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MAY 09 2016

S.C. SUPREME COURT

SC SUPREME COURT
DANIEL E SHEATHOUSE
11333 COLA SC 29211

RE: Motion to Set Aside the Judgment

Dear Mr. Sheathouse, I request that you file this motion to set aside the judgment and certificate of service. Please file this document and let me know that this document was filed and in the alternative have Robert Puchack appellate counsel file this motion on behalf of petitioner AHONT BROOKS. Thank you.

Sutton B...
AHONT BROOKS 313000
PCS 02A AM 2
4305 SAUKWATER
PETER SC 29211

May 1st 2016

Certificate of SERVICE

I hereby certify that I've sent a copy of Petitioner's Motion to set aside the Judgment in the United States Mail first class Postaged Pre Paid addressed to the South Carolina Supreme Court to Daniel E. Shearhouse Po Box ~~11336~~ 11336 Colo SC 29211

I swear under Penalty and Perjury that the foregoing is true and correct
this 1st day of May 2016 S/ Attorney Brooks

Alton Brooks 313506
PCA 001A RN 213
4305 Oaklawn Rd
Peters SC 29169

May 1st 2016

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S.C. SUPREME COURT

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SOUTH CAROLINA SUPREME COURT

S.C. SUPREME COURT

Anthony Brooks,
 Petitioner,
 vs.
 STATE OF SOUTH CAROLINA
 Respondent

Case# lower court-2011-CP-082266
 Appellate case 2015-001610
 MOTION IN AFFIDAVIT OF leave TO file
 Rule 60(b) Motion to set aside judgment
 IN The ABOVE CASE.

Petitioner Anthony Brooks declares under penalty and perjury that the following is true. Petitioner files this Rule 60(b) Motion under South Carolina rules of civil Procedure for misconduct and excusable neglect on behalf of his post conviction counsel Lance S. Booser esquire. Petitioner Anthony Brooks submit that on April 2nd 2015 Judge W. Jeffery Young relieved Lance S. Booser esquire from representing Petitioner in the above case and told Mr. Booser to pack his belongings and to leave the court. In addition, Petitioner Anthony Brooks was immediately removed from the court room away from the witnesses in this case.

Judge Young stated he was giving Plaintiff five minutes to get his self together. Petitioner Anthony Brooks remained in the holding cell shackled down unable to review his documents or confer with any of his witnesses. After five minutes Plaintiff was called back into the court. once in court Plaintiff realized that his main witness Aisha Greene wasn't present and that his sister Ms. Brooks and that solicitor James Courtney who prosecuted him was not present. Plaintiff addressed the court and asked where was his family, The court allege that Plaintiff could call his first witness or take the stand, Plaintiff addressed the court and stated that his witnesses were not there, The court allege that Petitioner Anthony Brooks Problem. Petitioner Anthony Brooks then filed a "Motion" to relieve the shackles so he could present his case. The court allege that he does not have to do that, Petitioner Anthony Brooks was told by the court that he could call his first witness or take the stand, Petitioner Anthony Brooks. Then moved for summary

Judgment on the Pleading and before he could address the basis of the motion the court stated "I don't have to hear this" and stated this case is dismissed. Plaintiff was escorted out of the court vigorously and tossed out of the court room while shackled.

onee back at Lee Correctional Plaintiff contacted his Power of Attorney Aisha Greene and asked what was her and his family not in the court. Ms. Aisha Greene stated that Lance S. Boozer removed her and all Petitioner's family from the court room. When Petitioner was given 5 minutes by the court and taken to the holding cell and that Mr. Boozer was stating that Petitioner Antony Brooks was representing himself and that it was not a good idea etc. Ms. Aisha Greene stated that when they went to go back into the court room the Bailiffs called that the case was over. Petitioner Antony Brooks then filed a motion 59 E Motion under South Carolina rules of civil procedure to alter or amend the Judgment on those grounds with the Berkeley County Court of Common Pleas on Motef 2013 and Judge Young has yet to rule on the motion.

Moreover, Aisha Greene Petitioner Power of Attorney would have testified to the fact that she sent Attorney General Ashleigh Wilson, solicitor Jackie Allen Mastantuno certified mail letters requesting CT scans or xrays of James Warren Tauler the Allege victim ~~or~~ the Petitioner could have a independent doctor review those records to see if James Warren Tauler suffered a serious bodily injury of a orbital fracture as the Berkeley County Prosecution presented at trial through Dr. Timothy Barton Osborn before a jury and that Attorney General Ashleigh Wilson note solicitor Jackie Allen Mastantuno responded to the letter of inquiry, Ms. Aisha Greene would have presented documents from MUSC Hospital of Charleston and Roper Radiologist department showing that these doctors have agreed to review the x-rays, MRIs or CT scans to review the allege injuries and give a diagnosis, Ms. Aisha Greene would have also produced Petitioner's check stubs and time sheets to show that Petitioner was at work at Dentin's shipyard in Charleston SC on the day of the allege incident and that Petitioner Antony Brooks was 45 minutes away from St. Stephen where the incident

occurred, those testimonies and evidence were material to the reversal in this case
plaintiff submits that he was unable to bring this evidence at the PCR hearing
for two reasons and more (1st) lance S. Bozer removed his witnesses Ansha Greene
from the court which hampered petitioner's ability to present his claims of perjury,
obstruction and obstruction of justice by solicitor by producing false testimony by Dr Timothy
Barton Gibson that James Warren Taylor suffered a orbital fracture by treatment
knowing that James Warren Taylor did not have a orbital fracture deceiving the
Jury that he had a serious head injury to meet the element of ABHAW ~~SC~~
SC Code ANN 17-2530, See Gibbs v. United States 405 U.S. 156 (1972) holding
Prosecution may not solicit false or perjured testimony or allow it to go uncorrected,
in this instance solicitor Jackie Allen Mastanturo and James courtney submitted
perjured testimony from Dr. Timothy Barton Gibson that James Warren Taylor had a
orbital fracture knowing that they did not have any MRIS, CT scans or X-rays to support
it, deceiving the Jury. See Brady v. Maryland 373 U.S. 83 (1963) ~~not finding due process~~
not finding due process requires state to disclose to defendant exculpatory material.
in this instance petitioner was impeded from calling his witnesses by government action
to present his claims before the PCR court, furthermore, an applicant may also be
able to demonstrate that the issue could not have been raised due to circumstances
beyond the applicant control, or as the United States Supreme court stated in
dealing with similar situations involving second federal Habeas petitions, because of
an objective factor ~~external to the defense~~

~~external to the defense~~ (McCleskey v. Zant, 499 U.S. 467, 497, 111 S.Ct. 1454, 1472, (1991))

For Example, such an objective factor could be that government interference or the
reasonable unavailability of factual basis of the claim impeded counsel's ability to
raise the claim. McCleskey v. Zant, 499 U.S. 467, 497, 111 S.Ct. 1454, 1472 (1991).

Petitioner submits McCleskey governs the actions of counsel lance S Bozer removing
his witness Ansha Greene and family members from the court, interfering with the judicial
proceeding which proximately petitioner not to call any witnesses and more for summary
Judgment

McCleskey also applies as the court note the bailiffs informed Petitioner, where his witnesses went, the lower court record also have motions to relieve counsel to where Plaintiff filed motions to relieve counsel Lance S. Boozer that where filed April of 2015 stating that he needed witnesses subpoenaed such as Ann Marie Woods, Aisha Greene, etc., moreover, Plaintiff pointed at his family and witnesses at the beginning of the case and also asked the court and the bailiff where his family went. due to these facts Petitioner Anthony Brooks was surprised and was not able to call any of his witnesses. so thus Petitioner was denied a full bite of the apple and a full hearing at his post-conviction hearing, which resulted into a miscarriage of justice.

Petitioner Anthony Brooks presents that the court failure to hear his claims constituted a "gross miscarriage of justice See, 305 S.C. at 451, 495 S.E.2d at 379" Petitioner Anthony Brooks moved for summary judgment on the pleading and the court allow he does not have to hear that, Petitioner Anthony Brooks submit that he can move for summary judgment at any time, and in these instances the court did not entertain the basis of his summary judgment motion, Petitioner submits that his post-conviction application was amended approximately four times with claims of ineffective assistance of counsel, perjury, prosecutorial misconduct, subject matter and personal jurisdiction and several other claims. Petitioner presents that these arguments where well plead and pointed to particular parts of the trial transcript. Petitioner submits that has been to over four PCR hearings, all before Judge Roger M. Young, Stephanie E. ~~Medford~~, Thomas C. Cooper and W. Jeffrey Young, Petitioner preserved the record of everyone of these hearings. Petitioner presents that he directs the court to the lower court records and all his amendments to the PCR application as his unable to submit these amendments to the PCR application due to Perry's corroboration refusal to allow him to retrieve his legal work. Petitioner submits that the court refusal to entertain the summary judgment motion presented by Petitioner and not allowing him to articulate the basis of that motion which concerned all of his ~~amendments~~ amendments to his application and the basis of his ineffective assistance claims, prosecutorial misconduct claims

Perjury claims etc denied Petitioner Antony Brooks to a fair hearing at his Post conviction relief hearing on April 22nd 2015. As stated in Rice v State 305 SC at 458, 459 SE2d at 394, The court also recently stated that it interprets "sufficient reason" very narrowly requiring a showing that the issue "could not have been raised. Petitioner submits that all of his claims for ineffective assistance of counsel, Perjury, Prosecutorial misconduct and all his claim in his 4 amended applications could not have been raised due to the court dismissing his case and not entertaining his summary judgment motion to include Lance S. Bozart removing his witnesses from the court and Plaintiff not knowing where they went constituted a gross miscarriage of Justice. Petitioner further presents that appellate counsel Robert Packard did not include any of his amendments to his Post conviction relief application on appeal, constituting a miscarriage of Justice and failed to include and order the transcripts of all the PCR hearing on appeal such as the November 20th 2013 transcript before Stephanie P McDonald Judge, August 8th 2013 transcript before Thomas Cooper, September 18 2013 hearing before Judge Roger N Young, violating the rubric in Coleman Sullivan in those instances Petitioner submits that he never failed to call any witnesses as the Attorney General's order of dismissal May 8 2015 alleges and that petitioner did not fail to prosecute and thus petitioner should be granted a new trial and the Attorney General's order of dismissal set aside and a new PCR granted.

I swear under penalty and perjury this 1st day of May 2016

IN Petier SC 201609 S/Attorney Antony Brooks
ANTHONY BROOKS 313000
PCR @ JAMES
436 SAKLAW RD
Petier SC 291609

ALTONY BROOKS 313080
PCI 0
430 OAKLAWN RD
PETER SC 29067

AMS

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MAY 02 2016
PCI Mailroom

SC SUPREME COURT
DANIEL SHEARHOUSE Clerk of Court
PO Box 11330
Columbia SC 29211

LEGAL MAIL

THE DEPARTMENT OF CORRECTIONS HAS
NOT ASPECTED OR CENSORED THIS ITEM
BEFORE THE LETTERS WERE
ASSIGNED TO THE CORRECTIONS
F. ANY CORRECTIONS DEPARTMENT
S. DEPARTMENT OF CORRECTIONS