 Misconduct a+(a)(9).

Also note the unlawful attempt to commit fraud upon the Court by cutting out contents of a Motion in order to deceive this Court into signing a erroneous Order. See Order page 6 of 9 at H10, she cut out the PCR Application filed in that motion dated April 16, 2014 see Motion filed on April 24, 2014, "Cold Busted" fraud and illegal. The Respondent has committed a Criminal act upon this Court.

Your Honor, it is clear that the applicant is currently suffering Continuing Consequences as a result of an invalid Sentence and Conviction citing: JACKSON, 489 S.E.2d at 916 at N. C. 17.

Also a victim of a State v. Stucky 335K 36, 308 S.E.2d 564 (1998) Court Appointed Attorneys deliberately failing to provide any assistance at all by their inadequate representation by not objecting in order to preserve for appellate review; lying to the court; violating a Federal ZADA Contract; withholding Exculpatory Evidence a "Rule 5 Brady Disclosure violation"; not ordering a complete and full discovery; filing a Erroneous Anders Brief on issues that are a "Dead Bang loser" and failing to raise vital issues that were preserved "see the Direct Verdict and Motion for New Trial based on the evidence RO App. 153 at 12-25; 154 at 1-25; 155 at 1-14 and RO App. 252 at 24-25; 253 at 1-19. in which the State did not and could not provide any factual material evidence to support obtaining an indictment, or its elements, pursuant to State and Federal law and Constitution.; failure to file a Rule 59(e) SCRP even when the applicant instructed him to do so "Material facts support this"; Appellate Attorney's failure in writ of Certiorari for filing an erroneous Johnson Petition and deliberately refusing to file a "Dead Bang winner" citing U.S. v. Cook, 45 F. 3d 388 (CA 10 1995), regarding the violated Federal ZADA Contract issue in PCR, violating SC. App. Ct. Rule 243(a), SCACR.

The Applicant's hands are tied once counsel is obtained, therefore, pursuant to a State Created Structural Defect that denied an indigent applicant from an adequate opportunity to present his claims fairly within the adversary system AKE v. Oklahoma, 470 U.S. -

68, 77 (1985) (inert citation omitted). The Respondent is the one to make sure due process of law is established not denied. therefore, this error of unprofessional and legal representation was obstructed by some one, therefore the applicant has satisfied the sufficient reasons why the issues were not adequately raised in the Original, Supplemental, and amended applications Citing: Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980) S.C. Code Ann. § 17-27-90.

The issues raised could not have been properly raised by the Court appointed attorney's because they did not want too. Citing Price v. State, 305 S.C. 448, 409 S.E.2d 392 (1991), And the Respondent cannot say that the applicant did not try to present "his claims" see Pro se Brief for Anders dated November 9, 2006; Pro-se Brief for PCR dated April 18, 2008; and Pro-se Brief for writ of Certiorari dated December 29, 2009. but because of Ex parte communication between State Appointed Counsel's and the Respondent, the issues raised in the Applicant's Pro-se Briefs would not have been raised adequately due to hybrid representation. Citing Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989).

Also Your Honor, pursuant to Lindsey v. Whitley, 1993 WL 241851, 1 (Sth. Cir. 1993) (unpublished) the applicant was not entitled to Hybrid Representation, therefore, the issues in his pro-se Briefs could not be fairly presented to the State Courts violating the 1st, 5th, 6th and 14th Amendments under the U.S. Constitution.

Material facts clearly show the Respondent's Trial Counsel and their unlawful acts of fraud, perjury and violations of Rule 407 COPC. has deprived an indigent applicant the right to be equally and fairly

heard, and Judge Early and Judge Buckner has in fact violated Rule-50 COJC SCACR.

The Applicant respectfully moves this Honorable Court to override the erroneous attempt of the Respondent to deny a Evidentiary Hearing, that the applicant is entitled too, citing Sharper v. State, - 279 S.C. 264, 305 S.E. 2d 247 (1983) and by written Order grant an Evidentiary with appointment of a adequate Criminal Counsel citing: Sutton v. State, 606 S.E. 2d 779, 781 (S.C. 2004) overruled on other grounds by Bray v. State, 620 S.E. 2d 743 (S.C. 2005), and Rule 71.1(d) SCRPC.

Due to the Respondent's unlawful attempt to commit fraud upon this Court, by cutting portions out of a valid Motion dated April 16, 2014 and filed April 24, 2014, the applicant moves this Honorable Court to strike the unlawful Order and override the erroneous Order by a written Order granting a hearing with appointment of Counsel.

Respectfully Requested.
Noel Gray #307590
Noel Gray Pro-Se
and Indigent.

Please Note Your Honor, I will send you true copies of my exhibit's enclosed next Monday due to my indigent status, I'm only afforded a certain amount of copies. Also, the Respondent all ready has them, pursuant to the Court filings 2011-CF-02-02776) Rule 29(b) SCRCrim P. and the Current Direct Appeal.



The Honorable Daniel E. Shearouse
Clerk, Supreme Court of South Carolina
Re: 2015-CP-02-01730/2015-002615
P.O. Box 11330
Columbia, SC
29211

VED

2017

OM