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RE: PRO SE RESPONSE
APPELLATE CASE NO. 2015-001933
MELODY HOLMES VS THE STATE OF SOUTH CAROLINA

EXHIBIT A: TABLE OF AUTHORITY

EXHIBIT B: TO INCLUDE THE FOLLOWING
STATEMENT OF DEFENSE
ACTUAL INNOCENCE
ENTRAPMENT DEFENSE
LEGAL ARGUMENT

EXHIBIT C: PROOF OF SERVICE

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SO SUPREME COURT

THE SUPREME COURT OF SOUTH CAROLINA

MELODY HOLMES #239097)
)
 APPELLANT) APPELLATE CASE NO. 2015-001933
) APPELLATE BRIEF/EXHIBIT A
 VS) TABLE OF AUTHORITY
)
 STATE OF SOUTH CAROLINA)
)
 RESPONDENT)

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GIBSON VS STATE, 334, S.C. 515 S.E. 2d 320, (1999) S.C. SUPREME COURT

BRADY VS MARYLAND, 373, U.S. 83, (1963)

UNITED STATES VS AVELLINO, 136 F 3d. 249. 255, (2nd Circuit 1988)

4th U.S. C.A., ILLEGALLY OBTAINED EVIDENCE

5th U.S.C.A. DENIED DISCOVERY EVIDENCE

6th U.S.C.A. ATTORNEY/CLIENT VIOLATION

8th U.S.C.A DOUBLE JEOPARDY - DELIBERATE INDIFFERENCE

18th U.S.C.A. 1506 MODEL PENAL CODE 224.4, 2071, 2073

18th U.S.C.A. (H) (8)(A) EX PARTE NIX

HOLLAND VS. STATE, 322, S.C. 111,470, S.E. 2d 378 (1996)

WIBLEN VS. LONG 262 s.c. 430. 206, S.E. 2d. 174 (1976)

STATE VS. ANGEL, 76, S.C. 395, 414, 57, S.E. 185 (1906)

APPELLATE PRACTICE IN SOUTH CAROLINA P.281, (1999) JEAN TOAL ET AL

14th AMENDMENT U.S.C.A DENIED DUE PROCESS OF LAW

Melody Holmes
SIGNATURE
DATE: 08-09-16

SWORN TO AND SUBSCRIBED BEFORE ME
ON THIS 9th DAY OF August, 2016
NOTARY PUBLIC FOR SOUTH CAROLINA

Cristina Mas
COMMISSION EXPIRES: July 22nd 2016
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THE SUPREME COURT OF SOUTH CAROLINA

MELODY HOLMES #239097)
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 VS.) EXHIBIT B
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INEFFECTIVE ASSISTANCE OF COUNSEL

S.C. SUPREME COURT

QUOTING = GIBSON VS. STATE, 334 S.C. 515, 514, S.E. 2d. 320 (1999)

AFTER DISCOVERED EVIDENCE IS A DISCOVERY VIOLATION BY THE PROSECUTION. A VIOLATION OF BRADY VS. MARYLAND, 373 U.S. 83 (1963). PROSECUTIONS FAILURE TO DISCLOSE IMPEACHMENT EVIDENCE WAS HELD TO RENDER GIBSON'S GUILTY PLEA INVOLUNTARY. GIBSON HELD THAT "WHEN A DEFENDANT LACKS KNOWLEDGE OF MATERIAL EVIDENCE IN THE PROSECUTIONS POSSESSION, THE WAIVER OF CONSTITUTIONAL RIGHTS CAN NOT BE DEEMED KNOWING AND VOLUNTARY". GIBSON 334, S.C. AT 523, S.E. 2d. 324 "THE GOVERNMENT'S OBLIGATION TO MAKE SUCH DISCLOSURE OF (BRADY MATERIAL) IS PERTINENT NOT ONLY TO AN ACCUSED PREPARATION FOR TRIAL, BUT ALSO TO HIS DETERMINATION OF WHETHER OR NOT TO PLEAD GUILTY. FINAL ARGUMENT IN GIBSON VS. STATE, PROSECUTORIAL MISCONDUCT, WHEN THE STATE PROSECUTOR FAILED TO DISCLOSE THE EYEWITNESS ACCOUNT (STATE KEY WITNESS) HAD CHANGED HER MIND AS TO WHETHER SHE SAW THE INCIDENT THROUGH A DOOR OR A WINDOW, THE PROSECUTOR CONCEALED THIS INFORMATION AND PROCEEDED TO PROSECUTE GIBSON. IF GIBSON HAD KNOWN OF THE (EYEWITNESS) CHANGE OF STATEMENT HE WOULD NOT HAVE PLEAD GUILTY. SINCE THE PROSECUTOR CONCEALED THIS, HIS GUILTY PLEA IS INVALID. THIS DEFRAUDED THE COURT 18 U.S.C.A. 1506 MODEL PENAL CODE 224.4. 2071, 2073, TAMPERING WITH EVIDENCE. POST CONVICTION COUNSEL, MR. HUGH WELBORN DELIBERATELY AND INTENTIONALLY FAILED TO FILE A MOTION FOR A WRIT OF MANDAMUS TO ACQUIRE THE FACTS AS TO WHY THE PCR CLAIM HAD NOT BEEN SET FOR AN EVIDENTIARY HEARING AFTER HAVING POSSESSION OF THE CLAIM. FOR OVER A PERIOD OF ONE (1) YEAR.

THE RULES OF DOCTRINE PROC. RULE 12, THE STATE SHALL ANSWER OR OTHERWISE RESPOND TO AN APPLICATION FOR POST CONVICTION RELIEF WITHIN SIXTY (60) DAYS AFTER SERVICE, IF ARISING OUT OF A GUILTY PLEA AND NINETY (90) DAYS IF ARISING OUT OF A JURY TRIAL. THE STATE HAS FAILED TO FILE AN EX. PARTE NIX MOTION FOR ENLARGEMENT OF TIME IN WHICH TO RESPOND TO THE APPELLANT'S CLAIM, 18, U.S.C. A. (8) (H)(A). THE APPELLANT CAN SHOW THE LOWER COURT DID NOT HAVE ANY PROBATIVE EVIDENCE TO SUPPORT OR DENY (HER) POST CONVICTION CLAIM. THE STATE DID NOT HAVE SUBJECT MATTER JURISDICTION OVER THE APPELLANT IN THE CASE APPELLANT WAS NOT SHOWN THE

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CONTINUED

VIDEO. TRIAL ATTORNEY KURT TAVERNIER . PROSECUTOR IN LIEU OF POST CONVICTION RELIEF COUNSEL REFUSED TO SHOW THE VIDEO AT TRIAL AND AT THE POST CONVICTION RELIEF HEARING.

ACTUAL INNOCENCE:

THE "APPELLANT" WAS NOT SHOWN IN THE VIDEO.

ENTRAPMENT DEFENSE:

THE APPELLANT WAS THREATENED TO PLEAD GUILTY ON ADVICE OF TRIAL COUNSEL, WHO VIEWED THE VIDEO AND DECEIVED THE APPELLANT AND THAT IT WAS HER ON THE VIDEO, YET IT WASN'T SO THE GUILTY PLEA WAS ENTERED INTO IN VIOLATION OF THE 4th, 5th, 6th, 8th, AND 14th AMENDMENT OF THE UNITED STATES CONSTITUTION. THE STATE SAID THE VIDEO GAVE PROBABLE CAUSE FOR THE SEARCH WARRANT; HOWEVER, APPELLANT RESIDED IN A DUPLEX. THE VIDEO WAS ON THE SHARED PORCH AND WARRANT WAS NOT OBTAINED FOR BOTH SIDES OF THE RESIDENCE THEREFORE SHOWING BIAS AND DISCRIMINATION TOWARD THE APPELLANT AND THEREFORE ANY AND ALL ITEMS/ EVIDENCE OBTAINED AS A RESULT OF THE SEARCH WARRANT SHOULD NOT BE ALLOWED TO BE USED AGAINST THE APPELLANT.

LEGAL ARGUMENT:

TRIAL COUNSEL WAS INEFFECTIVE WHEN THE CONCEALED DISCOVERY EVIDENCE FROM THE APPELLANT KNOWING THAT THE VIDEO WAS NOT OF HER. ALL THE EVIDENCE THAT WAS USED AGAINST THE APPELLANT WAS THROUGH AN ILLEGAL SEARCH AND SEIZURE. QUOTING HOLLAND VS STATE, 322 S.C. 111, 470, S.E. 2d. 378 (1996). THE SUPREME COURT HELD IN HOLLAND VS. STATE THE FINDINGS WILL NOT BE UPHELD IF NOT SUPPORTED BY THE PROBATIVE EVIDENCE. QUOTING TOAL, ET.AL, PT. P. S.C. P.281 (1999) JUSTICE TOAL STATED THE PRIMARY PURPOSE OF A WRIT OF MANDAMUS IS TO ENFORCE AN ESTABLISHED RIGHT AND TO ENFORCE A CREATIVE DUTY IMPOSED BY LAW. ORDER THE ATTORNEY GENERAL TO SHOW CAUSE AS TO WHY THE VIDEO WAS NOT PRESENTED AT THE APPELLANTS GUILTY PLEA TRIAL AND WHY IT WAS NOT PRESENTED AT THE PCR HEARING AND WHY TRIAL COUNSEL AND PCR COUNSEL WELBORN FAILED TO ACQUIRE THE EVIDENCE. QUOTING WIBLEN VS LONG 262, S.C. 430, 205, S.E. 2d 174 (1996) CITING STATE VS. ANGEL, 76, s.c. 395, 414, 57, S.E. 2d 1985 (1906). THE PRIMARY PURPOSE OF THE APPELLANT CHALLENGING HER CONVICTION IS BASED ON AFTER DISCOVERED EVIDENCE OF PCR COUNSEL WELBORN AND TRIAL COUNSEL THERE WAS NO EVIDENCE PRESENTED AT THE GUILTY PLEA TRIAL OR THE PCR EVIDENTIARY HEARING. ALTHOUGH ATTORNEY WELBORN FILED AN AFFIDAVIT ACQUIRING THE VIDEO AND THE PERSON WHO HAD POSSESSION OF THE VIDEO NEVER APPEARED AT THE GUILTY PLEA TRIAL OR THE PCR HEARING IN VIOLATION OF THE 4th, 5th, 6th, 8th and 14th AMENDMENT TO THE UNITED STATES CONSTITUTION, IN VIOLATION OF 18 - U.S.C.A 1506 MODEL PENAL CODE, BRADY EVIDENCE (THE STATE/ATTORNEY GENERAL. THE JUDGE FAILED TO INSIST ON VIEWING THE VIDEO SINCE APPELLANT WAS NOT CONVINCED OF

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CONTINUED

EXISTANCE, COULD NOT VIEW DUE TO C.I. INVOLVEMENT, JUDGE
WOULD HAVE SEEN WARRANT WAS WITHOUT CAUSE AND WAS BIAS.
THE ATTORNEY GENERAL FAILED TO RESPOND TO THIS CLAIM AND
FAILED TO FILE ANY MOTION FOR ENLARGEMENT OF TIME IN WHICH
TO RESPOND TO THE PCR CLAIM, 18 U.S.C.A. (H)(8)(A) EX PARTE
NIX.

END OF ARGUMENT

THE SUPREME COURT OF SOUTH CAROLINA

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MELODY HOLMES #239097)
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 STATE OF SOUTH CAROLINA)
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 RESPONDENT)

AUG 11 2016

APPELLANT CASE NO: 2015-001933
S.C. SUPREME COURT
AFFIDAVIT OF SERVICE
PROOF OF SERVICE
EXHIBIT C

I, MELODY HOLMES #239097, HEREBY CERTIFY UNDER PENALTY OF PERJURY, THAT I HAVE SUBMITTED A STATEMENT OF DEFENSE, ACTUAL INNOCENCE, ENTRAPMENT DEFENSE AND THE LEGAL ARGUMENT ON THE MERITS OF MY POST CONVICTION RELIEF CLAIM IN OPPOSITION OF SAID CLAIM BEING DENIED. IN OPPOSITION OF THE JOHNSON VS. STATE 249, S.C. 310, 364 S.E. 2d 201 (1988) FILED BY COUNSEL. THIS RESPONSE HAS BEEN DONE PRO SE.

THE UNDERSIGNED HEREBY CERTIFIES THAT A COPY OF THE FOREGOING WAS MAILED, POSTAGE PREPAID, THIS 9th DAY OF August, 2016 TO:

SOUTH CAROLINA SUPREME COURT
POST OFFICE BOX 11330
COLUMBIA, S.C. 29211

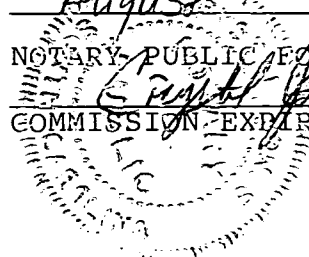
RESPECTFULLY SUBMITTED

Melody Holmes
SIGNATURE
DATE: 08-09-16

SWORN TO AND SUBSCRIBED BEFORE
ME, ON THIS 9th DAY OF
August, 2016.

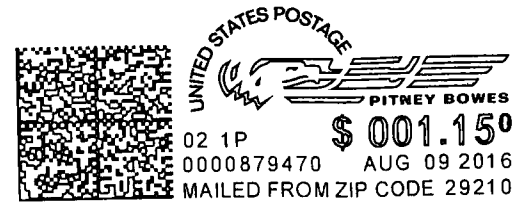
NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

COMMISSION EXPIRES: July 22nd 2026



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CGCI
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SCDC
AUG 09 2016
MAIL ROOM



The Supreme Court of South Carolina
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Columbia, SC.
29211