

**RECEIVED**

FEB 16 2018

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal From Spartanburg County

Honorable R. Ferrell Cochran Circuit Court Judge

KEVIN WAYNE McDaniels - Petitioner  
VS.

STATE OF SOUTH CAROLINA - Respondent  
APPELLATE CASE NO: 2016-001414  
LOWER CASE NO: 2014-CP-42-0506

AMENDED POST CONVICTION RELIEF APPLICATION  
AMENDED PETITION FOR WRIT OF HABEAS CORPUS

MAY IT PLEASE THIS COURT, Kevin McDaniels Pro Se  
HEREBY Files this AMENDMENT SETTING FORTH FACTS  
WHICH THE FBI-SLED HAVE POSITIVELY CONFIRMED  
BUT KATHERINE HODGENS and BRANDT RUCKEN REFUSE  
TO SUBMIT THIS AND PRESERVE ON THE RECORD  
THEREFORE MR McDaniels HEREBY MOVES THIS COURT  
TO FREELY AMEND THESE FACTS TO THE RECORD.

1. Kevin McDaniels was in NEWPORT RICHEY FLA UNDER  
ALIAS NAME SHAWN C. WALL JAN 13, 2006 - CONTACT  
FBI 727-847-5878 - Police 727-841-4550 - TEL  
NEWPORT RICHEY TO CONFIRM THIS.
2. Kevin McDaniels Worked for FLORIDA FRAME AND TRIM:  
1611 EAST Rd, Hudson, Fla. 34667. (727) 862-9694  
UNDER ALIAS SHAWN C. WALL From Oct 2005 Until 1-20-06

- 1 -

Legal

McDaniels-254398

3. KEVIN WAYNE McDaniels WAS IN NEWPORT RICHTER FLA ON JAN, 13, 14, 2006. FUGITIVE FROM JUSTICE LAF-US MARSHALS
- 4) KEVIN McDaniels WAS IN NEWPORT RICHTER FLA JAN 13-06 COMMITTING FRAUD ETC. NOT IN S.C PERIOD.
- 5) KEVIN McDaniels HAS CONTINUOUSLY ASK COURT REPOINTED ATTYS KATHERINE HUDGINS, BRADY RUCKER, TO PROVIDE THE COURTS WITH FBI DOCUMENTS SHOWING ALIAS NAME SHAWN C. HALL IN NEWPORT RICHTER FLA JAN 13 2006. THEY REFUSE TO ASSESS IN PROVIDING FACTUAL INNOCENCE.
6. KEVIN McDaniels DID NOT BURGLARIZE THE HOME OF: CHRISTINE KIMBRELL: 132 Southland Ave. Bowling Springs S.C 29316 ON JAN 13, 2006. KEVIN McDaniels WAS IN FLORIDA COMMITTING CRIME ON JAN 13, 2006. THE FBI-SLEW ETC HAS CONFIRMED THIS!
7. KEVIN McDaniels HAS BEEN INTERVIEWED SINCE MARCH 11, 2006 FOR A BURGLARY IN S.C THAT HE COULD NOT HAVE POSSIBLY COMMITTED KEVIN McDaniels WAS IN NEWPORT RICHTER FLA JAN 13, 2006 COMMITTING CRIME UNDER ALIAS SHAWN C. HALL - THE FBI-US MARSHALS HAVE CONFIRMED THIS.
8. KEVIN McDaniels HAS NOTIFIED BARRY BRUNETTE OF THE ALIAS SHAWN C. HALL - JAN 13, 2006 IN FLORIDA ONLY TO BE IGNORED. DISREGARDING THE EVIDENCE BY THE FBI-US MARSHALS.

9) KEVIN McDaniels WAS NOT GIVEN A FAIR  
PER EVIDENTIARY HEARING ON JAN 11, 2016. HE WAS  
IN NEW YORK (Federal Prison) ON TELEPHONE WHILE  
BRANDT RUCKER WAS IN SEPT COURT HOUSE.

10) KEVIN McDaniels ASK BRANDT RUCKER (PER MAIL TO  
SUBPOENA FBI US MARSHALS SO THEY COULD PRESENT  
EVIDENCE OF KEVIN McDaniels BEING UNDER THE  
ALIAS SHAWN C. HALL IN NEW YORK RUCKER FILE  
ON JUN 13, 14, 2006 COMMITTING DRUGS ETC.

BRANDT RUCKER REFUSED TO COME TO FBI ETC  
TO BE PRESENT AT JAN 11, 2016 EVIDENTIARY HEARING.

11. KEVIN McDaniels IS FACTUALLY INNOCENT OF  
THE SEPT 9 SE JUN 13, 2006 BURGLARY. HE WAS  
IN FLORIDA COMMITTING CRIME UNDER ALIAS SHAWN C. HALL

### RELIEF REQUESTED

MR McDaniels MOVES THIS COURT TO GRANT THIS  
MOTION AMENDING ABOVE INFORMATION AND  
ATTACHED EXHIBITS TO THE PER AND CONFERENCE  
SO THE COURT CAN HAVE A COMPLETE RECORD OF  
THE FACTUAL INNOCENCE ARGUMENT AND  
SUPPORTING DOCUMENTS BY THE FBI PLED.

I declare Under Penalty of Perjury the  
Above is true and correct. Feb 12, 2019

AKA: SHAWN C. HALL

Kevin McDaniels  
Kevin McDaniels  
(PRO SE)

Legal

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Support

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- [ You are logged in as region4@rcsd.net ] -

- Research Offender
- Offender Demographics
- Contact Information
- Image History
- Initiate Lineup
- Secure Services
- Research Offenders
- Develop Lineup

**Offender is currently detained**

3/15/2006 9:33:43 PM

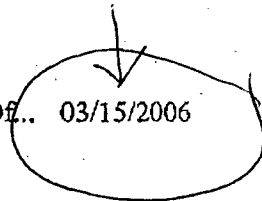
Offender : **MCDANIELS, KEVIN WAYNE (ID 54009)**

Image: 1 2 3



OffenderID: 54009  
 SSN: 589-03-2274 ←  
 Last Name: MCDANIELS  
 First Name: KEVIN  
 Middle Name: WAYNE  
 Sex: Male  
 Race: White  
 Date of Birth: 08/19/1969 ←  
 Hair: Brown

Current Charges		Criminal History
Warrant: K-089434	Bond: -	BondCourt: SPARTENBURG
FRAUDULENT CHECK		
Warrant: K-069264	Bond: -	BondCourt: SPARTENBURG
FRAUDULENT CHECK		
Warrant: NCIC TELETYPE	Bond: -	BondCourt: NONE





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07:27 08/14/2008 35940 SC042015A  
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TXT

HDR/2L011D400005D42QR .NCF/1D400005D4.TME/1027.TMZ/EDT.DTE/20080814.ORI/SC042015A.SID/NC1136760A.FBI/794226JA4 NAM/MCDANIELS, KEVIN W PUR/C.TOS/BASED ON FBI NUMBER ONLY.ORT/CIRCUIT SOLICITORS OFFICE SPARTANBURG.ATN/HOWELL. C S.CRIMINAL HISTORY REQUESTED

\*\*\*\*\*  
This North Carolina Computerized Criminal History Response Is Based On Input Of

S.A.CHR.HDR/2L011D400005D42QR .NCF/1D400005D4.TME/1027.TMZ/EDT.DTE/20080814.ORI/SC042015A.SID/NC1136760A.FBI/794226JA4 NAM/MCDANIELS, KEVIN W PUR/C.TOS/BASED ON FBI NUMBER ONLY.ORT/CIRCUIT SOLICITORS OFFICE SPARTANBURG.ATN/HOWELL. C S.CRIMINAL HISTORY REQUESTED  
\*\*\*\*\*

COMPUTERIZED CRIMINAL HISTORY

Name: HALL, SHAWN C

SID: NC1136760A FBI Number: 794226JA4 White/Male

Date of Birth: 01-16-1978 Birth Place: WV Description: West Virginia

Height: 5 Ft. 04 In. Weight: 150 Lbs. Eyes: BROWN Hair Color: BROWN

Fingerprint Class: 01WU 02LSAU 03PRS 04RSWU 05RS 06LS 07WU 08LSWU 09LS 10LS

DNA Available at NC SBI Lab: No

Social Security Numbers:

589-30-4722

Cycle 01 Arrested: 07-26-2005 SID: NC1136760A FBI Number: 794226JA4  
Arresting Agency ORI: NC0600000 MECKLENBURG CO SO - CHARLOTTE  
Arrest Name: HALL, SHAWN C

Check Digit Number: TP1604C Local Id: 0317775

Fingerprint Number: 1000452005208008

Booking Number: 041051245672

Offense Charge: 01 BREAK/ENTER MOTOR VEHICLE

Violations: 001

- \$200 & UP FELONY

Date of Offense: 07-26-2005

General Statute: 14 -056.000000

Offense Charge: 02 LARCENY AFTER BREAK/ENTER - \$200 AND UP FELONY

Violations: 001

Date of Offense: 07-26-2005

General Statute: 14 -072.000B00

Court ORI: NC060025J MECKLENBURG CO DIST COURT -CHARL

Disposition Date: 08-18-2005 Court Docket: 2005CR 234305

Court Offense: 001 LARCENY AFTER BREAK/ENTER FELONY

Date of Offense: 07-26-2005

General Statute: 14-72(B)(2)

Disposition: Dismissal Without Leave (By DA)

Attorney Type: PUBLIC DEFENDER OFFICE

Court ORI: NC060025J MECKLENBURG CO DIST COURT -CHARL

Disposition Date: 08-18-2005 Court Docket: 2005CR 234806

Court Offense: 002 TAMPERING WITH VEHICLE - TRAFFIC

SLED Check LEMS Messages

Cycle 01 Arrested: 07-26-2005 SID: NC1136760A FBI Number: 794226JA4  
 Arresting Agency ORI: NC0600000 MECKLENBURG CO SO - CHARLOTTE  
 Arrest Name: HALL, SHAWN C  
 Check Digit Number: TPI604C Local Id: 0317775  
 Fingerprint Number: 1000452005208008  
 Booking Number: 041051245672  
 Offense Charge: 01 BREAK/ENTER MOTOR VEHICLE - \$200 & UP FELONY  
 Violations: 001  
 Date of Offense: 07-26-2005  
 General Statute: 14 -056.000000  
 Offense Charge: 02 LARCENY AFTER BREAK/ENTER - \$200 AND UP FELONY  
 Violations: 001  
 Date of Offense: 07-26-2005  
 General Statute: 14 -072.000B00  
 Court ORI: NC060025J MECKLENBURG CO DIST COURT -CHARE  
 Disposition Date: 08-18-2005 Court Docket: 2005CR 234805  
 Court Offense: 001 LARCENY AFTER BREAK/ENTER - FELONY  
 Date of Offense: 07-26-2005  
 General Statute: 14-72(B)(2)  
 Disposition: Dismissal Without Leave (By DA)  
 Attorney Type: PUBLIC DEFENDER OFFICE  
 Court ORI: NC060025J MECKLENBURG CO DIST COURT -CHARE  
 Disposition Date: 08-18-2005 Court Docket: 2005CR 234806  
 Court Offense: 002 TAMPERING WITH VEHICLE - TRAFFIC  
 Date of Offense: 07-26-2005  
 General Statute: 20-107  
 Plea: GUILTY TO A LESSER DEGREE  
 Verdict: GUILTY  
 Disposition: Trial By Judge Consolidated: Yes  
 Confinement: 22D Time Served: 22 D  
 Structured Sentencing Offense Class: 2  
 Structured Sentencing Type: ACTIVE SENTENCE  
 Attorney Type: PUBLIC DEFENDER OFFICE  
 Special Conditions: MD

BASED ONLY ON SID NUMBER

THIS CRIMINAL HISTORY IS FOR A MULTI-STATE RECORD.  
 THIS RESPONSE CONTAINS ONLY NORTH CAROLINA CHARGES.  
 A MULTI-STATE NCIC RESPONSE WILL BE PROVIDED BY THE FBI.  
 THIS CRIMINAL HISTORY RECORD INFORMATION ON THE ABOVE-NAMED INDIVIDUAL IS A  
 CERTIFIED COPY SUBSTANTIATED BY FINGERPRINTS, AS IT APPEARS IN THE SBI/DCI FILE  
 S.

STATE/FEDERAL REGULATIONS REQUIRE A ONE-YEAR RECORD OF DISSEMINATION.

\* \* \* CAUTION \* \* \*

CHANGES TO THIS RECORD MAY OCCUR AT ANY TIME AND A NEW INQUIRY SHOULD  
 BE MADE FOR SUBSEQUENT USE. THIS RECORD MUST NOT BE USED AFTER 06-11-2006.

\*\*\*\*\*END OF RECORD\*\*\*\*\*

Top of page or Menu

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## II. SUMMARY OF TESTIMONY PRESENTED

Applicant testified that his case was on the docket for a jury trial on the date that he pleaded guilty, August 26, 2008. Applicant testified that Counsel met with him only once before his scheduled trial. Applicant testified he could not have been guilty of the charges because he was in Newport, Florida at the time the crimes were alleged to have been committed. Applicant testified that he had sixteen affidavits from individuals who would attest that he was out of the state at the time, as well as photographs of him in Florida. He testified that he had alibi witnesses that were planning to testify at his trial and that he and Counsel discussed these witnesses. Applicant testified that his father was one of his alibi witnesses. Applicant testified his father was not present to testify at the PCR hearing but that he had expected him to testify. Applicant testified that he was being pressured with a life sentence and that Counsel abandoned him. Applicant testified his father and stepmother were on their way to the courthouse the morning that the trial was scheduled to begin and that he asked Counsel to request a one hour continuance but Counsel refused to do so. Applicant alleged that these individuals were going to testify that he was in Florida at the time the crimes were committed.

Nancy Griffin, Applicant's mother, testified that she was prepared to testify on the day of trial. Griffin testified that she, Applicant, and Counsel spoke in the conference room in the rear of the courtroom on the day Applicant's trial was scheduled to begin. She testified that the prosecuting attorney was present during their conference.

\* Counsel testified he did not move for a continuance because a continuance was not necessary. \*

ASCF  
Counsel testified that another attorney, Joshua Schultz, Esquire, was initially appointed to represent Applicant. Counsel testified that his first contact with Applicant was on June 4, 2008, which was within days after Counsel became employed as a public defender. Counsel testified that James

2016 MAY 4 AM 9:04  
STATE OF FLORIDA  
H. HOPE CLARKE

STATE OF FLORIDA  
CLERK OF THE COURT

regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the pleadings.

### I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections ("SCDC") pursuant to orders of commitment of the Spartanburg County Clerk of Court.<sup>2</sup> Applicant was indicted at the March 2008 term of the Spartanburg County Grand Jury for first degree burglary (2008-GS-42-1743), second degree burglary (2008-GS-42-1744), and two counts of grand larceny between \$1,000 and \$5,000 (2008-GS-42-1745, 1746). He was represented by Robert Hall, Esquire ("Counsel"). On August 26, 2008, the Applicant pleaded guilty to the charges as indicted pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), before the Honorable R. Markley Dennis, Jr. Pursuant to a negotiated sentence, Judge Dennis sentenced Applicant to confinement for concurrent terms of fifteen years on each burglary charge and five years on each grand larceny charge. Applicant did not appeal his plea or sentence.

### Allegations

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Miscarriage of justice for not granting a continuance"
2. Ineffective assistance of counsel for failure to pursue a one hour continuance
3. Actual innocence, in that: "I was not in the state when the crime was committed."
4. "Police coercion—involuntary confession" "police coerced me into confession of crimes I did not commit."

<sup>2</sup> Although Applicant is classified as an SCDC inmate, he is currently housed in the Federal Bureau of Prisons as a result of separate federal convictions.

M. HOPE BENCHLEY  
2016 MAR 11 AM 8:10  
SPARTANBURG