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RECEIVED

APR 18 2018

SC Court of Appeals

IN RE: CASES 2014-0001051 ; 2016-000640
ET AL.

To: The SC Court of Appeals,

I just recently sent you a copy of
a document (27) pages dated April 9,
2018 seeking to vacate the order and
seeking rehearing in case 2014-0001051
and then seeking to consolidate that
case with case 2016-000640. In that
(27) page pleading I listed various
1082

Exhibits that WERE being filed
pursuant to establishing that pleading.
These attached exhibits WERE left
out of that initial mailing as a matter
of inadvertence. Please see that
these attached documents ARE filed
in both cases 2014-0001051, 2016-000640
and the Crawford appeal to which the
Remittitur is seeking to be recalled
out of time and or beyond the time
limit. I thank you in advance.

Respectfully,
Joseph Todd Rowland

April 12, 2018

Exhibit

Gourdine #2

2

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

RECEIVED CLERK'S OFFICE

2017 JUL 12 A 9:01

LAWRENCE L. CRAWFORD AKA
JONAH GABRIEL JAHJAH T.
TISHBITE AKA JAHJAH AL MAHDI
300839

DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
C/A 9:16-cv-3808-TLW-BM

PETITIONER(S)

Vs.

AFFIDAVIT OF SERVICE

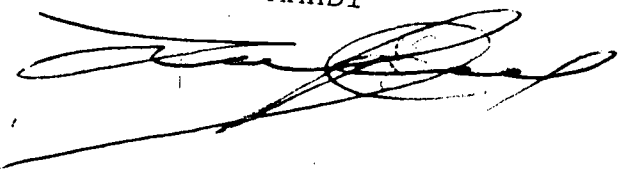
WARDEN McFADDEN; THE
UNITED STATES ET. AL.,

DEFENDANT(S)

I, JAHJAH AL MAHDI, DO HEREBY CERTIFY, THAT I HAVE MAILED AND
OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE,
FILING OBJECTIONS TO THE REPORT AND RECOMMENDATION IN THIS
CASE CORRUPT JUDGES AND MOTION TO MOTION THEREFOR, AND ITS AT-
TACHMENTS, ON THE S.C. U.S. DISTRICT COURT, CHARLESTON DIVISION,
BY U.S. MAIL POSTAGE PREPAID BY DEPOSITING THEM IN THE INSTITU-
TION MAILBOX ON MAY 17, 2017. THEY ARE DEEMED FILED ON THAT
DATE, HOUSTON v. LACK, 287 U.S. 266, 273-76, 108 S.Ct. 2379
(1988).

MAY 17, 2017

RESPECTFULLY,
LAWRENCE L. CRAWFORD
JAHJAH AL MAHDI



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

LAWRENCE L. CRAWFORD AKA
JONAH GABRIEL JAHJAH T.
TISHBITE AKA JAHJAH AL MAHDI
300839

PETITIONER(S)

Vs.

WARDEN McFADDEN; THE
UNITED STATES ET. AL.,

DEFENDANT(S)

C/A 9:16-cv-3808-TLW-BM

AFFIDAVIT OF FACTS GIVING
JUDICIAL NOTICE, FILING
OBJECTIONS TO THE REPORT
AND RECOMMENDATION IN THIS
CASE CORRUPT JUDGES AND
MOTION TO MOTION THEREFOR

TO: THE SOUTH CAROLINA DISTRICT COURT ET. AL.,

Corrupt Judges. I want you to get a copy of an
Authorized King James Bible. No other translation will do. You
know the drill. Its the same drill I and or we took your
recreant, opprobrious rumps through when you first made review
engaging in acts of fraud upon the court in case 0:06-cv-2459-
TLW-BM which is now being addressed under the independent action
rule for fraud upon the court. Turn to the Book Of Isaiah
Chapt. 14:29 reads:

"Rejoice thou not whole Palestina because the rod(Power/
Government) of him (Israel) that smote thee shall be broken.
(This man foretold to come, comes at a time when the Palestinians

are subject to apartheid as they are now. Israel will be broken because "JAHJAH AL MAHDI" will claim the Israeli throne and power as direct descendant of King David and King Solomon): For out of the "serpent's" (Satan's attack upon the King-khalifah's life via the false imprisonment), "Root" (root--being defined as "source", "origin", or "cause"). "Cause"--being further defined as "Cause for judicial review"--meaning "Prison"). Shall come forth a "Cockatrice" (meaning--a "large", "bold", "Stocky built", "pernicious" fellow; that (7) times the Spirit Of Elijah thing). And his fruit (meaning--that which comes forth out of him, out of his mouth), shall be that of a fiery flying serpent". The Spirit Of Elijah manifest itself before mankind one more time before Christ's return.

I and or we give the court Judicial Notice. Here the court and parties will find attached:

- (1) A copy of the [44] page § 1983 action that is now dated May 18, 2017. This is a duplicate of the document that was recently served upon this court with its Summons, filing in forma pauperis documents and U.S. Marshal form.
- (2) A copy of an Affidavit Of Facts giving Judicial Notice; Affidavit Of Service, [34] pages dated September 22, 2016.
- (3) A copy of a cover letter clocked stamped by the U.S. District Court on MAY 9, 2017.
- (4) A copy of The Agreement To Debit E.H. Cooper Account form dated April 25, 2017 proving when the § 1983 action was initially filed in this case pursuant to Houston v. Lack, 287 U.S. 266, 273-76, 108 S.Ct. 2379(1988).
- (5) A copy of The Affidavit Of Facts Giving Judicial Notice; Affidavit Of Service [14] pages dated April 25, 2017. This typed version of the [34] page Affidavit Of Service dated

September 22, 2016 is submitted in lieu of the [34] page document to make it easier for the court to determine who are the defendants in this case.

(6) A copy of an Affidavit Of Facts Giving Judicial Notice; Filing Writ Of Error; Motion To Vacate The Order filed April 25, 2017; Renewing The Motion For Rehearing EN BANC due to structural error that voids the 4th. Circuit Court's jurisdiction and Motion To Motion Therefor, [11] pages dated May 3, 2017.

It becomes perspicuous corrupt Judges that you didn't like the litigation submitted in the [44] page § 1983 action and its attachments so your worthless, recreant, stupid behinds, conspiring under color of law and or authority, are making efforts to create a "procedural error and or defect", claiming that I and or we, filed the response to the report and recommendation prematurely corrupt Judges, since the report and recommendation in this case was not issued at the time the § 1983 action was initially filed?

Is this what you cocker roaches are trying to do corrupt Judges? More stupid parlor tricks huh? Surely you did not think that I and or we would not see through this farce did you? You still haven't accepted the reality and or nature of what it is that you are dealing with. You are, by default and collateral estoppel emerging from case 2013-CP-400-0084 out of Richland Court Of Common Pleas, potentially dealing with an "ACT OF GOD",... "Religious Prophecy" corrupt Judges and you proceed presumptuously thinking that The One True God do not see your evils? The King-Khalifah's fiery spirit and personality was written for him thousands of years before you and or I were born. Don't "Piss Him Off" and you will not have to deal with his fiery spirit and tongue. So,...you didn't like the way you were talked to huh?

I take you to Isaiah Chapt. 11 Verses 1-5. They read:

"And there shall come forth a "Rod" (King/ Scepter) out of the stem of Jesse, and a Branch (Descendant Of King David) shall grow out of his roots (lineage): And the Spirit Of The LORD shall rest upon him (This is the man you face corrupt Judges. You operate in no fear of The One True God. This will be your downfall), The Spirit Of Wisdom and Understanding, The Spirit Of Counsel and Might, The Spirit Of Knowledge and of The fear of The LORD: And make him of quick understanding in the fear of The LORD; And he shall not judge (He is also a Judge) after the sight of his eyes, neither reprove after the hearing of his ears: But with righteousness shall he judge the poor, and reprove with equity for the meek of the earth: And he shall smite the earth with the rod of his mouth, and with the breath of his lips shall he slay the wicked. And righteousness shall be the girdle of his loins, and faithfulness the girdle of his reigns". This is JAHJAH AL MAHDI, a party in these cases, The King Of The North written in The Book Of Daniel Chapt. 11. Notice how verse 11:4 matches The Book Of Revelations 11:5. This is because he is one of "TWO WITNESSES", The Holy People Of The Book Of Daniel 12:7, and you are dealing with one in the same person. And you don't like the way you are talked to treacherous, rat, stinking, corrupt, demon dog Judges? Who are you snakes to stand against The Divine Decree Of The One True God? If its not broke,...don't fix it corrupt Judges. Tic-Toc, Tic-Toc, Tic-Toc, Tic. The clock tics before you, corrupt Judges. You will stand before The One True God in Judgment. Prepare your hearts. The HELLFIRE is a real place. You shall see it.

Judge Merchant, rat, stinking dog of a Judge. You must have lost your "cotton pickin'", "Flip-Floppy", "Alley-Oopy",

"I've got a lovely bunch of coconuts", "Latimier I need a wish bone", "You done fall and bumped your head", "Anal retentive", "Puddin-a-Tame ask me again and I'll tell you the same", "Full Of Donkey Dust", "You need an enema", "Funky body odor", "some times you feel like a nut and some times you don't" mind. This is like a "flashback" to Judge Kaymani wicked witch of the West.

What?,...are all you Judges in South Carolina parties and or residents of the same town of "Geeks and Village Idiots?" Did you really think I and or we, would fall for that stupid "parlor trick", all "smoke and mirrors" where your butt is conspiring under color of law and or authority, to establish a "procedural error and or defect" in acts of machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850(2016), and assert that I and or we prematurely responded to the report and recommendation? By God's hand we have come "FULL CIRCLE" Judges Merchant, Wooten and Childs. Two Judges that began the Federal struggle, the other, the Judge that began the state struggle. My God is the "Best Of Planners" is He not? The student has become The Master to the fulfilling of prophesy written in Isaiah chapt. 11 verses 1-5. Are you ready?,...are you ready for my wisdom (smile)? Let's deal with it. Let us embrace the battle and engage in the struggle of "Light Against Darkness", to the glory of The God I serve. For the record, so that you would not feel that I and or we fell for that stupid stunt. All objections made in the (44) page § 1983 action and its attachments that are attached to the face of this document, and or that was previously filed are being renewed and are now submitted in response to the report and recommendation that is submitted in this case.

I and or we, which the court was informed, that when the term "and or" is used. It depicts individual filing with JAHJAH AL MAHDI being made party due to his acquiring interest in these cases pursuant to the Foreign Sovereign Immunity Act. I and or we, object to any claim that "JAHJAH AL MAHDI" is not the legal name of The King-Khalifah who is party in these cases. Lawrence L. Crawford, by name, is essentially dead. You dogs, rat, stinking, snakes and scorpions of this going to hell state killed him when you stole his Queen and framed him for the murder of his own child. I and or we want that DNA that is sought that will prove these facts, tested to Michael Lee the King-Khalifah's stepson and her half brother. Test that DNA to prove

this claim is false. Rule 26 requires this. Legal name change was one of the issues and or causes of action and relief sought in case 2013-CP-400-0084 which is now removed to this case pursuant to 28 U.S.C. §§ 1443(1), 1602-1612 et. seq.. The State Of South Carolina and all defendants involved within that case are in default and collateral estoppel attaches barring this court from challenging The King-Khalifah's stated name. Thus, Jonah Gabriel Jahjah T. Tishbite AKA JAHJAH AL MAHDI is "Legally" (emphasis added) The King-Khalifah's name and can legally appear on all documents within all court records.

I and or we, object to any claim that case 0:06-cv-2459-TLW-BM cannot be reopened and or reinstated. Due to the recent United States Supreme Court rulings in the case of Ross v. Blake, 136 S.Ct. 1850(2016); Wearry v. Cain, 136 S.Ct. 1002(2016) where it was determined if there exist fraud, machination and misrepresentation, to include The State Of South Carolina committing a criminal act by not testing that DNA to Michael Lee in violation of S.C. statutes to conceal the fact that the State produced a fictitious homicide to frame The King-Khalifah behind religious and racial hatred, suppressing evidence of actual innocence. I and or we do not have to exhaust nor do any procedural bar is to be permitted to restrict I and or us from the Federal District Court. You add to this, the holdings made in Williams v. Pennsylvania, 136 S.Ct. 1899(2016) where these Judges involved sat on the subsequent filed cases to which they are defendants. Then add to this the default and claims of collateral estoppel which now removes the State impediment that existed in violation of The U.S. Constitution and Laws Of The United States that emerges from case 2013-CP-400-0084. I and or we, had (1) year from the time the default and U.S. Supreme Court Rulings occurred to file this and the parallel cases. Thus, I and or we are timely, I and or we do not have to exhaust, and no statute of limitations concern exist. This was already dealt with By Judges Harwell and Austin. Res Judicata attaches as well as comity. See ya' at the doggon' party Victor and have an "AMSTERDAMN GOOD TIME".

I and or we, object to any claim that this case is filed pursuant to 28 U.S.C. § 2254. It is filed pursuant to 42 U.S.C. § 1983 with Writ Of Habeas Corpus attached. The petitioner(s) are masters to decide what law they will rely upon (citation omitted). This was addressed within the attached § 1983 action and its attachments.

I and or we, object to review of this case being made pursuant to AEDPA and or PLRA provisions where I and or we are suing The United States for establishing these provisions of law as is argued in the attached § 1983 action. On May 11, 2017. The current head of The U.S. Dept. Of Justice, whom is also being sued in this case, stated they will reverse the Obama Administration policies as it pertains to crime, and they will continue the unjust, arbitrary policies that stand in egregious violation of the holdings made in Ex Parte Virginia, 100 U.S. 339(1880) where these policies disproportionately effect African Americans and other minorities. The only viable way to stop these criminal, arbitrary, unjust policies that disproportionately target African Americans and other minorities is to attack the legislation itself and those who initiated it, namely Congress and The United States. This must be done to eradicate the damages that will inevitably come from the U.S. Dept. Of Justice now stated reversal of that which was set in place by the Obama Administration in their alt right nationalist white bonding, the under cover Ku Klux Klansmen that they are. This must be addressed and the courts can no longer make use of these provisions of law. I and or we object.

I and or we object to the Judge ordering that the respondent and or any other party to this case do not have to respond to the pleadings. This is the act of fraud upon the court for which the S.C. U.S. District Court Judges and other parties, among other things, is being sued for. The Federal Judges conspired to make the case appear frivolous when it was not, because they knew if The United States and defendants involved, were ever served the pleadings. They would

not be able to sufficiently respond to defeat the pleadings, unless they engage in fraud, which they repeatedly did on the state level. So the Judges are conspiring to aid their employer The United States avoid suit because if they are served they would default as is now clearly proven by what has occurred in case 2013-CP-400-0084. All parties listed in the § 1983 and the (14) page Affidavit Of Service must be served and made to respond before any proper review is completed or the court would be abusing its discretion and it would void the court's jurisdiction for Due Process violation.

I and or we object to any claim that the complete answers are not written in the form. This is a criminal stupid legal stunt, tactic and act of machination that was done by Judge Merchant and the conspiring Judges in past filed cases to which we are seeking that they be reinstated as well. The law is clear on this issue as well. The standard form is not the Habeas Corpus, but rather, it is the pleadings themselves which establish the Habeas Corpus or cause of action under § 1983. This is why numerous cases consistently tell you that the court must look at the complaint and all Affidavits and documents filed before the court can properly dismiss a case. If the question sought answered in the form are answered within any of the documents submitted. This is more than sufficient to establish the cases before the court. Stop the stupidity. Res Judicata attaches from Judges Harwell and Austin review in cases 8:14-cv-3555-RBH-JDA, 8:16-cv-3327, 3328, 3194-RBH-JDA. The answer to the questions are written in the attached § 1983 action and its attachments and is placed before Judge Harwell and Austin The King-Khalifah's Trustee. Your jurisdiction is challenged. Trustee is appointed in the form of Judge Austin where jurisdiction is exclusive and she must rule in accordance to The King-Khalifah's wishes or any act done by her is void as the law dictates. This is addressed in the attached § 1983 action.

I and or we object to the way this case is filed. You

have fraud upon the court. I and or we did not initially file these cases as the Judges have them filed and their actions stand in egregious violation of 18 U.S.C. §§ 242 and 1001 where these cases were produced to conceal material facts as is argued in the attached (44) page § 1983 action.

I and or we object to the claim that I and or we opened this case with a partially completed § 2254 form. This is already addressed in the attached § 1983 action and its attachments as is previously argued in that document.

I and or we object to the claim that I and or we seek to have our convictions vacated. This is one of the essential issues at hand. The convictions in question are already invalidated by case 2013-CP-400-0084 which is a false imprisonment Tort for which collateral estoppel attaches to all plaintiffs/petitioners due to the S.C. Attorney General and The United States being party to the default which binds this court also. The Habeas Corpus that is filed pursuant to 42 U.S.C. § 1983 is appropriate and a proper adjunct to allow the Federal Court to afford the petitioner(s) complete relief where that case and false imprisonment Tort is removed to this case pursuant to 28 U.S.C. §§ 1443(1), 1602-1612 et. seq.. This is addressed in the attached § 1983 action and its attachments.

I and or we object to any claim that Habeas Corpus is the only exclusive remedy in this case. You are dealing with the criminal framing of a "FOREIGN SOVEREIGN". The Foreign Sovereign Immunity Act is the exclusive remedy when it comes to dealing with matters involving a "FOREIGN STATE" which is legally established by the claim of default and collateral estoppel. You have Civil Rights violations, Rico Act violations, Anti Peonage Act violations, You have impairing the obligation of contract in violation of Article 1 section 10 of The U.S. Constitution, You have violations of The Americans With Disabilities Act violations and the list goes on and on. Thus, it is conspicuous that Habeas Corpus is not the only exclusive remedy in this and the parallel cases. See attached §1983 action.

I and or we object to any claim that a "Writ Of Error" cannot be used in this case. You people are worse than "The Cat", "The Rat", "The Bat" and "The Dog". Get your heads out of the fog. You people make me want to lose my mind, up in here, up in here (smile). This is addressed in the attached (44) page § 1983 action and its attachments. He flies through the air, with the greatest of ease. He's the daring handsome King-Khalifah on the flying trapeze(smile).

I and or we object to any claim that the allegations are vague and or conclusory in violation of Rule 2(c), and object to the use of Hinton v. Trans Union, LLC., 654 F.Supp.2d. 440; and Muttathotttil v. Mansfield, 381 Fed. Appx'454 etc., that I and or we cannot incorporate claims from previously dismissed actions when in these cases such a dismissal was done without prejudice and I and or we are dealing with independent actions for fraud upon the court. Filing is permitted under independent action rule and those previous rulings are tainted by fraud and are to be voided for Due Process violation. This is addressed in the attached § 1983 action and its attachments.

I and or we object to any review being given by any of the Judges of the S.C. U.S. District Court. You are all defendants in these cases. I and or we motion for your recusal. You all must be deemed disqualified and change of venue be given to The State Of New Jersey as is sought. Pursuant to Williams v. Pennsylvania, 136 S.Ct. 1899(2016) you must disqualify. Review by any subsequent Judge is barred by comity, Res Judicata and Collateral Estoppel. Also see case 2:17-cv-1127-JMC-MGB.

I and or we object to any claim that I and or we have to exhaust since we meet the criterion that is established by Ross v. Blake, 136 S.Ct. 1850(2016). This issue is addressed in the attached (44) page § 1983 action and its attachments also.

Attached the court will find a copy of an Appellant Brief that is filed in the case of JASON MORRIS GOURDINE Appellate case No. 2016-000640 pending in The S.C. Court Of Appeals to which the respondent is party, which is another reason why he must be made to respond as well as all other defendants in this case once service upon them is ordered which must occur by Due Process law.

These same legal issues are at the heart of the controversy and appear in relevant part in cases 2013-CP-400-0084 and 0:06-cv-2459-TLW-BM, which is why the corrupt Judge Merchant, the snake and rat, is conspiring under color of law and or authority, in acts of obstruction of justice and in violation of 18 U.S.C. §§ 242 and 1001 with the other S.C. District Court Judges, the scorpions and weasels, in efforts to conceal material facts and prevent discovery under Rule 26. See (240) page Kershaw County Petition that is filed in case 0:06-cv-2459-TLW-BM. The S.C. Attorney General, the respondent, to include The United States are in default on these legal issues.

To be more specific. If you look at the (115) page Brief, and compare it to the complaint and subsequent pleadings in case 2013-CP-400-0084 and the (240) page Kershaw County Petition that is filed in case 0:06-cv-2459-TLW-BM. You will see that in comparing the Gourdine Brief that Issue No.(1) on pages 1-21. Issue No. (7) on pages 52-65. Issue No. (8) on pages 65-77. Issue No. (9) on pages 78-83 where the Crawford etc. indictment(s) do not properly allege "TIME AND PLACE" of assault and or death, which this litigation relates to each of our cases indictment defect issues. Also see Issue No. (10) dealing with the fraud occurring within the State v. Gentry case. These issues are being argued within each of our cases, which do not include any independent issue related to each case. These issues are being argued seeking class action certification to which comity, Res Judicata and Collateral Estoppel attaches from cases 2013-CP-400-0084, 8:14-cv-3555-RBH-JDA; 8:16-cv-3327, 3328, 3194-RBH-JDA. Any claim when you add the attached § 1983 action,

that the issues are vague and conclusory is an act of fraud upon the court and is without merit. Discovery under Rule 26 will reveal any additional claims for which relief and full review is to be done, as was done by Judges Harwell and Austin.

You have sold your souls corrupt Judges for (30) pieces of silver as did you cohort Judge Kaymani wicked witch of the West, and you have earned a free ticket to the "HELLFIRE", where the fires are never quenched, where the fuel is mankind and brimstone, where the worm dieth not, where there is no law, except "The Law Of Lex Taliones",...The "Law Of Retribution!", and where there is no agreement except that you shall burn for all eternity. "Touch thou not God's anointed, nor do His Prophets any harm". You were told this, but you ignored it. Judgment comes.

So,...due to your past acts of fraud upon the court and since you did not like the way you were spoken to. Your response was to attempt to create a "procedural error and or defect", and assert that I and or we responded prematurely before the report and recommendation was issued corrupt Judges? Your lives were never threatened corrupt going to hell Judges. The consistent racial injustices done to my people nationally, to include all the injustices done to the believers globally must be addressed. My people will have a King-Khalifah established before Christ's return. I and or we have a right to free speech and to be fully heard in our grievances and access to the courts. So your stupid, village idiot Judges feelings were hurt and or insulted which prompted you to retaliate against us in clear violation of The Americans With Disabilities Act denying me and or us the Equal Protection Of The Laws. I and or we object, American Atheist, Inc. v. Port Authority Of N.Y. and N.J., 936 F.Supp.2d. 321(N.Y.2013); Trinity Lutheran Church Of Columbia, Inc. v. Pauley, 788 F3d. 779, 91 Fed. R. Serv.3d. 1544(8th.Cir. 2015); United States v. Hare, 820 F3d. 93(4th.Cir.2016); Paul Adams v. California Institution, 2016 WL 6464444; Asterbadi v. Leites, 176 Fed. Appx' 426 CA4 (Va.2006); IN RE: Building

Material Corp. Of America Asphalt Roofing Shingle Products,
F.Supp.2d., 2013 WL 1827923; Briggs v. Perry C.I., 2015 WL
6467108(DSC.2015); United States v. Eccleston,--Fed. Appx'--
, 2015 WL 4591890 CA4 (Md.2015).

The LORD taketh my part with them that help me; therefore shall I see my desire upon them that hate me. And he hath made my mouth like a sharp sword; in the shadow of His hand hath He hid me, and made me a polished sharp silver staff and spear. The student has become The Master, in His quiver had He hid me. Thus saith The LORD, The Redeemer Of The Global Believers, and His Holy One The King-Khalifah Of The (4) Global Thrones Of The Reestablished Global Theocratic State And Court, to him whom you have despiseth, to him whom nations adhorreth. In an acceptable time within your prison my servant JAHJAH AL MAHDI, I have heard thee and in the day of Salvation I have helped thee: For I will preserve thee, and give thee for a "COVENANT", "CONTRACT" of the people, to establish that which I foretold via My Prophets within the earth, to cause to inherit the desolate heritages. That thou mayest say to the prisoners, GO FORTH!! ! and Kings shall be thy nursing fathers, and their Queens thy nursing mothers: They shall bow down to thee with their face towards the earth, and lick up the dust of thy feet; and thou shalt know that I am The LORD; For they shall not be ashamed that wait upon me. That which is written, The "CONTRACT" cannot be broken. The time of your visitation cometh. I shall wait upon The LORD. For His mercy endureth forever.

If you look at the attached § 1983 action that is now filed in this and the parallel cases. You will see that it was placed in the institution mailbox on April 25, 2017. Therefore, pursuant to Houston v. Lack, 287 U.S. 266, 273-76, 108 S.Ct. 2379(1988). It was filed the moment it was placed in the institution mailbox at 7:20 A.M. on April 25, 2017. This made you, Judge snake Merchant, and every Judge in The S.C. U.S. District Court automatically defendants in these cases requiring your recusal and disqualification and we be given a change of

venue pursuant to 28 U.S.C. §§ 1404 and 1407 to The New Jersey District Court as I and or we repeatedly motioned for. I and or we object. Thus, no report and or recommendation in this case can be submitted by you or any other ruling by you S.C. District Court Judges where pursuant to Williams v. Pennsylvania, 136 S.Ct. 1899(2016), your presence create a structural error which voided your jurisdiction for Due Process violation when you produced the report and recommendation on MAY 4, 2017. I and or we object. This is challenge to you or any Judge's jurisdiction to issue any order or report and recommendation pursuant to Res Judicata, Comity, Collateral Estoppel and the holdings made in Williams v. Pennsylvania, 136 S.Ct. 1899(2016). All defenses, issues, claims and objections made in the attached (44) page § 1983 and its attachments are now made again in this case. Also see case 2:17-cv-1127-JMC-MGB.

JAHJAH AL MAHDI, formerly Lawrence L. Crawford, is a Warrior, King, Khalifah, Imam, Prophet And Nazarite High Priest. He is the only one of his kind in existence in the world today. He is the last of his kind foretold to come by religious prophesy that will exist in the world before Christ's return, and his Great etc. Grand Uncle, Christ, will return to Rule. He is Christ's second in command, Christ's forerunner. He is one of a kind. There will be no other like him to come into the world. That which is written cannot be broken as GOD had foretold the world. By The King-Khalifah's Spirit, would you have expected him to be anything less by his presentation? By the litigation presented, you, The State Of South Carolina, The United States, and the remaining other 192 Member States Of The United Nations are in default and you have impaired the obligation of The Contract which cannot be made or unmade by the courts. You are all in violation of Article 1 section 10 of The U.S. Constitution. Cause is established under § 1983 with Habeas Corpus attached. Discovery must issue under Rule 26, not § 2254. Stop your acts of fraud upon the court. The claim of default and

collateral estoppel emerging from case 2013-CP-400-0084 must be given full faith and credit in all court records establishing a preclusive effect which bars the Federal District Court from challenging all claims made. I and or we are beneficiaries of The Trust, a foreign state, and joint filing by the litigation is permitted. I and or we object to any claim otherwise. Res Judicata attaches via Judges Harwell and Austin. The objections and issues are clear and not conclusory. It would be an act of fraud and an abuse of discretion to dismiss this case, especially in light of the fact that you cannot sit upon these cases. Stop the fraud, fear God and do the right thing. Justice and Fairness must prevail, Callon Petroleum Co. v. Frontier Ins. Co., 351 F3d. 204,, 208(5th.Cir.2003); Digital Equipment Corp. v. Desktop Direct Ins., 511 U.S. 863, 869, 114 S.Ct. 1992, 1996, 128 L.Ed.2d. 842(1994); Chewing v. Ford Motor Company, 354 S.C. 72, 579 S.E.2d. 605(2003); Appling v. State Farm Mut. Auto Ins. Co., 340 F3d. 769, 780(9th.Cir2003); King v. First American Investigation Inc., 287 F3d. 91, 95(2nd.Cir.2002); 18 U.S.C. § 1116(a)(b)(4); 18 U.S.C. § 1116(a)(b)(2)(3)(A); United States v. Dizdar, CA2 (N.Y.) 1978, 581 F2d. 1031; Weepe v. United States,--U.S.--,106 S.Ct. 179, 88 L.Ed.2d. 148 (1985); The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024, 2006 A.M.C. 2955, 10 L.Ed. 826, U.S. Conn. January 1841; Ex Parte Virginia, 100 U.S. 339, 348-349, 25 L.Ed. 676(1880); Pulliam v. Allen, 466 U.S. U.S. 522, 536-543, 104 S.Ct. 1970, 1977-1982, 80 L.Ed.2d. 565(1984); Stump v. Sparkman, 98 S.Ct. 1099; Pierson v. Ray, 386 U.S. at 554, 87 S.Ct. at 1218; English v. Thorn, 676 F.Supp. 761(S.D.Miss.1987); Yicks Wo v. Hopkins, 118 U.S. 356; United States v. Lee, 106 U.S. 196 at 208; Perry v. United States, 294 U.S. 330, 354(1935); Julliand v. Greenman, 110 U.S. 421; Will v. Michigan State Police, 105 L.Ed.2d. 45 (1989); Lansing v. Smith, 4 Wend. 9, 20(1829); Afroyim v. Rusk, 387 U.S. 253(1967); United States v. Wheeler, 98 S.Ct. 1079 at 1083; The Supremacy Clause, U.S.C.A. Const. Art. 6 Cl. 2; Brown v. Spring Valley Homeowners Association, Inc., 2016 WL 3595791(S.C.2016); Article III sections 1 and 2, U.S. Const.; The (3) Holy Books And Sunnah Of The Prophet Muhammad(PBUH)

legal binding CONTRACT/COVENANTS; Also see sources entitled--
 --"Before The Mayflower--A History Of Black America", By Lerone
 Bennett; Suna Ibn Majah, Volume No.5 ISBN No. 81-7151-294-1
 pages 391-395; Signs Before The Day Of Judgment, By Ibn Kathir
 ISBN No. 1-870582-039 pages 18-24; The Book Of Isaiah 14:29-
 32; 11:1-6; 32:1-8; 41:25; Worlds Greatest Men Of Color, Volume
 1, by J.A. Rogers ISBN No. 978-0-684-81581-7; The Kebar Nagast
 or "Glory Of The Kings" A Chronicle Of The Rulers Of Ethiopia;
 Budge E.A.W., The Queen Of Sheba And Her Only Son Menyelek,
 London 1923; Ormonde, Czenzi, Solomon And The Queen Of Sheba,
 New York, Farra Straus and Young 1954; The Book Of Zechariah
 6:12-13; The Book Of Daniel chapt. 11; Nation, Cox v. Shalala,
 112 F3d. 151; English v. Gen. Elec. Co., 496 U.S. 72, 79, 100
 S.Ct. 2270, 2275, 110 L.Ed.2d. 65(1990); McLean v. Ford Motor
Co., 831 F2d. 723; Cairns v. Franklin Mint Co., 24 F.Supp.2d.
 1013; Doche-Naux v. Secretary Of The Interior Of U.S., 837 F2d.
 340 cert. denied 108 S.Ct. 2822, 486 U.S. 1055, 100 L.Ed.2d.
 923; Bell v. United States, 310 F.Supp. 1189; Stephen v. Ca-
rothers, 97 F.Supp.2d. 698; Craig v. United States, 89 F.Supp.2d.
 858; Legette v. Rose, 776 F.Supp. 229; EIE Guam v. Long Term
Credit Bank, Japan, 322 F3d. 635(9th.Cir.2003); Anderson v.
Cox, 977 F.Supp. 413; Trustees Of Dartmouth College v. Woodward,
 17 U.S. 518, 1819 WL 2201; Forbes v. Forbes, 341 P3d. 1041,
 2015 Wy. 13 Jan. 23, 2015; American Mut. Liberty Ins. Co. v.
Plywood-Plastics Corp., 81 F.Supp. 157(DSC.1948); Woods v. Woods,
 2016 WL 4013754; United Dominion Realty Trust, Inc., 307 S.C.
 102; C.A.N. Enters Inc. v. S.C. Health And Human Servs. Fin.
Comm'n., 296 S.C. 373, 377; M & G Polymers U.S.A., LLC. v.
Tacket, 135 S.Ct. 926 (2015); Hardt v. Reliance Standard Life
Ins. Co., 560 U.S. 242, 130 S.Ct. 2149, 176 L.Ed.2d. 998(2010);
Lacke v. Lacke, 362 S.C. 302, 608 S.E.2d. 147(S.C.2005).

This racial hatred and disparity in judicial action pro-
 duced by the legislation in the form of The Clinton era War
 On Drugs Campaign must be ended. This "White Nationalist", "Alt
 White Right" movement occurring in Universities, occurring
 globally must be countered and challenged. I am sent. I am a
 voice crying in the wilderness. I am Martin Luther King Jr's

successor. I have come to complete what Martin started, but on a global scale. Martin was "water",...I am "FIRE!" President Barack Obama was "Ice",...I am a "FIERY WHIRLWIND!!" The evils done via Jim Crow and The U.S. Slave Trade, and that which is presently occurring to people of color globally must be brought into account. Reparation are sought. I am commanded by The One True God to lead the charge. "And a "child" (a descendant Of God's Prophets And Kings) shall lead them".

Hello again Michelle Childs. In my heart, I must admit. Out of all the Judges who presently sit on the bench of The S.C. U.S. District Court. I feel you dear, are the most honorable. I'm not just saying this to "butter your bread" Michelle. I remember the first time I ever saw and met you. Like Judge Alison Lee, when I saw you two female Judges, my heart and soul swelled with so much pride, so much joy. I said to myself, "My God,...look at them!!!,...strong!,...intelligent Black women!! You have no idea how I felt when I saw you two. As I looked at you in utter joy. All I could do is think about my baby,...my child, Aerialle. She has her father's strength and brains. She's a genius. They call her "prodigy" by her academic standing, Scholarships out the "guzu". In self pride, I said to myself, "I did that. I molded her and set her on her academic path". I asked myself at that point, "Will she be as great as these two black women?"

Amazing, fascinating. Now I realize, by God's mercy, she will even excel both of you. This child is the great etc. Grand Daughter Of King Solomon And The Ethiopian Queen Of Sheba. I then laughed, because I realized that she does not have my brains. She has her Great Grandfather King Solomon's brains (smile). The King-Khalifah's children have no idea who they really are. Aerialle has no idea who she really is,...amazing. She shall reign, sit upon the throne of her Great etc. Grand Mother, The Queen Of Sheba. She shall sit upon The Throne Of The United Ethiopian Empire,...my baby,...my child,...whom I

love beyond my own soul. My son is The King Of The South fore told by religious prophesy, the second witness,...fascinating! Aren't our Black Women great!!! Who can compare to them!!! What jewels,...what treasures!! Our women have such greatness!!! How can we as mankind live without you? I can't. The absence of my Queen, Cyhannah and my child, The Queen Of Sheba, Of my son, The King Of The South has nearly killed me. I don't know how I survived this long. I don't care what any person in this world thinks about my religious beliefs. I do not fear you devils at all. Outside of GOD, my family is all I desire in the world, and this State and Nation took them from me behind a lie!!!, a lie based upon religious and racial hatred. Will they stand as their father and loved one stands? That is in God's hands. They have suffered much already being the family of a True Prophet, King, Khalifah, Imam and High Priest. What father, what husband, would desire that those who he love would drink such, the cup of affliction, a cup that was meant for him by the Decree of The One True GOD? I can never undo the suffering that they endured. Nor can I undo the suffering I've endured by your evil hands. Our GOD intended it to test us, to prepare us, and to make us stronger to complete the tasks which will soon be placed before us all as "Ahle Bayt", "The Holy People" Of Daniel chapt. 12:7. I can never compensate them for what may potentially come at them in the future. But the least that I can do as their father, as a man who loves them above all others,...I can give them their "TRUE HISTORY",...I can give them the truth of who they really are,...and how they fit in the scheme and final chapter of earth's history. This I shall do. What is a Prophet, King, Khalifah and High Priest without his children, without the woman he loves? The answer is simple. He's a lonely, lonely, empty servant of GOD, who will nonetheless serve The GOD he loves even above them, without question, without difficulty and without resentment. Thou GOD slay me, I will yet still trust Him.

Thus saith The LORD, The One True GOD, who is my Master, as I am His servant and appointed King, Khalifah, Imam, Prophet

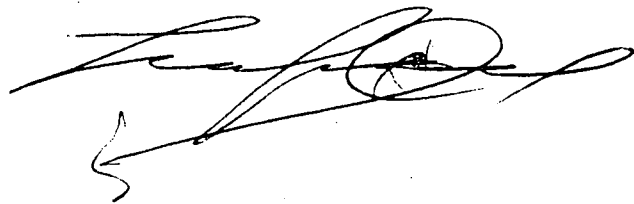
and High Priest. The world shall soon discover that the religious prophecies foretold are real. They shall discover that "Santa Claus" is a "BLACK MAN". Hear what thus saith The LORD, Behold, I have graven thee upon the palms of My hands; Thy walls are continually before me. Thy children shall make haste (They shall return); Thy destroyers (enemies) and they that made thee waste shall go forth of thee. The children which thou shalt have, after thou hast lost the other, shall say again in thine ears, The place is too strait for me: Give place to me that I may dwell. Then shalt thou say in thine heart, Who has begotten me these, seeing I have lost my children, and am desolate, a captive, a prisoner, and removing to and fro in chains? And who has brought up these? Behold, I was left alone; these, where had they been? Thus saith The LORD GOD, Behold, I will lift up my hand to the Gentiles, and set up my standard to the people: And they shall bring thy sons in their arms, and thy daughters shall be carried upon their shoulders. Hearken unto Me, ye that knoweth righteousness, the people in whose heart is My Law; fear ye not the reproach of men, neither be ye afraid of their reviling. Who art My servant that thou shouldst be afraid of a man, or even a woman that shall die, and of the son of man which shall be made as grass that withereth away; and forgettest The LORD thy maker, that hath stretched forth the heavens. I will contend with them that contend with thee. And I will feed them that oppress thee with their own flesh; And they shall be drunken with their own blood, as with sweet wine; And all flesh shall know that I, The LORD, am thy Saviour and thy Redeemer, The Mighty One Of Abraham, Issac, Jacob, Moses, Aaron, David, Solomon, Christ and Muhammad(PBUT). This is sufficient to establish objections and demonstrate fraud upon the court and an abuse of discretion if this case is dismissed before all parties are served and made to respond to the pleadings.

This document is filed as an Affidavit and may stand alone to defeat any motion for summary judgment and or summary dismissal and or sua sponte dismissal. Where case has an arguable

basis in law, to include that all claims are defaulted on in case 2013-CP-400-0084 where the Affidavits establishing the default were never timely challenged and that court's jurisdiction is made void for Due Process violation. It would be an abuse of discretion to dismiss an artfully pleaded case, which this case is, where the sympathetic reader of the documents filed in this and the parallel cases indicate that it is not beyond a reasonable doubt that the petitioner(s) could prove a set of facts in support of his claim(s) which would entitle him to relief. Pleadings require that the complaint and or Affidavits filed in support of that complaint, contain inferential allegations from which we can identify each of the material facts or elements necessary to sustain a recovery under some viable legal theory. Factual allegations must be enough to raise a right to relief above the speculative level. The complaint and or documents attached and or filed in support thereof, must allege enough facts to state a claim for relief that is plausible on its face. A case has factual plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. A complaint, to include its attachments and or Affidavits filed in support of motion and or order to dismiss, which possess factual matter, which must be accepted as true, will survive summary dismissal, See WL 1854315; Lewis v. Dixon, F.Supp.3d., WL 9460274(2015); White v. White, 886 F2d. 721 CA4 (W.Va.1989); McKelvey v. Reynolds, 2016 WL 6518337(DSC.2016); Del Zotto v. Universal Physicians Services, LLC.,--F.Supp.3d.--, 2016 WL 5868547(DSC.2016); King v. Atiyeh, 814 F2d. 565, 568(9th.Cir.1987); Procunier v. Martinez, 416 U.S. 396, 419, 94 S.Ct. 1800, 1814, 40 L.Ed.2d. 224(1974); Johnson v. Avery, 393 U.S. 483, 485-87, 89 S.Ct. 747, 748-50, 21 L.Ed.2d. 718 (1969); Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491, 52 L.Ed.2d. 72(1977); White v. Gregory, 1 F3d. 267 CA4 (W.Va.1993); Neitke v. Williams, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d. 338 (U.S.1989); Bresley v. Dunnell, 952 F2d. 395 CA4 (W.Va.1991); Mann v. Bell-McKensie, 2015 WL 1224299(DSC.2015); Whiteside

v. United States, 775 F3d. 180 CA4 (N.C.2014); Tolbert v. Stevenson, 635 F3d. 646(4th.Cir.2011); Larkimore v. Hooks, 289 Fed. Appx' 576, 2008 WL 3063704; Hines v. Thomas, 2016 WL 4492816; Fox v. Vice, 563 U.S. 826, 131 S.Ct. 2205(U.S.2011); Woodford v. Garceau, 538 U.S. 202, 123 S.Ct. 1398, 155 L.Ed.2d. 363(2003); Cullen v. Pinholster, 563 U.S. 170, 131 S.Ct. 1388, 179 L.Ed.2d. 557(2011); Smith v. Robbins, 528 U.S. 259, 120 S.Ct. 746, 145 L.Ed.2d. 756(2000); White v. Gregory, 510 U.S. 1096, 114 S.Ct. 931, 127 L.Ed.2d. 223(U.S.1994); Rogers v. McKinnon, F.Supp.2d., 2009 WL 4920800(DSC.2009); U.S. v. Jones, 538 Fed. Appx' 285 CA4 (Va.2013); Prielo v. Zook, 791 F3d. 465 CA4 (Va.2015); Sanders v. Warden at Leath C.I., 2015 WL 4635144(DSC.2015); Ortiz v. U.S., 555 Fed. Appx' 261 CA4 (Md.2014); U.S. v. Surratti, -F3d.--, 2015 WL 4591677 CA4 (N.C.2015); U.S. v. Newbold, 791 F3d. 455 CA4 (N.C.2015). Judge Currie I and or we motion for your recusal along with the other Judges.

RESPECTFULLY,
JAHJAH AL MAHDI



MAY 16, 2017

Exhibit

A ~~medical~~ Complaint

2

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

FILED

COURT OF COMMON PLEAS
5th JUDICIAL CIRCUIT

LAWRENCE L. CRAWFORD 07 MAR 13 AM 8:54
PLAINTIFF
BARBARA A. SCOTT
D.C.C. & G.S.

RESPONSE TO MOTION TO
TO MAKE MORE DEFINITE
AND CRETAIN

AMENDED COMPLAINT

vs.

Mr. & Mrs. Joseph Abram III, and
or Mr. & Mrs. Herbert Lee, and or
Sylvia Lee, and or Mr. Brunson,
and or April Monroe, and or
Michael Lee, and or William
Tetterton, and or Cylena Lee
RESPONDENT(S)

CASE No. 06-CP-400-0552

File in Case No. 09-1500

TO: THE COURT OF COMMON PLEAS,
THE S.C. ATTORNEY GENERAL,

PLEASE TAKE NOTICE, that the plaintiff in the above captioned matter, Lawrence L. Crawford, intends to file claim against the above captioned defendants, in pursuant to all relevant sections of The South Carolina Tort Claim Act.

The Post Office address of the claimant herein presently is:

LAWRENCE L. CRAWFORD
#300839 WD-D Rm. 188
Lieber, P.O. Box 205
Ridgeville, S.C. 29472

For the time being the plaintiff is representing himself.

The time when and the place where such claim arose, and the nature of the claims, are as follows:

Before the plaintiff address the issues, the plaintiff brings the court's attention to Exhibit No.(1). A duplicate of this letter and 2 copies of a motion for sanctions against the defendants, has been sent to the Richland County Clerk of Court, asking her to file and assign a case number. These sanctions address the issue being levied in this case. Since the defendants by profession and or association connected with the Clerk of Court, the Clerk is impeding, hindering, obstructing, and making every effort to defeat this action and the due course of justice to aid the parties involved. She is also a defendant on the Motion for Sanctions. It has been sent to her under certified No.7002 2410 0006 8102 1107, by Edward Rutland on behalf of the plaintiff to ensure she received it. The sanctions address the issues presently before the court and it's findings will have a crucial bearing on this case.

Furthermore, there is a Writ of Habeas Corpus pending also

addressing these issues levied against the defendants, being reviewed in the U.S. District Court, to include the granting of an Ex Parte hearing to address these allegations before the court in case No.0: 06-cv-2457-TLW-BM. This case addresses the legal issues but it does not address the claim of damages that are being requested in the Court Of Common Pleas. Both these cases have a crucial bearing and are essentially material in determining the matters presently before the court. It's findings will serve to prove, once and for all, whether the allegations made by the plaintiff are meritorious or frivolous and vexatious. It will also allow the plaintiff to address these issues without the weight of an onerous conviction in place, giving the plaintiff freedom of movement in obtaining additional evidence to properly address the issues in the court. It will also nullify any concern over there being other available remedies, and or any concern that any ruling on the part of the Court of Common Pleas may serve to invalidate the present conviction. There is also the issue of the statute of limitations. If the case is dismissed, it would automatically place the plaintiff beyond the time frame mandated by the statute of limitations to initiate the action prejudicing the proceedings. Therefore the plaintiff motions pursuant to rule 59(e) and 15(b) that the proceedings be held in abeyance until the conclusion of the 2 aforementioned relevant cases.

Referring back to the issues of the claim. The defendants captioned above, did commit by malicious, criminal action, and or failure to take action by duty, in acts of gross negligence and deliberate indifference, which said acts did result in the plaintiff's false imprisonment for the charge of murder, and or injuries produced therefrom.

All the defendants named above, to include William Tetterton, in malicious, criminal acts of gross negligence and deliberate indifference, conspired with, and or counselled, sand or encouraged, and or aided and abetted Sylvia Lee in the stealing of the plaintiff's assets in the form of his Social Security benefits, in acts of Breach of Trust With Fraudulent Intent pursuant to S.C. Code Ann§16-13-230. This occurred from the time of the plaintiff's arrest in January 2000 until April 2003, \$1600.00 per month, deposited in the Bank Of Ridgeway in Blythewood S.C., deposited in Sylvia Lee's checking account for the plaintiff and his dependants.

Please take notice of Exhibit No.(9), a portion of the standard contract form for Social Security benefits. This is the type of contract that "ALL" payees are required to "voluntarily" sign (emphasis added). It is clear from the contract when misappropriated, it is a violation of federal law, and state law by Breach of Trust, punishable by fine, imprisonment, or both. It is perspicuous these funds were required to be used solely for the plaintiff and his dependents, yet for approximately 4 years none of them were. Instead Sylvia Lee used them for herself and to pay the crooked lawyer William Tetterton, who under the table also gave the crooked cops, Cort Korley, David Thomley, and John Meadors, Mr.Giese, Mr.Moake, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glenn Rodgers, and Alma Parrish "a piece of the pie". All either received a portion or had knowlege of the act yet did nothing to prevent it from occurring even after the fact.

Once the corrupt officials come across "a victim and or prospective money maker", who they feel they can control and or manipulate, they refer this client to William Tetterton. He then gives the corrupt officials a portion of those finances collected for that referral. They in turn work together at breaking various laws to assist the referred person, in a good ole' boy system of justice, to promote the parties involved, perverted, corrupt, judicial ventures, that are tainted with unjust ulterior malicious motives, to hinder any due course of justice not supported by them, or that interfere with any common scheme or design they are attempting to place into effect. The parties aforementioned did this to prevent the plaintiff from being able to hire outside counsel of his choice. They did this also to prevent the plaintiff from making bail because they knew was the plaintiff was free he would go after the evidence that would concretely expose all their criminal acts perpetrated against the plaintiff in the court, and prevent criminal and civil prosecution and action from being levied against them. It is the plaintiff's constitutional right to hire competent out side counsel of his choice if he could afford to do so. It is the plaintiff's constitutional right to make bail if he could afford to do so. This is not Guantonomo Bay! There was a bond agent willing to work with the plaintiff if the plaintiff's finances were not stolen by the defendant. The defendants deprived the plaintiff of theses sacred inalienable rights of law.

Furthermore, these stolen finances also would have been used to maintain the plaintiff's mortgage, perservance of the plaintiff's vehicles, and other property the plaintiff owned as a pre-trial detainee. Because the parties involved stole the plaintiff's finances, all the plaintiff owned was lost. In this country you don't jail and detain a man for the purpose of robbing him. In this aspect the parties are guilty of strong arm robbery in pursuant to S.C. Ann§16-11-330 in part.

Please take notice of Exhibit No.(10). This is a copy of a letter faxed to William Tetterton, by Brana Hyme on behalf of the plaintiff, requesting Sylvia Lee to stop breaking the law, corroborating with the state and county officials. Instead of William Tetterton taking proper legal action to stop these crimes, he threatened Brana Hyme with possible jail, spooked her, and terrified her with threats if she helped, or continued to help me in violation of 42 U.S.C. §1985(2).

Please take notice of Exhibit No.(6), a letter mailed to William Tetterton and filed in the court(s) in case(s) where William Tetterton acted as legal counsel for Sylvia and or Cylena Lee. He knew of Sylvia Lee stealing the plaintiff's assets to pay him for Sylvia and Cylena's case. He knew he was receiving misappropriated funds. He knew of my desire to have Sylvia Lee prosecuted. He knew of my desire to have Michael Lee prosecuted for the incest and Criminal Sexual Assault upon the plaintiff's minor daughters. William Tetterton was an ex-solicitor in Kershaw County. This is also why they referred Sylvia to him. He is formerly connected to the 5th Circuit Solicitor's Office. He knew what steps to take and had the power and or influence to initiate the process of due justice, but failed to do so. This document

was filed in the court(s) August 15, 2001, the same as Exhibit No.(7), the 11 page Motion To Be heard filed March 12, 2002, and Exhibit No.(8), the Motion For A SLED Investigation. These documents and piles of others were filed in case(s) No.(s) 01-DR-28-0065; 02-DR-28-098; G646899, 900, and 901. These filed documents, known of and or viewed by all the defendants involved, prove that they knew of Sylvia Lee's stealing the plaintiff's assets. They knew of Michael Lee's sexual assault and incest upon the plaintiff's minor daughters, knew of my repeated request and demand for justice. Yet they did nothing, except break state and federal law, to conceal, conspire in, aid and abet in, during and or after the fact, in crimes of moral turpitude, that will be further elaborated on in this document, to hinder, impede, obstruct, and defeat the due course of justice, under color of law, in violation of the plaintiff's rights to equal protection of the laws.

The defendants named above, to include William Tetterton, did conspire to supply, to encourage, and or counsel, and or aid and abet, Cort Korley, Pam Company, Jean Cato, David Thomley, John Fellers, Ann Millikin, Glen Rodgers, Alma Parrish, Peggy Knox, John Meadors, Mr. Giese, and Mr. Moake, to produce and use evidence that was obtained from an illegal search and seizure at the plaintiff's trial, for which there was no search warrant presented and or left at the plaintiff's residence the time the supposed evidence was seized which is a requirement by law. Cort Korley and John Fellers called the plaintiff a "nigger cult leader" and a "nigger Jim Jones", stating the plaintiff was attempting to start a cult in their county and they were going to find a way to stop me. These same persons later said to the plaintiff, "we know you're innocent, but we are going to find a way to make you pay for some kind of crime no matter what." The illegal evidence was used at the plaintiff's trial the week of March 22nd-29th, 2003, held in Camden S.C.. All the parties previously listed had knowledge of the incident and trial. The social workers charged the plaintiff and Sylvia Lee with 2 counts of Neglect which was later dismissed. The evidence in the Neglect case and the murder case was the same. They accumulated it in a file at SLED. They were required as wards of the court by duty, to be concerned about the rights of all parties involved. William Tetterton was Sylvia's attorney for the neglect case. Even though he was not the plaintiff's attorney, it was his duty as a ward of the court and ex-solicitor to protect the interest of the deceased child, and the other child sexually assaulted by Michael Lee. The nature of the evidence seized was material to this duty. It was the defendants duty as social workers, wards of the courts, parents, close relatives and the like, that if they seen or knew individuals were acting under color of law, to deprive individuals of rights protected by the equal protection of the laws clause, to take steps to prevent such action from taking place, and or to bring it to the attention of someone with the power and authority to prevent this injustice. The plaintiff was not under legal arrest, but he was detained and restricted in movement. He was not allowed to go to the bathroom without an escort. He was not permitted to drive away from the hospital without an escort. He was forced to go to the police station for questioning against his will even though he told the police he did not want to talk to them without a lawyer present. Any person with limited understanding would conclude from these events he

was not free to leave invoking 4th amendment protection. William Tetterton was an ex-solicitor and knew what to look for in regard to evidence. He knew what steps to take to prevent the injustice, yet done nothing. Sylvia and the other defendants knew of this incident, yet did nothing to address it. All maliciously, criminally, in acts of gross negligence and deliberate indifference just continued in breaking the law and or allowing it to be broken. The officials involved entered the plaintiff's home without permission, consent, or warrant, took pictures and seized evidence, while the plaintiff was seized and or detained by authorities. Such illegal evidence is "fruit of a poisonous tree", and never should have been used at the plaintiff's trial United States v. Brady, 842 F2d 1313, 1314(D.C.Cir.1988) citing Gomez v. Turner, 672 F2d 134, 141(D.C.Cir.1982); United States v. Most, 876 F2d 191(D.C.1989); United States v. Clyburn, 24 F3d 613; Dalia v. United States, 441 U.S. 238, 255, 99 S.Ct.1682, 1692, 60 L.Ed.2d 177(1979); Mapp v. Ohio, 81 S.Ct. 1684(1961); United States v. New York Telephone Co., 434 U.S. 159, 179-180, 98 S.Ct.364, 376, 54 L.Ed.2d 376; Silverman v. United States, 365 U.S. 505, 81 S.Ct.679, 5 L.Ed.2d 734 (1961); Weeks v. United States, 232 U.S. 383, 34 S.Ct.341, 58 L.Ed. 652; Rochin v. People of the State of California, 1952, 343 U.S. 165, 173, 72 S.Ct.205, 210, 96 L.Ed. 183; Wolf v. Colorado, 1949, 338 U.S. 25, 69 S.Ct.1359, 93 L.Ed. 1782 R.C. Ohio§ 2905-34; Skinner v. Railroad Labor Executives Assoc., 109 S.Ct.1402, 1414, 103 L.Ed.2d 639(1989).

The defendants named above, did conspire, with each other and Cort Korley, David Thomley, John Fellers, Jean Cato, Peggy Knox, Ann Millikin, Glenn Rodgers, Alma Parrish, John Meadors, Mr. Geise, and Mr. Moake, in Camden S.C., in the family court, under case No.01-DR-28-0065, in acts of Criminal Unlawful Neglect, Conspiracy To Commit Criminal Unlawful Neglect, pursuant to S.C. Code Ann§20-7-50; S.C.Code Ann§16-1-40; S.C. Code Ann§16-1-55, also in acts of Incest after the fact pursuant to S.C. Code Ann§16-15-20; S.C. Code Ann§16-1-40; S.C. Code Ann§16-1-55, also in acts of Criminal Sexual Conduct, numerous counts, after the fact, pursuant to S.C. Code Ann§16-3-655; S.C. Code Ann§16-1-40; S.C. Code Ann§16-1-55, by not testing Michael Lee to the DNA samples taken from Korresha Crawford, noted in SLED file No.55010014 check list sheet. The conspiracy began in both Columbia S.C. and Camden S.C.. The failure to test him occurred in Columbia S.C. It began from January 2000 until this very date. Even though the plaintiff made numerous request, the plaintiff did not discover the request were ignored until the date of his trial March 29,2004. They are continuous acts and are dual jurisdictional crimes. These samples according the SLED DNA lab, were sent back to John Fellers the Kershaw County coroner, after SLED repeatedly made attempts to notify and obtain samples from Michael Lee. SLED made this repeated request to John Fellers, John Meadors, and the 5th Circuit Solicitor's Office, but they failed in their duty to test those samples in efforts to impede, hinder, and defeat the due course of justice, and as payment to Michael Lee to give false testimony, in acts of perjury(statute not cited), in efforts to falsely convict and imprison the plaintiff. This was also done to prevent the plaintiff from getting free to go after the evidence that would convict them for their criminal acts, and in attempts to avoid civil action being levied against them. This was also done so

there would be no concrete evidence on record that would prevent Michael Lee from being placed in care with the plaintiff's remaining minor child he already sexually assaulted, so he could continue to sexually assault her, or place her in risk of such sexual assault, as a twisted, perverted, sexual deviate reward for his perjured testimony, and as part of the under the table deal they made with Sylvia Lee, to include William Tetterton and social workers, to get Sylvia Lee custody of the children, if she would help them coax them into giving perjured testimony (see Baptist medical records). The SLED DNA Lab said the samples were preserved. If the defendants did not destroy the evidence of their guilt, in the form of these DNA samples, once returned, they still can be tested to Michael Lee. The defendants all knew of the existence of the DNA samples. They knew of the assault Michael Lee perpetrated against the plaintiff's minor daughters. It was all the defendants involved duty as social workers, and or wards of the court, and or parents, grandparents, or close relatives and the like to demand and seek the completing of the testing of those DNA samples to protect my children. Yet in collaboration with these corrupt officials, under color of law, they failed in this duty in malicious acts of gross negligence and deliberate indifference. It was crucial to their wicked purpose and design that Michael Lee be not tested to that DNA, because proof presents itself that indicate they falsified the autopsy, claimed she was never pregnant, and there was no sign of **Damage to her uterus**, and or signs of spontaneous abortion. Any **sign of pregnancy** would have proved they falsified the autopsy, that she contracted gestational diabetes causing said spontaneous abortion, and her bleeding to death accompanied by hypovolemoic shock from her blood sugar levels dropping from 70dm/ml to 17dm/ml and Michael Lee's sexual assault is what truly killed her, and these devils and snakes concealed this in the autopsy in violation of 18 U.S.C. §1001, in acts of assessorry after the fact to murder pursuant to S.C.Code Ann§16-3-10; S.C.Code Ann§16-3-655; and S.C.Code Ann§16-1-40. Placenta or fetal tissue of any kind is heterogeneous, possessing the DNA of both mother and father. If Michael Lee's DNA showed up in any of those samples, it would have produced conclusive proof they falsified the autopsy. This appears to also be the reason why they did not test him to those DNA samples.

The defendants named above did conspire with each other and Dr. Joel Sexton, Cort Korley, David Thomley, John Fellers, Jean Cato, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, to commit acts of Destruction and or Desecration Of Human Remains in pursuant to S.C.Code Ann§16-17-600 (A)(3) and or S.C.Code Ann§15-17-60. This occurred in the examination conducted by Dr. Joel Sexton and his assistant in Newberry County, his place of vocation, in late January, early February 2000. The incident occurred then, but the crime was not discovered until the time of the plaintiff's trial March 25, 2004, in Camden S.C.: The statute of limitations would **run from the time the crime, the incident, was discovered, warranting criminal** and or civil action. These devils, these snakes, these dogs, in malicious, criminal, acts of evil gross negligence and deliberate indifference, slit!, cut open like a pig!, in acts of mutilation and desecration, the dead body of an 11 year old african american child, to pour blood in her tissue,

and then take pictures afterward, to falsely claim blood seeped into her tissue, to frame her religious fanatic, love the Lord thy God with all thy heart, soul, mind, and strength, proud to be father, behind religious and racial hatred. The emergency room doctor specifically said, noted even in the trial transcript, that there were no such bruising on her back. The emergency room doctor never could have missed injuries of the manitude the autopsy falsely allege. The E.R. doctor was the first to examine ~~her yet~~ ~~stated after examination~~ that there were no bruises on ~~her back~~ at all, not one. This is an egregious inconsistency that clearly point to the assertions made by the plaintiff as being true. The plaintiff filed numerous documents in case(s) No.(s) 01-DR-28-0065; 02-DR-28-098; G646899, 900, and 901 in Camden S.C. informing all defendants of the inconsistencies, and made numerous request for a second autopsy and investigation. The defendants under color of law ignored the documents and request. It was William Tetterton's duty as attorney for the neglect for Sylvia to ascertain the truth of what happened to my child with all the inconsistencies. Just like the plaintiff did they should have demanded a second autopsy. Yet they did nothing except break the law and or allowed the others to break the laws of this state and under color of law, in violation of the plaintiff's right to equal protection of the laws, hindered, impeded, obstructed, and did all they could to defeat the due course of justice.

The defendants named above did conspire with each other and Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr.Giese, and Mr.Moake, in malicious, criminal acts of gross negligence and deliberate indifference, falsified the document, Exhibit No.(3), and used this document as a means of placing Michael Lee back with the plaintiff's remaining minor child, exposing her to risk, harm, and danger, as well as psychological and physical danger. This is a blatant criminal act of Criminal Unlawful Neglect pursuant to S.C.Code Ann§20-7-50. All the defendants involved knew that Michael Lee sexually assaulted the plaintiff's daughters. If they would have stated the truth, and placed in the document their knowledge of Michael Lee's assaulting them, the Foster Care Division would have not allowed them to place Michael Lee and the plaintiff's remaining minor child in the same residence, especially with the plaintiff making numerous objections and complaints in writing and filing them with all the relevant courts. William Tetterton and the parties aforementioned were there at all proceedings, and or had knowledge of the proceedings. Tetterton could have prevented this as well as the other defendants, or they could have brought it to the attention of someone who could have prevented it. The defendants falsified this document, concealing the truth, saying her assault was by an "UNKNOWN" perpetrator. This was part of the under the table deal with Sylvia Lee. They would work to get her custody of the children, and escape prosecution, if she would aid them against the plaintiff, to include aiding to solicit false testimony from the children to have the plaintiff convicted, to include her stealing the plaintiff's assets, to keep the plaintiff from making bail or hiring counsel of his choice, to prevent the plaintiff from getting free to go after the evidence

that would criminally convict them. This act is also a violation of 18 U.S.C. §1001. As stated Incest is a crime of moral turpitude pursuant to S.C.Code Ann§16-15-20. This goes beyond incest. This snake and sexual deviate, sexually assaulted the plaintiff's minor children, in acts of Criminal Sexual Conduct pursuant to S.C.Code Ann§16-3-655 and these devils, crooked, corrupt, lawless officials concealed and covered his crimes under color of law, in defiance to the plaintiff's rights of equal protection of the laws, to defeat the due course of justice. Please note Exhibit No.(4). This is the letter from SLED F.O.I. Department. Note that the Governor's Office records and the Guardian At Litem records containing these falsified documents are in this file. This is another reason why the defendants work extensively to prevent the plaintiff from obtaining this file. SLED file 55010014 proves that they knew of Michael Lee's sexual assault upon the plaintiff's children, to include that the file had evidence that proved my innocence, and instead of taking legal action against Michael Lee and producing the file, they worked to conceal and cover up his crimes, in malicious criminal acts of gross negligence and deliberate indifference. This is a dual jurisdictional crime. The falsifying of the document occurred in Camden S.C., but the submitting the document to the Foster Care Division occurred in Columbia S.C.. This is a continuous crime of Criminal Unlawful Neglect. It began with the falsifying of the document June 25, 2001 and continues until this present date. The plaintiff's minor child A.C. is still a victim of this cruel, criminal injustice. The Equal Protection Of The Laws Clause extends to the innocent as well as the guilty. It extends to the supposed criminal as well as to the law abiding citizen State v. Middleton, 207 S.C. 478, 36 S.E.2d 742(1946); Eslinger v. Thompson, 340 F.Supp. 886(D.S.C.1972) aff'd 476 F2d 225(4th Cir.1973); McLaughlin v. Florida, 379 U.S. 184, 85 S.Ct.283, 13 L.Ed.2d 222(1964). Even though the plaintiff was detained, by law, the plaintiff was entitled to equal protection of the laws, to have the attacker of the plaintiff's minor children brought to justice. The plaintiff had the right to not be subject to what was essentially strong arm robbery. They failed to follow state and federal laws to include the policies of their own agencies. Please take notice of Exhibit No.(5), the SLED intake sheet. At the bottom of the sheet, though incorrectly stated, it tells of the assault, as do numerous documents in this file. They further prove the defendants knew and done absolutely nothing to bring Michael Lee to justice except conspired to break the law or allow the others to break the law to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in malicious, criminal acts of gross negligence and deliberate indifference, to suppress evidence that proved the plaintiff's innocence, in the form of SLED file 55010014, in efforts to maliciously have the plaintiff falsely convicted, kidnapped!, in violation of S.C.Code Ann§16-3-910. In this file were numerous documents. to include the death certificate, which would have prove the allegations in the indictment as to time and place of particular averments,

which are crucial elements of the offense, must be proven, and must be passed upon by the Grand Jury before a person may be lawfully convicted for the offense of murder State v. Rector, 158 S.C. 212, 155 S.E. 385(1930); S.C.Code Ann§19-17-20; S.C.Code Ann§19-17-30; State v. Rallo, 403 S.E.2d 653(1991); State v. Ham, 259 S.C. 118, 191, S.E.2d 13(S.C.1972); State v. Sutton, 333 S.C. 192, 508 S.E.2d 283(S.C.App.1998); State v. Pierce, 207 S.E.2d 414; State v. Blakeney, 33 S.C. 111, 11 S.E. 637 infra, State v. Stewart, 26 S.C. 129 S.E. 468; State v. Faile, 43 S.C. 52, 20 S.E. 798; State v. Adams, 277 S.C. 115, 283 S.E.2d 582(1981). Thus it would have vitiated the conviction. It would have also produced evidence to confirm they falsified the trial transcript to ensure to conviction was unjustly affirmed in the S.C. Court of Appeals. It would have produced the coroner's notes that would have explained why the coroner showed up at the plaintiff's bond hearing for the 2 counts of neglect, after the autopsy was fully completed and testified at that hearing that no alleged beating killed the plaintiff's child, that at most is "may" have been a contributing factor. The file would have produced evidence in the form of the Florence Sheriff Dept. report and the Baptist Hospital records that proved there was no sign of sexual assault on Cylena Lee, that she was a virgin, and committed perjury in efforts to make herself look like a victim on the witness stand, instructed and coaxed by the defendants, to include William Tetterton, to ensure that the plaintiff would be unjustly convicted, kidnapped, for false charges of murder.(see enclosed Exhibit No.(12), portion of Baptist records). This evidence was crucial to the plaintiff's defense. This file was hidden at SLED in Columbia S.C. and was not discovered by the plaintiff until about December 2003 and or about January 2004. It was hidden since the time of the plaintiff arrest. The plaintiff went on the record to request this file at his competency hearing in Columbia S.C. March 19,2004 and John Meadors blatantly lied on record stating he did not know what file the plaintiff was talking about.

This issue is also based upon the principle that defendants are to be given a meaningful opportunity to present a complete defense. To protect this right, the United States Supreme Court has developed "what might loosely be called the area of constitutionally guaranteed access to evidence" United States v. Valenzuela-Bernal, 458 U.S. 858, 867, 102 S.Ct.3440, 73 L.Ed.2d 1193, 1203(1982).

In this regard defendants have the right to request and obtain from the prosecution evidence that material to the guilt of the defendant or relevant to the punishment to be imposed Brady v. Maryland, 373 U.S. 83, 83 S.Ct.1194, 10 L.Ed.2d 215(1963). Even absent of request, prosecutors have a constitutional duty to give the defendant exculpatory evidence which would raise a reasonable doubt about his guilt United States v. Augurs, 427 U.S. 97, 96 S.Ct.2392, 49 L.Ed.2d 342 (1976); State v. Jackson, 396 S.E.2d 101 (S.C.1990).

In South Carolina, under Rule 608(c), of S.C. Rules of Crim. Pro., evidence of character, conduct, and bias of witnesses state in haec [v]erba:

"Evidence of bias, prejudice, or any motive to misrepresent may be shown to impeach the witness either by examination of the witness or by other evidence otherwise adduced".

In Brady and Augurs, the prosecution failed to disclose exculpatory evidence. In the case of United States v. Bagley, 105 S.Ct. 3375, the prosecution failed to disclose evidence that the defense might have used to impeach the government's witnesses by showing bias or perverted interest. The court stated: "Impeachment evidence, however, as well as exculpatory evidence, falls within the Brady rule" Giglio v. United States, 405 U.S. 150, 154, 92 S.Ct. 763, 31 L.Ed.2d 104(1972). Such evidence is "evidence favorable to the accused" Brady supra, so that if disclosed, and used effectively, it may make the difference between conviction and acquittal cf. Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct. 1173, 1177(1959). The defendants knew of this evidence existence. Yet, in criminal acts to prevent their corrupt tails from going to jail, to protect Sylvia Lee from being prosecuted for Breach Of Trust, and to protect Michael Lee from being prosecuted for Criminal Sexual Conduct, under color of law, in violation of the plaintiff's rights to equal protection of the laws they hid this file and openly in acts of perjury denied it's contents, to impede, hinder, obstruct, and defeat the due course of justice. The kidnapping statute under S.C.Code Ann§16-3-910 is broad enough to include and cover the common law crime of false imprisonment(see S.C.Code Ann§16-3-910). Kidnapping is a continuous offense. It commences from the time one is wrongfully deprived of freedom and continuous until freedom is restore. Every issue alleged in this action is a significant part of that false imprisonment. Therefore, since the plaintiff is still falsely imprisoned by these actions, the statute of limitations would not commence until the plaintiff's freedom is restored State v. Tucker, 334 S.C. 1, 512 S.E.2d 99 (S.C.1999).

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glenn Rodgers, Alma Parrish, John Meadors, Carol Theume, Mr.Giese, and Mr.Moake, in malicious, criminal acts of gross negligence and deliberate indifference, did falsify the plaintiff's trial transcript. The defendants either took out, and or modified, and or altered, and or deleted any and all errors on the part of the trial court that would serve to vitiate and or make the conviction infirm to ensure that the plaintiff would remain criminally and unjustly convicted, kidnapped! There were so many errors on the part of the trial court the conviction on direct review could not have possibly stood and the sentence and conviction would have had to be vacated. One of the crucial changes they made was the testimony given by the pathologist Joel Sexton. The pathologist clearly testified at trial that the initial incident and or assault have had to occur about 7:00P.M. in Kershaw County, but the death occurred in Richland County as outlined in his presented autopsy. They also deleted and or altered any testimony by the pathologist that would clearly show he was negligent in not documenting any signs of the sexual assault perpetrated by Michael Lee, purposely, maliciously omitted by the pathologist in collaboration with the other listed parties. They did this so that upon direct review it would appear from the record that the

state met it's burden on proving the crucial elements of time and place of death, which burden in truth they failed to meet. They also did this because the plaintiff produced an Advance Auto Parts purchase history possessing time and date clearly showing the plaintiff was in Columbia S.C., 2 hours away the time the incident occurred, that established a concrete alibi and clearly proved the witnesses Cylena, Michael, Quinta, and Aerialle were lying on the stand in acts of perjury, coaxed by the defendants, due to they all stating the plaintiff never left the home that evening untruthfully placing the plaintiff at the scene. When you add in the travel time of 1 hour, one way, we are looking at a minimum of 3 hours the plaintiff had to be gone that evening. By the defendants testifying the plaintiff never left at all that evening, it caught them in their perjury so they had to alter the transcript that this not be shown. The death certificate, the autopsy, the Providence Hospital records, and even the plaintiff's sentencing sheet clearly show the assault and death occurred on 2 different dates in 2 different counties, yet the indictment that is fatally defective and the criminally altered transcript states contrary State v. Platt supra; State v. Blakeney supra. This act is a violation of 28 U.S.C. §1001, is Sham Legal Process (statute omitted), and kidnapping pursuant to S.C. Code Ann §16-3-910. All the defendants involved already knew of the deeds and criminal acts of all the various parties in the Family Court and General Sessions Court. Any person would reasonably assume people capable of the falsifying of court documents could and would falsify a trial transcript, yet they made themselves a part of the various criminal acts. When it comes to conspiracy and the accomplice liability doctrine "the hand of one is the hand of all." Carol Theume, John Meadors, Mr. Giese, Mr. Moake, and the 5th Circuit Solicitor's Office produced this criminally falsified transcript. This occurred in the S.C. Court of Appeal, in Columbia S.C. in the late part of 2004 and or early part of 2005. The defendants did this under color of law, in violation of the plaintiff's rights of equal protection of the laws, to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above did conspire with each other and Dr. Joel Sexton, Janice Ross? (his assistant), John Fellors, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in malicious criminal acts of gross negligence and deliberate indifference by ordering and or authorizing an autopsy and or post mortem examination they did not have the authority to order because they were out of their jurisdiction to order it. Thus they are again guilty of desecration and destruction of human remains pursuant to S.C. Code Ann §16-17-600(A)(3). This is also a violation of S.C. Code Ann §17-5-260; S.C. Code Ann §17-5-250; and S.C. Code Ann §17-7-10. The autopsy was ordered by John Fellors the Kershaw County coroner who was out of his jurisdiction in that the death occurred in Richland County. It is not the plaintiff's contention that under no circumstance this could not be done. What the plaintiff does contend, is that in order for the Kershaw County coroner to be invested with proper authority to order the autopsy, the Richland County coroner had to properly transfer

that right of jurisdiction, and such transfer could not be orally done, it had to be in writing, and such written transfer of jurisdiction had to be filed with the clerk of court in both Richland and Kershaw counties in order for said transfer to be able to stand up to legal mandates and requirements of law. This was not done. Therefore the coroner John Fellers and or Dr. Sexton and his assistant did not even have proper authority by law to do the autopsy. William Tetterton was an ex-solicitor. He knew the law quite well. He knew the death occurred in Richland County. He was Sylvia and Cylena Lee's attorney. He handled many cases of this nature before. He knew of the plaintiff's concerns over the autopsy and my questioning it's validity, yet he done nothing about this breach of law. The other defendants knew of this matter as well. It was their duty as officials involved in the case, as wards of the court, as parents and or close relatives to take action, to investigate the facts, and to ensure that the due course of justice was not in any way compromised. Pursuant to S.C.Code Ann§17-5-260, the county coroner and or examiner of the county where the death was found shall make immediate inquiry into the cause and manner of death and shall reduce his findings to writing on forms provided for this purpose retaining a copy for his files 1962 Code§17-166; 1972(57) 3064. Pursuant to S.C.Code Ann§17-5-250, power to determine, the county examiner and or coroner of the county where the death is found shall have the power to determine that an autopsy shall be made in addition to the powers invested in other law enforcement officials to order an autopsy 1962 Code§ 17-165; 1972(57) 3064. In pursuant to S.C. Digest, a coroner has authority to gather evidence at the scene of the crime and preserve it for trial; however, he may not withhold it from the investigating officers Opinion No.4483 Code 1962§ 17-91. Thus we have the coroner's notes listed in SLED file 55010014.

Atty Gen. 1963 provides: Coroner of Kershaw County was limited to his jurisdiction to Kershaw County and was not authorized to grant permission for an autopsy on person who died in Richland County 1962-63 Opinion Atty. Gen. 105. Pursuant to Atty. Gen. 1952 under 1952§17-91 provides: If a person is injured in one county and dies in another, the coroner of the county where the person dies or where the body is found should take the initiative and make such inquiry as to what caused the death as he considers proper 1952-53 Op. Atty. Gen.58. Pursuant to S.C.Code Ann§17-7-10, the coroner in the county of which the injury was inflicted has no authority to order an autopsy or post mortem examination of a person, if said person is taken out of the county or state for treatment and dies in another county or state 1978 Op. Atty. Gen. No. 78-68 pg. 94. The plaintiff's daughter was alive, in a coma, and fading fast when she arrived at the Richland County hospital. Therefore the Kershaw County coroner, John Fellers, did not have the authority to order the autopsy. It should have been ordered by the Richland County coroner. The autopsy was conducted in Newberry County by Dr. Joel Sexton and was ordered January 26, 2000. This act also was done in conjunction with the false imprisonment and or Kidnapping. Since the kidnapping is a continuous offense and the plaintiff is still imprisoned the statute of limitations would not apply. John Fellers and Cort Korley threatened that they would work with various parties involved to frame the plaintiff even though they

clearly stated they knew the plaintiff was innocent. This is why they violated the law in ordering it. Their intent from the start was to manipulate it's findings in efforts to have the plaintiff kidnapped and falsely imprisoned, under color of law, in violation of the plaintiff's rights to the equal protection of the laws, to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in malicious, criminal acts of gross negligence and deliberate indifference, did solicit false testimony from Cylona, Michael, and Quinta Lee, knowing it was false, so much until they knew that they had to suppress SLED file 55010014 because it produce concrete evidence that it was perjured, in efforts to maliciously have the plaintiff falsely imprisoned, kidnapped, in violation of S.C. Code Ann §16-3-910. This was done in Camden S.C. during the plaintiff's trial held from March 22nd-29th, 2004. This was also done to prevent the plaintiff from getting free to go after evidence that would convict them of their crimes, and prevent civil action from being levied against them. This was done also as a malicious effort to attack the plaintiff behind religious and racial hatred. The prosecution at numerous points during the trial attacked the plaintiff's religious beliefs calling them evil, oppressive, dominating, controlling, and other such derogatory words. They did this in concert with the desire and effort of Cort Korley and John Fellers who called the plaintiff a "nigger cult leader", and "nigger Jim Jones", claiming the plaintiff was endeavoring to start a cult in their county. Again they stated they knew the plaintiff was innocent, but they were going to find a way to make me pay for a crime whether the plaintiff was innocent or not. South Carolina "STILL" Jim Crow justice at it's best. In S.C. Rules Of Evidence Rule 610, pursuant to Religious Belief or Opinion provides:

"Evidence of the belief or opinions of a witness on matters of religion is not admissable for the purpose of showing that by reason of their nature the witness credibility is impaired or enhanced".

The U.S. Constitution prohibits such act if the beliefs of the party in question do not break any established laws (see U.S.C.A. amend(s). 1 and 14). It is a requirement that cannot be deemed to be satisfied by mere notice and or hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony and or evidence known to be perjured and or false, and or unconstitutional. Such a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation Brady v. Maryland supra; United States ex rel Almeida v. Baldi, 195 F2d 815; United States ex rel Thompson v. Dye, 221 F2d 763; Mooney v. Holohan, 294 U.S. 103, 112; Pyle v. Kansas, 317 U.S. 213, 215-216; Alcorta

v. Texas, 355 U.S. 28. The defendants involved knew they were going to do this before they did it. It was a malicious, criminal, premeditated act. They had the power to stop it and not be a part of it. It was Tetterton's duty as an ex-solicitor and ward of the court by the code of professional ethics to take action to prevent this cruel act. Yet he did nothing due to being paid off with misappropriated funds. All the parties listed did this under color of law, in violation of the plaintiff's rights to equal protection of the laws, to impede, hinder, obstruct the due course of justice to have the plaintiff kidnapped!

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in criminal, malicious acts of gross negligence and deliberate indifference, did instruct and or coaxed Michael Lee as to what to say once he took the witness stand to prevent and protect him from placing on the record any statements the would validate he was guilty of Criminal Sexual Conduct 1st degree. This boy, egregiously coaxed by an adult who knew what the elements were, like a pro, this boy strategically avoided giving away the truth of his physical sexual assault upon the plaintiff's child, specifically, the physical battery, aggravated force, and aggravated coercion, which provide the crucial elements for Criminal Sexual Conduct 1st degree. It's obvious he was coaxed and instructed in what to say to prevent testimony of this nature on the record that would require that he be tried as an adult. At his age, and as the man who raised him I know for certain Michael Lee had no knowledge of the aggravated circumstances related to the offense and how to avoid them, but on the witness stand that day he did. This makes the all the parties listed accessories after the fact to Criminal Sexual Conduct pursuant to S.C. Code Ann §16-3-655. The defendants did this in Camden S.C. during the plaintiff's trial March 22nd-29th, 2004, in efforts to have the plaintiff kidnapped, under color of law, in violation of the plaintiff's rights of equal protection of the laws, to prevent the attacker of the plaintiff's children from being prosecuted, to impede, hinder, obstruct, and defeat the due course of justice. They all knew and had a part in it.

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, and did instruct Cylena Lee to file a false report of CSC, supposedly of the plaintiff perpetrating this lie upon her person. This makes the defendants guilty of filing a false report (statute omitted). The girl was a virgin when last in the plaintiff's care. This is also indicated in the Baptist Hospital records. This is another reason they suppressed the SLED file No. 55010014. The Florence Sheriff Dept. records were there of her making this false claim and there being no evidence of such found. It is obvious since she was the one first said to be the one home the time the fake conjured up crime occurred, their desire was to make her look like a victim to manipulate the jury and play upon their sympathy in order to give her more credibility at the plaintiff's trial as she gave her perjured testimony. This was done in Camden S.C. the week of March 22nd-29th, 2004, and design to enhance the plot of

kidnapping and or false imprisonment. This was also done to prevent the plaintiff from getting free to go after evidence that proved their guilt, have them jailed and levy civil action against them. This was also done to prevent the plaintiff from taking legal action against Sylvia, Michael, and her other close relatives, in collaboration with the corrupt officials, under color of law, in violation of the plaintiff's rights to equal protection of the laws, to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above, did conspire, with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glenn Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in Camden S.C. the conspiracy began June 25, 2001, was carried over to Marion County, Marion S.C. in their placing the plaintiff's child with Sylvia Lee, from on or about January 2003 through the time the 2 counts of neglect was dismissed against Sylvia Lee, in violation of the court order issued in the Family Court, in case No. 01-DR-28-0065, in acts of Criminal Unlawful Neglect pursuant to S.C. Code Ann §20-7-50, which was an act associated with the kidnapping pursuant to S.C. Code Ann §16-3-910, as part of that deal to solicit false testimony to have the plaintiff unjustly, falsely, convicted in his trial conducted March 22, 2004. This was done under color of law, in violation of the plaintiff's rights to equal protection of the laws, also in efforts to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above did conspire with each other and Dr. Joel Sexton, Janice Ross (his assistant), John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, did in malicious, criminal acts of gross negligence and deliberate indifference, worked in concert with each other during and or after the fact, to prevent the pathologists who conducted the autopsy, to purposely, maliciously, not put in writing and or document signs of the sexual assault that Michael Lee perpetrated upon the plaintiff's minor child, to include purposely not documenting in the autopsy whether the plaintiff's 11 year old daughter possessed a vaginal hymen, which would serve to validate proof as to whether or not Michael Lee repeatedly raped her at every opportunity he got. The plaintiff's daughter was 11 years old. She had to have a vaginal hymen. Absence of such is clear proof of the rapes perpetrated against her. This was done as part of the under the table deal to protect Michael Lee from prosecution for his crimes of Criminal Sexual Conduct, also as a reward to solicit perjured testimony to have the plaintiff kidnapped and falsely imprisoned. This act is **part of the conspiracy to commit kidnapping**, and the kidnapping itself. It occurred in the autopsy done in Newberry County ordered by Fellers, conducted by Sexton on January 26, 2000. The pathologist inadvertently place on the record during the plaintiff's trial, testimony that clearly show he knew of the sexual assault. but purposely, in acts of gross negligence, maliciously, in collaboration with the corrupt officials did not document this crucial evidence. This present an additional motive as to why they had to falsify the the plaintiff's trial transcript. It was in effort to protect the crooked pathologist

who they knew falsified the autopsy to aid their plan, scheme, and perverted design. Even A.C., the plaintiff's remaining minor child, told them that Michael sexually assaulted her. The laws of South Carolina are clear and certain. By what's outlined in the statutes of the various sex crimes, such as Incest and Criminal Sexual Conduct, that no individual who commit or is guilty of such crimes, are not allowed to be in the vicinity and or care of other children, especially if it's one he already sexually assaulted. This is pure gross negligence, criminal in nature, and would expose the plaintiff's child to clear imminent and present danger of possible future sexual assault. Yet the defendants and parties involved in their lawlessness and blatant disregard for my child's safety and laws of this state, to aid, encourage, abet **Sylvia Lee in stealing the plaintiff's assets**, get the children, and basically push off her 2 counts of neglect for her part on coaxing the children into giving perjured testimony at the plaintiff's trial, behind religious and racial hatred, these snakes and rats, placed Michael Lee in the same home with my child, exposing her to danger, by not documenting the sexual assault, and whether or not she had a vaginal hymen present. Mr. Brunson was at the various hearings and trial. He married **Sylvia Lee**, in their union benefited from the misappropriated funds, knew of the acts of sexual assault upon the plaintiff's child, yet did nor said nothing as they place the plaintiff's child and Michael Lee in a home under his authority in Marion S.C. area. The evidence to prove this and that it was done in violation of the court order, would be the kids school records. The school records will show the names of the parents and or guardians, the place of residence, and when they arrived there. Compare this to the court order and the date the charges were dismissed and it will show the violation. It was the prosecutors duty to go after any and all ~~evidence~~ of any crimes and not arbitrarily for ulterior motives be selective and manipulative. It was the social workers duty, in the interest of the children involved, to ensure that any evidence of sexual assault against a child be documented. It was William Tetterton's duty as a ward of the court and ex-solicitor to see that all evidence of any alleged crimes related to the cases, for which he was even hired as counsel, by the code of professional ethics to ensure all evidence of the crimes were documented. It was Sylvia's, Cylena's, and the other defendants duty as parent and or close ~~relatives~~ to ensure this was done or at least make an attempt to ~~notify authorities~~ who may have had the power to correct the injustice of this deficiency. Yet they all did nothing except make themselves a part of the crimes listed in this document, collaborating with the corrupt officials, under color of law, on violation of the plaintiff's right to equal protection of the laws, to impede, hinder, obstruct, or defeat the due course of justice. This was also done so there would be nothing documented by record producing evidence that would prevent Michael Lee from being placed in care with the plaintiff's child. Without there being anything documented the parties would lie, and falsely claim they were ignorant of the facts, so as to give such a reason why they did not pursue any criminal action against Michael Lee. Korley, Thomley, Fellers, Meadors, Giese, Moake, and the other officials would not be compelled by duty to act, due to there not being tangible evidence documented requiring them to

act.

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in malicious, criminal acts of gross negligence and deliberate indifference, in Camden S.C., March 22nd-29th, 2004, at the plaintiff's trial, to produce falsified evidence in the form of a statement said to have been given by the plaintiff, in efforts to have the plaintiff kidnapped and then later assassinated as previously outlined. This supposed statement, criminal produce, in Sham Legal Process(statute omitted), was never made by the plaintiff, never signed by the plaintiff, one foreign, mysteriously produced like "Adam's house cat", for which the plaintiff was never given a copy of the time it was supposedly made because the plaintiff never made it. No signed waiver of Miranda rights was produced, yet they used this falsified evidence at the plaintiff's trial, to cross-examine the plaintiff on the witness stand, to make the plaintiff look like a liar, to destroy the plaintiff's credibility before the jury, in order that the plaintiff be further kidnapped!, and falsely convicted. This was done in violation of S.C.Code Ann§§18-15-50; S.C.Code Ann§19-1-80; S.C.Code Ann§19-1-90; State v. Scott, 237 S.E.2d 886; State v. Easler, 471 S.E.2d 207; State v. Henderson, 334 S.E.2d 517; State v. Greene, 499 S.E.2d 817. This document is "fruit of a poisonous tree", compromises the whole proceedings, and should have never been allowed State v. Cox, 335 S.E.2d 809; State v. McLaughlin, 413 S.E.2d 319 at 321; State v. Torrence, 406 S.E.2d 315 at 319, 326-328. This was a malicious act, purposely done in defiance to known law, under color of law, in violation of the plaintiff's right to equal protection of the laws, to impede, hinder, obstruct, or defeat the due course of justice.

The defendants named above did conspire with each other and John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glenn Rodgers, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, in Camden S.C., from February 2000 until this present date, in malicious, criminal acts of gross negligence and deliberate indifference, in acts of kidnapping and false imprisonment, in cases G646899, 900, and 901 of the Court Of General Sessions, detained and commenced with a trial against the plaintiff, in acts of prosecutorial misconduct, knowing fully well they did not have the authority and or Subject Matter Jurisdiction, due to they being beyond the (180) day time frame allotted by the S.C. Constitution and S.C. Rules of Court, because they failed to obtain a "[W]ritten" order of continuance pursuant to the constitutional provisions, to continue the cause.

In pursuant to Article V§4 of the S.C. Constitution:

"IT IS ORDERED that all criminal cases in the state of South Carolina shall be disposed of within (180) days from the date of the defendant's arrest. Provided, however, that the Circuit Court may continue the criminal case beyond (180) days by "written"(emphasis added) order if the court determines that exceptional circumstances exist in the case. This order does not create or define a right of a defendant to a speedy trial"(see

This has nothing to do with a speedy trial issue. It's simply a matter of state and S.C. Constitutional law. S.C.Code Ann§1-7-730 and S.C.Code Ann§17-13-150 require that the prosecuting body fulfill and see that all the duties, requirements, and rules of criminal procedure, and the S.C. Constitution are adhered to and completed within the courts.

The provisions of the S.C. Constitution shall be taken, deemed, and construed to be mandatory and or prohibitory, and not merely directory, except where made directory or permissive by its own terms. "Shall" is mandatory. Words must be given their plain meaning unless something in the [t]ext require a different interpretation. Robinson v. Shell Oil Co., 117 S.Ct. 843, 846(1991); Article 12§2 S.C.Const.; United States v. Meyers, 106 F3d 936, 941(C.A.10 1997); Seckinger v. The Vessel Excalibur, 483 S.R.2d 775 (S.C.App.1997); United States v. Ron Pair Enterprises Inc., 109 S.Ct. 1026, 1030(1989); S.C.Const. Article 1§23; State v. Carson, 317 S.C.430, 431, 454 S.E.2d 888, 889(1995).

Since there was no "WRITTEN" order of continuance issued within the (180) time frame required by law for the murder or neglect charges, and the plaintiff wrote the Kershaw County Clerk of Court to check, the trial court lacked Subject Matter Jurisdiction and a trial should have never taken place and the plaintiff should be free today. The plaintiff was arrested February 2000. That gave the prosecution until August 2000 to try the case. Yet the plaintiff was not brought to trial until March 2004, 4 years past the time frame allotted by law. The parties employed by the Dept. Of Social Services, to aid in the scheme and plot of kidnapping, unjustly kept the 2 counts of neglect levied against the plaintiff in place knowing fully well once the plaintiff was unjustly indicted for murder, they never intended to pursue the neglect any further. The bond for the 2 counts of neglect was unjustly, excessively set at \$250,000.00, 2½ times higher than the murder bond, in violation of the plaintiff's 8th Amendment rights. The S.C. Constitution mandate by law the the cases were suppose to have been resolved within (180) days in pursuant to Article V§4. It was their duty and responsibility that before that 180 day period expired, to dismiss the charges or get before a judge to obtain a "written" order of continuance. This was never done in violation of established law, knowingly, maliciously, to prevent the plaintiff from making bail to go after evidence of their crimes to avoid prosecution and civil action being levied against them, in Guantonomo Bay tactics, in blatant defiance of law, under color of law, in violation of the plaintiff's rights to equal protection of the laws, in efforts to impede, hinder, obstruct, or defeat the due course of justice.

The defendants named above did conspire with each other and Dr. Joel Sexton, Janice Ross?(his assistant), John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodgers, Alma Parrish, John Meadors, Mr.Giese, and Mr.Moake, in Camden S.C., from February 2000 until this present date, in acts of kidnapping and false imprisonment, in malicious criminal acts of gross negligence and deliberate

indifference, did commit Sham Legal Process in violation of South Carolina Code of Laws (statute omitted). It is perspicuous by the aforementioned issues of concern that the plaintiff should have never been made to endure a cruel, wicked, evil, lawless, unjust trial for murder, especially one that does not exist which resulted in permanent life time injuries and disability to the plaintiff. This case will reveal that the plaintiff child died of natural causes and this was criminally concealed or suppressed in the autopsy, behind the criminal deeds of under the cover, behind the sheets, evil Khu Khlux Khlanmen, a wicked criminal attempt to attack a man behind religious and racial hatred. State and federal statutes make it criminal to act willfully under color of law to deprive persons of rights protected by the U.S. Constitution and laws of the United States and encompasses rights protected by the Due Process Clause of the 14th Amendment United States v. Lanier, U.S. Tenn. 1997, 117 S.Ct. 1219, 520 U.S. 259, 137 L.Ed.2d 432 on remand 114 F3d 84 on remand 123 F3d 945; Pickings v. Penn. R. Co., C.C.A. 3(P.A.) 1945, 151 F2d 240, rehearing denied 152 F2d 753; McShane v. Moldovan, C.A. Mich. 1949, 172 F2d 1016. Attacking the plaintiff behind such religious and racial hatred is an action that must not go unanswered by the courts. The plaintiff's religious beliefs may have been strange. They may have been unpopular, but they did not break any laws. The plaintiff was clearly unjustly punished under color of law for the free exercise thereof, rights, immunities, and privileges secured by the laws of the United States. Fiorino v. Turner, D.C. Mass. 1979, 476 F.Supp. 962; Williams v. United States, C.A. 5(FLA.) 1950, 179 F2d 656 cert. granted 71 S.Ct. 70, 340 U.S. 850, 95 L.Ed. 622 aff'd 71 S.Ct. 341 U.S. 97, 95 L.Ed. 774

Under this section declaring that whoever, under the color of any law, willfully subjects an inhabitant of "any state" to deprivation of any rights or immunities secured by U.S.C.A. Const. Amend. 14 or laws of the United States, shall be subject to state penalty, the rights referred to include the right to be tried by a legally constituted court, right not to be deprived of liberty without and or by corrupted Due Process, and the right not to be arrested by an officer acting arbitrarily without cause or for an ulterior purpose Brown v. United States, C.A. 6 (Tenn.) 1953, 204 F2d 247.

When an officer, knowing a warrant to be illegal, groundless, or fictitious, willfully uses his authority and or instrument of arrest and incarcerate an accused, such action is deprivation of the rights of the accused to liberty and a violation of this section and neither threat, nor violence is a necessary ingredient of the offense under such circumstances. United States v. Ramey, C.A. 4 (W.VA.) 1964 336 F2d 512; cert denied 85 S.Ct. 649, 379 U.S. 972, 13 L.Ed.2d 564. These actions presented, done under color of law, serve to deny the plaintiff equal protection of the laws against unjust prosecution, to impede, hinder, obstruct, or defeat the due course of justice, and is an act of kidnapping and false imprisonment.

The defendants named above did conspire with each other and Dr. Joel Sexton, Janice Ross, ~~John Fellers~~, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, ~~Glen Rodgers~~, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake,

in criminal, malicious acts of gross negligence and deliberate indifference, did commit Conspiracy to Commit Murder, and Assault With Intent To Kill (2 counts) pursuant to S.C. Code Ann §16-13-230; S.C. Code Ann §16-1-40; S.C. Code Ann §16-1-55; S.C. Code Ann §16-17-722(b). This occurred in Lee County while the plaintiff was housed at Lee County Correctional Center, in Bishopville S.C., in April 2004, and at Lieber Correction Inst., in Dorchester County May and or June of 2004, and the possibility exist the conspiracy is still in action awaiting the right opportunity to strike. Once the plaintiff was kidnapped, unjustly convicted and imprisoned, Cylena, Sylvia, Michael, Gert, Herbert Lee, and the Abrams, paid for hire and or contracted from the outside, other inmates to kill and or assassinate the plaintiff while incarcerated. Their plan, scheme, or attempt, was to make it look like the plaintiff was killed by a simple prison altercation that accidentally ended up in my death. People get kill in prison all the time. This was done to end my appeal process and prevent the plaintiff from getting free to go after evidence to criminally convict them and prevent civil action from being levied against them. Witness(es) tipped the plaintiff off to the assassination plot. The witness(es) told the plaintiff, "Priest, there's a hit out on you". What made the plaintiff know the threat was real, and not something conjured up was other information this person told the plaintiff. The plaintiff stayed to himself. I told or talked to no one about my case or conviction. I wasn't at Lee but for under 2 weeks then. The witness had specified personal information about me my family and my trial proceedings, that no one there should have known, was not in my S.C.D.C records, that was not noted in any media of any kind that only my immediate ex-family would or could have known. He knew the plaintiff had a scare on the outside of his left wrist independent of the injuries that resulted from my false imprisonment. He told a story, and or information, that was a variation of the lie Cylena Lee testified on the witness stand at the plaintiff's trial. Cylena Lee testified at the plaintiff's trial that the plaintiff would beat his deceased daughter with a stick, and always made her watch when this was done, that I made her watch and no one else every time this was done. This lie and perjured testimony was no in the papers or on the news in any fashion. The defendants gave the contracted assassins a variation of this lie told by Cylena Lee thus clearly tying her to the would be assassins. Nevertheless, the defendants even lied to the contracted assassins. The defendants attempted to make the plaintiff into a child molester. They lied to the assassins and did not tell the would be assassins that the plaintiff was convicted of murder. This also proves that had no knowledge of my case from the media, because if they did, they would have known the plaintiff was convicted for murder and not child molestation. They said the plaintiff was convicted for child molestation, because everybody knows child molesters don't do well in prison. Inmates would consider it a badge of honor to kill a child molester. Now the lie, story, and perjured testimony changes and instead of Cylena allegedly being made to watch me as I supposedly disciplined Korresha, now she in collaboration with the other defendants tell the assassins I would sexually assault "ALL" of my children, boys and girls alike, since they were all toddlers, and as I supposedly assaulted each child, male and female alike, I would make all the other children sit and watch

as I took turns sexually assaulting each child, every time I assaulted them. Gee!, by the God I serve! If I was one of the assassins that would have incited me to anger too. Everytime I think about these devils and these dogs, these "so-called" defendants, and what they did to my family the rage at times seems immeasurable. This child was one of the most sweetest young ladies I knew, that walked the planet. Now by their evils this woman foolishly made herself a part of a genuine murder plot behind a bogus homicide these devils conjured up. Now I got to put this girl who was once the delight of her father's eyes in jail. The people whom I once loved lives are now ruined as you ruined mine. This nightmare will never be over for me. Every day that I live I will be forced to live it knowing I had to put the most precious people who were once in my life in jail. Behind what you people did I will never know a day of happiness. I will hunt you devils down with the law until the last of my dying days until you are brought to justice. There is no place you can hide. **No rock you can crawl under.** I will not physical touch you. The **trap** and snare you set for me, will now be turned on you all, and I will see you imprisoned for the remainder of your days.

Referring back to this issue. This was a variation of the story Cylena told at trial tying her to the assassins. You had to be there to have known of it. Since the would be assassins came with this information, it made me know the threat was real. The plaintiff then asked the informant, "Who ordered and or contracted the hit?" The informant said, "Cylena and her peoples". Even though the other defendants may not have had direct contact in orchestrating the actual "hit". Fellers, Korley, Thomley, Meadors, Giese, Moake, and Tetterton, did have the influence and or clout to ensure that the plaintiff was sent to one of the worst institutions for violence in the state of South Carolina. With all the criminal acts perpetrated by them against the plaintiff in the courts, in their religious and **racial hatred, and eminent risk of their imprisonment if the plaintiff ever get released, they do have motive.** Shortly after the plaintiff was notified of the "hit", at Lee, that was **scheduled against him,** the plaintiff was mysteriously moved from Lee C.I. to Lieber C.I.. The plaintiff thought it was a godsend. Yet inside I knew if the threat was genuine no matter where I go it would follow me. I asked the case worker at Lieber why was I moved. The case worker said there was a "red flag" on my file. I asked her, "what did that mean?" It turns out that one of Cylena's relatives was employed at the Lee County facility. This appears to be the source of the assassins connection from the outside. The case worker would not tell me the name of the employee, but what she did tell me is that the person knew me even though I did not know him, the person said some horrific thing about me, and gave them the impression he or she could not control their rage if we both remained at Lee. The plaintiff contends this person whoever it may be, already contracted the "hit", and then placed information in his S.C.D.C. file to divert suspicion and make it appear they were being open if somehow the "hit" failed and he or she was exposed. This person did not expect S.C.D.C. to move as fast as they did, and before the "hit" was completed I was inadvertently move to early.

Approximately a month passed. One day the plaintiff

noticed an inmate got transferred, who was at Lee Correctional Center the short time the plaintiff was there. The plaintiff came into the cafeteria and over heard this transferred inmate talking about me, the alleged child molestation acts, and over heard his efforts to get addition help to fulfill the contracted "hit". Since the plaintiff was not a small guy, I guess they got a little scared when they realized my size, figuring one of them could not do the job alone. The plaintiff then brought the knowledge of the plot and what I overheard to the attention of the prison chaplain. He brought it to the attention of the warden. The warden brought it to the attention of an investigator, and then the incident and investigation was documented in the plaintiff's S.C.D.C. file. The plaintiff did not give the investigator the name of the informant. I was dealing with people who had an inside connection in S.C.D.C., and the life of this informant would have been placed in instant danger of assassination as my life was. The informant and other witnesses will be called to testify once the proceedings are confirmed in the court.

Nonetheless, by the accomplice liability doctrine "the hand of one is the hand of all". The plaintiff will not give the name of the confidential informant until this case is confirmed in the court, and the plaintiff can guarantee the he be moved out of harms way to avoid these devils trying to kill him too. This is a cruel, malicious criminal act, done in collaboration with the corrupt officials, under color of law, in violation of the plaintiff's rights to equal protection of the laws, in efforts to impede, hinder, obstruct, and defeat the due course of justice.

The defendants named above did conspire with each other and Dr. Joel Sexton, Janice Ross, John Fellers, Cort Korley, David Thomley, Jean Cato, Pam Company, Peggy Knox, Ann Millikin, Glen Rodger, Alma Parrish, John Meadors, Mr. Giese, and Mr. Moake, besides the Conspiracy to Commit Murder pursuant to S.C. Code Ann§16-15-20, did in malicious, criminal acts of gross negligence and deliberate indifference, did inflict pain upon the plaintiff as a pretrial detainee, in Camden S.C. from February 2000 until April of 2004, in violation of the plaintiff 8th and 14th amendment rights of the U.S. Constitution and the laws of Due Process. By Due Process law and the U.S. Constitution, a pretrial detainee [c]annot be subject to punishment of any description and or of any kind. City v. Revere, 463 U.S. at 244, 103 S.Ct. at 2983; Martin v. Gentile, 349 F2d 863, 870(4th Cir.1988) citing Bell v. Wolfish, 441 U.S. at 538-540, 99 S.Ct. at 1873-75. The defendants in acts of gross negligence and deliberate indifference, and committing acts of breaking the law, inflicted immeasurable psychological pain, suffering, as well as mental and emotional distress on the plaintiff as a pretrial detainee. It is well established that the unjust affliction of psychological pain and mental as well as emotional distress on the plaintiff as a pretrial detainee, and or negligence are cognizable and compensable under S.C. Tort Claim Act and or under§1983, even in absence of physical injury. Carey v. Piphus, 435 U.S. 247, 264, 98 S.Ct. 1042, 55 L.Ed.2d 252(1978); see Gray v. Spillman, 925 F2d 90, 94(4th Cir.1999)("noting that even in the absence of physical injury plaintiff may prove actual damages under§1983" based on

injuries such as "personal humiliation", "mental anguish", and "mental suffering") (quoting Memphis Community School District v. Stachura, 477 U.S. 299, 307, 106 S.Ct. 2537, 91 L.Ed.2d 249 (1986)).

In two opinions and a series of orders, the district court enjoined numerous MCC practices and conditions. With respect to pretrial detainees, the court held that because they are presumed to be innocent and held only to ensure their presence at trial "any deprivation or restriction***rights beyond those which are necessary for confinement "alone", must be justified by compelling necessity". United States ex rel Wolfish v. Levi, 439 F.Supp. 114, 124 (1977) quoting Detainees Of Brooklyn House Of Detention v. Malcolm, 520 F.2d 392, 397 (C.A.2 1975). The defendants must make a show of compelling necessity. You don't jail a man to rob him and conspire to have him killed. Qualified immunity is available to government officials and or witnesses who are sued for damages under S.C. Tort and §1983 for their performance of discretionary functions unless unlawfulness of their acts or omissions were apparent in light of pre-existing state and federal laws 42 U.S.C.A. §1983 Arnold v. South Carolina Dept. Of Corrections, 843 F.Supp. 110.

Insomuch, these deliberate and malicious acts perpetrated against the plaintiff as a pretrial detainee nearly drove the plaintiff out of his mind. The plaintiff suffers now from ~~insomnia~~ *even until this very day*, and cannot sleep without medication, due to the constant worry and anxiety to his wits ~~and, wondering whether the plaintiff's child is safe, whether or not she's been repeatedly raped~~, due to the defendant's criminal acts. Even until this present ~~date~~ *Michael Lee has not prosecuted* for the repeated rape and sexual assault upon the plaintiff's children. Also, Sylvia Lee has not ~~been prosecuted~~ for her stealing of the plaintiff's assets. ~~These acts were committed by the defendants and parties listed, and were meant and designed to punish the plaintiff way before he was ever convicted of a crime behind religious and racial hatred. They were meant and designed to inflict immeasurable psychological pain, distress, anguish, and mental suffering on the plaintiff as a pretrial detainee. Psychologist have recently completed a study on the prisoners held at Guantonomo Bay and Abu-Grave. Their finding were that psychological and mental torture was just as painful, just as long term damaging as physical pain.~~

In regard to the defendants and other parties conspiring, counselling, aiding, abetting, etc., with the prosecuting agents and pathologist in preventing documentation of the crimes. In order to state a cognizable claim for mal-practice, a plaintiff must allege acts or omissions sufficiently harmful to evidence deliberate indifference to a serious medical need and or requirement. The Court of Appeal for the 4th circuit has also considered this issue in the case of Miltier v. Beorn, 896 F.2d 848 (4th Cir. 1990). In that case the court noted that the treatment, omission, and or act, must be so grossly incompetent, negligent, inadequate, or excessive as to "shock the conscience", or to be intolerable to fundamental fairness. Estelle v. Gamble, 429 U.S. 97, 107 (1976); Farmer v. Brennan, 511 U.S. 825, 837 (1994).

The District Court relied upon the "presumption of

innocence" as the source of the detainee's substantial rights to be free from conditions of confinement that are not justifiable by compelling necessity 573 F.2d at 124 Shapiro v. Thompson, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600(1996); Tate v. Short, 401 U.S. 395, 91 S.Ct. 668, 28 L.Ed.2d 130(1971). The Court set provisions to determine whether an act amounts to punishment in one form or the other, the court described the test traditionally applied to determine whether a governmental act is punitive in nature:

"Whether the sanction involves an affirmative disability or restraint, whether it has been historically regarded as punishment, whether it come into play only on a finding of scienter, whether its operation will promote the traditional aims of punishment-retribution and deterrence, whether the behavior to which it implies is already a crime, whether an alternative purpose to which it may be rationally is assignable for it, and whether it appears excessive to the relation of the alternative purpose assigned are all relevant to the inquiry and may often point in a specific direction Kennedy v. Mendoza-Martin supra, 372 U.S. at 168, 83 S.Ct. at 567; Fleming v. Nestor, 363 U.S. 603, 613-614, 80 S.Ct. 1367, 1374-1375, 4 L.Ed.2d 1435(1960) cf. Deveau v. Braisted, 363 U.S. 144, 160, 80 S.Ct. 1146, 1154, 4 L.Ed.2d 1109(1960).

For these devils involved, to include the pathologist and corrupt officials, to take part in various capacities to the aforementioned crimes, to include Conspiracy to Commit Murder, Assault With Intent to Kill, Criminal Sexual Conduct, to interfere with, impede, hinder, and obstruct justice, in acts of unauthorized mutilation of the remains of an 11 year old child, and hide the repeated rape and sexual assault perpetrated upon that 11 year old child and her 10 year old sibling, and allow the perpetrator of the crime to again gain repeated and continual access to the victim "SHOCKS THE CONSCIENCE". Then to allow these criminal acts, these gross acts of negligence and deliberate indifference, to be used as a means to inflict punishment, distress and mental anguish on the plaintiff as a pre-trial detainee defy fundamental fairness. The defendants are not immune.

These were cruel violent acts perpetrated, initiated and willfully intended to annihilate and destroy the plaintiff. The acts committed were maliciously done with full intent to oppress, defame, slander, deform, and destroy the character of, and destroy the plaintiff for his religious beliefs which were strange and unpopular to the parties involved. They used repeated acts of defraudment, treachery, thievery, falsifying evidence, perjury, prosecutorial misconduct, suppressing evidence favorable to and that proved my innocence, and every wicked, wanton act that could be possibly conjured up under the sun, to include attempting and or conspiring to have the plaintiff murdered while falsely imprisoned to cover up their lawlessness, to prevent prosecution and or damages from being levied against them upon the plaintiff's release. They made every effort to maliciously, wrongfully and purposefully, inflict immeasurable pain, suffering, mental anguish, shame, degradation, and degeneration upon my soul, as well as eliminate every source of growth and or

productivity in life the plaintiff owned and or produced. These acts of lawlessness expose the plaintiff's remaining minor child to continuous risk of rape and sexual assault from a psychotic individual, who would do anything to conceal and hide his evils from the scrutiny of the public eye, and the involved parties protected and aided him in doing so, to include having the plaintiff falsely imprisoned, kidnapped!, to protect themselves.

The plaintiff was a Nazarite Priest, with a vow unto death of purity, separation, and consecration, like Samuel, Daniel, Samson, John The Baptist, and the Apostle Paul, found in the Book Of Numbers, a Messianic Jew, a vow unto death of not allowing his hair to be touched and or cut, a vow of not allowing myself to be polluted by being placed among prison population, with the wicked, perverted and abased and they all knew this. By my faith I was required to be willing to die before I allowed myself to be violated. All indication by their acts of defraudment, treachery, and cruel misconduct at breaking the laws of this state amount to this being their specific intent. Their attempt was to force the plaintiff to take his life, which attempt the plaintiff did make. This adds to the list of their numerous, negligent, criminal acts another count of Conspiracy to commit murder and Assault With Intent To Kill. If it were not for the guard finding the plaintiff before the plaintiff completed the act, the plaintiff would be dead today and the true perpetrator of my child's death would have gone unpunished. The plaintiff suffered and was unjustly made to endure irrefutable, irrevocable, irreparable damage to his hands, because he slit his wrist to keep his religious vow and behind the mental distress and psychological anguish. It's painful and difficult for the plaintiff to write, but in my righteous indignation against the injustice, tyranny, and oppression perpetrated against my soul, I will endure the pain and difficulty. I can't open tightly closed jars, or twist open objects without extreme difficulty or pain. Both my hands stay numb all the time, and I cannot hold objects in my hand for a prolong period of time without being in pain. It hurts to even clip my fingernails due to the extreme irreversible nerve damage that not even surgery could repair. I'm permanently scared as a daily reminder of my mental anguish and physical pain. I am permanently disabled due to their negligence. The plaintiff lost his home, land, cars, credit cards, and every single possession I owned in the world was in that house which was sold at auction. There was revenue that was lost that would have been made from the plaintiff's writings, a full length movie, a mini series, a full length animated feature like "The Lion King" done by Disney, over 100 pieces of music written by the plaintiff, most forever lost when my property was unjustly taken and auctioned. All was about to be placed on the market just before these devils criminally, unjustly, attacked me, but due to their negligence never made it. The plaintiff was embarking on a career as a writer, a scene play writer, song writer. Now with my hands being destroyed and or ruined, and the amount of difficulty and pain now involved in that enterprise that dream and vocation may now be ended, but at least most certainly hindered and or hampered. These materials never made it to the prospective designated companies and or market. There's no true way to determine the maximum income that was lost, but if we "goggle", it will give the average figures ventures on this level would bring. A successful movie and animated feature on the level of that which

was lost by the plaintiff can gross over 300 million dollars, and I had 2 such movies and an animated feature. This does not take into account the over 100 pieces of music or any other work that could have been written the time I remained Kidnapped. That places the plaintiff's potential losses well over a billion dollars.

The plaintiff had to undergo painful, tedious, physical therapy just to be able to get to the point of beginning to write again, all due to their negligence and evil. By what's right in the sight of God, these people need to be held in account for what they did. A clear message needs to be sent to this state, and any crooked corrupt official, who feels in his or her capacity they can act lawlessly under the color and guise of law, in criminal acts against the citizens of this state and country.

These in their ignorance, and cruel malicious indifference, towards what's right and justice, feel just because they are employees of the state, that they are above the law. They feel they can manipulate and terrorize law-abiding citizens to fulfil their own twisted, perverted means, fantasies and delusions of grandeur, deeming themselves God, judge, and jury, breaking every law imaginable to falsely imprison, kidnap, and bring someone to their perverted sense of corrupt justice. They made a farce and mockery of our judicial system, and what's right before God and His Holy Angels, they must not go unpunished. It could have just as easily been your child, your son, your daughter, your brother, father, or mother. It could have been you they did this to. Because they done these acts without the slightest bit of remorse or conscience, God knows how many others they've done this to. Somebody needs to have the courage and Love of God to put a stop to it. Let it be done here. Let this damnable breach be repaired, right now, in this court. For the sake of justice and fairness to the citizens of this state, and even this country, bringing these snakes to account must not be neglected. These people are a form of terrorist; modern day indigenous terrorist rooted deeply in our government, state judicial system and society. They are terrorist who by their nefarious intentions and corrupt enterprise decide to hold hostage and blow up like some fanatic suicide bomber an individual's life. A life they highjacked, captured by force, kidnapped, and like some jetliner ran it into the World Trade Center, in the form of our Constitution, the inalienable rights of all citizens, and the integrity of our judiciary. This must not be allowed! Someone needs to teach these devils they are not above the law, and their criminal acts and negligence will not be tolerated. These people are no better than "Al Qaeda" and the corrupt regimes that permeate the Islamic Peninsula, and those ignorant Islamic fundamentalist whose only goal is to plant the seeds of decay, death, and destruction of our judicial system. They must be made to answer for their crimes, carving up like a pig, desecrating the dead remains of an 11 year old african american child behind religious and racial hatred.

Insomuch, due to their negligence, my child, my beloved child,...I missed half of her life. The times a young girl really needs her father present, encouraging her, supporting her, guiding her, teaching her, loving and nurturing her in her preteen and teen years. These are the times where she would have

faced her toughest challenges. She would have faced the toughest decisions related to morality, her religious beliefs, and the various other aspects of human life. Yet in their evil and wickedness they took my being there from me. They took my being there from her. It can never be returned or given back to either one of us. Her graduation; her sweet sixteen birthday; her first day of high school; her first crush; her first date; training and teaching her in sports, academics; teaching her to drive; taking her to concert or recitals; teaching her music by instrument or chorus; laughing together during the victories and joys of those years; crying together during the seeming defeats or struggles of those years; the time a father becomes a friend to his daughter and not just a father, I weep as I write, all have been taken from me, taken from her, never to return, never to be given back. They barred me unjustly by the use of falsified and court order from even writing her, even letting her know I'm thinking about her, missing her, and praying for her. I weep. You have no idea the magnitude and nature of the hurt, pain and suffering that by their evils they've caused me, inflicted upon my soul by their criminal deeds. Psychologists have determined that the human personality changes gradually every 6 months. Now she who is my child has become a stranger, and the man and father who loved, nurtured, and raised her has now become a fading shadow, a distant long lost and forgotten memory. No amount of money in the world would be enough to repair the amount of damage and harm these snakes caused my life, or be equivalent to what I lost. There are no women in the history of my life that I loved more than the 2 women, once of my household, who shared a portion of my meat, now lost, gone! And I'm forced and made to destroy them, jail them, for their part in this evil deception. A man who loves God, must exact justice and what's right even if it's against those of his own household who would pervert such justice. If I place them before the righteousness of God then I failed as a servant of God. The thought of what must be done consumes me with sorrow. My only hope and comfort may be that the amount given be of such a magnitude, and of such a nature that it will send a clear message to all those perverted souls, who would under the color of law, seek to repeat such evils and lawlessness against the citizens of our state, and or country, whose democracy grant them the right to be secure in their homes, and in the free exercise of their religious beliefs without fear of injustice or unwarranted attack. The parties involved in these injustices have driven the plaintiff to the point of death and or insanity a billion times over, The plaintiff until this day, still don't understand how in the world he did not go totally out of his mind, or how he survived these cruel ruthless acts perpetrated by the parties in their lawlessness. Surely there is a God, and somehow by His love, grace and mercy He sustained me. By the time I see my daughter she will be a grown woman who I won't know. Their money means nothing to me, it's blood money! You could never put a price on what I've lost, on what they stole from me. My only hope is somehow I'll be able to take what's given, by God's mercy, and use it for the total betterment of mankind to end some of the pain and suffering that presently presents itself in this seemingly, decaying, uncaring world that others are experiencing. Due to the irreparable damage done to my hands and wrist, as well as old and new spiritual wounds, it took me an extremely long time to prepare this document. It was first

written in pain, then the court told me I had to make the claim more definite. The psychological pain made it impossible for me to do. I had to dictate in tears as someone typed it for me. It causes me great mental and physical pain. Nevertheless in it's completion my soul is satisfied. Maybe, even though, in my soul the plaintiff knows he'll never be completely healed from the many hurts and pains, but maybe in my affliction I could end someone else's suffering. If so, let God's will be done and as Job said in the old testament, "though He slay me, yet will I trust Him".

In regard to tolling the statute of limitations. The plaintiff is kidnapped. The issues presented are connected to that kidnapping. Kidnapping is a continuous offense. It commences from the time the plaintiff is wrongfully imprisoned and does not stop until the time freedom is restored State v. Sutton supra. Also the plaintiff suffered a disability that resulted from the negligent acts of the parties involved. The plaintiff was not able to prepare documents of this nature until on or about December 2005. The statute of limitations would not commence to run against a plaintiff laboring under this present disability until such disability is removed Fricks v. Lewis, 26 S.C. 237, 1 S.E. 884(1887); Rowe v. Shreiber, 139 F3d 1381, 63 Cr.L. 201(11th Cir.1998). Therefore the plaintiff is well within the boundaries of the statute of limitations to place forth claims of negligence, deliberate indifference, as well as psychological and or physical pain, also as it relates to distress and mental anguish. In order to recover damages for distress and mental anguish, and emotional injury suffered while in custody a plaintiff must first establish physical injury. The loss of monies, home property, crimes against myself and my children, damage to my hands, and the rest establish tangible and physical injury requiring payment for damages. see 42 U.S.C. §1997(e)(e) Henderson v. Sheahan, 196 F3d 839, 848-849 (7th Cir.2000). The plaintiff met the burden. Compensatory damages for mental and emotional distress causing physical injury, as it relate to negligence are proper under S.C. Tort Claim Act and or under §1983 Daskalea v. District Of Columbia, 227 F3d 443, 444 (D.C.Cir.2000). Pursuant to Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413(Ct.App.2003), there can be no misunderstanding as to whether the plaintiff has a claim under the S.C. Tort Claim Act. The validity of the claim is clear.

The plaintiff hereby motions in pursuant to S.C. Rules of Civil Procedure Rule 57 and or S.C.Code Ann§15-53-10 through §15-53-140 for Declaratory Judgment and or Relief. The Declaratory Judgment Act should be liberally construed to accomplish it's intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationship Pond Place partners Inc. v. Poole, 351 S.C. 1, 567 S.E.2d 881(S.C.App.2002). To state cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy. This is all that is required. Holden v. Cribb, 349 S.C. 132, 561 S.E.2d 634(S.C.App.2002). A justiciable controversy ^{exists} when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party

Pond Place Partners Inc. v. Poole supra. Therefore this confirms the court's jurisdiction. Power v. McNair, 255 S.C. 150, 177 S.E.2d 551. The fact that other remedies are available does not preclude the granting of a declaratory judgment, but are factors to be considered by the court in the exercise of it's discretion Bank Of Augusta v. Satcher Motor Co. supra

Insomuch, when there exist a genuine controversy requiring judicial determination the court is not bound to refuse to exercise it's power to declare rights and other legal relations merely because there is another remedy available construing another former similar provision(1942 Code§660) Souther Ry. Co. v. Order Of Ry. Conductors Of America, 210 S.C. 121, 41 S.E.2d 774(S.C.1947). The fact that other remedies may exist and that other remedies may be available to the plaintiff are factors are factors to be considered by the court. However, before declaratory relief may be denied in the discretion of the court on the grounds of the existence of other remedies, it must clearly appear that the asserted cumulative remedies are not only available to the plaintiff, but they are "speedy", and "adequate", as well as "suited" to the plaintiff's needs as declaratory relief costuing a former similar provision Southern Ry. Co. v. Order Of Ry. Conductors Of America supra.

With the defendants and parties involved compromising the plaintiff's appellate counsel and falsifying the trial transcript, a lot of the issues are no longer preserved for appellate review and the plaintiff's appellate process is stuck in limbo. Yes, there may also be the pending Writ Of Habeas Corpus, but the provisions and guarantee of those proceedings are not certain and even if it is late established it will not provide a "speedy" and "adequate means to obtain and go after that evidence before the parties involved make a criminal attempt to destroy or compromise it. The issues of controversy are the same issue previously highlighted in the plaintiff's first complaint. Since those issues of controversy were clear definite and certain the plaintiff did not list them again. The existing remedies are not "speedy", "adequate", or "suited" for the plaintiff's needs. The court can also see the issues of controversy that require declaratory judgment in the Motion to Motion filed in civil case No. 06-CP-40-0549 on page(s) 10 through 21 of that document.

Inasmuch, granting further relief based upon Declaratory Judgment in pursuant to S.C.Code Ann§15-53-120(A), declaratory judgment or decree may be granted whenever necessary or proper. The application and or motion therefor shall be by petition to the court having jurisdiction to grant it. Each day the plaintiff remains incarcerated, kidnapped by these devils he is at risk of being assassinated. The threat though dormant is not gone. If the application, petition, or motion be sufficient the court shall, on reasonable notice, require an adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith Bank Of Augusta v. Satcher Motor Co. supra.

The plaintiff motions, request, and exercise his right to have a jury hear these issues to ensure fairness to all involved parties in pursuant to Rules of Civil Pro. Rule 38(a)(b).

The plaintiff hereby notify the court that this is a pendent or supplement jurisdictional case. The gross negligence, deliberate indifference, and false imprisonment issues will be heard in the Court Of Common Pleas. The U.S. Constitutional issue will be raised in the U.S. District Court.

The plaintiff motions for subpoena in pursuant to S.C. Rule Of Civil Procedure Rule 45, and Ms Jeanne Hanna, the manger at the Dept. Of Social Services in Camden S.C. be called to appear and release the address of the other defendants, thereupon subpoenas be issued requiring them to appear. The plaintiff made this request is his first complaint and makes it again to include motioning for an extension of time in order to serve them. The plaintiff originally made this request well within the 120 days required for service in the last complaint.

In referring back to the actions of the defendants and other parties involved. The defendants failed to follow state as well as applicable federal law, and their own policies. Due to this they are not immune Clark v. S.C. Dept. Of Public Safety, 353 S.C.291, 598 S.E.2d 16. Pursuant to S.C.Code Ann§15-78-70(b), actual fraud, actual malice, intent to harm, or crimes involving moral turpitude are excluded from immunity.

The defendants were grossly negligent. Gross negligence is the intentional conscious failure to do something which is incumbent upon one to do, or the doing of a thing intentionally, *that one ought not to do, it is also the failure to exercise slight care.* Jinks v. Richland County, (S.C.2003) WL21910551. Malicious acts are excluded from immunity. Pritchette v. Lanier, (1991), 766 F.Supp. 442. As stated by Atty. Gen. Gonzales when it referred to dealing with President Bush, "No one is above the law". Immunity protects all, except the grossly incompetent, and or negligent, and those who knowingly break the law. Malley v. Briggs, 475 U.S.335 (1986). Prosecutors, state agents, police, Judges, etc., who under color of law, willfully deprive individuals of constitutional rights, break the law, and who are negligent, may be punished criminally and or in a civil action. Brisco v. Lahue, U.S. Ind. 1983, 103 S.Ct.1108, 460 U.S. 327, 75 L.Ed.2d 96. Private persons can be convicted for acts of negligence and or conspiring to deprive victims of civil rights, on allegations of collaboration with police or state agents, despite private persons incapacity to act under color of law. United States v. Lester, C.A.6 (KY) 1966, 363 F2d 68 cert. denied 87 S.Ct.705, 385 U.S. 1002 L.Ed2d 542 rehearing denied 87 S.Ct.951, 368 U.S.938, 17 L.Ed.2d 813. The Supreme Court held that all acts of the state are automatically under "color of law" no matter what the substantive rule. see Lugar v. Edmondson Oil Co., 457 U.S. 922, 928-30, 102 S.Ct.2744, 2749-50, 73 L.Ed.2d 482(1982).

In pursuant to 18 U.S.C.§1001 (1988 Ed.) provides:

"Whoever, in any manner, within the jurisdiction of any department or agency in the United States, knowingly and willfully falsifies, conceals, or cover up by any trick, scheme,

or device, a material fact, or make use of any false, fictitious or fraudulent statements or representations, or make use of any false writing or document, knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000.00 or imprisoned not more than 5 years or both".

This covers false statements or documents of any kind to include those falsehoods that pervert governmental functions. United States v. Gonzales, 520 U.S. 1, 5(1997); Brogan v. United States, 522 U.S. 398 (1998); United States v. Gilliland, 312 U.S. 96 (1941).

Pursuant to 42 U.S.C. §1985(2) provides:

"If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating in any manner, the due course of justice, in any state or territory, with the intent to deny any citizen the equal protection of the laws, or to injure him in his property for lawfully enforcing or attempting to enforce the right of any person, or cause of a person, to the equal protection of the laws, an action for damages will lie" Braver v. Horowitz, 535 F2d 830, 836-37(3rd Cir.1976).

Referring back to the issue of Breach Of Trust With Fraudulent Intent, pursuant to S.C.Code Ann§16-13-230, as it pertains to the defendants stealing the plaintiff's assets. To constitute the offense as to money and or property, there must be an appropriation thereof, accompanied with the fraudulent purpose to destroy the right of the true owner. State v. Butler, (1884) 21 S.C. 353; Bell v. Clinton Oil Mill, (1924) 129 S.C. 242, 124 S.E. 7. A breach of trust is when personal property and or monies of appreciable value and of which larceny may be committed is put into the possession of another; and when it is so put in her possession it becomes a trust, and while it so remains if she conceives the purpose to convert that property and or monies to her own use, and does it with the intent to deprive the owner of that property and or monies, then that is breach of trust with fraudulent intent. State v. Shirer, (1884) 20 S.C. 392. Breach of trust is larceny after trust, which includes all the elements of larceny, or in common parlance, stealing, except the unlawful taking at the beginning. State v. Owings, (S.C.1944) 205 S.C. 314, 31 S.E.2d 906.

All the issues thus presented produce evidence of guilt of the defendants, even prima facie, and or circumstantial. Regarding the defendants as to whether they did a particular act, knew of an act, or assisted in an act. Mere presence or a single act will suffice to support conspiracy conviction if circumstances permit inference that presence or act was intended to advance ends of the conspiracy, even though mere presence or mere association with conspirators will not itself support conspiracy conviction, U.S. v. Brinkley, 903 F2d 1130. The benefits of this conspiracy, and or aims, was to conceal Michael Lee's sexual assault upon the plaintiff's children to keep him from being prosecuted; to steal the plaintiff's assets to prevent the plaintiff from getting free to go after evidence that would

be used to punish them criminally and used in civil action for kidnapping and other unlawful acts, to include bringing to account the acts of gross negligence and deliberate indifference on the part of the defendants. This shows a specific illegal objective, U.S. v. Schmidt, 947 F2d 362. To withdraw from conspiracy, the conspirators must do more than simply cease activity; there must also be affirmative action, and they making a clean breast to authorities, U.S. v. Zarnes, 33 F3d 1454. Not one defendant involved took affirmative action, nor did they make a clean breast to authorities once given notice by all the numerous filed documents in the court highlighting their acts. The burden of proving such is on the defendants, U.S. v. Granados, 962 F2d 767. Under Pinkerton theory of liability, conspirators can be held responsible for substantive crimes committed by his co-conspirators to extent those offenses were reasonably foreseeable consequences of acts, furthering unlawful agreement, even if he did not himself participate in substantive crimes. Since we are dealing with people who they knew already falsified court documents, it's reasonable to know they would falsify a trial transcript, especially after falsifying an autopsy. Since we are dealing with a cover up in an falsely alleged homicide, it's reasonable to believe these people would plot to kill the plaintiff to avoid prosecution. Also see S.C. Accomplice Liability Doctrine, "The hand of one is the hand of all". U.S. v. Masotto, 73 F3d 1233 cert. denied 117 S.Ct. 54, 136 L.Ed.2d 18; U.S. v. Bruno, 873 F2d 555 cert. denied 110 S.Ct. 125, 493 U.S. 840, 107 L.Ed.2d 86; State v. Chavis, 277 S.C. 521, 290 S.E.2d 412(1982); State v. Hill, 268 S.C. 390, 234 S.E.2d 219(1977) cert. denied 434 U.S. 870, 98 S.Ct. 211, 54 L.Ed.2d 147(1977); State v. Nicholson, 221 S.C. 399, 70 S.E.2d 632(1952); State v. Legette, 285 S.C. 465, 466, 330 S.E.2d 293, 294(1985); State v. Gilbert, 107 S.C. 443, 446, 93 S.E.2d 125, 126(1917); State v. Jennings, 515 S.E.2d 107(S.C.App.1999).

The "overt act" in conspiracy charges functions essentially to show the object of the conspiracy, and to show that the conspiracy is at work. There are numerous overt acts here, to include Breach Of Trust, falsifying documents, Incest, Criminal Sexual Conduct, Assault With Intent To Kill, Conspiracy To Commit Murder, avoiding prosecution, etc., even under color of law, U.S. v. Arboleda, 929 F2d 859. Under S.C.Code Ann§16-17-410, criminal conspiracy may be complete without proof of overt acts, such acts may nevertheless be shown. To establish sufficiently the existence of the conspiracy, proof of an expressed agreement is not necessary, and direct evidence is not essential, but conspiracy may be shown by circumstantial evidence, and the conduct of the parties and or defendants may consist of concert of action, State v. Fleming, (1963) 243 S.C. 265, 133 S.E.2d 800; State v. Lagerquist, (1971) 256 S.C. 69, 180 S.E.2d 882 cert. denied 404 U.S. 852, 30 L.Ed.2d 91, 92 S.Ct. 89; State v. Pluckett, (1960) 237 S.C. 369, 117 S.E.2d 369.

Inasmuch, the documents filed in the Kershaw County Courts clearly show all the defendants knew, they had knowledge. Instead of making efforts to correct these grossly negligent and criminal acts, in one way or the other, they continually made themselves a part of these malicious criminal acts. Pursuant to 42 U.S.C. §1986

provides:

"Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in the preventing of the same, neglects or refuses to do so, if such wrongful act be committed, shall be liable to the party injured, or his legal representative, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful acts or refusal "MAY BE JOINED AS DEFENDANTS IN THE ACTION".

This is the lynch-pin language by conspiracy and §1986 that the defendants are liable and can be added as defendants in this action. Such a case should not be dismissed from the courts. To do so would present a manifest injustice, and or miscarriage of justice affecting the plaintiff's substantial rights. It would call into question the fairness, integrity, and public reputation of our judiciary, and cannot be allowed, United State v. Promise, 255 F3d 150(4th Cir.2001).

In order to establish a claim of negligence, the plaintiff must prove a duty of care owed by the defendants to the plaintiff, a breach of that duty by the defendants negligent acts and or omissions resulting in damages and the result of the acts. If the facts and inference drawn from the facts alleged on the complaint would entitle the plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. Bergstrom v. Palmetto Health Alliance, 352 S.C. 221, 573 S.E.2d 805(S.C.App.2002); Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69(1999); Gentry v. Younce, 337 S.C. 1, 522 S.E.2d 137(1999).

ADDITIONAL RELIEF SOUGHT:

There are 4 different medical issues they played a part in, in one form or the other. The plaintiff seeks 1.2 million for each offense. There are 16 different non-medical acts. The plaintiff seeks 300k in damages for each act. The plaintiff motions for an order and or injunction requiring that this case be left open to address any other issues that may come up in the near future that may have somehow been forgotten or overlooked in this action. The plaintiff motion for an order and or injunction requiring Sylvia Lee to return to the plaintiff his personal jewelry, the charm bracelet, wedding set, electronic equipment she stole,, and any of the plaintiff's clothing she has in her possession or replace these items. The plaintiff motions for an order and or injunction, left in place for the remainder of the plaintiff's life requiring the defendants to be responsible for any medical cost of any kind that may be needed as a result of their criminal acts. The plaintiff motions for an order and or injunction cancelling the restraining order placed on the plaintiff in case No. 02-DR-28-0065, and that the plaintiff's daughter and the plaintiff be brought to a designated place where to plaintiff can talk to and embrace his child without restraints. She is in no danger from her father. Her

father loves her and just wants to see her.

The plaintiff hereby motion to expand the record with the following:

*The plaintiff motion for an order and or injunction requiring SLED F.O.I. Dept. to release the SLED file No. 55010014, all documents contained therein, all 300+ pages.

*The plaintiff motions for an order and or injunction requiring the Kershaw County Coroner's Office, and or John Fellers, to return "ALL"(emphasis added) DNA samples taken from the plaintiff's daughter Korresha Crawford, and they be forwarded to the U.S. District Court to be held at a federal facility in the Writ of Habeas Corpus case, until the plaintiff can arrange to have them tested specifically by the lab the plaintiff has already chosen in the U.S. District Court case pending against these defendants.

*The plaintiff motions for an order and or injunction requiring the Kershaw County Clerk of Court to forward to the court and plaintiff a copy of all the documents filed in case(s) No. 01-Dr-28-0065; 02-DR-28-098; G646899, 900, and 901, to include all records file the the cases against Sylvia Lee and Cylena Lee.

*The plaintiff motions for an order and or injunction requiring the 5th Circuit Solicitor's Office and or Att. General to forward a copy of the supposed search warrant that was used to obtain the evidence seized from the plaintiff's home.

*The plaintiff motion for an order and or injunction requiring the S.C. Attorney General' Office to obtain the audio to the plaintiff's trial proceedings and a reconstruction hearing be convened to examine to audio, and compare it ti the presented trial transcript.

All the aforementioned is a part of the relief sought in this action. They are issue that produce controversy, and present a requirement by duty of the defendants involved in total, so the plaintiff is permitted in fundamental fairness and to place back on track the due course of justice to request and to be granted each item of concern. The plaintiff seeks that the Court rule on each concern and or issue in pursuant to S.C. Rule(s) 59(e) and 15(b). The plaintiff prays the Honorable Court Of Common Pleas will grant these request.

RESPECTFULLY SUBMITTED
LAWRENCE CRAWFORD



MARCH 6, 2007

Exhibit

Gourdine # 3

≡

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED CLERK'S OFFICE

APPEAL FROM BERKELEY COUNTY
KRISTI LEA HARRINGTON, CIRCUIT COURT JUDGE

2017 JUL 12 A 9:01

DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

THE STATE,

RESPONDENT

Vs.

JASON MORRIS GOURDINE,

APPELLANT

APPELLANT CASE No. 2016-000640

APPELLANT BRIEF

JASON MORRIS GOURDINE

#199055 WANDO C-255

LIEBER C.I. P.O. BOX 205

RIDGEVILLE, S.C. 29472

APPELLANT

Jason Morris Gourdin

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STATEMENT OF ISSUES ON APPEAL

(1) Did the trial court err, and was the appellant's 5th., 6th., 14th., 15th. amendment rights of the U.S. Constitution, as well as Article IV § 2, and his Due Process rights violated, regarding the indictment(s) as constructed, by the language and or charge contained therein, which did create and or form conclusive presumption(s), that took away the appellant's presumption of innocence, and automatically shift the burden of persuasion to the defendant, in regard to the crucial elements of dispute, predetermining in advance the outcome of the proceedings?

(2) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, by the court's failure to grant the motion for severance, causing substantial prejudice to the appellant's trial proceedings?

(3) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated by the indictment(s) for attempted murder's failure to allege what weapon was allegedly used and who it was the appellant supposedly acted in concert with, in the same vein, the indictment for conspiracy's failure to allege who it was the appellant conspired with, in the body of the charging instrument?

(4) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment right of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, due to the court's failure to issue a final written order in the appellant's stand your ground hearing?

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(5) Did the trial court err, and was the appellant's 6th. and 14th. amendment rights of The U.S. Constitution violated, as well as Article IV § 2 and his Due Process rights violated, where jurisdiction is made void for Due Process violation, due to the appellant's counsel not being present at a critical stage of the proceedings?

(6) Did the trial court err, and was the appellant's 6th., 14th. amendment rights of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated by the trial court giving an improper jury instruction, producing extreme prejudice, informing the jury that a specific intent to kill is not an element of attempted murder?

(7) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, as well as Rules Of Court, Rules Of Criminal Procedure, as well as the court's jurisdiction being made void for Due Process violation, and or they were prohibited from enacting and or invoking and or continuing their Subject Matter Jurisdictionary "[p]owers" due to the "[p]rocedural [d]efect" in that there was no "[w]ritten"(emphasis added) order of continuance obtained pursuant to Article V § 4 of The South Carolina Constitution?

(8) Did the trial court err, and was the appellant's 5th., 6th., 14th. Amendment rights of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, by the trial court and or plea court allowing constructive amendment of the indictment(s) at the appellant's trial

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and or plea hearing?

(9) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of The U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, by the indictment(s) for attempted murder's failure to properly and or sufficiently apprise the appellant of the "[t]ime" of assault(s) , in the body of the charging instrument, as "[t]ime" is recognized by law?

(10) Did the S.C. Supreme Court in State v. Gentry supra err, engaging knowingly, intentionally in acts of fraud upon the court, in their efforts to essentially establish modern day slavery in violation of the Anti-Peonage Act, and abused their discretionary powers, which they even conspired to take away our right to vote, and or done so surreptitiously, in violation of the Voting Rights Act. And in such, the court's jurisdiction was made void for Due Process violation, and the court was prohibited from enacting and or invoking and or continuing its Subject Matter Jurisdictionary powers, even though they do indeed possess such power via state legislative statutes and or Congressional intent, due to the indictment defects and or errors contained and argued within this document, in violation of the appellant's 4th. 5th., 6th., 13th., 14th., 15th. Amendment rights of The U.S. Constitution, as well as Article IV § 2, also 42 U.S.C. §§ 1983, 1985(2), 1985(3), 1986; 18 U.S.C. §§ 241, 242, 1001, and the laws of Due Process?

STATEMENT OF THE CASE

On November 4, 2014, a Berkeley County Grand Jury indicted the appellant for three counts of attempted murder (2014-GS-08-1719, 1720,-1721) and criminal conspiracy (2014-GS-08-1722). On January 26, 2016, the Honorable Perry M. Buckner III, entertained the appellant's motion for prosecutorial immunity pursuant to the Protection Of Persons And Property Act. At this hearing the state was represented by Bryan A. Alfaro and Wilton H. Mc Neely. Attorney Kevin Kearse represented the appellant's codefendant, Steven Moses. Attorney Steven Davis represented the appellant. The Judge and parties, conspiring under color of state law, conducted a mock hearing for the purpose of defrauding the appellant of his immunity defense where they even solicited perjured testimony to do so. Thereafter this mock hearing was concluded, to deny the appellant the right to challenge its conclusion in the court of appeals, in acts of fraud upon the court. The conspiring Judge to aid the state actors failed to issue a final written order to prevent review in violation of the appellant's Due Process rights.

After this fiasco and mock stand your ground hearing. The state represented by Alfaro and McNeely, called the case to trial on March 14, 2016, before the honorable Kristi Lea Harrington and jury. The appellant was tried jointly with Moses to conceal further acts of prosecutorial misconduct. Ultimately the jury found the appellant guilty via the fraud and other injustices that occurred in this case, and the appellant was sentenced to life without parole. Appeal was made where Susan Hackett of appellate defense office represented the appellant. Anders Brief was filed. This appellant Brief now follows.

(1) Did the trial court err, and was the appellant's 5th., 6th., 13th., 14th. 15th. amendment rights of the U.S. Constitution, as well as Article IV § 2, and his Due Process rights violated, regarding the indictment(s) as constructed, by the language or charge contained therein, which did create and or form conclusive presumption(s), that took away the appellant's presumption of innocence, and automatically shift the burden of persuasion to the defendant, in regard to the crucial elements of dispute?

The appellant humbly contends, it is well established by the U.S. Constitution, the 5th., 6th., 14th. amendment(s), and The Bill Of Rights, that when an individual is brought before a court of jurisprudence upon accusation, that the individual alleged thereupon, is innocent, until proven by a jury of his peers, guilty of aforesaid accusation being brought before the court. This is the defendant's most basic, and most fundamental right by Federal and State laws pertaining to Due Process. Because the indictment(s) possess a structural constitutional error and or defect, in that the language and or charge contained therein, in constructed to produce conclusive presumption(s), that immediately shift the burden of persuasion to the defendant in regards to the crucial elements of the offense(s), the indictment(s) and or complaint documents violate Due Process as well as the 13th. and 15th. amendments.

The appellant did not object to this defect and or error at the time he gave his guilty plea, and or before he went to trial, but the defect and or error serve to render the indictment wholly invalid. Defects in an indictment that are of such a fundamental character as to render an indictment wholly invalid are not subject to waiver by the defendant, 41 Am. Jurs.2d. Indictments And Information § 299(1986); State v. Munn, 357 S.E.2d. 461(S.C.1987).

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss

v. Aetna Life Ins. Co., 228 S.E.2d. 108; State v. Broad River Power Co., 177 S.C. 240, 180 S.E. 41; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings (Black Law Dictionary 8th. Edition).

By what is cited in Sandstrom v. Montana, 442 U.S. 510 at 520, 99 S.Ct. (2450) at 2457 (61 L.Ed.2d. 39)(1979), under (4) criminal law [west key] 324. The Supreme Court was unequivocal and unambiguous when it stated [v]erbatim:

"Conclusive presumptions conflict with the overriding presumption of innocence which the law endows the accused and which extends to every element of the crime charged, and they invade the fact-finding function which in a criminal case the law assigns the jury, Morisette supra, at 275, 72 S.Ct. at 255 and United States Gypsum Co. supra, at 446, 98 S.Ct. at 2878. The indictment and complaint documents around the nation, with the exception of the few states that corrected this problem, require the jury, if satisfied as to the facts that trigger the presumption to find intent unless the defendant offers evidence to the contrary. The indictments and complaints around the nation, by their structural constitutional error and or defect, language and or charge, mislead the jury, and we can add the defendant, to believe the presumption was not limited to requiring the defendant to satisfy the burden of production, when the burden of production is to be consistently bored by the state. A presumption although not conclusive, that has the effect of shifting the burden of persuasion would suffer the same similar infirmities", Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44 L.Ed.2d. 508(1975), even if its embodied within the charge of an indictment or criminal complaint.

To state by use of an indictment or criminal complaint within the (50) states that an individual "did" with intent, knowingly, malice, aforethought, and other such elements imply conclusive firsthand knowledge of the events pertaining to the accusation being brought before the court. To such knowledge the Grand Jury who swore to such indictments, "[c]annot" by all scientific reason and jurisprudence ascertain as being true under such circumstances, especially without a trial. It is universally recognized that every oath [o]ught and [m]ust be founded upon "[c]ertain [k]nowledge", meaning knowledge that is certain beyond a reasonable doubt as being true (OMNE SACREMENTUM DEBET ESSE DE CERTA SCIENTIA). Inasmuch, the reality of this matter is that the issues in question, embodied in said indictments are allegations, they are accusations, not proven facts. So how could they be sworn by indictment as being true? Several other states have corrected this injustice. The State of South Carolina is one of the remaining states who have not. It is the command of the U.S. Constitution that anything, to include any and all legislation, whether it be by statute, indictment or otherwise, that is contrary to its inherent, intrinsic and explicit presuppositions "[s]hall [n]ot [s]tand", and therefore should be abolished and or rendered [v]oid (Article IV § 2 U.S. Const.).

"THE STATE MUST PROVE", I repeat, "THE STATE MUST PROVE", not the defendant, every single element that is charged, and that is crucial to the offense. It is not to be given to them in any way. They "[m]ust" first prove it before it can ever be declared. Every single time an indictment is sworn where it states clearly without ambiguity a defendant "did", etc., it immediately with destructive results tear down the commonwealth's constitutional Due Process right of being innocent until proven guilty, and automatically shift the burden of persuasion to the individual or commonwealth charged. It gives the false unconstitutional premise and or presumption that such has already been proven by a jury of one's peers, or even more specific, without a trial by a jury of one's peers in violation of Due Process Law. To have such unconstitutional presumption(s)

embodied within indictments and or criminal complaints that rely on such language is constitutionally infirm.

The appellant avers, in Mullaney v. Wilbur, 421 U.S. 684, 95 S.Ct. 1881, 44 L.Ed.2d. 508, the court found as a violation of Due Process and Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d. 323(1970), an indictment that [p]resumed that a defendant acted with "[m]alice and [a]forethought", if it were found that the homicide was intentional and unlawful, the defendant then bore the burden of disproving the elements. Similar in Sandstrom, the jury was instructed in determining whether or not the defendant had the [p]rerequisite intent to commit murder [t]he law presumes that the person intended the ordinary consequences of his voluntary actions, thereby relieving the state of its burden on that element. The language and or charge in the indictment(s) do the same thing, taking away the presumption of innocence, and by what is written predetermine in advance the outcome of the proceedings and presumes that a person intends the ordinary consequences of his voluntary actions, thereby relieving the state of its burden on the elements crucial to the offense. What if the person was forced to commit the crime at gunpoint? Or was the victim of brainwashing by the induction of some chemically based mind controlling drug, and under such control he committed the crime? Or it simply was an accident depending upon the crime charged? These are just a few reasons why such wording is impermissible, Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923).

Once the courts of South Carolina, New Jersey and the remaining (48) states constructed an indictment or criminal complaint contrary to the laws of Due Process, the Attorney for the appellant telling the appellant that he is innocent until proven guilty, or the Judge giving a curative instruction to the appellant and or jury of the defendant being innocent until proven guilty, or stating that the state or federal government has the ultimate burden and must prove every element, being given to the appellant and or jury, or stating the indictment or criminal complaint is not evidence to the appellant or jury,

does "[n]ot" cure the Due Process problem created and presented by the structural constitutional error, defect and or charge in the indictment(s) and Complaint(s).

Constitutional Law [west key] 266(7), in situation where elements of offense and "so-called" "affirmative defense", pose same ultimate issue of shifting the burden of persuasion, the Due Process problem is "[n]ot" eliminated by including an instruction in a charge that the state has the ultimate burden of proving every element beyond a reasonable doubt, and we can add to this, stating the indictments or criminal complaints are not evidence by the courts. The teaching of these cases is that "[a]ny" presumption, even if its not conclusive, even if its embodied within the charge of an indictment or criminal complaint, that has the effect of shifting the burden of persuasion to the defendant on any element of the crime charged violates Due Process, (U.S.C.A. Const. Amend. 14) Humanik v. Beyers, 811 F2d. 432(3rd.Cir.1989).

Such is a substantive disadvantage and not merely procedural disadvantage to the defendant related to his rights of Due Process. If the indictments and or criminal complaints around the nation, by their defect contained therein, require that the defendant prove he did not possess the "MENS REA" on any element pertaining to the alleged crime at trial and or before a guilty plea, 421 U.S. at 684, 95 S.Ct. at 1888, it becomes obvious that the burden of proof is shifted.

The Court recognized by requiring the defendant to prove the critical elements of said dispute, ID at 710, 95 S.Ct. at 1890, the Maine Rule, as do the nation's indictments and criminal complaints, affirmatively shift the burden of proof to the defendant(s), thus creating a further likelihood of an erroneous conviction and or guilty plea, due to the shifting of the burden of persuasion to prove one's innocence, as implied by the language and or charge in the indictment(s) and criminal complaint(s), ID at 421 U.S. at 701, 95 S.Ct. at 1890. Such serve

to negate certain facts of the crime which the government is to prove to the jury in order to convict the defendant of a crime charged, 432 U.S. at 207, 97 S.Ct. at 2325. The Winship Rule is clear in which the defendant creates a reasonable doubt on any element of the offense(s) charged is entitled to an acquittal.

In such a situation the relevance of the subsidiary facts in this case are the same and the sole significance of the defendant's evidence and or testimony concerning the "so-called" "affirmative defense", is to create a reasonable doubt on the existence of an element of the offense, by the preponderance of evidence to counteract an unconstitutional presumption.

As stated in United States v. Clemens, 843 F2d. 741, 752(3rd.Cir.1988):

"Justly put, merely labeling something as "affirmative defense", "a statutory procedure", and we can add to this, "an indictment or criminal complaint", does not mean that such constructed contrary to the laws of Due Process are constitutional. It must appear that the aforementioned, as related thereto, do [n]ot [n]egate any element of the crime, and we can add to this, shift the burden of persuasion, as the indictments and or criminal complaints of this nation do", ID W. Lafave & Scott Substantive Criminal Law § 1.8 at 75(1986). see generally Sandstrom v. Montana supra.. A defendant may be required to bear the burden of persuasion with respect to defenses such as showing justification or excuse, but not with respect to those that negate guilt by canceling out the existence of some required element of the crime, nor should his presumption of innocence be deprived, W. Lafave & Scott supra. at 71, 75. Accordingly, accessing the constitutionality of an "affirmative defense", "a statutory procedure", and we can add to this, "an indictment or criminal complaint", etc., of any kind related thereto, **even by terms of that which the statute requires, is defined in terms of fact so central to the nature of the offense that in effect, the prosecution has been freed of the burden of establishing**

each constituent element of the crime charged. If the indictments and criminal complaints around the nation already predetermine in advance of any proceeding that you "did" with malice, aforethought, intentionally, willfully, etc., the state has been relieved of proving it, see ID at 2.13 at 233. Also see Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923). By the structural constitutional error and or defect, its already given and no longer by the charge and or defect, have to be established. In order to contribute some significant burden, a rational trial juror's only option, and we can add, the defendant's only option, is to conclude that the indictments or criminal complaints are true, or are to be considered as true, because the language and or charge reflects such in depriving one of the presumption of innocence. It is clear from Martin v. Ohio, 480 U.S. 228, 107 S.Ct. 1098, 94 L.Ed.2d. 267(1987) and Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923), that this is constitutionally impermissible.

Perhaps the 50 states of this nation would contend, that such is merely the conveying of information from witnesses 1, 2, 3 or more possibly, and upon this testimony such an oath is based. Even if one would adopt this premise still the indictments and criminal complaints of this nation "[c]annot" be deemed as that which is founded upon "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE DE CERTA SCIENTIA), but it is founded upon the basis of hearsay and or secondhand knowledge. Notwithstanding, it has been recorded throughout history since the earliest stages of civilization that people do bear false witness in groups and in numbers depending upon their motivation. For example, you have an unjust King and Queen, Ahab and Jezebel, coercing several people to lie in a covert plot to steal the land of a righteous man in I Kings chapter 21. In the Book of Micah, a man's closest members of his household bear false witness against a Prophet Of God. In Christianity you have officials who were in power, Saducees, Scribes and Pharisees, incite and pay groups of people in the Gospel(s) Of Matthew, Mark, Luke and John to bear false witness against the Messiah. In Islamic Prophecy the Prophet Muhammad(PBUH), in Sahih Al Bakhari Vol.

9 Hadith No. 7086, prophesied how in these times there will hardly be a trustworthy person left in the world. The Spanish Inquisition of 1478 and The English Inquisition of 1518 found people unjustly burned at the stake and or hanged, due to unjust accusations by people in numbers for false claims of heresy. Adolph Hitler, and a group of people called "Nazis", brought numerous unjust claims against the Jews, falsely rooted in lies, in the holocaust of the 1930's. The Salem Witch Trials in the 17th. century, in Massachussett, found numerous men, women and children, burnt at the stake for false claims of practicing witchcraft, brought by groups of people in numbers ("The witch bitches as they were called). The Ku Klux Klan, throughout the South, brought unjust accusation against the innocent Post Civil War Era, and in the 1930's through 1960's. Judaism, Christianity, Islam, American History, European History, World History, "[a]ll" are filled with unspeakable atrocities originating in lies, perpetrated by people in numbers and in groups against the innocent. Our constitutional forefathers in their wisdom and jurisprudence saw this repeated pattern that like a poisonous, venomous snake, rose its head from the soils of society to fatally bite the commonwealth. and in their wisdom they set up "[b]ulwarks", "[b]arriers" of protection for the American citizenry, all who are held by us, all who enter our borders or territories, that under no circumstance, outside of an individual committing an act of treason, were to be torn down, because people in groups and in numbers do bring false accusation against the innocent.

Referring back to the third situation here as illustrated by State v. Breakiron, 108 N.J. 591, 532 A.2d. 199(1987) and State v. Zola, 112 N.J. 384, 548 A.2d. 1022(1988), in inferring the state of mind element, whether the prerequisite intent and or purpose was present at the time of the crime. The Grand Jury, in the form of the indictments and or criminal complaints around the nation, "[c]annot" say what was in a person's mind, nor do they have first hand knowledge of the facts related to the incident charged. They do not have "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE DE CERTA SCIENCTIA). Thus, again the

very language and or structural constitutional error and or defect, and or charge of the indictment(s) and criminal complaints around the nation predetermine in advance before trial or plea an individual is guilty of the state of mind element(s) and forces a defendant, due to the shifting of the burden of persuasion, to prove his innocence by the preponderance of evidence and or testimony in violation of Due Process Law. This creates an instant double jeopardy issue showing that this is not a harmless error, Moore v. Dempsey supra.; State v. Gordon, 588 S.E.2d. 105, 356 S.C. 143(S.C.2003); State v. Perry, 595 S.E.2d. 883, 358 S.C. 633(S.C.2004).

In regard to a charge, and we can add to this, a charge in an indictment or criminal complaint, that constitutes a constitutionally impermissible charge/instruction, or contradicts the presumption of being innocent until proven guilty, even with a later instruction "BOILERPLATE" of being innocent until proven guilty by the courts or stating that the indictments or criminal complaints are not evidence by the courts, the [p]roblem is [n]ot [c]ured where there exist a reasonable likelihood that the jurors, and we can add in this case, that the defendant, may have considered the charge, and we can add to this, the charge in the indictments or criminal complaints around the nation as conveying an unconstitutional message in both state and federal prosecutions, Francis v. Franklin, 471 U.S. 307, 105 S.Ct. 1965, 85 L.Ed.2d. 344(1983).

Such presumptions intrinsically and explicitly established snatch the blind fold off of "LADY JUSTICE" herself, and now, not only is she no longer impartial, unbiased or fair; but now she says because its you, because its this particular crime or alleged action as opposed to another, because you are charged in this particular state as opposed to another, because you fall under this particular statute as opposed to another, you are no longer innocent until proven guilty and your constitutional rights are hereby revoked. Such presumptions destroy

the very metal of the shield of protection placed around the American citizenry, those who are held by us, and those who enter our borders or territories, and abolishes the very core integrity of the Due Process Clause our constitutional forefathers have died and shed their best blood to establish and preserve. The greater aspect of evil related to such action by the criminal complaints and or indictments around the entire nation, far and extremely outweigh the greater aspect of good that it sought to establish related thereto. If we as responsible citizens of the commonwealth allow individuals who are placed in positions of legislative authority, whether it be at town, city, state or federal level, whether it be intentional or unintentional, to initiate or place into effect legislation by statute or any other means, that deteriorate the very pillars of that which our Constitution was founded upon, then we no longer establish ourselves as a true democracy, where the good of the many outweigh the good of the few. We step more into the realm of monarchy, and set ourselves on a path of Constitutional destruction detrimental to the commonwealth that can only lead to anarchy creating the similarities that manifested themselves in the aforementioned Nazi Occupation, Salem Witch Trials, The Spanish Inquisition and the like. Where trials and criminal proceedings became an arbitrary action, an abusive and recreant process, fraudulently designed to rob the commonwealth of their God given liberty. This we cannot do!!! It is our courts, our Supreme Courts, and our Federal District Courts' inherent responsibility as guardians of the faith and integrity of our system of jurisprudence to protect the commonwealth from such a dark demise. The Presuppositions set forth by our constitutional forefathers "E PLURIBUS UNUM", were one nation, under God, indivisible, with liberty and justice "FOR ALL", "FOR ALL", and was not to be taken away simply because an individual fell victim to accusation, or fell under a particular statute of law as compared to another, or was charged in one particular state as opposed to another. The only exception to this sacred standard and trust was to be if an individual committed acts of High Treason against our government itself, which in some particularity is what the indictments and criminal complaint documents

around the entire nation reflect, because they innately swear allegiance to that which sets itself at war, enmity and variance to the constitutional rights of all citizens of the commonwealth and all others who are subject to them. Therefore, they are a form of treason. The indictments and criminal complaints around the entire nation betray our Constitution. Hencetofore they "[m]ust" be abolished and or reformed. They are intense espionage and diabolical sabotage and stands at war with the rights of this nation's commonwealth in violation of Due Process. They covertly with corrosive results steal away stealthly the fundamental truths by which the Constitution was founded upon and throw a monkey wrench into the mechanical works of justice and fairness by detonating explosive results that detrimentally tear down the bulwarks that were forthrightly established to protect the commonwealth against unjust prosecution. By the defect, language and or charge contained within the indictments and criminal complaint documents around the entire nation you have already surmised and ascertained without the total weight of evidence set forth before a jury an individual's guilt in violation of state and federal laws also pertaining to the U.S. Constitution, inferring the state of mind element(s), negating the burden of proof that by law was to be consistently bore by the prosecution, Francis v. Franklin supra.; Moore v. Dempsey supra.

THE COURT HOLDS that a charge, and we can add to this, a charge in an indictment or criminal complaint, which impart to the jury, and we can add in this case, the defendant, an unconstitutional understanding of the allegations, even more specific, the burden of persuasion, and the presumption of innocence, creates a reasonable likelihood that the jurors understood the charge, and we can add, that the defendant understood the charge, in the criminal complaints and indictments, in an unconstitutional manner unless other language in the complaints or indictments explain the infirm language sufficiently to eliminate this possibility. If such a reasonable possibility, "we have no way of knowing that [t]he defendant was [n]ot [c]onvicted,

and we can add, gave his guilty plea, on the basis of the unconstitutional charge, specifically the charge embodied within the indictments and complaints", Sandstrom, 442 U.S. at 526(99 S.Ct. at 2460). For this reason it has been well settled since Stromberg v. California, 283 U.S. 359, 51 S.Ct. 532, 75 L.Ed. 117(1931) that where there exist a reasonable likelihood and or possibility that the jury, and we can add, the defendant, relied upon an unconstitutional understanding of the law in reaching a verdict, and we can add, in giving his guilty plea, that verdict and or guilty plea must be set aside, Id. at 323n. 7, 105 S.Ct. at 1976 n. 7. We conclude that there is more than a reasonable likelihood that the jurors, and we can add, defendant(s), received an unconstitutional understanding of the situation pertaining to their tasks.

This is no way a mischaracterization of the law pertaining to the cases cited here. Even though some of the cases cited dealt with conclusive presumption(s) given by Judges in charges that have the effect of shifting the burden of persuasion to the defendant regarding the crucial elements, in this case we are dealing with a similar charge except this time its given by the Grand Jury in the form of an indictment or criminal complaint, that has the effect of shifting the burden of persuasion to the defendant regarding the crucial elements. The subsidiary facts related to the shifting of the burden of persuasion to the defendant regarding the crucial elements and the inferring the state of mind element(s) to the offenses are the same in these matters. Due to the defect in the construction of the indictments and criminal complaints nationally, the defendants' presumption of innocence is clearly taken away, also guilt of the offense(s) is illegally predetermined in advance by the Grand Jury who do not have the power by state or federal law or state or federal constitution to convict, due to the language and or charge contained therein, and the indictments and or criminal complaints nationally serve to negate the burden of proof.

This creates a structural constitutional error and or defect. Structural Constitutional errors and or defects compro-

mise the entire trial and or plea hearing proceedings. It requires reversal and or vacating as it involves deprivation of constitutional protection so basic, and so fundamental, that in its absence criminal trial and or plea proceedings "[c]annot" reliably serve its function as a vehicle for determination of guilt or innocence, and "[n]o" criminal punishment may be deemed or regarded as fundamentally fair, Robinson v. Arvonio, 27 F3d. 877 rehearing denied, cert. granted vacated 115 S.Ct. 1247, 513 U.S. 1186, 131 L.Ed.2d. 129. Such a structural constitutional error and or defect of this magnitude is "[n]ot" subject to the harmless error analysis. Structural constitutional errors and or defects not subject to the harmless error analysis are defects and or errors affecting framework, in which trial and or plea proceedings "[c]annot" reliably serve its function as a vehicle for determining guilt or innocence, involving deprivation of constitutional protection so basic, and so fundamental, that in its absence no trial or plea can be deemed reliable, nor any punishment fundamentally fair, Vines v. United States, 28 F3d. 1123 crim. law 1163(1), 1165(1). It is perspicuous that such a defect and or error does affect the framework of the proceedings, because the court(s) must constructively amend the indictments and criminal complaints around the nation on the "MENS REA" crucial elements of the offense(s) to correct, rather, in an attempt to correct the structural constitutional error and or defect by giving a Judge's charge. The boundaries cited by law are clear and certain even as cited by Winship Rule and Humanik v. Beyers supra.. Any conclusive presumption, of any kind, that's placed before a jury to obtain a conviction, or we can add, placed before a defendant to manipulate, mentally and or psychologically coerce, and or force the defendant into an unfreely, unknowingly, involuntarily or unintelligently given guilty plea, that determines in advance a person's guilt, that has the effect of shifting the burden of persuasion to the defendant, violates Due Process and is grounds for an acquittal, even if its embodied within an indictment or criminal complaint, Moore v. Dempsey supra.. Clearly there is nothing cited by law that would mandate that these strict rules of court, and requirements of Due Process law, be solely limited to a Judge's charge.

They apply to any charge that's placed before a jury to obtain a conviction, or a defendant in order to manipulate, mentally and or psychologically coerce, and or force him into a guilty plea. Such a heavy weight of shifting the burden of persuasion, and the taking away of one's presumption of innocence, by the indictments and criminal complaints of this entire nation, have been unjustly and unconstitutionally used against defendants in this nation, in this new Jim Crow and racial caste system, to mentally and or psychologically coerce, and or force them into plea bargains, and at their trials for far too long.

To elaborate on or bolster this proposition, if the honorable court would please take notice of the warrant(s) pertaining to the offense(s), as it is for every warrant in the nation. In the body of the warrant for most and or all states it reads:

"I further state that there is probable cause to believe that the defendant named above did etc.*****".

This is the language that explains the constitutionally infirm language and or charge. This is the language that aids in the maintaining of the presumption of innocence, and also which confirms the specific job of the Grand Jury. The job of the Grand Jury is two prong. One--is to determine and ensure that some state and or federal official is not acting arbitrarily in bringing accusation against a citizen of this country. The second---is to determine whether or not there is sufficient probable cause to bring a defendant to trial, Stirone v. United States, 361 U.S. 212(1960); Ex Parte Bain, 121 U.S. 1 (1887); Gaither v. United States, 413 F2d. 1061(D.C.Cir.1969); The (50) States Constitutions; United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982); United States v. Calandra, 414 U.S. 338, 342-343, 98 S.Ct. 613, 617, 38 L.Ed.2d. 561, 568(1974); Branzburg v. Hayes, 408 U.S. 665, 92 S.Ct. 2646, 33 L.Ed.2d. 626(1972). To determine guilt of the offense(s), to include the "MENS REA" on the crucial elements of dispute, is a violation of the Grand Jury's shielding function. A Grand Jury merely investigates and reports. They are not authorized by Federal or State Consti-

tution, nor Federal and or State laws, to convict, Jenkins v. McKeithen, 395 U.S. at 430, 89 S.Ct. at 1853, 32 L.Ed.2d. at 422(1969). The powers of the Grand Jury are not unlimited, and are subject to the supervisory of a judge. Grand juries may individually or collectively enjoy protections assertable in suits for deformation, but the privilege is not applicable to bar the petition of an appellant to remove language from the indictments and criminal complaints around the entire nation, Compare Pierson v. Ray, 386 U.S. 547, 87 S.Ct. 1213, 18 L.Ed.2d. 288, 294-95(1967). When the Grand Jury goes beyond the scope of the power and authority given to them, it is indeed a violation of Due Process, United States v. Chadwick, CA9 (Nev.) 1977, 556 F2d. 450; United States v. Briggs, 514 F2d 794(5th.Cir.1975). Yet, by the Structural Constitutional error, defect, language and or charge of the indictments and criminal complaints, both State and Federal around the nation, the Grand Jury adjudicated not only guilt of the offense(s) charged, but also the "MENS REA" related thereto. If such or similar language as aforementioned, is not embodied within the body of the charging instrument(s), then the indictments and or criminal complaints are not constitutionally sound and they violate Due Process. The evil that has developed from this, far and extremely out weigh the original good it intended.

Any indictment or criminal complaint, whether it be in the smallest of detail, whether it be in the smallest of towns, or the largest of cities, whether it be within the boundaries of any county or state, whether it be intentional or unintentional, that's constructed in a fashion where it automatically shift the burden of persuasion from the State or Federal government to the defendant, takes away one's presumption of innocence, and by the language predetermines in advance the outcome of the proceedings, giving off an unconstitutional impression and understanding of his or her rights by the laws of Due Process, contrary to the U.S. Constitution "[s]hall [n]ot [s]tand". They violate the appellant's rights under the 4th., 5th., 6th., 13th., 14th., 15th. amendments and seek to unjustly deprive one of life, liberty and property. It is for this reason that the New Jersey and Maine Supreme Courts overthrew such similar actions

in those States, and on this same premise the same should be done for every state within this nation now. And yes, under these circumstances, it may be far more difficult for the prosecution to obtain said conviction or guilty plea. But it is far better that they endure the difficulty than the greater degree and or likelihood, for innocent men and women to be subject to an erroneous conviction and or guilty plea, that is not freely, knowingly, voluntarily or intelligently given, because it prejudice the individuals subjected to these criminal indictments and or complaints within this nation. Prosecutors must be made to know and understand, that such is "THE NATURE OF THE BEAST". The burden is theirs and we are to be presumed innocent in every detail until fairly and justly convicted. This goes with the professional territory at hand.

The following statement in relevant part was made by the court in Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194(1963). It pertained to the suppression of evidence favorable to the defense, but the subsidiary facts related to Due Process violation have a bearing on these matters here. It has been slightly modified to paint a more true picture of this issue:

"WE HOLD, that such presumptions violate Due Process irrespective of the good faith or bad faith of the prosecution. The principle here is not to punish society for such Due Process violations, or the misdeeds of the prosecuting body, but the avoidance of an unfair trial and or plea hearing to the accused. Society not only wins when the guilty are convicted, but when criminal trials and or plea hearings are fair; Our system of administration of justice suffers when its citizens are treated unfairly in the courts. An inscription on the wall of The Department Of Justice states the proposition candidly for the federal Domain: The United States wins its point whenever justice is done its citizens in the courts", Brady v. Maryland supra.; citing Mooney v. Holohan, 294 U.S. 103.

The appellant humbly quotes that which is stated in United

States v. Walsh, 194 F3d. 37(2nd.Cir.1999) and United States v. Pirro, 212 F3d. 89(2nd.Cir.2000):

"The indictments do more than simply track the language of 18 U.S.C. § 242, which provides penalties for any person, who under color of any state or federal law, statute, ordinance, regulation, custom, and we can add to this, "an indictment or criminal complaint", willfully subjects any person,...to the deprivation of "[a]ny", "[a]ny", right, privileges, or immunities secured and protected by the U.S. Constitution and Laws of the United States***", and this was done in violation of the appellant's rights to Equal Protection of the laws, Screws v. United States, 325 U.S. 91, 65 S.Ct. 1031(1945); State v. Middleton, 207 S.C. 473, 36 S.E.2d. 742(1946); Eslinger v. Thompson, 340 F.Supp. 886(DSC.1972) Aff'd 476 F2d. 225(4th.Cir.1973); Mc Laughlin v. Florida, 379 U.S. 184, 85 S.Ct. 283, 13 L.Ed.2d. 222(1964); Dubinka v. Judges Of Superior Court Of The State Of Los Angeles, 23 F3d. 218; Jones v. Arkansas, 929 F2d. 275; Hicks v. Oklahoma, 447 U.S. 343, 346, 100 S.Ct. 2227, 2229, 65 L.Ed.2d. 175(1980); Dozier v. Loop College, City Of Chicago, 776 F2d 752; Lugar v. Edmondson Oil Co., 457 U.S. 922, 928-30, 102 S.Ct. 2744, 2749-50, 73 L.Ed.2d. 482(1982).

By the structural constitutional error, defect, language, and or charge contained within the indictments and criminal complaints around the entire nation, the defendant(s) most basic and most fundamental right to be viewed as innocent until proven guilty, and to have the state bear the burden of production on the critical elements of dispute has been clearly taken away. This is a serious price to pay for the sake of obtaining a conviction.

"The teaching of these cases is that "[a]ny", "[a]ny", presumption, even if its not conclusive, even if its embodied within the charge of an indictment or criminal complaint, that placed before a jury to obtain a conviction, and or defendant to coerce him or her into a guilty plea, that has the effect

of shifting the burden of persuasion to the defendant on any element of the crime charged, or deprives him of the presumption of innocence, predetermining in advance the outcome of the proceedings, violates Due Process and is grounds for an acquittal", IN Re Winship supra.; Humanik v. Beyers supra.; Moore v. Dempsey supra.; It involves deprivation of constitutional protection so basic and so fundamental that in its absence criminal trials and or plea proceedings "[c]annot" reliably serve its function as a vehicle for the determination of guilt or innocence and no criminal punishment may be deemed or regarded as fundamentally fair because the structural constitutional error and or defect affect the framework of the proceedings and "[c]annot" be viewed as harmless, Robinson v. Arvonio supra.; Vines v. United States supra..

The actions of the conspiring agents, both state and federal, produce fraud upon the court also in violation of 18 U.S.C. §§ 241 and 242. Fraud will vitiate any legal transaction which include criminal trials and or plea hearing where the indictments and proceedings are a form of contract. And any asserted title to property in the form of this modern day slavery by this broken judicial system, this so-called "debt to society" founded on it is void. The U.S. Constitution does not confer power or jurisdiction upon any state or federal government or court within this nation to establish or legalize modern day slavery which essentially is what the government has done here, both state and federal as is defined in the definition for slavery under the C.A.T. Treaty ratified by Congress. Although public documents such as, and or even indictments or criminal complaints, which themselves are a form of contract, which embellish this modern day slavery and property of the states or federal government by criminal conviction are deemed prima facie evidence of facts which they purport to state, they are open to be impunged for fraud and a clear challenge to the courts nationally "[p]ower" to establish or legalize modern day slavery, The Conception, Brunn, Coll. C. 497, 2 Wheeler CC 597, 6 F. Cas. 359 No. 3137(C.C.D. S.C. 1819); The La Conception, 19 U.S. 235, 1821 WL 2188, 5 L.Ed. 249, 6 Wheat, 235 U.S.S.C. (Mar. 8, 1821); The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024,

2006 A.M.C. 2955, 10 L.Ed. 826, U.S. Conn., January 1841; Chewing v. Ford Motor Company, 345 S.C. 72, 579 S.E.2d. 605(S.C.2003); Appling v. State Farm Mut. Auto Ins. Co., 340 F3d. 769, 780 (9th.Cir.2003); King v. First American Investigation Inc., 287 F3d. 91, 95(2nd.Cir.2002) cert. denied 537 U.S. 960, 123 S.Ct. 393, 154 L.Ed.2d. 314(2002); Brailsford, 669 S.E.2d. 342, 380 S.C. 433; Callon Petroleum Co. v. Frontier Ins. Co., 351 F3d. 204, 208(5th.Cir.2003). This fraud upon the court is endemic and compromises the system itself and institution set up to protect the commonwealth from unjust prosecution corrupting, irreparably, the entire judicial system as a whole warranting it be abolished and or reformed. The Grand Jury does not have the power to predetermine in advance the outcome of the proceedings and must refrain itself from making any opinion as to guilt or innocence. How much more egregious is it if they swear upon their oath a person's guilt or innocence before they have a trial or give a guilty plea? This "[c]annot" be deemed as a harmless error, United States v. Direct Sales Co., 40 F.Supp.917 D.C.S.C.(1941); United States v. Atlantic Commission Co., 45 F.Supp. 187 D.C.N.C.(1942); State v. Boyd, 2 Hill (S.C.) 288, 1834 WL 1573 S.C. App. L. & Esq. 1834; State v. Bramlett, 166 S.C. 323, 164 S.E. 873(S.C.1932); Beck v. Washington, 369 U.S. 541, 82 S.Ct. 955 U.S. Wash.(1962); State v. Tollin, 352 S.C. 235, 573 S.E.2d. 812(S.C.App.2002); Byers v. Reynolds, 2011 WL 7063638, * 8 (DSC.2011); United States v. Jefferson, 546 F3d. 300 CA4 (Va.2008); In Re: Grand Jury Subpoena John Doe, No. 05GJ1318, 584 F3d. 175 CA4 (Va.2009); In Re: Grand Jury Subpoena (T-112), 597 F3d. 189 CA4 (Va.2010).

We are arguing violations of the Anti-Peonage Act of The 13th. Amendment. Under this provision of law no time bar, or statute of limitations, or (3) strike provision, or successive bar, which all are statute of limitations can hold a man in Peonage.

The 13th. Amendment Provides---"Neither slavery nor involuntary servitude, except as punishment for crimes where of the party is "duly" (emphasis added) convicted, shall exist

within the United States, or any place subject to their jurisdiction".

The courts have repeatedly held that by the language of the 13th. Amendment, the 13th. Amendment does not apply to a person serving a sentence for a criminal conviction, Newell, 563 F2d. 123; WL 1415149(2012); Cox v. U.S. Attorney General, F.Supp.2d, 2012 WL 1570110 DSC April 10, 2012; Gaddy v. South Carolina Supreme Court's District Of Columbia, S.C., 2013 WL 6150715 DSC November 21, 2013; Flood v. News & Courier Co., 71 S.C. 112, 50 S.E. 637(1905).

The courts in these previous cited cases abused their discretion in their determination because they are controlled by an error of law in their interpretation and or they failed to address a critical part of the language written in the 13th. Amendment.

An abuse of discretion occurs when the court(s) are controlled by an error of law, or when the order bases upon findings of fact is without evidentiary support or fact, Sharpes v. Sharpes, 535 S.E.2d. 913, 342 S.C. 71(2000).

None of the aforementioned legal authorities ever addressed whether or not the issue of slavery and violations of the 13th. Amendment have standing if the convicted person is not "duly" (emphasis added) convicted. Since none of the afore citings, or any similar, addressed the issue of whether the 13th. Amendment applies in cases where the party is [n]ot "duly" (emphasis added) convicted. Which is indisputably in the language of the 13th. Amendment. Using or applying any of those citings, or any similar, would be misplaced if the citing does not address the issue of whether slavery applies or have standing when a person is [n]ot "duly" (emphasis added) convicted. See S.C. Code Ann § 17-25-10.

"Duly---is defined, as is 'right' and 'fitting'; 'properly'; in 'accordance with legal requirements'".

By the legal issues presented in this document and argued in this and its connecting cases. The convictions are not right. They are not fitting. They are not proper, nor are they in accordance to the legal requirements of law as is required by proper Due Process. Thus, we are not "duly" (emphasis added) convicted, and via the fraud, the 13th. Amendment does have standing. See S.C. Code Ann § 17-25-10. The sentences and convictions around the nation, to include the appellant's, must be vacated. I seek class action certification under Article III section 2 of The U.S. Constitution and Federal Rule 23 arguing preemption.

(2) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, by the court's failure to grant the motion for severance, causing substantial prejudice to the appellant's trial proceedings?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra. 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

The appellant places forth this issue in a straightforward fashion. It is conspicuous that the motions for severance were properly and timely placed before the General Sessions Court.

See TT.PP. 142 lns. 18-25 through TT.PP. 146 lns. 1-7.

The state gave its explanation as to why the motion(s) should not be granted and a summary of the events they intend to prove at trial. See TT.PP.146 lns. 8-25 through TT.PP. 149 lns. 1-8.

The debate continued over this matter until TT.PP. 153 lns. 1-8 where the motion was denied.

The focus on this issues manifest itself in several ways.

(1) On TT.PP. 148 lns. 6-13. The state gives their reason as being judicial economy; that the same evidence will be used and it would be less burden upon the witnesses. This is a lie, to include being an act of fraud upon the court which cannot be waived, also being jurisdictional in nature, and can even be addressed under the independent action rule which will be elaborated on, Blue Sky Travel and Tours, LLC. v. Al Tayyar, ---Fed.Appx'---, 2015 WL 1451636 CA4 ((Va.2015); Silvestri v. General Motors Corp., 271 F3d. 583, 590(4th.Cir.2001); Nucar Corp. v. Bell, 251 F.R.D. 191, 194(DSC.2008); U.S. v. Sterling, 724 F3d. 482 CA4 (Va.2013).

Please take notice of the argument presented by counsel on the court record pursuant to TT.PP. 142 lns. 24-25 through TT.PP. 145 lns. 1-25; TT.PP. 150 lns. 12-25; TT.PP. 151 lns. 1-7 and 21-25; TT.PP. 152 lns. 1-8. The issues brought forth by the Attorneys for the defendants was the claim of "conspiracy", that there was no tacit agreement or joint enterprise pre-planned, but was rather "self defense" based upon a friend being at threat of great physical injury and or attack. There was also the concern raised over the inability for either of the defendants to call each other to the stand that would have permitted them to present various defenses. The appellant further asserts and present, that there is no overwhelming evidence of guilt because for one thing. There is no final written order

entered into the court record in the appellant's stand your ground hearing that would legally invalidate the appellant's right and claim to immunity.

Yet, it is even far more worse than these crucial factors and or deficiencies, which produce overwhelming prejudice. The prosecutor, conspiring under color of state law, also in violation of 18 U.S.C. § 242, 1001 was engaging in acts of fraud, machination and misrepresentation, and the trial judges were conspiring with them in full knowledge of these facts, which void their jurisdiction for Due Process violation by was this arbitrary judicial action. In truth, it was not just the fact that the state could not prove the elements of conspiracy in general. It was more to the truth, that they could not prove the elements of conspiracy, because all of the indictments were fatally defective, being extremely vague, voiding their jurisdiction for Due Process violation; indictments which would have allowed the jury to speculate as to who was involved in this "so-called" conspiracy, if the appellant and his co-defendant were not tried together.

It is perspicuous, clear, and fundamental, that such action produces overwhelming prejudice by not granting the severance, which is why the trial judge did not grant the severance and the state protested when such a severance was sought. Primarily for reasons of economy of time in judicial administration, the general rule has evolved that persons jointly indicted should be tried together, Hall v. United States, 83 U.S. App. D.C. 166, 168 F2d. 161(1948); Dykes v. United States, 114 U.S. App. D.C. 189, 313 F2d. 580(1962).

This rule has particular strength where, as here, one crime may be proved against two or more defendants on a single set of facts or from the same evidence, United States v. Lebron, 222 F2d. 531(2nd.Cir.1955) cert. denied, 350 U.S. 876, 76 S.Ct. 121, 100 L.Ed. 774(1955). Notwithstanding the need for efficiency in judicial administration, a joint trial is inappropriate if

it sacrifices a defendant's right to a fundamentally fair trial, (5th., 14th. amendment Due Process; 6th., 14th. amendment fair impartial trial dynamics). Also see Baheer v. United States, 329 F2d. 786(10th.Cir.1964) cert. dismissed, 379 U.S. 853, 85 S.Ct. 101, 13 L.Ed.2d. 56(1964); Barton v. United States, 263 F2d. 894(5th.Cir.1959).

For these reasons, although Rule 14 of Federal Rules Of Criminal Procedure, as well as South Carolina State law, places the granting or denial of a severance in the sound discretion of the trial judges as was stated on TT.PP. 152 lns. 9-22, The discretion of the judge in this case was not sound via the fraud, machination and conspiring under color of state law, Opper v. United States, 348 U.S. 84, 75 S.Ct. 158, 99 L.Ed. 101(1954); United States v. Frazier, 394 F2d. 258(4th.Cir.1968), if a "substantial degree of prejudice" springs from a joint trial as it does in this case, where the joint trial compromises specific trial rights, or prevent the jury from making a reliable judgment about the defendant's guilt, a severance is mandatory, United States v. Burgo, 279 F.Supp. 843(S.D.N.Y.1968). Not surprising, the facts peculiar to each case will determine whether sufficient prejudice exist to make a denial of a severance reversible error.

In this case some of the specific trial rights are the constitutional Due Process right to have particular averments passed upon by the Grand Jury in the body of the indictments; the right to be fully and properly apprised of notice as well as the cause and nature of the offenses; and not to allow the severance so the state and court can criminally, constructively amend the indictments all over the place because said indictments were fatally defective. Reversible error producing overwhelming prejudice is clearly established, Schaffer v. United States, 221 F2d. 17, 19(5th.Cir.1955).

Severance in this case would have been obligatory where a major portion of the state's case was founded and or based

"[c]onspiracy", and none of the indictments say who it was that the appellant allegedly conspired with, which if the cases were tried separately, would have allowed the jury to only speculate as to the appellant's guilt, creating an inability for them to produce a reliable judgment about the appellant's guilt, proving overwhelming prejudice in the trial being tried jointly. Also, where the case rest upon exculpatory evidence, in that there was no final "[w]ritten" (emphasis added) order issued into the court record. Jurisdictional claim of immunity exist. Alibi potentially exist since an "[e]xact [t]ime", which is an essential element in attempted murder is not alleged within the indictment(s). Such presents itself with claims of actual innocence based upon immunity via stand your ground defense.

Where co-defendant refused to take the stand. Extreme prejudice is clearly demonstrated. The 5th. amendment in this instance gave the appellant's co-defendant the right to not even be called to the stand and that right extended so far as to forbid not only the government, but even the appellant from calling his co-defendant to take the stand which extremely prejudiced the appellant, United States v. Keenan, 267 F2d. 118, 126(7th.Cir.1959) cert. denied 361 U.S. 836, 80 S.Ct. 121, 4 L.Ed.2d. 104(1959); Poretto v. United States, 196 F2d. 392, 394(5th.Cir.1952); DeLuna v. United States, 308 F2d. 140 (5th. Cir.1952); United States v. Housing Foundation, 176 F2d. 665, 666(3rd.Cir.1949).

However, if the appellant's co-defendant's case was severed from the appellant's, where the codefendant would retain the privilege against self incrimination, as a witness, he would no longer have the right not to be called to the stand. Thus, absent the appellant's codefendant's willingness to waive his 5th. amendment rights while joined as a defendant with the appellant, severance was the only way of affording the appellant any possibility of persuading the codefendant to testify, Landy v. United States, 283 F2d. 303(5th.Cir.1960).

In a situation where the elusive quality of credibility is of such importance, the jury should have the benefit of all the relevant testimony likely to shed light on the situation, in this case, the appellant's codefendant's testimony. Where the opportunity to sever by the court, resulted in withholding this critical witness' testimony on such critical points, so tipped the scales against the appellant, that the appellant failed to receive a fair trial. A verdict based so heavily on less than the full available testimony, where the missing testimony of the codefendant could, with relative ease, have been procured by the court granting the motion to sever. The court's ruling should not stand, United States v. Turner, 274 F.Supp. 412(D.C.Tenn.1967); United States v. Crisona, 271 F.Supp. 150 (S.D.N.Y.1967); United States v. Kilmore, 403 F2d. 627, 628(4th. Cir.1968) cert. denied 394 U.S. 932, 89 S.Ct. 1204, 22 L.Ed.2d. 462(1969); 454 F2d. 772(1971).

The State and court, conspiring under color of state law, in egregious acts of fraud upon the court, machination and arbitrary judicial action, has failed to adhere to their own state laws, in violation of the appellant's substantial rights of Due Process, as well as 18 U.S.C. §§ 241, 242, 1001, which serve to deny the appellant the Equal Protection of The laws, which void their jurisdiction for Due Process violation, Grupo Dalaflex v. Atlas Global Group L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240; S.C. Code Ann § 17-25-10; Screws v. United States supra.; State v. Middleton supra.; McLaughlin v. Florida supra.; Eslinger v. Thompson supra.; Lugar v. Edmondson Oil Co. supra.; Aladeckcha, 2010 WL 4054267(2010); Paul Adams v. California Institution, 2016 WL 6464444; Holloway v. Perry, 2016 WL 4074149; Donatoni v. Department Of Homeland Security, ---F.Supp.3d.---, 2016 WL 1755871; U.S. v. Hare, 820 F3d. 93(4th.Cir.2016).

When an officer and or state actor shall use their power

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pursuant to the instrument of arrest or prosecution in egregious acts of prosecutorial misconduct and ulterior motives and incarcerate and or prosecute an accused for the purpose of engaging in malicious, fraudulent and criminal acts, willfully subjecting the appellant to deprivations of any rights, immunities or privileges secured by the constitution and laws of the United States within any state, District or territory. They shall be subject to state and or Federal penalty. By what has been done here which is indeed prejudicial. Such action is indisputably deprivation of the rights of the accused to liberty and a violation of 18 U.S.C. §§ 241, 242; Neither threat, nor violence is a necessary ingredient of the offense under these circumstances where the conspiring individuals were clearly acting arbitrarily under color of state law for ulterior purpose giving a mock stand your ground hearing with no written final order to deprive of an appealable issue, soliciting false testimony in that hearing where party stated she had "managerial powers" when she did not, going past the (365) days permitted by law where there is no overwhelming evidence of guilt due to right to stand ground. Jurisdiction must be deemed void for Due Process violation, Williams v. United States, CA5 (Fla.) 1950, 179 F2d. 656 cert. granted 71 S.Ct. 70, 340 U.S. 97, 95 L.Ed. 774; Brown v. United States, CA6 (Tenn.) 1953, 204 F2d. 247; United States v. Ramey, CA4 (W.Va.) 1964, 336 F2d. 512 cert. denied 85 S.Ct. 649, 379 U.S. 972, 13 L.Ed.2d. 564; United States v. Kozminski, (1988) 487 U.S. 931, 101 L.Ed.2d. 788, 108 S.Ct. 2751, 46 CCH E.P.D. ¶ 38067 on remand (1988 CA6 Mich.) 852 F2d. 1288; 18 U.S.C. §§ 241, 242; Greenwood v. Peacock, (1966) 384 U.S. 808, 16 L.Ed. 2d. 944, 86 S.Ct. 1800; United States v. Otherson, (1980 CA9 Cal.) 637 F2d. 1276 cert. denied (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; Brown v. United States, 2014 WL 2871398 (DSC.2014); Hunt v. United States, F.Supp.2d., 2007 WL 5131716 (DSC.2007); U.S. v. Bartko, 728 F3d. 327(4th.Cir.2013); U.S. v. Parker, 790 F3d. 550(4th.Cir.2015); Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340(U.S.1935); Napue v. People Of The State Of Illinois, 360 U.S. 264, 79 S.Ct. 1173.

Motion for severance is addressed to sound discretion of the trial court. Which in this case that discretion was not sound due to trial court engaging in acts of fraud upon the court, criminal conspiracy, machination under color of state law. The trial court's ruling will not be disturbed on appeal absent an abuse of discretion which conspicuously occurred here. Criminal cases may be tried together where they (1) arise out of a single chain of circumstances, (2) are proved by the same evidence, (3) are of the same general nature, and (4) no real right of the defendant has been prejudiced. All (4)(emphasis added) of these elements must exist before the appellant and his codefendant can be tried together, not (3) or (2). The Appellant's constitutional Due Process rights pursuant to notice, being properly apprised as to the cause and nature of the accusations or offenses, having crucial, essential elements and or averments passed upon by the Grand Jury, to call the codefendant to testify, to establish potential alibi and not have the indictments constructively amended throughout the proceedings were violated producing extreme prejudice where the prosecution sought to conceal all of this by trying us both together. Thus, the conviction must be vacated and reversed, State v. Caldwell, 378 S.C. 268, 662 S.E.2d. 474(S.C.App.2008); State v. Tyre, S.E.2d., 2013 WL 8538730(2013); State v. Butts, S.E.2d., 2014 WL 2586521(2014); DeLuna v. United States, 308 F2d. 140(5th.Cir. 1962); United States v. Kahn, 366 F2d. 259, 263-264 (2nd.Cir.) cert. denied, 389 U.S. 1015, 88 S.Ct. 591, 19 L.Ed.2d. 661(1967); 454 F2d. 772(1971); State v. Rocheville, 425 S.E.2d. 32(S.C. 1993); State v. Kelsey, 502 S.E.2d. 63 (S.C.1998); State v. Beekman, 415 S.C. 632, 785 S.E.2d. 202(2016); State v. McDonald, 412 S.C. 133, 771 S.E.2d. 840 (S.C.App.2015).

(3) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated by the indictment(s) for attempted murder's failure to allege what weapon was allegedly used and who it was the

appellant supposedly acted in concert with, in the same vein, the indictment for conspiracy's failure to allege who it was that the appellant conspired with, in the body of the charging instrument?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; Broad River Power Co. supra.; 31-C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

The appellant did not object to these defects and or errors at the time of his trial and or before he gave his guilty plea, but the defect(s) and or error(s) serve to render the indictment(s) wholly invalid. Defects in an indictment that are of such a fundamental character as to render an indictment wholly invalid are not subject to waiver by the defendant, 41 Am. Jurs.2d Indictments And Information § 299(1968); State v. Munn supra.

It is universally recognized that an indictment "[m]ust" contain certain [s]pecification of [a]cts and [c]ircumstances as well as on its [f]ace fix and determine the identity of the offense with such [p]articularity, that it will enable the defendant to know with sufficient [c]ertainty what he has to face at trial to give him or her a fair opportunity to prepare his defense to avail him or herself of conviction, or acquittal as a bar to further prosecution arising out of the same facts,

State v. Rallo, 403 S.E.2d. 653(1991); State v. Hardee, 279 S.C. 409, 308 S.E.2d. 521(1983); Locke v. State, 341 S.C. 54, 533 S.E.2d. 324(2000); IN RE: Jason T., 340 S.C. 455, 531 S.E.2d. 544(S.C.App.2000); State v. Parker, 344 S.C. 250, 543 S.E.2d. 255(S.C.App.2001).

S.C. Code Ann § 17-19-10 Provides:

"All offenses shall be prosecuted by Grand Jury indictment(s). Thus, no person shall be held to answer in any court for any alleged crime or offense unless upon indictment by a Grand Jury".

S.C. Code Ann § 17-19-20 Provides:

"Every indictment shall be deemed and judged as good and sufficient in law, which in addition as to allegations as to time and place as required by law, charges the crime substantially in the language of the common law of the statute, prohibiting the crime and so plainly that the nature of the offense charged may be easily understood***".

Insomuch, it is the body of the indictment which is the [v]ital part of the charging instrument, State v. Tate, 345 S.C. 577, 549 S.E.2d. 601(S.C.2001), and it "[c]annot" be so cryptic or the wording so loose, vague and ambiguous as to fail to comply with the basic right of the accused to be "[f]ully" informed as to the "[c]ause and [n]ature" of the accusation being levied against them, which is one of the most basic, fundamental and universally recognized rights of Due Process, Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572(1941); State v. Tabor, 262 S.C. 136, 141, 202 S.E.2d. 852(1974)(Holding that the state may not support a conviction * 334 for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment).

Subject to certain minor exceptions not present, jurisdic-

tion is made void for Due Process violation, and the trial court is prohibited from enacting and or invoking and or continuing its Subject Matter Jurisdictionary "[p]owers" to convict a defendant for an offense, when there is no indictment charging him with that offense when the jury is sworn, and or before he gives his guilty plea even though the court does possess such "[p]ower" given to them by legislative statute, State v. Beachum, 288 S.C. 325, 342 S.E.2d. 597(1986); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 126640; White v. Manis, 2014 WL 1513280(DSC.2014).

Federal Rules of Procedure, Rule 7(c) requires that an indictment contain a "[p]lain", "[c]oncise" and "[d]efinite" written statement of essential elements and or allegations constituting the offense charged. The indictment Clause of the 5th. Amendment require that the indictments contain some amount of factual particularity to ensure that the prosecution will not fill in elements of his case with facts other than those considered by the Grand Jury, United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982).

If the court will please take notice of the indictment(s) for attempted murder. They read: "That in Berkeley County, South Carolina,****Morris Gourdine,****, while acting in concert with codefendant, discharged a firearm at the victim,****".

The indictment for conspiracy reads:

"That in Berkeley County,****the defendant Jason Morris Gourdine, did combine, conspire, confederate, agree or have tacit understanding with another, for the purpose of committing a crime, to wit, attempted murder.*****".

These are the generic terms of the statute for conspiracy. Inasmuch, the indictment(s) are to vague and cryptic. The attempted murder indictment(s) do not say what weapon was supposedly used, and both the attempted murder and conspiracy in-

dictment(s) do not allege who it was the appellant conspired with. The court and prosecution did add these elements and or aggravating factors that were not passed upon by the Grand Jury. Did the appellant possess a handgun, a slingshot, a dirk, a machete, an uzi, an AKA-47 or a rocket launcher? The indictments do not say. Did the appellant allegedly conspire with "Sponge Bob", "Barrack Obama", Donald Duck Trump and the alt right", Bugs Bunny" or "Michael Jackson" who came back from the dead? The indictment(s) do not say. This is why they conspired under color of State law, in acts of prosecutorial misconduct as well as in acts of fraud upon the court and denied the motion for severance, which extremely prejudiced the appellant, permitting them to constructively amend the indictments before the court. This extreme prejudice caused actual substantive disadvantage where these material averments were not passed upon by the Grand Jury in the body of the charging instrument. This act led to said constructive amendment and denial of the motion for severance by fraud, depriving the appellant of proper notice giving way to arbitrary judicial action in violation of Due Process law, voiding jurisdiction for Due Process violation. This issue is also preserved for appellate review where the attorney for the defense argued that the State did not prove the indictments or elements of the motions for dismissal, direct verdict and severance, Castillo v. Holder,---F3d.---,2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C. 526, 713 S.E.2d. 591(S.C.2011).

The language in the indictment(s) is so vague, so loose, so cryptic and ambiguous it is almost impossible for the appellant to know what he is called upon to meet and defend. What weapon was the appellant in possess of? As far as the appellant can tell, it must have been a ~~surface~~ to air missile or rocket launcher. As far as the appellant can tell, in whom it was that he allegedly conspired with. It could have been Napoleon Bonapart after he battled at Waterloul or Genghis Khan after he left the Asian Continent, where these people were resurrected from the dead. No one can say what was in the mind of the Grand Jury. This "[c]annot" be deemed as reasonable notice, which is why

the court denied the motion for severance, to constructively amend the indictments where the jury would have been able to only speculate had this not been done. The indictments cannot be deemed as sufficient if the prosecution is permitted to prove all these materially different sets of facts, to include any other set of facts not passed upon by the Grand Jury, subjecting the appellant to "Indictment Ambush" at the onset of the proceedings, voiding their jurisdiction for Due Process violation, State v. Keith, 283 S.C. 597, 598, 325 S.E.2d. 325, 326(1985); State v. Bullock; United States v. Masotto, 73 F3d. 1233 cert. denied 117 S.Ct. 54, 136 L.Ed.2d. 18; Castillo v. Holder, --- F3d. ---, 2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C. 526, 713 S.E.2d. 591(S.C.2011); S.C. Code Ann § 17-25-10.

The requirement of the indictment(s) limit and constrain the Subject Matter Jurisdictionary "[p]owers" of both the prosecution and the court by limiting what can be presented at trial, conviction and sentencing, United States v. Promise, 255 F3d. 150(4th.Cir.2001); State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309. It is the command of the U.S. Constitution, that anything to the contrary is notwithstanding, (Article IV § 2 U.S. Const.); S.C. Code Ann § 17-25-10.

The State and or prosecuting body, acting unjustly, arbitrarily, conspiring under color of law, has egregiously failed to adhere to their own state laws, serving to deny the appellant the Equal Protection of the Laws against unjust, arbitrary prosecution and judicial action in acts of fraud upon the court, Great Coastal Exp. Inc. supra., 675 F2d. 1349(4th.Cir.1982); Fox Ex. Rel. Fox v. Elk Run Coal Co. Inc., 739 F3d. 131(4th. Cir.2014); U.S. v. Beggerly, 524 U.S. 38, 118 S.Ct. 1862, 141 L.Ed.2d. 32(U.S.1998); Blue Sky Travel and Tours, LLC v. Al Tayyer, ---Fed. Appx'---, 2015 WL 1451636 CA4 (Va.2015); Barlow v. Colgate Palmolive Co., 772 F3d. 1001, 90 Fed. R. Serv.3d. 85 CA4 (Md.2014); U.S. v. Tejada, 445 Fed. Appx' 719, 2011 WL 3891825 CA4 (S.C.2011); Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin

v. Florida supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Hicks v. Oklahoma supra.; Jones v. Arkansas supra.; Lugar v. Edmondson Oil Co. supra.; Greenwood v. Peacock, (1966) 384 U.S. 808, 16 L.Ed.2d. 944, 86 S.Ct. 1800; United States v. Otherson, (1980 CA9 Cal.) 637 F2d. 1276 cert. denied (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; S.C. Code Ann § 17-25-10.

In United States v. Hooker, 841 F2d. 1225, 1227(4th.Cir. 1988)(EN BANC) and in Russell v. United States, 82 S.Ct. 1047 (1962), the court held:

"It is an elementary principle where the definition of the offense(s) charged, whether it be at common law or statute, include generic terms, it is "[n]ot" sufficient that the charging should be in the same generic terms of the statute, but it "[m]ust" descend to "[p]articulars".

WE HOLD, a mere citation of the statute of which the defendant is charged with violating is insufficient to cure the failure of the indictment(s) to charge each essential element and or allegation of the offense because a mere citation alone does not ensure that the Grand Jury considered and found the crucial elements and or facts of the offense". The appellant also cannot be subjected to language that violate his rights to double jeopardy protection.

Hence, by the Doctrine of "STARE DECISIS ET NON QUIENTA MOVERE", and indictment "[m]ust" properly set forth all essential elements of the offense. By Hamling v. United States, 418 U.S. 87, 94 S.Ct. 2887(1974), it is well established and recognized under American Jurisprudence: That if an indictment fails to charge all the necessary elements, it fails to charge the offense . If it fails to charge the offense or subject a person to double jeopardy, such violates the appellant's 5th., 6th. 14th. Amendment rights of the U.S. Constitution, as well as Article IV § 2, and his rights of Due Process, voiding the court's jurisdic-

tion for Due Process violation. Thus, the conviction "[m]ust' be set aside, United States v. Cabrera-Teron, 168 F3d. 141(5th. Cir.1999); United States v. Pupo, 841 F2d at 1239(4th.Cir.1988) (EN BANC); United States v. Hooker, 841 F2d. 1225(4th.Cir.1988); United States v. Daniels, 973 F2d. 272(4th.Cir.1992); Elderberry Of Weber City, LLC v. Living Center--Southeast, Inc., ---F3d.--, 2015 WL 4430836 CA4 (Va.2015); Norbrega v. Hinkle, 576 Fed. Appx' 224 CA4 (Va.2014); Manis v. White, 2014 WL 1513280(DSC. 2014); Robinson v. Cohen, F.Supp.2d., 2009 WL 789882(DSC.2009); United States v. Gomez, 690 F3d. 194 CA4 (Md.2012); Carr v. United States, 560 U.S. 438, 130 S.Ct. 2229(U.S.2010); United States v. Robare, 2011 WL 10583565 (N.D.N.Y.2011) Castillo v. Holder supra.; State v. Brandt supra..

(4) Did the trial court err, and was the appellant's 5th., 6th., 14th. Amendment rights violated, as well as Article IV § 2 and his Due Process rights violated, voiding the court's jurisdiction for Due Process violation, due to the court's failure to issue a final written order in the appellant's stand your ground hearing?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings (Black Law Dictionary 8th. Edition).

So the legal maxim remains, STARE DECISIS ET NON QUIENTA MOVERE, to stand by those things decided in law, and not to move from them. Subject Matter Jurisdiction can be raised at any time, "[c]annot" be waived by the defendant, can be raised for the first time on appeal, and the appellate court "[s]hall [n]ot" fail to take notice, South Carolina Dept. Of Social Services v. Tran, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); McCain v. Brightharp, 399 S.C. 240, 730 S.E.2d. 916 (S.C.App. 2012); Sheila R. v. David R., 396 S.C. 41, 719 S.E.2d. 682 (S.C. App.2011); United States v. Beasley, 495 F3d. 142(4th.Cir.2007).

Attached the court will find, "Exhibit--Stand Your Ground" . This is the Notice Of Affirmative Defense, Motion And Memorandum To Dismiss And State's Opposition To Dismiss.

This is the crux of the matter. It is the appellant's contention that the conviction must be vacated because it was obtained by egregious acts of fraud upon the court, conspiring under color of state law and violations of Due Process, which voids the court's jurisdiction for Due Process violation. By these acts the appellant was denied the Equal Protection Of The Laws, Paul Adams v. California Institution, 2016 WL 6464444; Holloway v. Perry, 2016 WL 4079149; Donatoni v. Department Of Homeland Security, ---F.Supp.3d.---, 2016 WL 1755871; U.S. v. Hare, 820 F3d. 93(4th.Cir.2016); Asterbadi v. Leites, 176 Fed. Appx' 426 CA4 (Va.2006); PCS Nitrogen Inc. v. Ford Motor Co., ---F.Supp.3d.---, 2015 WL 6758983(E.D.N.C.2015); Christianson v. M.B.N.A. American Bank, N.A., S.E.2d., WL 8507850(S.C.App. 2013); Caldwell v. Wiquist, 402 S.C. 595, 741 S.E.2d. 583 (S.C. App.2013); Anderson Bros., Bank v. E.B.T. Property Holdings Co. Inc., S.E.2d., 2013 WL 8507807(S.C.App.2013); Miller v. Columbia Forrest Inc., S.E.2d., 2014 WL 5390504(S.C.App.2014); Springob v. University Of South Carolina, 407 S.C. 490, 757 S.E.2d. 384(S.C.2014).

Pursuant to Section 16-11-440(A)(1)(2) Provides:

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"A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to another person: against whom the bodily force is used is in the process of unlawfully and forcefully entering or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes and or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful or forcible act is occurring or has occurred".

When the Court looks at the provisions of S.C. Code Ann § 16-11-420 of The Protection Of Persons And Property Act (A). This act extended the provision to cover an occupied vehicle as does exist within this case.

It is perspicuous that from all testimony, that the appellant's codefendant, for all practical purpose when approaching the alleged victim(s) vehicle "unarmed"(emphasis added) intended to identify the person who assaulted, or attempted to assault him in the bar, for the purpose of engaging in mere conversation to gain closure on the matter. There was no other evidence produced subjudice, in the court record, that would substantiate otherwise. A respectable distance was maintained at all times during the efforts to engage in that non-violent conversation when thereupon, the (3) men, "[n]ot [o]ne", but (3), including a very large potential perpetrator, then came at the appellant's codefendant in an overt act of attempted assault and by (3) men overwhelming force, literally chasing the codefendant back to the vehicle. At no time at this juncture the the codefendant show any sign of force or threat, by words or deed. Not any one of these alleged victims were compelled by any sign of force or threat, nor did the codefendant make any effort to extract any person from the vehicle. Thus, there existed no logical reason for any of these alleged victims to chase the codefendant back to the appellant's vehicle except for the purpose of causing potential death or great bodily injury. If their intent was

to de-escalate the situation, all any of the alleged victims had to do, since there at no time was any force or unlawful act manifesting itself. They could have simply ignored the non-violent approach, brushed the event off where there was no weapon presented, remained in the vehicle, turned the key, and then drove off. This was simple. Nothing done by the codefendant required the use of any force, which is obvious because he ran!, he was fleeing the attempted assault. Once these alleged victims by their own cognizance chose to attempt an unlawful assault, which was totally unnecessary at the time, which is clearly indicated by all testimony, in an overt show of overwhelming force, by (3), "[n]ot [o]ne" potential perpetrator who fraudulently called themselves victims. Thus, this unreasonable and excessive response to mere non-violent questioning, indisputably demonstrating that an unlawful and forcible act was occurring. They could have simply stayed in their vehicle, ignored the approach since there was no apparent threat or force at that moment, and drove off, problem solved. Yet it was the alcohol that they consumed that led them to do otherwise.

This is why the hearing Judge did not reduce his findings to a final written order. The Judge knew good and well that the state did not meet their burden in proving that the appellant was not entitled to an immunity defense. So to permit the State to proceed with this farce of a trial, in acts of fraud upon the court, conspiring under color of State law. The Judge gave this mock hearing to make it appear the matter was resolved as a pretext to violate the appellant's Due Process rights, because he knew he could not justify his oral determination by reducing such findings of fact to writing and sign off on a written final order. The conspiring Judge, gave the mock hearing, did not produce the final written order, also to deny the Appellate Court jurisdiction to review this particular issue on direct appeal. The failure to produce this final written order in the stand your ground hearing is a jurisdictional matter, so it can be raised on the first time in this appeal.

This is not the only injustice that presents itself in this travesty of an adjudication that occurred subjudice. The appellant brings the court's attention to S.C. Code Ann § 16-11-440(C), which reads:

"A person who is not engaged in an unlawful activity and who is attacked in another place where he has the right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as is identified in Section 16-1-60".

This is an additional outrageous act that has occurred within these proceedings. To negate the element that the appellant and or codefendant had a right to be where they were. For the purpose of criminally robbing the appellant of his immunity defense in egregious acts of prosecutorial misconduct, to which the court was privy to the fraud. The prosecutor solicits false, perjured testimony from the witness who was acting as a bartender and states solely for the stand your ground hearing. The witness asserts that she was the manager, and had the power and authority to expel the appellant and or his codefendant from the bar to negate the element that we had a right to be there.

Once they hatched their scheme to solicit this false, perjured testimony to deprive the appellee of his immunity defense conspiring under color of state law, in acts of fraud upon the court. Once the immunity hearing was concluded. The witness then changes her perjured testimony given in the stand your ground hearing, during the actual trial, which they all conspired in. After achieving their goal in the immunity hearing. The witness then testifies that she indeed was "[n]ot" (emphasis added) the manager openly on the trial record to correct the perjured testimony which extremely prejudiced the appellant at his immunity hearing. This substantially violates the appellant's Due Process rights and voids the court's jurisdiction

for these egregious acts of fraud and machination. The hearing Judge was privy to all of this and knew if a final written order was reduced to paper and entered into the court record, which is a jurisdictional matter for purposes of appeal. The case would have been reversed and vacated for this sham legal process that presents itself before the court(s) involved. See Vol. III TT.PP. 117 lns. 1; TT.PP. 114 lns. 18; TT.PP. 117 lns. 18-23; Vol. II TT.PP. 285 lns. 12-13 and 20-21; TT.PP. 293 lns. 17-23.

Another place, for the purposes of the statute, encompasses a residence, a bar or the parking lot within the provisions of The Protection Of Persons Act related to immunity for use of deadly force by a person who is not engaged in unlawful activity and who is attacked in "[a]nother [p]lace" where he has a right to be if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person to prevent the commission of a violent crime. The State actors by this conspiracy, their intent was to deny the appellant the right to address the issue before the Court Of Appeals because there was no final written order produced, where the appellant is forced, and must now argue the issue under Subject Matter Jurisdiction in order to properly have the injustice addressed, State v. Jones, 416 S.C. 283, 786 S.E.2d. 132(S.C.App.2016); Humbert v. State, 345 S.C. 332, 548 S.E.2d. 862(2001); State v. Dunbar, 356 S.C. 138, 587 S.E.2d. 691(S.C.App.2003); State v. Scott, S.E.2d., 2015 WL 7075444(S.C.App.2015).

A prime example that the appellant was entitled to the immunity defense is found in the case of State v. Pompey. Similar in my case, the codefendant approached the vehicle. It was not illegal for him to do so. The codefendant had no visible weapon, made no show of illegal force, but merely asked a question. The codefendant did not bait anyone, and there was no evidence adduced that would serve to prove otherwise. It was at the point of aggressive posture engaged in by the alleged victims and retreat, not bait, but retreat of the codefendant, where an

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unlawful attack by unnecessary, brute, criminal force was in the process of being committed did the appellant act to meet force with force as the statute provided. The codefendant's retreat demonstrated the intent to avoid further escalation. There was no act or statement done at that moment that required (3), not one, but (3) potential perpetrators, under the influence of alcohol, to attempt a potentially deadly attack by illegal force. No weapon was branded, no show of illegal force was made by the codefendant. The alleges victims, had not been for the large amounts of alcohol they consumed, could have simply ignored the codefendant's question, got in their car and left, or at least made an effort to do so since there was no threat or show of illegal force. It was only at the time of the attempted assault of the (3) attackers did the appellant act with deadly force out of fear of great bodily injury. Three people, including one huge fellow, assaulting one medium built person can potentially do a lot of damage, including kill a person, whether it be intentional or unintentional. Under these circumstances the statute triggers, State v. Pompey, S.E.2d., 2015 WL 3647091(S.C.App.2015).

The prejudice is inherently patent so the issue must be deemed preserved. There is no statute of limitations for fraud upon the court. The court has inherent equity power to vacate judgment obtained by fraud upon the court. Without a written final order entered into the court record, signed by a Judge. The appellant's immunity claim is still valid and it created a jurisdictional defect in bringing the actual trial because without that final order in this particular case. Res Judicata and or collateral estoppel does "[n]ot" attach establishing overwhelming prejudice. The written order was also needed to properly preserve the issue for appeal. No trial should have occurred until such a written final order was entered into the court record, Nelson v. Levy Center LLC., 2016 WL 1276414 (DSC.2016); Teal v. Hickman-Tedder, S.E.2d., 2015 WL 9393946 (S.C.App.2015); Ware v. Ware, 404 S.C. 1, 743 S.E.2d. 817(S.C. App.2013); S.C. Code Ann § 14-3-330; United States v. Sacara

Pacific Industries, 100 F.Supp.3d. 948, 91 Fed. R. Serv.3d. 1005(W.D.Cal.2015); Rogers v. Carr, S.E.2d., 2014 WL 2721025 (Ct.App.2014); Patton v. American Lifestyle Homes LLC., S.E.2d., 2016 WL 6471968(S.C.2016); Portee v. Always Precise Protection Agency & Investigation, Inc., S.E.2d., 2012 WL 10864536(S.C. App.2012); Appling v. State Farm Mut. Auto Ins. Co., 340 F3d. 769(9th.Cir.2003); City Of Fortmill v. Fitzgerald, S.E.2d., 2014 WL 7339453(S.C.App.2014).

The hearing Judge conspiring under color of state law with the prosecution knew exactly what they were doing in engaging in this fraud and machination which is why the Judge never issued the final written order. The ill intent is demonstrated by the obtaining and or soliciting the use of perjured testimony from Julia Victoria Taylor, asserting that she was the manager to fraudulently make it appear she had legal authority to ask us to leave so it would be perceived that we were unlawfully there. Once this criminal act and aim was achieved in the immunity hearing she then changes her statement at trial, the damage was done. The outcome surely could have been different due to there being no overwhelming evidence of guilt. See Vol. III TT.PP. 117 ln. 1; TT.PP. 114 ln. 18; TT.PP. 117 lns. 18-23; Vol. II TT.PP. 285 lns. 12-13 and 20-21; TT.PP. 293 lns. 17-23.

Evidence offered by prosecution may be false because it is perjured, or, though not itself factually inaccurate, because it creates a false impression of facts which are known not to be true. A conviction obtained through the use of false testimony, which could have been objected to had the court permitted my counsel to be present, where this false testimony is known to be such by representatives of the state, is a denial of Due Process, when the state though not soliciting false testimony, allows it to go unchallenged when it appears. Principle that a state may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely

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because the false testimony goes only to the credibility of the witness. The Judge did not issue a written order for the purpose of covering all of this up and conspired to deny the appellant the right to address these concerns on appeal because he figured the State v. Gentry case would bar review on appeal. Thank goodness the failure to issue the written order is jurisdictional in nature which must be adjudicated under the Due Process Prong to Subject Matter Jurisdiction, which voids the court's jurisdiction for Due Process violation, United States v. Bartko, 728 F3d. 327(4th.Cir.2013); Napue v. People Of State Of Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d. 1217 (U.S.1959); Riddle v. Ozmint, 369 S.C. 39, 631 S.E.2d. 70 (S.C. App.2006); Simmons v. State, 416 S.C. 584, 788 S.E.2d. 220(S.C. App.2016); U.S. v. \$41,329 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240; Loumiet v. United States, 65 F.Supp.3d. 19(2014),

There is no written order entered into the court record from the immunity hearing containing factual findings sufficient to allow the court of appeals, sitting in its appellate capacity, to ensure that the law was faithfully executed below. It would place the court in a position where it would be engaging in speculation in upholding a state court oral determination. Until order is entered by the Clerk Of Court, the hearing court for the immunity defense retains control over the case. No order is final until it is written and entered. Until written and entered the immunity hearing court and Judge retain the discetion to change its mind and amend the oral determination accordingly. The written order, not the oral determination, constitute a final judgment of the court. The trial court's jurisdiction was made void for Due Process violation without a written order for the immunity hearing entered into the court record, also for jurisdictional purposes of appeal, Simpson v. Simpson, 377 S.C. 519, 660 S.E.2d. 274(S.C.App.2008); Brailsford v. Brailsford, 380 S.C. 443, 669 S.E.2d. 342(S.C.App.2008); Metts v. Mims, 370 S.C. 529, 635 S.E.2d. 640(S.C.App.2006); Simmons v. State, 416 S.C. 584, 788 S.E.2d. 220(S.C.App.2016); Raby Const. LLP.

v. Orr., 358 S.C. 10, 594 S.E.2d. 478(S.C.App.2004); 18 U.S.C. § 242, 1001; Bowman v. Richland Memorial Hosp., 335 S.C. 88, 91, 515 S.E.2d. 259, 260(Ct.App.1999); Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d. 643(S.C.App.2006); McComb v. Concord, 394 S.C. 416, 426, 715 S.E.2d. 662, 667(Ct.App.2011); State v. Robinson, 287 S.C. 173, 337 S.E.2d. 204(1985).

The court, conspiring under color of state law, in egregious acts of fraud upon the court, has failed to adhere to their own state laws in violation of the appellant's substantial rights of Due Process, serving to deny the appellant the Equal Protection Of The Laws, producing overwhelming prejudice, which voids their jurisdiction for Due Process violation, Grupo Dalaflex v. Atlas Global Group L.P. supra.; Loumiet v. United States supra.; U.S. v. \$41,320 U.S. Currency supra.; S.C. Code Ann § 17-25-10; Screws v. United States supra.; State v. Middleton supra.; McLaughlin v. Florida supra.; Eslinger v. Thompson supra.; Lugar v. Edmondson Oil Co. supra.; Aladekcha, 2010 WL 4054267 (2010); Paul Adams v. California Institution, 2016 WL 6464444; Holloway v. Perry supra.; U.S. v. Hare supra.; Donatoni v. Department Of Homeland Security supra..

When an officer of the State and or State actor, shall use their power pursuant to arrest and or prosecution in egregious acts of prosecutorial misconduct, fraud upon the court and machination, for ulterior motives and incarcerate and or prosecute an accused for the purpose of engaging in malicious, arbitrary, fraudulent and criminal acts, willfully subjecting the appellant to deprivations of any rights, immunities or privileges secured by the Constitution and laws of The United States within any State, District or territory. They shall be subject to state and federal penalties. By what has been done here producing overwhelming prejudice. Such action is indisputably deprivation of rights, immunities and privileges of the accused to liberty and a violation of 18 U.S.C. §§ 241, 242 and 1001; neither threat, nor violence is a necessary ingredient of the offense under these circumstances where the conspiring

individuals were clearly acting arbitrarily under color of state law for an ulterior purpose giving a mock stand your ground hearing without issuing a written final order to deprive the appellant of an appealable issue, soliciting and or allowing false, perjured testimony in that hearing where the trial court's jurisdiction is in question due to there being no written final order which is to be adjudicated under the Due Process Prong to Subject Matter Jurisdiction. Thus, the sentence and conviction must be vacated, Williams v. United States supra.; Brown v. United States supra.; United States v. Ramey supra.; United States v. Kozminski supra.; Greenwood v. Peacock supra.; United States v. Otherson supra.; Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007); U.S. v. Parker, 790 F3d. 327(4th.Cir. 2013); Mooney v. Holohan supra.; Napue v. People Of State Of Illinois supra..

(5) Did the trial court err, and was the appellant's 6th. and 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2 and his Due Process rights violated, where jurisdiction is made void for Due Process violation, due to the appellant's counsel not being present at a critical stage of the proceedings?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

Subject Matter Jurisdiction can be raised at any time, "[c]annot" be waived by the defendant and can be raised for the first time on appeal and the court shall not fail to take notice. This particular issue is to be addressed under the Due Process Prong to Subject Matter Jurisdiction, South Carolina Dept. Of Social Services v. Tran supra.; McCain v. Brightharp supra.; Sheila R. v. David R. supra.; U.S. v. Beasley supra.; U.S. v. \$41,320 U.S. Currency supra.; Loumiet v. United States supra..

Insomuch, it is conspicuous by the litigation presented within this document that the stand your ground hearing concluded without there being a final written order filed for that hearing which is a jurisdictional prerequisite for appeal purposes. What's even worse than this, not only was there no written order produced and filed to finalize any oral determination. But also the appellant was denied the presence of counsel at a critical stage of the proceedings. Had this not been done, objections for the appellant, not just the codefendant, would have been preserved in the court record. Also, the appellant's Attorney at this critical stage of the proceedings could have ensured that a written order was filed to finalized the matters, where the Judge could have altered his determination at any time before such order was signed, creating overwhelming prejudice and manifest injustice and or a miscarriage of justice, which voids the court's jurisdiction for Due Process violation, Hidalgo v. Barker, 176 Wash. App. 527, 309 P.3d. 687(2013); State v. Thompson, ---S.E.2d.---, 2016 WL 7151279(2016); State v. Rearick, 407 S.C. 391, 790 S.E.2d. 192(2016); Levi v. Northern Anderson County E.M.S., 409 S.C. 374, 762 S.E.2d. 44(2014); Great American Ins. Co. v. Nextday Network Hardware Corp., 73 F.Supp.3d. 636 (2014); Marshall v. City Of Rock Hill, S.E.2d., 2015 WL 3884258 (S.C.App.2015); Bodman v. State, 403 S.C. 60, 742 S.E.2d. 363 (S.C.2013); Garcia Financial Group Inc. v. Virginia Accelerators Corp., 3 Fed. Appx' 86, 2001 WL 117497(4th.Cir.2001); Board Of Trustees Of Institutional Union Of Operating Engineers, 2016 WL 1253285; Wells Fargo Bank N.A. v. Farag, 2016 WL 2944561;

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LaRock v. Kunchich, 187 Wash. App. 1002, 2015 WL 1751704; Calderon v. Thompson, 523 U.S. 538, 118 S.Ct. 1489(U.S.1998); Graham v. McFadden, 2015 WL 505536(DSC.2015); Addison v. C.M.H. Homes Inc. 47 F.Supp.3d. 404(DSC.2014); U.S. v. Baher, 598 Fed. Appx' 165(4th.Cir.2015).

Insomuch, the 6th. Amendment right to assistance of counsel in part provides; In all criminal prosecutions the accused shall enjoy the right to have the assistance of counsel for his defense. The 6th. amendment right to defense counsel in a felony prosecution is a fundamental right, binding on the States through the 14th. amendment, Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d. 799(1963).

The stand your ground hearing from beginning to end was a critical stage of the proceedings where the failure to produce a written final order created a jurisdictional defect prohibiting the trial court from proceeding due to that court retaining jurisdiction until a final written order is entered into the court record. This is also a matter related to appeal since the order is a jurisdictional prerequisite for appeal purposes. If the U.S. Supreme Court determined that a plea hearing is a critical stage of the proceedings. How much more critical is it at every stage of the stand your ground hearing?, Hamilton v. Alabama, 368 U.S. 52, 54, 82 S.Ct. 157, 158-59(1961); White v. Maryland, 373 U.S. 59, 83 S.Ct. 1050, 10 L.Ed.2d. 199 (U.S.1963).

To permit a conviction to stand when it exist in blatant defiance to the holdings made in Gideon v. Wainwright would erode the principles established by the 6th. amendment. A defendant has the Constitutional right to the assistance of counsel at every "[c]ritical [s]tage" of the proceedings against him or when his substantial rights may be affected. In this instance the absence of counsel becomes jurisdictional in nature because the depriving of the appellant of this substantial right of counsel was used to deny the appellant the jurisdictional requisite written final order in the stand your ground immunity

hearing where the lack of counsel at this stage contaminated and affected the entire subsequent proceeding, Mempo v. Rhay, 389 U.S. 128, 134, 88 S.Ct. 254, 257, 19 L.Ed.2d. 336(1969); Lake v. State, ---S.W.3d.---, 2017 WL 514588(2017); United States v. Hollis, 506 F3d. 415(5th.Cir.2007).

A criminal defendant's initial appearance before a judicial officer where he learns of the charge against him and that his liberty is subject to restriction, marks the start of the adversary judicial proceedings that trigger attachment of the 6th. amendment right to counsel at every stage from beginning to end. It is worth emphasising first what is not in dispute or at stake here under our precedents. Once the adversary judicial process has been initiated the 6th. amendment guarantees a defendant the right to have counsel present at all stages of the criminal proceedings, Stahlnecker, 386 S.C. 609 at 620, 690 S.E.2d. 565(S.C.App.2010); State v. Bryant, 383 S.C. 410, 680 S.E.2d. 11(S.C.App.2009); United States v. Wade, 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d. 1149(U.S.1967).

The 6th. amendment to the U.S. Constitution guarantees a defendant the right to effective assistance of counsel. Criminal law establishes that the constitutional guarantee of effective assistance of counsel applies to pretrial critical stages that are part of the whole course of a criminal proceeding, a proceeding in which a defendant cannot be presumed to make critical decisions without counsel's advice. Even in a plea hearing the right to counsel is guaranteed. In this situation there is no dispute that the lack of the presence of counsel at this critical stage of the stand your ground hearing where it cause the right to challenge the failure of the court to reduce its findings to a final written order to preserve the appellant's rights of immunity defense from being made a part of the court record. This egregious deprivation of fundamental constitutional protection contaminated the entire subsequent trial proceeding, voiding the court's jurisdiction for Due Pro-

cess violation, Lafler v. Cooper, 132 S.Ct. 1376; United States v. Wade, 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d. 1149(U.S.1967); Sellner v. State, 416 S.C. 606, 787 S.E.2d. 525(S.C.App.2016); Hamilton v. Alabama, 368 U.S. 52, 54, 82 S.Ct. 157, 158-59(1961); White v. Maryland, 373 U.S. 59, 83 S.Ct. 1050, 10 L.Ed.2d. 199 (U.S.1963); Lake v. State, ---S.W.3d.---, 2017 WL 514588(2017); Rice v. United States, F.Supp.3d., 2015 WL 9216877(W.Va.2015); Rowsey v. United States, 71 F.Supp.3d. 585(E.D.Va.2014); United States v. Wright, 59 F3d. 169 (Table), 1995 WL 378584(4th.Cir. 1995). See Vol. II, TT.PP. 11 through 440; TT.PP. 132-134.

The state and or court, again, conspiring under color of State law, in acts of fraud upon the court and machination, has failed to adhere to their own state laws in violation of the appellant's substantial constitutional rights of Due Process also serving to deny him the Equal Protection of the Laws producing arbitrary judicial action. The conspiring Judge and State actors knew fully well that the 6th. amendment guaranteed the appellant the right to effective assistance of counsel which applies to pretrial stages that are a part of the whole course of a criminal proceeding in which a defendant cannot be presumed to make critical decisions without counsel's advice. Due to lack of counsel's presence, this created an avenue for the conspiring parties to deny the appellant his right of immunity defense. It created a structural constitutional error that is not subject to the harmless error doctrine, voiding the court's jurisdiction for Due Process violation, Vines v. United States, 28 F3d. 1123 Crim. Law 1116(1), 1156(1); White v. Manis, 2014 WL 1513280(DSC.2014); Lafler v. Cooper, 132 S.Ct. 1376; Sellner v. State, 416 S.C. 606, 787 S.E.2d. 525(S.C.App.2016).

When it came to the final portion of the stand your ground hearing the appellant's counsel was prevented at this stage creating structural error. The trial court's error effects the appellant's substantial constitutional right to counsel of choice at a critical stage of the proceedings voiding the court's jurisdiction for Due Process violation. Thus, the sentence and convic-

tion must be set aside. The appellant motions for such, Screws v. United States supra.; Hicks v. Oklahoma supra.; Loumiet v. United States supra.; Hunt v. United States supra.; United States v. Otherson supra.; United States v. Ramey supra.; Rowsey v. United States, 71 F.Supp.3d. 585(E.D.Va.2014); Rice v. United States, F.Supp.3d., 2015 WL 9216877(W.Va.2015); Kaley v. United States, 134 S.Ct. 1090, 188 L.Ed.2d. 46(U.S.2014); United States v. Davila, 133 S.Ct. 2139, 186 L.Ed.2d. 139(U.S.2013); United States v. Marcus, 560 U.S. 258, 130 S.Ct. 2159, 176 L.Ed.2d. 1012(U.S.2010); Appellate Court Rule 203(b).

(6) Did the trial court err, and was the appellant's 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated by the trial court giving an improper jury instruction, producing extreme prejudice, informing the jury that a specific intent to kill is not an element of attempted murder?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

Insomuch, the injustices and violations of both State

and Federal law that has occurred in this case are overwhelming and even seerve to "shock the conscience" by the egregious acts of conspiring under color of state law, fraud and machination. to add further insult to injury, pouring salt into already gaping wounds; an additional injustice has occurred in this case, in the form of an erroneous jury instruction given by the court. The trial court abused its discretion and did err, by charging that a specific intent to kill is not an element of attempted murder. See Vol. III, TT.PP. 719 lns. 23-24.

An abuse of discretion occurs when the court is controlled by an error of law, or when the ruling based upon findings of fact, is without evidentiary support or fact. It occurs when the court rests its decision or claim on clearly erroneous findings or material fact or by misapprehending the law with respect to underlying issues, Georgia Pacific Consumer Products L.P. v. Von Drehle Corp., 781 F3d. 710, 728+ 4th.Cir. (N.C.); Sharpes v. Sharpes, 535 S.E.2d. 913, 342 S.C. 71(2000).

The law is clear on this issue. S.C. Code Ann § 16-3-29 Provide:

"Attempted murder is defined as an act done by a person who with intent to kill, attempts to kill another person with malice and aforethought, either expressed or implied, commits the offense of attempted murder".

The statute conspicuously provide that the specific intent to kill is an essential element of attempted murder. To state otherwise is an egregious error of law. Then when you add the other injustices which have occurred in this case. It is obvious that the prejudice is overwhelming. The S.C. Supreme Court had decided in a similar instance, that indeed the specific intent to kill, is without a doubt, an essential element of attempted murder, See State v. King, 412 S.C. 403, 772 S.E.2d. 189 (S.C. App.2015).

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To warrant reversal, a jury charge must be erroneous and prejudicial. In light of the unjust denial of stand your ground rights by the fraud, conspiracy and machination, by failing to produce a final written order to establish Res Judicata and preclusive effect and other outrageous acts which occurred. Such is indeed prejudicial. Errors, including erroneous jury instructions are subject to the harmless error analysis. Since we have the State procuring the conviction by perjured testimony, blocking the required severance of the case, constructively amending the indictments all over the place, taking away the presumption of innocence, denying the right of immunity defense by failing to produce a final written order in support of the oral determination because the trial Judge knew fully well that the State did not meet its burden of proving the appellant was not entitled to the immunity defense. This is not a harmless error, State v. Belcher, 385 S.C. 597, 611, 685 S.E.2d. 802, 809(2009).

The South Carolina Legislature required the State to prove specific intent to commit murder as an essential element of attempted murder, and therefore the trial court erred by charging the jury that attempted murder is a general intent crime. Thus, the judgment must be vacated and reversed. I motion for such, State v. King, 412 S.C. 403, 772 S.E.2d. 189(S.C.App. 2015); State v. Sutton, 340 S.C. 393, 397, 532 S.E.2d. 283, 285(2000); State v. Thompson, 374 S.C. 257, 262, 647 S.E.2d. 702, 705(Ct.App.2007); United States v. Hernandez-Montes, 831 F3d. 284 (5th.Cir.2016).

(7) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process Rights violated, as well as Rules Of Court, Rules Of Criminal Procedure, as well as the court's jurisdiction being made void for Due

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Process violation, and or they were prohibited from enacting and or invoking and or continuing their Subject Matter Jurisdictionary "[p]owers" due to the "[p]rocedural [d]efect" in that there was no "[w]ritten" (emphasis added) order of continuance obtained pursuant to Article V § 4 of The South Carolina Constitution?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules of Evidence, Rule 201(a).

The appellant gives the court judicial notice. Not only by this document am I arguing against the precedent established by States v. Gentry, 363 S.C. 93, 610 S.E.2d. 494, 495 (S.C.2005). The appellant is also arguing against the precedent established by State v. Langford, 400 S.C. 421, 735 S.E.2d. 471 (S.C.2012), Joseph v. South Carolina Dept. Of Labor, Licensing And Regulation, 417 S.C. 436, 790 S.E.2d. 763 (S.C.App.2016); Stokes--Carven Holding Corp. v. Robinson, 416 S.C. 517, 787 S.E.2d. 485 (S.C. App.2016); Johnson v. Johnson, S.E.2d., 2014 WL 2721680 (S.C. App.2014).

The petitioner humbly contends, in pursuant to Article V § 4 of The South Carolina Constitution:

"IT IS ORDERED, THAT ALL CRIMINAL CASES IN THE STATE OF SOUTH CAROLINA "[s]hall" BE DISPOSED OF WITHIN (180) DAYS FROM THE DATE OF THE DEFENDANT'S ARREST. Provided, however, the Circuit Court may continue a criminal case beyond the (180) days by "[w]ritten" order (emphasis added), if the court determines that exceptional circumstances exist in the case. This order does not create or define a right to a speedy trial", (See S.C. Rules Of Court 2003 Edition on page 652 and S.C. Rules Of Court 2004 Edition on page 659).

Article V Privileges, Rule 501 General Rule Provides:

"Except as required by The South Carolina Constitution, by The Constitution Of The United States, or by South Carolina statute, the privileges of a witness, person, or the government (emphasis added) shall be governed by the principles of the common law as they may be interpreted by the courts in light of reason and experience. This Rule modifies the Federal Rule to refer to the South Carolina Constitution".

Article V provisions in this case makes it mandatory, draconian, requiring any interpretation of this provision to be referred to the South Carolina Constitution as a primary rule and or first choice, and not to the U.S. Constitution or common law or state law as it pertains to normal administrative matters, epecially in light of the fact that we are dealing with a judicial order issued by the S.C. Supreme Court under Article V of the South Carolina Constitution, not the U.S. Constitution. Not only by judicial order, but also, the provisions of the South Carolina constitution are to be deemed and construed as mandatory unless there is some language contained therein that would dictate otherwise.

This order has never been rescinded until 2013. Nonetheless, I am challenging that rescinding which will be elaborated on further. This order was issued by the South Carolina Supreme Court in 1980, renewed in 1999 making it draconian, mandatory, being applicable to every criminal court within the state, and every PCR Court in the state regarding the (365) day provision. The (180) day provision was amended by the S.C. Supreme Court in 2013 to require that all criminal cases be concluded within (365) days. But the appellant falls under the (180) provision via collateral estoppel emerging from case 2013-CP-400-0084 where the issues are sought class action review and the S.C. Attorney General, The S.C. Court Of Appeals and The S.C. Supreme Court are parties to the default.

The S.C. Supreme Court's intent, judicial or otherwise should be ascertained from the plain language of this provision of law. The language must also read in a sense which harmonizes with its subject matter and accords with its general purpose. Once the S.C. Supreme Court has made a choice, there is no room for the court to impose a different judgment based upon their own notions. If the provision of law's language is unambiguous and clear, there is no need to employ the rules of statutory and or common law construction, even pursuant to the court's actions, the court has no right to look for or impose another meaning. Where the language of this provision of law is clear and explicit, the court "[c]annot" rewrite the provision of law and interject matters in the S.C. Supreme Court's language. Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous provision of law, Bass v. Isochem, 617 S.E.2d. 369(S.C.App.2005); State v. Brannon, 666 S.E.2d. 272(S.C.App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. Second Inquiry Fund, 611 S.E.2d. 297(S.C.App.2005).

The revision by the S.C. Supreme Court which occurred in 2013 must be deemed void because it was initiated behind a class based invidiously discriminatory animus in the form of racial hatred, surreptitiously done, to disproportionately effect African Americans and minority populations within this state. Thus, the 2013 amendment runs afoul of Ex Parte Virginia, 100 U.S. 339(1880). When they realized that the inmates of this state discovered how to properly argue this issue which is seen in cases 2006-CP-400-3567, 3578, 3569; 2013-CP-400-0084 in the Richland County Court Of Common Pleas, to which collateral estoppel attaches barring the S.C. Court Of Appeals from challenging this issue since they are, along with the S.C. Supreme Court, parties to the default. The S.C. Supreme Court in acts of racial hatred amended the provision conspiring under color of state law, a provision existing unchanged for over (35) years to "defang" this provision of law. The Article V powers given to the S.C. Supreme Court do not permit them to abrogate, dilute,

waterdown or negate the protections established by Ex Parte Virginia. Thus, the 2013 revision must be deemed void, also due to fraud and Due Process violation. See McCulloch, 17 U.S. at 423; 1997 WL 10291 U.S. (Appellate Brief) Brief Of U.S. Senators Orin G. Hatch et. al.,. The revision is restrictive and runs afoul of Ex Parte Virginia. The same restrictions that apply to the powers of Congress, applies to the powers of the S.C. Supreme Court, to include the powers given to the S.C. Court Of Appeals.

To further bolster the proposition that this Rule, order or provision is mandatory, draconian in nature, the defendant brings the court's attention to South Carolina Rules Of Court 2005 Edition, pages 296, 297, 303 and 304. They state:

Pursuant to Article V § 4 Of The South Carolina Constitution:

"IT IS ORDERED, that upon the filing of a post trial motion under Rules 50, 52, 59 or 60(a) S.C.R.C.P., by a party in any jury or non jury action, the party "[s]hall" within (10) days provide a copy of the motion to the Judge.

IT IS FURTHER ORDERED,****the Chief Judge for administrative purposes in each Circuit shall ensure compliance with this order, also see S.C. Rules Of Court 2013 Edition".

It is perspicuous that if the lower court is not in compliance to Rules 50, 52, 59 or 60(a) by these judicial orders issued from the South Carolina Supreme Court, the higher Court(s) cannot entertain jurisdiction, and must remand for further adjudication by the lower court(s) in question if the motions are not ruled on when timely submitted in accordance to these judicial orders, making this Article V § 4 provision and or order(s) draconian, mandatory in nature. On this premise, the criminal court under the (180) day provision, and or The Court Of Common Pleas under the (365) day provision, "[c]annot" continue to invoke and or enact their "[p]owers" of Subject Matter Jurisdic-

tion if they fail to be in compliance to this order and jurisdictional requisite, even though they do indeed possess such power by legislative statute. They stand in egregious violation of the Due Process Prong to Subject Matter Jurisdiction.

Additional proof that this provision of law is draconian, mandatory in nature, attached the court and parties will find a copy of a similar Article V § 4 order issued from the South Carolina Supreme Court related to placing cases within the Court Of Common Pleas on the complex case docket. Please note the words that are specifically circled by me related to this order. It is perspicuous that by the language of this particular order, the actions of the court are made discretionary by the language contained therein. Note that the language of the Article V § 4 order relied upon for this particular issue is significantly, materially, distinctly different demonstrating that this provision of law is draconian, mandatory in nature.

Pursuant to the government blatantly disobeying this order issued by the South Carolina Supreme Court, in the appropriate case, "the trial court and or other relevant court, shall not hesitate to grant relief, default or a mistrial where its rulings, and or in this case, the orders of The South Carolina Supreme Court, were violated to the prejudice of those they were designed and or intended to protect", Toyota Of Florence Inc. v. Lynch, 314 S.C. 257, 442 S.E.2d. 611, 615(1994); S.C. Rules Of Court annotated, 2006 Edition, pg. 270; Panas v. Panas, S.E.2d., 2010 WL 10088164(S.C.App.2010); Ex Parte Cannon, 385 S.C. 643, 685 S.E.2d. 814(S.C.App.2009); United States v. Peoples, 698 F3d. 185 CA4 (S.C.2012); Holmes v. Holmes, S.E.2d., 2014 WL3369006(S.C.App.2014); IN RE: Joshua R.L., S.E.2d., 2013 WL 8538696(S.C.App.2013); United States v. Boston, 539 Fed. Appx' 209 CA4 (N.C.2013); Sun v. Sun, S.E.2d., 2014 WL 7778971 (S.C.App.2014); IN RE: McDonald, 497 B.R. 489 Bkrtcy (DSC.2013); Ex Parte Lipscomb, 398 S.C. 463, 730 S.E.2d. 320(2012).

To make use of the holdings in State v. Gentry related

to Subject Matter Jurisdiction would be misplaced. That case dealt with indictment defects and it was adjudicated under a cloud of fraud upon the court. The precedent set by State v. Gentry as well as State v. Langford are being challenged Pursuant to S.C.R.A.P., Rule 217. I am arguing against these precedent cases. There is also a default claim emerging from case 2013-CP-400-0084 to which the S.C. Court Of Appeals is party to that default which bars the court from challenging this issue by collateral estoppel. Nonetheless, this issue has absolutely nothing to do with indictment defects. To make use of the holdings made in State v. Culebreth regarding Rule 3(c) would be misplaced. Rule 3(c) is totally administrative. If the honorable court would take notice of the bottom of the page of 652 and 659 as it relates to this mandate. You will see that the administrative factors related to this provision of law have been rescinded. Further, there are two material and distinct differences between Rule 3(c) and this requirement of Due Process Law. Rule 3(c) is not tied to the provisions of The South Carolina Consttution. This requirement of criminal and or civil procedure is. Secondly, Rule 3(c) is not a judicial order issued by the South Carolina Supreme Court. This requirement of Criminal and or Civil Procedure for the General Sessions Court and or Court Of Common Pleas is. This has absolutely nothing to do with a speedy trial issue. I, we, would adamantly object to that notion. A speedy trial is not what the appellant is arguing. This is simply a matter of judicial order; "STARE DECISIS ET NON QUIENTA MOVERE"; South Carolina Rules Of Court; South Carolina Rules Of Criminal and or Civil Procedure (for PCR's) and Due Process Law. Once this provision of law was issued as a judicial order then tied to the provisions of the South Carolina Constitution pursuant to Article V § 4, its observance became mandatory by the provisions contained therein making it draconian in nature.

I, we, are not arguing that the prosecution does not have the right to control his case load. What I am arguing,

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is that in order for him to control that case load. There are certain provisions of law and Rules Of Court set into place that would have allowed him to do so, and he and or the court must adhere to those Rules set into place by the South Carolina Supreme Court to control that case load. He was required to obtain a "[w]ritten" order of continuance. I, we, are not arguing that this is a Due Process right conferred upon us by the U.S. Constitution. This is a Due Process right conferred upon us by the S.C. Constutution. Thus, making use of the holdings made in State v. Langford, 400 S.C. 421, 735 S.E.2d. 471(S.C.2012) and United States v. McDonald, 456 U.S. 1, 102 S.Ct. 1497 U.S. (N.C.1982) would be misplaced, especially in light of the fact that we have a default and claims of collateral estoppel which binds the S.C. Court Of Appeals they being party to that action. This emerges from case 2013-CP-400-0084 out of the Richland County Court Of Common Pleas.

S.C. Code Ann §§ 1-7-730, 17-13-150 and 17-25-10 require that the prosecution and or prosecuting body "[s]hall" fulfill and see that all duties, requirements, and Rules Of Criminal Procedure related to Due Process and The S.C. Constitution are adhered to and completed within the court.

In order to understand the meaning of any statute or phrase of law, it is necessary to determine the meaning of the language as it is used in the particular context, Robinson v. Shell Oil Company, 117 S.Ct. 843(1997). Article 12 § 2 utilizes the words "[s]hall provide,...". In this context "[s]hall" is mandatory. See United States v. Meyers, 106 F3d. 936, 941 CA10 (1997). In order to understand the meaning of any word, sentence or phrase, "[t]he Cardinal Rule is that the words should be given their plan and ordinary meaning and or interpretation without the court interjecting into them matters or a construing that's not in the language", Seckinger v. The Vessal Excalibur, 483 S.R.2d. 775(S.C.App.1997); United States v. Ron Pair Enterprises Inc., 109 S.Ct. 1026, 1030(1989); Bass v. Isochem, 617

S.E.2d. 369(S.C.App.2005); State v. Brannon, 666 S.E.2d. 272(S.C. App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. S.C. Second Injury Fund, 611 S.E.2d. 297(S.C. App.2005).

Article 1 § 23 Of The South Carolina Constitution dictates:

"The provisions of The South Carolina Constitution shall be taken, deemed and construed to be mandatory and or prohibitory and not merely directory, except where made directory or permissive by its own terms".

Since the appellant is arguing the claim of default and collateral estoppel emerging from case 2013-CP-400-0084, which binds the S.C. Court of Appeals who are party to that default. The appellant would fall under the old Article V § 4 order before the 2013 revision where the original cases subjudice to 2013-CP-400-0084 are 2006-CP-400-3567, 3568 and 3569 demonstrating that the issue was before that court since 2006. This also applies since the 2013 revision was an act of machination on the part of the S.C. Supreme Court, conspiring with the S.C. Attorney General under color of state law, who had control over Judge Jean Toal due to her past DUI arrests and or troubles producing fraud upon that court via her influence. This was also done behind a class based invidiously discriminatory animus, in the form of race. Once the parties realized that the predominately minority inmates discovered how to properly argue the issue via case 2013-CP-400-0084. The S.C. Supreme Court conspiring with the S.C. Attorney General revised the Article V § 4 order to water down the S.C. Constitution Due Process requirement to dilute the protections set in place by Ex Parte Virginia, 100 U.S. 339(1880), to place into effect an Article V § 4 determination that they knew beforehand would disproportionately affect African Americans and other minorities within this state, in retaliation, because the minority inmates now figured out

how to properly argue this issue. Just like in cases such as, Edward Kennedy, 2000 WL 35763420(2000); City Of Rome v. United States, 446 U.S. 156(1980); South Carolina v. Katzenbach, 383 U.S. 301(1966); Plaut v. Spendthrifts Farms, Inc., 115 S.Ct. 1447(1995); The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024, 2006 A.M.C. 2955, 10 L.Ed. 826(1841). Their actions produce a result that is not given to them via their Article V powers and or privileges, nor by the S.C. Constitution and serve to aid in establishing a form of modern day slavery as is defined in the C.A.T. Treaty that Congress signed off on and ratified, which voids their jurisdiction for Due Process violation. Due to this, to include the claim of default and collateral estoppel emerging from case 2013-CP-400-0084. The appellant falls under the old provision of law before the fraudulent 2013 revision which runs afoul of the protections established by Ex Parte Virginia.. Also see 1997 WL 10291 U.S. (Appellate Brief) Brief Of U.S. Senators Orin G. Hatch, Strom Thurmond et. al.; Oregon v. Mitchell, 400 U.S. 112(1971); Croson, 488 U.S. at 490; McCulloch, 17 U.S. at 423. Just like Congress would be prohibited from initiating such action, so would the S.C. Supreme Court, Mississippi Univ. For Women v. Hogan, 458 U.S. 718, 732(1982); Adarand Contractors Inc. v. Pena, 115 S.Ct. 2097(1995).

Therefore, it can be factually stated, that not only by the provisions of Article V § 4 of The South Carolina Constitution, also by judicial order issued by the South Carolina Supreme Court. It is mandatory that the appellant's Due Process matters be disposed of before the criminal court within (180) days of his arrest. If the court would take notice of the arrest warrants and or indictments as they pertain to these matters. The court will see that the appellant was arrested on July 31, 2013. If the court would take notice of the sentencing sheet and or trial transcript. The court would see that the appellant's Due Process matters were not disposed of until March 17, 2016. By the date of arrest this means that the appellant's Due Process matters should have been disposed of by January 31, 2014. Yet they were not disposed of until March 17, 2016 approximately

over (3) years past the (180) days prescribed by judicial order and the provisions of The South Carolina Constitution. Even if the court would assess the time via the fraudulent 2013 revision. The conspiring parties would still be (1½) years past the (365) day revision. This voids the trial court's jurisdiction for Due Process violation. There is no "[w]ritten" (emphasis added) order of continuance filed with the Clerk of Court before the (180) day period, or even the (365) day period expired, or that was served on the defendant. Such an order of continuance by the defendant's rights of Due Process and pursuant to judicial order issued by the S.C. Supreme Court "[c]annot" be obtained after the fact because without this essential jurisdictional requisite. Jurisdiction would be made void for Due Process violation on that date of failure to be in compliance, which include any act done beyond the prescribed time period. This includes the trial itself and the signing of the commitment order derived from it. The "[w]ritten" order of continuance "[m]ust" be obtained before the (180) and or (365) day time period expires. To go beyond the prescribed time period and or deadline without a "[w]ritten" (emphasis added) order of continuance creates a "[p]rocedural and [j]urisdictional [d]efect", which "[v]oids" the trial court's "[p]owers" of Subject Matter Jurisdiction and or their "[p]ower" and or "[a]bility" to enact and or invoke and or continue its "[p]owers" of Subject Matter Jurisdiction in compliance to judicial order issued from the South Carolina Supreme Court, Rules Of Court and Due Process Law to adjudicate the appellant's trial. This is to be adjudicated under the Due Process Prong To Subject Matter Jurisdiction as was defaulted on by this state to which the S.C. Court Of Appeals is party to the default.

The appellant places forth this issue in a straightforward fashion and want to make certain that there is no misunderstanding as to the specific claims and or question that is placed before the court. The defendant is not arguing whether or not the criminal court has Subject Matter Jurisdiction to hear and

determine cases of "[t]his" general class to which the proceedings in question belong. The appellant concedes this fact. The appellant in this context agrees with all (3) Gentry, Cotton and Parkhurst court(s) when they determined that the criminal courts do have Subject Matter Jurisdiction to hear cases of this nature and class. This is not the issue or is it what the appellant is arguing. What the appellant is indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton or Parkhurst court(s) is this. Despite the fact that the criminal court does have Subject Matter Jurisdiction to hear cases of this general class to which the proceedings in question belong via State legislative statutes and or Congressional intent. Do their egregious, blatant failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites", at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process; which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction. Do their their blatant, egregious failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or [j]urisdictional [r]equisites" at various phases of, or at the commencement of the Subject Matter Jurisdictionary,....halt, check, constrain, restrain, limit, arrest, stop or void the continuance of the Subject Matter Jurisdiction "[p]ower" before the court, which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction, even though the court without a doubt do indeed possess such "[p]ower" by state legislative statute and or Congressional intent? This is a crucially, materially, distinctly different question related to Subject Matter Jurisdiction that was never answered by any of the (3) three courts involved pursuant to Gentry. This is a new question of law and fact, a challenge to the precedent set by the Gentry case. Thus, making use of the holdings made in the Gentry court would be misplaced. Such a new question of law and fact is not barred in seeking relief for, does relate to Subject Matter jurisdiction, "[c]annot" be waived by the appellant, can be raised at "[a]ny"

time, including for the first time on appeal, and the court "[s]hall [n]ot" fail to take notice. No timely objection is needed to preserve this issue. This is being argued under the Due Process prong to Subject Matter Jurisdiction, Grupo Dala-flux v. Atlas Global, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.ED.2d. 866(2004); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240; White v. Manis, 2014 WL 1513280(DSC.2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); Hunt v. United States, F.Supp.2d., WL 5131716(DSC.2007); Brown v. United States, 2014 WL 2871398(DSC.2014).

The trial court, and or prosecuting body, acting arbitrarily, conspiring under color of state law, in blatant defiance to Rules of Court; S.C. Supreme Court judicial order, and the provisions of the South Carolina Constitution has failed to be in compliance to their own state laws in violation of the appellant's substantial Federal Constitutional rights of Due Process under the 6th. and 14th. amendment(s). Then to conceal this injustice. The S.C. Attorney General, due to Judge Toal's legal matters, compromises that court and get them to make effort to water down this provision in the 2013 revision behind a class based invidiously discriminatory animus in the form of race in violation of the holdings made in Ex Parte Virginia. Thus, the Article V § 4 order before the revision must stand, especially in light of the fact that the state defaulted on this issue in case 2013-CP-400-0084 to which the S.C. Court Of Appeals is also party to that default. This voids the trial court's jurisdiction for Due Process violation as well as for violations of 18 U.S.C. §§ 242 and 1001, United States v. Walsh, 194 F3d. 37(2nd.Cir.1999); United States v. Pirro, 212 F3d. 89(2nd.Cir. 2000); Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Jones v. State Of Arkansas supra.; Hicks v. Oklahoma Supra.; Dozier v. Loop College, City Of Chicago supra.; Lugar v. Edmondson Oil Co. supra.

Subject Matter Jurisdiction is the "[p]ower" to hear and determine cases of a general class to which the proceedings in question belong, Bell v. Monsanto Corp., 579 S.E.2d. 325 S.C. 553(S.C.2003). Inasmuch, Subject Matter Jurisdiction does not only cover and or involve whether or not the matter resides in a proper court of jurisdiction to hear and determine it. This is specifically, only, the first prong to Subject Matter Jurisdiction. The court's "[p]ower" to hear and determine a case, is also defined as the court's "[a]bility" to hear and determine a case. Thus, Subject Matter Jurisdiction also involves any issue or matter that may "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to act in accordance to Rules Of Court, Rules Of Criminal Procedure and Due Process Law. This is clearly established by the Due Process Prong to Subject Matter Jurisdiction, which is the second prong. Such matters can be raised at "[a]ny" time, "[c]annot" be waived by the appellant, and the court "[s]hall [n]ot" fail to take notice, Mathis v. State, 355 S.C. 87, 584 S.E.2d. 366(S.C.App.2003); State v. Browning, 320 S.C. at 368, 46 S.E.2d. at 359; State v. Munn, 357 S.E.2d. 461(S.C.1987); Brown v. United States, 2014 WL 2871398(DSC.2014); Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007).

Without a "[w]ritten"(emphasis added) order of continuance filed with the Clerk Of Court issued before the (180) and or (365) days expired within the trial court, jurisdiction is made void for Due Process violation, to include any act done there-after which includes the signing of any commitment order and or sentencing sheet. The trial court and prosecutor were prohibited from continuing the cause. Thus, the sentence and conviction must be reversed and vacated. The Appellant motions for such.

(8) Did the trial court err, and was the appellant's 5th., 6th., 14th. Amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights

violated, by the trial court and or plea court allowing constructive amendment of the indictment(s) at the appellant's trial and or plea hearing?

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra.; 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitutional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

Subject Matter Jurisdiction can be raised at "[a]ny" time, "[c]annot" be waived by the appellant, can be raised for the first time on appeal and the court shall not fail to take notice, Grupo Dalaflux v. Atlas Global Group, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240; South Carolina Department Of Social Services v. Tran, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); McCain v. Brightharp supra..

It is the body of the indictment which is the [v]ital part of the charging instrument, State v. Tate supra., and it "[c]annot" be so cryptic or the wording so loose and ambiguous as to fail to comply with the basic right of the accused to be fully informed as to the "[c]ause and [n]ature" of the accusation being levied against him, which is one of his most basic, fundamental, and universally recognized rights of Due Process, Smith v. O'Grady supra.; State v. Tabor supra.. Reliance upon

a caption to bolster a fatally defective indictment is therefore contrary to the constitutional mandate that for most offenses, a defendant may only be required to answer an indictment of a Grand Jury that is deemed good, S.C. Const. Article 1 § 11; cf. State v. Tabory supra. (holding that the state may not support a conviction for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment).

Insomuch, the indictment(s) for attempted do not properly and or sufficiently apprise the appellant of the "[c]ause and [n]ature" of the offense, or of what he is called upon to meet and defend because they do not allege an exact time of assault as time is recognized by law. The wording is too loose, and vague making use of the term "ON OR ABOUT". Such deprives the appellant of the right to call witnesses to defend the cause because he cannot establish an exact date. It deprives him of the right to establish alibi not being certain of said exact date. "ON OR ABOUT" July 28, 2013 can be any day within a (3) month radius before or after that date. The material fact in murder are the mortal blow and the subsequent death occurring from it being a composite crime and the death "[m]ust" appear upon the record or indictment as having occurred within a year and a day of each other, (ei. when the mortal blow was given). The averment then of each of these material facts [m]ust under well established Rules of Criminal pleading be accompanied by an allegation of a certain time and or place to include not alleging "ON OR ABOUT" as it pertains to time. Assault and Battery With Intent To Kill embraces the whole of attempted murder and visa versa. The elements to prove the crimes are the same as it is for murder with the exception of the death ensuing from it. The indictment(s) for attempted murder also do not allege who it was that the appellant conspired with as is the same as the conspiracy indictment(s). The Attempted murder indictment(s) do not allege what weapon it was that was allegedly used in the crime. No one can say what was in the mind of the Grand Jury as to what exact date of the assault was to be adjudi-

cated, being an essential element of the offense. The indictments don't say who it was that the appellant conspired with. As far as the appellant can tell, the indictment asserts that he went back in a time machine and brought back Napoleon Bonapart, Genghis Khan, John Wayne and Julius Ceasar and conspired with them. As far as the appellant can tell from the indictment(s) he was in possession of a M-60 machine gun or a surface to air rocket launcher. No one can say what was in the mind of the Grand Jury. The language is too vague, subjecting the appellant to arbitrary judicial action and process. The language is so cryptic, loose and vague it creates an enigma as to what the appellant is called upon to meet and defend setting the appellate up for "INDICTMENT AMBUSH" at the onset of his proceedings. The indicments cannot be deemed sufficient if the prosecution is permitted to prove all these different material sets of facts. The indictments in question do not descend to an exact time and or who it was the appellant conspired with or what weapon was used. These crucial elements and or averments must be passed upon by the Grand Jury in accordance to the constitutional rights of the accused. To not allege these crucial elements and or allegations in the body of the charging instrument returned against the accused, having them passed upon by the Grand Jury, then, thereafter the trial court and or plea court and or prosecuting body adds or modifies these material averments in one form or the other, to assert these crucial elements and or averments, not confirmed or passed upon by the Grand Jury within the proceedings, and allow a trial and or plea hearing to go forward, where such were not passed upon by the Grand Jury, is constructive amendment of the indictment(s). No one can say what was in the mind of the Grand Jury, See S.C. Code Ann. §§ 17-19-10, 17-19-20, 17-19-30, 17-25-10; State v. Hardee supra.; State v. Rallo supra.; State v. Parker supra.; Locke v. State supra.; State v. Tate supra.; State v. Tabor supra.; United States v. Abrams supra.; State v. Keith supra.; State v. Rector supra.; Smith v. O'Grady supra.; United States v. Masotto supra.; Castillo v. Holder supra.; State v. Brandt supra.; State v. Blakeney supra.; State v. Stewart supra.; Ball v. United States

supra.; State v. Platt supra.; State v. Kennedy supra.; State v. Ham supra.; State v. Pierce supra.; Hamling v. United States supra.; United States v. Hooker supra.; United States v. Pupo supra.; U.S. v. \$41,320 U.S. Currency supra.; State v. Sutton, 340 S.C. 393, 397, 532 S.E.2d. 283, 285(2000).

In regard to the constitutional structural error and or defect in the indictment(s), as constructed in all (33) states that make use of an indictment, also the remaining (17) states that make use of a criminal complaint, and all (50) states that make use of an indictment under Federal captivity, taking away the presumption of innocence and automatically shifting the burden of persuasion, predetermining in advance the outcome of the proceedings by the language contained therein. According to the findings and or language of the indictment(s) produced by The Grand Jury, under the plain language Rule, the appellant is already found guilty and convicted. The Grand Jury does not have the power and authority by State and or Federal Law, or by State and or Federal Constitution to convict a defendant. The law is clear. The Grand Jury "[m]ust" refrain from even making an "[o]pinion" as to a person's guilt. How much more egregious and criminal where they swear upon their "[o]ath" (emphasis added) our guilt? This is an egregious violation of their shielding function. This serves to aid in establishing modern day slavery which too, they do not have the power or authority to do, where we can no longer be deemed **"DULY"**--meaning **"PROPERLY"** convicted in violation of S.C. Code Ann § 17-25-10, Due Process Law and the provisions of the 13th. amendment. For the Grand Jury to produce indictments that state, adjudicate and or charge that the defendant is not only guilty of the crimes charged, to include the "MENS REA" elements related to the offenses; then, thereafter, the court alters the charge(s) of the indictment(s), to include the "MENS REA" elements, and charge that the defendant is innocent until proven guilty, and the State court or Federal government or prosecuting agents aid them, conspiring under color of state law and or authority, turning the blind eye and deaf ear in doing so, is constructive

amendment of the indictment(s), and changes the very nature of the allegations returned by the Grand Jury. This too creates an instant double jeopardy issue. To accept a guilty plea, and or to take a defendant to trial on charges in an indictment for which he has already been found guilty of, violates Due Process and is double jeopardy. No one can say what was in the mind of the Grand Jury as to whether or not they intended to illegally take upon themselves the role of the trial jury and determine guilt of the offenses not allowing any subsequent adjudication to occur rendering any subsequent proceeding "[v]oid" for Due Process violation. This means that this is an error which can only be corrected by the Grand Jury and not the trial jury, prosecutor or court. Even the Gentry court could not adjudicate that case where it was prematurely determined by the Grand Jury. This produces a Subject Matter Jurisdiction issue under the Double Jeopardy Clause and law, which is to be adjudicated under the Due Process violation prong to Subject Matter Jurisdiction. This further serves to validate that the structural constitutional error and or defect affect the framework of the proceedings and cannot be viewed as harmless, because the court "must" constructively amend the indictment(s) on the "MENS REA" element(s) of the offense(s) to correct, or in an effort to correct the structural constitutional error in acts of fraud upon the court and modern day slavery, The Amistad supra.; State v. Easler, (S.C.1997) 327, 121, 489 S.E.2d. 617; State v. Lewis, (S.C.App.1996) 321 S.C. 146, 147 S.E.2d. 265; Sandstrom v. Montana supra.; Morisette supra.; United States Gypsum Co. supra.; Humanik v. Beyers supra.; United States v. Clemens supra.; Martin v. Ohio supra.; Robinson v. Arvonio supra.; United States v. Briggs supra.; United States v. Chadwick supra.; Compare Pierson v. Ray supra.; Jenkins v. McKeithen supra.; Branzburg v. Hayes supra.; Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 542(1923); United States v. Direct Sales Co., 40 F.Supp. 917 D.C.S.C.(1941); United States v. Atlantic Commission Co., 45 F.Supp. 187 D.C.N.C.(1942); State v. Boyd, 2 Hill (S.C.) 288, 1834 WL 1573 S.C. App. L. & Esq. 1834; State v.

Bramlett, 166 S.C. 323, 164 S.E. 873(S.C.1932); Beck v. Washington, 369 U.S. 541, 82 S.Ct. 955 U.S. Wash. (1962); State v. Tollin, 352 S.C. 235, 573 S.E.2d. 812(S.C.App.2002); Byers v. Reynolds, 2011 WL 7063638, * 8 (DSC.2011); United States v. Jefferson, 546 F3d. 300 CA4 (Va.2008); IN RE: Grand Jury Subpoena John Doe, No. 05GJ1318, 584 F3d. 175 CA4 (Va.2009); IN RE: Grand Jury Subpoena (T-112), 597 F3d. 189 CA4 (Va.2010); United States v. Umana, 750 F3d. 320 CA4 (N.C.2014); United States v. Dinkins, 691 F3d. 358 CA4 (Md.2012); Dickerson v. Warden Of Lieber C.I., 2013 WL 4500048(DSC.2013); James v. Reynolds, 2014 WL 2624431 (DSC.2014); Clark v. Arizona, 548 U.S. 735, 126 S.Ct. 2709, 165 L.Ed.2d. 842, 74 U.S.L.W. 4560(U.S.2006); 130 S.Ct. 2896; S.C. Code Ann § 17-25-10.

Constructive amendment of an indictment is a per se violation of the provisions of the 5th. amendment if it affects an essential element of the offense. Such a violation requires reversal of the conviction, even without a showing of prejudice, but once prejudice is clearly shown, the sentence and conviction must be vacated for Due Process violation which must be adjudicated under the Due Process Prong to Subject Matter Jurisdiction, State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309; Article IV § 2 U.S. Const.; United States v. Coyne, 4 F3d. 100 (2nd.Cir. 1993); United States v. Morgenstein, 933 F2d. 1108, 1115(2nd.Cir. 1991); Wilson v. Lindler, 995 F2d. 1256; Stirone v. United States, 361 U.S. 212(1960); Gaither v. United States, 413 F2d. 1061 (D.C.Cir.1969); Douglas v. State Of Alabama, 380 U.S. 407, 85 S.Ct. 1074(1965); Dech v. Missouri, 544 U.S. 622, 125 S.Ct. 2007, 161 L.Ed.2d. 953, 73 U.S.L.W. 4370(U.S.2005); United States v. Whitfield, 695 F3d. 288 CA4 (N.C.2012); United States v. Mills, 555 Fed. Appx' 241 CA4 (Va.2014); United States v. Naidu, 480 Fed. Appx' 180 CA4 (Md.2012).

Inasmuch, constructive amendment of the indictment(s) did occur and the unconstitutional amendment prejudiced the appellant at his proceedings leading to an unfair and partial trial and or guilty plea that was not knowingly, freely, volun-

tarily or intelligently given, depriving the appellant of reasonable notice and of his right to have material averments passed upon by the Grand Jury in egregious violation of the appellant's substantial rights of Due Process. This occurred when the charging terms of the indictment were altered literally and or constructively in the manner aforementioned. S.C. Code Ann § 17-19-100(1985) permit amendment of an indictment provided the nature of the offense charged is [n]ot changed. If (A) there is a defect in form in any indictment. or (B) on the trial of any case there shall appear to be any variance between the allegations of the indictment(s) and evidence offered in proof thereof, the court before which the trial may be had may amend the indictment(s) according to the proof, if the amendment be because of variance, if such amendment does "[n]ot" change the "[n]ature" of the offense charged. After such amendment the trial and or plea hearing should proceed in all respects and with the same consequences as if the indictments had originally been returned as so amended, unless such amendment shall operate as to surprise the defendant, in which case the defendant shall be entitled upon demand to a continuance of the cause.

A variance between pleadings and proof is [n]ot material where matter alleged is [n]ot an [e]lement of the offense, State v. Hiott, 276 S.E.2d. 163.

On the other side of the spectrum of this language, a variance between pleadings and proof "[i]s" material where matter alleged "[i]s" an element of the offense; and furthermore, such an amendment cannot be had if such amendment changes the "[n]ature" of the offense, Hope v. State, 328 S.C. 78, 492 S.E.2d. 76; State v. Grainger, 507 S.E.2d. 322(S.C.1998); United States v. Naidu, 480 Fed. Appx' 180 CA4 (Md.2012); United States v. Allmendinger, 706 F3d. 330 CA4 (Va.2013); State v. Green, 406 S.C. 589, 753 S.E.2d. 259(S.C.App.2014).

Once the nature of the elements became altered in the manner aforementioned, the indictment(s) were no longer to be considered the indictment(s) returned against the appellant.

A defendant is entitled to be tried and or give his guilty plea on charges that are properly set forth in an indictment and such properly set forth charges must be passed upon by the Grand Jury, S.C. Code Ann § 17-19-10(1976). The true test of the sufficiency of an indictment is whether or not it contains the necessary elements of the offense intended to be charged and sufficiently apprises the defendant of what he is called upon to meet and defend. The essential elements and or allegations in this instance are not alleged. The indictments for attempted murder do not allege an exact date to the extreme prejudice of the appellant. "ON OR ABOUT" can reasonably be considered to be any of the days asserted expanding at minimum (3) months in either direction of July 28, 2013. The indictments in question do not allege who it was the appellant supposedly consired with or what weapon was used in the alleged crime. The indictment(s) are too vague and do not descend to these particulars. Further, by the language and or charge of the indictment(s) as contructed, via the structural error, it informs the appellant that he is called upon to meet the burden of production on the critical elements of dispute related to the offenses. By the mandates of Due Process law, the appellant is not, by State or Federal Constitution, nor by State or Federal law, called upon to meet the burden of production on the critical elements of dispute related to the offense(s). The indictment(s) inform the appellant that his guilt is illegally predetermined in advance under "[o]ath"(emphasis added) and the appellant is being subjected to another proceeding on the same charges, which produce an instant Double Jeopardy claim, and fraud upon the court, misrepresentation and modern day slavery due to this fraud, Brown v. State supra.; Mathis v. State supra.; Francis v. Franklin supra.; United States v. Abrams supra.; Martin v. Ohio supra.; IN RE: Winship supra.; Mullaney v. Wilbur supra.; Humanik v. Beyers supra.; Moore v. Dempsey supra.; The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Appling v. State Farm Mut. Auto Ins. Co. supra.; King v. First American Investigators Inc. supra.; S.C. Code Ann § 17-25-10.

What's worse than this, the indictment(s) not only by

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their very nature already prematurely in advance convict the appellant of all charges made and or laid before the court, denying the appellant the presumption of innocence, but it also creates this egregious, blatant, outrageous violation of Due Process where the indictment(s) by the structural constitutional error and or defect, has denied the appellant the right to a trial by a jury of one's peers; denied the appellant the right to confront his accusers or cross-examine witnesses; denied the appellant the right to call witnesses in his defense or to present expert testimony; denied the appellant the right to take the stand and testify at his proceedings; denied the appellant the right to place forth evidence that would vindicate him at trial; denied the appellant the right to counsel of choice, way before a trial jury was sworn, not this illegal trial jury in the form of the Grand Jury who swore upon their "[o]ath" the appellant's guilt, way before a trial commenced satisfying these essential constitutional requirements of Due Process law; or way before he voluntarily, freely, intelligently or knowingly gave them up if we are dealing with a guilty plea, also way before he hired counsel or way before the court appointed legal counsel to assist the appellant. With the existence of the structural error and or defect, the court has attempted to close the barn door far after the time the horses have already been released and or escaped. The Grand Jury being duly sworn, in clear violation of their shielding function has taken upon themselves the role of the trial jury, and has already convicted the appellant of the crimes charged under "[o]ath"(emphasis added). To permit the appellant to obtain counsel of choice after this egregious injustice, or to appoint counsel after the appellant has already been illegally convicted by the Grand Jury, and deny the appellant the previous mentioned constitutional rights involve deprivation of constitutional protection so basic and so fundamental that in their absence no criminal trial and or proceeding can be deemed reliable as a vehicle for the determination of guilt or innocence, and no criminal punishment can be regarded as fundamentally fair, because such action has prematurely, criminal, stripped the appellant of

his inalienable rights of Due Process, also in violation of The Taking Clause of the 5th. amendment. The State acting unjustly, arbitrarily under color of State law, causing extreme prejudice to the appellant's proceedings, in violation of 18 U.S.C. §§ 241, 242, 1001, have blatantly failed to adhere to their own State laws and has denied the appellant the Equal Protection Of the Laws. Since the appellant's guilt was already, unjustly, arbitrarily determined and or adjudicated by the structural constitutional error and or defect via the Grand Jury indictments and or criminal complaints nationally under "[o]ath" in acts of fraud upon the court; this serves to make any other subsequent proceeding initiated "[v]oid", "[n]ullified", "[a]rrested" and a violation of the 5th. and 6th. amendments also the appellant's rights of Due Process, to include his right to Double Jeopardy protection. How can the court be allowed and or permitted to have a trial and or accept a guilty plea for an offense the Grand Jury who swore upon their "[o]ath", have already found the appellant guilty of? This "[c]annot" be cured by an instruction that constructively amends the indictments on the "MENS REA" elements. By their actions and fraud upon the court they have essentially established modern day slavery, branding us as felons, taking away our right to vote in violation of the 15th. amendment and Voting Rights Act. Congress confers no power or authority upon any court, State or Federal the right to establish modern day slavery of any kind in violation of the not being "DULY"(emphasis added) convicted provisions of the 13th. amendment and Anti-Peonage Act, depriving them of jurisdiction, or voiding their jurisdiction, or prohibiting them from entertaining jurisdiction from the cases' onset, demonstrating that they inappropriately entertained jurisdiction rendering all action done void, stripping all judges and courts of immunity. The Structural constitutional error and or defect does affect the proceedings and "[c]annot" be deemed as harmless. The framework is essentially abolished. The extreme prejudice is obvious and need not be debated any further, The Amistad supra.; Chewing v. Ford Motor Company supra.; Appling v. State

Farm Mut. Auto Ins. Co. supra.; State v. Easler, (S.C.App.1997)
 327 S.C. 121, 489 S.E.2d. 617; State v. Lewis, (S.C.App.1996),
 321 S.C. 146, 147 S.E.2d. 265; State v. Guthrie, 352 S.C. 103,
 572 S.E.2d. 309; Vines v. United States, 28 F3d. 1123 Crim.
 Law 1116(1), 1156(1); State v. Reddick, 348 S.C. 631, 635, 560
 S.E.2d. 441, 443(Ct.App.2002); State v. Padgett, 354 S.C. 268,
 271, 580 S.E.2d. 159, 161(Ct.App.2003); State v. Honey, 344
 S.C. 85, 97, 544 S.E.2d. 30, 36(2001); Griswald v. State Of
Connecticut, 381 U.S. 481, 85 S.Ct. 1678(1965); Carter v. State,
 329 S.C. 355, 362, 495 S.E.2d. 773, 777(1998); 28 U.S.C.A. §
 1654; Turner v. American Bar Ass'n, D.C. Tex. 1975, 407 F.Supp.
 457 Aff'd 539 F2d. 715 Aff'd 542 F2d. 56; Faretta v. California,
 422 U.S. at 835n. 46, 95 S.Ct. at 2541, 45 L.Ed.2d. 562, 592
 (1975); Wiggins v. Estelle, 681 F2d. 266(1982); United States
v. Gonzales-Lopez, 548---U.S.---2006; Chaplin & Drysdale Charter-
ed v. United States, 491 U.S. 617, 624-625(1989); Rodriguez
v. Chandler, 382 F3d. 675, 676 (CA 7 2004) cert. denied 543
 U.S. 1156(2005); Stirone v. United States supra.; United States
v. Silverman, 30 F2d. 106, 110 (2nd.Cir.) listing these functions
 modified 439 F2d. 198(2nd.Cir.1970), 91 S.Ct. 1619(1971); Martin
v. Ohio supra.; Francis v. Franklin supra.; Mathis v. State
supra.; United States v. Abrams supra.; Moore v. Dempsey supra.;
Roberts v. State, 408 S.C. 123, 757 S.E.2d. 744(S.C.App.2014);
Eppenger v. McFadden, 2014 WL 4198862(DSC.2014); Blanding v.
Warden McCormick C.I., 2014 WL 3809656(DSC.2014).

The requirement of the indictment(s) limit and constrain
 the Subject Matter Jurisdictionary "[p]owers" of both the prose-
 cution and the court, by limiting what can be presented at trial,
 conviction and sentencing, United States v. Promise, 255 F3d.
 150(4th.Cir.2001); State v. Guthrie supra. It is the command
 of The United States Constitution, that anything to the contrary
 is notwithstanding (Article IV § 2 U.S. Const.).

Again, the State and or prosecuting body, acting unjustly,
 arbitrarily, conspiring under color of state law, has failed
 to adhere to their own state laws, in egregious violation of

the appellant's substantial Federal Constitutional rights of Due Process, serving to deny the appellant the Equal Protection Of The Laws against unjust and arbitrary prosecution, also in violation of 18 U.S.C. §§ 241, 242 and 1001, Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Jones v. State Of Arkansas supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Dozier v. Loop College, City Of Chicago supra.; Hicks v. Oklahoma supra.; Lugar v. Edmondson Oil Co. Supra.; Williams v. United States supra.; Greenwood v. Peacock supra.; United States v. Otherson supra..

In Wilson v. Lindler, 995 F2d. at 1256, it was held that constructive amendment of an indictment, sometimes referred to as fatal variance, denies the criminal defendant the fundamental guarantee of notice of the charges pending against him. This right is safely guarded and embodied within the 6th. amendment, the 5th. amendment Indictment Clause, and the appellant's 14th. amendment rights of Due Process, as well as pursuant to the appellant's right to equal protection of the laws against arbitrary prosecution and these requirements must be adhered to and not denied. Therefore, due to the enormous amount of prejudice experienced by the appellant, the sentence and conviction must be vacated, State v. Daniels, 401 S.C. 251, 737 S.E.2d. 473(S.C.App.2012); United States v. Kirby, 547 Fed. Appx' 363 CA4 (N.C.2013); Placencia v. McFadden, 2014 WL 2199984(DSC.2014); Sullivan v. Cartledge, 2014 WL 994237(DSC.2014); Van de Kamp v. Goldstein, 555 U.S. 355(2009); Dennis v. Wetzell, 966 F.Supp.2d 489(ED.Pa.2013); Kaley v. United States, 134 S.Ct. 1090(U.S.2014); United States v. Direct Sales Co. supra.; United States v. Atlantic Commission Co. supra.; State v. Boyd supra.; State v. Bramlette supra.; Roberts v. State, 408 S.C. 123, 757 S.E.2d. 744(S.C.App.2014); State v. Green, 406 S.C. 589, 753 S.E.2d. 259(S.C.App.2014); S.C. Code Ann § 17-25-10; U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); White v. Manis, 2014 WL 1513280 (DSC.2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp.3d. 582, 2014 WL 1266240.

(9) Did the trial court err, and was the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution violated, as well as Article IV § 2, and his Due Process rights violated, by the indictment(s) for attempted murder's failure to properly and or sufficiently apprise the appellant of the "[t]ime" of assault(s), in the body of the charging instrument, as "[t]ime" is recognized by law?

The appellant did not object to this defect and or error at the time of his trial and or before he gave his guilty plea, but the defect and or error serves to render the indictment wholly invalid. Defects and or errors in an indictment that are of such a fundamental character as to render an indictment wholly invalid are not subject to waiver by the defendant, 41 Am. Jurs.2d. Indictments and Information § 299(1968); State v. Munn supra.. Subject to certain minor exceptions not present, the trial court is prohibited from enacting and or invoking its subject Matter jurisdictionary "[p]ower" given to them by state statutes to convict a defendant for an offense, when there is no indictment charging him with that offense when the jury is sworn, and or before he gives his guilty plea, where such an action would "[v]oid" the court's jurisdiction for Due Process violation, State v. Beachum, 288 S.C. 325, 342 S.E.2d. 597(1986); Grupo Dalaflex v. Atlas Global Group L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240.

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra. 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error on the part of the trial court that has an identifiably negative impact on the proceedings to such a degree, that the constitu-

tional rights of the party are compromised. A manifest constitutional error can be reviewed by a court of appeals even if the appellant did not object at the proceedings, (Black Law Dictionary 8th. Edition).

The appellant humbly contends his 5th., 6th., 14th. amendment rights of the U.S. Constitution were violated, as well as Article IV § 2, and his Due Process rights were violated for the charge in question, because the charging instrument, in the body of the indictment does "[n]ot" state the exact time and or date of the alleged assault(s) as time is recognized by law, which is a necessary and requisite element of the offense for murder and or attempted murder, being made a part of the critical elements of the offense. For example, in State v. Rector, 158 S.C. 212, 155 S.E. 385(1930), the Supreme Court [s]pecifically and [u]nequivocally, with [c]larity and [p]articularity, stated in Haec [V]erba:

"The State "[m]ust" prove not only the assault and death occurring from it, but also the "[t]ime" of the assault and the "[t]ime" of the death, as "[t]ime" is recognized by law. In addition the state "[m]ust" prove the "[p]lace" of the assault, and the "[p]lace" of death*****".

These necessary elements of the crime "[m]ust" not only be proven before a person may be lawfully convicted, but they "[m]ust" be alleged within the body of the charging instrument, be passed upon by the Grand Jury in the indictment returned against the defendant in accordance to the constitutional rights of the accused(emphasis added).

Assault And Battery With The Intent To Kill embraces the whole of attempted and visa versa. The elements to prove the crimes are the same as it is for murder with the exception of the death ensuing from it, State v. Sutton, 340 S.C. 393, 397, 532 S.E.2d. 283, 285(2000).

Inasmuch, it is the body of the indictment(s) that is the [v]ital part of the charging instrument, State v. Tate, 345 S.C. 577, 549 S.E.2d. 601(S.C.2001), and it "[c]annot" be so cryptic or the wording so loose, vague and ambiguous as to fail to comply with the basic right of the accused to be fully informed as to the "[c]ause and [n]ature" of the accusation being levied against him, which is one of the defendant's most basic, fundamental, and universally recognized rights of Due Process, Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572(1941); State v. Tabory, 262 S.C. 136, 141, 202 S.E.2d. 852(1974)(holding that the state may not support a conviction * 334 for an offense intended to be charged by relying upon the caption to the exclusion of the language contained within the body of the indictment). Also see S.C. Code Ann § 17-25-10; United States v. Masotto, 73 F3d. 1233 cert. denied 117 S.Ct. 54, 136 L.Ed.2d. 18; Castillo v. Holder, ---F3d.---, 2015 WL 161952 CA4 (2015); State v. Brandt, 393 S.C. 526, 713 S.E.2d. 591(S.C.App.2011).

Insomuch, the statutory text of S.C. Code Ann §§ 17-19-20 and 17-19-30 also as a fact of "[W]ritten [L]aw", require that the "[t]ime" of the offenses be stated in the body of the charging instrument of the indictment. The language in the charging in the charging instrument for attempted murder in question alleges that the assault occurred "ON OR ABOUT" July 28, 2013. Could this mean July 29th., 30th., August 1st., 2nd., 3rd. 4th., 7th., 10th., 13th., July 27th., 25th., 23rd., 20th., 19th., 15th.? All of these dates can be considered as "ON OR ABOUT" July 28, 2013. The State knew and could have easily alleged the exact date of the supposed assault(s). This means that this failure to assert the exact time of the assault(s) was an arbitrary judicial action. Murder is a composite crime. Thus, they, by not alleging an exact time of assault have in some respects destroyed the identity of the Corpus delecti. This cannot be deemed reasonable notice. It is the appellant's contention that this is "[n]ot" a proper or sufficient "[t]ime" of assault, which is made part of the essential elements of the offense, which must be alleged within the body of the charging instrument,

passed upon by the Grand Jury and returned against the accused in accordance to the Constitutional Due Process rights of the defendant. This produces substantial prejudice, denying the defendant his right to proper and or sufficient notice, and serve to deny him the Equal Protection of the Laws.

The appellant contends, that a panel of jurors that embodied the Grand Jury upon their oaths aforesaid, stated the mortal blow and or assault occurred "ON OR ABOUT" July 28, 2013. This is not an exact time of assault. Thus, it becomes a false and invalid oath, tainting this oath producing fraud and misrepresentation requiring that the indictment(s) be quashed. It is universally recognized that every oath "[m]ust" be founded upon "[c]ertain [k]nowledge" (OMNE SACRAMENTUM DEBET ESSE CERTA SCIENTIA). The reality is that such oath was not founded upon certain knowledge where the Grand Jury who swore to such indictments, did not discover as they supposed that the exact "[t]ime" of the assault had not been alleged in the indictment. Failing to properly state the time of assault of the alleged crime are clear grounds that would demand that such a judgment be reversed, especially in light of the overwhelming prejudice to the appellant's Due Process rights. By this injustice the appellant was denied opportunity to make claims of alibi or actual innocence where the State would be permitted to assert the assault occurred on the numerous days afore claimed by alleging "ON OR ABOUT". The law is clear on this issue. No one can say what was in the mind of the Grand Jury which allowed the trial jury to speculate that the Grand Jury intended the time to be exactly July 28, 2013 where by making use of the term "ON OR ABOUT" such is not clear, or is it an exact asserted time of assault. This also denied the appellant his Due Process right to meet the charge by being able to call specific witnesses who could have clearly proven the assault did not occur on all those vague "ON OR ABOUT" dates the appellant previously listed. It is truly unnecessary to cite authority to the fact that it is absolutely essential in an indictment for murder, and in this case, attempted murder, that the exact "[t]ime" of assault and or death of the decease

party, or in thi case, the assaulted party, should be alleged therein, and in absence of such allegation said indictment is fatally defective and should be quashed and or judgment arrested upon motion made, which is done, and further, such a defective indictment is beyond the reach of amendment or repair as in a similar matter as it pertains to "[p]lace" of assault and death, for the indictment to a great extent destroys the identity of the corpus delecti, State v. Blakeney, 33 S.C. 111, 11 S.E. 637 infra State v. Stewart, 26 S.C. 125, 1 S.E. 468; Ball v. United States, 140 U.S. 118, 11 S.Ct. 761, 35 L.Ed. 377; State v. Platt, 154 S.C. 1, 151 S.E. 202.

In State v. Kennedy, (L.A.)(1845) 8 Rob. 590, the court in holding an indictment for murder bad, as not alleging the time and or place of the death said: "The material fact in murder are the mortal stroke and the consequent death being a composite crime, and the death "[m]ust" appear upon the record and or on the face of the indictment to have occurred within one year and a day from the time when the mortal stroke was given". The averment then of each of these material facts "[m]ust" under well established rules of criminal pleading be accompanied by an allegation of a certain time and or place, to include not alleging "ON OR ABOUT" as it pertains to time.

To amplify this proposition, in State v. Rallo, 403 S.E.2d 653 (1991), the court in relevant part stated [v]erbatim:

"It is true that the State need not prove the exact time and or date set forth in the indictment(s), unless "[t]ime" is an essential element of the offense, or is made part of it", Id. at 655.

In State v. Ham, 259 S.C. 118, 191 S.E.2d. 13(S.C.1972). The South Carolina Supreme Court stated in Haec [V]erba:

"If '[t]ime' is '[n]ot' of the essence or gist of the offense, the '[p]recise [t]ime' of which the offense is

charged to have been committed is '[n]ot' material".

On the other side of the spectrum of this language, the "[p]recise [t]ime" at which the offense is said to have been committed "[i]s" material if "[t]ime" is of the essence or gist of the offense as it is in this case.

Inasmuch, to be "ON POINT", in State v. Pierce, 207 S.E.2d 414, which is a murder precedent, the indictment charged that the offense and or crime occurred on a certain date, and does "[n]ot" charge "ON OR ABOUT". The State knew the exact time of assault and also knew that "time" was an essential element of the offense. But they figured since they thought they got away with that Gentry fraud. They continued the arbitrary act and disregarded the appellant's Due Process rights.

Hence, by the Doctrine of "STARE DECISIS ET NON QUIENTA MOVERE", an indictment "[m]ust" properly set forth all the essential elements of the offense. By Hamling v. United States, 418 U.S. 87, 94 S.Ct. 2887 (1974), it is well established and recognized under American Jurisprudence: That if an indictment fails to charge all necessary elements, it fails to charge the offense. If it fails to charge the offense, such violates the appellant's 5th., 6th., 14th. amendment rights of the U.S. Constitution, as well as Article IV § 2, and his rights of Due Process which "[v]oids" the trial court's jurisdiction for Due Process violation. Thus, the sentence and conviction "[m]ust" be vacated, United States v. Masotto supra.; Castillo v. Holder supra.; State v. Brandt supra.; United States v. Cabrera-Teron, 168 F3d. 141 (5th.Cir.1999); United States v. Pupo, 841 F2d. at 1239(4th.Cir.1988)(En Banc); United States v. Hooker, 841 F2d. 1225(4th.Cir.1988); U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240; White v. Manis, 2014 WL 1513280(DSC. 2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007); Brown v. U.S., 2014 WL 2871398(DSC.2014).

() Did the S.C. Supreme Court in State v. Gentry supra. err, engaging knowingly, intentionally in acts of fraud upon the court, in their efforts to essentially establish modern day slavery in violation of the Anti-Peonage Act, and abused their discretionary "[p]owers", which they even conspired to take away our right to vote, and or done so surreptitiously , in violation of the Voting Rights Act. And in such, the court's jurisdiction was made void for Due Process violation, and the court was prohibited from enacting and or invoking and or continuing its Subject Matter Jurisdictionary "[p]owers", even though they do indeed possess such "[p]ower" via state legislative statute and or Congressional intent, due to the indictment defects and or errors contained and argued within this document, in violation of the appellant's 4th., 5th., 6th., 13th., 14th., 15th. Amendment rights of the U.S. Constitution, as well as Article IV § 2, also 42 U.S.C. §§ 1983, 1985(2), 1985(3), 1986; 18 U.S.C. §§ 241, 242, and the laws of Due Process?

The appellant did not object to these defects and or errors at the time of his trial and or before he gave his guilty plea, but the defects and or errors serve to render the indictments wholly invalid. Defects in an indictment that are of such a fundamental character as to render an indictment wholly invalid are not subject to waiver by the defendant, 41 Am. Jurs.2d. Indictments and Information § 299(1968); State v. Munn supra..

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge. We are arguing against the precedent established by State v. Gentry pursuant to S.C. Appellate Court Rule 217, Moss v. Aetna Life Ins. Co. supra.; State v. Broad River Power Co. supra. 31 C.J.S. Evidence §§ 6 and 9; Federal Rules Of Evidence, Rule 201(a).

This is also a manifest constitutional error. An error , fraud and machination on the part of the South Carolina Supreme Court that has an identifiably negative impact on all proceedings to such a degree, that the constitutional rights of all defen-

dants within this state, including the appellant's are compromised. A manifest constitutional error, violations of the Anti-Peonage Act and fraud upon the court of this magnitude cannot be waived, is not subject to any time limits, and can be reviewed by a court of appeals even if the appellant did not object at the proceedings, especially in light of the fact that the court's decision and fraudulent actions disproportionately effect African Americans and all other inmates within this state and potentially around the nation, (Black Law Dictionary 8th. Edition); The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Digital Equip. Corp. v. Desktop Direct Ins., 511 U.S. 863, 868, 114 S.Ct. 1992, 1996, 128 L.Ed.2d. 842(1994); Chewing v. Ford Motor Company supra.; Appling v. State Farm Mut. Auto Ins. Co. supra.; King v. First American Investigators Inc., 287 F3d. 91, 92(2nd.Cir.2002) cert. denied 537 U.S. 960, 123 S.Ct. 393, 154 L.Ed.2d. 314(2002); The Anti-Peonage Act Of The 13th. Amendment; The Rico Act; Ex Parte Virginia, 100 U.S. 339, 346, 25 L.Ed. 676(1880).

The appellant contends, that the indictment(s) for attempted murder do not properly allege the "[t]ime" of the assault which is an essential element of the offense. The indictment(s) for attempted murder or the conspiracy indictment allege who it was that the appellant supposedly conspired with. The attempted murder indictment(s) do not allege what weapon the appellant was supposedly in possession of. None of these essential elements and or allegations are alleged within the body of the charging instrument. This prejudiced the appellant when it came time to seek a direct verdict which is why the court and parties conspiring under color of state law, in acts of fraud upon the court denied the motion for severance, violating the appellant's Due Process rights voiding their jurisdiction for Due Process violation. These actions placed the appellant at a substantial disadvantage, which is why the state in acts of conspiring under color of state law tried the appellant and his co-defendant together to conceal these fatal deficiencies, knowing fully well the indictments were extremely vague setting the appellant

up for "Indictment Ambush" at the onset of his proceedings. The indictments "[c]annot" be deemed sufficient if the state is permitted to prove all these materially different sets of facts. The indictment(s) do not descend to the essential particulars. All the aforementioned "[m]ust" be alleged in the body of the charging instrument and passed upon by the Grand Jury in the indictments returned against the accused in accordance to the constitutional Due Process rights of the defendant. This cannot be deemed as reasonable notice. No one can say what was in the mind of the Grand Jury, State v. Pierce supra.; State v. Sutton supra.; State v. Platt supra.; State v. Rector supra.; State v. Blakeney supra.; State v. Munn supra.; State v. Rallo supra.; State v. Tate supra.; State v. Tabor supra.; State v. Keith supra.; State v. Hardee supra.; Locke v. State supra.; State v. Wilkes supra.; United States v. Daniels supra.; United States v. Abrams supra.; United States v. Hooker supra.; Russell v. United States supra.; Hamling v. United States supra.; United States v. Pupo supra.; Castillo v. Holder supra.; State v. Brandt supra.; Robinson v. Cohen supra.; United States v. Cohen supra.; United States v. Gomez supra.; Carr v. United States supra.; United States v. Robare supra.; United States v. Umana supra.; United States v. Dinkins supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Dech v. Missouri supra.; Clark v. Arizona supra.; United States v. Whitfield supra.; United States v. Mills supra.; United States v. Naidu supra.; United States v. Allmendinger supra.; State v. Green supra.; Roberts v. State supra.; Eppenger v. McFadden supra.; Blanding v. Warden McCormick Correctional Institution supra.; State v. Daniels supra.; United States v. Kirby supra.; Van de Kamp v. Goldstein supra.; Dennis v. Wetzel supra.; Plecencia v. McFadden supra..

The appellant further contends, that the indictment(s) do [n]ot properly and or sufficiently apprise the appellant of the "[c]ause and [n]ature" of the accusation(s), or of what he is called upon to meet and defend, because the structural constitutional error, defect, language and or charge embodied within the indictment(s) and criminal complaints around the

nation indicate and or inform the appellant, that the burden of production belongs to the appellant and not the government. By such the indictments also violate S.C. Code Ann §§ 17-19-10, 17-19-20 and 17-25-10. The language and or charge in the indictments indicate and inform the appellant that he is called upon to meet the burden of production on the critical elements of dispute, in violation of the appellant's 6th. amendment rights, the relevant statutes, and Due Process Law. They also violate the appellant's 4th. amendment rights to illegal seizure, his 5th. amendment rights to double jeopardy protection, because they predetermine in advance the outcome of the proceedings, taking away our presumption of innocence, and they inform the appellant that for a second time he is made to plea and or go to trial on a prior conviction for the same offense which produces fraud upon the court, modern day slavery in violation of The Anti-Peonage Act because you force us to work once convicted to up keep these institutions. Then you take away our right to vote once convicted in violation of the 13th. 15th. amendments and the Voting Rights Act, The Rico Act, and the holdings made in Ex Parte Virginia, 100 U.S. 339(1880). They infringe upon the appellant's 14th. Amendment right to Equal Protection of the Laws against unjust, arbitrary judicial action and prosecution behind a class based invidiously discriminatory animus because the action disproportionately effect African Americans and other minorities in violation of the holdings made in Ex Parte Virginia. The Grand Jury "[m]ust" refrain from even making an "[o]pinion" (emphasis added) as to our guilt. Yet, here these Knuckleheads swear an "[o]ath", under "[o]ath" mind you, our guilt foreclosing legally any subsequent adjudication. The Grand Jury by State or Federal law, or State or Federal Constitution, do "[n]ot" have the power to convict. This cannot be deemed reasonable notice. No one can say what was in the mind of the Grand Jury as determining whether or not they intended any subsequent adjudication to occur once they themselves determined guilt. Due to the structural constitutional error and or defect in the construction of the indictment(s) and or criminal complaints around the nation, they do "[n]ot" properly,

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sufficiently or fully apprise the appellant of the "[c]ause and [n]ature" of the accusation being brought against him, or of what he is called upon to meet and defend, State v. Lewis supra.; State v. Easler supra.; Mathis v. State supra.; Brown v. State supra.; State v. Browning supra.; State v. Munn supra.; Moore v. Dempsey supra.; The Amistad supra.; Callon Petroleum Co. v. Frontier Ins. Co. supra.; Digital Equip Corp. v. Desktop Direct Ins. supra.; United States v. Direct Sales Co. supra.; United States v. Atlantic Commission Co. supra.; State v. Boyd supra.; State v. Bramlett supra.; Beck v. Washington supra.; State v. Tollin supra.; Byers v. Reynolds supra.; United States v. Jefferson supra.; In Re: Grand Jury Subpoena John Doe, No. 05GJ1318 supra.; In Re: Grand Jury Subpoena (T-112) supra.; United States v. Umana supra.; United States v. Dinkins supra.; Dickerson v. Warden Of Lieber C.I. supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Clark v. Arizona supra.; Deck v. Missouri supra.; Skilling v. United States supra.; Kaley v. United States supra.; Placencia v. McFadden supra.; Jeandron v. Board Of Regents Of University System Of Maryland supra.; United States v. Whitfield supra.; United States v. Mills supra.; United States v. Naidu supra.; Roberts v. State supra.; State v. Green supra.; United States v. Kirby supra.; United States v. Allendinger supra..

This is how this thing went. The inmates of South Carolina were basically getting out of prison by arguing the defects within their indictments. The inmates convicted for murder discovered that there was a fatal flaw in the murder indictments related to "time and place", being essential elements of the offense. The South Carolina Supreme Court, in efforts to stop the inmate exodus from prison, engaged in acts of fraud upon the court in efforts to establish modern day slavery behind racial hatred, even with the black overseer type judges, came up with a plot, plan and scheme to defraud the inmates of this state in their acts of machination in violation of the holding

made in the U.S. Supreme Court case Ross v. Blake, 136 S.Ct. 1850(2016). They knew that beforehand in order to make a fair determination regarding the issue of Subject Matter Jurisdiction. It was required that the court review Ex Parte Bain, Russell, Stirone and Gaither collectively, but they purposely did not do so in order to hatch their plan. If you do not review them together, they knew you can make a fraudulent determination and no one would be the wiser. So, the judges of the South Carolina Supreme Court, conspiring under color of law behind a class-based invidiously discriminatory animus, placed the numerous, voluminous pending criminal cases on hold, staying them, many for as long as over (4) or (5) years to allow them to go on a "FISHING EXPEDITION" in search of case law that was vague and ambiguous enough to allow them to enact their acts of fraud and machination. After this exhaustive search for (5) or more years, criminally holding these inmates cases in limbo. The conspiring judges found Cotton and Parkhurst, that would permit them to circumvent the holdings made in Stirone, Gaither and Russell via this fraudulent "FISHING EXPEDITION", due to these newly found cases being adjudicated under the incorrect prong to subject Matter Jurisdiction, Mitchell v. Conseco Life Ins., F.Supp.2d., 2013 WL 2407129(DSC.2013); J & J Sports Productions Inc. v. Wofford, 2014 WL 2980250(DSC.2014); United States v. McDonald, 444 Fed. Appx' 710 CA4 (Va.2011); Gindi v. Strategic Outsourcing, Inc., F.Supp.2d., 2012 WL 7761543(DSC.2012); State v. Jones, 364 S.C. 51, 610 S.E.2d. 846(S.C.App.2005).

This is what the S.C. Supreme Court judges specifically wanted. They wanted these specific cases to permit them to perpetrate the fraud and machination even though they knew there were other U.S. Supreme Court cases that gave greater clarity, which is why Plecones, honorable soul that he is, jumped ship. He knew what they were doing. They knew Ex Parte Bain, U.S. v. Cotton and Parkhurst were vague and ambiguous in that these cases found via the "FISHING EXPEDITION" never addressed the "[j]urisdictional [p]rerequisite" Due Process element, aspect or requirement of the indictment and adjudicated this clear

Due Process issue under the incorrect prong to Subject Matter Jurisdiction. U.S. v. Cotton used "word play", "verbal voodoo", "word winx" to evade the essential question related specifically to the "[p]rerequisite" aspect and requirement of the indictment as it relates to jurisdiction, which is a Due Process claim that "[v]oid" jurisdiction for Due Process violation. Please note that nothing in U.S. v. Cotton stated that they were overruling Stirone, Gaither or Russell,...why? Its because we are dealing with two separate and independent questions related to Subject Matter Jurisdiction, essentially two prongs. One being certain courts jurisdiction itself. The second being the "[p]rerequisites" and or "[r]equisites" that are attached to that jurisdiction, which is a Due Process claim that "[v]oids" jurisdiction for Due Process violation, the corrupt devils that they are, Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.supp.3d. 582, 2014 WL 1266240 (2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md.2010); White v. Manis, 2014 WL 1513280(DSC.2014).

The S.C. Supreme Court judges, in acts of fraud upon the court and machination, only reviewed Ex Parte Bain because it was vague on the "[p]rerequisite" and or "[r]equisite" Due Process issue itself, then added Cotton and Parkhurst because they knew these cases were adjudicated in the same vein, which did not address the prerequisite Due Process requirement of the indictment, which must be adjudicated under the Due Process prong to Subject Matter Jurisdiction, they came up with the State v. Gentry case, in acts of fraud upon the court and machination to halt the pending inmate exodus. Conspiring under color of state law in violation of 42 U.S.C. §§ 1983, 1985(2), 1985(3), 1986; 18 U.S.C. §§ 241, 242, 1001, by order of stay, they held Gentry and the massive number of pending cases in limbo, many for over (5) years, until they were time barred from seeking review in the S.C. U.S. District Court. The S.C. U.S. District Court Judges conspiring with them, under color of authority and or law, were privy to this aided the conspiring state judges, courts and actors such as the S.C. Attorney General; knowing

fully well the vast number of inmates whose cases were criminally held in limbo, many for over (5) years, lacked the intelligence to argue past the successive or statute of limitations placed upon them via PLRA and or AEDPA provisions, warranting the recusal and or disqualification of the S.C. U.S. District Court and 4th. Circuit and all these cases in total be transferred to the State Of New Jersey District Court pursuant to 28 U.S.C. §§ 1404 and 1407. We motion for such.

Similar acts were done with intelligence test during reconstruction to deny minorities the right to vote. "How many jelly beans are in this jar?" "How do you get past the Statute of limitations or successive issues placed upon you by PLRA or AEDPA provisions?" It is a similar criminal act argued in Ex Parte Virginia, 100 U.S. 339(1880), in their white racial bonding. This produces fraud upon the court, machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850 (2016), demonstrating that we do not have to exhaust. It establishes a form of modern day slavery by that fraud and machination as is defined within The Convention Against Torture Treaty that Congress signed off on and ratified binding this nation and all states contained therein, where you force us to work to up keep these institutions and other forced labor while in captivity. Then you take away our right to vote by conspiring under color of state law and or authority to keep us labelled as felons and kill our political in what you white nationalist call , "establishing good government" as Senator Cole Blease Of South Carolina once said. It becomes an illegal seizure by this fraud and machination in violation of the 4th. amendment, as well as stand in violation of The Rico Act, the holdings made in Ex Parte Virginia, as well as the 5th., 6th., 8th., 13th., 14th., and 15th. amendments, also 18 U.S.C. §§ 241, 242 and 1001, Moore v. Dempsey supra.; The Amistad supra.; Digital Equip. Corp. v. Desktop Direct Ins. Co. supra.; State v. Means, 367 S.C. 374, 626 S.E.2d. 348(S.C.2006)(Where they applied this criminal act retroactively); Screws v. United States supra.; United States v. Kozminski, (1988) 487 U.S. 931, 101 L.Ed.2d. 788, 108 S.Ct. 2751, 46 C.C.H. E.P.D. ¶ 38067 on remand (1988 CA6 Mich.) 852 F2d 1288; Greenwood v. Peacock, (1966) 384 U.S.

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808, 16 L.Ed.2d. 944, 86 S.Ct. 1800; United States v. Ramey, (1964 CA4 W.Va.) 336 F2d. 512 cert. denied (1965) 379 U.S. 972, 13 L.Ed.2d. 564, 85 S.Ct. 649; United States v. Otherson, (1980) CA9 Cal., 637 F2d 1276 cert. denied (1981) 454 U.S. 840, 70 L.Ed.2d. 123, 102 S.Ct. 149; Means v. Wilson, CA8 (S.D.) 1975, 522 F2d. 833 cert. denied 96 S.Ct. 1436, 424 U.S. 958, 47 L.Ed.2d 364; Berg v. Obama, E.D. Pa. 2008, 574 F.Supp.2d. 509; United States v. Figuerca, CA3 (N.J.) 2013, 729 F3d. 267; Ex Parte Virginia supra.; The Compendium Of United Nations Standards And Norms In Crime Prevention And Criminal Justice ISBN 978-92-1-133765-5.

This is not a situation where the state court simply held a view different its own, when the precedent from the U.S. Supreme Court is, at best ambiguous. They criminally conspired under color of state and stayed, held, all pending cases most for (5) years or more while they and the S.C. Attorney General purposely, maliciously, criminally went on a "FISHING EXPEDITION" in search for a vague, ambiguous U.S. Supreme Court case and the Parkhurst case, to allow them to engage in machination and acts of fraud upon the court when there were other clearly established U.S. Supreme Court cases that gave greater clarity and that were not ambiguous to defraud the inmates of this state. Thus, using the holdings made in cases like Green v. Fisher, 132 S.Ct. 38, 43(2011) would be misplaced due to the criminal and fraudulent intent that conspicuously exist, Barlow v. Colgate Palmolive Co., 772 F3d. 1001, 90 Fed. R. Serv.3d. 85(Md.2014).

Perhaps the court(s) of South Carolina would further contend that Subject Matter Jurisdiction, and the sufficiency of an indictment are, and have been combined in the various cited cases, that the indictment is merely a "notice document" and that Subject Matter Jurisdiction is the court's "[p]ower" to hear and determine a matter, and each should be viewed as separate and distinct from one another and the insufficiency of an indictment does "[n]ot" take away from or "[a]ffect" and or "[h]inder" a "[c]riminal" court's "[p]ower" and or "[a]bility" to hear "[t]his" general class of cases, to which the proceedings

in question belong, State v. Gentry, 363 S.C. 93, 610 S.E.2d. 494, 495(S.C.2005) citing United States v. Cotton, 535 U.S. 625, 122 S.Ct. 1781, 152 L.Ed.2d. 860(2002); State v. Parkhurst, 845 S.W.2d. 31(MO.1992). The court(s) has misinterpreted its citings and are in error, and they have abused their discretionary "[p]owers" in their determination of this matter, and they did this purposely in acts of fraud upon the court and machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850(2016). An abuse of discretion occurs when the court(s) are controlled by an error of law, or when the order based upon findings of fact is without evidentiary support or fact. The error of law that they are controlled by is that there are two concepts in question, essentially two prongs to Subject Matter Jurisdiction. One--the courts powers of jurisdiction given to them via state legislative statutes and or congressional intent for federal courts. Secondly---the Due Process jurisdictional "[p]rerequisites" and or "[r]erequisites" that are attached to that jurisdiction, which were never properly addressed by the courts involved, which were required to be addressed under the Due Process prong to Subject Matter Jurisdiction, Sharpes v. Sharpes, 535 S.E.2d. 913, 342 S.C. 71(2000).

The State Of South Carolina, by this ludicrous piece of legislation or law, in an egregious abuse of discretionary "[p]ower", acting arbitrarily, unjustly, under color of "state law", in defiance to fundamental fairness and judicial integrity, in violation of the appellant's federal constitutional rights of Due Process, also in violation of 18 U.S.C. §§ 241, 242 and 1001, has either altered, amended, modified, and or deleted, and or diminished and or eradicated, just about every single right and privilege secured and protected by the 4th., 5th., 6th., 13th., 14th., 15th. amendments of the U.S. Constitution, as well as the South Carolina Constitution, as it pertains to the "[p]rerequisite" Due Process requirement and use of an indictment in criminal proceedings, in blatant defiance to the appellant's rights to Equal Protection of the Laws, producing fraud upon the court, machination, essentially establishing

modern day slavery in violation of The C.A.T. Treaty, conspiring under color of state law to disenfranchise us, branding African Americans and other minorities who are disproportionately effected as felons to deny them the right to vote and kill their political voice, creating a racial caste system, See Book Entitled, "Mass Incarceration During The Age Of Colorblindness, the New Jim Crow, by Michelle Alexander; Screws v. United States supra.; State v. Middleton supra.; Eslinger v. Thompson supra.; McLaughlin v. Florida supra.; Dubinka v. Judges Of Superior Court Of The State Of California, For The County Of Los Angeles supra.; Jones v. State Of Arkansas supra.; Dozier v. Loop College , City Of Chicago supra.; Hicks v. Oklahoma supra.; Lugar v. Edmondson Oil Co. supra.; Williams v. United States supra.; Brown v. United States supra.; United States v. Ramey supra.; United States v. Kozminski supra.; Greenwood v. Peacock supra.; United States v. Otherson supra.

Insomuch, the 5th. amendment Indictment Clause has not been held applicable to the states, or the federal concept of a Grand Jury binding on the federal courts under the 5th. amendment are obligatory to the states. Nevertheless, by their own state(s) Constitution(s), the State Of South Carolina, New Jersey , Kentucky, Georgia, New York and (28) other states adopt the federal provisions. requirements, Due Process "[p]rerequisites" and or "[r]equisites", standards and mandates pertaining to the use of an indictment, and the remaining (17) states that make use of a criminal complaint document possess the structural error argued where the Grand Jury by the language presented, adjudicated guilt of the offenses as well. In further resolving the conflict, the Federal courts have held by the "BILL OF RIGHTS", many rights guaranteed by the first (8) amendments of The United States Constitution, have been made applicable to the several states through the Due Process Clause of the 14th. amendment and Supremacy Clause of Art. 6 cl. 2 of The U.S. Constitution, State v. Watts, 465 S.E.2d. 359; Henry v. City Of Rock Hill, 376 U.S. 776, 84 S.Ct. 1042, 12 L.Ed.2d. 79(1964); Also see South Carolina Constitution Art. 1 § 11; Ex Parte Bain, 121 U.S. 1 (1887); Costello v. United States,

350 U.S. 359; Russell v. United States, 369 U.S. 749, 82 S.Ct. 1038(1962); Woods v. Georgia, 370 U.S. 375, 82 S.Ct. 1364, 8 L.Ed.2d. 569(1962); Frisbee v. United States, 157 U.S. 160, 15 S.Ct. 586, 39 L.Ed. 652 (1895); Hale v. Henkel, 201 U.S. 43, 26 S.Ct. 370, 50 L.Ed. 652(1906); Duncan v. Louisiana, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d. 491(1968); Hurtado v. California, 110 U.S. 516, 538, 4 S.Ct. 111, 122, 28 L.Ed. 232(1884); Powell v. State Of Alabama, 287 U.S. 45, 67, 53 S.Ct. 55, 63, 77 L.Ed. 682(1948); Gideon v. Wainwright, 372 U.S. 335, 342-344, 83 S.Ct. 792, 796, 4 L.Ed.2d. 799(1963).

Yes, the indictment is a "notice document", but being a "notice document" is one of the many purposes and functions the indictment was created for. The Honorable Judge Plecones in the Gentry court, was the only one with enough judicial integrity and insight to see clear to the truth of this matter in part, and did not agree to the fraud and machination.

Yes, Subject Matter Jurisdiction is the "[p]ower" to hear and determine cases of a general class to which the proceedings in question belong, Bell v. Monsato Corp., 579 S.E.2d. 325 S.C. 553(S.C.2003). Inasmuch, the court's "[p]ower" to hear and determine a case, is also defined as the court's "[a]bility" to hear and determine a case. Inasmuch, Subject Matter Jurisdiction does not only cover and or involve whether or not the matter resides in a proper court of jurisdiction to hear and determine it. This is only the first prong. It also involves any issue that may "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to act in accordance to Rules Of Court, Rules Of Procedure and Due Process Law. This is the second prong that "[v]oids" jurisdiction for Due Process violations. Such matters can be raised at "[a]ny" time, "[c]annot" be waived by the defendant, and the court "[s]hall [n]ot [f]ail" to take notice, Mathis v. State supra.; Brown v. State supra.; State v. Munn supra.; Browning v State supra.; U.S. v. \$41,320 U.S. Currency, 9 F.Supp. 3d. 582, 2014 WL 1266240; Hunt v. United States, F.Supp.2d., 2007 WL 5131716(DSC.2007).

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Subject to certain minor exceptions not present, the trial court's jurisdiction is made void, and or they are prohibited from enacting, and or invoking and or continuing its Subject Matter Jurisdictionary "[p]owers" to convict a defendant for Due Process violation, even though they have such jurisdiction by state legislative statute and or congressional intent, when there is no indictment charging him with that offense when the jury is sworn, or when he gives his guilty plea, and we can add, or when he has already been unjustly convicted by the Grand Jury, illegally acting as the trial jury, being duly sworn and swearing upon their "[o]ath" the appellant's guilt, predetermining in advance the outcome of the proceedings, in violation of their shielding function, also in violation of the appellant's right to double jeopardy protection and Due Process Law, establishing fraud upon the court, modern day slavery, machination, taking away our right to vote conspiring to kill our political voice behind a class based invidiously discriminatory animus in the form of race in violation of the holdings made in Ex Parte Virginia supra... Also see State v. Lewis supra.; State v. Easler supra.; Moore v. Dempsey supra.; The Amistad supra.; United States v. Umana supra.; United States v. Dinkins supra.; Dickerson v. Warden Of Lieber C.I. supra.; James v. Reynolds supra.; Sullivan v. Cartledge supra.; Clark v. Arizona supra.; Deck v. Missouri supra.; Skilling v. United States supra.; State v. Beachum, 288 S.C. 325, 324 S.E.2d. 572(1986); S.C. Code Ann § 17-25-10.

The Gentry court misinterpreting its citings are in error in their determination of the matter in acts of fraud upon the court and machination. What gives the court in "[c]riminal" cases and or proceedings the "[a]bility" to hear and determine cases of "[t]his" general class to which the proceedings in question belong, and allow it to enact and or invoke and or continue its Subject Matter Jurisdictionary "[p]owers" in these type of cases, placing those "[p]owers" in operation is "an indictment".

S.C.R.C.P., Rule 3(c) Provides:

"Disposition on arrest warrant(s):

The solicitor shall take action on the warrant(s) within (90) days by preparing 'an indictment' for presentment to the Grand Jury". In turn said indictment is to be passed on to the trial court to allow it to enact and or invoke and or continue its "[p]owers" of Subject Matter Jurisdiction, Sharpe v. Johnson, 107 F3d. 282(foot notes)(5th.Cir.1997); Santos v. State, 843 S.W.2d. 953, 956(Tex.App.1992); Studer v. State, 799 S.W.2d. 263(Tex.App.1990); Williams v. Morris, 320 S.C. 196, 464 S.E.2d. 97(1995).

The indictment is also the legal document that confirms the "[c]riminal" court's "[p]ower" and or "[a]bility" to hear the particular case, by stating and documenting the class of case, or alleged offense, and the statute of the offense charged, stating the offense in the language of the statute, further validating that the matter(s) reside in the proper court of jurisdiction to hear and determine the matter. These indisputable facts make the indictment more than merely a "notice document". It is the vehicle in "[c]riminal" cases and or proceedings which invest and or attach the "[c]riminal" court the Due Process mechanism and right to act, and or confirms that right to act, which is an intrinsic part of the Due Process Prong To Subject Matter Jurisdiction in these cases; Thereby making them inter-linked, inter-locked and inter-dependent upon the viability of each other. To determine that without the indictment(s), it does "[n]ot" "[a]ffect" and or "[h]inder" a "[c]riminal" court's "[p]ower" and or "[a]bility" to hear and determine cases of "[t]his" general class to which the proceedings in question belong, is an error of law, and is like stating not having a "soul", "consciousness", or "lifeforce", do "[n]ot" "[a]ffect" or "[h]inder" a man's "[p]ower" or "[a]bility" to be a man. Without a "soul" or "lifeforce", by the laws of reason you will still have a "man", but the total truth of the matter is that

you will have a "[d]ead man", whose worth to society is useless; the same way the "[c]riminal" court's "[p]ower" and or "[a]bility" to hear and determine "[t]his" particular class of case is useless without the essentially needed vehicle in the form of the indictment(s). The Sufficiency of an Indictment is a "[j]urisdictional [p]rerequisite" in cases of "[t]his" general class, to which the proceedings in question belong, and for which an indictment is needed and or required even though the courts do indeed have jurisdiction via state legislative statute and or via congressional intent. See Indictment sufficiency, 70 Column L. Rev. 876, 888(1970); United States v. Abrams, 539 F.Supp. 378, 384(S.D.N.Y.1982); Stirone v. United States, 361 U.S. 212 (1960); Gaither v. United States, 413 F2d. 1061(D.C. Cir.1969); Also see S.C. Constitution Art. 1 § 11; S.C. Code Ann § 17-25-10.

The Gentry court, by it misinterpreting its citings changed Federal law made applicable to the state(s) by they adopting such via their own state(s) Constitution(s) standing unchallenged for well over (100) years. For the Gentry court by it misinterpreting its citings, in acts of fraud upon the court and machination in violation of Ross v. Blake, 136 S.Ct. 1850(2016), to view the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment as being combined, when Federal law adopted by their own state(s) constitution(s), dictate that the Sufficiency of an Indictment is a "[j]urisdictional [p]rerequisite" to Subject Matter Jurisdiction in a "[c]riminal" court, which is a Due Process claim, is an error of law. Nothing in United States v. Cotton or State v. Parkhurst addressed and or adjudicated the "[p]rerequisite" Due Process aspect of the indictment. Nor did anything in those cases say that Abrams, Stirone, Russell and Gaither are overruled. If they are no officially overruled by The U.S. Supreme Court, then the [p]rerequisite Due Process aspect of the indictment is still controlling law. The Abrams, Stirone, Russell and Gaither court(s) intent should be ascertained from the plain language of these citings of law as is adjudicated by those

courts. The language must read in a sense that harmonizes with its subject matter and accords with its general purpose. Once these precedent setting courts have made a choice, there was no room for the Gentry court to impose a different meaning or judgment based upon their own misguided notions. If the provisions of law language is clear, there was no need to employ the rules of statutory and or common law construction, and the Gentry court had no right to go on a "FISHING EXPEDITION" holding those cases in limbo for (5+) years to force the inmates past the statute of limitations to prevent review in another higher court to which they were void of all jurisdiction in acts of fraud upon the court and machination. Also, due to they imposing another meaning to this prescribed law, in their efforts to essentially establish modern day slavery in violation of the C.A.T. Treaty, to which congress confers upon no court the "[p]ower" to establish slavery of any kind. Their jurisdiction is void from the onset, even making it an administrative function stripping them of immunity due to the fraudulent intent. These were the same such acts that were at the heart of the issues sought remedied in Ex Parte Virginia in 1880. The convictions are not "DULY" established. Where the language of the afore mentioned citings of law are clear and explicit, the Gentry court "[c]annot" go on a "FISHING EXPEDITION" to purposely search for a vague, ambiguous provision of law that did not address the "[j]urisdictional [p]rerequisite" Due Process aspect and requirement of the indictment to criminally, in acts of fraud upon the court and machination, rewrite the provisions of the law in and inject matters into the holdings which are not in the language found in Russell, Stirone, Abrams and Gaither. Under the plain meaning rule, it is not the Gentry court's place to change the meaning of clear and unambiguous provisions of law by citing of a law that is ambiguous and vague, to disproportionately affect African Americans and other minorities within this state and water down the protections established under Ex Parte Virginia. The law clearly states that the two concepts are not combined, but one is a "[j]urisdictional [p]rerequisite" of the other which "[m]ust" be adjudicated under the Due Process Prong of Subject Matter Jurisdiction. The law clearly states

that yes, the courts have jurisdiction via state legislative statutes and or congressional intent, but with that jurisdiction there are "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites" that "[m]ust" be adhered to related to Due Process which void jurisdiction for lack of compliance. If these two concepts are to be viable and operate in the fullness and purpose for which they were established and created, they are not to be viewed and or separated in the manner reasoned by the Gentry court misinterpreting the holdings made in the Cotton and Parkhurst courts, Mitchell v. Conseco Life Ins. supra.; J & J Sports Productions Inc. v. Wofford supra.; United States v. McDonald supra.; Gindi v. Strategic Outsourcing, Inc. supra.; State v. Jones supra.; Bass v. Isochem, 617 S.E.2d. 369(S.C.App. 2005); State v. Brannon, 666 S.E.2d. 272(S.C.App.2008); State v. Pittman, 647 S.E.2d. 144(S.C.2007); Liberty Mut. Ins. v. S.C. Second Injury Fund, 611 S.E.2d. 297(S.C.App.2005).

Further, the indictment(s) serve as a "[s]afeguard" to protect the American citizenry, all those who are held by us, and those who enter our borders or territories, from violations of their inalienable constitutional rights. Rule 7(c) requires that the indictment(s) contain a "[p]lain", "[c]oncise", and "[d]efinite" written statement of essential elements and or allegations constituting the offense charged. This requirement performs three constitutionally required functions: It fulfills the 6th. amendment right to be informed as to the "[c]ause and [n]ature" of the accusation (notice document); Yet, more than this, it prevents a person from being subject to double jeopardy as required by the 5th. amendment. It also serves the 5th. amendment protection against crimes based upon evidence not presented to the Grand Jury (constructive amendment of the indictment claim), State v. Lewis supra.; State v. Easler supra.; United States v. Silverman, 30 F2d. 106, 110(2nd.Cir.) listing these functions, modified 439 F2d. 198(2nd.Cir.1970) cert. denied 402 U.S. 953, 91 S.Ct. 1619, 29 L.Ed.2d. 123(1971). The Indictment Clause of the 5th. amendment requires that the indictment(s) contain some amount of factual particularity, to ensure that the prosecution will not fill in elements of his case with facts

other than those considered by the Grand Jury (constructive amendment of the indictment issue), United States v. Abrams supra.

The judges in State v. Gentry supra.; United States v. Cotton supra.; and State v. Parkhurst supra., in their determination, it is perspicuous that they have "[n]ot" given "[f]ull" weight to the total requirements and purpose of S.C. Code Ann §§ 17-19-10, 17-19-20, 17-19-30 and 17-25-10, or the "[j]urisdictional [p]rerequisite" Due Process aspect and requirement of the indictment. It is for the reasons aforementioned, in relevant part, and Federal Rules Of Criminal Procedure, Rule 7(c), that the requirements of the mentioned statutes are in effect, to ensure that the indictment(s) comply with Federal and State Rules of Criminal Procedure, The U.S. Constitution, The S.C. Constitution, and the Laws of Due Process, which make them more than merely a "notice document".

In addition to this, the indictment(s) aid in instructing the jury of the circumstances of the crime, and the incidentals, as well as the elements of the offense, that they are to confirm, or reject the confirmation of, by the preponderance of evidence presented before them by the prosecution and or defense in reaching a verdict. This too, makes them more than merely a "notice document", United States v. abrams supra.; United States v. Silverman supra.. This requirement that the offense be stated**** specifying in detail each element of the crime was seen as providing assurance that both the Grand Jury understood what was necessary to establish the offense, not convict, and that the trial jury did not engage in unanticipated extensions of the substance of the offense, which is a constructive amendment of the indictment claim proving these are Due Process arguments which are to be adjudicated under the Due Process prong to Subject Matter Jurisdiction.

Lastly, the requirement of the indictment(s) limit and constrain the "[p]owers" of Subject Matter Jurisdiction of both

the prosecution and the court, by limiting what can be presented at trial, conviction and sentencing. This too, is potentially a constructive amendment of an indictment claim which demonstrate the deficiencies within the indictment(s) produce Due Process challenges that void jurisdiction for Due Process violation, United States v. Promise, 255 F3d. 150(4th.Cir.2001); State v. Guthrie, 352 S.C. 103, 572 S.E.2d. 309. It is the command of The U.S. Constitution that anything to the contrary is notwithstanding, (Article IV § 2 U.S. Const.).

The appellant places forth this issue in a straightforward fashion and want to make certain that there is no misunderstanding as to the specific claim(s) and or question that is placed before the court. The appellant is not arguing whether the criminal court has jurisdiction to hear and determine cases of "[t]his" general class to which the proceedings in question belong. The appellant concedes this fact. The appellant in this context agrees with all (3) Gentry, Cotton and Parkhurst court(s) when they determined that the criminal court does have Subject Matter Jurisdiction to hear cases of this general class and nature via state legislative statute and or congressional intent, this is not the issue. What the appellant is indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton or Parkhurst court(s) is this. Despite the fact that the criminal court does have Subject Matter Jurisdiction to hear cases of "[t]his" general class to which the proceedings in question belong via state legislative statutes and or congressional intent. Do their egregious, blatant failure to be in compliance to said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]urisdictional [r]equisites" at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process before the court, which is to be adjudicated under the Due Process prong to Subject Matter Jurisdiction. Do the State and or Federal government and or courts' egregious, blatant failure to be in compliance to these said certain, essential, crucial Due Process "[j]urisdictional [p]rerequisites" and or "[j]uris-

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dictional [r]equisites" at various phases of, and or at the commencement of the Subject Matter Jurisdictionary action and or process, which is a Due Process issue. Do that failure halt, check, constrain, restrain, limit, arrest, stop or void the continuance of the court's Subject Matter Jurisdictionary "[p]owers" before the court for Due Process violation (ei vagueness in the indictment), even though the court do indeed possess such "[p]ower" by state legislative statute and or congressional intent? See Loumiet v. United States, 65 F.Supp.3d. 19(2014); U.S. v. \$41,320 U.S. Currency, 9 F.supp.3d. 582, 2014 WL 1266240 (2014); U.S. v. Aladekcha, 2010 WL 4054267(D.C.Md. 2010); White v. Manis, 2014 WL 1513280(DSC.2014).

This is a crucially, materially, distinctly different question related to Subject Matter Jurisdiction that was never answered by any of the courts involved pursuant to the Gentry case. This is why Judge Plecones in the South Carolina Supreme Court refuse to be a part of the arbitrary, unjust acts of the S.C. Supreme Court and conspiring parties handling of the Ezekial Hayes case. The highest court had opportunity to deal with the issue and instead chose to engage in further acts of fraud. Thus, even by this act the exhaustion and equitable tolling requirement is satisfied. This is a jurisdictional challenge to the Federal Courts as well. For if the federal courts fail to take notice they would be conspiring in acts created for the purpose of establishing modern day slavery. Congress confers no "[p]ower" on the State or Federal Courts to establish modern day slavery which would strip all of immunity. The Court would also be in violation of the C.A.T. Treaty(Convention Against Torture Treaty) where the definition for slavery is found that Congress signed off on. It becomes a jurisdictional duty of the Federal Courts to act. Thus, using the holdings made in the Gentry case would be misplaced, especially in light of the fact that it has been adjudicated under a cloud of fraud upon the court and machination where they went on a "FISHING EXPEDITION" to find a vague, ambiguous citing of law that did not address the Due Process "[j]urisdictional [p]rerequisite" aspect

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of the indictment(s). Such a new question of law and fact is not barred from seeking relief for, does relate to Subject Matter Jurisdiction, "[c]annot" be waived by the appellant, and the court "[s]hall [n]ot" fail to take notice, Grupo Dalaflex v. Atlas Global Group, L.P., 541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed.2d. 866(U.S.2004); South Carolina Department Of social Services v. Tran, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); McCain v. Brightharp supra.; Loumiet v. United States, 65 F.Supp. 3d. 19(2014), The Amistad supra.; Nezirovic v. Holt, 779 F3d. 233 CA4 (Va.2015); Kwai Fun Wong, 135 S.Ct. 1625, 191 L.Ed.2d. 533, 83 U.S.L.W. 4258(U.S.2015).

Insomuch, Rules of Criminal Procedure, the Sufficiency of an Indictment, Subject Matter Jurisdiction, and Due Process Law are inter-locked and inter-linked in these matters. Yes, Subject Matter Jurisdiction and the Sufficiency of an indictment are two distinct concepts, but the indictment(s) in "[c]riminal" cases and or pleadings is the Due Process required vehicle upon which the Due Process aspect of Subject Matter Jurisdiction is conferred upon the "[c]riminal" court, and or is that which enable the "[c]riminal" court the "[a]bility" and or "[p]ower", and or right or means to enact, and or invoke, and or continue its Subject Matter Jurisdictionary "[p]owers". It is not so much that they are combined or that the court does not have jurisdiction to hear these types of cases via state legislative statute and or congressional intent. The sufficiency of an Indictment is a Due Process "[j]urisdictional [p]rerequisite" in cases of "[t]his" general class to which the proceedings in question belong, and for which an indictment is needed and or required as Due Process demands. English 101 and English 102 are two separate and distinct English courses, but "[b]oth" make up one English program towards one single College degree. English 101 is a "[p]rerequisite" to English 102. You "[m]ust" have and or take English 101, before you can have and or take English 102. Its a simple concept. Its not hard. You "[m]ust" have and or take a sufficient, not vague(emphasis added) Indictment, passed upon by the Grand Jury, before you can enact and or invoke and or continue the court's Subject Matter Jurisdic-

tionary "[p]owers" given to a "[c]riminal" court, even thought that court do indeed possess such "[p]owers" via state legislative statute and or Congressional intent. To view the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment as being mistakingly combined, when, by Federal law made applicable to the States through the Due Process Clause and or South Carolina, New Jersey, Kentucky, Georgia, New York or other (28) relevant State(s) Constitution(s), dictate that one is a Due Process "[j]urisdictional [p]rerequisite" of the other is an error of law, fraud upon the court and machination. To determine that failure to be in compliance to Due Process "[j]urisdictional [p]requisites" and or "[j]urisdictional [r]equisites" do not effect the court's "[p]ower" to hear and determine a case is an error of law, fraud upon the court and machination. This question was circumvented by the courts involved conspiring under color of state law, and must now be answered in fundamental fairness to the appellant(s).

Even if you separate the two concepts aforementioned from one another, the "[e]ffect" and or "[o]utcome" on the trial court's "[p]owers" of Subject Matter Jurisdiction are the same. Due to the deficiency in the "[j]urisdictional [p]rerequisite" pursuant to the presentment of the fatally defective indictments, it "[n]ullifies", "[v]oids" the Subject Matter Jurisdictionary action, which must be adjudicated under the Due Process Prong to Subject Matter Jurisdiction, even though the "[c]riminal" court do indeed possess such "[p]ower" via state legislative statute and or congressional intent. They are distinct from one another the same way the inner-makings are distinct from the bread of a "sandwich", but "[b]oth" make the "sandwich". They are distinct from one another the same way a man's soul is distinct from his body, but "[b]oth" make the man. The "[c]riminal" court can have Subject Matter Jurisdiction all day long, but without the indictment(s), when indictments are needed and or require in this instance by Due Process Law, that "[p]ower" is useless. The lack thereof do "[a]ffect" and or "[h]inder" that "[p]ower" and or "[a]bility" to hear and determine cases

of "[t]his" general class to which the proceedings in question belong. To determine otherwise is an egregious error of law, machination, an act of fraud upon the court and conspiracy to establish modern day slavery in violation of 18 U.S.C. §§ 241, 242, 1001 and The Anti-Peonage Act as well as in violation of The Rico Act to include the holdings made in Ex Parte Virginia designed to disenfranchise us of our right to vote in violation of the 15th. amendment.

In comparison, you can have two pieces of bread all day long, but without the inner-makings you will never have a "sandwich". Being a "notice document" is only one of the numerous purposes and functions that the indictment serves. These numerous purposes and functions cannot be viewed and or work separately and independently of each other without affecting the "[t]rue" nature and purpose for which the indictment was created. To do so would be an error of law, see Herman Winns v. State, memo No. 2000 Mo-078 Daniel F. Piper Judge.

Insomuch, what the honorable court(s) in Gentry, Cotton and Parkhurst failed to see, is that the "[c]onfusion" that the Gentry court spoke of is "[n]ot" coming from our modern day courts mixing the two concepts of Subject Matter Jurisdiction and the Sufficiency of an Indictment together. The "[c]onfusion" that the Gentry court spoke of, is coming from our modern day court(s) and system of jurisprudence losing vision and insight of that which is laid and set before us by our Constitutional Forefathers in the establishing of our judicial system, that by all jurisprudence was not meant to be tampered with. That being a system of checks and balances, within a system of checks and balances. You have issues of Subject Matter Jurisdiction, jurisdictional prerequisites and or requisites, rules of criminal procedure, sufficiency of indictment issues, and issues of Due Process Law pertaining to the U.S. Constitution, as well as the South Carolina, New Jersey, New York, Kentucky, Georgia and remaining states constitutions, overlapping each other, and checking each other, as a "[s]afeguard" to ensure that the

U.S. citizen, those who are held by us, and those who enter our borders or territories, inalienable rights to a fair and impartial trial and or plea hearing are preserved. Our Constitutional forefathers purposely meant and designed for them to be viewed as a whole unit, inter-locked and inseparable though independent to themselves as an integral part of the overall judicial machine, so that if one part fails, the other parts would pick up and kick in. Thus, remaining true to the very nature of [l]egal "system". A system is comprised of various components, nevertheless, it is still to be considered as one. As the appellant mentioned in one of the previous issues. Our Constitutional forefathers in their wisdom and jurisprudence set up "[b]ulwarks", "[b]arriers" of protection forthrightly established to protect the American citizenry, those who are held by us, and those who enter our borders or territories, from unjust, arbitrary prosecution, that outside of an individual committing acts of treason were "[n]ot" meant to be torn down. These are those sacred "[b]ulwarks", "[b]arriers" of protection. To view them as separate and independent in the manner viewed by the Gentry court(s), as they relate to each other, or to determine that they do not affect the criminal court's "[p]ower" to hear and determine "[t]his" class of case, goes against the rightly established pattern and design of our judicial system, is fraud upon the court and machination, an act of establishing modern day slavery by forcing us to work once convicted, and is an error of law. It is a form of treason. It is the very epitome of betrayal to our Constitution, and sets itself at war and enmity to the substantial rights of the commonwealth, and seek to eradicate the very core integrity of the rights, immunities, and privileges of all citizens, those who are held by us, and those who enter our borders or territories, our Constitutional forefathers have died and sacrificed their best blood to establish and preserve. These sacred "[b]ulwarks" aid to ensure that "[L]ady [J]ustice" remains blindfolded, and the defendant's inalienable rights to a fair and impartial trial and or plea hearing remain secure and are never taken away. Such actions produce fraud upon the court, machination, modern day slavery vitiating all convictions, The Amistad supra.; Ex

Parte Virginia, 100 U.S. 339, 348-349, 25 L.Ed. 676(1880); Pul-
liam v. Allen, 466 U.S. 522, 536-543, 104 S.Ct. 1970, 1977-1982,
80 L.Ed.2d. 565(1984); Mireles v. Waco, 502 U.S. 9, 112 S.Ct.
286(U.S.Cal.1991); Schmidt v. Degen, Ed. Pa. 1974, 376 F.Supp.
664; 18 U.S.C. §§ 241, 242, 1001; S.C. Code Ann § 17-25-10.

Insomuch, these very issues were at the heart of the matters that existed, in relevant part, during the time of Ex Parte Bain in 1887, and still vividly, with all certainty, exist now via Due Process within our modern day courts and system of jurisprudence, and by the constitutional rights of every citizen, of those who are held by us, and those who enter our borders or territories, these issues "[c]annot" be ignored. These issues of Due Process secured and protected by the rulings made in Ex Parte Bain in 1887, as well as in Gaither, Russell, Stirone and many other such holdings in other similar cases, still apply today and are protected by The U.S. Constitution and the laws of the United States. These concepts are designed to overlap in these matters to ensure a more true court of jurisprudence to its citizens, those who are held by us, and those who enter our borders or territories, for the sake of "justice and fairness".

In regard to State v. Gentry supra.; we are dealing with a "state law", in such a way designed, crafted, drafted, initiated, and set into place, that is egregiously contrary to the U.S. Constitution's inherent, intrinsic, and explicit presuppositions that by its very nature is intense espionage and diabolical sabotage, and stands in defiance to the rights of the commonwealth in violation of Due Process Law, establishing fraud upon the court, machination, modern day slavery behind a class based invidiously discriminatory animus in the form of racial hatred, surreptitiously done, because it disproportionately affect and harm the African Americans and minorities of the state and or nation. It creates the similarities seen in trials and or plea hearings that manifested themselves during the Nazi Occupation, the English Inquisition of 1518, the Spanish Inquisition of 1478, the Salem Witch Trials of the 17th. Century, the trials

and or hearings prior and during the Civil Rights Era, and the like; where trial and or plea hearings became an arbitrary action, a mere hollow and deceptive formality and or mechanism, utilized to snatch from the commonwealth their inalienable rights , and rob them of their God given liberty. The Judges of the Gentry court and defendants involved in these cases across the nation entered themselves into a deliberate plot and scheme to directly subvert the judicial process. The fraud in these cases is so broad that it involves far more than injury to a single litigate, but was rather a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot be complacently tolerated consistently with the good order of society Id at 246, 64 S.Ct. 997. This plot and fraud not only involved an intentional scheme to deceive the judiciary and any future subsequent higher court, but also touch on the public interest in a way that fraud between individual parties generally does not. These parties have enacted and or attempted a more egregious form of subversion of the legal process, one that was specifically designed to prevent us from being heard on the issue. Those forms of subversion that we cannot necessarily expect to be exposed by the normal adversarial process. No timely objection is necessary to address this issue. It can be raised at any time, even for the first time on appeal, creates extraordinary circumstances, manifest injustice, tolls the time of appeal and the court shall not fail to take notice, Fox Ex Rel Fox v. Elk Run Coal Co., Inc., 739 F3d. 131 CA4(2014); Massi v. Walgreen Co., 2013 WL 5410810 (DSC.2013); DeVeaux v. United States, F.Supp.2d., 2010 WL 8738108 (DSC.2010); Arata v. Village West Owners Ass'n Inc., S.E.2d., 2011 WL 11735004(S.C.App.2011); Chritianson v. M.B.N.A. American Bank N.A., S.E.2d., 2013 WL 8507850(S.C.App.2013); Ge-Zhang v. Promontory Interfinacial Network LLC., ---Fed. Appx'---, 2015 WL 75360 CA4 (Va.2015); Baccus v. Merchant, 2014 WL 1330984(DSC. 2014); McKissick v. Warden Evans C.I., 2013 WL 4585613(DSC.2013); Conyers v. Virginia Housing Development Authority, 585 Fed. Appx' 66 CA4 (Va.2014); Rogers v. Carr, S.E.2d., 2014 WL 2721025 (S.C.Ap..2014); Inglesias v. Wal-Mart Stores East L.P., 542

Fed. Appx' 295 CA4 (Va.2013); Simmons v. Bailum, S.E.2d., 2013 WL 8482376(S.C.Ap..2013); Davis v. Davenport, 2013 WL 6840473 (DSC.2013); Burris v. Ware, 2014 WL 4293805(DSC.2014); United States v. Denedo, 556 U.S. 904, 129 S.Ct. 2213, 173 L.Ed.2d. 1235, 77 U.S.L.W. 4466, 09 Cal. Daily Op. Serv. 7069, (2009); McCann v. Brightharp, 399 S.C. 240, 730 S.E.2d. 916(S.C.App.2012) ; United States v. Boston, 539 Fed. Appx' 209 CA4 (N.C.2013); The Amistad supra., 40 U.S. 518, 15 Pet. 518, 1841 WL 5024, 2006 A.M.C. 2955, 10 L.Ed. 826, U.S. Conn. January 1841; Moore v. Dempsey, 43 S.Ct. 265, 67 L.Ed. 543; United States v Umana, 750 F3d. 320 CA4 (N.C.2014).

Inasmuch, the issues here go far beyond that of dealing with indictment defects, which are to be quashed by motion before a jury is sworn, or acknowledged, and or objected to before a guilty plea is given. The matters here in crucial part, do not have to necessarily be preserved for appellate review by a timely objection, but only need to be considered as a matter brought, conducted and or presented before the court in some fashion. The government "[m]ust [a]llways" be held accountable to judiciary for a man's imprisonment, and the restraints on liberty if the imprisonment does not conform to the basic requirements of Due Process Law. For the sake of "justice and judicial fairness", the appellant should not be penalized and made to suffer an onerous conviction, because hired counsel, and or counsel that the state appointed to represent him, was so inept and constitutionally ineffective, and or conspired under color of state law with the prosecution to cause irreparable harm to his proceedings, that he or she could not even see, or refuse to see the overwhelmingly obvious defects in an indictment presented before the court. Thereupon, the appellant, who later after conviction, or the fraud produced by the Gentry case, previously having no knowledge of law, and little to no access to legal books or materials before his trial and or plea hearing, later discovers the Gentry fraud and these "[p]lain", "[c]lear", "[e]gregious", Subject Matter Jurisdiction and Due Process issues and or errors producing manifest injustice should not in all fairness be barred from calling these matters

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to the attention of the courts in order to seek relief, Shelton v. Ciccone supra.; Evitts v. Lucy supra.; Gray supra.; Powell v. Alabama supra.; United States v Promise supra.. The issues disproportionately effect and harm African American and other minorities.

CONCLUSION:

Insomuch, there were no holdings made in the Gentry, Cotton and Parkhurst cases that would justify and or serve to detach from the indictment(s) the 4th., 5th., 6th., 13th., 14th. and 15th. Amendment issues aforementioned within this document made applicable to states by they adopting such via their states Constitutions and or via the Supremacy Clause of the U.S. Constitution. Likewise, there were no holdings made in those cases that would justify and or serve to detach from the indictment the Due Process issues aforementioned within this document.

By the holdings made in the Gentry case. That court essentially took the position that the court's powers of Subject Matter Jurisdiction are "[a]bsolute" via state legislative statutes or Congressional statutes or enactments of law, and at "[n]o" time can that "[p]ower" be divested and or voided. The Gentry court essentially claimed there can be no situation that can divest or void jurisdiction. This is a ludicrous and criminal position to take which will be proven by judicial determinations made after the Gentry case was established.

There are essentially (2) prongs to Subject Matter Jurisdiction. One (1) is where the courts "[l]ack" Subject Matter Jurisdiction (ei. where a Family Court would attempt to try a criminal case, or a Probate Court would attempt to try a Military Tribunal case.). Of course in these situations those courts would "[l]ack" Subject Matter Jurisdiction.

This is essentially what the Cotton court was saying which is the reason why the litigant in that case did not prevail. By state and Federal statutes or Congressional enactments, specific courts have jurisdiction to hear cases of a general class (ei. criminal courts have jurisdiction to hear criminal cases). But (2) There is a second prong to Subject Matter Jurisdiction where jurisdiction is made void because of Due Process violation despite any existing state statute or federal law. So the Cotton court was essentially saying was that the litigant, by the language he presented. He was arguing his claim under the incorrect prong. More specific, the litigant should have asserted that jurisdiction is made void due to a particular Due Process violation, see U.S. v. \$41,320 U.S. Currency supra.; Hunt v. United States supra.; White v. Manis supra.; U.S. v. Aladekcha supra.; Brown v. U.S. supra..

The Gentry court knew the Cotton court was vague on this issue and went on a "FISHING EXPEDITION" to find Cotton and Parkhurst so that they could adjudicate the Gentry case under the same incorrect prong to defraud the inmates of this state in acts of machination in violation of the holdings made in Ross v. Blake, 136 S.Ct. 1850(2016). Like the Article V § 4 orders leading to the claims of default and collateral estoppel in these cases emerging from case 2013-CP-400-0084 in the Richland Court Of Common Pleas. The Sufficiency of an indictment is a "[j]urisdictional [p]rerequisite" and Due Process claim that voids jurisdiction as opposed to the other prong where the Family Court would attempt to try a criminal case and would "[l]ack" Subject Matter Jurisdiction. The Due Process Prong is what we are arguing the Article V § 4 orders, the claim of default and collateral estoppel, to include the structural constitutional error of religious prophesy pertaining to the indictments predetermining in advance the outcome of the proceedings, taking away our presumption of innocence, convicting us before we plea or go to trial, disenfranchising us of our right to vote, establishing modern day slavery in violation of the C.A.T. Treaty under. Congress confers upon no court the power to esta-

blish modern day slavery, The Amistad, 40 U.S. 518, 15 Pet. 518, 1841 WL 5024.

When the constitutionality of a ruling is in doubt (ei. The Cotton and Gentry cases). The court has an obligation to interpret the Cotton case as it relates to Gentry, Abrams, Gaither, Stirone, Russell and the voiding of jurisdiction for Due Process violation under the Due Process Prong, not the other. "STARE DECISIS ET NON QUIENTA MOVERE". Once this was decided the courts should have never moved from it. Certain violations of Due Process void jurisdiction when they give way to arbitrary judicial action. See S.C. Code Ann § 17-25-10 and 9 F.Supp.3d. 582.

If a criminal case is appealed, but no trial transcript is produced, what occurs? The trial transcript is a "[j]urisdictional" requirement in the appeals court. The court must remand for a new trial and or reconstruction hearing. If a case is in the state court, and a petition to remove is filed, what occurs? The state court's jurisdiction is divested and that court cannot proceed until remand order is issued or the federal case is dismissed, State v. Ladson, 373 S.C. 320, 644 S.E.2d. 271(S.C.App.2007); Lovett v. Deutsche Bank Nat' Trust Co., F.Supp.2d., 2013 WL 841679(DSC.2013). A case is in the lower court. A motion is filed where adverse ruling is given. The person appeals it, what occurs? The higher court cannot hear it without the "[j]urisdictional [p]rerequisite" final order, see Fortmill v. Fitzgerald, S.E.2d., 2014 WL 7339453(S.C.App.2014). In civil cases parties must be in compliance to all the rules of constructive service. Compliance is "[j]urisdictional [p]rerequisite". If step is omitted (comparingly a sufficient indictment is omitted) decree or ruling is void, see Caldwell v. Winkquist, 402 S.C. 565, 741 S.E.2d. 583(S.C.App.2013). Where case is filed in the U.S. District Court, but parties file a second to subvert the District Court's jurisdiction in the state court. This act would void the state court's jurisdiction. Thus, jurisdiction is "[n]ot" absolute despite legislative statute or state or federal law, see Ackerman v. Exxon Mobil Corp., 734 F3d. 237

CA4 (Md.2013). Money amounts are jurisdictional in Wills, Probate and Estates, see Dickerson v. Alexander Hospital, 177 F2d. 876 CA4 (Va.1949); Aladeckcha, 2010 WL 4054267(2010).

When a conviction fails to comport with Due Process if statute under which it is obtained, and we can add to this, an indictment fails to comport to Due Process and fails to provide a person of ordinary intelligence "fair" notice or other essential requirements of Due Process (ei. Double jeopardy protection, presumption of innocence) jurisdiction is void. If the court fails to act in a manner consistent with Due Process and authorizes and or engages in or encourages arbitrary and discriminatory judicial or other practices (ei. Deny us the Equal Protection of the Laws, constructively amending indictments on essential elements, taking away our presumption of innocence, predetermining in advance the outcome of the proceedings by indictment language, spoliating documents and or evidence, illegally seizing evidence and or Foreign Sovereigns, engaging in acts of machination, fraud upon the court, essentially establishing modern day slavery where we are not "**DULY**" convicted, disenfranchising us of the right to vote behind racial animus, depriving us of proper notice in violation of S.C. Code Ann § 17-25-10, the 4th., 5th., 6th., 8th., 13th., 14th., 15th. amendment(s), producing arbitrary judicial action. Jurisdiction is made void for Due Process violation, Gentry Technology Of S.C. Inc. v. Baptist Health South Florida,...2015 WL 1219251 (DSC.2015); Yates Estate Of Yates, 2014 WL 2579917(S.C.App.2014); Ware v. Ware, 404 S.C. 1, 743 S.E.2d. 817(S.C.App.2013); Orlando Residence Ltd. v. Hilton Head Hotel Investors, F.Supp.2d., 2013 WL 1103027(DSC.2013); Federal Land Bank Ass'n Of Asheville N.C. v. C.I.R., 573 F2d. 179 CA4 (1978); Al Shimani v. C.A.C.I. Inter. Inc., 679 F3d. 205 CA4(Md.2012). The use of United States v. Cotton, Parkhurst and Gentry must be deemed misplaced and or overruled due to vagueness, Johnson v. United States,---S.Ct.--,2015, WL 2473450(U.S.2015); U.S. v. McKee, 506 F3d. 225, 229-232(3rd.Cir.2007); U.S. v. Huet, 665 F3d. 588(3rd.Cir.2008);

Ingram v. Phillips, 36 S.C. L. 200, 1850 WL 2857 S.C. App. Law 1850; Lewis-Murray v. Murray, S.E.2d., 2005 WL 7084812(S.C.App. 2005); Bankers v. South Carolina, F.Supp.2d., 2010 WL 558580 (DSC.2010); Lampman v. Demolff Boberg & Associates Inc., 319 Fed. Appx' 293 CA4 (S.C.2009); United Student Aid Funds Inc. v. Espinosa, 559 U.S. 260, 130 S.Ct. 1367(U.S.2010); Arata v. Village West Owners Ass'n Inc., S.E.2d. 2011 WL 11735004(S.C.App. 2011); Elderberry Of Weber City, LLC v. Living Centers Southeast Inc., ---F3d.---, 2015 WL 4430836 CA4(Va.2015). The judgment in the appellant(s) case and these other cases (ei. Gentry et.al.,) are effected by fundamental infirmities. These infirmities may be raised after any judgment becomes final. Thus, the appellant(s) motion that the conviction and sentence be vacated, that an order issue expunging my record and the other inmates records due to seeking of class action certification and all monies that were paid out (ei. restitution etc.) be returned, United States Aid Funds, Inc. v. Espinosa supra.; Vose v. Hanahan, 10 Rich 465, 1857 WL 3239 S.C. Err. 1857; Norberger v. Hinkle, 576 Fed. Appx' 224 CA4(Va.2014); Jones v. Sternheimer, 387 Fed. Appx' 366, 2010 WL 2711305 CA4(Va.2010); U.S. v. Watson, ---F3d.---, 2015 WL 4385697 CA4(Va.2015); Harley v. South Carolina Dept. Of Corrections, 2013 WL 5428585(DSC.2013); People v. Rogers F.Supp.2d., 2010 WL 424201(DSC.2010); Gentry Technologies Of S.C. Inc. v. Baptist Health South, Florida Inc., 2015 WL 1219251 (DSC.2015).

The S.C. Attorney General and The United States are both parties to the default and claims of Res Judicata and or collateral estoppel emerging from case 2013-CP-400-0084 in the Richland County Court Of Common Pleas as they relate to these issues presented despite their efforts at fraud, machination and criminal conspiracy. Jurisdictional bar to challenge attaches, In RE: Variant Enterprise Inc., 81 F3d. 1310(4th.Cir. 1996); Bashnight, 551 S.E.2d. 274; Reot v. County Of Fairfax, 541 Fed. Appx' 333(4th.Cir.2013); Wells Fargo Bank, N.A. v. Farag, 2016 WL 2944561(2016).

RESPECTFULLY SUBMITTED,
JASON MORRIS GOURDINE

Jason Morris Gourdine

APRIL 25, 2017

Exhibit

Judge LEE #2

2

Certificate of Service

RICHLAND COUNTY
FILED

2014 MAY 13 AM 8:39

JEANETTE W. MCBRIDE
S.C.P. & C.

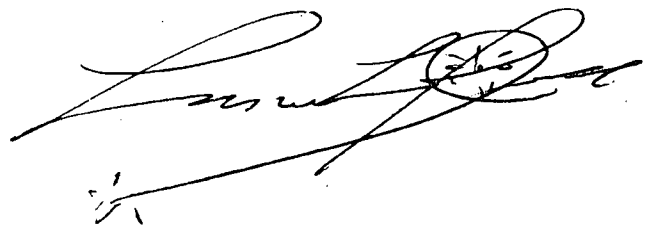
We, Thompson Cook, Crawford & Lee
et al, do hereby certify that we
have mailed and or served a copy
of an Affidavit of Facts Giving Judicial
Notice; Seeking Default and Judgment;
Seeking to File objections; Renewing
The Petition To Remove; Renewing
Request for the Appointment of Legal
Counsel under ADA; Seeking to
suspend or relax the rules for any
defect in filing, service or form;
Seeking to Supplement the writ

of mandamus, (cc) pages dated May 2,
2014, on the Richland Court, Attorney
for defendants, the N.D. District Court,
the 3rd Circuit and all involved parties,
by U.S. mail postage prepaid by placing
it in the institution mailbox on May 2,
2014. Thus, it is filed that date, Hustan
v. Lark, 287 U.S. 266, 273-76, 108 S.Ct 2379
(1988).

Respectfully

Douglas M. Jones
Anthony Cook

Dominic Gallman



May 2, 2014

State of South Carolina

Richland County

State of New Jersey

Bergen County

State of New Jersey

State of S. Carolina

Court of Appeals

Douglas M. Thompson,

Lawrence L Crawford

aka Jonah Gabriel

Jahjah T. Tishbite,

Anthony Cook

Court of Common Pleas

5th Judicial Circuit

The Superior Court

The Civil Division

U.S. District Court

U.S. District Court

For The 3rd Circuit

RICHLAND COUNTY
FILED
MAY 13 AM 8:30
JANET L. MCGOWAN
C.C.P. & G.S.

CASE 2013-CP-400-0084,
2294

also related to cases

14-2000 3rd Circuit

5:13-cv-3415-JCN

2013-CP-400-2294

Aerialie T. Crawford
Quinta D. Lee et al,
plaintiffs

14-cv-2218-ES
BER-L-1708-14-1708-
14 et al.,
26-13 PCR and all
relevant cases
related thereto

affidavit of facts
giving judicial notice;
seeking Disput and
Judgment; seeking
to file objections;
reviewing the

VS.

Judge David Norton
Cpl. Bach et al,
defendants

Petition To Remove;
Reviewing Request
For The Appointment
of legal counsel
under ADA; seek-
ing To suspend or
relax the Rules
for any defect in
filing service or
form; seeking To
supplement the
Writ of mandamus

In. Re: To Case 2013-CP-000-0084

April 2013 CP 400-2294 pending in
The Richland County Court of Common
Pleas

To: The Richland Court of Common
Pleas,

The New Jersey District Court,

The South Carolina District Court,

The 3rd Circuit Appeals Court,

The New Jersey Superior

Court,

The SC Attorney General,

The SC Dept of Corrections et

al,

The plaintiffs give judicial

notice there the parties will find if
the documents have not already
been previously served upon you,
copies of :

(1) A copy of the Certificate of
Service and the writ of mandamus
dated March 24, 2014 and the
(5) page affidavit for sanctions dated
April 16, 2014 in case 14-2000 3rd
Circuit.

(2) Certificate of Service and copy
of affidavit of facts concerning Judicial
Notice, seeking rehearing, Petition
706 ~~92~~ 92

TO REMOVE; seeking to suspend
OR RELAX THE RULES FOR any defect
in form, supplementing the new
ITERSLEY Complaint and mandamus, (38)
pages dated April 28, 2014 related
to CASE 26-13 et al. This document
is used to argue the issue of modern
day slavery and the F.S.T.A..

(3) A copy of the certificate of
service and affidavit of facts seeking
Recusal; motion to Disqualify; motion
for Judicial notice; motion for change
of venue and motion to motion there-
for filed in CASE 26-13 further
808 92

highlighting the complexity of this case, all cases sought consolidated.

(c) A copy of the Certificate of Service and Affidavit of Facts Giving Judicial Notice; Petition To Remove, (15) pages dated April 22, 2014. This case was filed in New Jersey seeking to disqualify the State of South Carolina in its entirety in handling any civil or criminal case related to these matters including "0084" and "2294" in the Richland County Court. The cases are now removed by Douglas Thompson in case 14-cv-2218-ES.

(5) This is the complaint that makes up case 14:cv-2218-ES. For the record this is not service. I am forced to give you prenotice for the sake of filing this document only.

(6) A copy of notice of motions scheduling dated February 11, 2014 related to case 2013 CP 400-2294.

This proves Judge Griffin knew by law he could not proceed with this case since it was petitioned removed, knowing he could not even file in the case ~~and~~ an order of continuance until the case was removed.
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The same situation existed in case 2013-CP-400-0084. Yet Judge Lee in acts of fraud on the court, filed an order of continuance knowing fully well she did not have jurisdiction to do so until the case was remanded.

(7) A copy of the (9) page complaint that make up case BER-L-1708-14 et al seeking to disqualify the state of South Carolina.

(8) A copy of the amended complaint and summons filed in case 2013-CP-400-2294 also filed in case BER-L-1708-14 et al and all other related cases.
1108 92

NOTE that it is ~~checked~~ stamped by
THE SUPERIOR COURT of NEW JERSEY.
NOTE that on page (31) of the (60)
page amended complaint that case
2013-CP-400-0084 has been made an
intrinsic part of case 2013-CP-400-0094.
Also take notice of the order from
Hudson County dated DECEMBER 10, 2013
and Essex County dated JANUARY
10, 2014. Once these documents are
filed properly with any court, this
means the plaintiffs in case 2013-CP-
400-0084 have been officially amend-
ed by order to include all plaintiffs

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listed in the documents. Since all plaintiffs were not before the court on April 3, 2014 where Judge Lee issued the order of continuance, it can not be deemed proper or valid since all plaintiffs now party to this case were not present. We objected at the proceedings held on April 3, 2014, we object now. Please do not ever bring us before the courts if all plaintiffs are not present.

(9) A copy of the attorney Kays letter dated October 27, 2013. This is the initial discovery sought in all

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Relief cases by mandamus,
injunctive relief and or protective
order, which include the appointing
of legal counsel in all related cases
by writ of mandamus in case 14-200.
I, Douglas Thompson supplement the
mandamus to require this.

(10) A copy of the certification
of counsel filed in case BER-L-1708-
14 et al. and exhibits.

(11) A copy of the PCR in case 26-13
and the legal issue that is at the
heart of the matter in all related

CASES (69) PAGES.

(12) A copy of the letter to the
Flaemick District Court proving the
petition to remove case 2013-CF-400-
0084 was placed in the mail box
on April 2, 2014 pursuant to Harston
u Lark 287 U.S. 266, 273-76, 108 S.Ct. 2379
(1988), being filed on that date.

(13) A copy of the certificate of
service and motion to supplement
the writ of mandamus being processed
(14-2000) in the 3rd Circuit and the
§ 1983 in NJ (CASE 14-CV-2218-ES),

Petition To Remove / Motion For Reusal,
(2) pages dated April 1, 2014. Note
that it is clocked stamped by the
Richland Court on April 3, 2014. This
means under Rule 82(c) the court
was to proceed no further until the
case was remanded. Yet, despite not
having jurisdiction. You will now see
a copy of form (4) from the Richland
Court showing an order of continuance
was filed in the case in clear de-
fiance of Rule 82(c) making that
order of continuance void.

(4) A copy of the original complaint
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And summons, (19) pages dated December 24, 2012 filed January 4, 2013, and the amended complaint (32) pages dated January 9, 2013. These documents prove they had one year to get us before the court to adjudicate the case or place an order of continuance in the case or default. Such was to occur before the (365) days expired not after. This is the main issue of concern that produces this document. The parties and court defaulted creating a procedural defect and an error requiring default,

discovery, the appointing of counsel and this case being placed before a jury. Any claims of lack of service etc must be deemed waived in fundamental fairness to the plaintiffs.

Judicial notice takes place of proof. It simply means that the court will admit into evidence and consider, without proof of facts, matters of common and general knowledge, Moss v Artma Life Ins Co, 228 S.W.2d 108; State v Broad River Power Co, 177 S.W.2d 240, 180 S.W.2d 41; 31 C.T.S.

EVIDENCE §§ 6 and 9; Federal Rules of Evidence, Rule 201(a).

This is a manifest constitutional error. An error on the part of the trial court that has an identifi-
fably negative impact on the pro-
ceedings to such a degree, that
the constitutional DUE PROCESS rights
of the party are compromised. A
manifest constitutional error can
be reviewed by an appellate court
even if the plaintiff did not object
at the proceedings. Yet in this case

WE did object at the April 3, 2014
hearing (Black Law Dictionary 8th
Edition). WE SEEK sanctions.

The plaintiffs humbly contend,
in Pursuant to Article V § 4 of the
South Carolina Constitution:

Common Pleas Order
Effective date October 1, 1983

IT IS ORDERED, that all common
pleas cases in the state of South
Carolina "shall" be disposed of
within (365) days from the date
of filing of the initial complaint in
2008 92

Each case provided, however, that the Circuit Court may continue a common pleas case beyond (365) days by written order stating the reasons therefor if the court determines that exceptional circumstances exist in the case.

It is FURTHER ORDERED, that each Circuit Court judge is to continue only and all common pleas cases which have been pending for a period less than (365) days from the date of the initial (emphasis added) filing of each

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complaint until such time as there
are no cases exceeding (365) days
(emphasis added) from the date of
the filing of the initial complaint in
each case (emphasis added). Cases
shall be disposed in chronological
order beginning with the oldest
case. This shall not include cases
which do not require a hearing
or cases in which the chief circuit
court judge, by written order
(emphasis added) stating the reasons
therefor, determines that ex-

exceptional circumstances exist which require the disposition of the case in advance of a case pending for more than (365) days.

IT IS FURTHER ORDERED, that the Chief Circuit Court Judge for administrative purposes shall be responsible for coordinating the preparation of trial rosters for each term of common pleas court so as to accomplish the timely disposition of cases within the time period established by this

ORDER.

Chief Justice

Columbia, South Carolina

August 17, 1983. (SEE SC Rules of Court 2003 Edition on page 652 and SC Rules of Court 2004 Edition on page 659).

Article I privileges, Rule 501
General Rule Provides:

" Except as required by the South Carolina Constitution, by the Constitution of the United States, or by the South Carolina statutes, the privileges
2408 92

of a witness, person, or the government (emphasis added) shall be governed by the principles of the common law as they may be interpreted by the courts in light of reason and experience. This Rule modifies the federal Rule to refer to the South Carolina Constitution".

Article I provisions in this case make it mandatory, dispositive, requiring any interpretation of this provision to be referred to the South Carolina Constitution as a primary Rule and of first choice, and not to common law or state

Law as it pertains to normal administrative matters, especially in light of the fact that we are dealing with a ~~the~~ judicial order issued by the ~~the~~ Supreme Court under Article V. Not only regarding judicial orders, but also the provisions of the South Carolina Constitution are to be deemed and construed as mandatory unless there is some language contained therein that would dictate otherwise. This Article V order has never been rescinded. Therefore, it applies today. This order was issued by the

South Carolina Supreme Court in 1983
renewed 1999, making it mandatory,
deposition, being applicable to every
Court of Common Pleas case within this
state regarding this (365) day provision.

The S.C. Supreme Court's intent,
legislative or otherwise should be
ascertained from the plain language
of this provision of law. The language
must read also in a sense which
harmonizes with its subject matter
and accords with its general purpose.
Once the South Carolina Supreme
Court has made a choice, there is
no ~~more~~ 92

No room for the court to impose a different judgment based upon their own notions. If the provision of law's language is unambiguous and clear, there is no need to employ the Rules statutory and or common law construction, even pursuant to the Judges action, Judge LEE had no right to look for or impose another meaning. Where the language of this provision of law is clear and explicit, the court "cannot" rewrite the provision of law and interject matters into it which are not in the S.C. SUPREME Courts

Language. Under the plain meaning Rule, it is not the courts place to change the meaning of a clear and unambiguous provision of law, Bass v. Isochem, 647 S.E2d 369 (SC App 2005).

State v. Brannan, 666 S.E2d 272 (SC App 2008); State v. Pittman, 647 S.E2d 144 (SC 2007); Liberty Mut. Ins. v. Second Injury Fund, 64 S.E2d 297 (SC App. 2005).

To further bolster the proposition that this Rule, order, or provision is mandatory, deoign by nature, the plaintiffs bring the courts attention to South Carolina Rules of Court 2005 298 ~~92~~ 92

Edition, pages 296, 297, 303 and 304,
They state:

Pursuant to Article V § 4 of the
South Carolina Constitution;

"IT IS ORDERED, that upon the
filing of a Post trial motion under
Rules 50, 52, 59 or 60(a) S.C.R.C.P., by
a party in a jury or non-jury action,
the party "so hall" within (10) days
provide a copy of the motion to the
trial judge."

IT IS FURTHER ORDERED, ***
The Chief Judge for Administrative
3008 92

PURPOSES in each Circuit shall ensure compliance with this order, also see SC Rules of Court 2013 edition".

It is ~~perspicuous~~ that if the lower court is not in compliance to Rules 50, 52, 59 or 60(a) by these judicial orders issued from the South Carolina Supreme Court, the higher courts cannot entertain jurisdiction, and must remand for further adjudication by the lower court in question, making this Article V. provision and or order draconian, mandatory. On this same premise,

3108 ~~000~~ 92

The criminal court under the (180) day provision, and or the Common Pleas Court under the (365) day provision, "cannot" continue to invoke and or exert their "powers" of subject matter jurisdiction if they fail to be in compliance to this order, even though they do indeed possess such power. Pursuant to the government blatantly disobeying this order issued by the SE Supreme Court, in the appropriate case, "trial court and or

Relevant court, shall not hesitate to grant relief or mistrial where its rulings and/or orders were violated to the prejudice of those they were intended to protect", Joyota of Florence Inc v. Lynch, 314 SC 257, 442 SE2d 611, 615 (1994); (SC Rules of Court Annotated 2006 Edition, pg 270).

To make use of the holdings made in Stephen Gentry, 363 SC 93, 610 SE2d 494, 495 (SC 2005), related to subject matter jurisdiction would be misplaced. That case dealt with

indictment defects. This issue
has absolutely nothing to do with
indictment defects. To make use
of the holdings made in State v
Whereth regarding Rule 3(c) would
be misplaced. Rule 3(c) is totally ad-
ministrative. If the court and
parties would take notice of the
bottom of the page of 652 and 659
as it relates to this mandate, you
will see that the administrative
factors related to this provision
have been rescripted. Further,

There are two material and distinct differences between Rule 3(c) and this requirement of DUE PROCESS law. Rule 3(c) is not tied to the provisions of the South Carolina Constitution. This requirement of criminal and/or civil procedure is. Secondly, Rule 3(c) is not a judicial order issued by the SC Supreme Court. This requirement of criminal procedure and civil procedure in the Common Pleas Court is. This has absolutely nothing to do with a speedy trial

ISSUE. This is not what the plaintiffs
ARE arguing. This is simply a matter
of judicial order, "Stare Decisis et
Non Quanta Motus", South Carolina
Rules of Court, South Carolina Rules
of criminal procedure for the criminal
court, Rules of civil procedure for the
Common Pleas court and DUE PROCESS
Law. Once this provision was issued
as a judicial order then tied to the
provisions of the South Carolina Con-
stitution pursuant to Article V § 4 its
observance became mandatory by the
provisions contained therein making

it draconian in nature.

See Code App 17-730 and SC Code App 17-13-150 REQUIRE that the prosecution and or prosecuting body "shall" fulfill and SEE that all duties, requirements, and Rules of Procedure related to DUE PROCESS and the Constitution are adhered to and completed within the Court. The Attorney General is a defendant. They are well aware of the judicial orders in question.

In order to understand the meaning of any statute or phrase of law, it is necessary to determine

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The meaning of the language as it is used in the particular context, Robinson v Shell Oil Company, 17 S Ct 843 (1997). Article 12.2 utilizes the words "shall provide, ...". In this context "shall" is mandatory, see United States v Myers, 106 F3d 936, 941 (CA 10 1997). In order to understand the meaning of any word, sentence or phrase, "The cardinal Rule is that the words should be given their plain and ordinary meaning and no interpretation without the court interjecting into them matters or a construing that

not in the language", Seekinger v. The Vessel Escalibur, 483 S.R.2d 775 (S.C.App. 1997); United States v Ron Pair Enterprises Inc., 109 S.Ct 1026, 1030 (1989); Bass v Isochem, 617 S.E.2d 369 (S.C.App. 2005); State v Bran Non, 666 S.E.2d 272 (S.C.App. 2008); State v Pittman, 647 S.E.2d 144 (S.C. 2007); Liberty Mut. Ins. v SC Second Injury Fund, 611 S.E.2d 297 (S.C.App. 2005).

Article 1 § 23 of the South Carolina Constitution dictates:

"The provisions of the South Carolina Constitution shall be taken, deemed and construed to be manda-

tore and or prohibitory and not merely directory, except where made directory or permissive by its own terms".

Article 12 § 2 of the South Carolina Constitution is clear and unambiguous, "shall" is mandatory, State v Carson, 317 SC 430, 431, 454 SE 2d 888, 889 (1995).

Therefore, it can be factually stated that not only by the provisions of Article 12 § 4 of the South Carolina Constitution, also by judicial order issued by the South Carolina Supreme Court, it is mandatory that the plaintiffs
4008 92

DUE PROCESS matters be disposed of before the court of common Pleas within (365) days of the filing of the initial complaint. If the court would take notice of the initial complaint related to these matters, you will see that the initial complaint was filed on JANUARY 4, 2013 and amended JANUARY 9, 2013. If the court would take notice of the only order of continuance filed in this case by Judge Lee. It was not issued until April 3, 2014. By the initial complaint,

The date filed with the Common Pleas Court. This means the plaintiffs' due process matters should have been disposed of and concluded by January 4, 2014. Yet the case is still pending and no order of continuance was filed in the action until April 3, 2014, over 90 days past the (365) days prescribed by judicial order and the provisions of the South Carolina Constitution. There is no "written" order (emphasis added) of continuance filed with the Clerk of Court before the (365) day time period expired or which was

served on the plaintiffs at the appropriate time. Such an order of continuance by the plaintiffs' rights of DUE PROCESS and pursuant to judicial order issued by the SC SUPREME COURT, "cannot" be obtained after the fact. It must be obtained before the (365) days expired. This is especially true since the case was removed prior to Judge Lee's filing of the order. Just like Judge Griffin knew he could not place such an order in case "2294" since that case was removed. The same applies

to JUDGE LEE SINCE CASE "0084" WAS
AND STILL IS REMOVED. TO GO BEYOND
THE PRESCRIBED TIME PERIOD AND/OR
DEADLINE WITHOUT A "WRITING" (EMPHASIS
ADDED) ORDER OF CONTINUANCE FILED IN
THE CASE PRIOR TO THE 365 DAY DEADLINE
CREATES A "PROCEDURAL DEFECT" WHICH
DEPRIVES THE COMMON PLEAS COURT OF
SUBJECT MATTER JURISDICTION, AND OR THE
"POWER" AND OR "ABILITY" TO ENACT, AND
OR INVOKE, AND OR CONTINUE ITS "POWERS"
OF SUBJECT MATTER JURISDICTION IN
COMPLIANCE TO JUDICIAL ORDER FROM THE
SC SUPREME COURT, RULES OF COURT AND

DUE PROCESS law to adjudicate any
matter before it requiring at least
sanctions to be repleaded against
the court and default which we
seek, especially in light of the fact,
that the case was petitioned removed
and Rule 82(c) prevented Judge Lee from
acting further in the case, United States
Ex Riel Echevarra v Silberglitt, 441 Fed
225 (9th) ; 28 USC §§ 1446 (c)(4), 1446 (e) ;
Dugas v Haysolver County Circuit Court,
FSupp2d 2008 WL 4153765 ; Johnson v
Mississippi, 421 U.S. 213, 219 (1975) ; Reilly
v Phil Tolkan Potting Table, 372 FSupp. 1205

(Nov 1974) | Cullazas v United States, 368
F3d 190 (2nd Cir 2004) | State v Dudley, 354
SC 514, 581 SE2d 171 (2003) | Monroe v Pape,
365 U.S. 167, 81 S.Ct 473, 5 LEd2d 492 (1961).

The plaintiffs places forth this
issue in a straight forward fashion
and want to make certain that
there is no misunderstanding as
to the specific claims and/or ques-
tion(s) that is being placed before
the court. First, during the
April 3, 2014 hearing the plaintiffs
objected and brought this issue to
judge Lewis attention. Thereupon
4608 92

she stated, "placing farth the con-
tinuance by order was up to her
discretion and that this was not
a normal case". This statement
for one, proves her acknowledge-
ment of the complexity of the
case warranting the appointment
of legal counsel under ADA.

Yet it is more than this. Yes,
we agree with the judge when she
stated such was up to her discretion
and that this is not a normal case
which would justify the continuance.
What the plaintiffs don't agree
4708 92

When a petition for removal of any action pending in any court of this state or any court of the United States is filed, no order accepting the petition or directing action to be removed shall be required. We seek sanctions.

Such orders referred to in this issue may be used for establishing offensive collateral estoppel, Dunn v Dunn, 298 SC 499, 381 SE2d 734 (1989); Johnson v. Dailey, 318 SC 318, 457 SE2d 613 (SC 1995); Darden v Witham, 263 SC 183, 209 SE2d 42 (1974); Higgins v Medical University of South Carolina, 326 SC 592, 486 SE2d 269 (SC App. May 12, 1997); Plante v State, 490 ~~SC~~ 92

315 SC 562, 446 SE2d 437 (1994); Middleborough Horiz Property Regime Counsel of Co.-Owners v Montedison S.p.A., 320 SC 470, 465 SE2d 765 (SC App. 1995); Gould v O'Shaughnessy Realty Co., 671 SE2d 79, 84, 380 SC 548, 557 (SC App May 20, 2008); Gunnels v Friedman, 2009 WL 9159479.

Referring back to the issue of subject matter jurisdiction. The plaintiffs are not arguing whether or not the Court of Common Pleas has subject matter jurisdiction to hear and determine cases of "[t]his" general class to which the proceed-

ings in question belong. The plaintiffs concedes this fact. The plaintiffs in this context agrees with all (3), Gentry, Cotton and Parkhurst court(s) when they determined that criminal courts, and in this case we can add civil courts, do have subject matter jurisdiction to hear and determine cases of their relevant nature and class. This is not the issue. What the plaintiffs are indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton or Parkhurst court(s) is this. Despite the fact that

THE CRIMINAL COURT, AND IN THIS CASE, THE CIVIL COURT, DO HAVE SUBJECT MATTER JURISDICTION TO HEAR CASES OF THIS GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG. DO THEIR EGREGIOUS, BLATANT FAILURE TO BE IN COMPLIANCE TO SAID CERTAIN, ESSENTIAL, CRUCIAL "JURISDICTIONAL PREREQUISITES" AND OR "JURISDICTIONAL REQUISITES" AT VARIOUS PHASES OF, AND OR AT THE COMMENCEMENT OF THE SUBJECT MATTER JURISDICTIONARY ACTION AND OR PROCESS. DO THEIR BLATANT, EGREGIOUS FAILURE TO BE IN COMPLIANCE TO SAID CERTAIN, ESSENTIAL, CRUCIAL "JURISDICTIONAL

fiopul prerequisites" and or "jurisdictional prerequisites at various phases of, and or at the commencement of the subject matter jurisdictionary action and or process, ... halt, check, constrain, restrain, limit, arrest, or stop the continuance of the subject matter jurisdictionary "powers" before the court, even though that court without a doubt do indeed possess such "power". This is a crucially, materially, distinctly different question related to subject matter jurisdiction that was never answered by any of the (3) three courts involved

pursuant to Gentry. This is a new question of law and fact. Thus, using the holdings made in the Gentry court would be misplaced. Such a new question of law and fact is not barred in seeking relief for (ei sanctions), does relate to subject matter jurisdiction, "cannot" be waived by the plaintiffs, can be raised at "any" time, and the court "shall not" fail to take notice, see Exhibits sufficiently, 70 Column L Rev. 876, 880 (1970); United States v Abrams, 539 F.Supp. 378, 384 (S.D.N.Y. 1982); Shirone v United States, 361 U.S. 212 (1960); Guthrie v United States,

413 F2d 1061 (DC Cir 1969).

The Common Pleas Court, and the defendants involved, acting arbitrarily, conspiring under color of state law, the hand of one is the hand of all by the accomplice liability doctrine, in blatant defiance to Rules of Court, SC Supreme Court judicial order, and the provisions of the South Carolina Constitution, has failed to be in compliance to their own state laws in violation of the plaintiffs substantial Federal Constitutional Rights of DUE PROCESS. Thus, such action serves to violate the plaintiffs' rights under

The Equal protection of the laws clause,
42 USC §§ 1983, 1985, 1986 as well as
18 USC §§ 241 and 242 warranting sanctions
which we seek by affidavit, SCREWS v
United States, 325 U.S. 91, 65 Sct 1031
(1945); United States v Walsh, 194 F3d 37
(2nd Cir 1999); State v Pirro, 212 F3d 86
(2nd Cir 2000); Dubinka v Judges of Superior
Court of the State of California, for the
County of Los Angeles, 23 F3d 218; Jones
v State of Arkansas, 929 F2d 375; Hicks
v Oklahoma, 447 U.S. 343, 346, 100 Sct 2227,
2229, 65 LEd2d 175 (1980); Dozier v Loop
College, City of Chicago, 776 F2d 752; Ugarr
v Edmondson Oil Co, 457 U.S. 922, 928-30,
102 Sct 2744, 2749-50, 73 LEd2d 482 (1982).

Subject matter jurisdiction is the "power" to hear and determine cases of a general class to which the proceedings in question belong, Billu Monsanto Corp., 519 S.E.2d 325 SC 553 (SC 2003). Inasmuch, subject matter jurisdiction does not only cover and or involve whether or not the matter resides in a proper court of jurisdiction to hear and determine it. The court's "power" to hear and determine a case, is also defined as the court's "ability" to hear and determine a case. Thus, subject matter

jurisdiction also involves any
issue that may "affect" and or
"injure" that "power" and or "ability"
to act in accordance of Rules of Court,
Rules of Civil Procedure, Criminal
Procedure and Due Process Law. Such
matters can be raised at "any"
time, "cannot" be waived by the
plaintiffs, and the court "shall not"
fail to take notice before this case
can ever move forward, State v Gentry
supra; Mathis v State, 355 SC 87, 584
S2d 366 (SC App 2003); Brown v State,
343 SC 342, 540 S2d 846 (2001); State
580 ~~846~~ 92

U Browning, 320 SC At 368, 46 SE2d
At 359; State v Munn, 357 SE2d 461
(SC 1987). Without a "swritten" (emphasis
added) order of continuance filed with
the Clerk of Court issued prior to the
(365) day deadline prescribed by
judicial order, especially in light of
the removal, the court and parties
were prohibited from continuing the
cause. Such deprives the court of
subject matter jurisdiction and/or
prohibits the civil court from con-
tinuing and/or invoking and/or exer-
cising their subject matter jurisdic-

fiduciary powers waiving estoppel and sanctions.

Inasmuch, the plaintiffs are not seeking default and judgment on ANY issue or relief argued in the complaints. What the plaintiffs are seeking by this egregious procedural defect is the following:

(1) That any issue of and or for dismissal by any defendant presently served or in the future be deemed waived and or rendered void and null,

(2) That all motions filed by the
6008 ~~0000~~ 92

plaintiffs be granted in favor of the plaintiffs with the exception of the issues that are to be placed before the jury, scheduled April 3, 2014.

(3) That legal counsel be appointed to represent the plaintiffs and that appointed counsel be given additional time to serve any remaining defendant who was not served,

(4) That protective order and injunction be issued to secure the evidence listed in the attorney Kays letter, a copy of it which is filed

in case "2294" within (20) days of the filing of this document. This includes the repairing of the Crawford word processor #120, the replacement of his 2 replaceable ribbons, 2 bottles of pad ink, Koss headphones, hot pot, mushin oil (2 lbs), 40 cigarettes replaced, not placed on card, contact be permitted to all plaintiff by mailing due to indigence, DNA and search warrant secured and sheriff mailing.

(5) That this case be officially scheduled for a jury trial and the case be given class actions certi-

fixation for the main legal issue
filed and argued related to the
establishing of modern day slavery
by the structural error in the in-
dictments, and notice be given
to all inmates within this state
and are rationally upon review
of discovery,

(6) That name change and the
establishing of all rights and titles
as sought by Mr Crawford be officially
granted and established before the
court in the manner he dictated,
for the state of South Carolina. This
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includes the establishing of Sovereign
Power. All other matters ~~are~~ to
be placed before the jury.

To all parties and courts involved.
We ~~are~~ going to do this thing again,
since somehow you've lost clarity
on this issue at hand. Both cases
2013-CP-400-0004 and 2013-CP-400-2294,
to include all cases involving Crawford
in the Common Pleas Court and SC.
Court of Appeals is hereby petitioned
removed to be heard in case 14-cv-
2218-ES, by both plaintiffs Thompson,
6408 ~~000~~ 92

Crawford, also Cook. The Judges and parties conspiring under color of state law in violation of 18 USC § 241, 242 and 42 USC § 1985, 1983 and 1986 REQUIRE such, Molinelli - Freytes v University of Puerto Rico, 727 F.Supp.2d 60 (2010); Andres v Castor M.D., Fla 1997, 963 F.Supp 158; Berrios v Inter Am. University, CA 1 (Puerto Rico) 1976, 535 F.2d 1330, 37 A.L.R. 3rd 596; O'Bradovich v Village of Juncalhoe, SD N.Y. 2004, 325 F.Supp.2d 413; Perry v Barnard, SD Ind 1989, 745 F.Supp 1394; Kohl Eplus Park Co. v. Rockland County, CA 2 (N.Y.) 1983, 710 650 ~~92~~ 92

Fed 895 | Myers v Bowman, CA 11
(G.A.) 2013, 713 Fed 1319 | Jirapuey v
Vahne, CA 7 (Ill) 2002, 304 Fed 734;
Casa Marie, Inc, 1993, 988 Fed 252;
Lopez, 1980, 620 Fed 1229; Gregory v.
Thompson, CA 9 (Ariz) 1974, 500 Fed 89;
Plaisance v Reese, E.D. La. 2004, 353
F.Supp.2d 735; Bordages v McElroy,
S.D. Tex 1996, 952 F.Supp. 499; Johnson
39; Kempyatta v Moore, S.D. Miss 1985,
623 F.Supp 224; Disability Discrimina-
tion Under ADA 42 U.S.C. § 1985, 20
Am Jur's Proof of Facts 3d 361; Pollack
v Ridge, W.D. N.Y. 2004, 310 F.Supp2d 519;
660f 92

Bradley v Baltimore Police Dept Md
2012, 887 F Supp2d 642; Baines v Mas-
ello, W.D. N.Y. 2003, 288 F Supp2d 370;
Porter v Selsky, W.D. N.Y. 2003, 287 F Supp.
2d 180.

Referring back to the issue of
the sovereignty related to the
plaintiffs involve as it pertains to
the members of the reestablished
global Theocratic state, that would
permit us to invoke the provisions
of the Foreign Sovereign Immunity
Act. The Declaration of Sovereignty

And the (85) page document dated
October 1, 2009 filed in these cases,
also 18 USC § 116 (a)(b)(c); 18 USC § 116
(a)(b)(2)(3)(4) define those persons
protected under the FISA. The
lead plaintiff, Jahjah Jishbite,
being heir to (4) independent threats
that globally exist and the defaults
that exist related to this case, make
him a Foreign State designated by
those defaults and clear rules of
court and by way of the judicial order
which is the source of the procedural
defect. Thus, there is a bases to

object, remove and consolidate under
the J.S.I.A giving the plaintiffs right
of venue. A Sovereign by the law
cited in the Declaration of Sovereignty
and Will and Testament, Theocratic/
Foreign Law under Rule 44, Related
to Religious beliefs under the 1st
amendment, as well as state and
federal law, cannot be punished in
an indictment. We are Sovereign
by way of our original states as
Sovereigns, English v Thorn, 676 FSupp.
761 (SD Miss 1987); In Re Green, 980
F2d 590 (9th Cir 1992); Yick's Wo. v. Hopkins,
690 F2d 92

118 U.S. 356; United States v. Lee, 106
U.S. 196 At 208; Perry v. United States,
294 U.S. 330, 353 (1935); Julliard v. Green-
man, 110 U.S. 421. The United States
Supreme Court in the case of Wills v.
Michigan State Police, 105 U.S. 45
(1989), made it perfectly clear that
the sovereign cannot be named
in any statute as merely a "person"
or "any person" including indictments
which are produced by statute,
Lanning v. Smith, 4 W. 9, 20 (1829);
Afroym v. Rusk, 387 U.S. 253 (1967);
The Amistad, 40 U.S. 518, 15 Pet 518,
709 ~~92~~ 92

1841 Vol 5024, 2006 A.M.C. 2955, 10 LEd
826, U.S. Comm. January 1841; United
States v Wheeler, 98 Sct 1079 At 1083.

Decedent domicil issues attach
to these cases. The lineal descen-
dents, in infinitum, of any person
~~deceased~~ shall represent his or her
ancestor, that is, shall stand in the
same person as his holy ancestors
would stand, if he or she were living.
The common law required that in
order for property, tangible or in-
tangible, which include titles of high
priesthood, Imamate, Khalifate and
no 92

kinship, to descend from person
to person, it must appear either (1)
that the person have obtained the
property by purchase; or (2) if he
obtained it by descent, that he was
seized of the property at the time
of his death. The defendants in
the cases attached seized my an-
cestors in acts of brutal, torturous
slavery and seized their property
and titles at the time of their
captivity and death. Property and
titles in this instance, was not con-
sidered as passing by descent until

220

The descendant took possession, and the act of taking possession was called ~~entry~~ ~~entry~~. King Solomon took possession from King David. Ali ibn Abu Talib and Fatima took possession from the Prophet Muhammad. Menyelek the son of King Solomon whose mother was the Queen of Sheba, the Ethiopian Queen, took possession of the throne of Africa / Ethiopia from King Solomon. The Prophet Muhammad's bloodline was introduced in the African diaspora through the Kingdom of Sudi Arabians involvement

in the U.S. Slave Trade. Then you brought my ancestors here, kidnapping them by brutal, sadistic, terroristic, torturous force (PBUT). The head Sovereign Idris Al Mahdi, officially took possession via the Declaration of Sovereignty and the United Nations documents. Thus, we clearly have entry. Idris Al Mahdi is the fiduciary heir by will and Testament of Gods Holy Prophets and Kings foretold to come. "HABES EST EADEM PERSONA CUM ANTECESSORE". The Heir is the same person as his

ancestor. Once the true heir to the
Global Theocratic Throne makes an
appearance on the global stage he,
by that appearance, establishes every
Christian, muslim and Jew worldwide,
as kings, Khalifas, not subject to
action before any global court without
the consent of Jahiah the Ishbite. This
act occurs without their consent under
Foreign-Theocratic Law. Our Sovereign
power emanates from the same
source globally. That being the one
true God. Thus, the state statutes
must yield by way of preemption

Under The Supremacy Clause, U.S.C.A.
Const. Art. 6 cl 2, SEE (3) Holy Books and
Sunna of The Prophet Muhammad;
Books entitled, "Before The Mayflower,
A History of Black America", by Lerone
Bennett; Sunna ibn-e-majah vol
No. 5 ISBN No. 81-7151-294-1 pages
391-395; Signs Before The Day of
Judgement by Ibn Kathir ISBN No.
1 870582 039 pages 18-24; Isqiah
14:29-32; 4:25; World's Greatest
men of Color Volume 1 by J.A. Rodgers
ISBN No. 978-0-684-81581-7; The
Kiebar Nagast or "Glory of The Kings"

A Chronicle of The Rulers of Ethiopia;
Budge E.A.W., The Queen of Sheba and
her only son Menyelek, London
1923; Ormonde, Czenzi, Solomon and
The Queen of Sheba, New York,
Jarrar status and youth 1954; Zeeha-
Riah 6:12-13; Daniel chapt. 11; Nation,
Cox v Shalala, 112 Fed 151; English v Gen
Elve Co., 496 U.S. 72, 79, 100 Sct 2270,
2275, 110 LEd2d 65 (1990); McLean v
Jord Motor Co., 831 Fed 723; Cairns v
Frederick Mint Co., 24 Fsupp 2d 1013;
Dodge - Plax v Secretary of The
Interior of U.S., 837 Fed 340 cert.

deprived 108 S.Ct 2022, 486 U.S. 1055,
100 L.Ed.2d 923; Estate of Harvey v.
United States, 678 F.Supp. 1268; Bell
v. United States, 310 F.Supp 1189; Stephan
v. Grothmans, 97 F.Supp.2d 698; Craig v.
United States, 89 F.Supp.2d 858; Leggett
v. Rose, 776 F.Supp. 229; Casey v. Gallag-
her v. Ohio St 2d 42, 227 N.E.2d 801
(1967); Miller v. United States supra;
Sandy v. Mahot, 1 Ohio St3d 143, 438
N.E.2d 117 (Ohio 1982).

20: The 3rd Circuit Court of
Appeals. If Douglas M. Thompson
hereby supplement the writ of
7808 ~~000~~ 92

mandamus in case 14-2000 to
require all the sought relief in
this document. As Thomas Jefferson said,
one of our founding fathers stated:

"Single Acts of Tyranny may be
ascribed to the accidental opinion of
the day; but a series of oppressions,
began at a distinguished period and
pursued unalterably through every
change of ministers too plainly prove
a deliberate, systematic plan of
reducing us to slavery."

Regarding any issue of frivolous or
790892

The seeking of Summary Judgment or dismissal. With the 50+ plaintiffs attached to this case being of sound mind, and the claims in part are based upon documented historical facts, religious tenets, beliefs and doctrine protected under the 1st Amendment, it would be highly inappropriate to dismiss such as frivolous without first requiring the defendants in total to respond on the court record. The record is incomplete where SCDC blocked service of the other defendants, conspiring under color of law, just like the New Jersey

defendants, to argue unjust defects
and create a complete record to cause
harm to future appeal, which we object.
The claims cannot be deemed malicious
since we are arguing and seeking
relief for Due Process violations, viola-
tions of the 1st, 4th, 5th, 6th, 8th, 13th,
14th, and 15th Amendments, violations
of the CAT Treaty, International
Human Rights Laws, and appropriation
by foreign government, Name and
Title Reclamation under probate law,
matters of divorce and unjust deprivation
of parental rights, violations of the
8/10/92

Foreign Sovereign Immunity Act bearing
a nexus to religion that are also
tantamount to the defendants com-
mercial activities here in the United
States and abroad, both past and present
in the form of the Slave Trade, Jim
Crow laws and this new Jim Crow - mo-
dern day slavery by way of this present
Judicial system possessing commercial
dynamics as well. We stated numerous
claims upon which relief can be granted.

It would be an abuse of discretion
to dismiss or grant summary judgment if
we can demonstrate that we are
entitled to relief on any single claim
820892

argued upon any theory asserted, especially in light of the fact we presented an arguable basis in law and fact for all claims made. Even though some claims may appear "fantastic" they are not indisputably meritless and are indeed common to the human experience thus demonstrating that summary dismissal, dismissal for not stating a claim or granting defendants summary judgment would be an abuse of discretion. It must appear beyond a doubt that the plaintiffs can prove a set of facts to support their claims, which is obvious we can. The

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court cannot state with ~~certainty~~ certainty
that the plaintiffs are unable to make
any rational argument in law and fact.
Specific allegations are made. Specific
defendants are named. If it appears
that the action after discovery would
offer facts which would validate the
complaint, which it would in this case, it
would be highly inappropriate to dismiss
or grant summary judgment. Discovery
and an evidentiary hearing would affect
disposition of legal questions raised and
reduce the work of the courts by
preventing through premature dismissal,
the creation of appeals based upon in-
840892

Complete Records, Neitzke v Williams,
490 U.S. 319, 325, 109 Sct 1827, 104 LEd2d
338 (1989); Brown v Barge, 207 F3d 836,
866 (6th Cir 2000); Brown v District of
Columbia Board of Parole, 734 F2d 56, 59
(DC Cir 1984) cert. denied 469 U.S. 1127,
105 Sct 811, 83 LEd2d 804 (1985); Jones v
Morris, 777 F2d 1277, 1278-79 (7th Cir 1985)
cert. denied 475 U.S. 1053, 106 Sct 1280,
89 LEd 2d 587 (1986); William v Faulkner,
837 F2d 304 (4th Cir 1988); Haggins v Lavin,
415 U.S. 528, 536-37, 94 Sct 1372, 39 LEd2d
577 (1974); Lawler v Marshall, 898 F2d
1196, 1198-99 (6th Cir 1990); Block v Ribner,
156 F3d 673, 677 (6th Cir 1998); Parrott v

JAYLOR, 451 U.S. 527, 535, 101 S.Ct 1908, 68
L.Ed.2d 420 (1981); Brentwood Academy v
JENNIFESSIE Secondary School Athletics Ass'n
531 U.S. 288, 121 S.Ct 924, 930, 148 L.Ed.2d 801
(2001); Robinson v Leno, 155 F.R.D. 535
(E.D. Pa. 1994).

Freedom of Thought, which include
Freedom of Religious beliefs, is basic
in a society of free men, ... It em-
braces the right to maintain theories
of life and death and of the hereafter
which are ranked heresies to members
of orthodox faiths. men may believe
what they cannot prove. They may
not be put to proof of their religious
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doctrine or beliefs. Religious experience which are as real as life to some may be incomprehensible to others, ... the fathers of our constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and the lack of any one religious creed on which all men may agree. They fashioned a character of government which envisaged the widest possible tolerance to conflicting views. man's relationship to his God was made no concern of the state. He is granted the right to

818 (1989); Crisafi v Holland, 635 Fed 1305,
1308 (DC Cir 1981); Watson v Ault, 525 Fed
886 (5th Cir 1976) (adopting same standard);
cf Anders v California, 386 U.S. 738, 87 S.Ct
1396, 18 L.Ed 2d 493 (1967); Bolling v Sharpe,
347 U.S. 497, 499, 74 S.Ct 693, 694, 98 L.Ed
884 (1954) (showing dismissal was premature);
Denton v Hernandez, 504 U.S. 33, 112 S.Ct
1728 (1992); White v White, 886 Fed 721 (4th
Cir 1989).

Additional Relief Sought by sanctions
due to the procedural defect:

We want all cases placed on
the complex case docket, assigned to
890892

Judge Benjamin and allowed to go
to trial; the muslims, christians and
Jews in SCDC must be permitted to attend
all religious functions during phase and
disruptive scheduling; Crawford retains
his hair due to his Nazarite Vow;
no steel cuffs are to be used on him
at any time, only plastic restraints; the
muslims, christians and Jews in SCDC must
be permitted to grow 4" beards; full
meals are to be given at all times
during phase and disruptive schedules;
some form of sneakers are to be
given to all inmates to allow them to
90092

ENGAGE in PROPER EXERCISE | Muslims must be permitted to have oil in their personal property via inmate coordinator and attend daily congregational prayers statewide, also collectively at each institution during the month of Ramadan; that family members and friends will be allowed to visit during the ID feasts with appropriate security measures taken.

For the sake of clarity. The 365 day continuance issue is being argued for cases 2006 CP 400-3567, 3568, and 3569 which sat in court since 2006 with this default also.

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THESE CASES ARE REMOVED ALSO.

WHEREFORE THE PLAINTIFFS PRAY FOR
THIS RELIEF TO INCLUDE ANY AND ALL OTHER
RELIEF THE COURT WOULD DEEM JUST, FAIR
AND PROPER.

Respectfully

Douglas M. Thompson

Douglas M. Thompson

Anthony Cook
Anthony Cook

Dominique Gallman

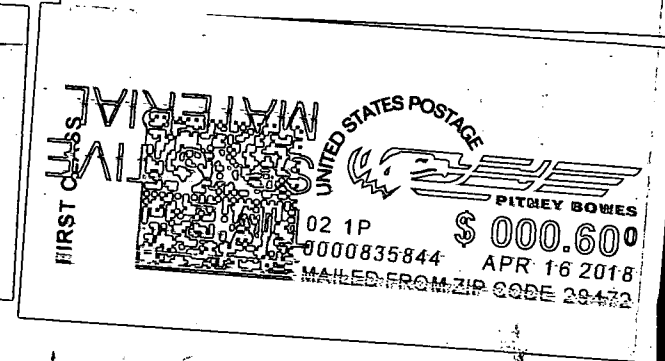
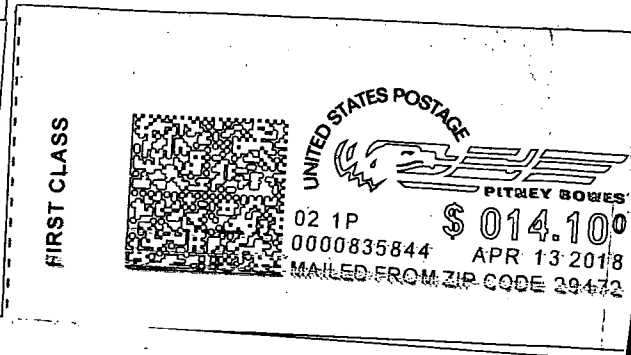
Dominique Gallman

MAY 22 2014

LAWRENCE L CARUFORD aka
Joseph Gabriel Jahjah T. Tishbite


920892

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