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AUG 28 2017

Did The PCR Court err in not finding <sup>S.C. SUPREME COURT</sup> that the Amendment to the Indictment Seriously affected the fairness, Integrity, and the Public reputation of Judicial Proceedings of the Petitioner's trial?

When the trial court allowed the state to amend the Second degree burglary Indictment to burglary first degree it violated the Petitioner's (5) Amendment Rights, to be called to answer only upon a grand Jury Indictment. This act eroded the Petitioner's Constitutional Rights by allowing the Court to supply the missing elements of the offense intended to be charged avoiding the mandatory grand Jury proceedings, which is the beginning of any prosecution. This is a substantial right afforded to any criminal defendant facing an infamous crime.

In U.S.V. Denmon, 483 F.2d 1093 (Quoting Morissette v. U.S., 342 U.S. 246, 72 S. Ct. 240 (1952)), the Court held that, "This is not to be viewed in a technical sense as requiring complete and comprehensive allegations of all the sections of statutory language, but only as stating the essential elements so as to fairly apprise the defendant of the nature

of the Charge, Protect against double Jeopardy, and assure that the grand Jury has considered the essential elements of the crimes charged." Moreover, in U.S.V. Cotton, 535 us 625, The court held: "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond prescribed Statutory maximum must be charged in the Indictment, Submitted to the Jury, and Proven beyond a reasonable doubt." The record clearly reflects that this mandatory Law did not happen in the petitioner's case, and calls in question the fairness, Integrity, and Public reputation of Judicial Proceedings in His Case.

The Petitioner's Issues have merits and needs to be fully brief on them, being that the trial Court clearly supplied the missing elements to a Statute that was upgraded in violation of Statute 17-19-100. The amendment here, was not a permissible one as it changed the nature of the offense intended to be charge and allowed insufficient evidence to be used to convict the petitioner of these infamous Crimes. At first glance, the Indictment clearly is insufficient as it fails to meet the notice requirement pursuant to Gentry, and the evidence was insufficient to submit to the Jury pursuant to Bostic v. State, 392 S.E. 2d 134, 708 S.E. 2d 774

## Conclusion

Petitioner respectfully request this Court grant the petition for writ of Certiorari and permit full briefing on the Issues within that is presented. In the event this Court dispenses with further briefing, Petitioner respectfully requests this Court reverse the ruling of the Circuit Court and grant Petitioner relief.

Respectfully Submitted,

James C. Bryant #315281  
James A. Bryant #315281

Pro Se Petitioner

This day of August, 2017