

PRICE LAW

644 E. Washington Street | Greenville | SC 29601
P 864.271.3535 F 864.242.6560 | price-law-firm.com

July 20, 2018

RECEIVED

JUL 25 2018

The Honorable Daniel E. Shearouse
Clerk of Court
SC Supreme Court
P.O. Box 11330
Columbia, South Carolina 29211

S.C. SUPREME COURT

Re: Nathaniel Glenn, Jr., #303563 v. State of South Carolina
Appellate Case No.: 2018-001251
Lower Court Case No.: 2015CP23007585

Dear Mr. Shearouse:

I am responding to your letter of July 6, 2018, pertaining to my former client, Mr. Glenn. My responses to the information that you seek are as follows:

1. I received the Order of Dismissal on Monday, November 13, 2017, after writing the Clerk of Court inquiring about the Order. I sent the Order to Mr. Glenn by letter dated November 14, 2017. The letter of November 14, 2017 confirms that Mr. Glenn terminated my services as his lawyer as evidenced by my subsequent letter of April 27, 2018, to the Clerk of Court. These letters are enclosed.

2. I have also enclosed a copy of my Fee Contract with Mr. Glenn which provided that I am not responsible for an appeal, whatever this is worth.

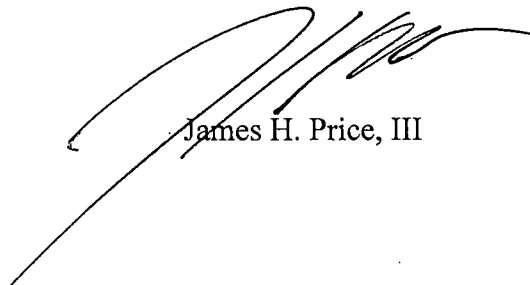
3. Mr. Glenn does have an argument that his action designated as 2015-CP-23-07585 was not a successive PCR because the action was filed after the denial of a motion for a new trial based on after discovered evidence. That action was filed on May 19, 2011, by Mr. Glenn *pro se*. I have enclosed my response to the State's Return and Motion to Dismiss filed November 8, 2016, which clarifies the situation somewhat and states Mr. Glenn's position.

This was a very confusing situation due to the two (2) prior PCR's that were filed as well as the numerous appeals. Mr. Glenn believes that he had a good faith argument and that Judge Gravely's Order designating this action as a successive PCR was in error. As the matter was a PCR occasioned by the denial of a Motion for a New Trial based on after discovered evidence I think that he has an argument. Judge Gravely did not think so, obviously.

I assume that I will be told what I need to do next. Please keep in mind that I am clueless about appellate work.

As always, I remain,

Yours very truly,

A handwritten signature in black ink, appearing to read 'JHP', with a long, sweeping horizontal line extending to the left and a smaller flourish to the right.

James H. Price, III

JHP/sac

Enclosures

Cc: Nathaniel Glenn, Jr.

PRICE LAW

644 E. Washington Street | Greenville : SC 29601
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November 2, 2017

Clerk of Court – Court of Common Pleas
Attn: PCR Clerk
Greenville County Courthouse
305 E. North Street
Greenville, South Carolina 29601

Re: Nathaniel Glenn, Jr., #303563 v. State of South Carolina
Case No.: 2015-CP-23-07585 – Post Conviction Relief

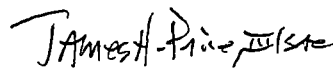
Dear Clerk:

We have never received an Order from the Clerk or the Judge concerning the disposition of the above referenced case. Has an Order been signed? If so, please send me a copy of it with the standard form Affidavit of Delivery.

Thank you very much for your assistance.

As always, I remain,

Yours very truly,



James H. Price, III

JHP/sac

Cc: Valerie Giovanoli – Attorney General's Office

PRICE LAW

644 E. Washington Street | Greenville | SC 29601
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November 14, 2017

LEGAL MAIL

Nathaniel Glenn, Jr., #00303563
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, South Carolina 29067

Dear Nate:

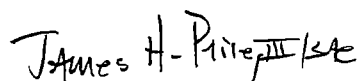
Enclosed you will find a copy of the Order of Dismissal on your most recent PCR Application. The mailing envelope was postmarked November 9, 2017, and I received it Monday, November 13, 2017.

I don't see much sense in filing a Motion for Reconsideration but that is up to you. You have thirty (30) days to petition for a Writ of Certiorari. This will confirm that you have instructed me not to take any further action on your case and the balance of your fee was previously refunded.

In any event, please keep in touch and let me know how you are doing.

As always, I remain,

Yours very truly,



James H. Price, III

JHP/sac
Enclosure

PRICE LAW

644 E. Washington Street | Greenville | SC 29601
P 864.271.3535 F 864.242.6560 | price-law-firm.com

April 27, 2018

Clerk of Court
Court of Common Pleas
Attn: PCR Filings
Greenville County Courthouse
305 E. North Street
Greenville, South Carolina 29601

**Re: Nathaniel Glenn, Jr., #303563 v. State of South Carolina
Case No.: 2015-CP-23-7585 – Post Conviction Relief**

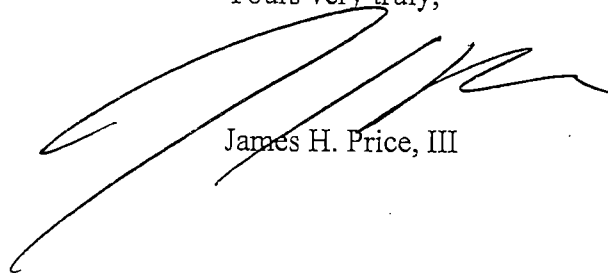
To Whom it May Concern:

This letter will confirm that I represented Nathaniel Glenn, Jr. at the hearing on the above matter which was held on April 19, 2017. Mr. Glenn terminated me as his attorney after that hearing so I am no longer his attorney of record nor does he or I consider me to be his attorney in connection with the above captioned case. I am writing this letter at the request of Mr. Glenn.

Thank you very much for your assistance. I am copying both the Honorable Perry Gravely and Mr. Glenn.

As always, I remain,

Yours very truly,



James H. Price, III

JHP/sac

Cc: Honorable Perry H. Gravely
Nathaniel Glenn

PRICE LAW FIRM, P.A.
ATTORNEY AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601

~~AMENDED~~
RETAINER AGREEMENT

11/7/16 Nathaniel Glenn Jr (Client) is, as ~~of~~ of this date, under investigation or charged in an indictment/warrant by The United States of America/State of South Carolina in connection with incarcerated in SCDC - no pending charges. This is to confirm, in writing, the agreement concerning the retention of Price Law Firm, P.A., for legal representation of Mr Glenn in connection with that ~~investigation/warrant/indictment~~ X

Attorney's Obligations and Warranties. We promise that we will use our best efforts and abilities as attorneys to obtain the best result possible under the circumstances. We will be primarily responsible for the overall progress of the case; however, we may, from time to time, utilize the assistance and support of others for certain matters. Such matters may include legal research and appearances in court. All such decisions regarding the assistance of support personnel will be made bearing in mind the best interest of the Client. We cannot, and do not, promise any particular result or disposition of the case.

Fee for Availability of counsel, Pretrial, and Trial Representation. This NON-REFUNDABLE RETAINER FEE for our availability and handling this matter through disposition shall not exceed *Six fees Thasaul Kuller (\$16,000) exclusive of trial fees. In the event of a trial, additional fees of no more than Nil Dollars (\$) are agreed upon and that amount must be paid to ATTORNEY no later than one week after the jury selection date or trial is scheduled, whichever is first. Trial fee includes only one (1) trial. In the event of a second trial (as a result of a mistrial or multiple cases) additional trial fees will be due as set forth in this contract. The parties agree that the Trial Fee is a reasonable payment for trial preparation in addition to time set aside on attorney's calendar for the trial itself. **THE CLIENT AGREES THAT FEES PAID ARE EARNED UPON RECEIPT.**

By my signature below, I am acknowledging that the above described fee agreement is specific and exclusive to the above referenced criminal charge. Should I face any new charge, I understand that a separate and additional fee agreement would be required for representation on the new charge.

Not a Strict Hourly Rate Agreement. It is understood that we are not entering into a strict hourly rate contract. This means that we will be obligated to devote such time as is necessary in this matter, but that our fee may not be increased based upon the amount of time expended. In setting the fee, we have taken into consideration the degree of difficulty of the case, the urgency of the

X See 3rd page

matter, the potential for loss of other employment due to conflict, the necessity of declining other work so as to have the time available to properly attend to this matter, our degree of expertise in handling criminal cases, and the availability of our staff which includes a paralegal, investigator, and associated attorney.

It is agreed by the parties to this agreement that ATTORNEY'S representation of CLIENT under this agreement will terminate with the occurrence of dismissal of charges, verdict, judgment, settlement, or compromise, whichever occurs first.

ATTORNEY'S representation of CLIENT does NOT include representation of CLIENT on appeal, on motion made pursuant to the Federal Rules of Criminal Procedure Rule 35, or any other post-conviction or re-sentencing matters.

This agreement will be binding on the CLIENT AND CLIENT'S beneficiaries, administrators, personal representatives and successors in interest.

CLIENT confirms that this agreement has been concluded by negotiation and that the fees CLIENT have agreed to pay herein are not set by law but have been arrived at through negotiation. CLIENT further confirms that the fees set forth herein are only for ATTORNEY'S services as described in this agreement. Any services rendered by ATTORNEY to CLIENT on related matters arising out of the client-attorney relationship established herein will be made subject to a separate fee agreement and are not covered herein.

Client further agrees that his/her duties under this agreement include keeping ATTORNEY advised as to the current business and residence addresses and telephone number(s) of CLIENT.

CLIENT AND ATTORNEY AGREE THAT ANY DISPUTE REGARDING THE TERMS OF THIS AGREEMENT OR PAYMENTS DUE SHALL BE SUBMITTED TO MEDIATION BY THE FEE DISPUTE RESOLUTION COMMITTEE OF THE SOUTH CAROLINA BAR ASSOCIATION.

Costs and Expenses. The above mentioned fees do not include unusual costs and expenses incurred in connection with this case. Such expenses may include, but are not limited to: psychiatric, psychological and social work evaluations; filing fees; large photocopying costs; expert witnesses; jury selection and/or sentencing consultants; court reporter's transcript; and the costs of meals, lodging and travel for ourselves as well as experts and consultants when away from the city of residence. Any such costs will be discussed with and approved by Client before they are incurred except for routine office expenses.

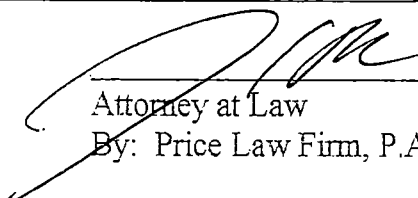
Termination of Representation by CLIENT'S Dismissal of ATTORNEY. I understand that I have the right to terminate the attorney – client relationship with James H. Price, III, P.A., at any time. If so, I may be entitled to a refund of all or a portion of the fee should Mr. Price fail to provide me with the legal services that we have agreed upon. CLIENT agrees to pay to ATTORNEY, as compensation for services rendered to the date of said termination, that amount which shall be determined in mediation to fully compensate ATTORNEY for the services rendered

on an hourly basis. Said compensation shall be based upon the prevailing hourly rates charged by attorneys of like experience and expertise practicing in the field of federal criminal litigation in the County of Greenville at the time of termination. Fair and reasonable valuations of the complete services rendered are agreed by the parties to this contract to be an hourly rate of Four Hundred Fifty & no/100 (\$450.00) Dollars.

CLIENT and ATTORNEY hereby confirm that this Agreement is an integration of all prior representations and negotiations concerning the subject of this contract, it embodies all the terms and conditions of the contract between them and that there are no other terms, conditions, representations or understandings which are not included herein. CLIENT and ATTORNEY hereby confirm that this Agreement may not be modified except in a written document signed by all of the undersigned.

Receipt and Payment Schedule. The retainer and subsequent fees shall be paid as follows:

This is an amended contract. Client will pay attorney up to \$16,000.00 at an hourly rate of \$450 to represent client on PCR application filed 12/29/15 and related matters as an attempt to get client a new trial which is a longshot.



Attorney at Law

By: Price Law Firm, P.A.

Date 11/7/16

I have read and understand the foregoing Retention Agreement, consisting of two (2) pages, and agree to the terms set forth herein. Client understands that timely payment of fees is required. Failure to pay fees as agreed may lead to attorney being released from contract and case. If client fails to pay fees as agreed, client consents to Attorney being released from contract.



Client

Date 11-15-16

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Nathaniel Glenn, Jr., #303563)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 _____)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2015-CP-07585
 (Post – Conviction Relief)

**APPLICANT’S RESPONSE TO
 RESPONDENT’S RETURN and
 MOTION TO DISMISS**

ENTERED COMPUTER

FILED-COURT CLERK COURT
 GREENVILLE CO., S.C.
 PAUL E. WOODRUM
 3 08
 JW

Your Applicant responding to the State’s Return and Motion to Dismiss would show that:

1. The PCR application case number referred to above came about as a result of the following events:
 - a. Applicant’s initial conviction in July, 2004;
 - b. Applicant did file a second PCR application on or about November 18, 2009 (2009-CP-23-9726) raising issues pertaining to the videotape being tainted, fraudulent statements made by State’s witnesses Teasley and Lawson, and original recordings being destroyed, all of which were more fully set forth in the State’s Return;
 - c. However, the matters that are part of this PCR application were raised via a Motion for New Trial based on after discovered evidence originally filed by Applicant on a *pro se* basis on May 19, 2011. In his *pro se* Motion Applicant raised due process issues based on problems with the case that were not discovered prior to the trial and were not necessarily dealt with in the prior PCR (see attached Pro se Motion, last paragraph on Page 3, dated May 5, 2011, as Exhibit A);

d. No action was taken by the Court. As a result of the inaction Applicant hired an attorney, Mr. Tommy A. Thomas of Irmo, South Carolina, who prepared an Amended Motion for New Trial based on after discovered evidence dated December 12, 2012, and filed in 2013 (see copy attached as Exhibit B). In the amended application, it was alleged that the jury was shown a videotape containing two (2) different drug sales by the Applicant when, in fact, the Applicant was on trial for only one (1) sale. Applicant nor his attorney were able to see the tape during the trial and Applicant did not discover the “composite” tape until after the trial was over. The fact that the jury was shown a composite videotape which was a copy rather than the original without notice to the Applicant is new matter that does not appear to have been raised by Applicant prior to Mr. Thomas’ Amended Motion for New Trial. **IT IS SIGNIFICANT THAT THE AMENDED MOTION FOR NEW TRIAL FILED BY APPLICANT’S ATTORNEY DID NOT CONTAIN ANY AFFIDAVITS OR DOCUMENTS OF ANY NATURE WHATSOEVER TO SUBSTANTIATE THE CLAIM BY APPLICANT.** As a result of the failure of Applicant’s attorney to enclose any supporting documentation whatsoever the Applicant’s Motion for a New Trial was summarily dismissed not once, but twice – once by the Order of the Honorable Letitia H. Verdin, dated April 9, 2013 (attached as Exhibit C), and also by Order of the Honorable Edward W. Miller, dated April 23, 2013 (attached as Exhibit D).

e. Applicant’s attorney filed a Notice of Appeal on August 16, 2013, after receiving the Orders of the Honorable Letitia H. Verdin and Honorable Edward W. Miller (attached as Exhibit E).

f. Applicant’s attorney, Mr. Thomas, was relieved from representation of Applicant on the appeal (Order attached as Exhibit F). Applicant attempted to handle the appeal himself,

but his appeal was dismissed via unpublished Order filed March 4, 2015 (attached as Exhibit G). The appeal was dismissed on two (2) grounds: 1) Affirming that the trial court can dismiss a Motion for New Trial on the briefs of the parties without oral argument. **APPLICANT'S ATTORNEY DID NOT FILE ANY BRIEFS, AFFIDAVITS, OR SUPPORTING DOCUMENTS OF ANY NATURE WHATSOEVER TO THE COURT WHEN HE FILED HIS AMENDED MOTION. THERE WAS NOTHING FOR THE TRIAL COURT TO LOOK AT OTHER THAN THE BARE BONES AMENDED MOTION;** 2) Matters that Applicant wanted to be raised were not included in the Amended Motion. Therefore, Applicant was precluded from arguing these matters on appeal because there was no record.

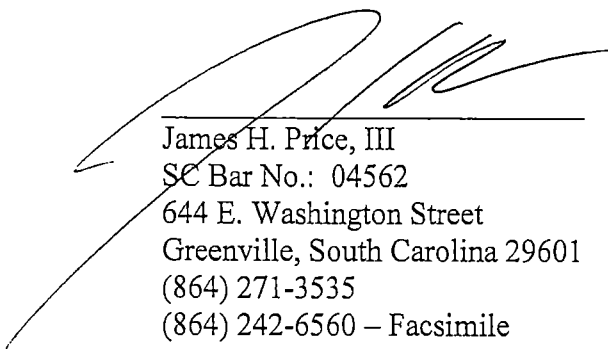
g. After the March 4, 2015, dismissal of his appeal Applicant timely filed the within PCR application on December 29, 2015. In his application he alleges the following: 1) trial counsel made no objection against the State's evidence to proceed upon a meritorious appeal; 2) **INEFFECTIVE ASSISTANCE OF COUNSEL OF NOT PRESERVING ISSUE FOR PUBLIC REVIEW ON STATE'S FALSE TESTIMONY UNDER OATH ISSUE;** 3) **ATTORNEY TOMMY A, THOMAS, ESQ., DID NOT PRESERVE ISSUE OR PROSECUTOR MISCONDUCT AND FALSE TESTIMONY UNDER OATH IN AMEDED MOTION FOR NEW TRIAL THA WAS FILED MAY 19, 2011.**

It is clear from the record cited above and attachments that Applicant was denied a hearing on his original Motion/Amended Motion for New Trial based on the failure of trial counsel to include documentation, affidavits, etc. for the Court to review. It is also clear that dismissal of his Motion/Amended Motion for New Trial was done due to the lack of a record which was not

Applicant's fault because he was incarcerated and had hired an attorney. Also, Applicant's appeal was dismissed for the same reason *i.e.*, no record upon which to base the appeal.

Applicant has raised new matters and is entitled to a hearing on the merits in the above action.

Respectfully Submitted,



James H. Price, III
SC Bar No.: 04562
644 E. Washington Street
Greenville, South Carolina 29601
(864) 271-3535
(864) 242-6560 – Facsimile
Attorney for Applicant

Greenville, South Carolina

November 7, 2016

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
 STATE OF SOUTH CAROLINA,)
 v.)
 NATHANIEL J. GLENN,)
 DEFENDANT,)
 _____)

IN THE COURT OF GENERAL SESSIONS
 DOCKET NO.: 2002-GS-23-6529

MOTION FOR NEW TRIAL
 BASED ON AFTER-DISCOVERED
 EVIDENCE, PURSUANT TO RULE
 29 (b), SCR CrimP & SCRCP 60 (b)
 (1), (3), & (5).

COMES NOW THE DEFENDANT, AND MOVES BEFORE THIS COURT FOR A NEW TRIAL BASED UPON AFTER-DISCOVERED EVIDENCE PURSUANT TO RULE 29 (b), SCR CrimP, AND SCRCP 60 (b), (1), (3), & (5). THE DEFENDANT SUBMITS THAT THE CLERK'S FILES AND ADMISSIONS BY THE SOLICITOR'S OFFICE, THE GREENVILLE COUNTY SHERIFF DEPARTMENT, AND THE STATE'S CONFIDENTIAL INFORMANT ON JULY 13TH, 2004 IN FRONT OF THE HONORABLE EDWARD W. MILLER, JUDGE, AMOUNTS TO AFTER-DISCOVERED EVIDENCE UNDER RULE 29 (b), SCR CrimP, AND SCRCP 60 (b), (1), (3), & (5) TO INCLUDE A DUE PROCESS VIOLATION UNDER BOTH THE STATE AND FEDERAL CONSTITUTION, AND STATE V. SPANN, 334 S.C. 618, 513 S.E. 2D 98 (1999).

PROCEDURAL HISTORY

THE DEFENDANT GLENN IS PRESENTLY CONFINED IN THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS PURSUANT TO ORDERS OF COMMITMENT OF THE CLERK OF COURT OF GREENVILLE COUNTY. GLENN WAS INDICTED FOR TRAFFICKING COCAINE, INDICTMENT NUMBER 02-6529. IT ALLEGES THAT NATHANIEL J. GLENN DID IN GREENVILLE COUNTY ON OR ABOUT AUGUST 2ND OF 2002, KNOWINGLY SELL, MANUFACTURE, DELIVER OR BRING INTO THE STATE OF SOUTH CAROLINA OR DID KNOWINGLY PROVIDE FINANCIAL ASSISTANCE OR OTHERWISE AIDE, ABET OR CONSPIRE TO SELL, MANUFACTURE, DELIVER OR BRING INTO THE STATE, OR WAS KNOWINGLY IN ACTUAL OR CONSTRUCTIVE POSSESSION OF MORE THAN 10 GRAMS OF COCAINE. HE WAS REPRESENTED BY SKIP GOLDSMITH, ESQUIRE. ON JULY 13TH, 2004 GLENN PROCEEDED TO A JURY TRIAL. GLENN WAS FOUND GUILTY OF TRAFFICKING IN COCAINE. GLENN WAS SENTENCED TO CONFINEMENT FOR (27) YEARS.

A NOTICE OF APPEAL WAS FILED ON THE DEFENDANT'S BEHALF AT THE SOUTH CAROLINA COURT OF APPEALS. THE APPLICANT SUBSEQUENTLY CHOSE TO WITHDRAW HIS APPEAL. THE COURT ISSUED THE ORDER OF DISMISSAL AND REMITTITUR ON JUNE 23, 2005.

GLENN FILED AN APPLICATION FOR POST CONVICTION RELIEF (PCR) ON FEBRUARY 20, 2006 (DOCKET NO. 2006-CP-23-1230). THE STATES MADE ITS RETURN ON OR ABOUT MAY 2, 2006. THE APPLICANT FILED A SEBSEQUENT AMENDMENT TO HIS APPLICATION- DATED JUNE 26, 2006- IN WHICH HE ALLEGED SEVERAL INSTANCES OF INEFFECTIVE OF TRIAL COUNSEL. SEE ATTACHED EXHIBIT "A" ORDER OF DISMISSAL.

ON OR ABOUT JANUARY 10, 2008 DEFENDANT ATTORNEY FILED A MOTION TO ALTER OR AMEND THE JUDGMENT WHICH WAS DENIED ON JANUARY 18, 2008 BY THE HONORABLE G. EDWARD WELMAKER, JUDGE FOR THE THIRTEENTH JUDICIAL CIRCUIT.

A NOTICE OF APPEAL WAS FILED ON JANUARY 24, 2008 WITH THE SOUTH CAROLINA SUPREME COURT. THE SOUTH CAROLINA SUPREME COURT ISSUED ITS ORDERS ON MAY 28, 2009. THE REMITTITUR FOLLOWED ON JUNE 15, 2009.

EXHIBIT A

ON AUGUST 18, 2009 DEFENDANT FILED A WRIT OF HABEAS CORPUS RAISING FOUR GROUNDS FOR RELIEF. ON JANUARY 13, 2010, THE RESPONDENT FILED A MOTION FOR SUMMARY JUDGMENT. BY ORDER FILED JANUARY 14, 2010, PETITIONER WAS ADVISED OF SUMMARY JUDGMENT DISMISSAL PROCEDURE AND THE POSSIBLE CONSEQUENCES IF HE FAILED TO ADEQUATELY RESPOND TO THE MOTION. PETITIONER FAILED TO RESPOND TO THE MOTION AND THE COURT FILED N ORDER ON FEBRUARY 24, 2010, GIVING HIM ANOTHER OPPORTUNITY, THROUGH MARCH 22, 2010, FILE HIS RESPONSE. ON APRIL 5, 2010, THE PETITIONER MOVED FOR AN EXTENSION OF TIME, WHICH WAS GRANTED THROUGH APRIL 22, 2010. THE PETITIONER FILED HIS RESPONSE IN OPPOSITION TO THE MOTION FOR SUMMARY JUDGMENT ON APRIL 5, 2010, AND SUBMITTED ADDITIONAL ATTACHMENT IN SUPPORT OF HIS RESPONSE ON APRIL 9, MAY 14, AND JUNE 8, 2010. ON MAY 28, 2010, HE FILED AN AFFIDAVIT IS SUPPORT OF HIS RESPONSE, AND ON JUNE 28, 2010, HE FILED A "MOTION OF ACTUAL INNOCENCE".

ON JULY 22, 2010, THE HONORABLE KEVIN F. McDONALD, UNITED STATES MAGISTRATE JUDGE RECOMMENDED THAT THE RESPONDENT'S MOTION FOR SUMMARY JUDGMENT (DOC 23) BE GRANTED. THAT RECOMMENDATION WAS GRANTED AND THE APPEALED TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, ON AUGUST 18, 2009. THE DECISION OF THAT COURT IS PENDING AS OF THIS FILING.

IN THE INSTANT MOTION, THE DEFENDANT HAVE MOVED PURSUANT TO THE ABOVE LEGAL AUTHORITIES AND CASE LAW. THAT STATE AND COUNTY LAW ENFORCEMENT HAVE ENGAGED IN ACTIONS TAKEN AS A WHOLE AMOUNTS TO A DENIAL OF EQUAL PROTECTION OF THE LAW. THAT SUCH VIOLATIONS OCCURED DURING THE COURSE OF THE DEFENDANT'S JUDICIAL PROCESS AND DENIED HIM DUE PROCESS. SEE WASHINGTON V. STATE, 478 S.E. 2D 833 (SC 1996).
837

THE HEREIN ALLEGATION'S, PRESENTS "UNIQUE" COMBINATION OF FACTS AND UNUSUAL CIRCUMSTANCES WHICH WARRANTS REVIEW. THUS, DEFENDANT SHOULD NOT BE PUNISHED FOR THE ACTIONS AND INACTIONS OF HIS APPOINTED ATTORNEY'S THROUGHOUT HIS JUDICIAL PROCESS. IT IS GENERALLY PREFERRED THAT A BLAMELESS PARTY NOT BE DISADVANTAGED (AS HERE) BY THE PROCEDURAL ERRORS OR NEGLECT OF HIS/HER ATTORNEY. HARRIS V. U.S. RR RETIREMENT BD., 198 F3D 139 (4TH CIR. 1999).

THE ALLEGATION'S SET FORTHBELOW PRESENTS A PRIMA FACIE VIOLATION OF DEFENDANT'S CONSTITUTIONAL RIGHTS. ROGERS V. STATE, 261 S.C. 288, 199 S.E. 2D 761 (1973). THE ALLEGATIONS IN THE MOTION MUST BE ACCEPTED AS TRUE UNLESS AND UNTIL SUCCESSFULLY REFUTED. BLANDSHAW V. STATE, 245 S.C. 385, 140 S.E. 2D 784 (1965).

ON THE MATTER SUB JUDICE, THE DEFENDANT IS ALLEGING AFTER-DISCOVERED EVIDENCE THAT WARRANTS A NEW TRIAL AND/ OR VACATION OF HIS CONVICTION. TO PREVAIL ON THIS CLAIM THE DEFENDANT "MUST SHOW THAT THE AFTER-DISCOVERED EVIDENCE: (1) IS SUCH THAT IT WOULD PROBABLY CHANGE THE RESULT IF A NEW TRIAL WERE GRANTED; (2) HAS BEEN DISCOVERED SINCE THE TRIAL; (3) COULD NOT IN THE EXERCISE OF DUE DILIGENCE BEEN DISCOVERED PRIOR TO TRIAL; (4) IS MATERIAL; AND (5) IS NOT MERELY CUMULATIVE OR IMPEACHING". STATE V. NEEDS, 333 S.C. 134, 508 S.E. 2D 857 (1998).

ARGUMENT

BY WAY OF THIS MOTION, THE DEFENDANT IS ALLEGING AFTER-DISCOVERED EVIDENCE DUE TO THE CONDUCT OF STATE OFFICIALS AND THE STATE'S CHIEF INFORMANT. THAT SUCH CONDUCT AMOUNTS TO FRAUD UPON THE COURT, DENIAL OF A FAIR TRIAL AND PERJURY. SEE WASHINGTON V. STATE, 324 S.C. 232, 487 S.E. 2D 883 (1996); GIGLIO, 405 U.S. AT 154-55, 92 S.C.T. 763. 478 833

THE DEFENDANT'S TRIAL TRANSCRIPT'S BEARS OUT THE ALLEGATION'S BEFORE THE COURT ARE SUBMITTED AS AN EXHIBIT IN SUPPORT THEREOF. EACH NUMBERED PAGE INDICATED SHOWS WHERE THE PROSECTOR, INFORMANT, AND POLICE OFFICER'S COMMITTED PERJURY AND FRAUD UPON THE COURT. WHERE THE LAW HOLDS: WHERE THE PROSECTOR FAILED TO CORRECT THE WITNESS PERJURED TESTIMONY, ALTHOUGH HE CLEARLY (AS HERE) KNEW IT TO BE FALSE. THE SUPREME COURT HELD THAT THE FALSE TESTIMONY USED BY THE STATE IN SECURING THE CONVICTION MAY HAVE HAD AN EFFECT ON THE OUTCOME OF THE TRIAL, AND ACCORDINGLY, REVERSED THE DEFENDANT'S CONVICTION. ID. AT 272, 79 S.C.T. 1173, NAPUE V. ILLINOIS, IN THE INSTANT CASE, THE PROSECTOR FAILED TO CORRECT THE PERJURY AND REPEATED THE WITNESS FALSEHOOD IN HIS SUMMATION. (SEE TRANSCRIPT ATTACHED). THE SUPREME COURT REVERSED THE DEFENDANT'S CONVICTION BECAUSE THERE WAS REASONABLE LIKEHOOD THAT THE PROSECTOR'S KNOWING USE OF PERJURY ON AN ISSUE SO RELEVANT TO THE WITNESS' CREDIBILITY AFFECTED THE JUDGMENT OF THE JURY. GIGLIO, 405 U.S. AT 154-55, 92 S.C.T. 763. THUS, THE GRANT OF A NEW TRIAL BASED UPON A NAPUE VIOLATION IS PROPER ONLY IF (AS HERE) (1) THE STATEMENT IS QUESTION ARE SHOWN TO BE ACTUALLY FALSE; (2) (AS HERE) THE PROSECUTION KNEW THAT THEY WERE FALSE; AND (3) (AS HERE) THE STATEMENTS WERE MATERIAL. UNITED STATES V. BLACKBURN, 9 F.3D 353 357 (5TH CIR. 1993). UNITED STATES V. O'KEEFE, 128 F.3D 885, 893 (5TH CIR. 1997).

THEREFORE, THE DEFENDANT URGES THIS COURT TO CONSIDER HIS CLAIM OF AFTER DISCOVERED EVIDENCE AND THE FOLLOWING TESTIMONY AND EXHIBIT'S THAT ARE BEING PRESENTED AND COULD NOT BE PRESENTED PRIOR TO TRIAL AND SENTENCING: 1) INFORMANT CHADWICK TEASLEY, ARREST REPORT DRUG ANALYSIS FINDINGS; INCIDENT'S REPORT'S OF DET. BOBBY CARIAS AND DET. MELISSA LAWSON, CONCERNING THE AMOUNTS OF FUNDS USED; INCIDENT REPORTS OF THE TIME FRAMES OF THE ALLEGED DRUG MEETING. THE DEFENDANT SUBMITS IT WOULD AMOUNT TO "A DENIAL OF FUNDAMENTAL FAIRNESS SHOCKING TO THE JUDICIAL SENSE OF JUSTICE" IF THIS COURT FAILS TO CONSIDER AND ACT ON THESE ISSUES OF AFTER-DISCOVERED EVIDENCE. SEE JOHNSON V. CATOE, 345 S.C. 389, 401, 548 S.E. 2D 587, 593 (2001) (WALLER, J., DESENTING) (QUOTING BULTER V. STATE, 302 S.C. 466, 468, 397 S.E. 2D 87, 88 (1990)).

CONCLUSION

BASED UPON THE FOREGOING DEFENDANT MOVES THIS HONORABLE COURT TO CONDUCT A HEARING TO ASCERTAIN THE HEREIN ALLEGATION'S AND FOR SUCH OTHER AND FURTHER RELIEF, THE COURT DEEMS JUST, FAIR AND PROPER.

DATED: May 5, 2011
COLUMBIA, SOUTH CAROLINA

RESPECTFULLY SUBMITTED,
S/ Nathaniel J. Gleen
NATHANIEL J. GLEEN, #303563
BRCI-CONGAREE #104
4460 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT I MAILED MY MOTION FOR NEW TRIAL TO THE BELOW LISTED PERSON. BY PLACING SAME IN THE U.S. MAIL AND ADDRESSED AS FOLLOWS:

CLERK OF COURT
GREENVILLE COUNTY COURTHOUSE
305 MAIL STREET
GREENVILLE, S.C. 29601

s/ Nathaniel J. Glenn
NATHANIEL J. GLENN, #303563
BRCI-CONGAREE #104
4460 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

SWORN TO AND BEFORE ME THIS
9th DAY OF May, 2011

Susan H. Frye (L.S.)
NOTARY PUBLIC FOR S.C. My Commission Expires
MY COMMISSION EXPIRES: March 5, 2018

2011 MAY 19 10 15 AM
CLERK OF COURT
GREENVILLE COUNTY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE)	DOCKET NO.: 2002-GS-23-6529
STATE OF SOUTH CAROLINA,)	AMENDED
Plaintiff,)	MOTION FOR NEW TRIAL BASED ON
v.)	AFTER-DISCOVERED EVIDENCE
Nathanial Glenn,)	PURSUANT TO RULE 29 (b), SCRCrimp & SCRCP 60
Defendant.)	SCRCP 60 (b) (1), (3) & (5)

Comes Now the Defendant, and moves before this Court for a new trial based upon after-discovered evidence pursuant to Rule 29 (b), SCRCrimp, and SCRCP 60 (b), (1), (3), & (5).

PROCEDURAL HISTORY

The Defendant is currently incarcerated in the South Carolina Department of Corrections pursuant to Orders of commitment of the Clerk of Court of Greenville County. The Defendant was indicted for trafficking cocaine, (02-GS-23-6529). The Indictment alleges that the Defendant did, in Greenville County, on or about August 2, 2002, knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aide, abet or conspire to sell, Manufacture, deliver or bring into the State, or was knowingly in actual or constructive possession of more than 10 grams of cocaine. The Defendant was represented by Skip Goldsmith, Esq. On July 13, 2004, the Defendant proceeded with a jury trial and was found guilty of Trafficking in Cocaine and sentenced to twenty seven (27) years.

A Notice of Appeal was filed on the Defendant's behalf with the South Carolina Court of Appeals. Mr. Glenn subsequently chose to withdraw this Appeal. The Court issued an Order of Dismissal and Remittitur on June 23, 2005.

The Defendant filed an Application for Post Conviction Relief on February 20, 2006 (Docket No. 2006-CP-23-1230). The State made its Return on or about May 2, 2006. The Applicant filed a subsequent Amendment to his Application dated June 26, 2006. This matter was dismissed by the Court.

On or about January 10, 2008, Defendant's attorney filed a Motion to Alter or Amend the Judgment which was denied on January 18, 2008 by the Honorable G. Edward Welmaker, Judge of the Thirteenth Judicial Circuit.

A Notice of Appeal was filed on January 24, 2008 with the South Carolina Supreme Court. The South Carolina Supreme Court issued its Order on May 28, 2009. The Remittitur followed on June 15, 2009.

On August 18, 2009, Defendant filed a Writ of Habeas Corpus raising four grounds for relief. On January 13, 2010, the respondent filed a Motion for Summary Judgment. By Order filed January 14, 2010, Petitioner was advised of Summary Judgment Dismissal procedure and the possible consequences if he failed to adequately respond to the Motion. Petitioner failed to respond to the Motion and the Court filed an order on February 24, 2010, giving him another opportunity, through March 22, 2010 to file his response. On April 5, 2010, the Petitioner moved for an extension of time, which was granted through April 22, 2010. The Petitioner filed his response in opposition to the Motion for Summary Judgment on April 5, 2010 and submitted additional attachments in support of his Response on April 9, 2010, May 14, 2010 and June 8, 2010. On May 28, 2010, he filed an Affidavit in support of his response and on June 28, 2010.

On July 22, 2010, the Honorable Kevin F. McDonald, United States Magistrate Judge recommended that the Respondent's Motion for Summary Judgment (DOC 23) be granted. The recommendation was granted and the appeal to the United States Court of Appeals for the Fourth

Circuit, on August 18, 2009. On April 26, 2011, Defendant's appeal was dismissed by unpublished per curiam opinion and a Certificate of Appealability was denied.

Argument

The Defendant was indicted for trafficking cocaine 10g-28g (2002-GS-23-6388) as a result of an alleged drug purchase on July 16, 2002. The Defendant was indicted for trafficking cocaine 10g-28g (2002-GS-23-6529) as a result of an alleged drug purchase on August 2, 2002. Both alleged drug purchases on July 16th and August 2nd were captured on an 8mm video camera by Detectives Bobby Carias and Melissa Lawson. It appears the July 16th purchase was captured by a sony minidisc and a TDK 8mm tape (case no. 2-02-60712); and the August 2nd purchase was captured by a sony minidisc, a TDK 8mm tape, and a sony audio cassette (case no. 2-02-65041).

Upon information and belief, Assistant Solicitor Joyce Monts provided the Defendant's attorney with a videotape of the Defendant's two (2) pending drug charges on or about March 4, 2004. It appears that Detective Melissa Lawson from the Greenville City Police Department transferred and combined the two (2) individual 8mm video recordings onto a single VHS videotape for play on a VCR. The Defendant proceeded to trial on July 13, 2004 solely on the charge arising from the alleged drug purchase on August 2, 2002; however, the consolidated VHS videotape was introduced without objection and played for the Jury at trial. The charge arising from the July 16th drug purchase was nolle prossed on July 26, 2004.

Due to the Defendant's location in the Courtroom during the trial, the Defendant could not see the publication of the consolidated VHS videotape and therefore completely unaware that both drug purchases (July 16th and August 2nd) were shown to the Jury.

It was only at a later date through the Freedom of Information Act that the Defendant discovered the consolidated VHS videotape had been transposed and that the two (2) original individual TDK 8mm videotapes no longer existed. The Defendant is informed and believes that the altering and combining of the two (2) TDK 8mm videotapes was an unlawful alteration and as such would have rendered the consolidated VHS videotape as inadmissible. Moreover, the Defendant was clearly prejudiced when the Jury was shown video of the July 16th alleged drug purchase as the Defendant was not on trial for said charge.

"To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute." Rule 1002, SCRE. "The original is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if- All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith." Rule 1004, SCRE.

An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original." Rule 1001(3), SCRE. Further, Rule 1001 defines a duplicate as "a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately produces the original." Rule 1001(4), SCRE. Rule 1003, SCRE states that "[a] duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in

lieu of the original.” The Defendant submits that at the time of his trial, the original TDK 8mm videotapes of the July 16th and August 2nd alleged drug purchases were available. The consolidated VHS videotape does not constitute an “original” as defined by the Rules, nor does it qualify as a “duplicate.”

The Defendant believes that the chain of custody for the consolidated VHS videotape was not and cannot be established. “Proof of chain of custody need not negate all possibility of tampering so long as the chain of possession is complete.” State v. Carter, 344 S.C. 419, 544 S.E.2d 835 (2001). “In applying this rule, we have found evidence inadmissible only where there is a missing link in the chain of possession because the identity of those who handled the [substance] was not established at least as far as practicable. See id.”

“Evidence is still required as to how the item was obtained and how it was handled to ensure that it is, in fact, what it is purported to be.” State v. Hatcher, 392 S.C. 86, 708 S.E.2d 750 (2011). In Hatcher, the South Carolina Supreme Court considered the following factors in reviewing the chain of custody: the nature of the article, the circumstances surrounding the preservation and custody of it, and the likelihood of intermeddlers tampering with it.

The Defendant submits that consolidating the two (2) individual videos of the July 16th and August 2nd alleged drug purchases into a single video and shown to the Jury at trial where the Defendant is being tried for one of the alleged drug purchase is highly prejudicial and improper. The Defendant believes that the consolidation of the videos is tantamount to tampering with the original 8mm TDK videotapes. There does not appear to be any testimony and/or evidence as to when, where, and how the consolidated VHS videotape was made.

Conclusion

Wherefore, the above-described after-discovered evidence above has never been presented nor heard by the Court. The Defendant respectfully requests a hearing be held on this motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. A. Thomas', written over the typed name.

Tommy A. Thomas
Attorney for Defendant

P.O. Box 88
Irmo, SC 29063
(803) 732-5507

December 12, 2012

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

The State of South Carolina,

v.

Nathaniel Glenn,

Defendant

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

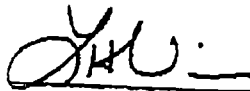
2002-GS-23-6529

ORDER DENYING DEFENDANT'S
MOTION FOR A NEW TRIAL

2013 APR 10 AM 11:36
FILED
CLERK
COURT

THIS MATTER is before the Court on Defendant's motion for a new trial. Defendant's motion is made pursuant to Rule 60 of the South Carolina Rules of Civil Procedure. This Court finds that a motion made pursuant to Rule 60 is not the appropriate avenue for appeal as it applies to civil cases. The Defendant argues that evidence admitted at trial was tainted and that he should be granted a new trial pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure. However, Rule 29 provides a basis for a new trial only when dispositive evidence has been discovered after a trial. The evidence in question in this case was admitted at trial. Further, Defendant has also previously filed two applications for Post-Conviction Relief which have been denied by Judges Weismaker and Hill.

April 9, 2013



Letitia H. Verdin
Circuit Judge

Certified Copy
B. W. [Signature]
Court C.P. & G.S.
Greenville County, SC
dated 4-10-13

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

H192003

State of South Carolina,)
Plaintiff)

ORDER

vs.)

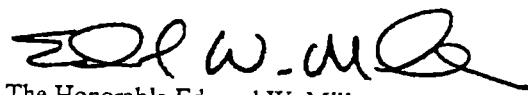
2002-GS-23-6529

Nathaniel Glenn,)
Defendant)

2013 APR 23 AM 9:25

The Court has considered the motions submitted by Mr. Glenn wherein Mr. Glenn requests relief pursuant to Rule 29(b) of the South Carolina Rules of Criminal Procedure and Rule 60(b)(1)-(3), (5) of the South Carolina Rules of Civil Procedure. The Court finds that it is not appropriate to grant Mr. Glenn the sought-after relief. His request is hereby DENIED.

AND IT IS SO ORDERED.



The Honorable Edward W. Miller
Circuit Court Judge

Greenville, South Carolina
April 23, 2013

H 19 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

Edward W. Miller, Circuit Court Judge
Letitia H. Verdin, Circuit Court Judge

Case No.: 2002-GS-23-6529

State of South Carolina, Respondent

vs.

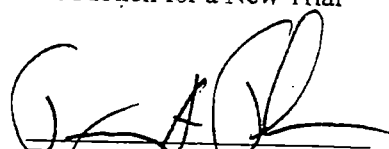
Nathaniel Glenn Appellant..

FILED
2013 AUG 16 PM 3:10

NOTICE OF APPEAL

Nathaniel Glenn appeals the orders of the Honorable Edward W. Miller, dated April 23, 2013 and the Order Denying Defendant's Motion for a New Trial by the Honorable Letitia H. Verdin dated July 10, 2013. The Attorney for the Appellant received copies of these two Orders on August 7, 2013.

The Appellant respectfully requests that this matter be consolidated with Appellate Case No.: 2013-000919 (Order Denying Defendant's Motion for a New Trial by the Honorable Letitia H. Verdin dated April 9, 2013).



TOMMY A. THOMAS
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Irmo, SC 29063
(803) 732-5507

Other Counsel of Record:

Salley W. Elliott, Esq.
Assistant Attorney General
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Columbia, SC 29211

AP: ✓
EYD ✓

The South Carolina Court of Appeals

The State, Respondent,

v.

Nathaniel Glenn, Jr., Appellant.

Appellate Case No. 2013-000919

ORDER

Appellant's counsel, Tommy A. Thomas, has filed a motion to be relieved as counsel, explaining he was retained to represent Appellant before the circuit court, and Appellant has decided to proceed pro se on appeal. Appellant was served with the motion, but did not file a response. Respondent takes no position regarding the motion. After careful consideration, the motion to be relieved is granted. Appellant has thirty days to obtain new counsel, or this court will presume Appellant is proceeding pro se.


FOR THE COURT

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Tommy Arthur Thomas, Esquire
Christina J. Catoe, Esquire
Robert Michael Dudek, Esquire
Salley W. Elliott, Esquire

FILED
12/11/13

EXHIBIT C

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Nathaniel Glenn, Jr., Appellant.

Appellate Case No. 2013-000919

Appeal From Greenville County
Letitia H. Verdin, Circuit Court Judge

Unpublished Opinion No. 2015-UP-105
Submitted January 1, 2015 – Filed March 4, 2015

AFFIRMED

Nathaniel Glenn, Jr., pro se.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Christina Catoe Bigelow, both of
Columbia, for Respondent.

PER CURIAM: Glenn appeals the trial court's denial of his Rule 29(b),
SCRCrimP, motion for a new trial, arguing the trial court erred in (1) denying his

motion without holding an evidentiary hearing and (2) not granting a new trial based upon after-discovered evidence and a *Brady*¹ violation. We affirm.

1. The trial court did not err in denying Glenn's motion without holding an evidentiary hearing. *See* Rule 29(a), SCRCrimP (providing the trial court may, in its discretion, determine a motion for a new trial on the briefs of the parties without oral argument).

2. Because the issues of whether the trial court erred in not granting a new trial based upon after-discovered evidence and a *Brady* violation were not raised in Glenn's amended motion, these issues are not preserved. *See Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel."); *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to and ruled upon by the trial judge. Issues not raised and ruled upon in the trial court will not be considered on appeal.").

AFFIRMED.²

HUFF, SHORT, and KONDUROS, JJ., concur.

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

² We decide this case without oral argument pursuant to Rule 215, SCACR.



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PRICE LAW

644 E. Washington Street | Greenville | SC 29601

The Honorable Daniel E. Shearouse
Clerk of Court