Explanation as to why the PCR Courts' determination that the PCR action is barred as successive and untimely under the statute of limitations is improper:

This applicant asserts that the procedural history as alleged in the States' proposed Order of Dismissal is somewhat incorrect and fails to set forth all the necessary facts to show this Court that it was the State that caused all the delays and continuances in applicants first PCR action that deprived him of a Fourth Amend. right and Due Process.

Applicant subsequently filed his first application for Post-Conviction relief on October 19, 2001 (2001-CP-32-03154), in that application, the appellant alleged the following grounds for relief:

Ineffective Assistance of Counsel

Trial Phase

Appellant contended that trial Counsel was ineffective, where counsel failed to challenge arrest and search warrants on the following grounds; particularly, in that,

1.) that the arrest and search warrants were issued by a Non-Judicial official.

2.) that the arrest and search warrants were issued by an official who was not lawfully appointed to the office of ministerial recorder as provided by S.C. Code 14-25-115.

3.) that the arrest and search warrants were issued by an official who was not lawfully trained, Certified, or qualified for the office of ministerial recorder for the City of Cayce as provided by the statute, S.C. Code 14-25-115, etc.

This Appellant also argued in his Facts supporting ineffective assistance of Counsel, that the City of Cayce failed to adopt by ordinance the office of ministerial recorder as provided by the statute, etc.

The Respondent (the State) served a Copy of the return in this matter on Attorney, Dale Ness, Esquire, where this Appellant never received a Copy of the State's return, Nor was this appellant ever advised that Mr. Ness was his PCR appointed attorney. Attorney Dale Ness, Never represented this appellant in this matter. the State's return is dated July 19, 2002.

Subsequently an evidentiary hearing in that PCR action was held on August 26, 2003 before the Honorable Marc H. Westbrook. Appellant was represented by Stephen R. Soltis, The State was represented by B. Allen Bullard;

Prior To The testimony of John Sharpe, the State

objected To John Sharpe's testimony on the grounds that appellant did not allege in his application that Mr. Sharpe did not have the authority To issue arrest and search warrants.,

However, Judge Westbrook permitted the Testimony. Later, at the Close of the hearing, the State requested that the record be left open so that they Could obtain witnesses and or evidence To prove that John Sharpe's warrants were Valid.

More than eighteen (18) months had passed by and the State still had not provided any witnesses or evidence to conclude that John Sharpe's Warrants were Valid as a matter of Law. (State's delay)

This Appellant then Contacted his PCR Attorney Stephen R. Soltis and inquired as To why it was Taking the State so long To respond To the matter of providing witnesses or evidence To prove That Mr. Sharpe's Warrants were Valid.

PCR Counsel then Filed a Motion, entitled:
Motion To Close Record Allowed To remain open At the Request of the State;
in the Court of Common Pleas, Case NO. 2001-CP-32-3154, dated, march 8, 2005.

In that motion PCR Counsel points out that, Appellant's right to a speedy determination of his PCR is Adversely affected by the State of South Carolina (Respondent); and asks

That the Court to issue its Order, Closing the record, and asking the Court to Schedule a Final hearing or, by Order, Simply grant the inevitable relief requested and proved by the appellant at the PCR hearing.

Shortly thereafter a hearing was scheduled. However, prior to the scheduled hearing date, the Honorable Marc H. Westbrook was unfortunately killed in an automobile accident, and no ruling was ever made on the motion.

Subsequently a Continuation of that hearing was Convened on July 10, 2007, before the Honorable John M. Milling. This Appellant was present and represented by Attorney Michael Duncan. The State was represented by Attorney, Daniel E. Grigg. (Stephen R. Soltis was removed from appellants case by the Court, and attorney B. Allen Bullard no longer worked for the S.C. office of the attorney General.)

At the hearing appellant testified on his own behalf. Trial attorney, I.S. Leevy Johnson, and John Sharpe testified. Appellant provided additional evidence that John Sharpe was not the ministerial recorder for the City of Cayce.

1.) letter from Lexington County Defender Agency dated August 3, 1998, where public defender Hervery Young wrote to this appellant informing him that the right to effective assistance of Counsel is not a right to have Counsel assist you in the Trial of this case.

2.) A Copy of a Consent search authorization form

prepared by Cayce Police, Tim James, where it attempts To authorize Cayce Police To search appellants home and Vehicles. (Cayce Police had conducted a search already).

3.) A letter From Family Court Judge Richard Chewning indicating that he had No recollection of what he did or did not do in 1977. the information provided in his letter of January 19, 2001, (That John Sharpe appeared before him and was sworn in as ministerial recorder For the City of Cayce, on December 23, 1977. that he was appointed To this position by City Council at the December 21, 1977 Council meeting), was provided To him by the City of Cayce., dated October 27, 2003.

4.) A letter From the Municipal Association of South Carolina indicating that Melody James was the municipal Judge and the ministerial Recorder For the City of Cayce during the 1997 Fiscal year. (the Time inwhich John Sharpe issued arrest and search warrants against appellant.

These letters were accepted by the Court and included on the record. the Honorable John milling instructed the State (Daniel E. Grigg) to Contact the City of Cayce and obtain a Copy of the City ordinance that created the position / Office of ministerial recorder, the minutes of Cayce City Council meeting creating the office, the NAME of

who it was that held the position and if it was for a two year appointment, a four year appointment, or an annual appointment, etc.

The PCR Court then left the record open. The PCR Judge reasoned that if Mr. Sharpe is not even in the position as ministerial Recorder, or that position is contrary to state law about how to handle municipal Courts, that could have made his warrant issuing void to begin with.

Subsequently, the State (Daniel Grigg) submitted a letter to Judge Milling, dated August 16, 2007 informing him that the City of Cayce had no ordinance creating/or establishing the office of ministerial Recorder, nor did the City of Cayce have any minutes of a City Council meeting creating the position or of Cayce City Council appointing someone to that position.

By written order filed October 22, 2007, (what this appellant now knows is a proposed Order of Dismissal prepared by the State) Judge Milling denied and dismissed the application.

Appellants' PCR attorney upon appellants request timely filed a motion to alter or amend Judgment pursuant to Rule 59(e), SCRCP., and again (what this appellant now knows is a Supplemental Order of Dismissal prepared by the State) is signed by Judge Milling., dated December 12, 2007.

This appellant prior To the receiving of the Order of Dismissals was under the impression that the PCR Court Judge would be making the ruling on the issues presented in appellants case.

Even after the timely Filing of Notice of appeal, and petition for writ of certiorari, and The South Carolina Supreme Courts denial of writ of certiorari, dated April 7, 2010, this appellant still assumed that the PCR Orders of Dismissal were prepared and signed by Judge milling, even through the Filing of Appellants pro se Petition For Habeas Corpus under 28 U.S.C. § 2254, which was denied.

This appellant now knows that at the Time the PCR Court signed the Proposed Orders of Dismissal prepared by the State that no Transcript was prepared for the PCR Court Judge To review the record To Conclude that there was any competent probative evidence To support the State's Findings of Facts as set out in the Proposed Order of dismissal.

The South Carolina Supreme Court has continously held that, the Supreme Court must affirm the PCR Courts Findings if they are supported by any Competent evidence of probative value in the record. Webb v. State, 281 SC. 237, 314 S.E.2d 839 (1984).

In Appellants case, there was No competent probative evidence in the record To support or conclude that John Sharpe was ever authorized by the City of Cayce, (Cayce City Council) To issue arrest and search warrants.

As the PCR Court Judge requested and the State admitted upon research with the City of Cayce, There are NO minutes of a Cayce City Council meeting creating an ordinance establishing the Office of ministerial recorder as provided by S.C. Code § 5-7-260(1), and NO minutes of a City Council meeting appointing anyone To that position.

This appellant contends that in South Carolina the PCR Court Judge routinely request that the State prepare proposed orders of dismissals in PCR matters. However, these proposed orders of dismissals must be based on a lack of competent probative evidence in the record To prove an applicants' grounds For relief.

The State (Asst. Atty. Gen.) is an advocate, where by Not only does he represent and protect the State in Judicial affairs, etc., he is also sworn To protect, serve and enforce the laws of this State, the S.C. Constitution, the U.S. Constitution, the rights of the citizens of South Carolina, and of the criminally accused also. To deny an accused these rights and deprive him due process, and of a protected right guaranteed by the U.S. Constitution is a grave miscarriage of Justice and constitutes Prosecutorial misconduct.

This appellant contends that the State's action in preparing a proposed Order of Dismissal perporting that John Sharpe was authorized to issue arrest and search warrants in his official capacity, where the State knew that there was no evidence presented to show that the City of Cayce had complied with State Law, particularly, S.C. Code § 5-7-260(1), in establishing by ordinance the Office of ministerial recorder as provided by S.C. Code § 14-25-310, § 14-25-320, repealed, and § 14-25-115,

Nor did the City of Cayce have any minutes of a Council meeting to prove such and that John Sharpe was appointed to this position also constituted fraud upon the Court, where this deprived this appellant of Due Process and a protected 4th Amend right as guaranteed by the U.S. Constitution.

After discovering these facts this appellant did not know how to proceed procedurly, because this appellant is not an attorney. Appellant contends that these are basic facts that his trial attorney and PCR lawyers should have have discovered prior to trial and PCR hearings.

Appellant subsequently filed a second PCR action, Case No. 2015-CP-32-02465, filed July 13, 2015, where appellant alleged the following grounds for relief:

(A) Conviction and Sentence obtained in violation of 4th Amend to U.S. Constitution

(B) Conviction and Sentence obtained in Violation of S.C. State Law, particularly, S.C. Code § 14-25-310, § 14-25-320, repealed, § S.C. Code § 14-25-115, also S.C. Code, § 5-7-250(b), § 5-7-260(1), § 5-7-270, and Violative of due process and equal protection of the law as guaranteed by the S.C. Constitution and the U.S. Constitution

(C) Conviction and Sentence obtained due to ineffective assistance of Counsel as guaranteed by the S.C. and U.S. Constitution.

(D) Prosecutorial misconduct; Fraud upon the Court, etc.: Violation of Procedural Due Process, Violation of Due Process and Equal Protection of the Law, as guaranteed by the S.C. Constitution, and the U.S. Constitution.

(E) Ineffective assistance of Post-Conviction Relief Counsel as provided by S.C. State law, and violative of Due Process and Equal protection of the law as guaranteed by the S.C. Constitution and the U.S. Constitution.

(F) That there exist evidence of material facts not previously presented and heard that requires Vacation of the Conviction and sentence in the interest of Justice.

More than (18) eighteen months had passed where the State had Failed To make a return or respond To the Filing of the Second Application For Post-Conviction relief. (Again, States delay)

This appellant then Filed a written motion To the Lexington County Office of the Clerk of Court dated January 5, 2017, Filed 01-10-18, requesting that the Motion be brought before the Chief administrative Judge For Lexington County For an evidentiary hearing on the matter. A copy of that motion was Also submitted To the State To Notify The State of my intent.

This appellant then subsequently recieved a packet From the state enclosed with a letter To the Honorable William P. Keesley, dated January 18, 2017 enclosed with a proposed Order of Dismissal, when the State asked the Judge To sign. This appellant then submitted a written letter To Judge Keesley setting forth his reasons why the States proposed Order of Dismissal should be denied.

A hearing on the States motion to Dismiss was heard at the Lexington County Courthouse on December 12, 2017, where this appellant was not represented by an attorney., the Honorable Judge J. Cordell Maddox Jr. heard the motion. This applicant wanted an attorney To be appointed To his case To properly present his case To the Court and provide the Necessary case law To Support his position. However, No lawyer was appointed and this appellant attempted To present his case To the Court the best way that he Could.; appellant is Not an attorney.

As this appellant asserted at the motion hearing

I am not attempting To File a successive Post-Conviction relief action.

A successive application is one that raises grounds not raised in a prior application, raises grounds previously heard and determined, or raises grounds waived in prior proceedings. S.C. Code. Ann. § 17-27-90.

Successive applications are disfavored and the applicant has the burden to establish that any NEW ground raised in a subsequent application could not have been raised by him in a previous application. Arnold v. State, 309 S.C. 157, 420 S.E. 2d 834 (1992).

This Court must affirm the findings of the PCR Court if they are supported by any evidence of probative value in the record. Webb v. State, 281 S.C. 237, 314 S.E. 2d 839.

This Appellant asserts that although grounds (B) and (C) have been previously heard and determined, grounds (A) and (D) have never been heard, nor Could I have raised these claims because I did not know of these claims until years afterwards.

Appellant contends that even though grounds (B) and (C) "that trial Counsel was ineffective for not challenging the Official John Sharpe's authority to issue arrest and search warrants", were previously heard and determined by the PCR Court, Appellant contends that the issues were not properly ruled on by the Court. The proposed Order of Dismissal prepared by the State Constituted Prosecutorial misconduct, and fraud upon the Court.

The State knew that Mr. Sharpe did not have

the legal authority to issue arrest and search warrants in the Appellants case.

Appellant asserts that the Office of ministerial Recorder is a recognized Judicial Office within the State of South Carolina. However, pursuant to S.C. Code, Ann § 14-25-115, City Council of any municipality in which chooses to establish this particular Office shall create or establish it by ordinance, S.C. Code Ann. § 5-7-260(1).

There has been no showing by the State, or any probative evidence in the record to conclude that these laws were complied with or that Mr. Sharpe's warrants were valid.

Appellant contends that even though this issue was subsequently appealed to the S.C. Supreme Court pursuant to petition for writ of certiorari, the Court denied writ of certiorari, which simply means that the Court did not hear or rule on his case. There was no ruling or statement made by the Court concluding that there was probative evidence in the record to support the PCR Court's proposed Order of Dismissal.

The united States Supreme Court in Giglio v. united States, 405 U.S. 150, 92 S. Ct. 763, (1972) stated that deliberate deception of a Court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of Justice; the same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears.

Under the present facts, the State allowed to go

uncorrected false Testimony and information provided by witness John Sharpe that he was appointed as the ministerial Recorder for the City of Cayce South Carolina by Cayce City Council, where there was no evidence (No ordinance prepared by Cayce City Council creating or establishing the Office of ministerial Recorder, and No minutes of City Council appointing anyone to that position). The State had the means to impeach John Sharpe's Testimony.

① Furthermore, there is evidence in the record that Mary Joyce Marshall, a staff attorney from the S.C. Office of Court Administration, that testified they had no record of John Sharpe ever being appointed as a ministerial Recorder for the City of Cayce,

② A 'To whom it may Concern', letter dated January 19, 2001 from Family Court Judge R.W. Chewning proclaiming that John Sharpe appeared before him and was sworn in as the ministerial Recorder for the City of Cayce on December 23, 1977, that he was appointed to this position by City Council on December 21, 1977 Council meeting, and that he was trained and certified in accordance with 1980 Act No. 480.

③ A subsequent letter from Judge Chewning asserting that he had no personal recollection of what he did or did not do in 1977. that the information provided in his letter of January 19, 2001 was provided to him by the City of Cayce.,

④ A letter from the Municipal association of South Carolina asserting that Melody James was the Municipal Judge and ministerial recorder for the City of Cayce during the 1997 fiscal year. (The time the warrants were issued).

(5) and finally, a letter from the State informing the Court that there was no ordinance creating or establishing the Office of Ministerial Recorder for the City of Cayce and no minutes of a City Council meeting creating the Office or of anyone being appointed to that position. SEE Berkeley Ele. Co. INC. v. Town of Mt. Pleasant + S.C.E.+G., 417 S.E.2d 579-580.

The PCR Courts signing of the States proposed Order of Dismissal is not supported by any competent evidence of probative value established in the record.

The State contends that Appellants second PCR is successive.

- Argument in support of Successive Application -

The Appellant, was denied his Sixth and Fourteenth Amendment Rights to effective assistance of appellate counsel, when his post-conviction relief counsel failed to amend the Appellant's pro-se post-conviction relief application to include all the grounds presented in this subsequent application, particularly 4th Amed. Violation., Due Process.

Facts:

After preparing and submitting my initial pro-se application for post-conviction relief, this Appellant was never notified by anyone that an attorney had been appointed to represent me in the matter.

After two failed Court appearances where I was informed by the Court that I should contact the Lexington County Clerk of Court and inquire as to who my Court appointed attorney was,

I discovered that Stephen R. Soltis was my attorney of record. I Also discovered that Dale Ness was my initial court appointed attorney, however, Stephen Soltis had petitioned the Court to be my PCR attorney. When I contacted Mr. Soltis he claimed that he did not know that he was appointed to represent me by Order of the Court.

Thereafter, I contacted Mr. Soltis both by mail and through attorney visit to inform him that my pro-se filing did not include all the reasonable claims available to provide relief in my case, and that he should fully investigate my case so that he could properly amend the application to include the additional ground of 4th amend. violation, along with other supporting issues raised in this present application.

However, Post-conviction relief Counsel failed to do so, nor did Counsel raise these additional issues during the evidentiary hearing. Because I'm a layman and have no legal experience at the time in which I filed my pro-se application, I did not recognize these claims in order to raise them until well after I was represented by Counsel and unable to raise them myself pursuant to State v. Stuckey, 333 S.C. 508 S.E.2d 564 (1998). As a result, these grounds were not heard or ruled upon even though they could have resulted in me being granted relief.

When the 4th Amend ground was presented to the District Court the State argued that because I did not make the claim that because Mr. Sharpe was not authorized to issue arrest and search warrants that it was violative of the 4th Amend to U.S. Const, in the State Court proceeding, that I was procedurally barred from arguing it in Federal Court.

S.C. Supreme Court Rules 50(5) and 71.1(d) make it mandatory, that post-conviction relief attorneys make sure that all available grounds are raised in post-conviction relief proceedings. After filing a pro-se post-conviction relief application, and after retaining or being appointed counsel, a pro-se litigant cannot thereafter file any further pleadings, and any amendments to his application must be made by his counsel. State v. Sanders, 237 S.E.2d 53 (1977); Foster v. State, 379 S.E.2d 907 (1989).

Thus, if post-conviction relief counsel does not amend the pro-se application, the applicant has no way to have all supporting grounds for relief heard.

In Carter v. State, 362 S.E.2d 20 (1987), and again in Aice v. State, 409 S.E.2d 392 (1991), the Supreme Court cited Foxworth v. State, 274 S.E.2d 415 (1981); Land v. State, 262 S.E.2d 735 (1980) and the S.C. Code of Laws section § 17-27-90, for the general proposition, that successive applications are viewed with disfavor and that the applicant has the burden of showing that a new ground for relief could not have been raised in a previous application.

However, Aice does not give attention to the Courts decision in Case v. State, 289 S.E.2d 413 (1982) which held that if the applicant meets the burden, a hearing must be afforded despite the successiveness of the application. The facts in Case, established that Case had no attorney in his first application, and that it was highly doubtful whether, in point of fact, that he could have raised the appropriate arguments.

IN my particular case I was faced with a similar situation where I was not assisted by my post-conviction relief counsel in properly amending my initial application to include all reasonable supporting grounds for relief, where I was not aware of the additional grounds at the time of filing my pro-se application, and was unable to raise them later myself because I was represented by counsel and barred from submitting any additional pro-se pleadings by law.

Therefore I must be seen to be "without" counsel and in the same position as that of the applicant in Case v. State. The Court, under such circumstances should find that the second application should be heard despite its successiveness, because the Appellant was not afforded a full bite of the apple during my first application due to post-conviction counsel's failures in amending my pro-se pleadings.

This Appellant also contends that the Court should find that the issues/and or grounds of Prosecutorial Misconduct,

And

Fraud upon the Court,

Should be heard because, I could not have raised these grounds in a previous post-conviction application, because I did not know, or was aware that the Order of Dismissal was prepared by the State and not the PCR Judge. PCR Counsel Stephen Soitts had previously informed me in writing that the Judge would make the PCR Ruling and not the State.

I was still under the impression that the PCR Judge would make the appropriate decision when ruling on my case by reviewing the record for evidence to support his ruling prepared by him.

Even when Stephen Soltis was removed by the Court because I informed the Court that he was not assisting me in the preparation and investigation of the grounds that I wanted to be amended., I was still under the impression that the Judge would make the ruling.

Shortly after discovering that it was the State that prepared a proposed Order of Dismissal, I filed a second PCR application, where again I filed it pro-se., I alleged Among other issues'. CASE NO. 2015-CP-32-02465.

4th Amend Violation -

Prosecutorial Misconduct

Fraud upon the Court, etc.

I asked for Counsel to be appointed so as to properly set out the grounds for relief. However, No Counsel was appointed. I submitted a letter of inquiry to the Lexington Clerk of Court and was informed that the Attorney General is the one who appoints Counsel, and who schedules evidentiary hearings., there was No return prepared by the State.

On January 5, 2017 I submitted a written motion to The Chief Administrative Judge for Lexington County requesting for Ex-parte /and or evidentiary hearing and motion to appoint Counsel in reference to CASE NO. 2015-CP-32-02465

In the instant case, I contend that the Attorney General represents the State in PCR matters, where he is charged with the duties of investigating matters charged against the State, and its municipalities, etc. alleged in PCR matters, making timely returns to PCR applicants, scheduling and conducting evidentiary hearings, appointing counsel to indigent applicants, etc. Above all, the attorney general must remain neutral and unbias in these affairs and seek Justice.

However, at both PCR hearings the Attorney General knew that John Sharpe Testified falsely in that he was appointed as the ministerial Recorder for the City of Cayce by City Council, in 1977.

At the 2003 evidentiary hearing before the Honorable Judge Westbrook, the State claimed that I did not make a claim in my PCR application that John Sharpe was not authorized to issue arrest and search warrants, however, the record proves otherwise.

The State requested for a continuance so that they could find witnesses and other evidence to prove that John Sharpes warrants were valid. however a year and a half had passed and the State did not find any witness or evidence to conclude that mr. Sharpes warrants were valid. At a subsequent hearing before the Honorable Judge milling, the record reveals that the Judge was familiar with municipal procedures, where he stated that he was employed as an attorney for a certain municipality, to do some work, where, he then asserted that "The normal procedure is They had ordinance books, and even if you had an ordinance book

and it was later amended, you STILL had the ordinance that existed. I think we need to see what the Ordinance from the City of Cayce had to say about the position of ministerial Recorder and whether that was something under the Clerk/Treasurer's Job, or exactly what was going on".

The Judge also asserted that "the other thing that you normally had were the minutes of the municipalities and those minutes indicated if something was for a two-year appointment, or a four-year appointment, or an annual appointment, who it was that held what position. this information was needed by the Court to find what ordinances were in effect that would relate to these positions and the Court would be able to find information as to whether or not Mr. Sharpe was the ministerial recorder or Melody James was the ministerial Recorder".

I strongly felt that the Judge was on the same understanding of the law as I had read them, and more so, because he was both a reputable attorney and Judge,

particularly S.C. Code Ann. § 14-25-115, where it provides that the Council of any municipality may establish the office of ministerial Recorder and appoint one or more full-time or part-time ministerial Recorders, who shall hold office at the pleasure of the Council. Before entering upon the discharge of the duties of the office of ministerial Recorder, the person appointed shall take and subscribe the prescribed oath of office and shall be certified by the municipal Judge as having been instructed in the proper method of issuing warrants.

and particularly, S.C. Code Ann. § 5-7-260(1) in part, where it provides that, in addition to other acts required to be done by ordinance those acts of Municipal Council shall be by ordinance which (1) adopt or amend an administrative Code, or establish, alter or abolish any Municipal department, Office or agency.

Please Note that the Office of ministerial Recorder is considered a municipal Office within the meaning of the S.C. legislature and as provided in S.C. Code Ann. § 14-25-310; 14-25-320, and 14-25-115.

In order to properly establish this municipal Office, which is a component of the uniform System of municipal Courts as provided by Act No. 480, effective Jan. 1, 1981, the law mandatorily requires that it shall be done by ordinance. See Berkeley Elec. Co. Inc. v. Town of Mt. Pleasant + S.C.E.+G. 417 S.E.2d 579-580.

When this information was researched by the Attorney General as requested by the PCR Judge it was determined that the City of Cayce had No ordinance creating or establishing the municipal office of ministerial Recorder, Nor any ordinance whereby under the position of Clerk/Treasurer where Cayce City Council gave him the authority to act as the ministerial Recorder, Nor any minutes of a City Council meeting establishing the Office of ministerial Recorder or of City Council appointing anyone to this position, or minutes of a City Council meeting giving John Sharpe the authority to act as the ministerial Recorder where the Municipal Judge was not present as he testified to. This is a miscarriage of Justice, and the State knew this.

It was clear to me and anyone that cared that there was absolutely no evidence or proof that the Office of Ministerial Recorder was ever lawfully established in the City of Cayce by ordinance, or that John Sharpe was lawfully appointed to the position of ministerial recorder for that Office, or that Mr. Sharpe did take and subscribe to the prescribed oath of office, or that he was certified by the municipal Judge as having been instructed in the proper method of issuing warrants.

These are mandatory provisions of South Carolina law. I had thought that since there was no proof that Mr. Sharpe's warrants were valid that the Court would rule that the warrants were void as a matter of law, and further rule that the fruits of the arrest and search were fruits of the poisonous tree, and granted a new trial

However while waiting several weeks later for the PCR Judge to rule, what I know now is that the state prepared a proposed Order of Dismissal, where the Attorney General failed to state the facts in the Order of Dismissal as evidenced from the record.

That there was no evidence the Cayce City Council established the Office of Ministerial Recorder by ordinance; that City Council appointed John Sharpe to the position, what his term was, whether he was part-time, or full-time, or proof that he was sworn into office, or certified that he was trained in accordance with S.C. Code Ann. § 14-25-115.

The state had resources to investigate these matters before the hearings, where the state had previously requested for a continuance at the August 26, 2003 evidentiary hearing before Judge Westbrook,

where the state's Attorney, B. Allen Bullard asked the Court for time to obtain Witnesses to prove that mr. Sharpe's warrants were valid. The state subsequently delayed that proceeding for almost approximately two (2), years, and still did not obtain any Witness or evidence to prove that mr. Sharpe's Warrants were valid.

The Attorney for the State knew prior to the hearing that mr. Sharpe's warrants were not valid, and the State knew after obtaining this information from the City of Cayce that mr. Sharpe's warrants were not valid and the state did nothing about it., This is a 4th Amend Violation, having been committed by John Sharpe and the City of Cayce against me.

However, in their proposed Order of Dismissal, the State is depriving me of a 4th amendment protected Right and due Process as guaranteed to me by both the State and U.S. Constitution.

This I believe constitutes Prosecutorial misconduct and fraud upon the Court as I alleged in my current PCR application. I never knew that there was a statute of limitations on a persons Constitutional Rights, as the state is inferring.

If the state thinks that my current post-conviction relief application is successive and time barred, then why did the state wait for more than eighteen, (18) months to make a return to the application? A return only after I filed a written motion to the Court for an evidentiary hearing, and to appoint Counsel on the matter.

The facts in my case establish that I'm in a situation where I was not assisted by post-conviction relief Counsel

in properly amending my initial application to include all reasonable supporting grounds for relief and was unable to raise them later myself.
At the motion to Dismiss hearing before Judge Maddox, I had filed a pro-se post-conviction relief application and was not represented by Counsel. I'm a layman, and although I attempted to assert my issues and all reasonable supporting grounds to convince the Judge that I should be granted an evidentiary hearing, again, it must be seen that I'm without Counsel and in the same position as that of the applicant in Case v. State, 289 S.E.2d 413 (1982). It is highly doubtful that I raised the appropriate arguments or any Case law to support my position.

The state only had ninety (90) days to make a return to my pro-se PCR application. More than eighteen (18) months passed by, where the state had made no attempt to motion the Court for an extention of Time. Here the state is in violation of the PCR statute itself.

My Case went to the S.C. Supreme Court once before for petition for Writ of Certiorari, where the writ was denied, where the Court did not view the PCR Order to ensure that the Order of Dismissal was based on the evidence provided in the Record.

Again my Case is now before the S.C. Court of Appeals and I humbly request this Court for petition for Writ of Certiorari, and the appointment of Counsel to properly address the merits of my Case.

I would further humbly and respectfully ask of this Court to reverse the State's Proposed order of Dismissal, and remand back to the PCR Court, appoint PCR Counsel, and schedule an evidentiary hearing on the matters as set out in current PCR application.

To deny me this opportunity to have these issues heard and ruled on would further deny me Due Process, and would continue to be a gross miscarriage of Justice.

Sincerely,

Date: April 16, 2018

Julius Gilyard #256432

Tyger River Correctional Institution
200 Prison Road
Enoree, S.C. 29335

The State of South Carolina

In the Court of Appeals

RECEIVED
APR 23 2018
SC Court of Appeals

Appeal From Lexington County

Court of Common Pleas

J. Cordell Maddox Jr., Circuit Court Judge

RECEIVED
APR 27 2018
S.C. SUPREME COUR

Case No. 2015-CP-32-02465

State of South Carolina .... Respondents,

Julius Irick Gilyard Jr. #253932 .... Appellant,

Notice of Appeal

Julius Irick Gilyard Jr., appeals the PCR Order of the Honorable J. Cordell Maddox Jr. dated March 30, 2018

Applicant received written Notice of entry of the Order on date April 16, 2018

Date: April 16, 2018

Sincerely,

Julius Gilyard

Tyger River Correctional Instit.

Unit 6 - Room# 30-B

200 Prison Road

Enoree, South Carolina 29335

cc. Honorable Lisa M. Comer

Clerk of Court For Lexington County

205 East Main Street - Suite #123

Lexington, South Carolina 29072

The State of South Carolina

In the Court of Appeals

RECEIVED

APR 23 2018

SC Court of Appeals

Appeal From Lexington County

Court of Common Pleas

J. Cordell Maddox Jr., Circuit Court Judge

RECEIVED

APR 27 2018

S.C. SUPREME COURT

Case No. 2015-CP-32-02465

State of South Carolina .... Respondent,

Julius Irick Gilyard Jr., #256932 .... Appellant,

Proof of Service

I certify that I have served the Respondent herein on April 16 2018, with a written notice of appeal by depositing a copy of it in the U.S. mail, postage prepaid and addressed to:

Date: April 16, 2018

Sincerely,

Julius Gilyard #256932

Tyger River Correctional Inst.

Unit 6 - Room #30-B

200 Prison Road

Enoree, South Carolina 29335

Honorable Lisa M. Comer

Clerk of Court for Lexington County

205 East Main Street Suite #123

Lexington, South Carolina 29072