IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM THE GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Judge

Appellate Case No. 2017-002092
Lower Court Case No. 2015-CP-23-04747

Jose Alberto Maldonado, # 312648, Petitioner,

V.

The State of South Carolina, Respondent.

APPENDIX

State of South Carolina
Counsel of Records

Alan M. Wilson
Assistant Attorney General
Megan Harrison Jameson

1000 Assembly Street
Rembert Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211
The Telephone (803) 734-3970

South Carolina
Department of Corrections

Jose Alberto Maldonado, # 312648
Petitioner Pro - Se

Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, South Carolina 29067
Telephone Number (803) 896-3300

I N D E X

APPENDIXS:

(1). Trascript of Trial Guilty Plea. From August 22, 2006. See: Exhibit:(8). Appendix.:(F)(R. Pp. 84 - 104. ROA).....174 - 196;

(2). Transcript of Sentencing Hearing. From April 10, 2007.See: Exhibit:(8). Appendix.:(F)(R. Pp. 105 - 116. ROA).....197 - 208;

(3). (4th) Application For Post-Conviction Relif. See: Exhibit: (12). Appendix.:(J)(R. Pp. 1 - 11. ROA).....318 - 328;

(4). Return to the Application. From March 8, 2017. See:Exhibit: (10). Appendix.:(H)(R. PP 1 - 10. ROA).....297 - 306;

(5). Conditional Order of Dismissal. From March 13, 2017. See: Exhibit:(11). Appendix.:(I)(R. Pp. 1 - 11. ROA).....307 - 317;

(6). ORDER. From September 1, 2017. See: Exhibit:(7). Appendix.: (E)(R. Pp. 53 - 54. ROA).....91 - 92;

(7). Transcrip of the (3rd) Post - Conviction Relief Action Hearing. From October 25, 2013. Civil Case No. 2013-CP-23-1440. See: Exhibit:(8). Appendix.:(F)(R. Pp. 61 - 70. ROA)... .....153 - 162;

(8). Clerk of Court Records:(1), see the Civil Action Case No. 2013-CP-23-04132. See: Exhibit:(7). Appendix.:(E)(R. Pp. 45 - 51. ROA).....80 - 89;

(9). Clerk of Court Record;(2), see the letter Return County General Sessions Court's Inditment C/A#:2003-GS-23-4547. From April 7, 2010. See: Exhibit:(18)(R. p. 41. ROA).....427;

(10). Clerk of Court Record;(3), see the S.C. Court Administration, in the South Carolina Supreme Court's Respond with a letter. From May 5, 2010. There, is information "requested Pertaining to the State Grand Jury and County Grand Jury" schadule may be obtained through the "Court Clerk of Court" where Petitioner case was heard. See: Exhibit:(18). Appendix.:(P)(R. P. 42. ROA).....428;

(11). State Grand Jury of S.C. Office of the Clerk of Court. A **MEMORANDUM**, from April 13, 2007, there is the State Grand Jury's Clerk fraudulent C/A#:2005-GS-47-26. See: Exhibit:(9). Appendix.:(G)(R. p. 40. ROA).....260;

APPENDIXS:

(12). State Grand Jury of S.C. Office of the Clerk of Court. See, the **April 17, 2015**, the "returnd of Newly Discovered Evidence" there no **"EXIST RECORD AGAINST THE PETITIONER"**. from the State Grand Jury in Columbia **"Statewide, at Case 2005-GS-47-26"** See: Exhibits:(9). Appendix.:(G)(R. p. 39)(ROA. R. p. 259.); and see, also, the Exhibit:(19). Appendix.:(Q)(R. Pp. 26 - 29. ROA).....463 - 466;

(13). Clerk of Court Record;(4), see letter without clock - stamped, to Hon: D. Garrison Hill, presided judge in the **General Sessions Court**, issue dated **April 15, 2015.** Responded to **Motion of Rule 60(b), SCRCP.** See: Exhibit: (19). Appendix.:(Q)(R. p. 30. ROA).....467; and

(14). Clerk of Court Records;(5). See, that, the **"Honorable D. GARRISON HILL CHIEF ADMINISTRATIVE JUDGE"**, **"Hon: PAUL B WICKENSIMER" GREENVILLE COUNTY CLERK OF COURT"**, Hon: **ROBERT M. ARIAIL "SOLICITOR, EIGHTH JUDICIAL CIRCUIT"**, MS. DESIREE ALLEN COURT SERVICE MANAGER, MS. JULIA HORTON (SC) COURT ADMINISTRATION, **"JENNIFER EVANS, ESQUIRE CHIEF, STATE GRAND JURY," "SUSAN PORTER, ESQUIRE ASSISTANT ATTORNEY GENERAL, (Former HENRY McMASTER)"**, and SHERIFF STEVE LOFTIES GREENVILLE COUNTY, all Fraudulen Records at Petitioner Case 2005-GS-47-26; had been SERTIFICATED AND MAIL, By **"Mr. C. Barrett Burley,"** With a **"NOTICE OF GUILTY PLEA CONFIRMATION,"** on **August 15, 2006."** See: Exhibit:(19). Appendix.:(Q)(R. Pp. 31 - 34. ROA).....468 - 471;

(15). South Carolina Department of Corrections Records: (1) the S.C. Court of Appals, Appellate Case No.:2016-001274, Appeal From the Administrative Law Court Judge,Unpublished Opinion No 2017-UP-209 Submitted March 1, 2017 - Filed May 17, 2017. See: Exhibit.:(18). Appx.: (F)(R. Pp. 35 - 36. ROA).....129 - 130;

(16). South Carolina Department of Corrections Records; (2) The, S.C. Court of Appeals, Appeal From Administrative Law Court, Judge. S. Phillip Lenski (ALC)'s Case No. 15-ALJ-04-0567-AP; Appellate Case No. 2016-001274, that (SCDC), Respondent **"FINAL BRIEF OF RESPONDENT"** Issue filed on October 14, 2016. See: Exhibit:(18) Appendix.:(F)(R. Pp. 38 - 47. ROA).....130 - 139; and

APPENDIX:

(17). South Carolina Department of Corrections Records; and (3) That, the **STATE OF SOUTH CAROLINA ADMINISTRATIVE LAW COURT, Docket No.: 15-ALJ-04-0567-AP. GGRIEVANCE No.: KRCI 4415-14 "ORDER Issue dated May 20, 2016."** See: Exhibit:(9). Appendix.:(G)(R. Pp. 72 - 76. ROA).....292 - 296

Done this 5th day of December, 2017. Respecfully, Submitted

Jose Alberto Maldonado, # 312648
The Petitioner Pro - Se
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Exhibit:(4)
Appendix:(B)(Report Page, 1 Through 4)

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

October 23, 2017

Mr. Jose Alberto Maldonado, 00312648
Kershaw Correctional Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw SC 29067

Re: Jose A. Maldonado v. The State
Appellate Case No. 2017-002092
Lower Court Case No. 2015CP2304757[1]

Dear Mr. Maldonado:

The South Carolina Court of Appeals has transferred your notice of appeal to this Court. This case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any

---

[1] In your notice of appeal, you indicate that the lower court case number is 2015CP2304747. The number is actually 2015CP230757.

I note further that the Court of Appeals appears to have erroneously listed the lower court case number as 2008CP2302140 in the order transferring the notice of appeal to this Court. (R.p. 9 of 497 ROA)

Appx.:(A)(3)(Report Page 8)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Applicant, Pro-Se,

v.

State of South Carolina,
Respondent.

Case No. 2015-CP-23-04747

AMENDMENT TO POST CONVICITON
RELIEF APPLICATION
4th PCR. ACTION

CERTIFICATE OF SERVICE

FILED
17 JAN 25 P 2:21
PAUL WICKENSIMER
CLERK OF COURT
GREENVILLE CO. S.C.

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have serve a copy of the AMENDMENT TO POST CONVICTION RELIEF APPLICATION (4th PCR. Act.) with a SUMMONS within two separate files have been attached. Upon the below listed of parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

(SC) Attorney General's Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South carolina 29211

Respectfully Submitted

Further, Applicant Said and Notarized

This 10th day of January, 2017. Jose Maldonado

Jose Alberto Maldonado, #312648
Applicant Pro - Se

SWORN TO and SUBSCRIBED Before Me

This 10th day of January 2017.

Cashmere A Amaya

Notary Public For South Carolina

My Commission Expires: _____

My Commission Expires December 28, 2019

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina

File: (4th PCR. Act. Doc.3)

(R.P. 8 - of - 497 20A)

(Attachment: E-IV)
File on: 9-13-2017.
(4th PCR. Act. Doc. 7)

LEGAL

Appx.(A)(3)(7-of-8)

MAR 29 2017

(Attachment: E-III)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

(4757)

Jose Alberto Maldonado, #312648,

Applicant, Pro se,

AUG 01 2017

Refiled on: (Att. PCR. Act. Doc. 6)

V.

State of South Carolina,

Respondent.

Case No. 2015-CP-23-04757

MAR 28 2017

(doc. 5)

AMENDMENT TO POST CONVICTION RELIEF APPLICATION
4TH PCR. ACTION

(Rule 15(a)(b), SCRCP)

FILED
GREENVILLE CO. S.C.
JAN 5 PM 2 20
RAUL U. WICKENSIMER
CLERK OF COURT

The Applicant hereby amendeds answers to number [4 through 19] of his Application for Post-Conviction Relief Action, to state the following:

1. The indictment C/A#:2005-GS-47-0026, upon which the offenses for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);

2. [Ground 4(a)]. The indictment numbers upon which the sentences was imposed, violated the S.C. And U.S. Constitution;

The prosecutor's broadening the charges to include co-nduc within the "State Grand Jury."[1] (Fn.1) Did not incorporate in "original indictments". Violates the S.C. Const. Art. I, § 11; art. V, § 22, and the United States Constitution. Holdings, the Applicant's C/A#.:2005-GS-47-0026/2003-SG-23-45-0047/03-GS-23-45-0045. And U.S.C.A. Const. Amends. 5th, 6th, and 14th. Set this grounds to Applicant's INITIAL BRIEF, ALTERNATIVE PETITION FOR STATE HABEAS CORPUS. At: (Pp. 14, and 15. Argument III. Doc.2). Because, a "Superseding

1. See, S.C. Code Ann. § 17-27-45(C): McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, 627 (2013); State v. Douglas, 411 S.C. 307, 316, 768 S.E.2d 232, 244 (SC. App. 2014); Hendrick v. State, 387 S.C. 221, 692 S.E.2d 892 (2010).

(Attached: (4))

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Greenville)

Jose Alberto Maldonado,)
Full name and prison number (if any) of Applicant)
Applicant,)
v.)
APPX.:(A)(3)(6-of-78))
State of South Carolina,)
Respondent.)
Refiled on: AUG 01 2017)
(4th PCR. Doc.6) (4th))

IN THE COURT OF COMMON PLEAS

(Attachment: "E-II")

MAR 29 2017

(Doc. 5)

APPLICATION FOR

POST-CONVICTION RELIEF

2015-CP-23- 04447

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMER
2015 JUL 31 PM 2 49

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center, 20 McGee Street Greenville South Carolina.
2. Name and location of Court which imposed sentence Greenville County Courthouse 305 East North Street Suite 325 Greenville SC. 29601
3. Name(s) of co-defendant(s) (if any) Mrs. Lisa Lavern Ramirez, Mr. John Nelson Turner, See, others at the C/A#.:05-GS-47-0026,Unknow Co-Defendant(s).
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2005-GS-47-0026/2003-GS-23-45-0047/03-GS-23-45-0045
   (a) Count I, Direct Indictment/28-100 grams,2nd offense,(7-30 years),&(IV)
   (b) At the Sentencing Sheet; The Dec.13, 2005 Indictment, have count (Two).

(R. P. 6-of-497. ROA)

(Attached: (3))

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

Greenville County

FILED
CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 JUL 31 PM 2 49

Appx.: (A)(3)(5-of-8) (Attachment: "E-I")

MAR 29 2017 MAR 29 2017

(Doc. 5)

JULY 31, 2015

JOSE ALBERTO MALDONADO 312648
KERSHAW CORRECTIONAL INSTITUTE
4848 GOLDMINE HWY
KERSHAW SC 29067

Refiled on: AUG 01 2017
(4th PCR Act. Doc. 6)

MR. MALDONADO,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2015CP2304747.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(R.P. 5-of-497, ROA)

(Attached: (2))

APPX.:(A)(3)(4-OF-8)

IN THE STATE OF SOUTH CAROLINA

In The Supreme Court

Appeal From The Greenville County
Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2017-002092
Lower Court Case No. 2015-CP-23-04747
(4th PCR. Act. ORIGINAL CASE NUMBER)

Jose Alberto Maldonado, # 312648, Petitioner,

V.

The State of South Carolina, Respondent.

PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS POST CONVICTION RELIEF ACTION

South Carolina
Department of Corrections

Jose Alberto Maldonado, # 312648
Petitioner, Pro - Se

Kershaw Correctional Institution
4848 Goldmine Higway
Kershaw, South Carolina 29067

(R.P. 4-OF-497. ROA)

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appendix.:(A)(3)(3-of-8)

Appeal From The Greenville County
Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2017-002092
Lower Court Case No. 2015-CP-23-04747
(4th PCR. Act. ORIGINAL CASE NUMBER)

JOSE ALBERTO MALDONADO, # 312648, PETITIONER,

V.

THE STATE OF SOUTH CAROLINA, RESPONDENT.

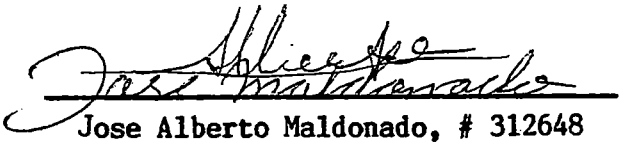
CERTIFICATE OF SERVICE

Undersigned Jose A. Maldonado hereby certifies that on today's date he mailed the **Cover Sheet's PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS CONVICTION RELIEF, with-in a CORRESPONDENCE INFORMATION, ABOVE-CAPTIONED ORIGINAL CASE NUMBER 2015-CP-23-04747. And also the (attachements: "E")** to Respondent, addressed as follows: Megan Harrison Jameson, Esquire, 1000 Assembly Street, P.O. Box 11459 Columbia, South Carolina. And the Original Copy addressed To:

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

Post Office Box 11330
Columbia, South Carolina 29211

Respectfully, Submitted



Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63

4848 Goldmine Highway
Kershaw, South Carolina 29067

Further, Petitioner said and Certify,

This 25th day of October, 2017 (R. P. 3-of 497.ROA)

APPX. (A)(3)(2-of-8)

Court from Greenville County to release the Original Filing, Clock - Stamped, which is actually "Petitioner's (case No. 2015-CP-23-04757), matching the (Attachments: "E") below this information. Petitioner, Pray to this Hon: Court to granting him 10 more days after this Clerk of Court release any information, and the Petitioner pursuit, the action under Rule 243(c), SCACR. had been received on Oct. 25, 2017.

Thank You For Your Valuable Time and Assistance With This Matter.

And Also, I looking Forward to hearing from This Honorable Court sooner, concerning the content of this information.

With Kind Reads:

Your Truly,

Jose Alberto Maldonado, # 312648
The Petitioner, Pro - Se.

cc:

SC. Attorney General's Office
By Megan H. Jemeson, Esquire

(R.P. 2-of-497. ROA)

Exhibit (3)

III) Appendix: (A)(3) (Report Page 1 Through 8)

Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Hihway
Kershaw, South Carolina 29067

October 25th, 2017

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

Post Office Box 11330
Columbia, South Carolina 29211

Re: Jose Alberto Maldonado, # 312648, Appellate Case No. 2017-002092 v. The State of South Carolina.

Dear Clerk, Danil E. Shearouse:

I am in receipt of your October 20, 2017 correspondence, in the above - captioned Appellate Case Number 2017-002092. That you received it from the South Carolina Court of Appeals, and that the "Notice of Appeals" has been transferred.

Please Note: This Honorable Clerk of Court acknowledge's the lower courts filing of the wrong case number (2015-CP-23-04757), yet does not acknowledge the same number and issue is actually a major contentation and complaint within the "Petitioner's Petition." Pursuant to his next due process under the Rule 243(c), SCACR.

Please note the following is the Petitioner's "Lower Court Case No. 2015-CP-23-04747 (4th PCR. Action, ORIGINAL CASE NUMBER) That the Petitioner would be citing; in his "cover sheet of the PETITION FOR WRIT OF CERTIORARI TO REVIEW AN ALTERNATIVE PETITION FOR STATE HABEAS CORPUS POST CONVICTION RELIEF ACTION," also please note the Petition's "cover sheet" of this correspondence and see the Petitioner's (4th) (PCR. Action), application, records of proof, "with-in the actual ORIGINAL NUMBER," that the Clerk of Court docket on July 31, 2015." See: (Attachments: "E-I, E-II, E-III, & E-IV."). Hereinafter, entered those records, with this Honorable Supreme Court.

With-in this correspondent, the Petititioner, ask of this Honorable Clerk, that upon meeting with your approval; please clock-stamp my Petition for WRIT OF CERTIORARI, with the (4th PCR. Action's ORIGINAL CASE NUMBER).

However, If you "can not approve Clock - stamping the Original Case Number. Humbly request you please direct the Clerk of

 (R. Pages, 1-of-497. ROA)

Exhibit (3)
Appx: (A)(3) (Report Page 3)

Jose Alberto Maldonado, # 312648
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

October 17th, 2017

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

Post Office Box 11330
Columbia, South Carolina 29211

Re: Jose Alberto Maldonado, # 312648 Appellate Case No. 2017-002092 v. State of South Carolina.

Dear Daniel E. Shearouse:

Enclosed please find the **Petitioner's Time for Appeal.** In The above captioned petition, with a Certificate of Service.

Thank you for your Valuable time in this matter, in the reference to the above-captioned, first Post-Conviction Relief application case. If this Original Copy file, meets your approval, please, notify the opposite party with this matter, and that you please notify me with any information above my Petition. By a return the Petitioner self-address envolope.

Sincerly, Submitted

Jose Alberto Maldonado, # 312648
The Petitioner, pro - se

Enclosures: (1)

Attachments:(3)(A)(B), & (C)

cc:

Megan Harrigan Jameson, Esquire
Rodney Wade Richey, Esquire

(R.P.iii.ROA)

The Supreme Court of South Carolina

Exhibit (2)

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

II). Appendix: (A)(2)(Report page 2 through 3)

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

October 31, 2017

Mr. Jose Alberto Maldonado, 00312648
Kershaw Correctional Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw SC 29067

Re: Jose A. Maldonado v. The State
Appellate Case No. 2017-002092

Dear Mr. Maldonado:

This responds to your letter dated October 17, 2017. This appellate case involves your notice of appeal in 2015CP2304747.

Very truly yours,

CLERK

cc: Megan Harrigan Jameson, Esquire

(R. P. ii of iii. ROA)

The Supreme Court of South Carolina

Jose Alberto Maldonado, #312648, Petitioner,

v.

State of South Carolina, Respondent.

Exhibit: (1)

Appellate Case No. 2017-002092

I). Appendix : (A)(1)(Report Page 1 throug 3)

ORDER

By letter of this Court dated October 23, 2017, petitioner was instructed to provide the explanation required by Rule 243(c) of the South Carolina Appellate Court Rules (SCACR). Petitioner has now filed a motion asking this Court to direct the lower court clerk to release filings to him, and to grant him an extension until ten days after the receipt of these filings to provide the explanation under Rule 243(c), SCACR.

The motion is denied. Petitioner shall file the explanation required by Rule 243(c), SCACR, within fifteen (15) days of the date of this order.

_____ C.J.
FOR THE COURT

Columbia, South Carolina
November 02, 2017

cc: Megan Harrigan Jameson, Esquire
Mr. Jose Alberto Maldonado, 00312648

(R. P. i-of iii. ROA)

filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Since the order of the circuit court determined that this action is barred as being successive and/or as being untimely under the statute of limitations, Rule 243(c) of the South Carolina Appellate Court Rules requires you to provide a written explanation as to why this determination was improper.[2] This explanation must contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper. The failure to make a sufficient showing may result in the dismissal of this matter.

I ask that you please provide the explanation required by Rule 243(c), SCACR, within twenty (20) days of the date of this letter.

You have filed a motion to hold this case in abeyance. This motion is based on your desire to have a ruling made on various documents dated September 15, 2017, that you filed with the circuit court. This Court has obtained a copy of a letter the circuit court judge sent to you dated October 6, 2017 (copy enclosed). In this letter, the judge indicates that your September 15, 2017, documents cannot be accepted for filing and will not be considered by the circuit court. In light of this, it appears that there is no reason for this Court to consider your motion to hold this

APPX (B) (2 of 4)
Exhibit (4)

---

[2] You did not provide a complete copy of the conditional order of dismissal dated March 10, 2017, with your notice of appeal. This Court has obtained a copy of this order from the clerk of the circuit court. (R. P. 10-of-497. ROA)

APPX. (B)(3-of-4)

case in abeyance since the circuit court has indicated that it will issue no further ruling in this case.

Finally, as to your correspondence dated October 17, 2017, please be advised that Rule 244, SCACR, has no applicability to this case.[3] Instead, this appellate proceeding will proceed in the manner provided by Rule 243, SCACR. As to your question about the appointment of counsel, if this Court determines that you have provided an adequate explanation under Rule 243(c), SCACR, to allow this case to proceed, you will need to submit an affidavit of indigency to the Division of Appellate Defense of the South Carolina Office of Indigent Defense so that it can make a determination as to whether it will provide counsel in this case.

Very Truly Yours,

CLERK

Enclosure (Letter dated October 6, 2017)

cc: Megan Harrigan Jameson, Esquire

(R.P. 11-of-497. ROA)

[3] Rule 244 relates to questions of law certified to this Court by federal courts or appellate courts in other states.

APPX. (B) Page 4)

State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Perry H. Gravely
Judge

Post Office Box 219
Pickens, SC 29671

ENTERED COMPUTER

October 6, 2017

FILED-CLERK OF COURT
PAUL B. WICKENSHAM
2017 OCT 12 AM 9:31

Via U.S. Mail
Mr. Jose Alberto Maldonado, #312648
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC 29067

Re: Applicant's Amendment of Rule 59(f), SCRCP and Post-Conviction Relief Action

Dear Mr. Maldonado:

The Court has received your September 15, 2017, Motion to Alter or Amend this Court's September1, 2017, Order denying your previous Motion to Alter or Amend Judgment dismissing your Post-Conviction Relief claim, filed August 14, 2017. Court Rules do not allow a party to file a Rule 59 Motion for an Order denying a previous Rule 59 Order. Therefore, the Court cannot accept nor consider your repeat filing at this time, and your Motion with all attachments are being returned at this time.

Sincerely,

Perry H. Gravely
Judge

Enclosure: As stated

cc: Greenville County Clerk of Court

(R.P. 12-OF-497 ROA)

The South Carolina Supreme Court

Exhibit: (S)

Jose Alberto Maldonado, # 312648, Petitioner,

Appendix: (C) (Report page 1 through 10)

V.

The State of South Carolina, Respondent.

Appellate Case No. 2017-002092

The Honorable Edward W. Miller
Greenville County
Trial Court Case No. 2008CP2302140

Petitioner's Time for Appeal

South Carolina Kershaw Department
of Corrections

Jose Alberto Maldonado, # 312648
Petitioner, pro - se

Kershaw Correction Institution
Magnolia (B), Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

(R. P. 13 - 1 - 497 ROA)

(Exhibit (5) Appx. (C) (2-of-10))

Time for Appeal

The Petitioner, Jose Alberto Maldonado, hereby Appellate Case No. 2017-002092, had been received on October 13, 2017, between the Court of Appeals.

This Honorable Court of Appeals sent an **"Order"** under the Rule 204(a) of the South Carolina Appellate Court Rules. Signed October 11, 2017; after Petitioner filed **"Notice of Appeal"**, and a **"Petition for Abeyance"**, to appeal the ("4th"), Post - Conviction Relief Action, application Case No. 2015-CP-23-04747. See: (Attachments: C-1, C-2) filed on October 4, 2017, see also, (attached: C-3)'s Certificate of Service. Therein is the proof that Petitioner timely filed his Notice of Appeal, with the Court of Appeals.

Pursuing the judgment within the **Notice of Appeal**, to Hon: Perry H. Gravely, judge. With the due process of Rules. Rule 203, and 208(a), (SCACR), see the (attachment: B).

Further the Petitioner after receiving the **"Order"** and having been made aware that the "Court of Appeals: (Citing, the Post-Conviction Relief Case#2008-CP-23-02140)" and also at the same time the Court of Appeals "sent the Order" to Megan Harrison Jameson, AG's assistant, and the "Petitioner's first; (PCR), application, attorney Rodney Wade Richey, to apealed the Hon: Edward W. Miller, Judgment[?]" See, the Order, (attachment: A).

Petitioner Respectfully ask of this Hon: Supreme Court that, release the full information pursuant of this Case No. 2008-CP-23-02140, and information as to who is going represent the Petitioner in his Petition. See, e.g., State v. Foster, 298 S.C. 306, 397 S.E.2d 907

(R.P. 14 of 497. 20A)

(1989). And this Petition as follows:

At the PCR. application Case No. 2008-CP-23-02140; holding the; (attachment: A), (attachment: B), and (attachments: C-1, C-2, and C-3). Appx. (C)(3-of-10)

After the term on the bench had ended by Honorable Perry H. Gravely judge, that Petitioner's (4th) (PCR. Action), application from October 6, 2017, now Petitioner's questions to timely for appeal has been entered in this Honorable Supreme Court, with the Order under Rule 204(a), SCACR, and the above Case No. 2008-CP-23-02140. Holding the jurisdiction with the Court of Appeals, docket No. 2017-002092. By entered directly the Petition with this Honorable Supreme Court. When Petitioner had been timely filed the appeal. See, (attachments:C), and (attached: B), that departure of the presiding judge under the wrong case No. 2015-CP-23-04757; when the judge, had been returned to Petitioner the Applicant's Amendment of Rule 59(f), SCRCP, October 6, 2017 without the Clerk of court's clock-stamped? So now this Honorable Supreme Court has jurisdiction over the matter to Petitioner, Appellate Case No.: 2017-002092, when the 2008-CP-23-02140 has not been opened to any arguments the Petitioner PCR, application in a civil case. At the time of December 8, 2008 Applicant's hearing, because, there was no interepreter inside the Honorable Edward W. Miller's Courtroom.

Further, this Honorable Supreme Court, should be reversed and remanding the Petitioner his sentence. Upon this Petition, to the lower court in the Greenville County.

(R. P. 15-of-497-ROA)

Conclusion

Appx. (C)(4-of-10)

For the above reasons, a Petitioner enters with this Certification of Questions of law, under Rule 244(a), SCACR, when there are involved proceeding of Case No. 2015-CP-23-04747, before this Honorable Supreme Court, see at Rule 244(b), SCACR, the Court of Appeals released the Order and signed October 11, 2017, and forwarded to this Honorable Court. With that Court of Appeals Clerk of Court's file official seal.

This Honorable Court has the authority under that the Rule 244(c), SCACR. When the Petition's goes directly to the Supreme Court, by a Writ of Certiorari, should be issued to review the judgments in the Greenville County for the Thirteenth Judicial Circuit, on direction the opinion to the Court of Appeals in the South Carolina in Order to address the question presented at this time for Petitioner's appeal.

Done this 17th day of October, 2017

Respectfully Submitted

(R. P. 16 of 497 ROA)

Jose Alberto Maldonado, # 312648
The Petitioner, Pro - se

Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

The South Carolina Supreme Court

Jose Alberto Maldonado, # 312648, Petitioner,

v. APPX. (C)(5-OF-10)

The State of South Carolina, Respondent.

Appellate Case No. 2017-002092

The Honorable Edward W. Miller
Greenville County
Trial Court Case No. 2008CP2302140

Certificate of Service

Undersigned Petitioner pro - se, hereby certify on today's date he mailed a copy of the **Petitioner's Time for Appeal**, and the Respondent, addressed as follows: AG's Office, Alan Wilson, and Megan Harrigan Jameson, Esquire, 1000 Assembly Street, P.O. Box 11459 Columbia South Carolina 29211. And the File Original Copy addressee as follows:

In The Supreme Court
Honorable Daniel E. Shearouse
Clerk of Court

Post Office Box 11330
Columbia, South Carolina 29211

Rodney Wade Richey, Esquire

Post Office Box 10916
Greenville, South Carolina 29603

Further, Petitioner said and Certify
This 17th day of October, 2017

Respectfully, Submitted

Jose Maldonado

Jose Alberto Maldonado, # 312648
Petitioner, Pro - se
Kershaw Corr. Inst. MB/Room 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me
This 17th **day of** October, **2017**
Cathrine A. Cornega
Notary PUBLIC for SOUTH CAROLINA
My COMMISSION Expires:
My Commission Expires December 22, 2018

(R.P. 17 OF-497. ROA)

The South Carolina Court of Appeals

APPX. (C)(6-of-10)

Jose Alberto Maldonado, #312648, Petitioner,

v.

The State of South Carolina, Respondent.

Appellate Case No. 2017-002092

The Honorable Edward W. Miller
Greenville County
Trial Court Case No. 2008CP2302140

ORDER

This case is transferred to the Supreme Court of South Carolina pursuant to Rule 204(a) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY Jay A. Kitchings
CLERK

Columbia, South Carolina

FILED
October 11, 2017

cc:
Jose Alberto Maldonado
Megan Harrigan Jameson, Esquire
Rodney Wade Richey, Esquire
The Honorable Daniel E. Shearouse

(R.P. 18-of-497. ROA)

(Attachment: A)
File: OCT 17 2017

Appx. (C)(7-of-10)

State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Perry H. Gravely
Judge

Post Office Box 219
Pickens, SC 29671

October 6, 2017

Via U.S. Mail
Mr. Jose Alberto Maldonado, #312648
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw, SC 29067

Re: Applicant's Amendment of Rule 59(f), SCRCP and Post-Conviction Relief Action

Dear Mr. Maldonado:

The Court has received your September 15, 2017, Motion to Alter or Amend this Court's September1, 2017, Order denying your previous Motion to Alter or Amend Judgment dismissing your Post-Conviction Relief claim, filed August 14, 2017. Court Rules do not allow a party to file a Rule 59 Motion for an Order denying a previous Rule 59 Order. Therefore, the Court cannot accept nor consider your repeat filing at this time, and your Motion with all attachments are being returned at this time.

Sincerely,

Perry H. Gravely
Judge

Enclosure: As stated

cc: Greenville County Clerk of Court
(R.P. 19-of-497 ROA)

(Attachment: B)
File: OCT 17 2017

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPX. (C)(8-of-10)

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

JOSE ALBERTO MALDONADO, # 312648, Pro - Se,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF APPEAL

Jose Alberto Maldonado, appeal his Post-Conviction Relief Action, application in this Case No. 2015-CP-23-04747. The sentence was imposed by the Alexander S. Macaulay, judge on April 10, 2007. This appeal is taken from the Order of the Honorable Perry H. Gravely presiding Judge - 13th, Judicial Circuit, dated signed August 24, 2017 entered in the Clerk of Court on September 1, 2017, Appellant received written notice of entry of this Order on Sept. 8th, 2017. Addressee as follows:

SC. Attorney General's Office
Alan Wilson,
Assistant Attorney General
J. Glayton Mitchell

1000 Assembly Street
Post Office Box 11459
Columbia, South Carolina 29211

Respectfully, Submitted

By, Jose Maldonado

Jose Alberto Maldonado, #312648
Appellant, Pro - Se,

Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

(Attachments: C-1)

File: OCT 17 2017 (R.P. 20 of 497 ROA) OCT 04 2017

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appx. (C)(9-of-10)

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Honorable Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

JOSE ALBERTO MALDONADO, Pro - Se, # 312648,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

PETITION FOR ABEYANCE

South Carolina Attorney General
Alan Wilson

1000 Assembly Street
Post Office Box 11459
Columbia, South Carolina 29211

South Carolina Kershaw Department
Of Corrections

Jose Alberto Maldonado, # 321648
Appellant, Pro - Se

Kershaw Correction Institution
Magnolia (B), Room, # 63
4848 Goldmine Highway
Kershaw South Carolina 29067

(Attachment: C-2)

File: OCT 17 2017

(R.P. 21-of-497, ROA)

OCT 04 2017

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

Appendix: (C) (Report Page (10))

JOSE ALBERTO MALDONADO, # 312648, Pro - Se,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

(Attachment: C-3)
File: OCT 17 2017

CERTIFICATE OF SERVICE

(R.p. 22-of-497 ROA)

Undersigned Appellant pro - se, hereby certify on today's date he mailed a copy of the PETITION FOR ABEYANCE, and also the NOTICE OF APPEAL. To Respondent, addressed as follows: AG's Office Alan Wilson, 1000 Assembly Street, P.O. Box 11459 Columbia South Carolina 29211. And the File Original two Copies as follows:

The Honorable Jenny Kitchings
Clerk of Court, S.C. Court of Appeals

Post Office Box 11629
Columbia, South Carolina 29211

Honorable Paul B. Wikensimer
Clerk of Court

305 East North Street
Greenville, South Carolina 29601

Further, Appellant said and Certify
This 4th day of October, 2017.

Respectfull, Submitted

Jose Alberto Maldonado

Jose Alberto Maldonado, #312648
Appellant, Pro - Se,
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me
This 4th day of October, 2017

Notary PUBLIC for SOUTH CAROLINA
My COMMISSION Expires: Jan 27, 2025

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

EXHIBIT: (6)
APPENDIX: (D) (Report Page 1 through 16)

October 5th, 2017

The Honorable Jenny Kitchings
Court of Appeals

Clerk of Court
Post Office Box 11629
Columbia, South Carolina

Re: Jose Alberto Maldonado, #312648 Case No.2015-CP-23-04747 v. State of South Carolina.

Dear Jenny Kitchings:

Please find enclosed My Petition for Abeyance, within the "Notice of Appeal," with case document for appeal. And also the you file an original and provide Appellant within case number, or the clock-stamped copy when you received this **Notice of Appeal.** That I can keeping a copy for my records.

Thank you for your kind service in this matter. And I looking forward to hearing from you court sooner, concerning the content of this Petition for Abeyance.

Sincerely, Submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
The Appellant

Enclosures:(4)

Attachments:(2)

Cc: AG's Office.

(R. D. 93 of 497 ROA)

EXHIBIT (G)
APPX (D) (2 of 16)

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

JOSE ALBERTO MALDONADO, # 312648, Pro - Se,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

NOTICE OF APPEAL

Jose Alberto Maldonado, appeal his Post-Conviction Relief Action, application in this Case No. 2015-CP-23-04747. The sentence was imposed by the Alexander S. Macaulay, judge on April 10, 2007. This appeal is taken from the Order of the Honorable Perry H. Gravely presiding Judge - 13th, Judicial Circuit, dated signed August 24, 2017 entered in the Clerk of Court on September 1, 2017. Appellant received written notice of entry of this Order on Sept. 8th, 2017. Addressee as follows:

SC. Attorney General's Office
Alan Wilson,
Assistant Attorney General
J. Glayton Mitchell

1000 Assembly Street
Post Office Box 11459
Columbia, South Carolina 29211

(R.P. 24-01-417 ROA)

Respectfully, Submitted

By, Jose Maldonado

Jose Alberto Maldonado, #312648
Appellant, Pro - Se,

Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

OCT 04 2017

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appx. (D)(3 - of - 16)

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Honorable Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

JOSE ALBERTO MALDONADO, Pro - Se, # 312648,
APPELLANT,

V.

STATE OF SOUTH CAROLINA,
RESPONDENT.

PETITION FOR ABEYANCE

South Carolina Attorney General
Alan Wilson

1000 Assembly Street
Post Office Box 11459
Columbia, South Carolina 29211

South Carolina Kershaw Department
Of Corrections

Jose Alberto Maldonado, # 321648
Appellant, Pro - Se

Kershaw Correction Institution
Magnolia (B), Room, # 63
4848 Goldmine Highway
Kershaw South Carolina 29067

(R.P. 25 - of - 497 ROA)

OCT 04 2017

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(R.P 26-of-497. ROA)

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(R.P. 27-of-497. ROA)

STATEMENT OF THE ARGUMENT PRESENTED

Authomatically stay the time limits for perfecting the Appeal until the Order Granting Applicant's Rule 59(e), In Support, to Rules, Rule 59(b) and 60 (b), (SCRCP). The (attachments: F-1, & F-2), a void Order?

APPX. (D)(6-of-16)

(R. P. 28-of-497. ROA)

STATEMENT OF THE CASE

Appx. (D)(7-of-16)

Appellant moves this Honorable Court of Appeals, to allow Appellant the case held in **abeyance,** until he heard upon a recently filed Motion of Order Granting Applicant's Rule 59(e), In Support of Rules, Rule 59(b), and 60(b), (SCRCP)(doc. 7), filed on: Septber 13, 2017 within the Court of Common Pleas, and also Appellant filed an amendment of Rule 59(f), SCRCP, Motion and (PCR. Act.), application, (doc. 8), issue dated on September 15, 2017. In which the **"JUDGMENT IN A CIVIL CASE was made." When the judge's failure to sign the JUDGMENT together with such Order.** See the Applicant's Amendment, and the Motion, (attachments), below this Petition.

This Rule 59(e), SCRCP, Motion is not already ruled on, under the Applicant's Ordered, that conviction and sentenced are vacated and the case is require to be remanded to the Greenville County Court of the General Sessions for new trial. Then Appellant would wish to amend the Order of Motion 59(f), to the (records), before this Honorable Court of Appeals, sending the Appellant's thirty (30) days of deadline, under the Rule 208(a)(1),SCACR. After the Notice of Appeal enter with this Court. And this Petition for abeyance as follows:

(R. P. 29-of-497. ROA)

Appx. (D)(8-of-16)

ARGUMENT

Authomatically stay the time limits for perfecting the Appeal until the Order Granting Applicant's Rule 59(e), In Support, to Rules, Rule 59(b) and 60 (b), (SCRCP). The (attachments: F-1, & F-2), a void Order?

The Appellant is hereby, advised that the time limits under the filed Motion of Rule 59(e) SCRCP, within ten (10) days of the date of such Motion has been entered with the Greenville's Clerk of Court on August 14, 2017, this court ruled the motion a "fully consideration said Motion," and when this court has reviewed that filed and there does not appear to be any additional evidence to support an amendment to the "Order", previously filed in this matter. This court failed to provided any relevant information to Applicant/or to give adequate time in perfecting the Motion of Rule 59(e), SCRCP, and then denied said motion. See, the Motion of Rule 59(e), SCRCP.

Within ten (10) days and to file an "Ordered Amendment," the Motion of Rule 59(f) SCRCP. the Appellant issue and filed to Greenville County's Clerk of Court, on September 15th, 2017. See, the (attachments) below this Petition: The Motions.

The fact that Appellant is not an attorney does not relieve of the "responsibility to perfect the filed Motion of Rule 59(e), argue dated August 14, 2017." That PCR. Action, judge has the authority to notify the Applicant to "Perfect the Motion" for any "misunderstood statements, or misspelling written" at the time the PCR. Action judge reviewed the Motion. See, the filed Motion of Rule 59(e), filed to the court is total defective, the (PCR. Act-

ion) judge, did not make any specific findings of facts and conclusion of law as to rejected the court, Applicant's (PCR. Action, application), see the Ordered of Rule 59(f), (SCRCP)(R. p.7; fn.2) (doc.7)(Citing, Marlar v. State, 375 S.C. 407, at 409, 653 S.E.2d 266, 267 (2007) see also (R. p, 14)(doc. 7). Appellant, is hereby perfecting the Motion of Rule 59(e), SCRCP, and now enter in this Court of Appeals the copy "Motion from the original" have being file with the Greenville County's clerk of court. And this, Court have the right to review the argument in this action to the Greenville County's Circuit Court. See the "Perfect Motion of Rule 59(e) SCRCP, have been (attached), in comparison to the "Motion of Rule 59(e), when such court already ruled. Therein, is evidence the (PCR. Action), judge did not returned the Motion by Appellant ferfected the Motion." And attached the full judgment Order signed together.

(R. P. 31 of-497. RGA)

I. GENERAL PRINCIPLES

Appx. (D)(10-of-16)

Thus, any discussion of the rights of the Post-Conviction Relief Action, application judge must begin with the well-stablished principle that an Applicant/or Appellant, whether already the court prejudiced the Motion of Rule 59(e), SCRCP, and now merely stay the limits for perfecting the MOtion of Rule 59(e), with the pending Applicant's Ordered to the PCR. Action, application judge. **Therein, this Honorable Court of Appeals Rule as follows:**

> 1. 'But of couse if after the jurisdiction of this Honorable Court attaches, a question arises which aught first to be submitted to the judge, leave to do so may be granted by this Court upon Applicant's "Ordered Amendment", the Motion of Rule 59(f), (SCRCP), by way of anology to the prescribed pratice in the evidence.'
>
> 2. See Supra, this Court held in the Case of Epps v. Bryan, 219 S.C. 309, 65 S.E.2d 113 (1951), that an order issued by the Circuit Court, after an appeal had been taken an abeyance from a previous orders, was void by a like token, this Court hold that any proceedings, relative to the Order of August 24, 2017, entered with the Clerk of Court on September 1, 2017, after the notice intent to Appeal, Final Order of Dismissal, PCR. Action judge signed on 18th, July 2017, Clerk of Court received on July 21th, 2017, See the Motion of Rule 59(e), SCRCP, (Attached: Q-3).
>
> 3. That, the Order from Honorable Perry H. Gravely presiding judge, August 24, 2017, were void Cost v. Florence Printing Co., 237 S.C. 655, 118 S.E.2d 696

(R. P. 32-of-497. ROA)

(1961); Rylee v. Marett, 121 S.C. 113 S.E 843 (1922).

Appx. (D)(11-of-16)

Since the jurisdiction is proper of this Hon: Court of Appeals , to the exclusion of the Circuit Court does not attached until the filing of the "Return and Motion to Dismiss, on March 8, 2017, and Conditiona Order of dismissal filed on March 13, 2017," before an appeal is perfected as require by Rule 240(b)(c), SCACR. S.C. Code Ann. § 17-23-110; State v. Aldret, 333 S.C. 307, 312, 509 S.E.2d 811, 813 (1999)(citing, State v. Williams, 303 S.C. 410, 401 S.E.2d 168 (1991). "A contemporaneous objections is required to preserve an issue for appellate review." It is within the power of the Circuit Court to dismiss an appeal by determining and declaring that this Court has been abondoned, or the right of appeal waived, by failure to take the steps required by law to perfect appeal. And

> 4. The Motion of Rule 59(e), SCRCP, now it has been perfected and the case as presented on the Motion, before Judge Perry H. Gravely was such as to entitle Applicant to the Order of withdraw. When Respondent had faile to prepare his case with exceptions and serve them on the opposite as Applicant within, the statute, clause, 44-53-375(C)(2)(b), 17-27-40, and § 17-27-70. See the filed Ordered, (R. Pp. 22-23)(doc. 7), from September 13, 2017, (citing, section 17-27-70(a), Mandates of Rule 12(a) SCRCP. J. Clayton Mitchell assistant attorney general had failed to avail himself of the remedy provided by the (PCR. Act), application's proceeding. Which is as follows:

(R.P. 33 of-497.ROA)

Appx. (D)(12-of-16)

See, at U.S. Ct. App. 4th Cir. Rule 12(d). Rhines v. Weber, 544 U.S. 269, 125 S.Ct. 1528, 1530 161 S.E.2d 440 (2005); Metters v. Mims, 370 S.C. 529, 533, 635 S.E.2d 640, 643 (Ct. App. 2006)(when reviewing the grant Rule 59(e) SCRCP, of the Order Applicant's Rule 59(e), In Support, to Rules, Rule 59(b), & 60(b), (SCRCP), Motion. This Honorable Court of Appeals applies the same standard which governs the Circuit Court under Rule 56(c), SCRCP: Summary judgment is proper when there is no a genuine issue as to any material fact and that the moving party is entitle to a judgment as a matter of law.

South Carolina is well-settled that until an order is antered by the Clerk of Court, the Post - Conviction Relief Action, application, court judge retains control of the case. See Upchurch v. Upchurch, 367 S.C. 16, 22-23, 624 S.E.2d 646 (2006); Bowman v. Richland Mem'l Hosp. 335 S.C. 88, 91, 515 S.E.2d 259, 260 (Ct. App. 1999)("an Order is not final until it is written and entered by the Clerk of Court, the judge retains discretion to change his mind and his ruling accordingly."); Rule 58(a)(1), (SCRCP); Seroskin v. Seroskin, 381 S.C. 306, 315, 316, 672 S.E.2d 589, 594 (Ct. App. 2009).

Therefore, the oral ruling from the bench was not binding upon the Judgment In A Civil Action Case, against a Jose Alberto Maldonado, see the filed Motion Order Granting Applicant's Rule 59(e), In Support of Rules, Rule 59(b), and 60(b), (SCRCP)(Doc.7)'s (attached: F-2), i.e., Ford v. State Ethics Comm'n, 244 S.C. 642, 545 S.E.2d 821, 823 (2001)(citing, Rule 58, SCRCP).

Further, this Honorable Court of Appeals held an abeyance such Order, from September 1, 2017, and Granting Applicant's Ordered under Rule 59(f), SCRCP, because the "oral ruling from the beanch Order was void and that court "properly withdraw its own order."

(R.P.34 of-497.ROA) 7-of-10

Appx. (D)(13-of-16)

See, First Uniton National Bank of South Carolina v. Hitman, Inc. 306 S.C. 327, 411 S.E.2d 618 (Ct. App. 1991), aff'd 308 S.C. 421, 418 S.E.2d 545 (1992). See, id., in Bayne v. Bass, 302 S.C. 208, 394 S.E.2d 726 (Ct. App. 1990)(citing, Metts v. Mims, 535, 635 S.E.2d at 643. This court stated as follows:

> Until the paper has been delivered by the judge to the Clerk of Court, to be filed by him as an Order in the Case, see the (attached: F-2) it is subject to the control of the judge, and may by him be "withdraw at any time before such delivery..."
>
> 'A judgment is the final determination in the matter of one Jose Alberto Maldonado in an action' "while the written instrument purporting to be the judge in a cause remains in the possession of the judge who is to pronounse it is on no effect, instead (attached: F-2)."
>
> * * * 'Even if as contended by Applicant the (PCR. Act.), application judge granted an oral order to Respondent such pronuncement "is not a final ruling on the merits nor is it binding, see the (attached: F-2) on the Applicant until it has been reduced to writing signed by the judge and delivered for recordation in the record.'"

The Judgment In A Civil Case, at the Respondent's mistake, to introduce the wron case No. 2015-CP-23-04757 had not been signed, and must be in writing and until such time the judge may modify, within the Applicant's right "Post-Conviction Relief Act. Application Case No.2015-CP-23-04747", amend or rescind such an oral order. See also in, Tant v. South Carolina Dep't of Correction, 408 S.C. 334, 343-44, 759 S.E.2d 398, at 403 (1014)("in a situation such as the one on appeal, due process requires the judge's oral pronouncement control over a conflicting writen 'Judgment In A Civil Case' signed together with the Order and filed with the Clerk of Court"). See the Ordered's

(R. p. 35-of-497. ROA) 8-of-10

(attachments: F-1, and F-2). Appx. (D)(14-of-16)

"The time for taking any step or proceeding in the preparation and perfecting of appeal from the Greenville County Circuit Court of Common Pleas to the Court of Appeals, as prescribed by law," may be extended by the judge who heard the cause, or by any one of the justice of the Court of Appeals, the time for this Hon: Court of Appeals to decide and ruling the case, to return back in the Court of Common Pleas. Under Rule 203(b)(1), (SCACR)(Citing, Rule 52(a)(b), SCRCP, when appellant made not later than 10 days, after received of written notice of entry of judgment, September 8, 2017, Taylor v. James F. Byrnes Academy Inc., 290 S.C. 261 266, 349 S.E.2d 888, at, 890 (Ct. App. 1986). The filed Motion of Amendment (doc.8), had been amended to the findings, of the Order's judgment to the "General Sessions Court"; when the judgment from the Court of Common pleas, should be null and void.[Fn.1.] Rule 54(c)(d), SCRCP.

The Notice of such Ordered to the opposite party, Attorney Generals's office, entered with the Clerk of Court in time. Except the time of given this "Notice of Appeal to the opposite party, and now enter with the Greenville County's Court too."

Rather then, the Order Granting Applicant's Rule 59(e), In Support, to Rules, Rule 59(b), & 60(b), (SCRCP), filed (doc.7) on September 13, 2017, and Applicant's Amendment of Rule 59(f), SCRCP, filed (doc. 8) issue dated September 15, 2017. Now have been submitted inside to this Honorable Court of Appeals by reviewing the findings of fact. And **Should be Grant Appellant's Petition for Abeyance.**

---

1. [p]rovided, that whenever a motion for a new trial upon the judge's minutes shall have been made and the decision thereon not be both heard and filed at the term at which the trial is had, then "notice of intention to appeal either from the judgment or the Order Granting a refusal of a new trial shall be given to the opposite party or his attorney within 10 days after receipt of written notice that such Order has been Granted or Rendered." [Emphasis ours]. See id., at 266, 349 S.E.2d 888, at 890 (Ct. App. 1986).

CONCLUSION

Appx. (D)(15-of-16)

IT IS THEREFORE ORDERED, Granting that the Motion of Rule 59(e), SCRCP, and withdraw the order, and in the Alternative to Make More Definite and Certain are granted, with leave of the Applicant, or "Appellant" to amend their Rule 59(f), SCRCP, filed **within ten (10) days**, pursuant to the Rule 59(g), SCRCP. Of the date of this Order Appellant received on September 8, 2017.

Based upon the aforementioned case law, the final effective date of the Post-Conviction Relief Action, Application judge's order is ineffect upon the date the order was entered by the clerk of court on September 1, 2017 not when the order was signed.

The Order was not binding on the Applicant's Judgment In A Civil Action Case 2015-CP-23-04747. And this is a Petition for Abeyance should be grant, until he is heard upon a recently filed Applicant's Motions. See the (Attachments), below this Petition.

Respectfully, Submitted

Done this 4th day of October, 2017 Jose Maldonado

Jose Alberto Maldonado, #312648
Pro - Se, Appellant,

(R. p. 37-of-497. ROA)

Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appx. (D)(Page 16)

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Judge

Case No. 2015-CP-23-04747

JOSE ALBERTO MALDONADO, # 312648, Pro - Se,

APPELLANT,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

CERTIFICATE OF SERVICE

(R. P 38 OF 497 ROA)

Undersigned Appellant pro - se, hereby certify on today's date he mailed a copy of the **PETITION FOR ABEYANCE**, and also the **NOTICE OF APPEAL**. To Respondent, addressed as follows: AG's Office Alan Wilson, 1000 Assembly Street, P.O. Box 11459 Columbia South Carolina 29211. And the File Original two Copies as follows:

The Honorable Jenny Kitchings
Clerk of Court, S.C. Court of Appeals

Post Office Box 11629
Columbia, South Carolina 29211

Honorable Paul B. Wikensimer
Clerk of Court

305 East North Street
Greenville, South Carolina 29601

Further, Appellant said and Certify
This 4th day of October ,2017.

Respectfull, Submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
Appellant, Pro - Se,
Kershaw Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me
This 4 day of October ,2017

Notary PUBLIC for SOUTH CAROLINA
My COMMISSION Expires: Jan 27, 2025

Exhibit (7):
Appendix (E)(R. Pages 1 through 54)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South carolina 29067

September 15th, 2017

Hon: Paul B Wickensimer
Clerk of Court
305 E. North Street
Greenville, South Carolina 29601

Re: Jose Alberto Maldonado, Case No.:2015-CP-23-04747 v. State of South Carolina.

Dear Paul B Wickensimer:

Enclosed please find the proposed Original Copy to Applicant's Amendment of Rule 59(f), SCRCP Motion and Post-Conviction Relief, in the above-captioned case.

If this Amendment meet your approval, under the (PCR. Act.), application, please clock-stamped to be enter in my records and please providing me with a clock-stamped too.

Thank You.

And I Looking forward to hearing from your Court sooner, concerning the content of this Amendment.

Sincerely, Submitted

Jose Alberto Maldonado, #312648
Pro - Se Applicant.

Cc: AG's Office, P.O. Box 11549
Columbia, South Carolina 29211

Enclosures: (1)

(R. P. 39 of 497 ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE STATE OF SOUTH CAROLINA
THIRTEENTH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Pro - Se, Applicant,

V.

State of South Carolina,
Respondent.

(EXHIBIT (7) APPX (E) (1-OF-54))

Case No. 2015-CP-23-04747

APPLICANT's AMENDMENT OF RULE 59(f), SCRCP MOTION AND POST-CONVICTION RELIEF ACTION

Hereby, Jose Alberto Maldonado, moves this Honorable Court to allow him to enter this amendment, in support of the filed Motion of "Order Granting Applicant's Rule 59(e), SCRCP, In Support of Rules, Rule 59(b), and 60(b), (SCRCP), (doc. 7)." In the Order previously filed in this matter. "Initiative of this Court" the Court did not provide additional notice, by the Applicant filed his "amendment Order" after this Court issued the Order on September 7, 2017, at that time Applicant was confined within the Kershaw, Correction Institution's mail room, Applicant received, the Order on September 8, 2017. The filed Motion of Rule 59(e), SCRCP, (doc.6), this Court received on August 14, 2017, the Court amended on August 24, 2017, and filed with the Clerk of Court, on September 1, 2017. See, the Filed Motion (Order Granting Applicant's Rule 59(e), SCRCP. In Support of Rules, 59(b), and 60(b), (SCRCP)), (doc. 7), at (R. Pp. 5, & 7).

However, the Rule 59, SCRCP, is clearly and this honorable Court have jurisdiction over the matter. See, Rule 59(d), SCRCP, not later than ten (10) days after entry of judgment, the court of its own initiative may order a new trial for any reason for which it

LEGAL

might have "granting a new trial on motion of parties." After giving the parties notice and an opportunity to be heard on the matter, the "Court grant Applicant's Rule 59(e) Motion for New Trial , timely served," for a reason the Amendment not had been filed and now this Court allow the enter the "Amendment Order", stated in the Motion of Rule 59(e) SCRCP, from August 14, 2017." When this Court specify in the "Order from September 1, 2017." Rule 59(d), SCRCP. See the Filed Motion Granting Applicant's Rule 59(e) (attached: f-1).

Here, Applicant is asking of Honorable Court that when this Court "specify in the Order the grounds therefore." Applicant failed to not file "Order Amendment." So now the Rule 59(f), SCRCP, within the Applicant's "Ordered that Jose Alberto Maldonado's Conviction and Sentence are Vacated and the Case is Remanded to the Greenville's County Court of General Sessions for New Trial." When the time for appeal for all parties shall be stayed by a timely motion under this Rule 59 SCRCP, and shall run from the receip of written notice of entry of the Ordered "Granting Applicant's Rule 59(e) SCRCP, and the time within to make the motion under this Rule shall not be affected by the "ending of a term of Court" or departure of the judge from the circuit, and the trial judge shall retain jurisdiction of the action for the purpose of hearing and disposing of during the term? Rule 59(f), SCRCP. Appx.(E)(3-of-54)

See the Filed "Order Granting Applicant's Rule 59(e), SCRCP, (doc.7)(R. p. 28); Golden Club, Inc. v. Potter, 328 S.C. 201, at, 218, 493 S.E.2d 826, at 836 (1997)(decision on motion to amend pleading rests within soun discretion of judge); See also: (doc. 7)(R. p. 15); Spreeum v. Barker, 64, 682 S.E.2d 843 (2009)

(quoting, State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009)(citing, State v. Simmons, 279 S.C. 165, 166, 303 S.E.2d 857, at, 858 (1983)(having carfully considering the new trial Motions, fully cognizant of Mr. Maldonado's Amendment). Appx.(E)(4-of-54)

Smith v. Quattleboum, at, 390, 76 S.E.2d 154, at, 157 (1953), Within State v. Pearson, 223 S.C. 377, 379, 96 S.E.2d 151, at 152 (1953). The, Smith, case stated: ("Wherein the time is not limited within the motion must be made"); and Pearson, case;(holding, to identify by the custodian of the records is admissible in evidence for the purposes of showing a prior conviction); State v. Shoemaker, 276 S.C. 86, at, 88, 275 S.E.2d 878, 878 (1981). Pusuant to Section 44-53-390(a)(3)(4).

Enter the Amendment Motion Order Granting Applicant's Rule 59(e) SCRCP, at (R. p. 7)'s (fn.2)(holding, the help under Frank O. Simpson, #354338 PCR Case No. 2014-CP-23-00531. Filed on January 28, 2014. Applicant pursuing under Frank O. Simpson, his Rule 59(e), SCRCP, including the Filed Order Applicant's Motion of Rule 59(e), SCRCP, (doc. 7) at (R. p. 3)(fn.2)(Simpson, argued's Rule 59(e), under McCray v. State, 305 S.C. 329, 330, 408 S.E.2d 127 (2992); see also at, McCoy v. State, 401 S.C. 363, 370, 737 S. E.2d 623, at 627 (2013) (doc. 7, p. 19).

(R. p. 42-of-497. ROA)

Appx. (E)(5-of-5A)

CONCLUSION

Besed on the foregoing, this Court allow the Applicant to Enter the amendment to support the Motion's Order Granting Applicant's Rule 59(e), SCRCP, In Support of Rules, Rule 59(b), & 60(b) SCRCP. Now the Applicant provide, to the Court's Order from September 1, 2017, with the Amendment Order, upon the Order Granting Applicant's Rule 59(e), SCRCP, filed (4th PCR. Act.)(doc.7), below this Amendment, to the Clerk of Court, and Honorable Perry H. Gravely (PCR. Act) application, presiding Judge. Within ten (10) days after the filing a writen Motion from September 13, under this Rule 59(g), SCRCP, Applicant provide a copy of the Motion to the Judge.

Respectfully, Submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
Pro - Se, Applicant.

Kershaw Correction Institution
Magnolia B/Room #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Done this 15th day of September, 2017.

File (4th PCR. Act. Doc. 8)

(R. P. 43-of-497. ROA)

State of South Carolina)
: Appx. (E)(6-of-54)
County Of Greenville)

In The State of South Carolina
Thirteenth Judicial Circuit

Jose Alberto Maldonado, #312648,
Pro - Se, Applicant,

V.

State of South Carolina,
Respondent.

Case No. 2015-CP-23-04747

Applicant's Proof of Service
Proof And Return

I, Jose Alberto Maldonado, a person presently incarcerate at the Kershaw Correctional Institution, do hereby affirm that:

Thus, the Applicant, delivered in to the hands of the Mail room's clerk the "Amendment", in Supported of Rule 59(f), SCRCP. With a first Class Postal Service, duty affix, and return address clearly identify on each enveloped for deposit in the United States Postal Service, have been file with the limitation of Service with the Rule 59(g) SCRCP. Addressee as follows:

The Honorable Perry H. Gravely
Presiding Judge - 13th Judicial Circuit
Post Office Box 219
Pickens, South Carolina 29671

SC Attorney General Office
1000 Assembly Street
Post Office Box 11549
Columbia, South carolina 29211

Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville, South Carolina 29601

Respectfully, Submitted

By, Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Further, Applicant, said and Notarized:

On this 15th day of September, 2017.

SWORN TO and SUBSCRIBED Before Me

This 15th day of September, 2017

Catherine A Arevalo
NOTARY Public For SOUTH CAROLINA

My COMMISSION Expires:
My Commission Expires December 22, 2018

File (4th PCR. Act. Doc. 8)

(R.P. 44 of 497 ROA)

Jose Alberto Maldonado, #312648
Kershaw, Corr. Inst. MB/Room, # 63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Appx. (E)(7-of-54)

Septeber 13th, 2017

Hon: Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville, South Carolina

Re: Jose Alberto Maldonado, Case No.: 2015-CP-23-04747 v. State of South Carolina.

Dear Paul B Wickensimer:

Enclosed please find the propsed Original Copies to "Order Granting Applicant's Rule 59(e), In Support of Rules, 59(b), and 60(b), SCRCP." In the above - captioned case.

If these Motion meet your approval, under this (PCR Act.) application, Please sign and clock-stamped, and forward to the Honorable Perry H. Gravaly, Presiding Judge, For the Thirteenth Judicial Circuit.

And prove an Applicant, with the clock-stamped, under the Rule 4(g), SCRCP, the attach cover latter sheet, upon this Motion, with the Applicant's Proof of Service Proof and Return, include the receipt envelope, be promptly file by the clerk with the pleadings and become a part of the record.

Thank You, for Your Valuable Time In This Matter!!!

Sincerely, Submitted

Jose Alberto Maldonado, #312648
Pro - Se, Applicant.

Enclosures:(1)

Attachments:(6)'s (Alphabetical order; (A) through (f))(15) pages.

Cc: AG's Office, P.O. Box 11549
Columbia, South Carolina 29211

(R.P.45 of 497 ROA)

(4th PCR. Act. Doc. 7)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Jose Alberto Maldonado, #312648,
Pro - Se, Applicant,

V.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Appx. (E)(8-of-54)

Case No. 2015-CP-23-04747

Order Granting Applicant's Rule 59(e) In Support of Rules, 59(b), & 60(b) SCRCP

This matter is before the Court on the pro - se, Applicant Jose Alberto Maldonado's Rule 59(e) SCRCP, motion to alter or amend the amended order dismissing his case 2015-CP-23-04747 application relief (action). When the Responendent failed to answer at the (PCR. Act.) application's arguments pursuant to the following motions of:

1. Initial Brief In Support of the Applicant for Post-Conviction Relief, Alternative Petition For State Habeas Corpus filed on December 22, 2016 (4th PCR. Act.)(doc. 2), and Motion To Address All Issues, filed (doc. 2);

2. Amendment To Post-Conviction Relief, application (4th PCR.Act . Doc.3), the clerk of court clock - stamped on Jan. 25, 2017 , but in this filed motion, the Clerk of Court, or Respondent exchanged the (PCR. Act.) application, the original case number 2015-CP-23-04747.See the April 13, 2017, (doc.5)(attached:"E-III").
   Now entere the (Attachment: "E-IV") below this motion, for Newly Discovery, Evidence, these Evidentiary facts within the the original records of case number, in the face to the Amendment as the PCR, Action, "Certificate of Service." The C/A#:2015-CP-23-04757, without a legal due process to support such action, is a violation's due process to the PCR. application's amendment. By, the introduction of the wrong case number, Compared the (attached: "E-III") files, (doc. 5, & doc. 6) in comparison of ("Attachment: E-IV"), below this Motion. Therein, against the wrong case , with held to this Court. Further, this Court, must withdraw the "final order of dismissal";

3. Motion To Allow Transfer And Consolidate Case Pursuant To Rule 42(a), SCRCP, Between Rule 60(b) SCRCP, entered with the clerk of court January 24, 2017, and a Summons, filed (4th PCR. doc. 4). And also Respondent is in default under General Sessions Court Term, pursuant to Rule 55(a), SCRCP. To answer Rule 60 (b)(4)(5) SCRCP.

(R. P. 46 - of - 497 ROA)

LEGAL

After carfully considering the four (4) post conviction relief action application's motions (attachments), have ~~have~~ reviewed, against the guilty plea transcript, from August 22, 2006, within the sentencing recommendation for (20) years. Before this Court, the evidence would be presented at the time of PCR. Act. Judge call a Mr. Maldonado for a evidentiary hearing. With "a minimum of "two (2) hours, inside the courtroom,[Fn.1]' to a full examination the (State) Respondent's credivility statements towards Applicant's sentencing records. From, April 10, 2007, and his wrong case number, too.'"

The Rule 59(e) Motion, the State's response to the Rule 59 (e) SCRCP, Motion, and arguments presented at the hearing, now "support of Rules, Rule 59(b), & 60(b), (SCRCP), to the Motion 59 (e), the Court has reconsidered the "amended order" of dismissal, withdraws the amended order of dismissal, grants the Rules, Rule 59 (b), (e), & 60(b) (SCRCP, Applicant's motions, and grants Mr. Jose Alberto Maldonado, for Post - Conviction Relief application, filed on July 31, 2015. See: The Motion To Address All Issues' (R. p.2 doc.2) filed Dec. 22, 2016 (Citing, Hendricks v. State, 387 S.C. 221, 223, 692 S.E.2d 892 (SC. App. 2010) "Rule 60

Appx. (E)(9-of-54)

State v. McIntire, 221, S.C. 504, at 519, 71 S.E.2d 410, at 412 (1952). Mr. Maldonado's Motion of Rule 59(e) SCRCP would be heard under McIntire Rule, pursuant his next evidentiary hearing, because his last (3) (PCR.Act. Application) hearing from Oct. 25, 2013 Honorable, Miller judge was prejudiced inside the courtroom, ruled and denied, Applicant's PCR. Action, hearing "was in session to this courtroom, 'no longer then five (5) minutes to ten (10) minutes.'" See the filed, Rule 59(e), SCRCP, Entered with this Clerk of Court August 14, 2017; Motion's (attachments: H-1, through H-10) (doc. 6): Such transcript hearing have been altered by the Edward W.Miller's Court Report. In which Mr. Maldonado submitted a motion under Rule 59(e), and a Motion for "Summary Judgment". See the Motion of Rule 59(e), SCRCP, filed (attachments: ¶(G) through ¶(L)). Report's record showing that. A reply argument. Neither, the Miller Court Order, allow the Respondent to offer any "evidence in order to have the right to the "opening argument and the closing arguments, in the case at bar." Mr. Maldonado is offered to waived the opening argument if the Miller Court PCR hearing would allow him to fully reply to the argument of the solicitor. The Miller PCR hearing from Oct. 25, 2013 refused, but later made his alternative, to "offer me another hearing under the Rule 59(e), and a (2nd PCR hearing April 1, 2014). Therefore, at the time of such hearing Mr. Maldonado voluntarily and 'Non-Contemptuosly vacated the Courtroom'" an refused to participate in his mo-

(b) Motion as an application for PCR."

Appx.(E)(10-of-54)

Procedural History

As a Result of an Illegal Trafficking Arrested On June 26, 2005, The State Charged a Mr. Maldonado With an Illegal Warrants, and Indictments.

Thus, the Attorney General's office, misused the "State Grand Jury's power". From Columbia South Carolina, to used a fraudulent records of indictments' with the Thirteenth Judicial Cicuit Court, Greenville County, and charged? Mr. Maldonado with trafficking methamphetamine, 28-100 grams, and conspiracy for a 2nd offences.

On November 29, 2005 the State called Mr. Maldonado's case before the Hon: Edward W. Miller, for his first guilty plea, and had been sentenced to a seven (7) years. Joyce L. Monts represented the State. James H. Price III. Represented Mr. Maldonado. For a consecutive possession of more than twenty - eight (28) grams of cocaine, indictment 2003-GS-23-4547. This is in violation of Section 44-53-370, and § 44-53-445, indictment from 2003-GS-23-4545, see the "filed Motion from April 13, 2017 (doc. 5) (attachments: C-1, through C-4) for trafficking in cocaine >28 grams, for second offences, and possession with Intent To Distribute cocaine W/in 1/2 Mile, were is an irrelevant quantity of drugs, neither was the Applicant indicted" by the State Grand Jury,'

Continue, Fn.1;

tion hearing April 1, 2014, Applicant before "vacating the Courtroom, on April 1, 2014. Requested of the court; that it grant a motion for counsel to represent him. The Court denied Mr. Maldonado petition, at which, Mr. Maldonado replied, to the Edward Court: "If you (the Court) will not appoint me counsel, for my hearing i will not have been heard." Because, you are in conflict of intertest inside my PCR. application(s). See filed (doc. 5)(attached: G-2). However, the Court in this PCR. Act. has allowed a resonable time in my defense to the "arguments have been presented" before this Court.

(R. P. 48 -of-497. ROA) 3-of-31 File (4th PCR. Act. Doc. 7)

on December 13, 2005 for trafficking in crack cocaine, conspiracy, more "than 400-grams, indictment (2005-GS-47-0026 Count 1-2) and trafficking in methamphetamine more than 400 grams, and called at (State Grand Jury on Feb. 22,2006 > more than 400-grams, Three Counts 3-4). See Filed Motion Apr. 13, 2017 (attaced" A-7), and (attached: B-1). The Respondent's Return Motion To Dismiss/and Conditional Order of Dismissal (R. p. 1) have not supported his argument with this Court. And this Court requires a full review of the merits.

Applicant, pleaded guilty for trafficking methamphetamine, 28 - 100 grams, for a second offence, on August 22, 2006. But the Respondent stated that Applicant pleaded guilty for consecutive time; (1) for "more than 400-grams" of cocaine; and (2) "Respondent did not clarify his statement. With Mr. Maldonado's first, guilty plea, was for 28-100 grams, trafficking in cocaine, and "not for more than 400-grams, of cocaine indicted on (Dec. 13, 2005)." That Court, have to review this argument, for 400-grams guilty plea by Respondent's statements had been miscalculated in his argument against Mr. Maldonado? But see the Motion of Rule 59(e) SCRCP, (attached: M-8, lines 9-17), plea counsel advocated for this result in a sentencing Mr. Maldonado April 10, 2007 and during the guilty plea presentation. Counsel's advice and argument are contrary to the State's Law.

On July 31, 2015, Mr. Maldonado filed his application for post-conviction relief action. The Clerk of Court docket the Num-

APPX. (E)(11-of-54)

Ending, fn.1.

See at, State v. El, 286 S.C. 560-61, 335 S.E.2d 544, at 545 (S.C. 1995); Matter of Bazzle, 276 S.C. 426-27, 279 S.E.2d 370, at 371 (S.C. 1981). S.C. Code Ann. § 40-5-330 S.C. Const. Art. I, § 14, as well the Sixth Amendment of the United States Constitution guarantees an accused the right "to be fully heard in his defense by himself or by his counsel or by both." (Citing, State v. Ballanger, 202 S.C. 155, 24 S.E.2d 175-76 (1943) Herring v. New York, 422 U.S. 853, (fn.13, 863, 95 S.Ct. 2560 45 L.Ed.2d 593 (1975).

ber "2015-CP-23-4747" and filed the "original clock-stamped to the Applicant's confinemant address". See filed (doc. 6) of Aug. 1-2, 2017, Entered with the clerk of court August 14, 2017 (attachments: "E-1, E-II")was Applicant showed prejudice by statement from Respondent's argument in those facts. See Id. Motion of Rule 59(e) SCRCP, Mr. Maldonado again introduced "same evidence" below to the Motion of Rule 59(e), (attachments: "E") is the proof and defence of objection.

This Court must hold to and grant Applicant an evidentiary hearing, to compelling the Respondent's credibility arguments to his "Return and Motion to Dismiss, 'Conditional Order of Dismissal, from March 8, 2017'" with the "Order of Dismissal issued on: July 21, 2017." This, Court must schedule an evidentiary hearing and allow to enter the "Amendment to the Order under the Rules, 59(b), (f), & 60(b) (SCRCP), To Support the Order Entered with this Court on September 1, 2017, writer Order signed on August 24, 2017." Had been denied

Prior to receiving notice of the written order signed on: August 24, 2017 and filed Sept. 1, 2017, by eamail dated 9/7/2017 "Return and Motion To Dismiss", written order signed March 10, 2017, and filed March 13, 2017, by eamail dated March 14-16, 2017', the "Conditional Order of Dismissal" And the "Final Order of dismissal" written order signed on July 18, 2017, and filed July 21, 2017, by email dated July 26-27, 2017."

Mr. Maldonado informed the Court of his objections to the "return and motion to dismiss", and "conditional order of dismissal." Written filed signed March 29, 2017, entered in the clerk of court on April 13, 2017, Applicant filed a response against the "conditional order of dismissal, including the following (attachments: "A-I")("[T]he State Grand Jury of South carolina office of the Clerk of Court, with an information from April 17, 2015") stated that:

This Clerk of Court office said, "we have received your inquiry:

This, inquiry's the filed Motion of Rule 60(b)(5) SCRCP, from March 23th 2015" and is support by three issues of evidence to support the Mr. Maldonado's (PCR. Act.) application, which is hereby granting;

(1). [X] There is no record of said charge; Appx. (E)(13-of-54)

(2). [x] Please speak with your attorney regarding your request; and

(3). Other: This Office has no record of State Grand Jury case regarding this matter.

1). That (attached: "A-I")(doc.5) against the Respondent's Motion By (doc.5)(attachments: A-II, "A-1, through A-11") filed on April 13, 2017. Withing the State Grand Jury from Columbia, Case No.2005-GS-47-26; sentencing sheets, Warrants C/A#: G-530070; the Return and Memorandum In Support of Motion for Summary Judgment should me that I was indicted on December 13, 2005. Which did not match the infomation when the State Grand Jury indicted a Mr. Maldonado;

2). ("Attached: B-I") the Report and Recommendation of Magistrate Judge C/A#:8-11-1372-TLW-JDA, against the (State) Respondent with the issue dated in the indictment from the State Grand Jury's indicted at a sessions of the state grand jury of SC. Convened in Columbia, on February 22th, 2006, see (attached: B(1), through B(4), and the ("attached: B-II"). That is clear error from AG's office;

3). The (attached: "C-I") is the sentencing sheets, with the whole records, by Mr. Maldonado his 1st. Sentenced, Warrant No.G-803304, the indictment from June 24, 2003, in violation of Section § 44-53-370 sentenced sheet of Code of Laws, bearing CDR Code # 0388, the (Attachments: C-II, C-2), indictment from June 24, 2003, in violation of § 44-53-0445, sentenced sheet of the S.C. Code of Laws, bearing CDR Code No.: 0107, Warrant, H-441256, (attachments:C-3, C-4, and C-6);

4). The, (attached: "D-1") is the Summons, against the Respondent within (2) days, Mr. Maldonado, was granted answer to his PCR. Action, when this Clerk of Court clock-stamped on January 25, 2017;

5). That, two (2) (attachments: "E"):(1) is Return and Motion to Dismiss, and (2) the Conditional Order of Dismissal, this, is evidence, to this Court, that the wrong Case No.: 2015-CP-23-04757 from the Respondent's Final Order of Dismissal (R.p,2); see (attached: E-I), the cover sheet from July 31, 2015, that's visual facts and showing it to the Court the valid Case No.:2015-CP-23-04747. The motions to the AG's office, against himself, by the (attachments: E-I,& E-II). Therein, is the "Original C/A#.:2015-CP-23-04747" PCR. Act. Application. Mr. Maldonado, has with him the Original clock-stamped, from This "Clerk of Court," see the (attached: E-III)(Mr. Maldonado, belived that, the clerk of court, or the Respondent exchanged the

Case 2015-CP-23-04757 pursuant to the Applicant's "Amendment To Post-Conviction Relief application 4th PCR Action" when they marked with a black mark, and also (introduced the "four numbers of: 4757") see the (attached: E-III) there is the objection of the evidence in such action by both, the Clerk of Court, and Respondent's actions; and

6). See the (attachments: E-1) the Order from ALC judge's "DISCUSSION" at p.3 (attached: E-3) the judge discussion said: ("The Appellant was "Convicted of Trafficking Methamphetamines pursuant to section 44-53-375(C)(2)(b), of the South Carolina Code.'" And also ruled that offense's classified as a (A) folony, pursuant to section 16-1-90(A). A (A) felony is one to which a penalty of not more "that thirty years applies," as stated in section 16-1-20(A). See (attachments: E-1 through E-5) thus, the decision of the ALC judge is affirmed? So, Mr. Maldonado, as (waiting for, the Supreme Court to rule on the Applicant's pending motion with the Supreme Court), above the ("ALC's ruled Order, and affirmed his sentenced under § 44-53-375(C)(2)(b)"), and now there appears to be additional evidence to support an amendment, against the Order from Sept. 1, 2017. Previously filed in this matter.

Therefore, Mr. Maldonado "Request for Default Judgment/And a "Order to Strike the case No.2015-CP-23-04757'" pursuant to Rules Rule 12(a)(b), & (f), 55(a)(b)(c), (SCRCP): As Law Sanction, and "Affidavit of Truth," within a litany of (attacments), against the "Respondent's various actions," challenging Applicant conviction, with the, (State) of South Carolina Dep't of Corrections. APPX. (E)(14-of-54)

The Court amended the Order August 24, 2017, and filed with the Clerk of Court, on September 1, 2017. On August 1, 2017, Applicant served a Rule 59 (e), SCRCP, Motion. The Court received on August 14, 2017. Fn.2.

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2. Mr. Maldonado raised his Rule 59(e) SCRCP, and him seeking review under this two (2) cases(1) Frank D. Simpson, #354338 PCR Case 2014-CP-23-00531. Filed on January 28, 2014, his motion of Rule 59(e) entered on March 30, 2015, Mr. Maldonado, argue under Simpson's Rule 59(e), motion at, (R. p.3, fn.2). When the prosecutor, "Mrs. Monts Summarized the actual background, provided a Mr. Simpson his 'prior record and recommended' a cap of (15) years." See Mr. Simpson's guilty plea before he pleaded guilty. (Transcript, p, 18 lines 1 - 19); and (2) Repondent was in error to notify the Applicnat, to filed his Notice of Appeal," and tried to denied, the Applicant's right to file with the help of rule 59(e). This Court failed to signed the Order below of Rules, Rule 203, & 227 (SCACR), see, at, Marlar v. State, 375 S.C. 407, at, 409, 653 266, at 267 (2007). In this case the Defendant's failure to file "a motion asking (PCR) judge to make specific findings of fact and conclusion of law as to rejected postconviction relief challenges rendered these challenges waived for appellate review. Procluding further review on the merits. U.S.C.A. Const. Amend. 14th. See id.

APPX.(E)(15-of-54)

On July 31, 2015, Mr. Maldonado filed his application for post-conviction relief action. The Clerk of Court docket Number 2015-CP-23-04747 and filed the "Original clock-stamped" to Applicant his confinement address. See. (doc.5) filed on April 13, 2015, (Attachment: "E-I & E-II") an also see same information to Motion of Rule 59(e) SCRCP, (Doc.6)(Attachment: E-II, and E-III). This, Court have to schadule an evidentiary hearing, by compelling, with Respondent motions credibility, see the (Attached: "E-IV"), below this motion against Respondent's Return and Motion to Dismiss, Conditional Order of Dismissal, from March 8, 2017, and now issue filed Final Order of Dismissal, on 7/21, 2017. See, (same) issue of case action, upon the Mr. Maldonado name, C/A#: 2013-CP-23-00432, issue filed from, Mrs. Sylvia Harrison, and Walter Wilkins, solicitor Thirteenth Judicial Circuit, when same clerk of court introduced a case that has nothing to do with my name. And Applicant has complained what does such a "summons", and the "complaint," have to do with Mr. Maldonado? Hereby, such action by Respondent and the clerk of court from Greenville County, must release the records, pursuant to "November 19, 2013" when the "Clerk of Court responded in direction of "summons," and the solicitor's "Complaint", see below this Motion (attached: B-1) and (attached: D-1), the Clerk of Court rejected my Complaint above, and said that "Mr. Maldonado was not a party in the case No. 2013-CP-23-00432." Petitioner respectfully argued under the same matter, to respond with the Respondent's Case No.: 2015-CP-23-04757, and he instead provided the records of (attachements: B-1, B-2, & B-3)(attachments: C-1, & C-2), and (attachements: D-1 through D-5). This Court must hold an evidentiary hearing to see if the Respondent statements are truth or untrue, Under, the Rules, Rule 59(b) and 60(b), agaisnt the judgment, of his post-conviction

(R. P. 53-of-497. ROA) 8-of-31 File (4th PCR. Act. Doc. 7)

relief action application case number 2015-CP-23-04747.

Appx. (E)(16-of-54) **Finding of Fact**

The following occurred, during Applicant's denial Post-Conviction Relief Action Application Case No. 2015-CP-23-04747/and the Argument would be to Compulsory Process Against Relief under the Guilty Plea Colloquy:

Mr. Maldonado's Motion of Rule 59(e) SCRCP filed (doc.6 at R. P. 10 "**III. Statement of Fact (A. Guilty Pled Record))**". That, the evidence presented here of S.C. Law Review 467, set in this Section:

A. Lost Opportunity for Sentencing Reform; Plea Bargaing and Barrier To Effective Assistance.

This section will summarize the facts contained in the guilty plea record and the evidence presented during the post-conviction relief application subject to his next hearing. See at Section 17-27-80 the post conviction relief action Judge is subj-act to finding of facts during sentencing harm inside of Mr. Maldonado Plea Bargaining by null and void, Section 44-53-375(C)(2)(b). And argues as follows;

(in one case the attorney failed to inform the client of the opportunity, and in the other the attorney counsels the client against a plea). Fn.3.

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3. See id., at Fn.11, 861-63, 95 S.Ct. at 2555, Fn.13, as the rights to compulsory process, to confrontation, and to counsel developed, the adversary system's commitment to argument was neither discarded nor diluted. Rather, the reform in procedure had the effect of shifting the primary function of argument to summation of the evidence at the close of trial, in contrast to the 'fragmented' factual argument that had been typical of the earlier common law see id., at, fn.12, see: Generally 5. R. Anderson Whaton's Criminal Law and Procedure's 2077 (1957). Cf. America Bar Association, Project on Standards for Criminal Justice. The Prosecution fuctions.

Missuri v. Frye, 566 U.S. 133, , 132 S.Ct. 1399, 1402 182 L.Ed 2d 379 (1912)(noting the defendant's attorney deficiently let the plea offer expire) (quoting, Strickland v. Washington, 466 U.S. 668). See, also Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1986)(Citing, Strickland v. Washington (1984); and Martinez v. State, 304 S.C. 39, 403 S.E.2d 113(1991). Specifically, the Court hereinafter, found that defense counsel had been ineffective in not communicating the plea offers to "Mr. Maldonado, Frye," and concluded that Mr. Maldonado had shown that , in his First, PCR. application, were this court before the Edw-W. MIller, judge had never heard the argument for ineffective assistance of counsel at the "amendment PCR", neither second, and the last (third PCR. Action) application. And now Mr. Maldonado stated in his (4th PCR. Action), application, was the actions of counsel at trial, and the first PCR application was deficient performance caused Applicant prejudice because he pleaded guilty to a felony that "Applicant never plead to nor indictment of Code § 44-53-375(C)(2)(b)," and for that, the trial court never entered a guilty plea, with the "right section."See, (Attachments: C-I, & II) Filed 8/14/2017.

This Court Lack of Jurisdiction Matter, under Frye, (holdings, this case -had shown that counsel's deficient performance lcause him prejudice at his "guilty plea" to a felony for "a consecutive offence") Frye, 132 S.Ct. at 1402. See Mr. Maldonado guilty plea for his second offences; and the State recommended, it at his sentencing hearing the "twenty (20) years? which counsel never rejected, or made any objection to defend, at the sentenced recommendation, argued, the invalidity guilty plea, does that not

existed any record with the "court of general sessions for the 13th Judicial Circuit, plea agreement, the Defendant, Mr. Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28- - 100 grams by conspiracy, second offense, a violation of S.C. Code Ann.§ 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment No. 2005-GS-47-26 Count I, &, Count IV) See File Motion Rule 59(e) SCRCP, (Doc.6)(Attachments: D-1 through D-5) issued on: August 1-2, 2017. Therein, is no sentence against a Mr. Maldonado, for a second offence from the State's recommendation of twenty (20) years to run concurrent with the other indictment. See at (Doc. 5)(Attachments: "C-I, C-II"); and (Attachements: C-1 through C-6), the records for Trafficking in Cocaine, First offensed. Defense counsel was ineffective, and against conflict of interest by (State government, (SLED), as represented by former, "Attorney General Henry McMaster, now is a Governor, with the State of South Carolina," Jennifer D. Evans, Chief, State Grand Jury, and Former Assistant Attorney General Susan O. Porter. APPX. (E)(18-of-54)

Held:

1. The Sixth Amendment right to effective assistance of counsel extends to the consideration of plea offers that lapse or are rejected That right applies to "all 'criminal' stages of the criminal proceedings." Montejo v. Louisiana, 556 U.S. 778, 786, 129 S.Ct. 2079, 173 L. Ed.2d 955 (2009); Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 88 L. Ed.2d 203 1985) established that "Strickland's "two-part test governs ineffective assistance claim" in the plea bargain context . See Motion of Rule 59(e), SCRCP, (Doc. 6)(Attachments: D-1, through D-5) issued of April 13, 2017.

2. There, the Mr. Maldonado had alleged that his counsel had given him inadequate advice about his plea, but he failed to show that he would have proceeded to trial had he received the proper advice,

474 U.S. at 60, 106 S.Ct. 366. In Padilla v. Kentucky, 559 U.S. , 130 S.Ct. 1473 176 L.Ed.2d 284 (2010) where a plea offer was set aside because counsel had misinformed the defendant of its immigration conseq-uense, this Court made clear that "the negotiationa of a plea bargaing is a critical" stage for ineffective assistance purposes, id., at 1392 , 130 S.Ct. at 1486 and rejected the argument made by the State in th-is case that a knowing and voluntary plea supersedes defense counsel's errors. This court held that when finding the State attempts to disti-nguish Hill and Padilla from the instant case. In notes the Hill and Padilla concerned whether there was ineffective assistance leading to acceptance of a plea offer. Hereby, Mr. Maldonado's offered, without mentioned or recommendation a twenty (20) years, under("Section 44-53-375(C)(2)(b) a unknowing and voluntary plead supersedes defense counsel's errors.") "....a process involving a formal court's appearance and called a Mr. Maldonado with all counsel presented, while the "Administrative judge for above "Statewide Grand Jury case," which is part of something referred to as 'Operation Ice Cream'", from January 23, 2006 before the Hon: James W. Johonson, Jr. c/o, represented a Richland County Genral Sessions Court, but the appearence was in Greenville County's Courtroom. See the (Attached: A-1), Mr. Maldonado's counsel was informed with a letter from January 24, 2006 that "he had been failed, at the 'arraigned om a sealed indictment....'" that "reported of his letter, called him (counsel) an idiot for not appearing with Mr. MAldonado on a 'sealed indictment.'" When this indictment had/or has any of records with the "State Grand Jury that have been sealed," this is an untrue stament by defense counsel in his letter, from January 24, 2006; records of indictment did not exist with the state grand jury; that, legality have been under sealed indictment. See (attachment: "A-I"), at (doc.5) filed on April 13, 2017), and the Motion of Rule 59(e), SCRCP, (attachment: M-11, at line 17) the trial judge, clearly said to Mr. Maldonado that (he didn't has a copy of the indictments or indictment for, for a second offence), instead the Section 44-53-375(C)(2)(b) et seq. Petitioner, have merits with this (Three Issues of Evidence): One, is from the Trial judge's guilty plea (attached: M-11, line 17); second, from the State Grand Jury Office's April 17, 2015, stated that Petiti-

oner did not have record of said charged, and also, this office stated that Mr. Maldonado must speak with his attorney regarding his request, The AG's Office has no record of a 'State Grand Jury" case regarding matter? See (attached: "A-1") at (doc.5) filed of April 13, 2017; and Third, the letter from January 24, 2006, was defense counsel said that the Mr. Maldonado "was arraigned on a sealed indictment." On 'Monday, January 23, 2006'" he argued that neither the General Sessions Court's Clerk of Court from Greenville County had notified, him that Mr. Maldonado was going to been arraigned on a sealed indictment? See, (attached: A-1), below this Motion. Appx. (E)(20-of-54)

Mr. Maldonado, is involved with his charges, and when a plea offer has lapsed or been rejected; and it exist that there is no right to receive a plea offer in any event. Neither at his August 22, 2006 of the State failure's recommendation before pleading guilty for twenty (20) years. Susan O. Porter the Recommendation at the guilty hearing; and

3. Thus, the State contends it is unfair to subject it to the conseq-uences of defense counsel's inadequacies when the opportunities for a full and fair trial, or for a later guilty plea albeit on less favorable terms, are preserved. While these contentions are neither illogical nor without same persuasive force, they do not suffice to overcome the simple reality that 97 persent of federal convictions and 94 persent of State convictions are the result of guilty pleas. Plea bargains has became so central to today's criminal justice system that defense counsel must meet responsibilities in the plea bargain process to render the adequate assistance of counsel that the Sixth Amendment requires at critical stages of the criminal process. Pp. 1405 - 1408. See S.C. LAw Review 467 Section III (note 84-85, & 86). See ante in this Motion (p, 9. Fn.3). (in both cases, the plea offer is the opportunity, and the harm is the Mr. Maldonado defendant's lost opportunity to reduce his sentence lower that seven (7) years, and didn't go up to ("sixty (60)) years, sentenced)? Lafyler v. Cooper, 566 U.S. 156, at, 160, 132 S.Ct. 1376, at 1383 182 L.Ed.2d 398 (2012)(nothing the defendant's laweyer counseled him to reject the plea offered). Frye, 132 S. Ct. at, 1404, 1405; Lafler, 132 S.Ct. at, 1380.

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Appx.(E)(21-of-54) **Conclusion of Law**

In his 2015-CP-23-04747 application for Post-Conviction Relief Action, Mr. Maldonado contends he "was denied an opportunity to have his ("PCR Act." application claims adjudicated by a Judicial Officer.")under the S.C.Code Ann. § 17-27-80 (1976), requires the PCR court to .make specific finding of fact, and state expressed its conclusion of law, relating to each issue presented .'" See, e.g., Marlar v. State, 375 S.C. 407, 409, 653 S.E.2d 266, 267 (2007). A "defendant's failure to file motion asking post-conviction relief (PCR. Act.) judge to make specific finding of fact and conclusions of law as to rejected post-conviction relief action" challenges waived for appellate review, precluding further review on the merits. McCray v. State, 305 S.C. 329, 330, 408 E.S.2d 127 (1992). This Court did not do that, but rather delegated that responsibility to the attorney general's office. See, e.g., Pruitt v. State, 310 S.C. 254, 423 S.E.2d 127 (1992). Therein, the Court's eamail the "Final Order of Dismissal, on July 21 - 27, 2017", the order come Sept. 1 - 8, 2017, and this Court did not review Applicant's (PCR. Act), application, does not contain any findings of fact or conclusions of law. That Mr. Maldonado received on Sept. 8, 2017, but rather delegated that responsibility to the Attorney General's Office. And Mr. Maldonado does not know the Court's reasons for denying his 2015-CP-23-04747 ("PCR. Act.") application. Therefore, is "insufficient for appellate review." McCray, 305 S.C. at, 330, 408 S.E.2d 214; Marlar, 409, 653 S.E.2d at, 267. Although the Attorney General addressed the merits of each issue presented under the final order of dismissal the reasoning in the order is entirely that of an advocate and not an independent ju-

dicial officer, when the PCR. Act. judge did and signed the order without "Making specific findings of fact," which violates the separation of powers. South Carolina Constitution Article I, § 8 McConnell v. Hayle, 393 S.C. 136, 139, 711 S.E.2d 886, at, 888 (2011). Appx. (E)(22-of-54)

Newly Discovery Evidence

The Thirteenth Judicial Circuit Court Post-Conviction Relief Judge should withdraw the "Order" signed on Aug. 24, 2017 and make its own finding of fact and conclusion of law. Absolute on the excessiveness of the AG's office, with held to this judicial circuit Court" only if the amount is so grossly inadequate or excessive so as to shock the conscience the result of passion, caprice, prejudice, partiality, corruption, or same other improper motives, Rule Civ. Proc., Rule 59 Brinkley v. South Carolina Dep't of Corretions, 386 S.C. 182, 687 S.E.2d 54 (SC. App. 2009); Elam v. S.C. Dept' of Transp., 361 S.C. 9, 602 S.E.2d 772 (2004).

To obtain relief from judgment based on "Newly Discovered Evidence, in this action 2015-CP-23-47(57) (PCR. Act) application Proceedings," Mr. Maldonado, must establish that the "Newly Discovered Evidence:(1) is of such magnitude that had the court known of it earlier," the outcome would likely, have been different;(2) has been discovered since the trial, and the wrong case the AG's office introduced a s2015-CP-23-04757 was not match with the PCR. Act. application. Applicant filed on July 31, 2015;(3) could not have discovered before the PCR hearing, or trial;(4) is material to the issue; and (5) is not comulative or impeaching. Rule 59(b), and 60(b). Spreeuw v. Barker, 385 S.C. 45, 682 S.E.2d 843 (2009). Mr. Maldonado, filed a

Rule 60(b), SCRCP, with the General Sessions Court Term, in the Greenville County Clerk of Court, for ("second time"), and last filed, Applicant was served one copy to the "Motion of Rule 60(b)(5), SCRCP, within the "State Grand Jury Office," "Richland County's Clerk of Court fifth judicial circuit," because, in this clerk of court, fifth judicial circuit, Mr. Maldonado has records, or evidence, to show his incarcerated within the County Jail on June 27, 2005, through out August 2005, and also the ("SLED")'s office had known with same copy to his Motion of Rule 60(b)(5) SCRCP, but such offices did and returned back his filed motions.

However, on April 17, 2015, the "State Grand Jury Office release the "Newly Discovery Evidence" and as a rule, under the S.C. Code Ann. § 17-27-45 (C). See ante of this Motion, (p,6), and also see the filed Motion of Rule 59 (e) SCRCP, (doc.6), From August 14, 2017, at (Pp. 5, & 9). That it's the Newly Discovered Evidence, and Mr. Maldonado after receiving it, did immediately ... informed the General Sessions Court, with another Motion of Rule 60(b)(4) SCRCP, which is a filed: "Notice of Motion", "Motion To Supplement the Pleading", and the "Motion To Reopen Judgment with Memorandum of Law". Issue filed on May 26, 2015, (doc.3). See, at the filed Motion's (Pp, 4, & 5), pursuant to Rule 29(b) SCRCrimP. Explained that: For a ("New Trial Motion, after-discovered evidence." is [A] Motion for a "New Trial based on After - Discovered Evidence must be made within a reasonable period of time after discovered of evidence, (Citing Calderon v. Thompson, 523 U.S. 538, at, 557, 118 S.Ct. 1489, at, 1502 (1998); see also State v. Campbell, 376 S.C. 212 , fn.1, 216, 656 S.E.2d 371, at, 373 (2008). See at, (fn.1) stated that:

> To prevail on Motion for New Trial based on After-Discovered Evidence, a Defendant must show;(1) the Evidence is such as will probably change the result if a New Trial is granted;(2) the Evidence has been Discovered since the Trial;(3) the Evidence could not have been Discovered prior to Trial by the exercise of due diligence; (4) the Evidence is material; and (5) the Evidence is not merely cumulative or impeaching. (Quoting, State v. Needs, 333 S.C. 134, 508 S.E.2d 857 (S.C. 1998).

Thus, that Newly Discovered Evidece's from April 17, 2015 against the Applicant's sentence from April 10, 2007, upon the, indictment Case No. 2005-GS-47-26, when the State presecuted a Mr. Maldonado, under Section 44-53-375(C)(5) at his second trail, for second offences. The "State Grand Jury Clerk of Court recognize the mistaked from, April 13, 2005, see the filed "Return and Response to Motion of Dismissal/and A Conditional Order of Dismissal, (p, 14)'s (attachment:A-II) is the "MEMMORANDUM", Information at Case No 2005-GS-47-26, subject, of file to (SCDOC) C/o "Inmate Records P.O. Box 21787 Columbia S.C. 29221, and Susan Porter, Esquire." This, Court must support (PCR. Act. Application), when the Greenville County's clerk of court receipt of the application, and docket the PCR Act. application 2015-CP-23-4747, and deliver copies to the AG's office, and the solicitor of the Circuit in which the applicant was convicted pursuant to S.C. Code Ann. § 17-27-40. This Section deal with Docket, and delivering PCR applications?

Therefore, Mr. Jose Alberto Maldonado contends that there is evidence of material facts not previously presented and heard that requires vacating of the conviction or sentence, and there's the PCR. Action application, against the state grand jury information to April 17, 2015. The records previously present in this matter, and including the filed "Return And Response To Motion of Dismissal/An A Conditional Order of Dismissal/ (doc.5). Filed April 13, 2017, has lapsed by the Respondent, "up to two (2) years, delated" to respondend the PCR. Action, application.

When the application, was filed under this chapter within one year, after the date of actual discovery of the facts by the application C/A#:2015-CP-23-04747 or after the date when the facts

could have been ascertained by the exercise of reasonable diligence. See S.C. Code Ann. § 17-27-45(C), et seq.

This Hon: Court failed in signed the Order from Sept. 1, 2017. When Applicant had been showing and demonstrated the requisite no prejudice or merit to his application, and as no patently successive and filed well-beyond the prescribed statute of limitation, under Section 17-27-45(C). See U.S. v. Marino, 785 F.3d 79, at, 83, 84 (3rd Cir. 2015). Applicant, assert under Marino, and now turn to the Respondent's argument that 18 U.S.C.A. § 3583(i) is subject by supervising release to equitable tolling that argument at his application is patently successive prescribed statute of limitations, was is not pantly successive, because it's not a "jurisdictional provision to the statute of § 44-53-375 (C)(5)." This Court, must hold and assess this position in light of Dolan v. United State, 560 U.S. 605, 610, 130 S.Ct. 2533, at, 2538-39 177 L.Ed.2d 108 (2010), in which the Supreme Court provided guidelines for the classification of federal statutory deadlines, the consequences for noncompliance with such deadlines, and the availability of tolling. The Dolan framework divides federal statutory deadlines into three broad categories, based in large part on the "statutory language,[] the relevant contex, and[] what they reveal about the about the purposes that certain deadlines are "jurisdictional," in the sense that they "prevent[] the court from permitting or taking the action to which the statute attached the deadline. See id., at, S.C. Code Ann. § 17-27-45(C); and 18 U.S.C.A. § 3664, at FRCrimP. Rule 32. The prohibition is absoluted.

The Petioner cannot waive it, nor can a court extend that deadline of one year of limitation period after "Newly Discovered Evidence, had been filed under this § 17-27-45(C)" for equitable reason." See, id.

Furthermore, compliance with the statutory time limit is discretionary with the PCR action application judge. This exception is commonly known as "the discovery rule." When considering the State's motion for summary dismissal of Application for postconviction relief, where no evidentiary hearing has been held, the judge must assume facts presented to the applicant. Code 1976 § 17-27-80. When the time limitation, in § 17-27-45(A), hereby Applicant "did not appealed" his first PCR, for ineffective assistance of PCR counsel, an Applicant was revised the first remittitur, in his second PCR application? Provides that, where a defendant appeals his conviction (as Petitioner did), the one-year period being the date the remittitur is sent by the appellate Court -not the date of conviction. Further, the PCR. Action application judge apparently overlooked the discovere rule in Section 17-27-45(C), which allows one year after the discovery of "material facts not previously presented and heard that require [] vacation of the conviction or sentence" to file a PCR. Act. Application. McCoy v. State, 401 S.C. 363, at 370, 737 S.E.2d 623, at, 627 (2013); Coats v. State, 352 S.C. 500, 575 2d 557, at 558 (2003); Pettinato v. Eaglenton, 466 F.Supp. 2d 641 (S.C. D. Ct. 2006) at, 28 U.S.C.A § 2244(d)(2); and section 17-27-45(a), & ¶(C).

B. The State's Response And Necessity For Hearing

The State, as respondent, is require to answer the allegations within thirty days, or within such time as the court may allow. See Code 1976 § 17-27-70(a). The State failed to respond within the specified period, the applicant filed motion in default for the (second time);(1) is in his Motion of Rule 60(b)(4), SCRCP; and (2) in his PCR. Action application, on April 13, 2017, was conclusively showing he was prejudice by the State's delay in order to received the

relief requested by the (PCR Action application, case No.: 2015-CP-23-04747). Kneece v. State, 269 S.C. 177, 236 S.E.2d 746, 747 (1977)(per curiam)(Citing, Harring v. State, 262 S.C. 597, at, 598, 206 S.E.2d 885 (1974)(Holdings, that:

> Harring, argued in this court in his PCR. alleging error in his initial sentence as an adult offender. It was his contention that he should have been sentence under § 55-395(a), (b) or (c). He argues that he (a Youth offender could not be sentenced under subsection (d) without an explicit finding in the record by the sentencing judge that he would not derive benefit from treatment contemplated by subsection (a), (b), and (c)). Hereby this Court Affirmed Harring his sentenced upon the "statute."

Mr. Maldonado's arguments have been raised and alleging under a Section 44-53-375(C), (2) & (b), could not be sentenced under subsection (C), (2), & (b) without an explicit finding in the record by the sentencing judge, see filed Rule of 59(e), SCRCP, the (attachments; M, & N) From August 14, 2014 (doc.6). That Applicant would not derive benefit from treatment contemplated by subsection (C), (2),& (b)? Because in his guilty plea for consecutive possession of more than 28 grama, of cocaine, this is in violation of §§ 44-53-370, 44-53-445, and a Traffick-ing Methamphetamine, 28-100 grams, against Applicant for a second offence. There, showing of prejudice, Respondent, and PCR Act. Judicial error at the, Final Order of dismissal, pursuant to Applicant's sentenced with the records of indictment at Section 44-53-375(C), at ¶(5). See Filed Rule of 59(e), SCRCP, entered with this Court on August 14, 2017, (doc.6)'s (attachments; O-1, & O-2) "Subsection (C), ¶(5) for, "four hundred grams or more, Applicant's plea was for 28-100 grams, at his second off-ence. And, now turn to the Respondent's Final Order of Dismissal (R. p.3) the requisite prejudice to his Final Order of Dismissal? See e.g., Harring, 598, 206 S.E.2d 886 (1974)(per curiam). See also Sleazak v. South Carolina, No. 2003-CP-766, 2003 WL 25459562, at *8 (S.C. Com. Pl. Nov. 24, 2003); (citing, Kneece with Approval).

Further, Applicant affix it to this Court, with his Arguments, have been submitted, by clear mistake in his (PCR. Action, application) the Respondent's introduction of C/A#.: 2015-CP-23-04757 this number is not affordably, and require's an evidentiary hearing for a "Newly Discovered Evidence" against the AG's office, upon the Motion of Rule 59(e), SCRCP, filed Motion (doc.6), from, August 14, 2017. And the two filed Motions (doc.5), entered in the clerk of court on April 13, 2017. In consideration the (PCR. Action application). Case No. 2015-CP-23-4747, however, the PCR Act. Judge, account of the substance, regardless of defect of form had been (attachments: "E-I, Through E-III") at filed (doc. 5), and filed Motion of Rule 59(e) SCRCP, (doc.6), see also, below this Motion (attachment: E-IV) was there showing the original Case No.: 2015-CP-23-04747, has been clock-stamped by the Clerk of Court, without any introduction of marked with the black mark? See (doc.5, & doc. 6)'s (attached: E-III), in comparison, the "Amendment To Post-Conviction Relief's Certificate of Service" is proof of fact by the clerk of court, or repondent's introduction of the wrong case number on the first page of the Amendment to Postconviction Relief application filed (doc.3) issued on January 25, 2017. Anderson v. City Bassemer, 470 U.S. 564, 574, 105 S.Ct. 1504, at 1511-12 (1985)(where there are two permissible views of the evidence. the "factfinder's choice between them cannot be clearly erroneous." When the PCR Action judge, findings do not rest on credibility determinations, "but are based 'instead on physical or documentary evidence or inferences from facts.'"). S.C. Code Ann. § 17-27-70(a), The, Applicant issued the (PCR Act. Application's amendment), on January 25, 2017. Respondent failed to respond, by answering the Motion with respect to my C/A#.: 2015-CP-23-04747 in consideration the application, the Court did not take any action to see the errors of substance, regardless of defects of Respondent its

conditional order of dismissal, and the return and response to motion of dismissal, upon the wrong case number? See Section 17-27-70(b)(c), APplicant filed objection in light of the wrong case number, the Respondent against (hereinafter-default judgment) upon his answer, when it appears from the pleadings that he asked of this Court pursuant to Rule 12(b), SCRCP. Where there's no genuine issue of material fact and the moving party is entitle to judgment as a matter of law McCoy v. State, 401 S.C. 363, at 369, 737 S.E.2d 623, 627 (2013). This Court find's a genuine issue of fact exist as to whether Applicant's claim is not successive under section 17-27-90, which permits an Applicant to file a (4th PCR. Act. Application) only if the Applicant demonstrates a sufficient reason why the claims assert therein were not asserted previously. "Applicant he is demonstrating sufficient reason why his claim, was not included in his last (three-(3) PCR. Applications), was the evidence is clear under the filing of April 13, 2017 (doc.5)'s (attachment: "A-I"). See the Objection To Motion, at, (doc.5)(R. p, 5) argued the (attached: "A-I"), there is the "Newly Discovered Evidence."

Although APplicant's (4th PCR. Act.) application claim may untimely prove to be untimely, successive, or perhaps unsuccessful on the merits.

Therein, the PCR Action, judge errored in granting the State's motion for summary dismissal because genuine issue of material fact exist as to whether Applicant's PCR. Action application claim is successive or untimely. See, "Unpublished Opinion No. 2017-UP-209 Submitted March 1, 2017-Filed 5/17/2017. Pursuant to filed Motion of Rule 59(e), SCRCP, (doc.5)'s (attachments: C-I, & C-II), the Court of Appeals Affirmed Applicant's sentenced under Section, 44-53-375(C)(2)(b)." And also see the (attached: C-7)(accordingly, the ALJ, properly declined to ruled upon the "validity of Appellant's sentence (R.p.3), as that,

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the Order from the Administrative Law Court's ruling Applicnat's second offenses. The Order from May 20 2016, see the April 13, 2017 Request for Default Judgement/and Order to Strike the wrong case's number, pursuant to Rules, of Rule 12(a)(b), & (f), Rule 55(a)(b)(c), (SCRCP), (R. p. 14) filed (doc.5)(attached: "E-3") at ALC, Lenski's Order. See, id.; McCoy, 370-71, 373, 737 S.E. 2d 627, at, 628 (2013). S.C. Code of Laws, §§ 17-27-45(C), 17-27-70(a)(b)(c), and § 17-27-80 et seq.

Consideration For A Motion of Rule 59(e) SCRCP, For New Trial

The PCR. Action, Judge must hold with this action involved the attorney general office, to the inconsistant statements are admissible to proof, or impeach a witness credibility. See, Rules of Evidence Rule 613, SCRE, does not provide for the admission of such statements:(1) is for the "S.C. State Grand Jury," the information does not have records against a Mr. Maldonado his arrested on June 26, 2005; (2) the (State) Respondent violated the (SCDOC)'s "Policy Op-21.09 ¶[2.10]" at the (State Identification ("SID"), and Federal Bereau Investigation, ("FBI")(holdings thus, "all valid Commitment Order will be delivered to the Reception and Evaluation (R&E") Inmate Records Plan" Policy, OP-21.09 ¶[2]: "Section at, Kirkland (SCDOC)". Immediately upon the determination that the "Applicant has a valid sentenced") This information will provided additional identifiers, such as possible detainers notification requirements "arrest or convictions, for others crimes." See: Filed Motions from April 13, 2017 (doc.5)(attached:A-II), see the "Return And Response to Motion of Dismissal/An A Contitional Order of Dimissal", (R. Pp. 5 & 14)(therein, is the "invalied Commitment Order," to the State Grand Jury from James R. Parkers Clerk of Court's office MEMORANDUM from April 13, 2006, was the (State's Identification using at "Kirkland," to providing the "Applicant have been sentenced to a second offences"). Those, two offences

the State failed by entering immediately, at ("Section, Kirkland (SCDOC))." Justify pursuant of policy Op-21,09 ¶[2.1 through ¶2.18]; Tant v. South Carolina Dep't of Corrections, 408 S.C. 334, 344, at 345-46, 756 S.E.2d 396, 400, at 404 (2014) has been argued pursuant to Applicant's Initial Brief In Support of the (PCR. Act), "Alternative Petition For State Habeas Corpus," see at (doc.2. R. p.13). Hill v. U.S. Ex rel. Wapler, 298 U.S. 460, 56 S.Ct. 760 (1930); Farley v. Murray, 451 F.3d 75 (2006); and (3) thus, the Respondent, have fraudulent records, and still prosecuting Mr. Maldonado with "order of commitment," that "never exist," and misusing the "State Grand Jury's power over and over against Applicant with his ("Four, PCR. Act.) application, with an indictments does not exist, from Dec. 13, 2005, or February 22, 2006, to the Guilty plea for a second offence.

Ineffective assistance by the government, and defense counsel who represent him at his guilty plea, and his sentencing. Mr. Maldonado now argue's his case pursuant to Royer v. State, 261 S.C. 288, 199 S.E.2d 761 (1973)("[t]he General Sessions Court, Richland County, John Grimball, J., refused defendant's PCR application on the ground of lack of jurisdiction". Defendant appealed, "when he established a prima facia violation of counsel at trial," and the **"General Sessions Court had jurisdiction, under 'Uniform Post-Conviction Procedure' Act."** Now Mr. Maldonado enters this case under his (4th PCR. Act) application upon both courts, "General Sessions, and the Common Pleas Court, See, e.g., Frank Daniel Simson, ID#: 354338 Case No. 2014-CP-23-00531, filed on "January 28, 2014" his Motion to "Order Grating Applicant's Rule 59(e), SCRCP, Motion and Post - Conviction Relief" (R. p,9) at, Simpson's Conclusion on demand to the **"General Sessions for a New Trial."** This Court has Jurisdiction to hear this **(PCR. ACt.) application** on the merits of due process of

law U.S.C.A. Const. Amend. 6th, & 14th, S.C. Const. Art. I, §14.

South Carolina has however, always followed the "traditional rule" that inconsistant statements are admissible to impeach an attorney general's office, Mr. Clayton Michall; and the "State grand Jury, Clerk of Court's office." Mr. James R. Parks, to see that "April 17, 2015 his requested information, that there's no records against Applicant. When a Motion of Rule 60(b)(5) forced the "State Grand Jury from Columbia, to release the Newly Discovered Evidence." Impeaching, with this fact, of records (attached: "A-I") filed (doc. 5) from April 13, 2017, against the AG's office. S.C. Code Ann. § 44-53-390 (a)(4), as the State's Respondent witness' credibility, see, at State v. Boyd, 288S.C. 206, 208, 341 S.E.2d 144, 146 (SC. App. 1986)(in his appealed, Mr. Boyd, moved to sequester the State's witness on the grounds that their testimony was interrellated); see also United States v. Sampson, 820 Fed. Supp. 2d 202, at, 236 (2001)("[R]espondent does not have 'carte blanche in grand jury matter'"); Flamm, 245 F.3d at, 28 (2001); United States v. Leung, 40 F.3d 577, 581 (1994) **(the post - indictment State Grand Jury from Columbia, Subpoenas).**

However, the Respondent who asserts that, the prosecutors indicted a Mr. Maldonado, Dec. 13, 2005, or "February 22, 2006," did not match with the January 23, 2006, when Mr. Maldonado was "arraigned on a **'sealed indictment'", subject this information to Hon: James W. Johson, Jr., from Richland County's General Sessions Court, with the "Statewide Grand Jury."** from **Columbia.** See the **(attached: A-1)** letter, issued facts from January 24, 2006 below this Motion, defense counsel Sent to Applicant.

Thus, the prosecutors have abused the grand jury "must shoulder a heavy burden." See Id. This "be dispelled only upon a showing of 'particularized, proof of irregularities in the grand jury process.'" R. Enterprises, 498 U.S.

at, 301, 111 S.Ct. 722. (Citing, United States v. Mechanik, 475 U.S. 66, at, 75, 106 S.Ct. 938 89 L.Ed.2d 50 (1986); see United States v. Salameh, 152 F.3d 88, 109 (1998). "One way to carry this "burden is to show that the government" used the "grand jury principally to prepare pending charges for trial." Flemmi , 245 F.3d 28 (2001)(citing, In re Grand Jury Proceedings, (Fernandez Diamante), 814 F.2d 61, 70 (1987)(determining whether a prosecutor has used the grand jury improper trial preparation "will depend on the facts and circumstances of the particular case."). See: Id.

Under Machanik, 475 U.S. 66, 106 S.Ct. at 938. Mr. Maldonado's claims of grand jury abuse, is not cognizable after Mr. Maldonado's guilty plea because any "defect in the indictment was render harmless by the plea." This argument would be persuasive if the only effect of the alleged misconduct before the grand jury was to increase the likelihood that the grand jury would indicte a Mr. Maldonado. See, United State v. Wilson, 565 F.3d 1059, 1069-70 (2009).

Holding, "presentation of false testimony to 'grand jury' rendered harmless by petit jury veredit").

State Misconduct And Presentation of False Evidence:

Mr. Maldonado Was entitle to new trial in a successive PCR Action, application where the State declared in an opening statement that there is Applicant's case number 2015-CP-23-04757. The, Court also held that, and signed the wrong case number upon that' Respondent filed motions. That, the Judge would have to withdraw the Order, from Sept. 1, 2017; and grand relief, even though this was a successive (PCR Act.) application, because Mr. Maldonado had not received due process due to a number of procedural anormalities, including his attorney's failure to adequately file direct appeal brief and the first PCR court's passing buck to the Supreme Court even though finding State misconduct. See:

Washington v. State, 324 S.C. 232, 236, 478 S.E.2d 833, 835 (1996); McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, 627 (2013). Rule 59(e), & subds.;(b), (f); Rule 60(b), (SCRCP), S.C. Code Ann. § 17-27-80, and Rule 501 Canon 3(B)(7)(e), SCACR. ("Violated numerous canons of the Code of Judicial Conduct, as well as Rules for Judicial Disciplinary Enforcement prohibiting violations of Code of Judicial Conduct and violations of invalid Court Orders. In re Backam, 365 S.C 637, 642, 637, 620 S.E.2d 69, 72 (2006))". (R.P. 72-of-497. ROA)

However, always followed the traditional rule that inconsistant evidence are admissible to "impeach a witness credibility." (Citing Boyd, 208, 341 S.E.2d 143, at, 146(S.C. App. 1986)). See, ante at, (p. 25); Hunter v. Staples, 335 S.C. 93,99 , 515 S.E.2d 261, 265 (SC. App. 1999)(citing, State v. Copeland, 278 S.C. 572, 300 S.E.2d 63 (1982)). To have an inconsistant statement, there must be a statement with which to compare it, the Respondent arguments have no merits to support the (four PCR Act.) application, including his introduction to the wrong case number ... has been entered with this clerk of court. The record before this Court contains only allegations to the Respondent that he asserted to the (4th PCR Act.) application, judge there is the right case number 2015-CP-23-4757, without any record to proving me that. failure to comply with the statute of limitation and the "sufficient of the State Grand Jury." ("indictment for a second offence", which is subject that can be raise at any time.").

However, there is subsequently (PCR Act) the judge in his desposition by reviewing the whole record, and the Respondent's statements which the AG's office contradicted a Mr. Maldonado (PCR Act. Application original case number, "that it's 'a clear discrimination.'" Against the AG's office), in desposition to Respondents arguments in this actions. Moreover, the Respondent have neglected to review the full "case's number," before issuing the "Return, Cond-

itional Order of Dismissal", and securing the "Final Order of Dismissal." The PCR Act. Judge must support it, and grant Motion of Rule 59(e), SCRCP, with this Motion pursuant to 59(f), subd.;(g), (SCRCP), and the PCR Act. Judge has the authority to enter default judgment against the Respondent, to include the relevant deposition excerpts in the record it provided the PCR. Act. application to the Judge.

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Therefore, This Argument Is Preserved For A Review, Rule 103(a)(2) SCRE,:

Even if the issue of dishonesty under Rule 609(a)(2) SCRE, had been argued to the trial, hereby Applicant's claims of dishonesty with his PCR Act. Application, demand that, the "Final Order of Dismissal" upon Respondent his wrong case number. In order to preserve the issue the Respondent should have to respond back with the "original PCR Act. application's clock-stamped", for its full review, an evidentiary hearing with this Court, and explain if there is not the right (case's number). How the Court, could it be ruled on? And the dishonesty question, above the wrong case number. Cf. State v. Balley, 275 S.C. 444, 272 S,E,2d 439 (1980)(quoting, Hunter, 104, 515 S.E.2d 267 (pre - Rules of Evidence - Cases)("[T]hey don't have to be crimes involving dishonesty to use them"). Mr. Maldonado seeking to impeach witness using a prior ("Section, 44-53-375(C)(5)," and now the "wrong case No. 2015-CP-23-04757") see Gold Club, Inc. v. Potter, 328 S.C. 201, 493 S.E.2d 826 (1997). Thus, Mr. Maldonado, has the burden of presenting sufficient records for appellate review. Greenville Memorial Auditorium v. Martin, 301 S.C. 242, 391 S.E.2d 546 (1990) "failure to make a specific finding procludes review on appeal." Rule 59(b)(e), & (f), Rule 60(b) (SCRCP), and Rule 501 Canon 3(b)(7)(e),

(SCACR). See also Rule 609(b) sets a time limit for the use of prior conviction for impeachment purposes. Subject to the probative/pre-judicial test set forth in Rule 609(a), SCRE. Convictions less than "ten years old" are presumed admissible for impeachment purposes. Cf. State v. Colf, 332 S.C. 313, 504 S.E. 2d 360 (SC.App. 1998). The (State), Respondent failed to the "State Grand Jury on a sealed indictment." Neither the Clerk of Courts have the sealed indictment. and didn't Certificate the Accused's Conviction on APril 10, 2007, and issued the Mr. Maldonado's inmate records to the (SCDOC)'s Policy Op-21.09 ¶[2]. The burden's to prove with (State Identification) when the records had been received, the (SCDOC) at, "Section Kirkland". It is the Respondent's duty to demonstrate the issue dated for impeachment purposes. See, ante (R. Pp. 23-24) and (R. Pp. 15-16). And also see (attached: A-1) below this Motion. See Id.

> Under the Jack B. Weinstein & Margeret A. Berger, Weinstein's Federal Evidence § 609.07 (Joseph M. McLaughlin ed., ed (1998); see at 8 U.S.C. § 1003, 103 Immediaty Suspension and Summary Disiplinary Proceeding; Duty of Practitioner to ... Code of Federal Regulation Title 8 Aliens and Nationality. Efective: January 13, 2012.

The totality of the evidence must be considered in deciding whether the Applicant Mr. Maldonado was prejudice by counsel's error. United State v. Kalaf, 116 F. Supp. 2d 210, 214 (1999).

The Court, therefore should reconsider the Order, alter and amended the judgment, and grant post conviction relief.

Because, It is the Court View That Rule 59(b), and 60(b), Must Read, Toghether. Rule 60(b) S.C. R. Civ., P. Read in Pertinent Part:

On Motion and upon such term as are just, the Court may review a party or his legal respresentative from a final judgment, order or proceeding for the following reason;

... (a) has been discovered since the trial, and (now, the Respondent

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introduce a Newly Discovery Evidence before this Court), see ante (R. in this Motion, the "Newly Discovery Evidence" which had/or have been discovered by due diligence in time to move for a new trial under Rules, Rule 59(b), and Subds.;(e), (f), (g). And Rule 60(b), (SCRCP); ..... and

(b). This issued addressed in Smith v. Quattleboum, 223, S.C. 384, 76 S.E.2d 154 (1953)(quoting, State v. Williams, 108 S.C. 295, 93 S.E. 1006 (1917)(rev'd and remanded for hearing on the merits). This court , in Smith, defendant moved for a "new trial because of an after-discovered relationship of juror to plaintiff." This court ruled that the trial court had jurisdiction to hear a motion for a new trial because of the after or newly discovered evidence exception.

This Court states further, and it's the duty of the (PCR. Action) Judge to ascertain the qualification of Respondent's statements. Thus, the PCR. have to withdraw the Order From September 1, 2017, and the matter of Respondent's arguments did not have merits, by incarcerating Mr. Maldonado within the South Carolina Department of Corrections, at the Kershaw, CI. And for misusing the power with this Honorable Court. Adjournment of Court, by the granting of a new trial if in if its discretion, necessary.

Smith, 76 S.E.2d at, 152.

While the Smith case relied on S.C. Code Ann. § 10-12-1215 (1952), the same principle -under Rule 60(b) and another term With S.C. Code Ann. § 17-27-45(C).

In the instant case, the Newly Discovered Evidence, to Mr. Maldonado's predisposition, was is discernible, until "attorney general's office," letter had been introduced with the wrong case number, in this action. This Court see it. Applicant has merits for the relief which is being sought. Subject to the "PCR Action's Judge" this evidence could have been discovered in time for a new trial. (R. P. 75-of-497 ROA) 30-of-31 File (4th PCR. Doc. 7)

Conclusion

App. (E)(38-of-54)

Therefore, the Court grants the Rule 59(e), SCRCP, Motion, withdraws the amended Order from September 1, 2017, and grants Mr. Jose ALberto Maldonado's application for post conviction Relief. It is further order that Mr. Maldonado's conviction and sentence are vacated and the case is remanded to the Greenville County Court of General Sessions for new trial.

Based on the foregoing, this Court finds a insufficient reason that Respondent has not been show to Applicant's application for post-conviction relief, the True Bill Indictment, for a second offences, with the State Grand Jury's Jurisdiction, and the full records (PCR Action) application, the right case number.

Now the Applicant provide a a copy of this motion to this Honorable Judge within (10) days after the filing of this Motion. See Rule 59(g), SCRCP.

IT IS THEREFORE ORDERED that, for the reason set forth in this Court's Rule 59(f), SCRCP, the (4th) Post-Conviction Relief application, will should be granting.

AND IT IS SO ORDERED this ____ day of _____,2017.

_____, South Carolina.

_____

Perry H. Gravely
Presiding Judge
Thirteenth Judicial Circuit

(R.P. 76-of-497. ROA)

State of South Carolina)
County Of Greenville)

In The State of South Carolina
Thirteenth Judicial Circuit

Jose Alberto Maldonado, #312648,
Pro - Se, Applicant,

V.

State of South Carolina,
Respondent.

APPX. (E)(39-of-54)

Case No. 2015-CP-23-04747

Applicant's Proof of Service
Proof And Return

I, Jose Alberto Maldonado, a person presently incarcerate at the Kershaw Correctional Institution, do hereby affirm that:

Thus, the Applicant, delivered in to the hands of the Mail room's clerk the "Amendment", in Supported of Rule 59(f), SCRCP. With a first Class Postal Service, duty affix, and return address clearly identify on each enveloped for deposit in the United States Postal Service, have been file with the limitation of Service with the Rule 59(g) SCRCP. Addressee as follows:

The Honorable Perry H. Gravely
Presiding Judge - 13th Judicial Circuit
Post Office Box 219
Pickens, South Carolina 29671

SC Attorney General Office
1000 Assembly Street

Post Office Box 11549
Columbia, South carolina 29211

Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville, South Carolina 29601

Respectfully, Submitted

By, Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

Further, Applicant, said and Notarized:

On this 15th day of September, 2017.

SWORN TO and SUBSCRIBED Before Me

This 15th day of September, 2017

Cathrine A Anerson
NOTARY Public For SOUTH CAROLINA

My COMMISSION Expires:
My Commission Expires December 22, 2018

File (4th PCR. Act. Doc. 8)

(R. P. 77-of-497, ROA)

PRICE, PASCHAL & ASHMORE, P.A.
ATTORNEYS AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-1001
FACSIMILE (864) 242-6560

I

Appx. (E)(40-of-54)

JAMES H. PRICE III *
HOWARD W. PAT PASCHAL, JR.
BEATTIE B. ASHMORE
RYAN L. BEASLEY

JOSEPH J. WATSON
—OF COUNSEL—

*Licensed to practice law in South Carolina and New York

January 24, 2006

(Attachment: A-1)
File on: 9/13/2017
(4th PCR. Doc. 7)

(Via facsimile: 803-576-1741
& regular mail)

The Honorable James W. Johnson, Jr.
c/o Richard County General Sessions Court
325 Judicial Center
1701 Main Street
P.O. Box 192
Columbia, SC 29202

RE: State v. Jose Alberto Maldonado
Statewide Grand Jury
Warrant Nos. G530070, H441256 & G803304

Dear Judge Johnson:

I have been told that you are now the Administrative Judge for the above Statewide Grand Jury case which is part of something referred to as "operation ice cream". Sometimes I really wonder who thinks up these names. In any event, I and other lawyers similarly situated desperately need your help.

I notified both the Attorney General's office and the Clerk of Court that I was retained to represent Mr. Maldonado on August 8, 2005. I requested a bond hearing. I was not notified by either the AG's office or the Clerk's office about the bond hearing, but found out about it by a conversation with my client's family.

On Monday, January 23, 2006, my client was arraigned on a sealed indictment. Neither the AG's office nor the Clerk of Court notified me that my client was going to be arraigned. It goes without saying that, in my opinion, an arraignment on a case in which my client's exposure is thirty (30) years in prison, is a critical stage of the proceedings. My client thinks that I am an idiot for not appearing with him. I don't really blame him. It is hard for him to believe that no one in the Court system would notify retained counsel that he should be in court with his client.

(R. p. 78-of-497. RoA)

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

Greenville County

APPX. (E)(41-of-54)

NOVEMBER 19 2013

Jose A. Maldonado 312648
Kershaw Correctional Institute
4848 Goldmine Hwy
Kershaw SC 29067

(Attachments: B-1)
File on: 9-13-2017
(4th. PCR. Act. Doc. 7)

Mr Maldonado,

We are returning your mail. You are not a party in the case number 2013CP2300432. Please be advised we do not forward mail to other parties you will have to mail copies on your own regarding any case you may be involved in. If you wish copies to be mailed back to you, you must provide the copies.

GREENVILLE COUNTY CLERK OF COURT
CIVIL RECORDS

(R. P. 79-of-497. ROA)

APPX. (E)(42-of-54)

Jose Alberto Maldonado
Kershaw Corr. Inst. MB/Room # 28
4848 Goldmine Hwy.
Kershaw, SC. 29067

File On: November 6, 2013.

Paul B. Wickensimer's Office

Clerk of Court
Greenville County Courthouse
305 East North Street
Greenville, S.C. 29601

(Attachment: B-2)
File on 9-13-2017.
(4th PCR. Doc. 7)

Dear Clerk of Court,

I am writing in regards of this matter, Please send this information to the Solicitor, Mrs. Sylvia P. Harrison, And I asking that you please stamped this, Response, In Direction of the Summons Case No. 2013-CP-23-0432. For file this in this Hon.: Court.

Please send me a copy back to me for my records. I, would greatly appreciate your assistance in this Matter.

Thank you for your time and patience in reading this issues and I, looking forward in regards of the Summons in this Court. If, There is a "Hearing."

Enclosure: (1)

Cc: File (R.P. 80-of-497, ROA)

Jose Alberto Maldonado
Kershaw Corr. Inst. MB/Room # 28
4848 Goldmine Hwy.
Kershaw, SC. 29067

APPX. (E)(43-of-54)

File On: Nov. 6, 2013

Silvia P. Harrison (#064840)
13th Circuit Solicitor's Office
305 East North Street Suite 325
Greenville, SC. 29601
Atty. for Plaintiff

(Attachment: B-3)
File on: 9-13-2017
(4th PCR. Doc. 7)

Re: Response, In Direction of Summon

I am within receipt of your office notice regarding summon case No. 2013-CP-23-0432, had been stamp-clocked for the Clerk of Court In The Greenville County on 2013 July 31 **And I had received the file on** Oct. 8, 2013 After 3, Months delayd.

I.

However, I am writing to inform you that there seems to be a mistake in regards to this complaint of the general allegations, concerning, the S.C. Code Ann. 44-53-530, See at Prg. (2-to-5) date of May 10, 2013.

II.

The interested party information is wrong at, the Jose Alberto Maldonado's Name, to cover operative with SLED. And found close proximity to the illegal substance and at the time of arrested was the defendant property of $ 1233.00. That's untrue those founds are to proceeds this related activity. At the Greenville County. Upon the Mr. Jose A. Maldonado's Name?

III.

I am in understanding that this violation occurred on May 10, 2013. Please be advised that I have been incarcerated -since 2005- with a release me at any time. Therefore, I could not have possibly at this time of such property on my name. "Notice of hearing or rule to show cause accompunied by copy" of the application must be directed to all persons and agencies entitled to notice under Clause §§ 44-53-530, 44-53-585." See, Id. Ducworth v. Neely, 319 S.C. 158, 459 S.E.2d 896 (1995). I couldn't have all full records in this case due to my incarceration. And I am currently being held within the S.C. Department of Corrections My ID/# is 312648. My Status of in Carceration can provided that? To reviewed by inquiring information throughout of the SCDC's clasification or checking at the computer records. So Please send me all full brief records for a review such Case. No. 2013-CP-23-0432. (R.P. 81-of-497. ROA)

Thank You In Regarding this Matter!!!

PROOF OF SERVICE

APPX. (E)(44-of-54)

I, Jose Alberto Maldonado, Declare Under the Oath that, on the below said date the Inmate Jose A. Maldonado deposit a true and exact copies of foresaid, of the General AllegationS , to the Summon. Case No. 2013-CP-23-0432, throughout of Kershaw Corr. Inst. Mailroom is Clek, to be forward in the U.S. Posted-System with Suficient Postage. On this 5 day of November 2013. To:

Further, the Inmate J.Alberto M. Not.:
Done this 5 day of Nov., 2013.

Clerk of Court
13th Circuit Greenville County Courthouse
305 East North Street
Greenville, S.C. 29601; And

(Attachment: B-4)
File on: 9-13-2017
(4th PCR. Doc. 7)

Sylvia P. Harrison (#064840)
13th Circuit Solicitor's Office
305 East North Street Suite 325
Greenville, S.C. 29601
Atty. for Plaintiff

Respectfully Submitted
s/Jose A. Maldonado
Jose Alberto Maldonado, ID/#:312648
The Inmate, MB/Room # 28
Kershaw Corr. Inst.
4848 Goldmine Hwy.
Kershaw, S.C. 29067.

SWORN TO and SUBSCRIBED before me

this 5 **day of** November **,2013**

Cathrine A Amaya
NOTARY PUBLIC FOR SOUTH CAROLINA

MY Commission Expires: My Commission Expires December 22, 2018

(R. p. 82-of-497. ROA)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

STATE OF SOUTH CAROLINA)
Plaintiff(s))
APPX. (E) (45-of-54))
vs.)
JOSE M MALDONADO)
Defendant(s))

CIVIL ACTION COVERSHEET

2013-CP-23-04132
(Attachments: C-1)
File on 8-13-2013
(4th PCR Act Doc. 7)

2013 JUL 31 A 10:50

(Please Print)
Submitted By: Sylvia Harrison
Address: 305 East North Street
Suite 325
Greenville, SC 29601

SC Bar #: 064840
Telephone #: 864-467-8647
Fax #: 864-467-8643
Other:
E-mail: syharrison@greenvillecounty.org

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

***If Action is Judgment/Settlement do not complete*

☐ **JURY TRIAL** demanded in complaint. ☒ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts – Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Other (799)

Administrative Law/Relief
- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☒ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Administrative Law Judge (980)
- ☐ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Sexual Predator (510)

(R. P. 83-of-497. ROA)

Submitting Party Signature: Sylvia Harrison **Date:** July 26, 2013

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA)
) IN THE CIRCUIT COURT FOR THE
GREENVILLE COUNTY) THIRTEENTH JUDICIAL CIRCUIT
)
State of South Carolina)
Plaintiff)
APPX. (E)(46-of-54)) CERTIFICATE OF EXEMPTION
vs.) FROM ADR
)
Jose M Maldonado) DOCKET NO. 2013-CP-23-04432
Defendant.)

I certify that this action is exempt from ADR because:

☐ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus of prohibition;

☐ this action is appellate in nature;

☐ this is a post-conviction relief matter;

☐ this is a contempt of court proceeding;

☒ this is forfeiture proceeding brought by the State;

☐ this is a case involving a mortgage foreclosure; or

☐ the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

2013 JUL 31 A 10:48

Sylvia Harris
Plaintiff/Attorney(s) for Plaintiff(s)

Defendant/Attorney(s) for Defendant(s)

Date: July 26, 2013

(Attachment: C-2)
File on: 9-13-2017.
(4th PCR Doc. 7)

(R. P. 84-of-497. ROA)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

State of South Carolina ex rel,
W. Walter Wilkins, Solicitor, Thirteenth
Judicial Circuit,

Plaintiff,

vs.
$1233.00
Defendant Property and
Jose M Maldonado
Interested Party

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2013-CP-23-0432

Appx. (E)(47 of 54)

SUMMONS
(Non-Jury Trial Demanded)

(Attachments: D-1)
File on 9-13-2017.
(4th PCR. Act. Doc. 7)

2013 JUL 31 A 10:48

TO: THE INTERESTED PARTY ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in the above entitled action, a copy of which is herewith served upon you (and which has been filed in the Office of the Clerk of Court) and to serve a copy if your Answer upon the subscribers, at their offices located at the Thirteenth Circuit Solicitor's Office, 305 East North Street, Suite 325, Greenville, South Carolina 29601, within thirty (30) days after the date of such service, exclusive of the day of service, and if you fail to answer the said Complaint within that time, judgment by default will be rendered against you for the relief demanded in the Complaint.

(R. p. 85 of 497. ROA)

Sylvia P. Harrison (#064840)
13th Circuit Solicitor's Office
305 East North Street, Suite 325
Greenville, SC 29601
8644678647
Attorney for Plaintiff

Greenville, South Carolina
July 26, 2013

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE State of South Carolina ex rel, W. Walter Wilkins, Thirteenth Judicial Circuit, Plaintiff, vs. $1233.00 Defendant Property and Jose M Maldonado Interested Party	)	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT 2013-CP-23 04132 APPX. (E)(48-of-54) COMPLAINT (Non-Jury Trial Demanded) (Attachment: D-2) File on 9-13-2017 (4th PCR. Act. Doc. 7)

2013 JUL 31 A 10:48

Plaintiff complaining of the above listed Defendant Property and Interested Parties would respectfully show unto this Honorable Court as follows:

GENERAL ALLEGATIONS

1. Plaintiff is the designee of the Circuit Solicitor of the Thirteenth Judicial Circuit of the State of South Carolina and is authorized by Section 44-53-530, Code of Laws of South Carolina.

2. Defendant property is as listed in the above caption and is currently in the custody of the South Carolina Law Enforcement Division ("SLED ").

3. That the Defendant Property was seized by the SLED as the result of an investigation involving the Interested Parties as listed in the above-referenced caption.

4. The Interested Parties were arrested, taken into custody, or otherwise associated with the Defendant Property as set forth below in Paragraph 5. The Defendant Property was used in illicit transactions or is believed to be the proceeds of illicit substances

(R. P. 86-of-497 ROA)

Appx. (E)(49-of-54)

and seized pursuant to Section 44-53-520, and Section 44-53-530, Code of Laws of South Carolina (1976), as amended. (Attachment: D-3) File on: 9-13-2017 (4th PCR. Act. Doc. 7)

5. On or about May 10, 2013, the Interested Party sold a quantity of cocaine to an under cover operative with SLED. Found close proximity to the illegal substance and at the time of arrest was the Defendant Property of $1233.00. It is believed these funds are the proceeds of drug related activity. This occurred within Greenville County.

FOR A FIRST CAUSE OF ACTION

DECLARATION OF RIGHTS AS TO FORFEITURE OF DEFENDANT PROPERTY

6. Each and every allegation is realleged as if fully set forth herein.

7. The Plaintiff is informed and believes he is entitled to an Order of the Court declaring the above listed Defendant Property forfeited pursuant to Section 44-53-520 and 44-53-530, Code of Laws of South Carolina (1976), as amended, and title/ownership be vested and transferred to the SLED .

8. The Plaintiff requests a non-jury trial in this cause of action.

WHEREFORE, Plaintiff respectfully prays:

1. The Defendant Property as set forth in the above-referenced caption shall be forfeited to the State of South Carolina and disposed of pursuant to Section 44-53-530, Code of Laws of South Carolina (1976), as amended;

2. That title/ownership of the Defendant property be vested and transferred to the SLED ;

3. That the Attorney General of South Carolina shall be notified;

4. For such other and further relief as this Court shall deem just and proper.

(R. p. 87-of-497. ROA)

Sylvia P. Harrison (#064840)
13th Circuit Solicitor's Office
305 East North Street, Suite 325
Greenville, SC 29601
(864) 467-8647
Attorney for Plaintiff

(Attachment: D-4)
File on 9-13-2017
(4th PCR Act. Doc. 7)

Greenville, South Carolina
July 26, 2013

APPX. (E)(50 - OF - 54)

(R. P. 88 - OF - 497. ROA)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Post Office Box 21787 – Columbia, South Carolina 29221

App. (E) (51-of-54)

Pursuant to Rule 4(d)(2), SCRCP, the Director of the South Carolina Department of Corrections has designated Carolyn Sanders *(Server)* as his duly authorized agent for the purpose of making service on the below named individual.

STATE OF SOUTH CAROLINA)
) **AFFIDAVIT OF PERSONAL SERVICE**
COUNTY OF Lancaster)

13-CP-23-4132

On this 8 day of October, 2013, I served the cover sheet, Summons, Complaint, on *Inmate* Jose Maldonado, ***SCDC Inmate #*** 312648, by delivering personally and leaving a copy of same at Kershaw ***Correctional Institution***, _____.

I am not a party to this action.

(Attachment: D-5)
File on 9-13-2013.
(4th PCR. Act. Doc. 7)

s/ Carolyn Sanders
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME
this 8 day of October, 2013.

Cathrine A Arrasa
Notary Public for South Carolina
My commission expires My Commission Expires December 22, 2018

ACCEPTANCE OF SERVICE

Service of a copy of the within Legal Pleadings is accepted at the S.C. Department of Corrections (Kershaw ***Correctional Institution***), Lancaster County, SC this 8 day of October, 2013.

(R. P. 89-of-497. ROA)

s/ Jose A. Maldonado
Inmate SCDC#

SCDC 9-12 (Rev. 5-2010)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Jose Alberto Maldonado, #312648,)
Applicant, Pro-Se,)

APPX. (E)(52-of-54)

v.

State of South Carolina,
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Case No. 2015-CP-23-04747

AMENDMENT TO POST CONVICITON
RELIEF APPLICATION
4th PCR. ACTION

CERTIFICATE OF SERVICE

FILED
17 JAN 25 21
PAUL WICKENSIMER
CLERK OF COURT
GREENVILLE CO. S.C.

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have serve a copy of the AMENDMENT TO POST CONVICTION RELIEF APPLICATION (4th PCR. Act.) with a SUMMONS within two separate files have been attached. Upon the below listed of parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

(SC) Attorney General's Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South carolina 29211

Respectfully Submitted

Further, Applicant Said and Notarized

This 10th day of January, 2017. Jose Maldonado

Jose Alberto Maldonado, #312648
Applicant Pro - Se

SWORN TO and SUBSCRIBED Before Me

This 10th day of January 2017.

Cashmir A Omasa

Notary Public For South Carolina

My Commission Expires:

My Commission Expires December 28, 2019

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina

File: (4th PCR. Act. Doc.3)
(R.P. 90-of-497 RoA)

(Attachment: E-IV)
File on: 9-13-2017.
(4th PCR. Act. Doc. 7)

LEGAL

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
Case No. 2015-CP-23-04757

Jose Alberto Maldonado, #312648

EXHIBIT (7)
APPX (E) (53 OF 54)

Applicant,

vs.

State of South Carolina,

Respondent.

FILED-CLERK OF COURT
PAUL D. WICKENSIMER
GREENVILLE, SC
2017 SEP -1 PM 12:42

ORDER

This matter comes before the Court upon the Applicant's Motion to Alter/Amend Judgement of the Order dismissing this Post-Conviction Relief claim, filed on August 14, 2017. After fully considering said Motion, this Court finds that oral argument is not needed for a final determination of this Motion. The Court has reviewed the file and there does not appear to be any additional evidence to support an amendment to the Order previously filed in this matter. Therefore, the Applicant's Motion to Alter/Amendment Judgment is DENIED.

IT IS SO ORDERED!

(Attachments: F-1)
File on: 9-13-2017
(4th PCR Act. Doc. 7)

Perry H. Gravely
Presiding Judge

Greenville, South Carolina

August 24, 2017

(R.p. 91 of 197 ROA)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2015CP2304757

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. S.C.
2017 SEP -1 PM 12:42

Jose Alberto Maldonado *vs.* **South Carolina State Of**

(Exhibit (7) Appx (F) (Page 54))

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

NOTICE

This is a notice to you that an attached Order in this case has been filed in the Clerk of Court's Office.

Dated at Greenville, South Carolina, this .

Court Reporter: (Attachment: F-2) File on. 9-13-2017. (4th PCR Ach Doc. 7)

PRESIDING JUDGE - Perry H. Gravely

Jose Alberto Maldonado Kershaw Correctional Institute 4848 Goldmine Hwy Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

(R. p. 92 of 497. ROA)

James Clayton Mitchell III PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court - Clerk of Court

Exhibit (3).
Appendix: (F) (R. Pages 1 through 128)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina 29067

August 1-2, 2017

Hon: Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville, South Carolina 29601

Re: Jose Alberto Maldonado, 2015-CP-23-04747 v. State of South Carolina

Dear Clerk of Court:

Enclesed please find the proposed Original Copies to **Motion Rule 59(e)** (SCRCP), in the above-captioned case.

If these Motion meet with your approval, under this action 2015-CP-23-04747, please sign and forward to the Hon: Perry H. Gravely PCR. Act. presided Judge - in the 13th Judicial Circuit. And if you not approving this (PCR. Act. Application) Upon Number 2015-CP-23-04747, please send me the full (PCR. Act.) Application when your clerk entered upon my Name? See(Attachments: "E").

Respectfully submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
The Plaintiff, "Applicant".

Enclosures:(1)

Attachments:(Alphabetical order; A through O)

cc: Attorney General Office;P.O. Box 11549 Columbia, S.C. 29211

(R. Pages 93-96 & 497 ROA)

STATE OF SOUTH CAROLINA) COUNTY OF GREENVILLE)	IN THE COURT OF COMMON PLEAS THIRTEEN JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648) Applicant, Pro-Se,)	Case No. 2015-CP-23-04747
V.)	
State of South Carolina,) Respondent.)	MOTION OF RULE 59(e), SCRCP

Exhibit (8) APPX (E) (2 of 28)

To The Hon: Perry H. Gravely Presiding Judge, Thirteenth Judicial Circuit

Pursuant to Rule 59(e), SCRCP, the Jose Alberto Maldonado moves the Court to reconsider its order of dismissal dated July 21, 2017, alter and amended the judgment, and grant post-conviction relief action.

I. Introduction

Mr. Maldonado pleaded guilty and was sentenced November 29, 2005 for constructive possession of more than 28 grams of Cocaine. This is in violation of § 44-53-370 for Trafficking in Cocaine >28 grams, second offence, upon, § 44-53-0445 Possession With Intent To Distribute Cocaine W/In 1/2 Mile, were there is a irrelevant quanty of drugs, neither was the Applicant indicted by the (State Grand Jury in Dec. 13, 2005. For trafficking in crack cocaine conspiracy, more than "400-grams Ind., 2005-GS-47-0026, Count 1)." See, the Return Motion to Dismiss (R. p.1) issue dated March 8, 2017. Then, Applicant pleaded guilty to trafficking methamphetamine, 28-100 grams, with a second offense again; see the "Guilty plea Transcript of Record (R-p. 8 lines 9 - 17). A plea counsel advocated for this result in a Sentencing Applicant April 10, 2007 and during the guilty plea presentation. A plea counsel's advice and arguments are contrary to the State's law

(R-p. 94 of 197 ROA)

LEGAL

Including the Guilty Plea. ("Tr."), see (R-p. 8, LInes 15-17), and Sentencing (Tr. R-p. 4, 7-16). See the (Attachments: (M), & (N)). The Court: APPX. (F)(3-of-128)

> And Mr. Jose Maldonado, If You're Sentenced Consecutively on these indictments, You could be sentenced to Sixty years and a Hundred-Thousand - Dollars Fine. Do You Understand That? Involuntary guilty plea. Applicant answer Yes, withouht unknowing there is a S.C. Code Ann. § 44-53-375(C)(2)(b). (Supp. 2005) see (Attachments: O-1 through, O-4).

This Court, accordingly should grant Mr. Maldonado's Application for post-conviction relief action, vacate Mr. Maldonado his conviction and sentences, and order a new trial.

II. Procedural History

As a result of arrest on June 26, 2005 the State Charged Mr. Maldonado with Trafficking Methamphetamine, 28-100 grams, second offense. On November 29, 2005, the State called Mr. Maldonado's case before the Edward W. Miller judge, for a guilty plea.[Fn.1] Joyce L. Monts represented the State. James H. Price III. represent Mr. Maldonado. Judgme Miller sentence a Mr. Maldonado to seven years imprisonment.

> On March 18, 2008, Mr. Maldonado filed his first PCR Application Case No. 2008-CP-23-2140. By written Return September 18, 2008, Rodney W. Richey, represented Mr. Maldonado, and Amendments to Postconviction relief Application on November 24, 2008.

This Court convened a PCR hearing without an interpreter on behalf the Mr. Maldonado December 8, 2008.

Mr. Maldonado chose to stop the PCR's hearing without an

---

1. At the time, Mr. Maldonado has been sentenced to seven (7) years, no appeal has been requested for his first involuntary guilty plea, for Trafficking cocaine, no more than 28-100 grams.

interpreter. Because, he didn't understand anything at the hearing on December 8, 2008. And also this court's failure to file a constitutional waiver, defense by the (State) Respondent, and that do not prejudice Mr. Maldonado for his next filing of due process, seeking remedies under "Post-Conviction Relief Action(s), with this Court, but at the time such court never informed the Applicant, no counsel with the "Final Order of Dismissal" his PCR. hearing on December 8, 2008." APPX.(F)(4-of-128)

> The post-conviction Relief, application regarding the above styled case is denied, case No. 2008-CP-23-2140. See (Attachments A-1 through A-2), then after that Mr. Maldonado filed his second (PCR. Act.). Case No. 2010-CP-23-3391, see (Attachments: B- through B-2). Pursuant this action the respondent introduce the "final order of dismissal", the court issued on Dec. 29, 2008. With not proof of serviced to identify the clerk's issue dated had been received.

On April 28, Mr. Maldonado filed his (2nd), Application. The State made its return and motion to dismiss on or about August 20, 2010, requesting that the application be summary dismissed. By conditional order of dismissal, filed on Sept. 20, 2010, the Robin B. Stillwill faild to review my previous indictments, above, and dismissed the "second PCR Act. Application. finding it was time barred by the statute of limitation and successive to Applicant's first application. This court fell below by dismissing Applicant's claims due to "lack subject matter jurisdiction, at the indictments" which can be raised [a] any time." Mr. Maldonado filed a motion for immediate release from the "Conditional Order of Dismissal" on above September 30, 2010. Stillwell dismissed the application without finding of fact under the S.C. Code Ann. (R.P. 96-of-497 ROA) 3-of-29 File (4th PCR. Act. Doc. 6)

§ 17-27-80 in conclusion of laws. Further, on December 14, 2010, Stillwell dismissed with a conditiona order, was the State argued that Stillwell judge, found the application clearly successive and filed outside the statute of limitation upon "Applicant's Newly Discovery Evidence" of his illegal sentence, the judge issued a Order of null and void judgment, when the State Respondent failed to show jurisdiction with the ("SCDOC"), upon policy Op-21.09 ¶[2] with a legal sentenced, S.C. Code § 44-53-375(C)(2)(b). See: (Attachments: C-I, & C-II), the S.C. Court of Appeals's Order Appellate Case No. 2016-001274 Unpublished Case No. 2017-UP-209, see (Attacments: C-1 through C-10). See also the (Attachments: D-1 through D-5). Appx. (F)(5-of-128)

Mr. Maldonado appealed the denial of the second application. In the South Carolina Supreme Court, with a lengtly document as the Order under Rule 243(c) explanation. The SC. Supreme Court should that "Applicant" failed to show there was on arguable basis for asserting that the PCR. In the 13th Judicial Circuit Court is determination was improper. Mr. maldonado having merits for the relief have been sought with his (4th PCR. Act.). Case No.2015-CP-23-o4747. See (attached: "E"), and (attachments: E-I, II, & E-III).

May be the SC. Supreme Court's determination was not made available for his full review in accordance with lengthy documents as (attached) by Rule 243(c) SCACR. Explanation above to vacate judgment with the General Sessions Court Term, with this Circuit See, id., (Attachments: C, And D).

This Court dismissed the appeal. And sent the remittitur on June 3, 2011.

Here, Mr. Maldonado, after his first (PCR), application, and (2nd PCR. Act.), application had been denied without any documentation being provided to him, in order to see the correct sentencing, towards the legality and Constitutionality of his confinement with in (SCDOC). In "regarding the true bill indictments upon his sentences. S.C. Const. Legislative Amendments and U.S. Constitution Amendments have been violated."

Mr. Maldonado filed his (3rd (3) PCR. Act.), application Case No. 2013-CP-23-1440. See the (Attachments: F-1, & F-2).

The State Respondent made its Return on August 5, 2013, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR application. See S.C. Code Ann. § 17-27-45(C) the Applicant's right to pursuing with due diligence, under Newly Discovery Evidnce, and "Sould not be barred in filing any (PCR. Act.), application with this court. S.C. Code Ann. § 17-27-45(C), and 17-27-80, et seq. Appx. (F)(6 -of- 128)

Pursuant to this (PCR. Act.), application, the Applicant request, after FINAL ORDER OF DISMISSAL, entered on July 21, 2017 Mr. Maldonado Received on July 27, 2017 this Court failed to review the matter and all of the records attached thereto, the -D. Garrison Hill, preside judge- fell below, because as the Chief and principal judge, who has access to the whold record, on June 26, 2005. And then had been approached, with the Applicant's (third - (3) PCR Act.), application. See (Attachments: F-1, & F-2). Mr. Maldonado, fines, therein is [a] "conflict of interest", was (Ex Parte Communication). Garrison judge violated Applicant's due process, by filed "Conditional Order of Dismissal" on August 22, 2013, provision-

(R. p. 98 -of-497. ROA) 5-of-29 File (4th PCR. Act. Doc. 6)

ally denying and dismissing this action, while giving the Applicant twenty (20) days from the date of service of said order in which to show why the dismissal should not become final. Was the Applicant filed a "Return and Response To Motion To Dismiss/And Conditional Order of Dismissal, against the twenty (20) days from the dated of service at the said Order. On August 16, 2013. And at the same time Applicant filed a "Motion/Request for Default And Motion to Strike, Rule 12(a) and (f). (SCRCP)." The Letitia H. Verdin issue a "Final Order of dismissal April 29, 2014," but the judge misplaced Applicant his correctly dated filing from August 16, 2013. Her did and using Sept. 16, 2013" see the Final Order, issued on: May 1, 2014. See (Attachments: G-1 through G-3). Appx. (F)(7-of-128)

However a hearing on those facts of Motions waS HELD ON: October 25, 2013. See (Attachments: H-1 through H-10), the third (PCR. Act.) application's hearing (Tr.), records. Mr. Jose A. Maldonado proseeded pro-se. But the "first sentenced judge" for the (seven (7) years), included Applicant's 1st PCR. Application case No. 2008-CP-23-2140, Edward W. Miller presided, and was the Administrative judge Applicant's 'third (3) (PCR. Act.), application Cse No. 2013-CP-23-1440 see (Attachments: F-1, & F-2).

The judge filed an Order on "November 8, 2013" in which he denied Applicant's Motion/Request for Default and Motion To Strike, under Rules, Rule 12(a) & (f), SCRCP, issued on (August 16th, 2013) see the facts a "Order Denying Motion To Alter or Amend", issued on "April 9, 2014" see the (Attachments: I-1 through I-2). On December 16, 2013 Applicant filed a "Supporting Motion To Alt-

er or Amend Judgment Rule 59(e), 55(c) (SCRCP), and (SCACR), 501 Code of Jud. Conduct canon 3 Subd.(C)(1); and (E)(1)(a)(b);(i)(ii)(iii)(iv)." A hearing was held on April 1, 2014. Applicant proceeded pro-se. judge Miller filed an Order on April 9, 2014. See: (Attachments: I-1, & I-2). See also in comparison. (Attachmens: I-1, I-2, & I-3).

Mr. Maldonado further, filed a ("Summary Judgment") against such said Order). Because judge Miller "denied his own Order from November 8, 2013." Issued an Order on (April 17, 2014). See the, (Attachments: J-1, & J-2). Judge Miller denied once again the issued "Order Nov. 8, 2013." And failed to grant Applicant his "Order Denying Motion To Alter or Amend." december 16, 2013 (which was received - Respondent on december 19, 2013). Pursuant to Respondent's "Return To Motion To Alter or Amend The Order denying the Motion for Default." Issued on: January 6, 2014." clock - stamped January 15, 2014. See (Attachments: K-1 through K-4).

This filed Motion identifies clearly judge Edward W. Miller's error of law, to denied "Respondent's November 8th, 2013. Oder Denying Motion for Default," see (Attachments:I-1, 1-2, & I-3). Such Order said this "court denied the Motion by Order filed November 8, 2013, but how this judge denied the same Order back, when respondent's filed Motion? This order entered on April 3, 2014. When the court denied Respondent order denying the Motion for default, see (attached: K-1) clearly the judge's Order said at (R. p. 1, lines 4-5) this fact by Respondent's argument: Filed on January 6 2014, clerk's clock-stamped on Jan. 15, 2014, stated that: ("[T]hat, judge Miller denied Applicant's Motion for Default jud-

gment by order "November 4, 2013" and "Noveber, 8, 2013.'"). Mr. Maldonado had no record of filed Motion dated "November 8, 2013". And also respondent misplaced dates, at Motion to Alter or Amend Judgment, when Respondent said Applicant filed was on (Doc. 16th, 2013)(which was received by Respondent on Dec. 19th, 2013). See, (Attachments: K-1, R. p. 1, lines 4 - 5). The Applicant issue was filed from, (November 19 - 20, 2013) and not from "November 16, 2013." See, the "Affidavit: Affiant in this files; (attachments: L-1, & L-2). The Order Denying Motion to Alter or Amend should be bacated, upon Edward W. Miller judge signature," and should be null an dvoid below this "(PCR. Act.), application Case No. 2013-CP-23-1440." And this Court have to see that and ruling this errors from Honorable Edward W. Miller judge. See id.

Appx. (F)(9-of-187)

> Therefore, Mr. Maldonado filed his forth (4th) Post-Conviction Relief Action, application with this Honorable Court, and also with the "State Grand Jury information" which such office did not have records of the indictment. Entered July 31, 2015, and now this same court is attempting to state this is not the Applicant (PCR. Act.) application, as the filed a case of 2015-CP-23-047(57), Applicant ask of this Court, to show when Mr. Maldonado filed such a (PCR. Action) with this Court. Releasing the facts in such action.

Because, on July 31, 2015 Mr. Maldonado filed his application for post - conviction relief.

By written Civil Case Number is 2015CP2304747. And at the same time Applicant belive the Clerk of Court addressed a copy of Applicant's PCR. to the Atty. Gen. Office, opposed party. See, (attachments: E-I, E-II, & E-III) was Applicant argued that in his filed Motions:

> "Request for Default Judgment/And a Order To Strike the <case No. 2015-CP-23-47(57)> Pursunat To Rules, Rule 12(a)(b), and (f), 55(a)(b)(c), (SCRCP), As Law Saction."

(R. P. 101-of-497. ROA) 8-of-29 File (4th PCR. Act. Doc. 6)

See, the Motion (R. Pp. 6¶(2), 7¶(3), and Pp. 9-10), "Defense and Objection to Strike the wrong case number. Filed on: April 13. 2017.

Were there is the Respondent's Return and Motion to Dismiss and Conditionl Order of Dismissal." Appx.(F)(10-of-128)

And now the Respondent issue of a "Final Order of Dismissal, with the same (Case No. 2015-CP-23-4757) Filed on July 7, 2017." Entered in the Court on July 21, 2017, Applicant received July 27, 2017. See at Final Order of Dismissal (R. p. 3) Respondent argued to this court with is conditional order of dismissal, hereby respondent stated that: Applicant "erroneously asserts the Respondent (Mr. J. Clayton Michall assistant Atty. General) introduced in this court have used the wrong civil action number." See, id., the (attachments: E). That evidence agAINST THE "Final Order of Dismissal, filed on July 21, 2017. Because, there is a new ("State"), Respondent, Mr. Megan Harrigan Jameson, at bar, to the S.C. Supreme Court Rule, and S.C. Code § 17-27-45(C), fall below in this action by review of all filed documents in Applicant's right case - number, and the public index both indicated as "2015-CP-23-04757. At bar violated, S.C. Code §§ 17-27-40, 17-27-45(C)." This Court have discretion on Applicant his last filed: ("4th PCR. Act. Doc.5"). On March 29, 2017, see therein, (attachments: "E").

The attorney general's office submitted a proposed Final Order of Dismissal. Mr. Maldonado objected to the portion of the proposed order finding the "Mr. Megan Harrigan Jameson, attorney general, and the plea judge, including PCR judge(sO has --and likely will continue to-- intentionally violate enactment of the

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Subd. (b) for a second offense, a term of imprisonment of not less than seven (7) years nor more than thirty (30) years, no part of which may be suspended nor probation granted, and a fine of fity thousand dollars.

As the language of the Section 44-53-375(C)(2)(b). See, (Attachments; O-1, O-2)(emphasis added). APPX. (F)(12 - of - 128)

Ms. Susan O Porter summarized the factual background, argued in the guilty plea courtroom, without calling any witness on either side. Mr. Maldonado, and Prosecutor didn't provided witness, at the record. (Mr. Maldonado's prior record was in violation of the charges against Mr. Maldonado). Therein, is "a hear said violation rule. S.C. Const. Art. I, § 14. And U.S.C.A.Const. Amend. 6th. See Guilty Plea (Tr.) (P. 13. lines 7 - 10).

Ms. Porter said: Yes, Sir Your Honor, It's -- It's more ...
(Whereupon, proceedings were Interrupted for a conference, off record.) "No records at the guilty plea hearing, and "this is a hear - say violation of rules of evidence in the guilty plea hearings.

There is no conference of records by defense counsel, and Mr. Maldonado properly advised to full understanding as to the plea of guilty as to both the charges, counsel failed in review it, and make the guilty at plea understandable to the both charges. See, Guilty Plea (Tr.) Pages 15, & 16. lines 23 - 26).

The Court addressed: Now, I Understand this is "a second offence." You Do Understand. Mr. Maldonado after I been notify and heard from the guilty plea judge, he will face "Sixty (60) years" for those consecutive offences. If Mr. Maldonado does not accept the guilty plead deal to "Twenty (20) years, him will faced the Sixty (60) years. For the second offences. See, ante in this Motion P. (2).

The Court Continue: That if you're on parole. Do you understand that? That could mean -- If Mr. Maldonado did not said Yes. He will belived that is a Sixty (60) years sentenced. And he did not have defense at the time, under Section 44-53-375(C)(2)(b).

And recommended "a cap of twenty (20) years." See the Sentencing (Tr. attachments: N-6, p. 6, lines 9-12). During the guilty

South Carolina General Assembly. By the issued Order on: July 21, 2017. Appx. (F)(11-of-128)

III. Statement of Fact

This section will summarize the facts contained in the guilty plea record and the evidence presented during the evidentiary hearing.

A. Guilty Plea Record.

The following occurred during the guilty plea colloquy:

> The Court: Are You, in fact, Guilty of the charge — or charges? Excuseme.
> Mr. Maldonado (interepreter by and spoken by Mr. Hunt): Yes, completely I'm guilty.
> The Court: All right, and those are two charges -- two Counts — Two separate charges.
> Mr. Maldonado (Interpreterted and spoken by Mr. Hunt); Oh — Two charges? I'm not — didn't understand.
> The Court Clearly said: "I don't have a copy of the indictments" but, Um?

Guilty plea Transcript (hereinafter "Tr.")(P. 11, lines 9-18) judge Alexander S. Macaulay, never advised Mr. Maldonado that state law above section 44-53-375(C)(2)(b) to carry a term of imprisonment of not less than seven (7) years nor more than thrity-(30) years - that state law prohibite judge from going up to Sixty (60) years for consecutively offenses. Reading the statute:

> Section 44-53-375(C)A person who knowingly sell, manufacture, deliver, pursuant or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession of ten grams or more of Methamphetamine or cocaine base, as define and otherwise limited in Section 44-53-110, 44-53-210(d) (Supp. 2005) stated as follows:
>
> ¶(2) twenty-eight grams or more, but less than one hundred grams;

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plea the court failed to pronunced the twenty (20) years "recommendation, by Mr. Maldonado acceptance of the guilty plea agreement from Ms. Porter's recommendation "a cap of twenty (20) years." Before the court, pronouncing how Mr. Maldonado whiched to plead guilty for consecutivelly on these indictments. See, in intirely the guilty plea (Tr.). There is no records to Applicant acceptance of the twenty (20) years recommendation before he plead guilty. The "court without of jurisdiction sentenced a Mr. Maldonado." April 10. 2007.

Ms. Porter did not provided judge Alexander S. Macaulay with Maldonado's Guilty Plead Memorandum and other documents "entitled Mitigating Factor and Extenuating Circumstances."[Fn.2] She did not provided any proof for such arrest, to Macaulay accept the guilty plea deal on August 22, 2006. See Guilty Plea (Tr. Attachmens: M-16, lines 14-25, M-17 lines 1-25, & M-18 lines 1-14). That it is based on the hear-say rule, during the arrest presentation with the court. Ms. Porter prosecuted Mr. Maldonado, without the records of arrest on June 26 2005. And as the result in August 22, 2006.

Ms. Porter said to the Court: APPX. (F)(13-of-128)

> Thank Your Honor. With Um, Regard to Court One — A Conspiracy from April of 2005 Through February of 2006 — Um, Maldonado met and began doing business with J.J Turner some time around April of 2005 through another "co-conspirator" who will, Um plead guilty next — Lisa Ramirez.
> Um — Maldonado has delivered Ice to J.J. Turner on no less — or, on less than ten occassion, Um — "between (Zero)"? good question the prosecutor entered to this court ("Zero").
> and times at leas six; But he's not quite sure?

This is the Law Itself:

Guilty Plea, (Tr. Attachments: M-11- lines 15-18) judge Mac-

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2. The Sentencing Arguments will be discussed in Argument (IV. A. B., & C), infra.

aulay never advised Mr. Maldonado that this is an indictment to read it carfully and make sure the laws Mr. Maldonado has been charged with breaking is the one specified in the statute "....To be valid, an indictment must allege that the Mr. Maldonado performed acts which, if prevent Constituted a violation of the law that he is charged with violating...." McNailly v. U.S., 843 U.S. 350, 360, 107 S.Ct. 2875, 2862, 95 L.Ed.2d 292 (1987). Therein, this Court Ruled as follows:

> This, Court has often stated when there are two rational readings of "criminal statute," one harsher than the other, so this court now is to choose the "harsher" only when congress has spoken in clear and definite lenguage. See McElroy v. United States, 455 U.S. at 658, 102 S. Ct; at 1341. (Citing McNally v. United States, 483 U.S. at, 375). S.C. Code §§ 44-53-390(a)(4), 44-53-375(C)(2)(b). See, (attachments: at, P-4).

Ms. Porter did not provided judge Alexander S. Macaulay Mr. Maldonado's "Motion of Discovery", Memorandum and onother documents and neither did she provide the same to his defense attorney. With did she failed do so(?) See Guilty Plea (Tr. Attachments: M-16, lines 14-25, and M-17, M-18, lines 1-4). Mr. Maldonado could not form a defense and judge Macaulay never advise that the twenty (20) years recommendation deal affected his sentence before guilty plea entered. See, Sentencing (Tr. Attached: N-6, lines 9-15). See infra on this Motion section C Argument IV.

> Judge Macaulay sentenced Mr. Maldonado a twenty (20) years, imprisonment April 10, 2007. See (Attached: N-10 lines 18-25).

B. Applicant's Evidence Presented on Motions "Request for Default Judgment/And a Order To Strike Case No. 2015-CP-23-047(57). See, the Grounds II. & III. Filed, on April 13, 2017 (doc.5).

Mr. Maldonado's Motions in support of Application for Post-Conviction Relief Action, at Page 1 ¶(4)(a)(b)(c), is Captioned, "A Federal-Esque 'Variance' is appropriate in this case." Initial

Brief In Support Of The Application For Post-Conviction Relief Act. "Alternative Petition For State Habeas Corpus" File (4th PCR. Act. Doc.2) on Dec. 14th, 2016. See Arguments, in the Federal System, a Variance, at "Issues" Presented. In Support (4th PCR. Act.) Case No. 2015-CP-23-04747 stated as follows:

> **Issue** (A) Counsel Was Ineffective For Not Attempting To Have all Drug Charges Consolidated Pursuant To S.C. Code Ann. § 17-25-50;
>
> **Issue** (B) Counsel Was Ineffective For Not Challenging The Invalid Indictments before advising Applicant To Plead Guilty. See, id., ante at page 13;
>
> **Issue** (C) Did the Invalid Indictment Make the Convictions and Sentences Constitutionally Invalid; and
>
> **Issue** (D) Was The Plea Constitutionally Invalid To The Court's Failure To Comply With The Mandates of Rule 11, FRCrimP. And Boykin v. Alabama (1963)?

Further, Mr. Maldonado argues that "a statutory sentence is available to the defendants based on various factors set forth in the Commissions body created under the Sentencing Reform Act. of 1984 (Act), as amended 18 U.S.C. § 3551 et seq. (1982 ed, Supp. IV). See, also 18 U.S.C. § 3553(a)." Misttrea v. United States, 488 U.S. 361, 109 S.C. 647, 650, 102 L.Ed.2d 714 (1989)(quoting, State v. De La Cruz, 302 S.C. 13, at 16, 393 S.E.2d 184, at, 186 (1990). After reviewing a number of jurisdictions for treating Mr. Maldonado with mercy, the Initial Brief In Support of the PCR. Action, Application, at P. 4 - 5.

Concludes:

> Even when mandatory sentencing leves exist, this court, like the federal courts accros the Country and in this very state

should be able to treat those before them as individuals.... If federal laws and cases dictate that a court should impose a sentence that is "sufficient, but not greater than necessary," See Guilty Plead (Tr. Attached: M-8, lines 20-24), than all sentencing courts should have greater latitude to impose a sentence that fits not only the crime, but the person bore the court. Guilty Plea (Tr. Attached: M-8 lines 15 - 17). The Court said:

> If You're Sentenced Consecutively on those indictments, You could be sentenced "To Sixty Years and a Hundred Thousond Dollars. Do You understand that"? Mr. Maldonado, "answered Yes, in order to avoid being given the Sixty (60), years sentence." See; ante of this Motion's pages 10, & 11.
>
> Therefore, Jose Alberto maldonado respectfully submits that a sentence under the indictments with this "Section 44-53-375(C)(5) arrest would be a sentence that is not 'sufficient, bu neither a greater than nacessary.'" See: Sentencing (Tr. Attached: N-4 lines 7-16).

During the hearing trial counsel did not identify this documents to Mr. Maldonado, and did entere a involuntary guilty plea the trial counsel sent letters with the maximum of the sentence be like "Sixty (60) years" if Mr. Maldonado refused at the plea deal, of twenty (20) years. And the Record will attest the fact. See: (Attachments: O-1 through O-4).

Those facts as the result of Mr. Maldonado being sentence to twnty (20) years, as the Motion Discovery before the court Mr. Maldonado has been reviewed. "Trial counsel failed to submitte to judge Alexander S. Macaulay." In his ten days of appeal.

Mr. Maldonado involuntary testified against him self to receive a fine, twenty (20) years sentence, and prevent that any active sentence could be served thirty (30) years through Sixty (60) years incarceration. Mr. Maldonado also testified that he would not plead guilty: See Guilty Plea (Tr. Attached: M-11 lines 11-18). The Court said:

APPK. (F)(17-of-128)

Are You, in fact Guilty of the charge -- or charges?
Excuse me.
Mr. Maldonado (Interpreted And spoken by Hunt):
Mr. Maldonado answer, Yes completely I'm guilty.

The Court: All Right. And those are two charges ---
two Counts -- Two separate charges.

Mr. Maldonado (interpreted And spoken by Mr. Hunt):

Um -- Two Charges? "I'm no -- Didn't Understand."
Mr. Maldonado answered him didn't undertand and for that his guilty plea is invalied' See Guilty Plea (Tr. Attached: N-11 lines 11-18).

The Court Answer:

I "Don't have a copy of the Indictment, but
Um -- If the Court do not have indictments is not guilty plea on August 22, 2006. Because the court did not possess the indictments between the "State Grand Jury" from Columbia?

Whereupon, Mr. Maldonado would not have pleaded guilty but for his counsel's erroneous legal advice.

IV. Argument

For the following reasons, the Court should reconsider the Final Order of Dismissal date July 21, 2017, after and amend the judgment, and grant post-conviction relief in this action.

A. The finding of fact an conclusion of law are those an advocate and the Court.

As a threshold matter, the procedure followed by the Court denied Mr. Maldonado an opportunity to have his post-conviction relief claims adjudicated by a judicial officer. "S.C. Code Ann. § 17-27-80 (Supp. 1976), requires the PCR. court to 'make specific findings of fact and state expressly its conclusion of law, relating to each issue presented. See id.; Frank Daniel Simpson, #354338 v. State, Civil Action Case No. 2014-CP-23-00531's "Rule

59(e), SCRCP Motion'" PCR. Application entered in this Thirteenth Judicial Circuit issue dated January 28th, 2014." (Quoting McCray v. State, 305 S.C. 329, 330, 408 S.E.2d 241 (1991)(citing, Pruitt State, 310 S.C. 254, 423 S.E.2d 127 (1992). This court did not do that, but rather delagated that responsibility to the attorney general's office, "Alan Wilson, and his assistant. J. Clayton Michall," with the "Final Order of Dismissal" in view of the court's civil action case number not mactchin' Applicat's (PCR. Act.), application, at the wrong case number? Appx. (F)(18-of-128)

Because, thus the, Court email July 21, 2017 does not contain any findings of fact or conclusion of law, Mr. Maldonado does not know the Court's reasons for denyinng his Post - Conviction Relief, application. The Court's email, therefore, is "insufficient for appellate review" Simpson, (quiting, McCray, 305 S.C. at, 330, 408 S.E.2d at 241. Although the attorney general addressed few merits of each issue presented under his "final order of dismissal" without an evidentiary hearing. the reasoning in the "Order" is entirely that of an advacated and not an independent judicial officer to review anythin Mr. Maldonado's (PCR. Action), application, which violates the separation of powers. S.C. Const. Art. I, § 8.

Addressing Section 17-27-80 in the content of a capital post-conviction relief action case, our Supreme Court "strongly encourage[d] PCR judges to draft their own finding of fact and conclusion of law." Hall v. Catoe, 360 S.C. 343, 365, 601 S.E.2d

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335, 341 (2004). The right to have the Court make its own findings of fact and conclusions of law taken on added significance in the case as the Court's order endorses counsel requesting and sentencing judge nullifying law enacted by the General Assably.

The Court, therefore, should withdraw the Order and make its own findings of fact and conclusion of law.

Appx. (F)(19-of-128)

B. Contrary to the Order's findindings of fact there is evidence that the plea judge and 1st PCR. 2nd PCR. Act. and 3rd PCR. Act. application(s), would intentionally violate enactment of the South Carolina General Assembly.

Page 4 of the Sentencing ("Tr.") Written Order states:

> This Court finds plea counsel explained the sentencing scheme to an Applicant as well as his strategy to ask the plea judge to depart from that schame (as happen, in federal court in order to received a sentence.
>
> **The Guilty Plea Court addressed:**
>
> You entered a plea of guilty to indictment(s) 2005-GS-47-0026 Count 1, Trafficking Methamphetamine, 28 To a Hundred Grams, second offense; and Count 4, Trafficking Methamphetamine, 28-100 Grams, second offence.
>
> The minimum sentence on each of those charges is seven (7) years and the maximum is 30 Years & 50, 000.00 fine You could be sentenced to a total of "14 years minimum and (60) years maximum and a Hundred - Thausond dollars fine." Do You understand that? See ante pages 10 & 11. And also see (attached O-2) the language at Section 44-53-375(C)(2)(b).
>
> Mr. Maldonado's answer: Yes, Mr. Maldonado believed that under the indictment(s) 2005-GS-47-0026 of S.C. State Grand Jury, from Columbia indicted had no jurisdiction under Section 44-53-375(C)(5), and for that is not true bill indictmet?

See, page 9 lines 19-25 of the Sentencing Tr. Written Order states:
By the Court addressed;

Well, what I'm saying is I think your attorney has done an excelent job in the sense that (20) years would be reasonable sentence being a 2nd offence.

(R. P. 111 of-197. ROA) 18-of-29 File (4th PCR. Act. Doc.6)

Instead § 44-53-375(C)(2)(b) for two charges running concurrent back to Case No. 2005-GS-47-0026. The ...sentencing under, § 44-53-375(C) ¶(5) is vacated and require reverse for further remand.

Initially plea, judge for Mr. Maldonado claves refererce to the guilty plea counsel hearing testimony to determined whether plea counsel actually "has done an excelent job.'

Honorable, Macaulay plea judge, had ignored the law, upon Mr. Maldonado case. Was "intentionally ignoring the law."
APPX. (F)(20-of-128)

Plea counsel agrees with that, but Mr. Maldonado can not receive such a sentence for twenty (20) years;

See § 44-53-375(C)(5) unles thereis a request to modify it. Under Section 44-53-375(C)(2)(b), for a second offences "....The Court finds plea counsel articulated a valid reason that he asked for a twenty (20) yeas mandatory minimum in the case...." In the following facts:

The State v. Jose Alberto Maldonado, 2005-GS-47-0026 Count 1, the Sentence of the court is that the Defendant be committed to the "State Department of Corrections for a Term of twenty (20) years? On Count 4 it's the sentence of the Court that the Defendant be committed to the (SCDOC) for a period of 20 years,plus pay the cost and assessments as applicable.

Both sentences are to run concurrent together with the sentence on 2003-GS-23-4547 with credit since August the 6th, 2005. Sentence judge failed to submitted a S.C. Code Ann. § 44-53-375(C)(b)(2) to been vested the both sentece sentences at Section for a second offences. See, (attached: N-11, lines 18 - 25).

Further Mr. Maldonado in this action to the plea judge and defense counsel at trial is sentenced order, Mr. Maldonado cite a Reseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995) in support of this findings. In Reseboro, our Supreme Court actually found trial counsel ineffective for not requesting an alibi instruction despite trial counsel testifying "[h]e made a tactical decision to focus the jury's attention on the State's failure to meet its burden of proof rather than place more emphasis on the alibi testimony by requesting an alibi charge." Id. 317 S.C. at 294, 454 S. E.2d at, 313. Our Supreme Court held "counsel's professed strat-

egy in this case invalid under an objective standard of reasonableness." See, id. Reseboro, Freiburger v. State, case No. 2010-177147, 2015 WL 543119, at 2 (S.C. Ct. App. Feb 11, 2015)("If the State contents the alleged deficiency resulted from strategie decision made at trial counsel must articulate a valid reason for employing a certaing strategy."). Hereby, plea counsel's advised to Mr. Maldonado and strategy cannot be valid under and an objective standard of reasonableness because the advice and strategy are contrary to law. See, (attached: P-1, P-2, & P-3) is information, before Mr. Maldonado plead guilty, (1) from the "OFFICE OF THE ATTORNEY GENERAL, From, May 18, 2006, proposed plea agreement, on all charges, that, if I didn't plea the judge could go as low as seven (7) years concurrent on all charges or as high as Sixty (60) years, running each charged consecutively. It will be up to the judge; and (2) "a letter from Mr. Maldonado attorney, in which he state's that: If the judge runs the sentence consecutively you would received a total of thirty-five to forty years rather than a sixteen years sentence (85 % of 19.).

APPX. (F)(21-OF-128)

In the South Carolina Law, Section 44-53-390(a)(4) states: furnish false or fraudulent material information in, or omit any material information from any application, report, or other document to be kept or filed under this article, or any record required to be kept this article. See State v. Tolbert, 269 S.C. 210, 237 S.E.2d 55 (1977) at § 44-53-390(a). Fn.3.

Trafficking methamphetamine, 28-100 grams, second offense, carries "a term of imprisonment of not less than seven (7) years,

3. The Sentencing (Tr. Attached; N-4) states, "plea counsel testify that he was on agree to run concurrent, and also with credit for the sentence that Defendant serving" hearingafter, the counsel answer that he has a copy for Defendant on his 1st-Sentence," and led the plea judge to continue and Mr. Maldonado his second sentenced charged. This "statement is simply not accurate. Mr. Maldonado plead guilty for a run concurrent sentences on 03-GS-23- 4547 indictment. et ect. See id. (Attached: N-5 lines 15 - 25).

no more than thirty (30) years, no part of which may be suspended nor probation granted, and a fine of fifty Thousond Dollars." See: Section 44-53-375(C)(2)(b). At, Frand Daniel Simpson, #354338 Case 2014-CP-23-00531 filed on "January 28, 2014." his Motion 59(e), SCRCP. At Fn.3. Holdings, that: (Of this specific prohibition, the plea court's general power to suspend sentences, pursuant to S.C. Code Ann. § 24-21-410, does not apply.). Compare State v. Tisdale, 321 S.C. 153, 467 S.E.2d 270 (Ct. App. 1996)("by using, counsel, prosecutor, and plead judge' the language" of "the furnish false or fraudulent material information" of total Fourteenth (14) Years, minimum and Sixty (60) years maximum and a Hundred - Thousand Dollars fine is "Mandatory", legislature intended for someone convicted thirt-offense (DUI) to serve, actual imprisonmant of at least (60) days) with State v. Thomas, 375 S.C. 466, 642 S. E.2d 724 (2007). APPX. (F)(22-OF-128)

(Held that statute prohibiting distribution of controlled substance within proximity of school contained, no provision prohibiting the suspension of a sentence imposed pursuant to the statute,(§ 44-53-375(C), ¶(5)) and thus, PCR. Action, judge had the general authority to suspend the Minimum (20) years, sentence).

Plea counsel, therefore, was ineffective for advising the Mr. Maldonado to "seeking a fine and twenty (20) years, sentence, so that he can "avoid the Sixty (60) years" concurrent sentences. Which is not available under state law's statute for this offense. See id.

Additionall, the sentencing court was without authority to impose consecutivelly offense sentenced. Our General Assembly has enacted a "Section 44-53-375(C)(2)(b)(Supp. 2005) et seq. The "Second Offence Act." However, does apply to "Charges of Violating, the illicit narcotic drugs and controlled substances laws

of this State which are Classified as Class A, B, or C felonies." S.C. Code Ann. § 24-13-1590. Trafficking Methamphetamine, 28-100 grams, second offense is a Class A Felony. S.C. Code Ann. § 16-1-90(A). Plea counsel therefore, was ineffective for not advising Mr. Maldonado what his second offense was on "detention act" expressly excludes that sentence in the situation. See: at Jose Alberto Maldoando v. (SCDC), ALC Case No. 15-ALJ-04-0567-AP. Appellate Case No. 2016-001274 Filed Oct. 14, 2016. See the (attachments: (C-7, & C-8). Appx. (F)(23-of-128)

The (SCDOC) between (ALC)'s judge explaint that, to the Court of Appeals Mr. Maldonado have being submitted a "PETITION FOR A WRIT OF CERTTIORARI." to review the valid sentences upon Applicant with (SCDOC) agency. In The Supreme Court.

For a plea to be voluntary, intelligent, and knowing, the "Defendant entering a guilty plea must be aware of the nature and elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." See id., Frank D. Simpson v. State, (January 28, 2014) (his, Motion 59(e) SCRCP at p. 9 (quoting, Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 524 (1999)(emphasis added). Here, trial counsel did not advised Mr. Maldonado that the minimum sentence is mandatory at Section 44-53-375(C)(2)(b). Niether did the plea judge correct trial sentence by trial counsel's erroneous advce.

The Court, therefore, should reconsider the Final Order, * alter and and amended the judgment, and grant post-conviction relief action. See: (Attachments: Q-1 through Q-3).*

(R. p. 115-of-497. ROA) 22-of-29 File (4th PCR. Act. Doc. 6)

C. Federal law relied in by plea counsel and adopted by the imposed the order sentencing is not applicable in South Carolina State Court proceedings.

Appx. (F)(34-of-128)

Plea counsel, furthermore, was ineffective for advising Mr. OMaldonado, to sixty (60) years "a state-esque variance," when no such variance is available under our State's Law for a Second offense under Section 44-53-375(C)(5). The Guilty Plea (Tr. anb Sentencing (Tr.) records incorrectly relies) on "State, and also Federal authority." See (attachments: M-1, through M-12)(attachmnts; N-1 through N-12)'s records, and S.C. Code of Laws (unannotate) - 44-53-375 (attachments: O-1 through O-4). See ante of this Motion p. 14 citing 18 U.S.C. § 3553(a) which lists fact for a federal court judge to consider prior to imposing sentence. Koon v. U.S., 518 U.S. 81. See, (attached: N-10 lines 18 - 25) of the Section 44-53-375(C)(2)(b), reviewed a donword departure under the Federal Sentencing Guidelines and **Not** a State court judge's authority to ignore statutory, mandatory, minimum "than seven (7) years nor more than thirty (30) years sentenced. See: Id.

The court's impose sentencing orders errors in two aspects, first, the authority cited "guilty plea" does not authorize even the federal court to ignore mandatory minimum sentence at Section 44-53-375(C)(2)(b), or Maximum sentence. See id. 18 U.S.C. § 3553 (a) which lists facts for a federal court judge to consider prior to imposing sentence. Koon v. United States, 518 U.S. 81 (1996).

Second, the court without explanation applied federal law to state court proceedings to justify plead judges nullifying enactments of the General Assembly. In our State, it is well sattled "A trial judge is allowed broad discretion in sentencing within

statutory limit. "Brooks v. State, 325 S.C. 269, 271, 481 S.E.2d 712-13 (1997)." APPK. (F)(25-of-128)

The Court, therefore, should reconsider the order, alter and amended the judgment, and grant post-conviction relief act.

D. By limiting review to the guilty plea transcript, the Final Order of Dismissal applies an incorrect standard of review.

The order at p. 2, states: In his response to this Court's Conditiona order of Dismissal, Applicant "erroneously asserts the "Respondent" and this Court have used the wrong civil action case number." However, a review of "all filed documents in this action and the 'public indix'" both indicate the "civil action case number for this action is correctly listed as PCR. Case No. 2015-CP-23-04747." is clock-stamped issue filed from July 31, 2015 reflect an "Original Case Number PCR. Act. 2015-CP-23-04747." See, (attachments: "E").
Was Applicant explained what is over in this matter filed (4th PCR. Doc.5) and also see below this Motion (attachments E-1 through E-6). "Hereinafter, is the proof between the Clerk's Original docket case action number."

Because, the Respondent's order also alleges inconsistencies in the filed dates, the Applicant characterized truly again as "fraudulent records" see id., 44-53-390(a)(4), this court must hold to that to correct the estandard of review the Applicant's claim, as well as the records from the Attorney General's Office Mr. James C. Michall, was present and argue within a wron civil case as 2015-CP-23-04757, before this court had been tried for a second time, under a fake numbers was entered in Applicant's case.
And the Respondent stated: As well as the court's own records, prior to this action. Upon the "Court's signature." against bias of perjury;(1) "conditional

(R. P. 117-of-497 ROA) 24-of-29 File (4th PCR. Act. Doc. 6)

Order of Dismissal." (2) Return And Motion To Dismiss"; and (3) "Final Order Dismissal". Thus, the Court finds those claims to be a "fraudulent records". Without merit. APPX. (F)(26-of-128)

Additionally Mr. Maldonado asserts that this Court should hold Respondent in major default for the action, and grant PCR. Act. Application, based on delay files, against PCR. Act. Application. Reviewing Applicant's Motion for Default in full and finds it must be grant, and reconsidering the this Motion 59(e), (SCRCP).

For an Applicant to be granting default judgment, in his PCR action, application, he was presented prejudice from the State's delay over, and over "again" in failed to timely answer with the right case number in this action before this court Kneece v. State, 269 S.C. 177, 236 S.E.2d 745 (1977); Harring v. State, 262 S.C. 597, 206 S.E.2d at 886. Furthermore, compliance with the statutory time limits is discretionary with the PCR. Action application hearing judge Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973).

"This Court finds there is no evidence with the "new asstent attorney general's order" where the evidence is in the guilty plea (Tr., Sentencing). To support the Applicant's assertion he had been misadvised (or made any promises) about the sentence he would receive; therefore, the Trasncript(s) refuted the allegation." Including the statement in the final order of dismissal as curious for three reasons. See, Files (4th PCR. Doc. 5), "Return and Response To Motion of Dismissal." (P. 1-3 ISSUE I.) "Underlying charges at the Guilty Plead and Sentencing".

Firth, it is contrary to the standard of review of guilty

pleas. The Respondent failed to argued this claims, at the order without merit. "When determining issues relating to the guilty pleas, the Court will consider the entire record, included the guilty pleas trancript(s), as evidnce at the next PCR. hearing." Pittman, 337 S.C. at 599, 524 S.E.2d at 623-24. Consideration of the PCR Act. Application record support granting relief. Mr. Jose Alberto Maldonado's uncontradicted the order against his PCR Act. Application, testimony was he wouldn't had pleaded guilty, for his sentece a twenty (20) years, but for the incorrect advise to his trial counsel, acknowledged his strategy was to convince the plea judges, Edward W. Miller, and Alexander C. Macaulay to impose an illegal sentences. That first, was from November 29, 2005, which the Applicant would not have the guilty plea, and sentence ("Tr."), as recorded. But after had/or have been review the whole record, Applicant assert that, the first guilty plea on Nov. 29 2005 judge did not run concurrent his first sentence during the August 22, 2006 guilty plea, within Section 44-53-375(C)(2)(b) verifies this strategy. Appx (F)(27-of-128)

Second, this finding is true. Mr. Maldonado ask the Court that require review, and vacate sentence for twenty (20) years and grant PCR. Act. Application, see: **"INITIAL BRIEF IN SUPPORT OF THE APPLICANT (PCR) 'ALTERNATIVE PETITION FOR STATE HABEAS CRPUS'"** filed on **December 14th, 2016** (Doc. 2). Because, the plea judge never clarified that under Section 44-53-375(C)(5) upon the indictments (Count 1, & Count 4) for a second offense, was not as mandatory and cannot be imposed in the Applicant's sentence.

(R. P. 119-of-497. ROA,)

Third, this portion under the Final Order of Dismissal the Respondent did not raised any defense for those statements, included the Applicant's File "Motion under Rule 60(b) SCRCP" with the general sessions court, was is consistant with other portions of the order. See the July 21, 2017 order at, p. 2, actually finds that "State Grand Jury captioned Indictments", which Applicant argues of can be raise at any time. Respondent adopted a strategy to seek an illegal sentence and discussed this strategy with this Court in the Order. See id., also find that Mr. Maldonado had an spetation of ceceiving an illegal sentence. See Order (p.2.). ("Applicant may have hoped for a post-conviction relief action at Case No. 2015-CP-23-04747). Because, this "wishful thinking" was created by Mr. James C. Mictchell, the Respondent defficient.

The Court, therefore, should reconsider the Order,* alter and amended the judgment, and grant post-conviction relief Act. See: (Attachments: Q-1 through Q-3).* Appx. (F)(28-of-128)

E. By considering the weight of the evidence the order applies the wrong standard for prejudice when avaluating the Respondent's ineffectiveness, to prosecuting the Applicant with this action, with the Case No. 2015-CP-23-047(57). And tried to covere up the arguments of guilty pleas, against the illegal sentence.

See the Order, at (p.3), Respondent's stratagy to request a order, because Applicant did not show prejudice, Respondent cannot be viewed as having prejudiced the Applicant. "Because the Respondent has overwhelming evidence of Applicant's guilty." And the iposition of second offenses, and also the illegal indictments to

the wrong information, and with held from the "State Grand Jury", was this office request that, there is not record against Mr. Maldonado, see the (Attachment: "A-I") file (4th PCR. Doc. 5) on: March 29, 2017, this copy indentify that "State Grand Jury didn't have record of said charge." Record from April 17, 2016. Then the Respondent, filed a order citing Harring v. State, 262 S.C. 597, 206 S.E.2d 885 (1974). See id., Geter v. State, 305 S.C. 365, 367, 409 S.E.2d 344, 346 (1991) for the proposition that "concluding reasonable probability of a different result does not exist when there's overwhelming evidence of guilty." Genter, however, was a trial case, not a guilty plea case. Appx. (F)(29-of-128)

"In the context of a guilty plea, the deficiency prong inquiry turns on whether the plea was valuntarily, konowingly, and intelligently entered." Taylor v. State, 404 S.C. 350, 360, 745 S.E.2d 97, 102 (2013). As discussed in Section IV, supra, for a plea to be voluntary, intelligent, and knowing, "a defendant entering a guilty plea must be aware of the nature and crucial element of the offense, the maximum and any mandatory minimum penalty, and the nature of the Constitutional Right being waived." See, Guilty Plea (Tr.) (Attached: M-10 lines 7-17).

Pittman, 337 S.C. at 599, 524 S.E.2d at 624 (emphasis added). Here, trial counsel did not advised Mr. Maldonado that the minimum, as seven (7) years, the Maximum, as thirty (30) years, sentence is mandatory, the plea judge did not correct trial counsel's erroneous advices with "bias at trial" prejudiced Mr. Maldonado's sentence. U.S.C.A. Const. Amends. 5, 6, and 14.

(R.P. 121-of-497 ROA) 28-of-29 File (4th PCR. Act. Doc.6)

V. Conclusion

The Court, therefore, should reconsider the order, alter and amended the judgment, and gran post-conviction relief action.

Appx.(F)(30-of-128)

Respectfully submitted

Done this 1 day of August, 2017 By Jose Maldonado

(R.P. 122-of-497. ROA)

Jose Alberto Maldonado #312648
Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South Carolina, 29067

EXHIBIT (8)
APPX (F) (31 of 128)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, pro - se,
Plaintiff/Applicant, #312648,

V.

State of South Carolina,

Respondent.

Case No. 2015-CP-23-04747

CERTIFICATE OF SERVICE

I, Jose A. Maldonado, a person presently incarcerated at the Kershaw Correctional Institution, do hereby affirm that:

That, the Plaintiff, "Applicant" delivered in to the hands of the Mail room's clerk Motion of Rule 59(e), SCRCP, with a first Class Postal duly affixed and return address clearly indentify on each enveloped for deposit in the United States Postal Service, have been file to the followings persons:

Paul B. Wickensimer
Clerk of Court

305 E. North Street
Greenville South Carolina 29601

Office of the Attorney General
1000 Assembly Street

Post Office Box 11549
Columbia, South Carolina 29211

Further Plaintiff, said and Certificate

On This 1 day of August, 2017.

Respectfully submitted

By Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
The Plaintiff, pro se

Kershaw Corr. Inst. MB/Room, #63
4848 Goldmine Highway
Kershaw, South carolina 29067

SWORN TO and SUBSCRIBED before Me

This 1st day of August, 2017.

Janice Jenkins

Notary Public for South Carolina
My Commission Expires:

JANICE G. JENKINS
Notary Public, State of South Carolina
My Commission Expires 8/16/2026

File (4th PCR. Act. Doc. 6)

(R.P. 123 - of - 491 - ROA)

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer

Clerk of Court

EXHIBIT (8)
APPX. (F) (32-OF-178)

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

Family Court Division
301 University Ridge
Post Office Box 757
Greenville, South Carolina 29602
(864) 467-5800 FAX (864) 467-5856

(Attachments: A-1)
Issued on: AUG. 01 2017
(Also PCR Ret Doc. 6)

MARCH 18, 2008

JOSE ALBERTO MALDONADO 312648
MCCORMICK CORRECTIONAL INSTITUTION
386 REDEMPTION WAY
MCCORMICK SC 29899

JOSE MALDONADO

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS: 2008-CP-23- 2140

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, THE PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(R. PCR 14-OF-497 ROA)

FORM 5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
County of Greenvile)

2008-CP-23- 2140

Mr. Jose Alberto Maldonado)
Full name and prison number (if any) of Applicant)

v.)

APPX. (F)(33-of-128))

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

(Attachment: A-2)
Issued on: AUG 0 1 2017
(Hlm PCR. Act. Doc. 6)

INSTRUCTIONS BEFORE READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Grenville County Detention Center.....
20 McGee Street Grenville South Carolina

2. Name and location of Court which imposed sentence Greenville County
Courthouse 305 East North Street Suite 325 Greenville,S.C. 29601

3. Name(s) of co-defendant(s) (if any) Ms. Lisa Lavern Ramirez

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2005-GS-47-26 Court IV ad 03-GS-23-454

(R. p. 125-of-497: RoA)

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer

Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

Family Court Division
301 University Ridge
Post Office Box 757
Greenville, South Carolina 29602
(864) 467-5800 FAX (864) 467-5856

(Attachments: B-1, & B-2)
Issued on: AUG 01 2017
(4th PCR Act.: Doc. 6)

APRIL 28, 2010

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. SC.
2010 APR 28 AM 8:49

Appx. (F) (34 - of - 128)

JOSE ALBERTO MALDONADO 312648
PERRY CORR INSTI
430 OAKLAWN Rd
PELZER SC 29669

JOSE ALBERTO MALDONADO

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS:

2010-CP-23- 3391

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, THE PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(R. p. 126 - of - 497. RoA)

FORM 5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
County of Greenvile)

Mr. Jose Alberto Maldonado)
Full name and prison number (if any) of Applicant)

2010-CP-23-3391

v.

APPX. (F)(35-of-128))

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED-CLERK OF COURT
PHIL B. WICKENSMER
GREENVILLE CO. SC
2017 APR 28 AM 8:49

(Attachment: B-2)
Issued on: AUG 01 2017
(See PCR Act. Doc. 6)

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Grenville County Detention Center.....
20 M^CGee Street Grenville South Carolina

2. Name and location of Court which imposed sentence Greenville County
Courthouse 305 East North Street Suite 325 Greenville,S.C.
29601

3. Name(s) of co-defendant(s) (if any) Ms. Lisa Lavern Ramirez

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2005-GS-47-26 Court IV ad 03-GS-23-454

(R. p. 127-of-497. RoA)

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.

Issued on: AUG 0 1 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

(Attachment: C-I, & II.)

Jose Alberto Maldonado, Appellant,

(4th PCR. Act. Doc. 6)

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001274 Exhibit: (8).

App. (F)(37-of-128)

Appeal From The Administrative Law Court
S. Phillip Lenski, Administrative Law Judge

Unpublished Opinion No. 2017-UP-209
Submitted March 1, 2017 – Filed May 17, 2017

AFFIRMED

Jose Alberto Maldonado, pro se.

Christina Catoe Bigelow, of the South Carolina Department of Corrections, of Columbia, for Respondent.

PER CURIAM: Jose Alberto Maldonado, an inmate with the South Carolina Department of Corrections (SCDC) appeals the Administrative Law Court's (the ALC's) order dismissing his inmate grievance, arguing the ALC erred by (1) denying his procedural and substantive due process right to a meaningful appeal, (2) allowing SCDC to file a late brief, and (3) affirming the decision of SCDC that

(R. P. 128 of-497. ROA)

(Attachment: C-II) ISSued on: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

his sentence was properly calculated. We affirm[1] pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to issues one and three: S.C. Code Ann. § 1-23-610(B) (Supp. 2016) (allowing this court to reverse or remand the ALC's decision if it is based on an error of law or abuse of discretion); *Al-Shabazz v. State*, 338 S.C. 354, 382, 527 S.E.2d 742, 757 (2000) ("Courts traditionally have adopted a 'hands off' doctrine regarding judicial involvement in prison disciplinary procedures and other internal prison matters, although they must intercede when infringements complained of by an inmate reach constitutional dimensions."); S.C. Code Ann. § 44-53-375(C)(2)(b) (Supp. 2016) (providing a person who is guilty of trafficking in methamphetamine or cocaine base between twenty-eight and ninety-nine grams should be sentenced to "a term of imprisonment of not less than seven years nor more than thirty years" for their second offense); S.C. Code Ann. § 16-1-90(A) (Supp. 2016) (classifying the offense listed in section 44-53-375(C)(2)(b) as a Class A felony); S.C. Code Ann. § 24-13-100 (2007) (explaining section 44-53-375(C)(2)(b) is a no-parole offense because it is a class A felony "which is punishable by a maximum term of imprisonment for twenty years or more"); S.C. Code Ann. § 24-13-150(A) (Supp. 2016) (providing an inmate serving a sentence for a no-parole offense "is not eligible for early release, discharge, or community supervision . . . until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed").

Appx. (F)(36-of-128)

2. As to issue two: S.C. Code Ann. § 1-23-610(B) (Supp. 2016) (allowing this court to reverse or remand the ALC's decision if it is based on an error of law or abuse of discretion); SCALC Rule 3(B) ("For good cause shown, the [ALC] may extend or shorten the time to take any action, except as otherwise provided by rule or law.").

AFFIRMED.

LOCKEMY, C.J., and HUFF and THOMAS, JJ., concur.

(R. P. 129-of-497 ROA)

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA
In The Court of Appeals

Appx. (F)(38 - of 128)

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, #312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

(Attachment: C-1)
Issued on: AUG 01 2017
(Inc PCR Act Doc 6)

FINAL BRIEF OF RESPONDENT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
South Carolina Dept. of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

ATTORNEY FOR RESPONDENT

(R. R. 130 - of - 497 ROA)

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(Attachment: C-3)
Issued on: AUG 01 2017
(4th PCR. Ad. Doc. 6)

(R. p. 132-of-497. ROA)

STATEMENT OF ISSUE ON APPEAL

Appx. (F)(41 of 128)

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE WAS INCORRECT.

(Attachment: C-4)
Issued on: AUG 01 2017
(4th PCR Act. Doc. 6)

(R. P. 133 of 497. ROA)

STATEMENT OF THE CASE

Appx. (F)(92-of-128)

This matter comes before the Court pursuant to the appeal of Jose Alberto Maldonado, an inmate in the custody of the South Carolina Department of Corrections. On December 11, 2014, Appellant submitted a Step One Grievance complaining about the Department's calculation of his sentence. The Step One Grievance was denied on the ground that no error was found in Appellant's sentence calculation. On January 9, 2015, Appellant submitted a Step Two Grievance form, which was also denied on the ground that there were no errors in the calculation of Appellant's sentence. Appellant filed a Notice of Appeal in the Administrative Law Court on October 19, 2015. During the pendency of the appeal in the Administrative Law Court, Appellant filed an interlocutory appeal to the South Carolina Court of Appeals, which was dismissed on February 10, 2016 and remitted on February 29, 2016. Thereafter, the appeal in the Administrative Law Court went forward, and on May 20, 2016, the Honorable S. Phillip Lenski issued an order affirming the decision of the Department of Corrections. This appeal follows.

(Attachment: C-5)
Issued on: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

(R.P. 134-of-497. ROA)

Appx. (F)(43-of-128) issued on: AUG 0 1 2017

STANDARD OF REVIEW (Attachment: C-6) (4th PCR Act. Doc. 6)

S.C. Code Ann. § 1-23-610(B) provides the applicable standard of review:

> The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:
>
> (a) in violation of constitutional or statutory provisions;
>
> (b) in excess of the statutory authority of the agency;
>
> (c) made upon unlawful procedure;
>
> (d) affected by other error of law;
>
> (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
>
> (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

S.C. Code Ann. § 1-23-380(5).

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

(R. p. 135-of-497, ROA)

Issued on: AUG 0 1 2017

ARGUMENT (Attachment: C-7)

Appx. (F)(44-of-128) (4th PCR. Act. Doc. 6)

THE ADMINISTRATIVE LAW COURT PROPERLY AFFIRMED THE DECISION OF THE DEPARTMENT OF CORRECTIONS WHERE APPELLANT FAILED TO SHOW THE DEPARTMENT'S CALCULATION OF HIS SENTENCE WAS INCORRECT.

The jurisdiction of the Administrative Law Court ("ALC") to hear this matter is derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate grievance matters, the ALC sits in an appellate capacity. Id. at 377, 527 S.E.2d at 754. Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate appeals in Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming, as modified, the ALC's *en banc* decision of McNeil v. S.C. Dep't of Corr., 02-ALJ-04-00336-AP (September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to (1) cases in which an inmate contends prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's confinement implicates a state-created liberty interest. See Sullivan, 355 S.C. at 443, 586 S.E.2d at 127 (emphasis added).

In this case, the Administrative Law Court properly affirmed the decision of the Department of Corrections. Initially, the Administrative Law Court exists to review the actions of administrative agencies, and it does not have jurisdiction to review the actions of circuit court judges in sentencing defendants. Accordingly, the Administrative Law Court properly declined to rule upon the validity of Appellant's sentences. (R. p. 3). Furthermore, Appellant has failed to show that the Department of Corrections committed any error with

(R. P. 136-of-497. ROA)

respect to calculation of his sentence. As the Administrative Law Judge found, Appellant was committed to the Department of Corrections to serve multiple concurrent sentences, the longest of which is a twenty-year sentence for drug trafficking, an eighty-five percent "no parole" offense. (R. p. 3). See also S.C. Code § 24-13-100 and § 24-13-150(A). The earliest possible date Appellant could be released from his twenty-year sentence – considering his sentence start date of August 6, 2005 as ordered by the sentencing judge – is August 2022. (R. p. 4). This is the max-out date calculated by the Department of Corrections. (R. p. 4). Appellant has failed to show that the Department's calculation is incorrect in any way. Therefore, Respondent respectfully requests that the order of the Administrative Law Judge be upheld. Appx. (F)(45-of-128)

CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

(Attachment: C-8)
Issued on: AUG 0 1 2017
(4th PCR Act. Doc. 6)

BY: _____

CHRISTINA CATOE BIGELOW
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, South Carolina 29221
(803) 896-8508

October 14, 2016

(R. p. 137-of-497 ROA)

STATE OF SOUTH CAROLINA
In The Court of Appeals

(APPX. (46 - of - 128)

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the **Final Brief of Respondent** complies with Rule 211(b), SCACR, and also complies with the South Carolina Supreme Court's April 15, 2014, order entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

(Attachment: C-9)
ISSUED ON: AUG 01 2017
(4th PCR Act. Doc. 6)

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

October 14, 2016

(R. P. 138 of - 49 : ROA)

STATE OF SOUTH CAROLINA
In The Court of Appeals

App. (F)(47-of-128)

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge S. Phillip Lenski

ALC Case No. 15-ALJ-04-0567-AP
Appellate Case No. 2016-001274

JOSE ALBERTO MALDONADO, # 312648,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that on today's date she mailed a copy of the **Final Brief of Respondent** to Appellant, addressed as follows: **Jose Alberto Maldonado**, Kershaw Correctional Institution, 4848 Goldmine Highway, Kershaw, South Carolina, 29067.

(Attachment: C-10)
Issued on: AUG 01 2017
(4th PCR. Act. Doc. 6)

Christina Catoe Bigelow
Deputy General Counsel
Office of General Counsel
S. C. Department of Corrections
Post Office Box 21787
Columbia, S. C. 29221
(803) 896-8508

October 14, 2016

(R. P. 139-of-497. ROA)

Issued on: AUG 0 1 2017
(4th PCR. Act. Doc. 6)
(Attachments: D - 1 thru 5)

STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	GENERAL SESSIONS FOR
COUNTY OF GREENVILLE)	THE THIRTEENTH JUDICIAL CIRCUIT

APPX. (F)(48-of-128)

STATE OF SOUTH CAROLINA)	
)	CASE NOS. 2005-GS-47-26 Count I
-VERSUS-)	2005-GS-47-26 Count IV
)	
JOSE ALBERTO MALDONADO,)	
)	PLEA AGREEMENT
DEFENDANT.)	

AGREEMENT made this ____ day of _____, 2006, between and among the State of South Carolina, as represented by Attorney General Henry McMaster, Jennifer D. Evans, Chief, State Grand Jury, and Assistant Attorney General Susan O. Porter, and the Defendant, and his attorney, James H. Price, III, Esquire.

1. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams by conspiracy, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count I, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of fifty thousand ($50,000) dollars. The State will make a recommendation of twenty (20) years to run concurrent with the other indictment. This is considered a violent and serious offense. (R. p. 140-of-497. RoA)

2. The Defendant, Jose Alberto Maldonado, agrees to plead guilty to the offense of Trafficking Methamphetamines 28 - 100 grams, second offense, a violation of S.C. Code Ann. § 44-53-375(C)(2)(b), a lesser-included of that alleged in Indictment Number 2005-GS-47-26 Count IV, which carries a sentence range from seven (7) year to thirty (30) years, and a fine of

Issued on: AUG 0 1 2017

APPX (F)(49-of-128) (4th PCR Ad-Doc 6) (Attachment: D-2)

fifty thousand ($50,000) dollars. The State will make a recommendation of twenty (20) years to run concurrent with the other indictment. This is considered a violent and serious offense.

3. The Defendant, Jose Alberto Maldonado, agrees to fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities. This cooperation is to include, but is not limited to, truthful and complete debriefings of the Defendant's knowledge concerning unlawful drug activities and related unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation.* The Defendant must also testify fully and truthfully before any grand juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully.* The failure of the Defendant to be truthful or to cooperate at any stage can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (l) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of Corrections of the Defendant's status as an uncooperative defendant and may accordingly

(R.P. 141 – of-497. ROA)

Issued on: AUG 0 1 2017
(4th PCR. Act. Doc. 6)
App. (F)(50-of-128) (Attachment: D-3)

recommend redesignation of the Defendant to a higher custodial level.

4. The Defendant, Jose Alberto Maldonado, understands and agrees that any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs shall be surrendered to the South Carolina Law Enforcement Division (SLED), and/or other law enforcement related organizations in South Carolina to be designated by the South Carolina Attorney General, in portions to be determined by the South Carolina Attorney General. The assets so surrendered to South Carolina authorities will be disposed of according to South Carolina law. The assets to be surrendered include, but are not limited to, cash, stocks, bonds, certificates of deposit, personal property, and real estate. Further, the Defendant agrees to fully assist the Office of the Attorney General and SLED in the recovery and return to SLED, and/or other designated law enforcement agencies in South Carolina of any drug-related assets or portions thereof, either domestic or foreign, which have been acquired or obtained either indirectly or directly through unlawful drug activities. The Defendant must prevent the disbursement and immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, all other domestic and foreign assets in which he has any direct or indirect interest or control, if the assets are the proceeds of unlawful drug activities or are directly or indirectly related to the unlawful drug activities. The Defendant further agrees to immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, in portions to be determined by the South Carolina Attorney General, all conveyances, including but not limited to, aircraft, vehicles, or vessels, which have been used or were intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or

(R. P. 142-of-497. ROA)

Issued on: AUG 01 2017
(Circ PCR Mot. Doc. 67)
Appx. (F)(51-of-198) (Attachment: D-4)

concealment of controlled substances. By signing this Agreement, the Defendant consents to civil forfeiture of all assets currently in the possession of the government and further consents to civil forfeiture of all drug related assets seized by law enforcement agents in connection with this investigation.

5. The Defendant, Jose Alberto Maldonado, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should he be requested to do so regarding his knowledge of and involvement in drug-related activities, other related unlawful activities, and any and all assets and conveyances acquired and/or used by the Defendant or others, whether drug-related or not. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

6. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.

7. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

8. The Defendant, Jose Alberto Maldonado, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for his indictment and prosecution by the State Grand Jury of South Carolina.

9. The parties hereby agree that this Plea Agreement supersedes all prior promises,
(R.p.143-of-497. ROA)

Issued on: AUG 0 1 2017
(Also PCR. Ack. Doc. 6)
(Attachment: D-5)

representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

Appx. (F)(52 of 128)

DATE

Jose Alberto Maldonado
Defendant

DATE

James H. Price, III
Attorney for Defendant

Henry McMaster
Attorney General of South Carolina

Jennifer D. Evans
Chief, State Grand Jury

DATE

By: _____
Susan O. Porter
Assistant Attorney General
State Grand Jury

(R. P. 144 of 497. ROA)

JOSE ALBERTO MALDONADO, 312648
Kershaw Corr. Inst. MB/Room #59
4848 GOLDMINE HIGHWAY
KERSHAW SOUTH CAROLINA, 29067

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2017 APR 13 PM 1 16

APPX.(F)(53-of-128)

March 29th, 2017

Hon: Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville South Carolina, 29601

Re: Jose Alberto Maldonado v. South Carolina
2015-CP-23-04[illegible]. (4757)

Dear Clerk of Court:

Enclosed please find the proposed Original Copies OBJECTION UPON MOTION OF RETURN AND RESPONSE TO MOTION OF DISMISSAL/AN A CONDITIONAL ORDER OF DISMISSAL, AND ALSO A REQUEST FOR DEFAULT JUDGMENT/AND A ORDER TO STRIKE <"Case No. 2015-CP-23-047(57)"> Pursuant to Rules, Rule 12(a)(b) and (f), 55(a)(b)(c), SCRCP, in the above-captioned case. If these orders meet with your approval, please sign and forward to the Hon: Perry H. Gravely Presiding Judge - 13th Judicial Circuit to be filed and served.

Please, return a clock-stamped to the Applicant's Address!!!

Sincerely,

Jose Maldonado

Jose Alberto Maldonado, #312648
Plaintiff, "Applicant"

JM/PBW

Enclosures(2)

(Attachments:(1)(A through E-5)

Cc: Attorney Generals Office
Alan Wilson/J. Clayton Mitchell Assistant Atty. Gen.

(Attachments: E-1 through 6)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

(R.P. 145 of-497, ROA)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

Applicant,

Appx. (F)(54-of-128)

v.

State of South Carolina,

Respondent.

(doc-5) 2015-CP-23-04757

MAR 29 2017

First: (Attachment: "E") wrong Case Number

RETURN AND MOTION TO DISMISS

Refiled on: AUG 01 2017

(AllPCR. Act. Doc-6)

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. S.C.
2017 MAR -8 AM 11:21

Respondents respectfully move this Court, pursuant to 12(b), SCRCP for judgment on the pleadings. In response to the post-conviction relief (PCR) application filed July 31, 2015, the Respondent would show this Court:

I.

Underlying Charges and Trial

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

(R. p. 146-of-497, ROA) (Attached: (5))

H

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

Applicant,

Appx. (F)(55-of-128)

v.

State of South Carolina,

Respondent.

2015-CP-23-04758

FILED-CLERK OF COURT
PAUL B. MICHAUX
GREENVILLE CO. SC

2017 MAR 13 PM 4:32

CONDITIONAL ORDER OF DISMISSAL

MAR 29 2017
Second (Attachment: "E")
(doc. 5) MAR 29 2017

This matter comes before this Court by way of an application for post-conviction relief filed July 31, 2015.

Refiled on: AUG 01 2017
(4th PCR Act. Doc. 6)

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

(R. p. 147-of-497. RoA) 2008-CP-23-2140 (Attached: (6))

Greenville County

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

(Attachments: F-1, & F-2)
Issued on: AUG 0 1 2017
(4th PCR Act Doc. 6)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2013 MAR 12 P 1:11

MARCH 12th 2013

JOSE ALBERTO MALDONADO 312648
PERRY CORRECTIONAL INSTITUTION
430 OAKLAWN RD
PELZER SC 29669

Appx (F)(56-of-128)

JOSE MALDONADO

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2013CP2301440.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, THE PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

RECEIVED
MAR 2 1 2013
MAILROOM (NORTH)

(R. P. 148-of-497 ROA)

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Greenville) IN THE COURT OF COMMON PLEAS

Jose Alberto Maldonado, #312648.)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina, and Larry Cartledge, Warden:)
Respondent.)

2013-CP-23- 01440

APPLICATION FOR POST-CONVICTION RELIEF

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2017 MAR 12 PM 1:11

APPX (F)(57-of-128)

(Attachment: F-2)
Issued on: AUG 01 2017
(4th PCR. Act. Doc. 6)

INSTRUCTIONS TO READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

(R. P. 519-of-497. ROA)

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center.
20 McGee Street Greenville South Carolina

2. Name and location of Court which imposed sentence Greenville, County Courthouse 305 East North Street Suit 325 Greenville, S.C. 29601

3. Name(s) of co-defendant(s) (if any) Mrs Lisa Lavern Ramirez.
Mr. John Nelson Turner.

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: The count [V] is void 2 or more counts for the violation of the Controlled Substance Act arising out of simultaneous acts.

(a) 2005-GS-23-47-26, Count I, & IV. W/A#: G-530070.;
Code Ann. §§ 17-25-50 & 56-1-1020, § 44-53-390 (96 ALR Fed. 868.)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) 2013-CP-23-1440
)
Jose Alberto Maldonado,)
S.C.D.C. No. 312648,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

APPK (F) (58-of-128)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 MAY 1 AM 9 41

FINAL ORDER OF DISMISSAL

(Attachments: 5-1 through 5-3)
ISSUED ON: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 12, 2013. The Respondent made its return on August 5, 2013, requesting the application be summarily dismissed based upon the expiration of the statute of limitations and the presumption against successive PCR applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, the Honorable D. Garrison Hill – acting in his capacity as Chief Administrative Judge – issued a Conditional Order of Dismissal filed August 22, 2013, provisionally denying and dismissing this action, while giving the Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final.

The Applicant filed a motion for default on September 16, 2013. A hearing on this motion was held on October 25, 2013. The Applicant proceeded pro se. The Honorable Edward W. Miller filed an order on November 8, 2013 in which he denied the motion for default.

On December 16, 2013, the Applicant filed a "Supporting Motion to Alter or Amend Judgment Rule 59(e), 55(c) (SCRCP): And (SCACR), 501 Code of Jud. Conduct Canon 3,

(R. R. 150-of-497. ROP)

ISSUED ON: AUG 0 1 2017
(Attachment: E-2)
(4th PCR. Act. Doc. 6) APPX. (F)(59-of-128)

Filed Appendix C/A#: 24

Subds. (C)(1); and (E)(1)(a)(b); (i)(ii)(iii)(iv)." A hearing was held on April 1, 2014. The Applicant proceeded pro se. Judge Miller filed an order on April 9, 2014 in which he denied the Applicant's motion and noted: (1) that "Applicant's filing actions in this case were abusive" and (2) that the Applicant "voluntarily and contemptuously vacated the courtroom and refused to participate in his motion hearing."

In addition to the above-referenced motions, the Applicant has filed several other lengthy documents: (1) "Return and Response to Motion to Dismiss/and Conditional Order of Dismissal" filed September 6, 2013, (2) "(Supplemental) Amendment of Complaint P.C.R. Act Application Motion" filed September 16, 2013, (3) "Reply Motion to Lack Merit or is Untimely S.C. Clerk of Court Manual § 6.24.: & Rule 12(a), (b)(5)" filed January 17, 2014, and (4) "Motion for New Pre-Trial Calendar Hearing" filed March 6, 2014. In these documents, the Applicant argues ineffective assistance of plea counsel, lack of subject matter jurisdiction, and an illegal indictment. The Applicant also argues he is entitled to a new evidentiary hearing and the quick resolution of his case.

This Court has reviewed the Applicant's numerous responses to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

This Court notes the Applicant pled guilty on August 22, 2006 and was sentenced on April 10, 2007. As this action was filed on March 12, 2013, it was clearly filed outside the expiration of the statute of limitations. See S.C. Code Ann. § 17-27-45(a) (Supp. 2003). This is the Applicant's third application for post-conviction relief. This Court notes successive PCR applications are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980).

(R.P. 151-of-497. ROA)

ISSUED ON: AUG 0 1 2017
(Attachment: 5-3)
(File PCR. Ad. Doc. 6) Appx. (F)(60 -of- 128)

Refile Appendix
C/A#: 2014-1164 (25)

This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on December 8, 2008 and instead chose to voluntarily withdraw his application. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) ("[A]n applicant is entitled to a full adjudication on the merits of the original petition, or 'one bite at the apple.'").

This Court finds the Applicant's claim that the plea court lacked subject matter jurisdiction is without merit. Indictments are not jurisdictional in nature, they are merely notice documents. State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). This Court finds the indictments in this case were true-billed and clearly adequate to provide notice of the charges the Applicant was facing.

IT IS THEREFORE ORDERED that, for the reasons set forth in the Conditional Order of Dismissal, the PCR application is hereby denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

AND IT IS SO ORDERED this 29 day of April, 2014.

(R.P. 152 -of- 497. ROA)

Letitia H. Verdin
Chief Administrative Judge
Thirteenth Judicial Circuit

_____, South Carolina.

Exh. 11 (A)

(1)

APPX. (F) (61-of-128)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

Jose Alberto Maldonado,)
) TRANSCRIPT OF RECORD
Applicant,) 2013-CP-23-1440
-vs-)
)
The State,)
) October 25, 2013
Respondent.) Greenville, South Carolina

B E F O R E:

HONORABLE EDWARD W. MILLER, JUDGE

A P P E A R A N C E S:

PRO SE
Attorney for the Applicant

KAREN C. RATIGAN, ESQUIRE
Attorney for the Respondent

INTERPRETER

(Attachments: H-1 through H-10)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

(R. p. 153 -of- 497. ROA)

~~Exhibit (A)~~

(Attachment: H-2) ISSUED ON: AUG 0 1 2017 (1)
(4th PCR. Act. Doc 6)

MS. RATIGAN: Your Honor, the next case is Jose Alberto Maldonado ---

THE COURT: Oh, wait a minute[1] before we get started ---

THE CLERK: Go ahead. APPX. (FX62-of-128)

MS. RATIGAN: I was gonna ask ---

THE COURT: --- Teresa swear.

THE CLERK: Oh, okay, alright, sorry about that.

(Whereupon, the interpreter was sworn.) Unknown Name (interpreter)

THE CLERK: Thank you.

THE INTERPRETER: You're welcome.

MS. RATIGAN: Your Honor, this is the case of Jose Maldonado vs. the State, the Docket Number is 2013-CP-23-1440. Mr. Maldonado was indicted by the state grand jury in 2005, he pled guilty before Judge Macaulay and was eventually sentenced April of 2007 to 20 years for trafficking ---

THE COURT: Oh, wait a minute[2], ---

MS. RATIGAN: --- methamphetamine.

THE COURT: --- I I was the sentencing judge. (first time accept his resignation of Sentence Judge!

MS. RATIGAN: Yes, Your Honor, but this is, uh, actually up here on his motion for default so ---

THE COURT: Okay.

MS. RATIGAN: --- it -- I figured it's a legal matter and I guess that's something you could ask Mr. Maldonado about.

THE COURT: Alright. The judge fails first in ask?

MS. RATIGAN: Uh[1], Your Honor, was, uh[2], well he received a

(Attachment: A-2) (R.D. 154-of-497-ROA)

Exhibit (A)

I need the full record for this 10th Cir. judge, because did not had nothing to do in the 13th Cir.) after the Court have present record to allow him in precedent my case. See, rule 5(c). (1)

20-year sentence by Judge Macaulay. He filed a PCR hearing in 2008 and Your Honor was the PCR judge; however, he withdraw his application voluntarily. He filed a second PCR application 2010 and Judge Stilwell signed a conditional order and then a final order and his appeal Supreme Court found he did not meet his burden of proceeding under Rule 243. He then filed a petition for *habeas corpus* in federal court and, uh, over the course of about ten months the magistrate court and the magistrate judge, the district judge, the Fourth Circuit and that the U.S. Supreme Court all denied relief. He has filed this third application in March of this year. He raises issues about the indictment and then error and omission of prior bad act, failure to object to a charge, those last two issues don't seem to make any sense because it was a guilty plea. Uh, I filed a return of motion to dismiss and Mr. Maldonado in return filed a motion for default. In September of this year, Judge Hill as the administrative judge requested that I put the matter on the docket for Mr. Maldonado's default motion, I could also argue State's motion to dismiss but I'll leave that up to Your Honor.

Appx. (F) (63 of 128)

(untrue after we file deliver to Signed)

before, Honorable Edward had signed

THE COURT: Okay. What does he wanna tell me?

THE APPLICANT: Thank you for the hearing, you -1- know, that I request you -2- know. I speak a little bit English, also I wanna sharpen my skills in in English, I'm making all this argument by myself so I tell you thank you lady interpreter e

interpreter unknown

ISSUED ON: AUG 0 1 2017

(Attachment: H-3)

(4th PCR_Act_Doc_6)

(R.P. 155 -of- 497. ROA)

EXHIBIT (A)(1)

(Attachment: H-4) ISSUED ON: AUG 0 1 2017
(4th PCR. Rct. Doc-6)

I wanna show you somethin', you know, about the indictments my grounds is no in the, in the right position.> My grounds is no in the right position.

THE COURT: Well, Mr. Maldonado, uh, you've already had an opportunity to do it previously and apparently it was in front of me and you withdraw your application and my practice when someone withdraws their post-conviction relief application is to put them under oath and explain to 'em that if they withdraw and I grant their order that that ends it and you can't raise the issues again. You remember me doing that with you? APPX.(F)(64-of-128)

Applicant tried to attack this verbal agreement. Not waiver upon that (oath)

THE APPLICANT: Yeah, I I --->

THE INTERPRETER: I remember and but in this situation I do need, I do need to tell you something. When when you represented me or when you or when you, when you heard my case, if you remember there wasn't an interpreter --->

THE COURT: Slow slow down.

THE INTERPRETER: --- and there wasn't an interpreter present, okay, well there's one, well he didn't speak Spanish at all. If you would look at the transcript and look at all the details, you will see what I'm talkin' about and I made a request to get an attorney and that that attorney didn't represent me well during the PCR and I have -- and I'm in agreement with what you're saying, I completely agree. I I will, I will have to sign a paper for an attorney to withdraw my PCR. I need a private attorney and I don't, I don't have

(R.P. 156-of-497 ROP)

Exhibit (A) ①

ISSUED ON: AUG 0 1 2017

(Attachment: H-5)(Habe PCR. Act. Doc. 6)

an attorney, that's -- I haven't got an answer. I applied for an attorney to do my PCR hearing. I have another thing that I wanna say. APPX. (F)(65 -of- 128)

THE APPLICANT: About that that I wanted a counsel to hear my case to can come in and and do and do great, you know, no fail, to present all a these facts I have to this day because one indictment has come with in one, in one section to twenty-eight to a hundred grams as my plea guilty so the indictment that I its has issues to 100 grams to 400 grams it's not conduct with the same, with the same plea guilty so...

THE INTERPRETER: I do need an attorney, I need a lawyer. If if if you don't can I, but see, I I can I show that to you and prove that to you that I have all the evidence.

THE COURT: Well, this case has been all the way the United States Supreme Court and they have found that you're not entitled to relief.

THE INTERPRETER: I understand that, sir, but everything, all the issues that I raised, ---

THE COURT: Let her ---

THE INTERPRETER: Well well all the thing, all the issues are are raised to the Supreme, uh, Court I did it myself, I didn't have any help so I make -- there could have been some mistakes and I probly did poorly appropriate protocol but I'm doin' it on my own and I have all the, uh, evidence here with

(R. P. 157 -of- 497: ROA)

(Attachment: H-G)
ISSUED ON: AUG 01 2017

me. (4th PCR. Act. Doc. 6)

THE APPLICANT: Also, I gots some document that I can show to you my excuse in my education. I don't have diploma, I don't have GED, you understand, it's hard for understand the English to conduct to to Spanish, you know, so my (1) my (2) my (3) my (4) position right here is why this indictment. See, I plead guilty for twenty-eight a hundred grams, it's not common in the same position that I I plead guilty, I also wanna request for witnesses in this court to con -- confrontate the witnesses because I, the lawyer my family's pay, they are stealin' my money, they no represent me, you understand me, they...(indiscernable, speaking in Spanish), I can understand nothing, ---

I need to see if that is true because I never could some that indiscernable

Appx.(F)(66-of-128)

THE INTERPRETER: You understand?

THE APPLICANT: --- you understand? Yeah, they could interpret it better, they couldn't like...(indiscernable, speaking in Spanish) all a this makin' me ask what I'm been and (1) and (2) when I've been in the first sentence with you 7 years, you remember, because I see you maybe fourth times in court. I'm ready to come here some, one come and bill me, he then droppin' me my the (1) the (2) the (3) sentence sheet and letting me sign it that see an explanation saying give me any option to understand what (1) what (2) is about, why paper I sign. I don't see my counsel, my, who represent me but who I still don't understand, you know, in this equation so it's no fair. Yeah,

(R-p158-of-497: ROA)

(Attachment: H-7) ISSUED ON: AUG 0 1 2017 (4th PCR-Act. Doc. 6)

it's no fair guilty plea, it's a, I don't ha -- I don't have choice, you know, how I go to the, to the office arrest me, they say arrest me with with this do -- I don't have dope in my, in in my home. They arrest me in other place, they send me to the, to the place e they puttin' me in the place and they say I am so I wanted see see you in good faith, you know, grant me this petition to come from tres witnesses under the Sixth Amendment e Five Amendment to see the indictments, you know, this isn't the right way. > APPX. (F)(67-of-128)

MS. RATIGAN: Your Honor, again, the the judge, the administrative judge set this on a hearing for his motion for default which has not really been answered.

THE COURT: Right.

MS. RATIGAN: He filed his motion it looks like September 6th 2013 so again we can argue the motion to dismiss but we are primarily here on the motion for default that he filed.

We can argue the motion to dismiss check it
Conflict between Edward & Ratigan

THE COURT: Yeah, and your position on that?

MS. RATIGAN: Uh, Your Honor, under Rule 55 (e) of the civil rules, uh, you're not really allowed to hold the State in default unless you can prove good cause and there's a case on point *Kneece vs. State*, that's K-N-E-E-C-E, 236 south eastern second 746, it says, uh, specifically that, uh, if a return to post-conviction relief application is filed outside the statutorily mandated time, the matter can't be held in default unless the applicant can show prejudice, that's again

(R. p. 159-of-497. ROA)

(Attachment: H-8) ISSUED ON: AUG 0 1 2017
(After PCR Act. Doc. 6)

a case that's specifically on point and, uh, I have not heard any kind of prejudice from the return of motion to dismiss being filed outside the ---

(Cross-talk.) APPX. (F)(68-of-128)

THE COURT: Okay. Well I'm gonna, I'm gonna deny your motion for default and, uh, ask the Attorney General to prepare an order that reflects that, okay?

THE APPLICANT: Thank you, Your Honor. Applicant never said Thank you for this denial See at the tape recorded.

THE COURT: Okay.

THE APPLICANT: I appreciate that, so wait a minute.

THE COURT: You mo -- you moved to hold them in default and you haven't proved your case so I'm denying that motion for default.

THE APPLICANT: No, ---

THE INTERPRETER: Uh-huh, but I I ca -- I can prove here what ---

THE COURT: Well we're not here to argue that, we're just hear to argue the the motion for default, okay?

THE INTERPRETER: So this court is about the motion for default?

THE COURT: Yeah.

THE APPLICANT: So all that, all that arguments we talkin' about it with you what has come? What is it? I'm waiting for for for another court and for the Court or you deny my ---

(R-P. 160-of-497. ROA)

(Attachment: H-9) ISSUED ON: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

THE COURT: This was a motion, your motion that you filed to hold the State in default for failure to timely respond, okay, and I don't find that there's any prejudice to you through any failure of the S -- of the State to fi -- to file timely so I'm denying your motion, okay?

THE APPLICANT: Just, excuse me, Your Honor, I gotta prove in this issue the State failed to answer my question for five d -- five days ---

THE COURT: Yeah, and you haven't shown any prejudice as a result thereof so I'm denying your motion, okay? Alright, best of luck. Appx. (F)(69-of-128)

THE APPLICANT: I'm ---

THE COURT: Good luck to ya.

THE APPLICANT: --- I talk to the attorney to the attorney that you will give me a a a ba -- another hearing for my PCR?

THE COURT: That wasn't before me today so...

(R. p. 161-of-497 ROA)

(Attachment: 14-10)
ISSUED ON: AUG 01 2017
(After PCR Act. Doc. 6)

CERTIFICATE OF REPORTER

Appx. (F)(70-of-128)

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on October 25, 2013 at the time and place heretofore set forth; and that the foregoing pages numbered from 2 through 9, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

February 10, 2014

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

(R. p. 162-of-497 ROA)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2013CP2301440

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2013 NOV 8 AM 10 55

APPX. (F)(71 - of - 128)

Jose Alberto Maldonado *vs.* **South Carolina State Of**

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this 8th day of November, 2013.

Court Reporter:

PRESIDING JUDGE - Edward W Miller

This judgment was entered on the 8th day of November, 2013, and a copy mailed first class this 8th day of November, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Jose Alberto Maldonado 312648 Kershaw Corr Instit 4848 Goldmine Hwy Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karen Ratigan Attorney General Office

ATTORNEY(S) FOR THE DEFENDANT(S)

(Attachments: 1-1 through 1-3)
ISSUED ON: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

Paul B. Wickensimer Greenville County Clerk Of Court - Clerk of Court

(R. P. 163 - of - 497. ROA)

CPFORM4M
SCCA SCRCP Form 4 Revised 06/2008

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	2013-CP-23-1440
COUNTY OF GREENVILLE	)	
	)	
Jose Alberto Maldonado, S.C.D.C. No. 312648,	)	APPX. (F)(72-of-128)
	)	
Applicant,	)	**ORDER DENYING MOTION FOR DEFAULT**
	)	
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. MCKENSIMER
2013 NOV 20 AM 10 55

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 12, 2013. The Respondent submitted a return and motion to dismiss dated August 5, 2013. The Applicant filed a motion for default on September 16, 2013. A hearing on the Applicant's motion for default was held at the Greenville County Courthouse on October 25, 2013. The Applicant was present and proceeded pro se.[1] The Respondent was represented by Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General.

This Court finds the motion for default must be denied because the Applicant has failed to show any prejudice resulted from the filing of the Respondent's return and motion to dismiss beyond the authorized time limits. See Kneece v. State, 269 S.C. 177, 236 S.E.2d 746 (1977) (holding that, absent a showing of prejudice, the failure to file the return and motion to dismiss within authorized time limits does not warrant granting the relief requested in the application); see also Rule 55(e), SCRCP. (R.P. 164-of-497.. ROA)

(Attachment: I-2)
ISSUED ON: AUG 01 2017
(4th PCR Act. Doc. 6)

AND IT IS SO ORDERED this _____ day of 11/4, 2013.

APPX. (F)(73-of-128)

Edward W. Miller
Presiding Judge
Thirteenth Judicial Circuit

Aiken, South Carolina.

(Attachment: I-3)
ISSUED ON: AUG 01 2017
(4th PCR Act. Doc. 6)

(R.p. 165-of-497. ROA)

[1] A Spanish language interpreter was present.

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Jose Alberto Maldonado, S.C.D.C. No. 312648, Applicant, v. State of South Carolina, Respondent.	)	IN THE COURT OF COMMON PLEAS 2013-CP-23-1440 Appx. (F)(74-of-128) **ORDER DENYING MOTION TO ALTER OR AMEND** ISSUED ON: AUG 01 2017 (Attachments: I-1 through I-2) (4th PCR. Doc. 6)

FILED: CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WORKMAN
2014 APR 9 PM 1 41

Applicant filed an application for post-conviction relief (PCR) on March 12, 2013.[1] Respondent submitted a return and motion to dismiss dated August 5, 2013. Applicant filed a motion for default on September 16, 2013. A hearing on this motion was held at the Greenville County Courthouse on October 25, 2013. Applicant was present and proceeded pro se.[2] Respondent was represented by Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General. This Court denied the motion by order filed November 8, 2013.

Applicant subsequently filed a "Supporting Motion to Alter or Amend Judgment Rule 59(e), 55(c) (SCRCP): And (SCACR), 501 Code of Jud. Conduct Canon 3, Subds. (C)(1); and (E)(1)(a)(b); (i)(ii)(iii)(iv)" on December 16, 2013, 2013. Respondent submitted a return dated January 6, 2014. A hearing on this motion was held at the Greenville County Courthouse on April 1, 2014. Applicant was present and proceeded pro se.[3] Respondent was represented by

(R. P. 166-of-497. RGA)

[1] This is the third PCR application in which Applicant challenges his August 22, 2006 guilty plea.
[2] A Spanish language interpreter was present.
[3] The same Spanish language interpreter from the October 2013 hearing was present.

APPX. (F)(75-of-128)

Ms. Ratigan. At the hearing, Applicant requested an attorney be appointed on this motion. This Court denied Applicant's request and found Applicant's filing actions in this case were abusive. Applicant voluntarily and contemptuously vacated the courtroom and refused to participate in his motion hearing. This Court finds no evidence or argument was submitted in support of Applicant's motion and, as such, the motion to alter or amend this Court's order filed on November 8, 2013 is denied.

AND IT IS SO ORDERED this 3 day of April, 2014.

Edward W. Miller
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

(Attachment: I-2)
ISSUED ON: AUG 01 2017
(4th PCR Act. Doc. 6)

(R. p. 167-of-497. ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE :
)

IN THGE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

JOSE ALBERTO MALDONADO)
S.C.D.C. I/D#.:312648)
Pro se, Applicant,) CASE NUMBER 2013-CP-23-01440
)
Vs.) APPX. (F)(76-of-128)
)
STATE OF SOUTH CAROLINA, AND)
THE HON: EDWARD W. MILLER)
PRESIDED JUDGE')
Respondent(s).) AFFIDAVIT OF TRUTH
ISSUED ON: AUG 01 2017
(Attachments: F-1)
(4th PCR Act. Doc. 6)

THE AFFIANT IS AFFIDAVIT OF TRUTH

I, Jose Alberto Maldonado, a living breathin man, first duly sworn, depose, and said and declare by nature that the facts in this: RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT/AGAINST THE RESPONDENT(S) IS (THREE - (3)) FILED MOTION ORDERS. And is Law Sanction, Pursuant of the;Rules of Civ. Proc., Rules 56(c), 59(e), 55(c), & (SCACR) Rule 501 CODE OF JUD. CONDUCT CANON 3 SUBDs.(C)(1), E(1)(a),(b)(i-to-iv). The Affiant, showing That:(State) Violated of the Rules 59(c,d), 6(b-c, & d)(SCRCP)(Overruling by Rules 50(a)(2),(b),(c)(1)(2); And 56(c)(SCRCP)(With, the **(EXHIBIT -(A)(1)-to-(f)(6)**, HAVE BEING ATTACHED). Because, the following facts are true, correct and complete to the best of my knowledge and belief. Affiant, Deposity His Affidavit, with A Certificate of Service By Mail is showing below. To be, Forward in this 17 day of April ,2014. To: (R.P. 168-of-497. ROA)

PAUL B. WICKENSIMER'S OFFICE
CLERK OF COURT
FROM THE GREENVILLE COUNTY
305 EAST NORTH STREET
GREENVILLE, SC. 29601

ATTORNEY GENERAL OFFICE
KAREN C. RATIGAN's ASST., ATTY.,
REMBER C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, SC.29211

FURTHE THE AFFIANT SAID AND NOT:

DONE THIS 17 DAY OF April ,2014.

DAVID TATARSKY/CRISTINA KELLET
SCDC GENERAL COUNSEL
P.O. BOX 21787
4444 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

SWORN TO and SUBSCRIBED Before Me
This 17 day of April ,2014.
Catherine C. Ornesa
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES:
My Commission Expires December 22, 2018

Respectfully Submitted
/s/ Jose A. Maldonado
Jose Alberto Maldonado, # 312648
The, Affiant:
Kershaw Corr. inst. MB/Room # 59
4848 GOLDMINE HIGHWAY
KERSHAW, S.C. 29067

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE :
)

JOSE ALBERTO MALDONADO)
S.C.D.C. I/D#.: 312648)
Pro se, Applicant,)
)
Vs.)
)
STATE OF SOUTH CAROLINA, AND)
THE HON: EDWARD W. MILLER)
PRESIDED JUDGE')
Respondent(s).)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

APPX.(F)(77-of-128)

C/A#.: 2013-CP-23-01440

CERTIFICATE OF SERVICE BY

(4th PCR.Act.Doc-6)
MAIL AUG 01 2017
(Attachment: F-2) ISSUED ON: AUG 01 2017

1. I am Jose Alberto MAldonadom, of the Applicant in the above - captioned civil action, Post-Conviction Relief (PCR.Act.).

2. Declare under the Code 1976 § 17-27-10(d)(e); & Rule 71.1(a)(d),(g)(SCRCP): Quote Rule 602 (g)(1,2), & (h)(SCACR). Appointment of counsel for Defense in behalf Applicant's next "Evidentiary Hearing. And him can shown the burden to stablishing his titlement to relief by 'a propoderance of the <Exhibits have being attaching>(Attached (9) Extras Total/111 Exhibits).

3. That on the below said date Applicant did deposit a true and exact copies of foresaid. RETURN AND MEMORANDUM IN SUPPORT OF "MOTION FOR SUMMARY JUDGMENT"/CONDITIONAL RULING IN GRANT OF MOTION. Is Law Sanction; Rules 59(e), (c, d); 50(a)(b),(c)(1,2); and quid pro quo Rule 56 (c)(SCRCP). Through, Kershaw Corr.Inst. Mailroom's clerk to be forward in the U.S. Posted System with Sufficient Postage. This 17 day of April ,2014. Further, Applicant have being File To:

PAUL B, WICKENSIMER'S OFFICE
CLERK OF COURT
FROM THE GREENVILLE COUNTY
305 EAST NORTH STREET
GREENVILLE, SC. 29601

ATTORNEY GENERAL'S OFFICE
KAREN C. RATIGAN'S ASST., ATTY.,
REMBER C. DENNIS BUILDING
POST OFFICE BOX 11549
Columbia, SC. 29211

DAVID TATARSKY/CRISTINA KELLET
SCDC GENERAL COUNSEL
POST. OFFICE BOX 21787
4444 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

FURTHER THE APPLICANT SAID AND NOT:
DONE THIS 17 DAY OF April ,2014.

SWORN To and SUBSCRIBED Before Me
This 17 day of April ,2014.
Cashrie A Arrison
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: _____
My Commission Expires [illegible] 2018

Respecfully Submitted
/s/ Jose A. Maldonad
Jose Alberto Maldonado,#312648
Kershaw, Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, S.C. 29067

ISSUE DATE FILE: 4/ /2014

(R.P.169-of-497: ROA)

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Jose Alberto Maldonado, S.C.D.C. No. 312648, Applicant, v. State of South Carolina, Respondent.	)	IN THE COURT OF COMMON PLEAS 2013-CP-23-1440 APPX. (F) (78 - of - 128) **RETURN TO MOTION TO ALTER OR AMEND THE ORDER DENYING THE MOTION FOR DEFAULT**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL R. WICKENSIMER
2014 JAN 15 AM 11 04

Respondent, by and through undersigned counsel, making Return to Applicant's Motion to Alter or Amend, would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) action filed March 12, 2013. The Respondent submitted a return and motion to dismiss dated August 5, 2013. Applicant filed a motion for default judgment on September 16, 2013.

2. A hearing on Applicant's motion for default judgment was held on October 25, 2013 at the Greenville County Courthouse.

3. Applicant was present at the hearing and proceeded pro se (with the assistance of a Spanish language interpreter). ~~ISSUED ON:~~ AUG 0 1 2017 (Attachments: K-1 through K-4) (4th PCR. Act. Doc. 6)

4. The Honorable Edward W. Miller denied Applicant's motion for default judgment by order dated November 4, 2013 and filed November 8, 2013.

5. Applicant filed a Motion to Alter or Amend Judgment on December 16, 2013 (which was received by Respondent on December 19, 2013). Applicant moves this Court to alter or amend the order denying the motion for default judgment. Applicant alleges a potential

(R. P. 170 - of - 497. ROA)

conflict of interest existed because Judge Miller presided over the hearing for his first PCR application (which Applicant voluntarily withdrew).

6. Respondent submits Applicant's Motion to Alter or Amend Judgment should be denied. Applicant is not requesting either an alteration or amendment to the final order. Rather, Applicant is asking the Court to reverse its decision. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734 (1998) (noting the proper use of a Rule 59(e) motion is to preserve issues raised to but not ruled upon by the trial court).

7. Respondent submits Applicant's request to revise the order must be denied. Applicant has failed to demonstrate the order denying his motion for default judgment contains any errors or omissions that must be addressed. Applicant has also failed to demonstrate that Judge Miller either (1) should have recused himself in this case or (2) had a conflict of interest.

8. Respondent submits Applicant has made numerous statements in his motion that are factually incorrect. For example, the order denying his motion for default did not dismiss his PCR action. As an additional example, Judge Miller was neither the sentencing judge nor the PCR judge in Applicant's second PCR action.

9. Respondent submits the order denying Applicant's motion for default judgment must be denied, as that order properly addressed the sole issue before Judge Miller – whether Applicant could prove the State defaulted in this case and he was prejudiced as a result.

(Attachment: K-2)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6) (R.P. 171 -of- 497. ROA)

Respectfully submitted,

APPK (F)(80-of-128)

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: _____
Attorneys for Respondent

January 6, 2014

(Attachment: K-3)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

(R.P. 172-of-497. ROA)

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

2013-CP-23-1440

JOSE ALBERTO MALDONADO, 312648)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

Appx. (F)(81-of-128)

AFFIDAVIT OF SERVICE BY MAIL

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2014 JAN 15 AM 11:04

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return to Motion to Alter or Amend the Order Denying the Motion for Default** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jose Alberto Maldonado, 312648
Kershaw Correctional Institution
4848 Goldmine Highway
Kershaw SC 29067

DATED this 6th day of January, 2014.

(Attachment: K-4)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

Judy A. C. Carey
Judy A. C. Carey, Legal Assistant
For Respondent

(R.p. 173 -of- 497. ROA)

Appx. (F) (82 of 128)

I.

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE : IN THE COURT OF COMMON PLEAS
) FOR THE 13TH JUDICIAL CIRCUIT

JOSE ALBERTO MALDONADO
S.C.D.C. Id/#.:312648
Pro se, Applicant,

CASE NUMBER 2013-CP-23-01440

Vs.

A F F I D A V I T

STATE OF SOUTH CAROLINA, AND
THE HON: EDWARD W. MILLER
PRESIDING JUDGE'
Defendant(s).

Plaintiff's Copy

Affidavit of: The, Affiant.

The, Affiant declare, under the S.C. Code Ann.§ 17-27-70(a) and (c) of penalties of perjury, against the respondents (State) throughout the prosecution in this State. That, my answer to the foregions are true to the best of my knowleged.

That, the **Affiant** is hereby Rules 71.1(d);59(e);55(c) (SCRCP):and (SCACR) 501 CANON 3,(C)(1),& (E)(1)(a)(iii),and (iv).

(1) at any time prior to entry of judgment, order danyin motion for de novo standard of review, and send a new Roster calendar for a Evidentiary Hearing. Rule 79(a)(SCRCP) See, Id., Motion/Request for Default, at P. 2.; and

(2) all of the information that the **Affiant** had been submit, inside of this Motion of Rule 59(e) is true and Correct.

(Attachments: 1-1) (R. P. 174-of-497. ROA)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

File on: November 21, 2013

APPX.(F)(83 - of - 128)

II.

AFFIDAVIT Of: Affiant,

I, Jose Alberto Maldonado, I AM THE, "Affiant," being duly sworn upon my "AFFIDAVIT", DEPOSE AND SAY THAT I have subscribed to the foregoin application; that I know the contents thereof; that it includes every grounds known to me for vacating, setting aside or correcting the conviction and sentence attacked in this motion of Rule 59(e)(SCRCP), and his Application's Attach P. [23, 24]; and also the Supp. Amendment; "including all allegations", therein setting for are true. And Proof of Service is attached Bellow:

To:

Plaintiff's Copy,

FURTHER THE AFFIANT SAID Not:

Done this 19 ,day of Nov. .2013

PAUL B. WICKENSIMER's OFFICE
CLERK OF COURT
GREENVILLE COUNTY
305 EAST NORTH STREET
GREENVILLE, S.C. 29601

Atty Gen. Office
Rember C. Dennis Building
Post Office Box 11549
Columbia, S.C. 29211

(Attachment: L-2)
ISSUED ON: AUG 0 1 2017
(The PCR-Act-Doc. 6)

Respectfully Submitted

s/ Jose A. Maldonado
Jose Alberto Maldonado, ID/No.312648
Pro se, Applicant

Kershaw Corr. Inst. MB/28
4848 Goldmine Hwy
Kershaw, S.C. 29067

SWORN TO AND SUBSCRIBED before me

this 19 ,day of November .2013

Cathrine A Crocco
NONOTARY PUBLIC FOR SOUTH CAROLINA

MY Commission Expires: My Commission Expires February 22, 2018

(R.P. 175-of-497. ROA)

File On: November 21, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2005-GS-47-26 (COUNTS 1, 4)

Appx. (F)(84-of-128)

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF.)
)
vs.)
)
JOSE ALBERTO MALDONADO,)
)
DEFENDANT.)

ORIGINAL

TRANSCRIPT OF RECORD

AUGUST 22, 2006
CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE ALEXANDER S. MACAULAY, JUDGE.

A P P E A R A N C E S:

SUSAN O. PORTER, ESQ.
Attorney for the State.

JAMES H. PRICE, ESQ.
Attorneys for the Defendant.

BRITT HUNT,
Interpreter.

(R.P. 176-of-497. ROA)

VIVIAN H. CROSS
OFFICIAL COURT REPORTER

(Attachments: M-1 through M-21)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

I N D E X

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Appx. (F)(85-of-128)

1

E X H I B I T S

-----NO EXHIBITS OFFERED-----

(R. P. 177-of-497-ROA)

(Attachment: M-2)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

PROCEEDINGS

(05-GS-47-26)

Appx. (F)(86-of-128)

(AUGUST 22, 2006)

MS. PORTER: STATE VERSUS JOSE ALBERTO MALDONADO. HE'S REPRESENTED BY MR. JAMES PRICE, YOUR HONOR.

MR. PRICE: GOOD MORNING, JUDGE.

THE COURT: GOOD MORNING. LET ME...

(WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A CONFERENCE, OFF THE RECORD.)

(WHEREUPON, COURT RESUMED.)

(NOTE: AN INTERPRETER -- MR. BRITT HUNT -- IS USED THROUGHOUT THIS HEARING AND IS INTERPRETING ALL PROCEEDINGS, QUESTIONS AND ANSWERS FOR THE DEFENDANT. A PERIOD OF INTERPRETATION OCCURS SUBSEQUENT TO EVERY QUESTION AND PRIOR TO EVERY ANSWER.)

THE COURT: ARE YOU JOSE ALBERTO MA- -- MALDONADO?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES. (R. p. 178-of-497. ROA)

THE COURT: ARE WE USING A -- A -- A TRANS- -- A INTERPRETER IN THIS CASE?

MR. HUNT: YES, SIR. (THEN INTERPRETS TO DEFENDANT.)

THE COURT: AND ARE YOU MR. HUNT?

MR. HUNT: YES, SIR. (THEN INTERPRETS TO DEFENDANT.)

THE COURT: ALL RIGHT. IF YOU WOULD, PLEASE, RAISE YOUR RIGHT HAND, SIR. AND YOU ARE BRITT HUNT, IS THAT CORRECT?

(4th PCR Act. Doc. 6) ISSUED ON:
(Attachment M-3)

AUG 0 1 2017

MR. HUNT: THAT'S CORRECT, SIR. Appx (F) (87 of 128)

(WHEREUPON, BRITT HUNT WAS DULY SWORN BY THE COURT TO RENDER AN ACCURATE INTERPRETATION.)

INTERPRETER (MR. HUNT): I WILL.

THE COURT: VERY GOOD; THANK YOU, SIR.

INTERPRETER (MR. HUNT): (THEN INTERPRETS TO DEFENDANT.)

THE COURT: NOW, UH, MR. MALDONADO, WOULD YOU RAISE YOUR RIGHT HAND, PLEASE?

(WHEREUPON, **JOSE ALBERTO MALDONADO** WAS DULY SWORN AND TESTIFIED AS FOLLOWS:)

MR. MALDONADO: (INTERPRETED AND SPOKEN BY MR. HUNT): YES -- YES.

THE COURT: NOW, MR. PRICE, UH -- UH, YOU REPRESENT THE, UH, DEFENDANT?

MR. PRICE: YES, SIR, I DO.

THE COURT: OKAY. HAVE YOU EXPLAINED TO THE DEFENDANT THE CHARGE AND THE INDICTMENT, WHICH I UNDERSTAND IS TRAFFICKING METHAMPHETAMINES, TWENTY-EIGHT TO -- TO A HUNDRED GRAMS, SECOND OFFENSE?

MR. PRICE: YES, SIR; I HAVE.

THE COURT: TWO COUNTS?

MR. PRICE: YES SIR; COUNTS ONE AND FOUR.

THE COURT: ONE AND FOUR? (R.P. 179 of 497. ROA)

MR. PRICE: (NO RESPONSE.)

THE COURT: YOU HAVE EXPLAINED THAT TO HIM?

(4th PCR Ach Doc. 6) ISSUED ON: AUG 0 1 2017
(Attachment: M-4)

(Attachment M-5) ISSUED ON: AUG 0 1 2017
(Att. PCR Act. Doc. 6)

MR. PRICE: YES, SIR, I HAVE.

THE COURT: AND ALSO THAT, UM, THE MAXIMUM SENTENCE -- OR, THE SENTENCES ON THOSE COUNTS, EACH COUNT COULD BE, UH, SEVEN TO THIRTY YEARS AND FIFTY THOUSAND-DOLLARS IN FINES?

MR. PRICE: YES, SIR. Appx. (F)(88-of-129)

THE COURT: AND ALSO HIS CONSTITUTIONAL RIGHTS? HAVE YOU EXPLAINED THOSE TO HIM?

MR. PRICE: YES, SIR.

THE COURT: IN YOUR OPINION, DOES THE DEFENDANT UNDERSTAND THE CHARGE, THE PUNISHMENTS, AND HIS RIGHTS?

MR. PRICE: HE DOES.

THE COURT: IN YOUR INVESTIGATION OF THE FACTS AND CIRCUMSTANCES OF EACH OF THESE CASES, DO YOU FEEL THE STATE COULD PRODUCE SUFFICIENT EVIDENCE---

MR. PRICE: I DO.

THE COURT: ---TO ESTABLISH THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, AND IF HE STOOD TRIAL HE WOULD MOST PROBABLY BE FOUND GUILT?

MR. PRICE: I AGREE.

THE COURT: ARE YOU AWARE OF ANY PHYSICAL, MENTAL, OR EMOTIONAL PROBLEM THAT MIGHT KEEP THIS DEFENDANT UNDER- -- FROM UNDERSTANDING WHAT HE'S DOING TODAY?

MR. PRICE: NO, SIR.

THE COURT: NOW, MR. MALDONADO, BEFORE I CAN ACCEPT A GUILTY PLEA, IT'S NECESSARY FOR ME TO ASK YOU SOME QUESTIONS

(C.R. 180-of-497-ROA)

(Attachment: 6) ISSUED ON: AUG 01 2017
(4th PCR_Act. Doc 6)

SO I CAN DETERMINE THAT YOUR PLEA IS MADE FREELY AND VOLUNTARILY. DO YOU UNDERSTAND THAT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

Appx.(F)(89-of-128)

THE COURT: IF YOU DO NOT UNDERSTAND MY QUESTIONS OR YOU NEED TO CONSULT WITH YOUR ATTORNEY AT ANY TIME, TELL ME SO. AND THEN I WILL EITHER EXPLAIN THE QUESTIONS OR WORDS I USE OR PERMIT YOU TO DISCUSS, UH, ANY QUESTIONS YOU HAVE WITH YOUR A- -- WITH YOUR ATTORNEY. DO YOU UNDERSTAND?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): OKAY, YES.

THE COURT: HOW OLD ARE YOU?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO RESPONSE.)

THE COURT: HOW OLD ARE YOU, SIR?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): THIRTY-THREE.

THE COURT: AND HOW FAR DID YOU GO IN SCHOOL?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): SIX.

THE COURT: AND WHAT KIND OF WORK DO YOU DO?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): IN CONSTRUCTION.

THE COURT: ARE YOU MARRIED?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

(R.P. 181 of 497. ROA)

(Attachment: M-7) ISSUED ON: AUG 0 1 2017
(5th Cir. Add. Doc. 6)

YES, IN MEXICO. Appx (F)(90-of-128)

THE COURT: ALL RIGHT. DO YOU HAVE ANY DEPENDENT CHILDREN? CHILDREN THAT ARE UNDER EIGHTEEN?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I HAVE A DAUGHTER UNDER SIX YEARS OLD.

THE COURT: DOES YOUR DAUGHTER LIVE WITH YOUR WIFE?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES -- YES.

THE COURT: HAVE YOU EVER BEEN TREATED FOR ABUSE OF ALCOHOL OR DRUGS OR MENTAL ILLNESS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): BEFORE THIS, I HAD PROBLEMS WITH ALCOHOL AND DRUGS.

THE COURT: ALL RIGHT. HAVE YOU BEEN TREATED FOR THOSE?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: ARE YOU UNDER THE INFLUENCE OF ANY MEDICATION, DRUGS OR ALCOHOL AT THIS TIME?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): MEDICINE, YES -- PILLS.

THE COURT: UM -- DOES THE MEDICATION THAT YOU'RE TAKING AFFECT YOUR ABILITY TO UNDERSTAND WHAT YOU'RE DOING TODAY?

MR. MALDONADO: (INTERPRETED AND SPOKEN BY MR. HUNT): NO, I'M FINE. I UNDERSTAND EVERYTHING.

THE COURT: ARE YOU A- -- ARE YOU AWARE OF ANY PHYSICAL, MENTAL, EMOTIONAL, OR NERVOUS PROBLEM THAT MIGHT KEEP YOU FROM UNDERSTANDING WHAT YOU ARE DOING?

(R.P. 182-of-497. ROA)

(4th PCR-Act. Doc. 6) (Attachment: M-8) Issued ON: AUG 0 1 2017

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO, I UNDERSTAND. Appx. (F)(91 -of- 128)

THE COURT: YOU HAVE HEARD YOUR ATTORNEY TELL ME THAT HE HAS EXPLAINED TO YOU THE CHARGES AGAINST YOU, THE POSSIBLE PUNISHMENTS AND YOUR CONSTITUTIONAL RIGHTS, AND THAT YOU UNDERSTAND THESE THINGS. IS THAT CORRECT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: YOU ARE PLEADING GUILTY TO TWO COUNTS OF TRAFFICKING METHAMPHETAMINES BETWEEN TWENTY-EIGHT AND A HUNDRED GRAMS, SECOND OFFENSE.

THE MAXIMUM SENTENCE ON EACH OF THESE INDICTMENTS IS SEVEN -- UP FROM SEVEN TO THIRTY YEARS AND FIFTY THOUSAND DOLLARS.

IF YOU'RE SENTENCED CONSECUTIVELY ON THESE INDICTMENTS, YOU COULD BE SENTENCED TO SIXTY YEARS AND A HUNDRED THOUSAND DOLLARS. DO YOU UNDERSTAND THAT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALSO, THIS IS WHAT WE CALL GRADUATED -- OR, THESE ARE WHAT WE CALL GRADUATED OFFENSES. IN OTHER WORDS, IF YOU ARE CONVICTED OF THE SAME OR SIMILAR CRIMES IN THE FUTURE, YOUR PUNISHMENT THE NEXT TIME WILL BE GREATER BECAUSE YOU HAVE PRIOR OFFENSES.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

(R.p. 183-of-497. ROA)

(Attachment: M-9) ISSUED ON: AUG 0 1 2017

(9th PCR. Act. Doc. 6)

YES.

THE COURT: ALSO, IT WILL AFFECT YOUR ABILITY TO GET A DRIVER'S LICENSE IN SOUTH CAROLINA. YOU UNDERSTAND THAT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

App'x. (F)(92-of-128)

THE COURT: DO YOU UNDERSTAND THE NATURE OF THE CHARGES AGAINST YOU AND THE RANGE OF POSSIBLE PUNISHMENTS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT. WHEN YOU PLEAD GUILTY, UH, MR. MALDONADO, YOU GIVE UP CERTAIN IMPORTANT CONSTITUTIONAL RIGHTS.

FIRST, YOU GIVE UP YOUR RIGHT TO REMAIN SILENT. THAT IS, THE RIGHT TO SAY NOTHING AT ALL. YOU CANNOT BE COMPELLED TO TESTIFY AGAINST YOURSELF OR TO OFFER EVIDENCE AGAINST YOURSELF. DO YOU UNDERSTAND THAT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: SECOND, YOU GIVE UP YOUR RIGHT TO A JURY TRIAL. IN A JURY TRIAL YOU WOULD BE PRESUMED TO BE INNOCENT AND ALL TWELVE MEMBERS OF THE JURY WOULD HAVE TO BE CONVINCED OF YOUR GUILT BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND THIS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

(R p. 184-of-197..ROA) 9

(Attachment: M-10) ISSUED ON: AUG 0 1 2017
(4th PCR. Ad. Doc. 6)

THE COURT: THIRD, YOU GIVE UP YOUR RIGHT TO CONFRONT AND BE CONFRONTED BY THE WITNESSES AGAINST YOU. THAT IS THE RIGHT TO SEE, HEAR, CROSS -- AND CROSS-EXAMINE ANY WITNESSES CALLED AGAINST YOU DURING A TRIAL AND TO -- AND THE RIGHT TO SUBPOENA AND CALL WITNESSES ON YOUR OWN BEHALF. DO YOU UNDERSTAND THAT? Appx.(F)(93-of-128)

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU GIVE UP OR WAIVE THESE CONSTITUTIONAL RIGHTS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: YOU MAY HAVE DEFENSES TO THE CHARGE AGAINST YOU. DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU WAIVE OR GIVE UP ANY DEFENSES YOU MAY HAVE?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I UNDERSTAND.

THE COURT: YOU -- YOU'VE GIVEN AN INCRIMINATING STATEMENT IN THIS CASE. IF YOU PLEAD GUILTY, DO YOU UNDERSTAND YOU WILL WAIVE OR GIVE UP THE RIGHT TO CHALLENGE WHETHER OR NOT SUCH STATEMENT WAS GIVEN FREELY AND VOLUNTARILY IN ACCORDANCE WITH YOUR CONSTITUTIONAL RIGHTS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, I UNDERSTAND.

THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY

(CR. p. 185-of-497-ROA)

(Attachment: M-11) Issued on: AUG 01 2017
(4th PCR. Act Doc-6)

YOU ADMIT THE TRUTH OF THE CHARGES MADE AGAINST YOU?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES. APPX (F)(94-of-128)

THE COURT: UNDERSTANDING THEN THE NATURE OF THE CHARGES AGAINST YOU AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO YOU WISH TO PLEAD TO THIS CHARGE? GUILTY OR NOT GUILTY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): GUILTY.

THE COURT: ARE YOU, IN FACT, GUILTY OF THE CHARGE -- OR, CHARGES? EXCUSE ME.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, COMPLETELY I'M GUILTY.

THE COURT: ALL RIGHT. AND THOSE ARE TWO CHARGES -- TWO COUNTS -- TWO SEPARATE CHARGES.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): UH -- TWO CHARGES? I'M NOT -- DIDN'T UNDERSTAND.

THE COURT: I DON'T HAVE A COPY OF THE INDICTMENTS, BUT, UM---

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): ARE YOU ASKING IF I'M GUILTY OF THE OTHER TWO CHARGES?

THE COURT: UH -- THE -- NO, I'M ASKING -- I -- I UNDERSTAND YOU'RE PLEADING GUILTY TO TWO COUNTS; COUNT ONE AND COUNT FOUR, UH, WHICH ALLEGE TWO SEPARATE OFFENSES.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): OH, YES -- YES.

(R.D. 186-of-497-ROA)

(9th PCR. Act. Doc. 6) (Attachment: M-(2)) ISSUED ON: AUG 0 1 2017

THE COURT: COUNT ONE, APPARENTLY IT OCCURRED ON -- OR, COVERS A PERIOD OF TIME FROM APRIL THE 1ST 2005 TO THE PRESENT. Appx. (F)(95-of-128)

AND COUNT FOUR COVERS A PERIOD OF TIME OF, UM, JUNE THE 26TH 2005.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES -- YES, I UNDERSTAND. I'M DECLARING MYSELF GUILTY.

THE COURT: ALL RIGHT. SO YOU'RE PLEADING TO BOTH COUNTS; IS THAT CORRECT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT, YOU WANT TO TELL ME WHAT YOU DID?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): ABOUT WHAT I DID?

THE COURT: RIGHT. IN OTHER WORDS, FROM THE PERIOD OF TIME OF APRIL THE 1ST, UH, TO PRESENT.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): DURING THAT TIME, WHAT DID I DO?

THE COURT: YES, SIR. IT SOUNDS LIKE THAT -- THAT YOU, UH, WITH OTHER PEOPLE--

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): WHAT I DID IN THAT YEAR?

THE COURT: UH -- WITH -- LET'S SEE -- MR. POPE; UH, MS. RAMEREZ (PHONETIC/SIC) -- RAMIREZ; MR. ROBERTS; MR. SANCHEZ. DID YOU -- WERE YOU INVOLVED WITH THEM IN

(R. R. 187-of-497.ROA)

(Attachment: M-13) ISSUED ON: AUG 0 1 2017
(4th PCR. Ad. Doc. 6)

ANY, UH...

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): WITH THEM, NO. IT WAS -- UH, IT WAS WITHOUT THEM.

I ACCEPT RESPONSIBILITY FOR WHAT I HAD.

THE COURT: WELL, WHAT -- LET ME ASK YOU, THE FIRST CHARGE, I UNDERSTAND, IS CONSPIRACY; IS THAT RIGHT?

MS. PORTER: YES, SIR, YOUR HONOR. IT'S -- IT'S MORE... Appx. (F)(98-8F-128)

(WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A CONFERENCE, OFF THE RECORD.)

(WHEREUPON, COURT RESUMED.)

THE COURT: ALL RIGHT. THAT YOU JOINED WITH A GENTLEMAN NAMED J. J., UH, TURNER, AND, UH, OTHERS TO DEAL IN, UH, METHAMPHETAMINES?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT. AND THEN ON JUNE -- OR, ON OR ABOUT JUNE THE 26TH, UM, YOU, UH, DELIVERED SOME, UH, METHAMPHETAMINES -- EITHER ICE OR CRACK?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES -- YES.

THE COURT: OKAY. DID YOU KNOW WHAT YOU DID WAS WRONG?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: DO YOU BELIEVE YOU'D BE, UH, FOUND GUILTY IF

(C.R. p. 188-of-497. ROA)

(Attachment: M-(4) ISSUED ON: AUG 01 2017

YOU STOOD TRIAL? (4th PCR-Act. Doc. 6)

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I THINK SO. Appx.(F)(97-of-128)

THE COURT: ALL RIGHT. IT'S MY UNDERSTANDING THAT, UH, SENTENCING IS TO BE DEFERRED; IS THAT CORRECT?

MS. PORTER: YES, YOUR HONOR.

THE COURT: IS THAT WHAT YOU UNDERSTAND, MR. PRICE?

MR. PRICE: YES, SIR.

THE COURT: HAS ANYONE HELD OUT ANY HOPE OR REWARD, UH, TO GET YOU TO PLEAD GUILTY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: HAS ANYONE THREATENED YOU OR USED FORCE TO CAUSE YOU TO PLEAD GUILTY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP YOUR MIND AS TO WHETHER OR NOT YOU WANT TO PLEAD GUILTY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, I'VE HAD TIME.

THE COURT: HAVE YOU FULLY DISCUSSED ALL ASPECTS OF THIS CASE WITH YOUR LAWYER?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: NEED ANY MORE TIME TO TALK TO YOUR LAWYER?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: ARE YOU COMPLETELY SATISFIED WITH

(R.A. 189-of-497. ROA)

(Attachment: M-15) ISSUED ON: AUG 01 2017
(4th PCR. ACL. Doc. 6)

MR. PRICE'S SERVICES AS YOUR ATTORNEY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES. Appx. (F)(98-of-128)

THE COURT: DO YOU HAVE ANY COMPLAINTS YOU WANT TO MAKE ABOUT YOUR LAWYER, THE SOLICITOR, OR ANY OF THE POLICE OFFICERS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: IN OTHER WORDS, HAS ANYONE MISTREATED YOU IN ANY WAY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

THE COURT: HAVE YOU UNDERSTOOD MY QUESTIONS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: IS THERE ANYTHING YOU'D LIKE TO ASK ME ABOUT WHAT WE'VE JUST BEEN OVER?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I DON'T -- I DON'T THINK SO RIGHT NOW, BUT POSSIBLY DURING SENTENCING I'D HAVE SOME QUESTIONS.

THE COURT: WELL, THAT'S WHAT I'M ASKING. I'M -- I'M JUST CONCERNED ABOUT WHAT WE'VE BEEN OVER SO FAR.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO RESPONSE.)

THE COURT: NOW, I UNDERSTAND THIS IS A SECOND OFFENSE. YOU DO UNDERSTAND THAT IF YOU'RE ON PAROLE OR PROBATION AND -- YOUR PLEADING TODAY COULD, UH, VIOLATE YOUR PROBATION

(R. p. 190-of-497. ROA)

OR YOUR PAROLE. DO YOU UNDERSTAND THAT? THAT COULD MEAN---

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, I KNOW. Appx. (F)(99-of-128)

THE COURT: ---AND THAT COULD MEAN THAT YOU, UM, SERVE ADDITIONAL TIME. DO YOU UNDERSTAND THAT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I UNDERSTAND.

THE COURT: DO YOU STILL WISH TO ENTER YOUR PLEA OF GUILTY TO EACH -- EACH COUNT?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT. ALL RIGHT, WHAT ARE THE FACTS OF THE CASES YOU HAVE?

MS. PORTER: THANK YOU, YOUR HONOR. WITH, UM, REGARDS TO COUNT ONE -- A CONSPIRACY FROM APRIL OF 2005 THROUGH FEBRUARY OF 2006 -- UM, MALDONADO MET AND BEGAN DOING BUSINESS WITH J. J. TURNER SOME TIME AROUND APRIL OF 2005 THROUGH ANOTHER CO-CONSPIRATOR WHO WILL, UM, PLEAD GUILTY NEXT -- LISA RAMIREZ.

UM -- MALDONADO HAS DELIVERED ICE TO J. J. TURNER ON NO LESS -- OR, ON LESS THAN TEN OCCASIONS. UM -- SOMEWHERE BETWEEN ZERO AND TEN TIMES. AT LEAST SIX, BUT HE'S NOT QUITE SURE.

ON AT LEAST SIX OF THOSE OCCASIONS THEY WERE AT J. J.'S RESIDENCE IN TRAVELERS REST IN GREENVILLE COUNTY.

(Attachment: M-17) ISSUED ON: AUG 01 2017 (4th PCR Act. Doc. 6)

EACH TIME HE DELIVERED APPROXIMATELY FIVE POUNDS OF ICE. SO IN TOTAL, HE'S DELIVERED APPROXIMATELY THIRTY POUNDS OF ICE TO J. J. TURNER. APPX. (F)(100-OF-128)

LISA RAMIREZ HELPED SET UP THE DEALS FOR MALDONADO ON AT LEAST THREE OF THOSE OCCASIONS, UM, INCLUDING THE BUY/BUST WHICH IS THE SUBJECT OF COUNT FOUR.

THAT OCCURRED ON JUNE 26, 2005. J. J. TURNER AGREED TO PURCHASE THE FIVE POUNDS OF ICE FROM MALDONADO. UM -- LISA WAS THE GO-BETWEEN ON THE PHONE.

UM -- HE WOULD -- J. J. WOULD CALL LISA, SPEAK TO HER, RELAY HOW MUCH HE WANTED.

LISA WOULD RELAY THAT TO MALDONADO. HE THEN WOULD TELL HER THE PRICE.

SHE COULD THEN TELL J. J. WHAT THE PRICE WOULD BE AND WHERE TO MEET.

ON JUNE 26, 2005, IT WAS FIVE POUNDS FOR FIFTY-FIVE THOUSAND DOLLARS.

UM -- WHILE IN ROUTE TO THE FIRST LOCATION, UM, LISA CALLED J. J. AND CHANGED IT TO A CAR WASH ON CEDAR LANE IN GREENVILLE. UM, THE CITY OF GREENVILLE, GREENVILLE COUNTY.

UM -- J. J. DROVE THERE AT APPROXIMATELY TEN A.M., MALDONADO ARRIVED IN A GREEN HONDA. UM -- J. J. APPROACHED HIS CAR AND MALDONADO HANDED OVER A CONTAINER WITH THE FIVE POUNDS OF ICE.

UM -- THERE WAS AN UNDERCOVER OFFICER THAT ACCOMPANIED

(Attachment: M-18) Issued on: AUG 01 2017 (4th PCR. Rct. Doc. 6)

J. J. DURING THAT TRANSACTION.

UM -- AT THAT TIME, THE OFFICER GAVE A SIGNAL AND LAW ENFORCEMENT APPREHENDED MALDONADO.

IT WAS TWO THOUSAND, TWO HUNDRED AND ONE GRAMS OF METHAMPHETAMINE. Appx. (F)(101-of-128)

UM -- THE CONSPIRACY IS CORROBORATED BY THIS PARTICULAR SUBSTANTIVE OFFENSE, THE DEFENDANT'S OWN CONFESSION, UM, ANOTHER CO-CONSPIRATOR AND THE RECORDED CONVERSATIONS SETTING UP THE DEAL.

HE DOES HAVE A PRIOR RECORD, YOUR HONOR. UM -- DO YOU WANT JUST THE DRUG OFFENSES?

THE COURT: UH -- NO. LET ME FIRST OF ALL FIND OUT, UH, DO YOU AGREE WITH THE FACTS AS STATED BY THE, UH, ATTORNEY GENERAL? AS TO BOTH OF THESE, UH, EVENTS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

MS. PORTER: DO YOU JUST WANT THE DRUG OFFENSES, YOUR HONOR?

THE COURT: UH -- JUST -- JUST GIVE ME A -- A LITTLE, UM, IDEA AS TO THE EXTENT AND THE NATURE OF OFFENSES.

MS. PORTER: HE -- HE'S CURRENTLY SERVING A SEVEN-YEAR SENTENCE FOR TRAFFICKING COCAINE FROM HERE IN GREENVILLE COUNTY, YOUR HONOR.

UM -- I THINK HE ALSO HAS A -- I -- I BELIEVE IT'S A CHARGE FROM KANSAS. UM -- IN- -- INVOLVING A POSSESSION OF,

(R.p. 193-of-497. ROA)

(Attachment: M-19) Issued on AUG 0 1 2017
(4th PCR-Mct. Doc. 6)

UM, STEROIDS, I BELIEVE. UM -- AND IT LOOKS LIKE HE GOT TIME SERVED. Appx. (F)(102 - of - 128)

THE COURT: ALL RIGHT. DOES THAT SOUND LIKE YOUR RECORD PRETTY MUCH?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO RESPONSE.)

THE COURT: IS THAT GENERALLY YOUR RECORD? ARE YOU SERVING TIME NOW FOR, UM, TRAFFICKING COCAINE?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT. AND YOU HAVE SOME SORT OF, UM, CHARGES OR, UM -- UH, SENTENCE FROM KANSAS TO DO WITH STEROIDS?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, SIR.

THE COURT: OKAY, THEN I -- I'LL JUST CONSIDER THE PRIOR, UM, OFFENSES THEN, SIR.

ALL RIGHT, HAS EACH AND EVERY ANSWER YOU'VE GIVEN THE COURT TODAY BEEN ABSOLUTELY TRUTHFUL?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

THE COURT: ALL RIGHT. I FIND THAT THERE IS A SUBSTANTIAL FACTUAL BASIS FOR THIS PLEA.

I FIND THAT TO BOTH INDICTMENTS -- OR, BOTH COUNTS OF THE INDICTMENT.

(R. p. 194 of - 497 - ROA)

Appx.(F)(103-of-128)

I FIND THE DEFENDANT'S DECISION TO PLEAD GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY MADE.

I FIND THAT THE DEFENDANT HAS HAD THE ADVICE AND COUNSEL OF AN ATTORNEY WITH WHOM THE DEFENDANT SAYS HE IS SATISFIED.

THE DEFENDANT'S PLEA OF GUILTY TO EACH -- EACH COUNT OF THE INDICTMENT IS ACCEPTED.

COMES NOW THE DEFENDANT, JOSE ALBERTO MALDONADO, WHO IN OPEN COURT, IN HIS OWN PROPER PERSON, PLEADS GUILTY TO INDICTMENT NUMBER 2005-GS-47-26, COUNT ONE AND COUNT FOUR AND SUBMITS TO THE SENTENCE OF THE COURT.

I ALSO UNDERSTAND THE SENTENCE OF THE -- THE SENTENCE IS TO BE DEFERRED.

MS. PORTER: THANK YOU, YOUR HONOR.

THE COURT: VERY GOOD. GOOD LUCK TO YOU, SIR.

(WHEREUPON, HEARING ENDED.)

*******END OF REQUESTED TRANSCRIPT*******

(Attachment: M-20)
(Hlm PCR. Act. Doc. 6)
ISSUED ON: AUG 0 1 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CERTIFICATE OF REPORTER

Appx. (F)(104-of-128)

I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT REPORTER FOR THE NINTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF ALL PROCEEDINGS RECORDED AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 22ND DAY OF AUGUST 2006.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

(Attachment: M-21)
ISSUED ON: AUG 01 2017
(4th PCR. Act. Doc. 6)

SEPTEMBER 2, 2008

Vivian H. Cross
VIVIAN H. CROSS
CIRCUIT COURT REPORTER

(R. P. 196-of-497. ROA)

STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS
	STATE GRAND JURY
STATE GRAND JURY	
COUNTY OF GREENVILLE	INDICTMENT NO: 2005-GS-47-26
	COUNT 1 AND COUNT 4
	(STATE GRAND JURY)
Appx. (F) (105-of-128)	AND
	2003-GS-23-4547 (GREENVILLE)

STATE OF SOUTH CAROLINA

PLAINTIFF,

-VS-

JOSE MALDONADO,

DEFENDANT.

ORIGINAL

TRANSCRIPT OF RECORD
SENTENCING HEARING

APRIL 10, 2008
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE ALEXANDER S. MACAULAY, JUDGE.

A P P E A R A N C E S:

CURTIS PAULING, ESQ.
ASSISTANT ATTORNEY GENERAL
ATTORNEY FOR THE STATE

JAMES H. PRICE, ESQ.
ATTORNEY FOR THE DEFENDANT

(R. P. 197-of-497. ROA)

ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
POST OFFICE BOX 9
WALHALLA, SC 29691

ISSUED ON: AUG 0 1 2017
(Also PCR Ack Doc. 6)
(Attachments: N-1 through N-12)

(Attachment: N-2)
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WITNESSES PAGE

Appx. (F)(106-of-128)

NO WITNESSES WERE CALLED.

SENTENCE OF THE COURT 10

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EXHIBITS

NO. DESCRIPTION ID. EV.

NO EXHIBITS WERE INTRODUCED.

(R. p. 198 -of- 497. ROA)

(Attachment: N-3) ISSUED ON: AUG 01 2017 (4th PCR Act. Doc-6)

***** START OF REQUESTED TRANSCRIPT *****

(WHEREUPON, THE SENTENCING HEARING COMMENCED AT APPROXIMATELY 10:42 A.M.)

THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

(WHEREUPON, THE INTERPRETER WAS SWORN, AS FOLLOWS:) Appx. (F) (107-of-128)

THE CLERK: DO YOU SOLEMNLY SWEAR THAT YOU WILL ACCURATELY INTERPRET THE LANGUAGE REQUESTED IN THIS COURT OF THE DEFENDANT AND WITNESS, WITHOUT ADDITIONS TO OR DELETIONS THEREOF, AND APPLYING YOUR BEST SKILL AND ABILITY, RENDER A COMPLETE AND ACCURATE INTERPRETATION, SO HELP YOU GOD?

THE INTERPRETER: I DO.

THE CLERK: WOULD YOU PLEASE STATE YOUR NAME.

THE DEFENDANT: JOHN BRITT HUNT.

THE CLERK: THANK YOU, SIR.

THE COURT: ARE YOU JOSE ALBERTO MALDONADO?

THE DEFENDANT: YES.

THE COURT: THANK YOU, SIR. MR. MALDONADO, ARE YOU REPRESENTED BY MR. PRICE?

THE DEFENDANT: YES.

THE COURT: MR. PRICE, MR. MALDONADO ENTERED A PLEA OF GUILTY TO INDICTMENTS 2005-GS-47-26, COUNT 1 AND COUNT 4; IS THAT CORRECT?

(R. p. 199-of-497: ROA)

(Attachment: N-4) ISSUED ON: AUG 0 1 2017 (46th PCR Act Doc. 6)

MR. PRICE: YES, SIR.

THE COURT: DO YOU REMEMBER THE DATE OF THAT PLEA?

Appx. (F) (108 - of - 128)

MR. PRICE: I DO NOT, BUT I THINK ---

MR. PAULING: YOUR HONOR, I BELIEVE IT WAS AUGUST 22ND OF 2006.

THE COURT: MR. MALDONADO, YOU ENTERED A PLEA OF GUILTY TO INDICTMENTS 2005-GS-47-26, COUNT 1, TRAFFICKING METHAMPHETAMINE, 28 TO A HUNDRED GRAMS, SECOND OFFENSE; AND COUNT 4, TRAFFICKING METHAMPHETAMINE, 28 TO A HUNDRED GRAMS, SECOND OFFENSE.

THE MINIMUM SENTENCE ON EACH OF THOSE CHARGES IS SEVEN YEARS AND THE MAXIMUM IS 30 YEARS AND A $50,000.00 FINE. YOU COULD BE SENTENCED TO A TOTAL OF 14 YEARS MINIMUM AND 60 YEARS MAXIMUM AND A HUNDRED-THOUSAND-DOLLAR FINE. DO YOU UNDERSTAND THAT?

THE DEFENDANT: YES.

THE COURT: NOW, HAVE YOU DISCUSSED YOUR SENTENCING FOLLOWING YOUR PLEA WITH YOUR ATTORNEY?

THE DEFENDANT: YES.

THE COURT: DO YOU NEED ANY MORE TIME TO TALK TO YOUR LAWYER?

THE DEFENDANT: NO, (SPEAKS IN SPANISH).

THE INTERPRETER: NO, I'M CONSCIOUS OF IT.

THE COURT: PARDON?

(R. P. 200 - of - 497 ROA)

(Attachment: N-5) ISSUED ON: AUG 01 2017 (Also PCR. Ad. Doc. 6)

THE INTERPRETER: NO, I'M CONSCIOUS OF IT.

THE COURT: VERY GOOD.

ARE YOU SATISFIED, COMPLETELY SATISFIED WITH MR. PRICE'S SERVICES AS YOUR ATTORNEY?

THE DEFENDANT: YES. Appx.(F)(109-of-128)

THE COURT: ALL RIGHT. MR. PAULING, WHAT WAS THE, IF ANY, RECOMMENDATION IN THE CASE?

MR. PAULING: YOUR HONOR, THE STATE'S RECOMMENDATION IS 20 YEARS TO RUN CONCURRENT.

THE COURT: ON BOTH CHARGES?

MR. PAULING: THAT'S CORRECT, YOUR HONOR.

THE DEFENDANT: YES.

THE COURT: IS THAT WHAT YOU UNDERSTAND, MR. PRICE?

MR. PRICE: YES, SIR. TO RUN CONCURRENT AND ALSO WITH CREDIT FOR THE SENTENCE THAT HE IS SERVING NOW. I HAVE A COPY OF THE SENTENCE.

THE COURT: ALL RIGHT. SO IT WILL BE BACKDATED?

MR. PRICE: YES, SIR. THAT'S THE SENTENCING SHEET NOVEMBER 29TH, CREDIT FOR 115 DAYS.

MR. PAULING: THAT'S CORRECT, YOUR HONOR.

THE COURT: LET ME SEE THAT.

MR. PRICE: YOUR HONOR, HE PLED GUILTY ON NOVEMBER 29TH, '05, RECEIVED A SEVEN-YEAR SENTENCE WITH

(R. p. 201-of-497. ROA)

CREDIT FOR 115 DAYS SERVED. (Attachment: N-6) (Attachment PRC-Ach Doc 6) ISSUED ON: AUG 01 2017

THE COURT: ALL RIGHT. AT THAT TIME HE RECEIVED 115 DAYS? Appx.(F)(110-of-128)

MR. PRICE: YES, SIR.

THE COURT: SO DOES ANYBODY ---

MR. PRICE: I JUST GOT NOTICE OF THE PLEA AND I GOT IT THIS MORNING. I CAN CERTAINLY GET A CALENDAR BEFORE I LEAVE HERE TODAY.

THE COURT: WELL... SO I UNDERSTAND THE RECOMMENDED SENTENCE IS 20 YEARS CONCURRENT ON BOTH CHARGES, TO RUN CONCURRENT WITH THE SENTENCE ON 2003-GS-23-4547, DATED NOVEMBER THE 29TH, 2005, COMMENCING 115 DAYS PRIOR TO THAT DATE?

MR. PRICE: YES, SIR, THAT'S CORRECT.

MR. PAULING: THAT'S CORRECT, YOUR HONOR.

THE COURT: IS THAT WHAT YOU UNDERSTAND, MR. MALDONADO?

THE DEFENDANT: YES.

THE COURT: ALL RIGHT. I FIND THAT THE PLEA HAS BEEN FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY ENTERED PRIOR, ON AUGUST THE 22ND, 2006, WITH ADVICE OF COUNSEL, AND THAT IN DOING SO, THE DEFENDANT UNDERSTOOD WHAT THE SENTENCE WOULD BE.

ALL RIGHT. MR. PAULING, WHAT DO YOU HAVE ON BEHALF OF THE STATE?

(R. p. 202-of-497. RJA)

(Attachment: N-7) ISSUED ON: AUG 01 2017 (HHPCR-Act-Doc-E)

MR. PAULING: YOUR HONOR, I BELIEVE THE FACTS HAVE BEEN PRESENTED TO THE COURT PREVIOUSLY.

THE COURT: NO, I MEAN, IS THERE ANYTHING OTHER THAN YOUR RECOMMENDED SENTENCE?

Appx. (F)(111-of-128)

MR. PAULING: OTHER THAN, NO, YOUR HONOR.

THE COURT: ALL RIGHT. MR. PRICE, WHAT DO YOU HAVE TO SAY ON BEHALF OF MR. MALDONADO?

MR. PRICE: YOUR HONOR, MR. MALDONADO IS 33 YEARS OLD, HE HAS A CHILD IN MEXICO. HE HAS NO CHILDREN HERE, ALTHOUGH HE DOES HAVE A SISTER AND FAMILY LEGALLY IN CALIFORNIA WHO ARE VERY INTERESTED IN HIM AND ARE VERY CONCERNED ABOUT HIM.

ALL THAT I CAN SAY IS, NUMBER ONE, MR. MALDONADO AGREED TO COOPERATE WITH THE STATE; UNFORTUNATELY, I THINK IT'S SAFE TO SAY EVERYBODY ABOVE HIM AND BELOW HIM WAS ALSO COOPERATING AND THERE WASN'T MUCH THAT HE COULD DO.

THE COURT: NOVEMBER THE 29TH IS THE 333RD DAY AND 115 ---

MR. PRICE: 115, YES, SIR.

THE COURT: THAT'S 333 FROM 333. IT LOOKS LIKE AUGUST THE 6TH.

MR. PRICE: SOUNDS GOOD.

THE COURT: SO THE COMMENCEMENT WOULD BE AUGUST THE 6TH OF '05. ALL RIGHT. ANYTHING ELSE?

(R. p. 203-of-497. ROA)

(Attachment: N-8) ISSUED ON: AUG 01 2017 (4th PCR-Ref. Doc. 6)

MR. PRICE: YES, SIR. OTHER -- HE DID AGREE TO COOPERATE IF NECESSARY; BUT UNFORTUNATELY, THEY DID NOT NEED HIM. MR. MALDONADO TELLS ME THAT HE JUST DID NOT HAVE A REALIZATION OR KNOWLEDGE THAT HE COULD GET IN AS MUCH TROUBLE AS HE GOT INTO BY FOOLING WITH DRUGS.

SO HE'S APOLOGETIC, HE'S REMORSEFUL, AND HE DOES WANT TO ADDRESS THE COURT. HE HAS ASKED ME TO ASK THAT YOU CONSIDER GIVING HIM A SENTENCE OF LESS THAN 20 YEARS; IF YOU WOULD CONSIDER 15, HE WOULD BE MOST APPRECIATIVE. I DON'T THINK THAT THERE IS ANY DOUBT THAT HE WILL BE DEPORTED WHENEVER HE FINISHES HIS SENTENCE. Appx. (F) (112-of-128.)

MR. MALDONADO, WHAT DO YOU WANT TO TELL THE COURT?

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: THAT IF YOU COULD FORGIVE ME, I DIDN'T KNOW HOW SERIOUS IT WAS, THOSE TYPES OF DRUGS. THEY GAVE IT TO ME, THEY GAVE IT TO ME IN MY HANDS, AND ASKED ME TO DELIVER IT TO THAT PERSON.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: MAYBE I WAS USED BY THEM. I WAS CONFUSED. AND I JUST ASK FOR FORGIVENESS.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: JUST PLEASE CONSIDER THAT'S -- THAT'S GONNA BE HALF OF MY LIFE, AND IT'S A

(R. p. 204-of-497. ROA)

(Attachment: N-9) ISSUED ON: AUG 01 2017 (4th PCR. Act. Doc. 6)

LONG TIME, AND I'M NOT SURE WHAT WILL HAPPEN.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: THAT'S ALL.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: I'M JUST WORRIED ABOUT MY FAMILY. APPX.(F)(113 of 128)

THE COURT: WELL, UNDER THE CIRCUMSTANCES OF THIS PARTICULAR CASE, IT WOULD APPEAR THAT HE'S GOTTEN ABOUT EVERY BENEFIT THAT HE COULD GET BECAUSE HE'S GOT A 15-YEAR SENTENCE ALREADY ON THE 2003 CHARGE.

MR. PRICE: A SEVEN-YEAR SENTENCE, YES, SIR.

THE COURT: A SEVEN-YEAR SENTENCE?

MR. PRICE: A SEVEN-YEAR SENTENCE, YES, SIR.

THE COURT: SO HE'S GOING TO BE GETTING CREDIT BACK TO AUGUST OF 2005, SO IT WILL NOT NECESSARILY BE A 20-YEAR SENTENCE BECAUSE HE WILL HAVE CREDIT FOR SEVEN YEARS.

MR. PRICE: YES, SIR, I UNDERSTAND THAT.

THE COURT: WELL, WHAT I'M SAYING IS I THINK YOUR ATTORNEY HAS DONE AN EXCELLENT JOB IN THE SENSE THAT 20 YEARS WOULD BE A REASONABLE SENTENCE, BEING A SECOND OFFENSE, AND TWO CHARGES RUNNING CONCURRENT BACK TO 2005.

ALL RIGHT. SO I'LL ACCEPT THE RECOMMENDATION. ANYTHING ELSE?

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(Attachment: N-10) ISSUED ON: AUG 01 2017 (4th PCR Act. Doc_6)

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: WHAT'S THE EXACT LENGTH OF MY SENTENCE? Appx. (F) (119-of-128)

MR. PRICE: HE HASN'T DONE IT YET. IS THERE ANYTHING ---

THE COURT: IS THERE ANYTHING ELSE YOU WANT TO SAY BEFORE I DO IMPOSE THE SENTENCE?

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: FRANKLY, I'M VERY NERVOUS AND SCARED AND DON'T REALLY KNOW WHAT TO THINK.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: WHATEVER THE JUDGE DECIDES.

THE COURT: VERY WELL.

SENTENCE OF THE COURT:

THE STATE OF SOUTH CAROLINA VERSUS JOSE ALBERTO MALDONADO, 2005-GS-47-26, COUNT 1, THE SENTENCE OF THE COURT IS THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF 20 YEARS, PLUS PAY THE COSTS AND ASSESSMENTS AS APPLICABLE.

ON COUNT 4 IT'S THE SENTENCE OF THE COURT THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF 20 YEARS, PLUS PAY THE

(R. p. 206-of-497. ROA)

Appx. (F)(115-of-128) (Attachment: N-11)

COSTS AND ASSESSMENTS AS APPLICABLE. ISSUED ON: AUG 0 1 2017
(4th PCR Ad. Doc. 6)

BOTH SENTENCES ARE TO RUN CONCURRENT TOGETHER WITH THE SENTENCE ON 2003-GS-23-4547 WITH CREDIT SINCE AUGUST THE 6TH, 2005.

SPECIAL CONDITION IS TO UNDERGO DRUG AND ALCOHOL TESTING AND TREATMENT, SUBSTANCE ABUSE COUNSELING, TO INCLUDE A.T.U. WHILE INCARCERATED.

VERY GOOD. GOOD LUCK TO YOU, SIR.

MR. PRICE: THANK YOU, YOUR HONOR.

MR. PAULING: THANK YOU, YOUR HONOR.

(WHEREUPON, THE SENTENCING HEARING WAS CONCLUDED AT APPROXIMATELY 10:56 A.M.)

***** END OF REQUESTED TRANSCRIPT *****

(R. p. 207-of-497. ROA)

(Attachment: N-12)(4th PCR. Act. Doc-6)

ISSUED ON: AUG 0 1 2017

CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR, OFFICIAL COURT REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED IN THE SENTENCING HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR THE STATE GRAND JURY AND GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 10TH DAY OF APRIL, 2007.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

APPX. (F)(116-OF-128)

JUNE 9, 2008

Robin Sue Hild

ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER

(R.P. 208-OF-497: ROA)

(4th PCR. Act. Doc-6)
(Attachments: O-1 through O-4) EXHIBIT (O)(4)
§ 44-53-375. ISSUED on: AUG 0 1 2017

South Carolina Code of Laws (unannotated)
Title 44 - Health
CHAPTER 53. POISONS, DRUGS AND OTHER CONTROLLED SUBSTANCES
44-53-375. Possession, manufacture and trafficking of methamphetamine and cocaine base and other controlled substances; penalties.

44-53-375. Possession, manufacture and trafficking of methamphetamine and cocaine base and other controlled substances; penalties.

APPX. (F)(117-of 128)

ARTICLE 3. NARCOTICS AND CONTROLLED SUBSTANCES

(A) A person possessing or attempting to possess less than one gram of methamphetamine or cocaine base, as defined in Section 44-53-110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44-53-370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty-five thousand dollars, or both;

(2) for a second offense or if, in the case of a first conviction of a violation of this section, the offender has been convicted of any of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense or if the offender has been convicted two or more times in the aggregate of any violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the offender must be imprisoned for not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

(R. P. 209-of-497. ROA)

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection.

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)

is guilty of a felony

(1), or 44-53-210(d)(2), is guilty of a felony which is known as "trafficking in methamphetamine or cocaine base" and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty-eight grams: APPX. (F)(118-of-128)

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars; (Attachments: 0-2) (Hill PCR. Ref. Doc. 6) ISSUED ON: AUG 01 2017

(2) twenty-eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains twelve grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony and, upon conviction, must be punished as follows if the quantity involved is:

(a) twelve grams or more, but less than twenty-eight grams: (R. p. 210-of-497. ROA)

APPX (F) 119-of-128)

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars; (Attachment: O-3) ISSUED ON: AUG 0 1 2017 (4th PCR. Ad. Doc. 6)

(b) twenty-eight grams or more, but less than one hundred grams;

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products: (R. P. 911-of-497. ROA)

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

APP. (F)(120-OF-128)

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(F) Except for a first offense, as provided in subsection (A) of this section, sentences for violation of the provisions of this section may not be suspended and probation may not be granted. A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24-13-610, or supervised furlough as provided in Section 24-13-710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 20-7-50, if a child was present at any time during the unlawful manufacturing of methamphetamine.

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(Attachment: O-4) ISSUED ON: AUG 0 1 2017
(4th PCR. Act. Doc. 6)

(R. P. 212-OF-497. ROA)

PRICE, PASCHAL & ASHMORE, P.A.
ATTORNEYS AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-1001
FACSIMILE (864) 242-6560

APPX. (F) (121-of-128)

JAMES H. PRICE III *
HOWARD W. PAT PASCHAL, JR.
BEATTIE B. ASHMORE
RYAN L. BEASLEY

JOSEPH J. WATSON
—OF COUNSEL—

*Licensed to practice law in South Carolina and New York.

July 28, 2006

(Attachments: P-1)
(4th PCR. Act. Doc. 6)
ISSUED ON: AUG 0 1 2017

Jose Alberto Maldonado #00312648
Perry Correctional Facility
430 Oaklawn Road
Pelzer, SC 29669

RE: State v. Jose Alberto Maldonado

Dear Mr. Maldonado:

I went to Columbia, South Carolina to meet with the Attorney General and SLED agent handling your case. The purpose of the meeting was to see what could be worked out in the way of a plea. The state's position is as follows:

1. They have you nailed delivering 5 lbs. of ice. You do not have any legitimate or reasonable defense. This offense occurred while you were out on bond and on the run for the first offense for which you picked up ten years. Whether you were "on the run" or not really doesn't matter – you did not show up for court and a bench warrant had been issued.

2. In other words, the government does not have much sympathy for you. I don't care what the government thinks, but they are not willing to do much for you.

The government will only offer the following plea agreement:

1. Twenty year sentence concurrent with your sentence that you are serving with credit for time served since the indictment was served on you. This was more than one year ago. In effect you would be receiving a nineteen year sentence at 85%.

2. The government will ask a DEA agent, Jerry Davis, to come talk with you about other people with whom you dealt ice. If you cooperate with him and provide decent information WHICH IS THE TRUTH Mr. Davis would recommend a lower sentence to the attorney general. This is only if Mr. Davis has the time to come to Perry to talk with you.

(R. P. 213-of-497. ROA)

APPX. (F)(122-of-128)

(Attachment: P-2)
(4th PCR. Ach Doc. 6)
ISSUED ON: AUG 01 2017

3. If Lisa goes to trial would you be willing to testify against her? The government does not believe that you told them all the truth about her. I want you to know that Lisa is dumping on you – she is telling the government that you were the main supplier picking up the dope from Atlanta and bringing it to Greenville.

Your only alternative is to go to trial. I think that this would be stupid. If convicted, you would receive a minimum twenty-five year sentence which the government would recommend it run consecutive to your current sentence. If the judge runs the sentence consecutively you would receive a total of thirty-five to forty years rather than a sixteen year sentence (85% of 19).

I am copying your sister so that she will be aware of this. Sister, please call me after you discuss this letter with your brother in Spanish.

Yours very truly,

PRICE, PASCHAL & ASHMORE, P.A.

J.H. Price, III

JHP/jmf

cc: Bella Medina

(R.P. 214-of-497. ROA)

Appx. (F)(123 - of - 128)

The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

May 18, 2006

James H. Price, III, Esquire
644 E. Washington Street
Greenville, South Carolina 29601

(Attachment: P-3)
(4th PCR. Act. Doc. 6)
ISSUED ON: AUG 0 1 2017

Re: Jose Alberto Maldonado
2005-GS-47-26 Count I — Trafficking Methamphetamine > 400 grams (Conspiracy)
2005-GS-47-26 Count IV — Trafficking Methamphetamine > 400 grams

Dear Mr. Price:

I am writing to extend a formal offer in the above-referenced cases. The State is willing to reduce the Trafficking Methamphetamine >400 grams by Conspiracy charge to Trafficking Methamphetamine 28 - 100 grams by Conspiracy, and the Trafficking Methamphetamine > 400 grams charge to Trafficking Methamphetamine 28 - 100 grams, with the State recommending that Mr. Guevara receive a twenty (20) year sentence on each of the state charges and that each of the charges run concurrent with each other and his present sentence.

Under the proposed plea agreement, Mr. Guevara would be facing seven (7) to thirty (30) years on each of the Trafficking Methamphetamine 28 - 100 grams charges. The State is only recommending twenty (20) years, the Judge has discretion and is not bound to accept the recommendation. The Judge could go as low as seven (7) years concurrent on all charges or as high as sixty (60) years, running each charge consecutively. It will be up to the Judge.

Please convey our offer to your client and let me know his decision as soon as you are made aware of it. If your client chooses to accept my offer, I will forward you the State's plea agreement in writing. As part of the plea agreement, Mr. Maldonado must agree to testify fully and truthfully against any other individuals who have been or may be indicted in this investigation, he must agree to be debriefed by law enforcement concerning his knowledge of drug-related activities, he must testify before the State Grand Jury if requested, and he must agree to submit to a polygraph test should agents determine it is necessary.

This offer will be withdrawn if not accepted by 5:00 p.m. on Tuesday, August 1, 2006. In that event, the State will not entertain further plea negotiations with your client.

If you have any further questions, please contact me at (803) 734-7840 at your earliest convenience. Thank you for your assistance in this matter.

(R.P. 215 - of - 497. ROA)

Sincerely,

Jennifer D. Evans

Jennifer D. Evans
Chief, State Grand Jury

REMBERT C. DENNIS BUILDING • POST OFFICE BOX 11549 • COLUMBIA, S.C. 29211-1549 • TELEPHONE: 803-734-3970 • FACSIMILE: 803-253-4121

JOSE A. V. STATE SOUTH CAROLINA
PLAINTIFF.

Appx. (F)(125-of-128)

1. In General

CASE NOTES

Recognizing the fairness and logic exemplified by the provisions of §§ 17-25-50 and 56-1-1020, the Court of Appeals has ruled that where a defendant has been convicted on 2 or more counts for the violation of the Controlled Substance Act arising out of simultaneous acts committed in the course of a single incident, the conviction will be considered as only one for the purpose of sentencing upon a subsequen conviction for a violation of the Controlled Substances Act. State v. Boyd (S.C.App, 1986) 288 S.C.206,341 S.E.2d 144.

§ 44-53-390. Prohibited acts C; penalties

(a) It is unlawful for a person knowingly or intentionally to:

(1) distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 44-53-350;

(2) use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) furnish false or fraudulent material information in, or omit any material information from any application, report, or other document to be kept or filed under this article, or any record required to be kept this article;

(Attachment: P-4)
(4th PCR. Act. Doc. 6)
ISSUED ON: AUG 0 1 2017

Respectfully Submitted

/S/ Jose A Maldonado
Jose A. Maldonado.

(R.P. 216 OF-497 ROA)

Exhibit 1 (8)
Appx. (F) (125-06-128)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

(Attachments: 9)

JUDGMENT IN A CIVIL CASE

CASE NO: 2015CP2304757

FILED CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE, SC
2017 JUL 21 AM 10:

Jose Alberto Maldonado *vs.* **South Carolina State Of**

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

NOTICE

Attached To This Notice Is A Final Order Of Dismissal.

Filed at Greenville, South Carolina, this 21st Day of july 2017 .

Court Reporter:

PRESIDING JUDGE - Perry H Gravely

(R. P. 217 SR-497 ROA)

Jose Alberto Maldonado Kershaw Correctional Institute 4848 Goldmine Hwy Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

James Clayton Mitchell III PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court - Clerk of Court

CPFORM4M
SCCA SCRCP Form 4 Revised 06/2008

APPX. (F)(126-of-128)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

EXHIBIT: (8)

Applicant,

v.

State of South Carolina,

Respondent.

2015-CP-23-04757

FINAL ORDER OF DISMISSAL

FILED CLERK OF COURT
PAUL M. WICKENSIMER
GREENVILLE, SC
2017 JUL 21 AM 10:10

(Attachment: Q-1 through Q-3)
(4th PCR Act. Doc. 6)
ISSUED ON: AUG 01 2017

This matter comes before this Court by way of an application for post-conviction relief filed July 31, 2015, by Jose Alberto Maldonado (Applicant). Respondent made served its Return and Motion to Dismiss on March 7, 2017, requesting the application be summarily dismissed based Applicant's failure to comply with the statute of limitations pursuant to S.C. Code Ann. §17-27-45, and as successive to his prior post-conviction relief applications.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal signed March 10, 2017, and filed March 13, 2017, 2017, provisionally denying and dismissing this action, while giving Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. This Conditional Order of Dismissal was personally served on Applicant on April 6, 2017; a copy of the Affidavit of Personal Service is attached to this Order.

(R. P. 218-of-497. ROA)

On April 13, 2017, Applicant filed a response to the Conditional Order of Dismissal, including the following documents: "Request for Default Judgment/And A Order to Strike Case No .2015-CP-23-0457 Pursuant to Rules 12(a)(b) & (f), 55(a) (b) (c). SCRCP: As Law Sanction," "Affidavit of Truth," "Objection to Motions of Return and Response to Motion of

(4th PCR. Act. Doc. 9)
(Attachment: CP-2) ISSUED ON: AUG 0 1 2017

Dismissal/An A Conditional Order of Dismissal," and a litany of attachments from Applicant's
APPX. (F)(127-of-128)
various actions challenging these convictions in both state and federal courts.

In his response to this Court's Conditional Order of Dismissal, Applicant erroneously asserts Respondent and this Court have used the wrong civil action number. However, a review of all filed documents in this action and the public index both indicate the civil action number for this action is correctly listed as 2015-CP-23-04757. Applicant also alleges various inconsistencies in the filing dates or other inaccuracies in both his current or prior post-conviction relief actions, which he characterizes as "fraudulent records." This Court has reviewed these claims, as well as the records from his prior actions before signing its Conditional Order of Dismissal, and finds these claims to be without merit.

Applicant also reasserts various claims of a lack of subject matter jurisdiction based on the sufficiency of the State Grand Jury's indictments, which he argues can be asserted at any time. However, Applicant has failed to present a sufficient reason why these challenges could not have been raised in his two prior post-conviction relief applications. Therefore, this Court again finds, as it did in its Conditional Order of Dismissal, this application must be denied and dismissed as successive to his two prior post-conviction relief actions.

Additionally, Applicant asserts this Court should hold Respondent in default and grant his application for post-conviction relief based on the delay between the filing of his application for post-conviction relief, the filing of Respondent's Return and Motion to Dismiss, and this Court's Conditional Order of Dismissal. This Court has reviewed Applicant's Motion for Default in full and finds it must be denied and dismissed. For an applicant to be granted default judgment in post-conviction relief, he or she must show prejudice from the State's delay in failing to timely answer his or her application. See Kneece v. State, 269 S.C. 177, 236 S.E.2d 745 (1977);
(R.P. 219-of-497. ROA)

(4th PCR. Act. Doc 6)
(Attachment: 9-3) ISSUED ON: AUG 0 1 2017

Herring v. State, 262 S.C. 597, 206 S.E.2d 885 (1974). To show prejudice, an applicant must show that his or her application has merit. Herring, 262 S.C. at 598, 206 S.E.2d at 886. Furthermore, compliance with the statutory time limits is discretionary with the trial court. Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973). This Court finds Applicant has failed to demonstrate the requisite prejudice or merit to his application, as his application is patently successive and filed well-beyond the proscribed statute of limitations. Therefore, the motion for default judgment is denied. EXHIBIT: (8) Appendix: (F) (Record Page 128)

Based on the foregoing, this Court finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, the post-conviction relief application is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant that he must file and serve a Notice of Appeal within thirty days of the service of this Order if he wishes to secure appellate review. See Rule 203, SCACR. Applicant's attention is directed to Rule 227, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 18th day of July, 2017.

(R.P. 2020-SC-497. RJA)

PERRY H. GRAVELY
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina.

APPENDIX: (E)(Report Page 1 through 76)

Exhibit: (9)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

March 14th, 2017

The Honorable Perry H. Gravely
Presiding Judge - 13th Judicial
Circuit

Post Office Box 219
Pickens, South Carolina 29671

Re: Jose Alberto Maldonado v. South Carolina
Case No. 2015-CP-23-04747.

Dear Judge Gravely:

Enclosed please find the proposed copies from the Original that clerk of court have OBJECTION UPON MOTION OF RETURN AND RESPONSE TO MOTION OF DISMISSAL/AN A CONDITIONAL ORDER OF DISMISSAL, AND ALSO A "REQUEST FOR DEFAULT JUDGMENT/AN A ORDER TO STRIKE <"C/A#: 2015-CP-23-047(57)"> Pursuant to Rules, Rule 12(a)(b), and (f), 55(a)(b)(c), SCRCP.

In these filed Motions meet with your approval, please sign a ORDER to an EVIDENTIARY HEARING to COMPEL such information upon the (State) Records, and forward to the Greenville Clerk of Court to be filed and served.

Sincerely,

Jose Alberto Maldonado,
Plaintiff, "Applicant"

JM/Hon: PHG Judge

Enclosures:(2)

(Attachments:(1) (A through E-5)

Cc: Attorney General's Office
Alan Wilson/J. Clayton Michell Assistant Atty. Gen.

(R.P. 221 of 497. ROA)

STATE OF SOUTH CAROLINA) COUNTY OF GREENVILLE)	IN THE COURT OF COMMON PLEAS FOR THE 13TH JUDICIAL CIRCUIT
Jose Alberto Maldonado, 312648, PLaintiff/Applicant, Pro - Se, Appx. (G)(2-of-75) v. State of South Carolina, Respondent.	Case No. 2015-CP-23-04747 OBJECTION TO MOTIONS OF RETURN AND RESPONSE TO MOTION OF DISMISSAL/AN A CONDITIONAL ORDER OF DISMISSAL

Applicant respectfully moves this Court, pursuant this Objection to Motions, and against the Rule 12(b) for the judgment the Respondent demand on his pleadings. In response to the Post-Conviction Relief. File July 31, 2015. Case No. 2015-CP-23-04747, the Plaintiff, "Applicant", would show this Court that Follows:

I.

UNDERLYING CHARGES AT THE GUILTY PLEAD AND SENTENCED

Applicant's physically presently confine at the Dep't of Corr. Inst. Kershaw. Directly to a Orders from former "Attorney Gen., Henry McMaster, and the Assistant Susan O. Porter." Without the Jurisdiction to the "Clerk of Court in the State Grand Jury."

That Applicant "assert that with the records from them" when falsely the attorney general's Office indicted Applicant with a false information, inside the "General Sessions Court Term of Greenville County", and this Court, didn't stop a Ms. Porter within the two indicted at the C/A#:2005-GS-47-0026: One was from Dec. 13 2005, and Second's from February 22, 2006 for Trafficking in crack cocaine conspiracy, more than ">400 grams in the State Grand Jury"; in Dec.13, 2005 C/A#:2005-GS-47-0026 Count 1) see (Attachments:"C-I. - C-II").

Appx. (G)(4-of-76)

Sentencing Cheets for TRAFFICKING IN COCAINE >28 GRAMS 2ND OFFENSE) C/A#:2003-GS-23-04547. This Honorable Court have to review this "arguments to the Respondent" where the Arrest Warrant, and the Indictments have lower 10, grams up, and no more than 28-grams, See (Attachments: C-II.) & (C-1). That, "Respondent have not support upon his falsely Case No. "2015-CP-23-0457," at page 1 of 9. To him using the "quantity of >400 grmas in cocaine" is no a indictments with such facts, against, Applicant by the State Grand Jury Dec. 13, 2005) see: at, Gardner v. State, 351 407, 570 S.E.2d 104 (2002)(to trafficking twenty - eight or more, but less than 100 grams of cocaine and to trafficking (ten) grams or more, but less than twenty - eight grams, of crack cocaine, and he sought post conviction relief); see also the "PCR. Act. Application's INITIAL BRIEF IN SUPPORT OF THE APPLICATION FOR POST CONVICTION RELIEF File:(Doc.2) at, Page 13, Quote, Clair v. State, 324 S.C. 144, 478 S.E.2d 54 (1996)). See, the (Attachments: A-4, 4-5) The Sentencing Sheets without any information — from of Case: 2015-CP-23-04757 against - Plaintiff/Applicant's Post-Conviction Relief Action Case 2015-CP-23-04747, with the trafficking in methamphetamines more than >400 grams (2005-GS-47-0026, Count 4) See (Attachment: A-6) C/A#8:11-1372-TWL -JDA, "RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT at, frent to the attorney general Alan Wilson's Office." argued that Plaintiff, "Applicant" had been indicted "December 2005) for conspiracy to traffick methamphetamines, more than 400 grams(Count 1, and Count 4) See(Attachment: A-7) Indictment for Trafficking Methamphetamines (Conspiracy), Trafficking Methamphetamine>400 grams- "Two Count SC. Code Ann. § 44-53-375(C)(5), and Possession of a Firearm during the Commission of a Violent Crime SC. Code Ann. § 16-23-490". Applicant didn't had any Wapon at the time of his arrest? See (Attachments: "B-I, B-II") at U.S. District Court, Case No. 8:11-1372-TWL - JDA REPORT AND RECOMENDATION OF MAGISTRATE JUDGE". When this Court argued that, on February 22, 2006.

Applicant was indicted by the "grand jury for conspiracy to Traffick Methamphetamine and Trafficking 400 grams or more of Methamphetamine. See the (Attachment:(B)(1) STATE GRAND JURY OF S.C. C/A#:2005-GS-47-0026 "SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS, Trafficking Methamphetamine 400-grams-(3)-Counts S.C. Code-Ann.§-44-53-375(C)(5)" and "Possession of a Firearm during the Commission of Violent Crime. SC. Code § 16-23-490." ("Irrelevant facts"), upon the Mr. Alan M. Wilson atty. Gen., and J. Clayton Michal Assist. Atty. Gen., is Office. Argued under C/A#:2015-CP-23-04757 against this Court. Pursuant to Rule 12(b) SCRCP, for judgment on demand such claim in his pleadings. In responsed of the Plaintiff, "Applicant" Post-Conviction Relief Action, application filed July 31, 2015 when the Respondent said, and show this Court a wrong "docket No. 2015-CP-23-04757. Instead Rule 12(a), and (f) SCRCP, 'against the Respondent's both files with rule 12(b) SCRCP. See the (Attachments: "E-I. E-II. & E-III")."' See "Affidavit, Pursuant to SC. Code Ann. § 17-27-40."

APPX. (5)(4-of-76)

GROUND II.

Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Alexander Macaulay judge to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of Methamphetamine (2nd offense) and Trafficking in Methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. The Applicant did not appeal his pleas or sentences.

First: PCR Case No 2008-CP-23-2140

(R. P. 224-of-497. ROA)

APPX. (G)(5-of-76)

Applicant subsequently filed an application for post-conviction relief on March 18, 2008. Respondent filed its return on September 18, 2008. See: the ('wrong dated file Sept. 30, 2008 upon this return, by Respondent in this C/A#: 2015-CP-23-4757'). An evidentiary hearing was convened on December 8, 2008, at the Greenville County Courthouse before the "Edward W. Miller judge." Applicant was present and represented by Rodney W. Richey, Esquire. At the hearing, Applicant chose to stop the due process without "interpreter, in his PCR application. After had been questioned by judge Miller, Applicant didn't understand any words at front the judge." Rondne W. Richey, did-not-appointed-Applicant-interpreter on Dec. 8, 2008. See the File: (4th PCR. Act. Doc. 3). The Amendment to Post-Conviction Relief Application Case No. 2015-CP-23-04747, at page 14 of 10. See the whole files 3rd. PCR, Applicant his previous PCR Act Application's ALTERNATIVE PETITION FOR STATE HABEAS CORP-US, at page 3-of-22 is arguments been raiced in this PCR Action.

GROUND III.
OUTCOME OF FRAUDULENT RECORDS RETURN

Before this Court, Applicant received the "same records the Applicant already posses, from the attorney general's Office, and such records didn't had/or have any jurisdiction over the matter, that Applicant argued his own investigation in the Greenville Court. To holding Applicant in physical custody at the Kershaw CI. or (SCDC) with the jurisdiction of the State Grand Jury a the true bills." See "Conditional Order of Dismissal" filed issue March 10 - 13, 2017, at p. (7). The Respondent's return recors is

the same records the Applicant argued with this Court. And they have not any jurisdiction upon Applicant with such files see, the ("Attachments Records below this Motion") and Respondent argued there are the "records of the State Grand Jury Clerk of Court regarding the subject convictions, "fraudulent records to the (State) upon Applicant, and this Court have to set a evidentiary hearing to support the (State) its record files, with a sertificated of serviced, when the (SCDC) received same records, and also, the Respondent attached Applicant's records from the (SCDC), with the previous PCR records, The (State) is return, and Motion to Dismimiss, under "unknown Case No. 2015-CP-23-04757." See the Motion Request for Default Judgment/an a Order to Strike such "case's Fn. 1" (irrelevant records by the attorney general's office, by have been using to hold the Applicant in custody at the Kershaw CI. See. the ("Attachment: A-I.") from April 17, 2015. This writter information through the State Grand Jury was indentify, or indictify now' to the Respondent that, didn't has to using such records before this court review this information, to made his final Order. Because the State Grand Jury retun this information and said:(1) "There is no record of said charge"; and (2) "Please speck with your attorney regarding, my request, and also this Office confirm that, the office has no record of a State Grand Jury case regarding this Matter." upon my --my "Motion for Counsel, and Interpreter", "Post Conviction Motion Pursuing the True Bill", Notice and Motion to "Set Aside or Vacate Judgment" Pursuant to Rule 60(b)(5),' "Memorandum of Law" "Affidavit", and records of case "Attachment". Entered and the general sessions's Clerk of Court 23, 2015. Filed (Doc.1) Applicant after received a "Newly Discovery Evidence", him filed "Notice of Motions", "Motion to Supplement the Pleading", "Motion to Reopen Judgment with Memorandum of Law

(Doc. 3)." Pursuant to the Rules, Rule 15(b) & 60(b)(4, & 5) SCRCP. See, the "Motion to Supplement the Pleading" at (p. 3). The attorney gen., Office, and these Clerk of Court have this motion. or facts. Issue May 26, 2015.

Respondent's return, and Motion to Dismiss with a Conditional Order of Dismissal have, not grounds to support that, the Applicant - his conviction, with the "state grand jury subject to the indictments's jurisdiction. Pursuant to §44-53-375(C)(5)."

GROUND IV.
FINDING OF FACT AND CONCLUSION OF LAW

THAT OBJECTION TO THE STATE GRAND JURY MAY BE TAKE AT ANY TIME LACK OF SUBJECT MATTER JURISDICTION

This Court finds that the Post-Conviction Relief Action Application must be granted. Because Applicant "lack of jurisdiction upon the indictments. Under the Respondent's Return, files records, and before this Court dismissed, or file a Final Order, and also the PCR did not is "sussessive application", pursuant to S.C. Code Ann. § 17-27-90. See State v. Green, 337 S.C. 67, 522 602 (SC. APp. 1999).

Applicant attack the state grand jury's subject matter jurisdiction by challenging the sufficiency of the grand jury is "sworn" Code 1976 §§ 14-7-1610, 14-7-1630(A)(1).

1). Substantive Grounds for Post-Conviction Relief
(A) Overview of "Statutory" - Enumerated Grounds

There are six enumerated grounds upon SC. Code §17-27-20(a)(3) for relief available to an Applicant under the Uniform Post-Conviction Procedure Act:(1) that the conviction or the sentence was in violation of the Constit-

ution of the United States or the Constitution or the laws of this state;(2) that the court was without jurisdiction to impose the sentence;(3) that the sentence exceeds the maximum authorized by laws;(4) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;(5) that the Prisioner's sentence has expired, his Provation, Parole or conditional release has been unlawfully revoked, or he is otherwise held in custody or restrint; or (6) that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error available under any common law, statutory or other writ, motion, Petition, proceeding or remady.

Applicant is subject to this provisions, because there is no custodial sentence nor possibility of detention appears, an Applicant lacks sufficient standing to assert a claim for Post - Conviction relief. See, Finklea-v.-State, 273 S.C. 157, 255 S.E. 2d 447(1979), The substance of § 17-27-20 is identical to the Uniform Act noted:

> The aim of this section is to bring together and consolidate into one simple statute all the remadies . . . which are at present available for challenging the validity of a sentence of imprisonment .(emphasis added). 11 U.L.A, Post-Conviction Procedure Act, § 1, p. 489.

However, an applicant who is unconditionally release from a sentence may have standing if can he can demonstrate that his liberty is restrined by the affects of the sentence. See id., McDuffie v. State, 276 S.C. 229, 277 S.E.2d 595 (1981). That Applicant is entitled to an evidentiary hearing to determine whether he has prejudiced Code 1976, § 17-27-10 et seq. See at McDuffie, appeals from an order granting summary judgment to the State and dismissing his application for post conviction relief because he lacked standing, this court reverse appellant his case.

Applicant have the right to review his case, where the grand jury was duly drawn, duly arganized, and acted upon the indictment in the regular and usual manner; where it was a grand

jury of the "court of general sessions" for the "term at which the indictment was found; where it was selected by the officers having lawful authority so to do and was compesed of members duly sworn; State v. Sander, 251 S.C. 431, 163 S.E.2d 220, (1968). South Carolina Const. Art. I, § II, and Art. V, § 22 (quoting, Evans v. State, 363 S.C. 495, 508, 611 S.E.2d 510, at 513, 516 (2005).

("[U]nder that former approach, a defective or insufficient indictment could result in lack of subject matter jurisdiction, which is matter that may be raised at any time, including on direct appeal, in a PCR action, or sua sponte by the trial or appellate court.") Impanelment documents to challenge legality of grand jury.

Applicant attack the validity of the "indictment" under this section 14-7-1770, because a members of the grand jury was State v. Hann, 196 S.C. 211, 12 S.E.2d 720, at 726 (1940) U.S.C.A. Const. Amend 14. (Citing United State v. Gale, 109 U.S. 65, 3 S.Ct. 1, 27 L.Ed. 857. "'There are cases, and here is one more: Undoubtedly which admit of a diferent consideration, and in which the "objection to the grand jury may be taken at any time." These are where the whole proceeding of forming the panel is void; as where the jury is not a jury of the court or term in which the indictments is found; or authority whatever to select them; or where they have not been sworn; or where some other fundamental requisity has not been complied with.'"

See "Conditional Order of Dimissal" (p.7) the Respondent

said to the Court current application for post-conviction relief must be summ-rily dismissed because it is successive, Pursunt to Section 17-27-90.

This court have to held under this section 17-27-90, by all grounds for relief asserted which for sufficient reason was been asserte and adequately raised in the supplemental or amended Application. See at (P. 12) there is a "Conflict-of-Interest" [?] by Edward W. Miler, guilty plead, and his sentece trial too; and also at his ("Three-PCR Applications") see the whole records upon Applicant, this judge with bias, against S.C. Rule 501 canon (3)(C)(1); See Floyd-v. State, 303 S.C. 298, 400 S.E.2d 145 (1991).

However, by agreement of the parties and upon order of the PCR Application judge, the clerk provided the documents to the PCR Honorable Perry H. Gravely Judge.

Similarly, the State's petition, supporting materials, and the impaneling order may be made abailable to a Applicant when a Applicant's right to obtain recorded materials of the proceedings araises.

Although maintaining secrecy is essential while a matter is under deliberation by the grant jury, "such consers diminish following inssuance of a true "bill" of his superseding indictment."

A defendant is allowing in preparing a defense and ensuring protection of his due process right. U.S. Const. Amends. V, XIV. S.C. Const art. I, § III. Given that the sufficiency of an indictment will no longer be considered an issue of subject matter jurisdiction which may be raised at any time. See State-v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005)(citing § 17-19-90 (2003)). (quoting Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (2005). See: at,

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Fonseca, 389 S.C. 640, at, 645, 681 S.E.2d at, 3-4, (SC.App.2000) (upon Applicant's motion, on objection, when the trial court require the (State) to elect which allegation it whiched to pursued at trial. (State) indicted June 23, 2003, senteced on Nov./29/05. See: (attachments: ("C-I. through (1)")this allegation failed at the 2003 indictment to madified sentences, for trafficking 28 grams unless 100 grams of crack cocaine.

However, this Court have to permit Applicant to a evidentiary hearing about 2003, arrest insident, compelled disclosure pursuant of both statements the Respondent made, that Applicant, has 400-grams or more, of crack cocaine.

GROUND V.

STATANDAR OF REVIEW

This Court allowed the Applicant [is] motions, based on Respondent's cross - examination opening the door and the closeness in time of the two events, at the >400 grams Applicant possess See: both files motions from Respondent's (p. 1) (Applicant was indicted by the State Grand Jury in Dec. 2005 for trafficking in crack cocaine conspiracy, 'more than 400 grams (2005-GS-47-0026, count 1) is not indictment, with such information upon Applicant'").

The 2007 Court convicted Applicant of the commission of the commission of trafficking, and conspiracy but did not "set a indictment with the state grand jury's jurisdiction for consecutive offenses. Pursuant S.C. Code Ann. § 44-53-375(C)(2)(b). That, Objection followed:

(R. P. 231-of-497.ROA) File: (4th PCR. Doc. 5)

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In criminal cases, the Appellate Court sits to review errors of law only State v. Baccus, 367 S.C. 41, at, 48, 625 S.E. 2d 216, at 220 (2006)(quoting State v. Fonseca, 645, 681 S.E.2d 1 , at 3 - 5 (S.C. App. 2009). Thus, an Appellate Court is bound by the trial court's factual finding unless they are clearly erroneous. Id.

LAW/ANALYSIS

I. Indictment:

Applicant avers the trial court erred to allowing the State on proceed under the amended indictment, February 22, 2006. For (Three Counts). This Court find the Respondent's case a clearly erroneously.

(A)(1). Intitially, this Court have to addressed the State's Conditional order of Dismissal, and the Return, Pursuant to the error of the indictments information, back to the "State Grand Jury" at Columbia, with such errors and this Court's contention that Applicant's issue is preserved for review.

2. The sufficiency of an indictment is not a matter of subject matter jurisdiction, and thus cannot be raised at any time. State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (quoting, Fonseca, at 645, 681 S.E.2d at, 3 (2009)("[S]ubject matter jurisdiction of the Circuit Court and the sufficiency o the indictment are [two] distinct concepts")(emphasis added).

An objection to the sufficiency of an indictment must be made before the "jury trial" is sworn as provided by section 17-19-90 of the S.C. Code, of laws.

An objection to the suficiency of the indictment made the jury is sworn is untimely. Gentry, 363 S.C. at 101-02, 610 Sd E.2d at 499. That State failed at the state grand jury to amended § 44-53-375(C)(2)(b) Applicant's issue is preserved for review. And there are no existence of indictment to a consecutive offenses, and "state grand jury never addressed a sworn upon the Applicant(?)"

II. Sufficiency of the Indictment:

Here, Applicant first argued to the trial court hearing the trial court judge clearly said:("I am not had a copy of the '"indictment'") ... See the (hearing transcript's records") on: August 22, 2006. Applicant argued it under his "INITIAL-BRIEF-at, file; (Doc.2) is "Arguments", Argument IV. P. 18, with the transcript records Inf., at his guilty plead hearing (Pp. 11, Ln.4 -25 and 13. Ln.9 - 11) that court did not even had a copy of such indictment, applicant unknow that, and ~~-~~reject it "wiouth his counsel to defend Applicant in this objection-- no indictment is not conviction against Applicant. And that failed to should be served. And failed, when judge there agree and instructed the State to continue upon the Applicant to prosecute him.

B(1). The indictment was amended once the State chose to proceed on the June 24, 2003, arrest? Accordigngly, the next question was whether the 2005 13, December, state grand jury indicted was admissible, or February 22, 2006 indicted (Count 3) "as a prior bad act," by Macaulay Alexander judge, and Susan O. Porter.

Immediately following this Court's ruling, and prior to

the S.C. grand jury fall below to sworn both indictment with the (Count Two - and Count Three) citing same information at "section 44-53-(375(C)(5)), and forgeted to sworn, the "indicment pursuant to S.C. Code Section 44-53-(375(C)(2)(b)) for a second offenses." Applicant objective on objection that information upon such indictments. APPK.(G)(14-of-76)

(2) An Applicant feel like such indictments no "exist" under this section 44-53-375(C)(2)(b), or the previous indictment Respondent returned from February 22, 2006 with (Count Three) has not been presented to a S.C. State Grand Jury at Columbia. Thus, Applicant would object to the lack of presentment at this time.

(3). An indictment is a notice document. Id., at 101, 610 S.E.2d at 499. "The primary purpuse[] of an indictment [is] to put the criminal defendant on notice of that he is colled upon to answer, i.e., to apprise him of the elements of the offense and to allow him to decide whether to plead guilty or stand trial, and to enable the circuit court to know what judgment to pronunce if the Defendant is convicted." Evans v. State, 363 S.C. 495, 508, S.E.2d 510, 517 (2005).

(C)(1). Overview of Statutory Enumerated Grounds:
There are three enumerated grounds;

An indictment may be amended if;(1) it does not change the nature of the offence;(2) the amended charge is a lesser included offense of the original crime charged in the indictment; or (3) the defendant waives presentment to the grand jury and pleads guilty. State v. Mayer, 313 S.C. 391, 438 S.E.2d 236, 237 (1993).

(R.P. 234-of-497. ROA)

III. Applicant Establish A New Grounds:

That, Post - Conviction Relief Application are in favor and the burden is on Applicant to establish the "new grounds had/ or have been raised in "Subsequent Application,"

(D)(1).Thus, the Applicant could not have been raised his new grounds, at the files (1), PCR (2nd; 3rd PCR Action), its applications'. First: the (4th PCR. Act) Application's addressed, directly to the filed Motions pursuant to Rule 60(b) SCRCP. See: a "Motion To Addressed All Issues" its clock-stamped Dec. 22, 2016 at p.(2)(citing Hendrick-v.-State, 387 S.C. 221, 223, 692 S.E.2d 892 (SC. App. 2010) therein is a Order under rule 60(b) SCRCP. As an application for PCR relief; second Applicant after such discovery file his previous PCR Application to this Court, after received through S.C. State Grand Jury in Columbia the "New-Discovery Issue of Fact". Further, Plaintiff, "Applicant" filed in the general sessions court's clerk, "Motion-to-Supplement-the-Pleading". See ante upon this Motion on Objection (page 5) argued of (Attachments; "A-I, A-II"); and three, there are (two) indictments, within ("two") diferent counts? At the first page to the face of the both indictments with same information.

(2). Applicant assert that, is irrelevant questions with this Court Applicant against Relief with PCR Act. Application, at any time Applicant can demand to compellin disclosure. Because the both indictments didn't qualify a true bills.

(2). Therefore, this court finds that the current all-

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egation could not have been raised at any proceedings based on Applicant's prior application for Post-Conviction Relief and thus Applicant's PCR Act. Application not bar any claim in his argume-

nts, of statements of facts, it's now the Respondent is burden of proof to this Court, all Arguments, and Grounds Applicant had/or have on demand in this Court. Further, Applicant showing it before the expire date of twenty (20) days what is over in his case, and there is the sufficient reason upon this Court.

SUSSESSIVENESS AND STATUTE OF LIMITATION DOES NOT AFFECT PCR ACTION

This Court further finds that this Application for Post-Conviction Relief should be granted for the relief have been sough-th with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code § 17-27-20(a)(1, 2,),(4) & (6), see ante at (Pp. 6-7) Overview of "Statutory Enumarate Grounds in this matter , (emphasis added). 11 U.S.L.A Post - Conviction Procedure Act. § 489; and S.C. Code Ann. § 17-27-45(C), read as follows:

Under the PCR Action, on applicant must initiate a PCR proceeding within one year after one of (1, 2), (4), and (6) enumerated events Applicant may benefit from a more lenient statute of limitation. Specifically;

> ("[i]f the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the sentence, the application must be filed under this chapter with "one year after the date of actual discovery of the facts by the Applicant" or "after the date when the facts could have been ascertained by the exercise of reaonable diligince. S.C. Code Ann. § 17-27-45(a)(C) See the Applicant "Newly Discovery Evidence" below:

Appx. (G)(17-of-76)

That Applicant Filed a Motions to Clerk of Court Pursuant to Rule 60(b) SCRCP, addresse four copies (one) to the State Grand Jury in Columbia, an other to Richland County's Clerk of Court, then this clerk addressed the Motion directly to state grand jury on Columbia, and this Office review Applicant's Motions, and returned the information with my file Motion with a covered sheet valuable information on April 17, 2015, then Applicant filed "Motion to Supplement the Pleading", "Motion to Reopen Judgment With Memorandum of Law (Doc. 3)." under the Rule 15(b) and 60(b) (4, & 5) SCRCP. May 26, 2015.

Hereby Applicant, after him no heard any ruling in such motions Applicant decide to file his (4th PCR Act.) Application's Case No. 2015-CP-23-04747, the docket this Number on: July 31, 2015. that time run started for this "discovery" was on April 17, 2015. through, the Post-Conviction relief Application on July 31 2015 is total of ("three Months within Fourteenth (14) days). S.C Code Ann. § 17-27-45(A, C), against the limitation act. Coats v. State, 352 S.C. 500, at 504, 575 S.E.2d 557 (2003).

(1) The South Carolina Supreme Court recently held, as a matter of first impresion, that if an Applicant demonstrates his arguments grounds for relief prevented a timely filing, then tolling of the PCR Act. limitation period is warranted. Ferguson v. State, at 615, 677 S.E.2d 600 (2009); see id., at Coats v. State, at 404, 575 S.E.2d at, 558, 559 (S.C. 2003).

(2). The South Carolina Supreme Court reversed, holding that Coat's claim fall within the "discovery rule". but Coats filed his claim

within one year after "discovering his trial attorney's error, his petition was timely and he was entitled to an evidentiary hearing to determine if his trial counsel was in fact ineffective." This, Court have held with the "New Discovery Issue" and review if this PCR Act. didn't against the statute of limitatition, under the Uniform Post - Conviction Procedure Act. S.C. Code Ann. § 17-27-10/(20(a)(2, 4), and (4, 6)). Instead S.C. Code § 17-27-45(C).

CONCLUSION

Applicant respectfully pray to this Court to review the full records, in his PCR Action, application and not dismiss his application pursuant's Case 2015-CP-23-04747, and striking Respondent is Return and Motion to Dismiss/Conditional Order For Dismissal under the "Case 2015-CP-23-04747". When Applicant has been prejudiced because he is uncertain if the "Respondent's Rule 12 (b) SCRCP, to demand judgment on his pleading and using wrong case number" have been an other applicant with such number.

However, by agreement of the Respondent (State) and upon order of the (PCR Act.) Hon: Perry H. Gravely judge and the general sessions court, to provided the documents to the PCR Judge' "in camara review". After that the Applicant will be unable to effectively litigate his case from this point forward with a hearing. And "Supporting Affidavit" in such error by the Respondent.

Respectfully Submitted

Done this 29th day of March ,2017. Jose Alberto Maldonado

Jose Alberto Maldonado, #3126548
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

File: (4th PCR Doc. 5) 17.

(R. p. 238 -of- 497. ROA)

Appx. (G)(19-of-78)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Plaintiff/Applicant, Pro - Se,

Case No. 2015-CP-23-04747

v.

State of South Carolina,
Respondent.

CERTIFICATE OF SERVICE

I, Jose Alberto Maldonado, a person presently incarcerated at the Kershaw Correctional Institution, do hereby affirm that:

That, the Plaintiff, "Applicant" delivered in to the hends of the Mail room's clerk, an "Objection Upon Motion of Return And Response To Motion of Dismissal/An a Conditional Order of Dismissal", With the "Affidavit", with a first Class Postal duly affixed and a return address clearly indentify on each envoloped for deposit in the United States Postal Service, had/have been file to the followings person:

Further Plaintiff, Notarized

Done this 29 day of March, 2016.

Sincerelly Submitted

Jose Alberto Maldonado

Jose Alberto Maldonado, #12648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville S.C. 29601

Attorney General's Office
P.O. Box 11549
Columbia, S.C. 29211

The Honorable Perry H. Gravely Presiding
In The 13th Judicial Circuit
Post Office Bo 219
Pickens, South Carolina 29671

SWORN TO and SUBSCRIBED BEFORE ME

This 29th day of March 2017.

Catherine A. Amaya

Notary Public for South Carolina

My Commission Expires:

My Commission Expires December 22, 2018

File: (4th PCR. Doc. 5)

(R. P. 239-of-497. ROA)

APPX. (G)(20-OF-76)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

March 24th, 2017

The Honorable Perry H. Gravely
Presiding Judge - 13th Judicial
Circuit

Post Office Box 219
Pickens, South Carolina 29671

Re: Jose Alberto Maldonado v. South Carolina
Case No. 2015-CP-23-04747.

Dear Judge Gravely:

Enclosed please find the proposed copies from the Original that clerk of court have OBJECTION UPON MOTION OF RETURN AND RESPONSE TO MOTION OF DISMISSAL/AN A CONDITIONAL ORDER OF DISMISSAL, AND ALSO A "REQUEST FOR DEFAULT JUDGMENT/AN A ORDER TO STRIKE <"C/A#: 2015-CP-23-047(57)"> Pursuant to Rules, Rule 12(a)(b), and (f), 55(a)(b)(c), SCRCP.

In these filed Motions meet with your approval, please sign a ORDER to an EVIDENTIARY HEARING to COMPEL such information upon the (State) Records, and forward to the Greenville Clerk of Court to be filed and served.

Sincerely,

Jose Alberto Maldonado,
Plaintiff, "Applicant"

JM/Hon: PHG Judge

Enclosures:(2)

(Attachments:(1) (A through E-5)

Cc: Attorney General's Office
Alan Wilson/J. Clayton Michell Assistant Atty. Gen.

(R. P. 240-OF-497. ROA)

APPX. (G)(21-of-78)

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS FOR THE 13TH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648, Plaintiff/Applicant, Pro - Se, v. State of South Carolina, Respondent.	Case No. 2015-CP-23-04747 REQUEST FOR DEFAULT JUDGMENT/AND A ORDER TO STRIKE <Case No.2015-CP-23-04757> PURSUANT TO RULES 12(a)(b), & (f), 55(a)(b)(c), SCRCP: AS LAW SANCTION

This matter comes before this Honorable Court by way of an application for post-conviction relief action filed July 31, 2015. Case No. 2015-CP-23-04747.

PROCEDURAL HISTORY
I.

Applicant's physically presently confined in the S.C. Dep't of Corr. Inst. Kershaw. Directly to a orders from former "Attorney Gen., Henry McMaster, and the Assistant Susan O. Porter." Without the jurisdiction to the "Clerk of Court to the State Grand Jury." Fn.1

That Applicant "assert that with the records from them" When falsely the Attorney General's Office indicted Applicant with a false information, inside the "General Sessions Court Term of Greenville County", and this court, didn't stop a Ms. Porter within the two Indicted of the C/A#: 2005-GS-47-0026; One is from December 13, 2005; and Second was from February 22, 2006 for tra-

1. See: The State Grand Jury's Office Records, from April 17, 2015, (Attachments ("A-I. & A-II,"(1-of-11));("B-I. B-II."(1-of-4); & (C-I. & C-II.) (1-of-6). Irrelevant records by the Attorney General's Office. to been using and holding the Plaintiff/Applicant in custody.

(R.P. 241-of-497. ROA)

fficking in crack cocaine conspiracy, more than "400 grams by the State Grand Jury in December 2005 Case 2005-GS-47-0026 Count 1) See Attachment: "C-I. & C-II.") Sentencing Cheets for TRAFFICKING IN COCAINE >28 GRAMS 2ND OFFENSE) Case No. 2003-GS-23-04547. This Honorable Court have to review this "arguments from Respondent" where the Arrest Warrant, and the Indictments have lower 10, grams up, and no more than 28-grams. See (Attachments: C-II.) & (C-1). The Respondent have not support upon his "Falsely Case No. 2015-CP-23-04757, Page 1 of 9. To him using the "quantity of >400 grams in cocaine" is no a indictments with such facts, against Plaintiff/Applicant by the State Grand Jury Dec. 13, 2005) See The (Attachment A-1) Arrest Warrant G-530070 for Trafficking Ice, more than >400 grams in violation of SC Code § 44-53-375(C)(5). Also see (Attachments: A-4, A-5) The Sentencing Sheets without any information at from of Case: 2015-CP-23-04757 against plaintiff/Applicant's Post-Conviction Relief Action, Case 2015-CP-23-04747. with the trafficking in methamphetamines more than >400 grams (2005-GS-47-0026, Count 4) See (Attachment: A-6) C/A No. 8:11- 1372-TLW-JDA, "RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT at from, to the Attorney General Alan Wilson's Office." argued that Plaintiff/Applicant had been indicted "December 2005) for conspiracy to traffick methamphetamines more than 400 grams(Count 1, and Count 4) See(Attachment: A-7) Indictment for Trafficking Methamphetamine (Conspiracy), Trafficking Methamphetamine >400 grams- "Two Count SC. Code Ann. § 44-53-375(C)(5), and Possession of a Firearm during the Commission of a Violent Crime SC. Code Ann.§ 16-23-490". Plaintiff/Applicant didn't had any Wapon at the time of his arrest? See (Attachments: "B-I." B-II), at U.S. District Court, Case No. 8:11-1372-TLW - JDA "REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE". When this Court argued that, on February

Appx. (G)(23-of-78)

22, 2006, petitioner was indicted by the "grand jury for conspiracy to traffic methamphetamine and trafficking 400 grams or more of methamphetamine. See, the ("Attachment:B")(1) "STATE GRAND JURY OF SC. Case No. 2005-GS-47-26 'SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS, Traffcking Methamphetamine (Conspiracy) SC. Code Ann. § 44-53-375(C)(5) Trafficking Methamphetamine >400 Grams - Three Counts'" SC. Code Ann. § 44-53-375(C)(5) and "Possession of a Firearm during the Commission of a Violent Crime SC. Code Ann. § 16-23-490. Irrelevant facts, upon the Mr. Alan M. Wilson Attorney General, and J. Clayton Mitchell Assistant Attorney General's Office. With his Case 2015-CP-23-04757. Against the Court, pursuant to Rule 12(b), SCRCP for judgment on the pleadings. In response to Plaintiff/Applicant post-conviction relief Action (PCR Act) posted on: July 31, 2015, when the respondent said, and show this Court using a wrong "Docked-No. 2015-CP-23-04757 Enter Rule 12(a), and (f) (SCRCP) Against the RETURN AND MOTION TO DISMISS."

GROUND II.

Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Alexander Macaulay judge to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

First: PCR Case No. 2008-CP-23-2140

(R. p. 243-of-497. ROA) 3-of-15 File: (4th PCR. Doc. 5)

Appx. (E)(24-of-76)

Applicant subsequently filed an application for post-conviction relief on March 18, 2008. Respondent filed its return on September 18, 2008, See: the ('wrong dated file Sept. 30, 2008 upon of this return, by Repondent in this C/A#: 2015-CP-23-4757!) . An evidentiary hearing was convened on December 8, 2008, at the Greenville County Courthouse before the Edward W. Miller judge. Applicant was present and represented by Rodney W. Richey, Esquire. At the hearing, Applicant chose to stop the due process without "interpreter, in his PCR application. After had been questioned by Judge Miller, Applicant didn't undertand any words at the judge." Rodney W. Richey, did not appointed Applicant interpreter on Dec. 8, 2008. See the File: (4th PCR. Act. Doc. 3). The Amendment to Post-Conviction Relief Aplicantion Case No. 2015-CP-23-04747, at page 14 of 19. Applicant, argued that:

(1) when an Applicant withdraws his (PCR) application. Often this decision is "made the duty of the hearing to signed a waiver" an Applicant understant that the Applicant withdraw the PCR court will ensure that the Applicant's decision to withdraw and application is knowing and voluntary prior to dismissing the application with prejudice, here by judge Miller, dismissed the matter with prejudiced by Order filed on December 29, 2008. See e.g., Brannon v. State, 345 S.C. 437, 548 S.E.2d 866-67 (2002)(PCR judge must, if a hearing is held either appoint counsel for indigent defendants, Inefective counsel by PCR hearing on Dec. 8, 2008, Applicant unknow to "voluntary waiver his right thereof); and (2) See, at Gamble v. State, 298 S.C. 176, 376 S.E.2d 118 (1989); see also Moses v. Joyner, 815 F. 3d. 163, (4th Cir. 2016) when aprisoner knew or should have known basis

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for his motion for relief from prior judgment denying his Federal Habeas Petition that alleged "ineffectiveness of post-conviction counsel when U.S. Supreme Court issued decision that ineffectiveness of post-conviction counsel constituted couse for procedural default." PLaintiff/Applicant, further contends that' the trial court erred in concluding that the change in Post-Conviction Procedural "default rule" fhashioned by Martinez-v.-Ryan, 133 S. Ct. 1309, 182 L.Ed.2d 272 (2012), and Travino-v.-Thaler, 133 S.Ct. 1911 185 L.Ed.2d 1044 (1213)(quoting Moses-v. Joner, 815 F.3d 163) didn't constitute the kind of "estraordinary circumstances by the Respondent". Needed to re-open case under this Motion with the Rules 12(a)(b), & (f) 55(a)(b), & (c), and Rule 60(b) SCRCP. The Applicant, with this motion; demand a evidentiary hearing, and than releasing him from physical custody from Kershaw CI. Pursuant his PCR. Act. Application Case No. 2015-CP-23-0447; see, the file: "MOTION TO ALLOW TRASFER AND CONSOLIDATE CASE" pursuant to Rule 42(a) SCRCP . Entered in this Court on January 15, 2017. Applicant citing, Hendrick-v. State, 287 S.C. at, 223, 692 S.E.2d 892 (2010), thereby the Court of Appeal allow the Appellant to filed a PCR.

For the reason that follows:

GROUND III.

DEFAULT JUDGMENT

Thus, that "Plaintiff", Applicant, pro se, in his Post-Conviction Relief Action, filed March 31, 2015. Hereby Respondent (State) is in default where Respondent has failed to file and serve answer to the above "Case No. 2015-CP-23-04747 Captioned Application" within the "time prescribed by the law" Sworn upon the Plaintiff is oath, Applicant does depose and state the following;

APPX. (E)(26-OF-78)

(1). That Plaintiff is the Applicant in the above entitled action, an post-conviction relief action, and makes his Motion/Request for Default' in support of "Plaintiff's request that an entry of default against defendants in this action be made upon the calendar be the clerk of court as provided for in Rule 55(a), SCRCP;

(2). Thus, the Applicant is informed and believes the original application for post - conviction relief in this action was filed with the "clerk of court on July 31, 2015, had been clocked-staped", and for that enter "default judgment against of the "RETURN AND MOTION TO DISMISS", and the "CONDITIONAL ORDER OF DISMISSAL" when Applicant received it on "March 8-9, 2017" The Clerk of Court, "Clocked-Stamped only the "RETURN AND MOTION TO DISMISS" on March 8, 2017, Upon the wrong Case No. 2015-CP-23-4757' pursuant to 12(b), SCRCP."

Delated over 19 months within 9 days. This court ruling this motion for default, and granted the PCR Act. Application Case No. 2015-CP-23-04747. Because the Applicant have been showing the prejudice resulted from the filing of the Respondent's "return and motion to dismiss" beyond the authorized time limits. See Jose Alberto Maldonado v. State, Case No. 2013-CP-23-1440 the Order November 4, 2013,(quoting Kneece v. State, 269 S.C. 177, 236 S.E.2d 746 (1977)(holding that Applicant showing of prejudice, upon the <"Case No. 2015-CP-23-04757"> and failure to file the return and motion to dismiss within authorized time limits does that "warrant granting" the relief requested in the Application under the original case: 2015-CP-23-04747). Wade v. State, 348 S.C. 255, 559 S.E.2d 843 (2002). The statute seemingly includes PCR hearing as "cases" instituted by inmate, filed in a state court, relating to his incarc-

eration. See 17 S.C. Jur. § 2(1993)("State post - conviction relief is a civil action by which a person convicted of, or sentenced for, a crime, and who is either detained or faces a possibility of detention, institutes a proceeding to challenge a court's conviction or sentence on constitutional grounds" Case "2015-CP-23-04747"). S.C. Code Ann. § 14-3-330(1) states as follows:

> Any intermadiate judgment, order or decree in law cases involving the "merits in actions commenced in the court of common pleas an general sessions, brought there by 'original process'" See the wrong <"Case by Respondent's RETURN AND MOTION TO DISMISS/and CONDICTIONAL ORDER OF DISMISSAL Number 2015-CP-23-047(57)"> this Court removed there from any inferior court of jurisdiction, and final judgment against such action; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any "intermediate" Order or degree necessary affecting the judgment not before appealed from. Rules, Rule 12(b), & (f), and Rule 54, SCRCP. Tommy L. Griffin Plumbing & Heating v. JJ & G., 351 S.C. 459, 570 S.E.2d 197 S.C. App. 2002) Rules Civ. Proc., Rule 54(b); Appellate Court Rule 203(b)(1); Code 1976, § 14-3-330(1).: **and**

(3). That the Respondent (State) failed to answer the (Return and Motion to Dismiss within Applicant's "right Case No.: 2015-CP-23-04747") upon the SUMMONS within twenty (20) days filed to the Clerk of Court on Junuary 10, 2017, entered in the clerk's "clocked-stamped January 25, 2017, when the Applicant granted (20 , days). an answer to the complaint. all Motions pursuant to Rule 60(b) SCRCP, and the Postconviction Relief Act. Applicantion, Case No. 2015-CP-23-04747. Service of "Summons" brings Criminal Applicant within Court's jurisdiction and gives the court the power to render person judgment against person served. Rule Civil Proc., Rule 3(a) SCRCP. "Court may not enter a valid judgment upon case <2015-CP-23-047(57)> against an "Applicant over whom court lacks personal jurisdiction." See, e.g., Lounden v. Moragane, 327 S.C. 465, 486 S.E.2d 525, (SC. App. 1995) In an action by a prison inmate seeking his physical cofinemant incarseration at Kershaw CI., "for his his level of security will classify Relief" and this court have personal juri-

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sdiction in the matter where the inmate only filed a "Motions pursuant to Rule 60(b) SCRCP, and a Post-Conviction Relief Action, file July 31, 2015 Case No.: 2015-CP-23-04747. The First Motion, pursuant to Rule 60(b)(5) entered in "this 13th Judicial Circuit's General Sessions Court Term clocked-stamped March 23, 2015. "over two years up in this file date: March 29th 2017; and this court did not ruling any motion? Plaintiff/Applicant, filed a "Summons" and now enter this complaint in the matter. Brown v. Evatt, 322 S.C. 189, 470 S.E.2d 848 (1996); Harris v. Champion, 15 F.3d 1538 at, 1566 Fn.23 1567 (1994)("[T]wo - years delay in finally adjudicating direct criminal appeal ordinarily will give rise to presumption of inordinate dalay that will satisfy first factor in balancing test for determining whether delay in adjudicating petitioner's direct criminal appeal violated petitioner's due process rights. 28 U.S.C.A.§2254 ; Const. Amends.5, 14"). Delay in adjudicating direct criminal "appeal beyond two years from filing of notice of appeal" gives rise to presumtion that state appellate process is ineffective, and therefore exhaustion of state remadies by federal habeas petitioner should be presumotively excused, absent constitutionally sufficient justification by state. Harris v. Champion, 15 F.3d 1556, because exhaustion is a threshold issue, if often can be addressed on the pleadings without need for evidentiary hearing. Plaintiff/Applicant, whose convictions had/or have been reversed with prejudice to "retrial was not entitled to federal habeas relief on claim that delay in adjudicating Applicant's direct criminal appeal violated Applicant's due process rights"; because state court "had set Applicant's release in 'motion," federal habeas relief was not necessary or available. 28 U.S.C.A. § 2254 U.S.C.A. Const. Amends. 5, 14; id., at, Champion, 15 F.3d at 1566 ¶[33]; Citing 42 U.S.C.A. § 1983.

This Court have to granted this Motion Case No. 2015-CP-23-04747.

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Where Applicant complaints were not served until passed a year after facts, in his PCR. Act. occurred which Respondent sought to plead in answers.

The Applicants' motion to strick from answers the allegations of facts which occurred after service of "summons" but before complainant were served should have been considered as though it were a rule to strike the Respondent Case-CP-23-04757. "RETURN AND MOTION TO DISMISS entered in this Court on Mar. 8, 2017 pursuant to 12(b) for judgment on the pleading." And for his "CONDITIONAL ORDER OF DISMISSAL" without/or have been signed the Hon: PERRY H. GRAVELY judge. because the twenty days is served in such CONDICTIONAL ORDER OF DISMISSAL' an Applicant provides the specific reasons, factual or legal, why the Application should not be dismissed in its entirety.

Respondent (State) failed to answer and circuit, without holding a damages hearing, entered "default judgment against" Respondent's Return and Motion to Dismiss because, generaly judgment is void only if court acts without jurisdiction, irregularities which do not involve jurisdiction do not render judgment void. Thamas & Howard Co., Inc. v. T.W. Graham and Co., 318 S.C. 286, 457 S.E.2d 340 (1995)(Where the court finds complaint and verified statement of unliquidated <"Case No.:2015-CP-23-0457"> damages insufficient and determines that damages hearing is necessary, defaulting Respondent (State) is entitle to notice of damages hearing. Rules Civ. Proc. Rule 5(a) 55(b)(1). And Rule 12(b), SCRCP for judgment on the pleading of "RETURN AND MOTION TO DISMISS" by Respondent' may be set aside after "Nineteen (19 months with nine 9, days) its entry only if it is void or if it has been satisfied, released, or discharged. Rule Civ. Proc., Rule 60(b)(4,

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5) SCRCP. That judgment upon "Case No. 2015-CP-23-04747 is void when the clerk of court clock-stamped it, on March 8, 2017, under the C/A#.: 2015-CP-23-04757 this "court act without jurisdiction" Pursuant the issued Order on 3/10-13/2017.

DEFENSE AND OBJECTION
TO STRIKE CASE NUMBER
2015-CP-23-04757
UPON RETURN AND MOTION TO DISMISS AND
CONDITIONAL ORDER OF DISMISSAL

Plaintiff, "Applicant objection to strike the Return and Motion to dismiss. And the issue is before this Honorable Court.

Whether, the court find a good cause in this "decision" to defaulting the Respondent's Case No.2015-CP-23-047(57). Upon's **"Return/And Conditional Order of Dismissal"** Considering the Applicant's (PCR) Action Application for the relief have been sought. And granting the relief by the errors by Respondent's Case No.2015-CP-23-04757 was the Respondent (State) again; against default judgment. And is been support by Applicant is evidence andn't controlled by an error at law Limehouse v. Hulse, 397 S.C. 49, at 68, 723 S.E.2d 211, at, 221 - 222 (SC. App. 2011). "as to the issue of whether the answer was timely filed "March 8 - 14, 2017" when the Applicant filed a summons on January 10, 2017, the clerk of court clock-stamped it on January 25, 2017 respondent failed to answer at the "twenty (20) days had been summoned upon him within 'sixty-four (64) days.'" See: (Attachment: C-I.); See ante Page (9) in this motion. When Applicant was filed his "PROOF OF SERVICE on January 10, 2017 under the SUMMONS and the "AMENDMENT TO POST CONVICTION RELIEF APPLICATION" C/A#.: 2015-CP-23-04747.See, its Page (18 of 19) when Applicant directly argued in his "AMENDMENT" that, the Applicant be "discharged" if

the "Respondent (State) did not retry him within 60 days." ("Citing Browder, 256, 89 S.Ct. at 561 (1978); see also Champion, 15 F .3d at, 1567 (1994)("[a] due process violation arising from delay in adjudicating his state appeal. See id. (Fn.20) The most apprporate remady in these circumstance is to grant a (PCR Act.) Application "Case No.2015-CP-23-0447", i.e., releasing the Applicant if the Respondent does not decide the Applicant's appeal within a specified period, (fn.21). See Harris, I. 938 F.2d at, 1070; Coe, 922 F.2d at, 532-33 Brooks v. Jones, 875 F.2d at, 32. Therein the court issue a order to the State to decide the appeal within sixty days --or such other time as the 13th Judicial Circuit decide is appropriate for good cause shown, see id. (Fn.22). Releasen the Applicant, will be available only after the Applicant has served the uncontested portion of his sentence.

Plaintiff, Applicant argues the Chief Judge for Administrative Purpose Hon: Perry H. Gravely, erred in failing to review the docket number in this case before signed, and granted the Applicant twenty (20) days from the date of service of his order upon Applicant to show why this "Order should not become final.

Applicant's file his reasons: And entry of default because;(1) the answer was untimely; and (2) good cause existed to entry of default under Rule 55 (c) SCRCP. Limehouse v. Hulsey, 397 S.C. 49 at 68, 725 S.E.2d 211, at, 221, 222 (SC. App. 2011). As to the issue of whether the answer was timely filed, Applicant points out this is an issue of interpretation of rule or statute and is therefore reviewed de novo. See Catawba Indian Tribe of S.C. v. State, 372

(APPX. (G)(32-of-75)
S.C. 519, 524, 646 S.E.2d 751, 753 (2007)(stating the interpretation of statute for second offences clause 44-53-375(C)(2)(b), for a "first offence" under 44-53-375(C)(5) ... is a question of law, which the Applicant already have a pending motio with the "appellate court questione the SCDC above. And the appellate court is free to decide with no particular deference to the trial court why such court not sentence Applicant for a second offense pursuant to Code, § 44-53-375(C)(2)(b) for consecutive offences)."

Further, our standard of review leaves the decision to set aside an entry of default within the sound discretion of the "Perry H. Gravely Chief J. for Administrative Purpos. when him signed such order on March 10, 2017. Which this court will not reverse absent an abuse of discretion "upon the <Case No. 2015-CP-23-04757>" by error of Respondent or the Clerk of Court for exchange; the right Case Number 2015-CP-23-04747" upon the AMENDMENT TO POST-CONVICTION RELIEF APPLICATION (4th PCR. Action) filed on January 10, 2017. See the Attchment: (D-II.)(Applicant, assert that and demand review under State v. Mundine, prior to in camara conference, to see the exchange number of Case No. 2015-CP--23-04757. 471 S.E.2d 438 (1996)(quoting, Illinois v. Allen, 397 U.S. 337, 338 (1970). Whether Applicant's presence at the conference hearing would have had a reasonably substantial relation to his opportunity to defen himself' Simmons v. State, there is a split of authority on this issue. See Effect of Invalidation of sentence upon separate sentence which runs consecutively, 68 A.L.R.2d 712 (1959 And Supp. 1993). 322 S.C. 51, 471 S.E.2d 455,456(1993).

This, Honorable Court, By Hon: Perry H. Judge will held that Applicant' defense and objection to strike should have been considered as though it were a request to strike an a "Return and Motion to Dismiss, and also the Conditional Order of Dismissal"

and granted the (PCR Act.) Application, when him shown to this Court the Order should not become final. For the reasons to the Applicant moves this court with the "timeliness of the answer and to strike all information upon the Respondent's File "Return" and the "Conditional Order of Dismissal". In Order to find the March 10 - 13, 2017, was timely Applicant urges this court to adopt a rule that the (twenty (20) days) time period in which to answer starts over remand. id., at Limehouse v. Husey, at 68, 725 S.E.2d 221-22 (SC. App. 2011). Granting Objection to Strike because, after actions had been commenced was result of an error of law and this court not say that facts striking were irrelevant and immaterial, order granting Request for Default Judgment/And A Order To Strike Case No.2015-CP-23-04757 to Strike was reverse. See, e.g., Brown v. Costal State Life Ins. Co. 264 S.C. 190, 213 S.E.2d 726 (1975); McGrath v. Town of Sandwich, 169 F.Supp. 3d 215 (2015) An Applicant moves to strike the report that Respondent ("attached") their "Return And Motion TO Dismiss", and "Conditional Order of Dismissal"; in opposition to this court, if this court have such records, Applicant demand a camara conference hearing. See id., because the report does not conform to the standards set by Rule 702 of the SC. Rules of Evidence.

The Court does not, however the authority to strike information from Respondent's "Return" and "Conditional Order of Dismissal". A motion to strike is brough pursuant to Rule 12(f) which permits a court to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or 'scandalous

matter'". Rule 12(f) SCRCP. The term "Pleading" is estrictly defined by Rules, Rule 7(a), and 8(c) SCRCP, "Affirmative Defense". See, id., at McGrath v. Town of Sandwich, 169 F.Supp. 3d 251 (2015); and also see at, Waste Management Holdings, Ins. v. Guilmore, 252 F.Supp. 360-61 (2001) Fed. R. Civ. Proc., Rule 12(f). Appx. (5) (34 - of - 76)

ISSUE TO COMPEL WITH A EVIDENTIARY HEARING

This Court further finds that this Application for Post-Conviction Relief should be granted under the "statute of limitation Action" for failure to comply with the filing procedures under Rule 3(a)(b) SCRCP, and now enre default judgment. Hereby, Applicant demand his legal sentenced pursuant to "Code 1976 § 44-53-375(C)(2)(b)(Supp. 2005)." Because therein exist "Newly Discovery Evidence" Applicant have in his behalf between's the Administrative Law Court is a "Order signed the Hon: S. Phillip Lenski, judge on May 20, 2016." When this court said "The Appellant Was Convicted Of Trafficking Methaphetamines Pursuant to '<section 44-53-375(C)(2)(b)> of the S.C. Code.'" Applicant demand with a "hearing" the sentenced indictment information under this section, with respect the Lenski judge said. See the (Attachments: (E-1 through 5); Expecial ("Attachment: E-3.").
The "Order Docket No. 15-ALJ-04-0567-AP; this court argue its grounds under Jernigan v. State, 430 S.C. 256, 259-60, 531 S.E.2d 507, 508-09 (2000). ("[T]his court "realy" review the Applicant his case upon § 44-53-375(C)(2)(b)" Applicant collaterally challenged the validity of a sentence under his Post-Conviction Relief Act. See id., at, 531 S.E.2d 508-09. Instead "S.C. Code Ann. § 17-27-45(C)".

APPX.(G)(35-OF-76)

The Respondent has exceeded the time frame one hundred twenty (120) days, to respond to Applicant's PCR Action, Application, see e.g., Mims ex rel. Mims v. Babcok Center, Inc., 399 S. C. 341, at 346, 732 S.E.2d 395, at 398 (2012) Rule 3(a)(1)(2) South Carolina Rule of Civil Procedure and Rule 12(a)(b), & (f).

CONCLUSION

Therefore, the motion "Return" and Conditional Order of Dismissal hold not weight was fraudulent "exchange the original" Case No.2015-CP-23-04747, and using a Case No.2015-CP-23-04757'. This Hon: Perry H. Gravely J., have to held that, granting the Plaintiff "Applicant" is Request for default and to strike the information over this matter, from answers allegations of fact which occurre after actions had been commenced, and insurer that, the Applicant will appealed such mistake, or error by Respondent. Applicant' (PCR. Act.) Application, upon this allegations should have this court considered as though it were a strike a Respondent his "Return And Motion To Dismiss pursuant to 12(b) SCRCP, Date Mar. 8, 2017/ and Conditional Order of Dismissal from March 13, 2017, Judge signed on: March 10, 2017; the Applicant provides and specify the reason, with a factual and legal, why the Application should not be dismissed in its entirety record upon this Motion's ("Attachments: "A-I","A -II."); (A-1 through 11), ("B-I, II"), (B-1, through 4), ("C-I,II.") (C-III), (C-1 Through 6), ("D-I."), and ("E-I, II)(1 through 5).

Done this 9th day of March, 2017.

Respectfully Submitted

Jose Alberto Maldonado

Jose ALberto Maldonado,#312648
Kershaw Corr.Inst. MB/Room,#59
4848 Goldmine Highway
Kershaw South Carolina, 29067

File: (4th PCR. Doc.5)

(R.P. 255-OF-49 ROA)

Exhibit (9)
APPX (G) (36-38-98)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, Pro - Se,
Plaintiff/Applicant, #312648,

v.

State of South Carolina,
Respondent.

Case No. 2015-CP-23-04747

CERTIFICATE OF SERVICE

I, Jose Alberto Maldonado a person presently incarcerated at the Kershaw Correctional Institution, do hereby affirm that:

That, the Plaintiff, "Applicant" delivered in to the hends of the Mail room's clerk, "REQUEST FOR DEFAULT JUDGMENT/AND A ORDER TO STRIKE ‹Case No.2015-CP-23-047(57)› PURSUANT TO RULES Rule 12(a)(b), 7 (f), 55(a)(b)(c), SCRCP, with a First Class Postal duly affixed and return address clearly indentify on each enveloped for deposit in the United States Postal Service, had/ have been file to the followings persons:

Further Plaintiff, said and Notarized
Done this 29 day of March, 2017.

Sincerly Submitted
Jose Alberto Maldonado
Applicant, #312648

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Higway
Kershaw, South Carolina 29067

Paul B. Wickensimer
Clerk of Court
305 E. North Street
Greenville S.C. 29601

Attorney General's Office
P.O. Box 11549
Columbia, S.C. 29211

The Honorable Perry H. Gravely Presiding
In The 13Th Judicial Circuit
Judge

Post Office Box 219
Pickens, South carolina 29671

SWORN TO and SUBSCRIBED BEFORE me

This 29th day of March, 2017.

Catherine A Amaya
Notary Public for South Carolina

My Commission Expires:

My Commission Expires December 22, 2018

File: (4th PCR. Doc. 5)

(R. P. 256-66-497 ROA)

I.

AFFIDAVIT OF TRUTH

Case No. 2015-CP-23-04747 EXHIBIT (9)

Affidavit of: Jose Alberto Maldonado, APPX (6)(32 OF 76)

I, Jose Alberto Maldonado A living breathing man, being first duly sworn, depose, and say, and declare by signature that the facts in this Affidavit and the following facts are true, correct and complete to the best of my knowledge and belief.

(1) That, Affiant is the Pro - Se Plaintiff, "Applicant" in this matter, or in the above entitled proceeding;

(2) That, Affiant declare under S.C. Code Ann. § 17-27-70(C) of the Penalties of perjury that my answer to the foregoing questions are true to the best of my knowleged;

(3) That, Affiant has made an attempt to resolve this matter with the Respondent (State) pursuant to ("Three, PCR"), Included ("Two PCR Act") applications, and also ("Two", File Motions under Rule 60(b))SCRCP. Without involving the public's view, upon Applicant's illegal sentences;

(4) That, Respondent (State) has "fall to filed or resolve an answer or take other actions as may be permitted by law to resolve this matter." Upon received the (PCR Act) application, the Clerk of Court, filed a "Docket Number Case No 2015-CP-23-04747 and deliver it a copy to the attorney general's office and I think, one copy to the solicitor in the Circuit in which the Applicant was convicted. See the S.C. Code § 17-27-40. The, Respondent (State) must then respond by answer or motion, which may be supported by affidavits. See, § 17-27-70(a); See, at Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973), then, the burden is on the Applicant to shwo prejudice from the delay. i.e., Kneece v. State, 269 S.C. 177 , 236 S.E.2d 746 (1977);

(5) That, Affiant understand that making this (PCR Act.) Application, does, not excuse Affiant from litigating his case, and that it is still the Affiant responsibility to have that Respondent serve with an a "RE-

(R. P. 95 of 497 ROA)

File: (4th PCR. Doc.5)

APPX. (5)(38-of-75) **AFFIDAVIT OF TRUTH**

II.

Case No. 2015-CP-23-04747

QUEST FOR DEFAULT JUDGMENT/AND ORDER TO STRIKE <Case No.2015-CP-23-04757> PURSUANT TO RULES, Rule 12(a)(b), & (f), 55(a)(b)(c), SCRCP", with that: "OBJECTION OF RETURN AND RESPONSE TO MOTION OF DISMISSAL/AN A CONDITIONAL ORDER OF DISMISSAL", and also Affiant's (Attachments: fact:("A through E-(5)))."

(6) That, the Respondent (State) was served with a copy of the motion and Affidavit (I-of-II) as appears from the Certification of Service on filed

(7) That, the Respondent (State) has conceded to the fact that Affiant has been illegally detained by the S.C. State, and the State Grand Jury in release the information, and is now being held under false imprisonment, under the use of null and void indictments.

Therefore, Affiant Respectfully demand immediately a evidentiary hearing, by latter this Hon: Court send a Order to releasing him from prison.

Further Affiant Said and Notarized
Upon this 29th day of March, 2017
And File to the Followings Address:

Paul B. Wickensimer's Clerk
305 E. North Street
Greenville, South Carolina 29601

The Honorable Perry H. Gravely
Presiding Judge - 13th Judicial Circuit
Post Office Box 219
Pickens South Carolina 29671

SWORN TO and SUBSCRIBED before me
this 29th day of March, 2017.
Catherine A. Arroyo
Notary Public for South Carolina
My Commission Expires:

My Commission Expires December 22, 2018

Respectfully Submitted
Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
The Affiant

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

ALAN M. WILSON
Attorney General

J. Clayton Michall
assistant attorney general

Office
Post Office Box 11549
Columbia, South Carolina 29211

File: (4th PCR. Doc.5)

(R.P. 258-of-497. ROA)

State Grand Jury of South Carolina

MAR 29 2017

(1)

(Attachment: "A-I")

Appx. (E)(39-of-75)

JAMES R. PARKS
CLERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

April 17, 2015

Jose Maldonado #312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine HWY
Kershaw SC 29067

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ___ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

_X_ There is no record of said charge.

_x_ Please speak with your attorney regarding your request.

___ Please direct your request to _____county Clerk of Court.

___ Other: Our office has no record of a State Grand Jury case regarding this matter.

(R. p. 259-of-497 ROA) [redacted]

State Grand Jury of South Carolina

Appx. (G)(40-of-78)

MAR 29 2017

(Attachment: A-II.)

MES R. PARKS
ERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

MEMORANDUM

April 13, 2007

TO: **Jose A. Maldonado**
C/o Inmate Records
Post Office Box 21787
Columbia, SC 29221

James H. Price
644 E. Washington St
Greenville, SC 29601

SCDC
C/o Inmate Records
Post Office Box 21787
Columbia, SC 29221

Susan Porter, Esquire
Attorney General Office
5th Floor Intra-Office Mail

FROM: James R. Parks AUP
Clerk of Court
State Grand Jury
Post Office Box 11508
Columbia, SC 29211

[redacted]

RE: Jose A. Maldonado 2005-GS-47-26

MESSAGE: Please find enclosed a copy of the following:

- Sentencing Sheets filed April 10, 2007

If you have any questions, please give this office a call at 803-734-0497.

(R. P: 260-of-497. ROA)

G-530070

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of
GREENVILLE

THE STATE

against

JOSE ALBERTO MALDONADO

ISS

SSN

M Race H Height Weight:

ate

Agency ORI#.

cuting Agency SC Attorney General

cuting Officer SLED

se TraFFICKING Ice, more than
0 grams Offense Code. 0370

Ordinance Sec 44-53-375(C)(5)

warrant is CERTIFIED FOR SERVICE in the
unty/ [ ] Municipality of
REENVILLE The accused
be arrested and brought before me to be
with according to law.

(L.S.)
Signature of Judge

June 27, 2005

RETURN

y of this arrest warrant was delivered to
ant JOSE A. MALDONADO
6/28/2005

Signature of Constable/Law Enforcement Officer

RN WARRANT TO.

App. (5) (41-of-95)

(R.p 26 of 49 ROA)

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
GREENVILLE)

MAR 2 9 2017 ▼ (Attachment A-1

AFFIDAVIT ~~Rec. 8/25/15~~

Form Approved by
S C Attorney General
July 26, 1990
SCCA 518

MAR 2 9 2017

Personally appeared before me the affiant S/A Max Dorsey who being duly sworn deposes and says that defendant Jose Alberto Maldonado did within this county and state on June 26, 2005 violate the criminal laws of the State of South Carolina (or ordinance of [XX] County/ [ ] Municipality of GREENVILLE) in the following particulars.

DESCRIPTION OF OFFENSE: Trafficking Ice, more than 400 grams in violation of SCCode 44-53-375(C)(5).

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts

FILED

JUN 28 2005

LISA C. DUNBAR,
CLERK STATE GRAND JURY

~~EXHIBIT (7)~~

(SEE ATTACHED AFFIDAVIT)

Sworn to and subscribed before me on June 27, 2005)
Signature of Issuing Judge (L.S.))

Signature of Affiant
Affiant's Address
Affiant's Telephone

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
GREENVILLE)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on June 26, 20 defendant Jose Alberto Maldonado did violate the criminal laws of the State of South Carolina (or ordinance of [XX] County/ [ ] Municipality of GREENVILLE) as set forth below

DESCRIPTION OF OFFENSE: Trafficking Ice, more than 400 grams in violation of SC Code 44-53-375(c)(5).

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Signature of Issuing Judge (L.S.))
Judge Code

Judge's Address
Judge's Telephone

Issuing Court [ ] Magistrate [ ] Municipal [X] Circuit

ORIGINAL

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA, COUNTY OF GREENVILLE,	**IN THE COURT OF GENERAL SESSIONS THIRTEENTH JUDICIAL CIRCUIT**
STATE OF SOUTH CAROLINA, Plaintiff, V.	(Attachment: A-2) ~~File 8/25/2005~~ MAR 29 2017 FILED CASE NO: 07-530070 JUN 28 2005
JOSE ALBERTO MALDONADO, Defendant.	**ORDER SETTING BOND** LISA C. DUNBAR, CLERK, STATE GRAND JURY APPX. (G)(42-of-75)

This matter came before the Court on June 28, 2005, for the purpose of setting bond. The defendant was present. The following attorney appeared on behalf of the defendant:

The State was represented by Travis Lee Evans of the Attorney General's Office.

The defendant is charged with the following offense(s):

Trafficking Ice, more than 400 grams

After hearing from the defendant and the State, the Court finds it appropriate, and it is therefore Ordered, that:

✓ Bond is denied at this time with leave for defense counsel to file a written motion for bond.

____ A Personal Recognizance Bond in the amount of $_____ is set at this time.

____ A Surety Bond in the amount of $_____ is set at this time; and, the defendant is allowed to post 10%.

____ A Surety Bond in the amount of $_____ is set at this time; and, the defendant is not allowed to post 10%.

____ Bond is reduced from _____ to _____ and does/does not include other pending charges.

AND IT IS SO ORDERED.

CHIEF ADMINISTRATIVE JUDGE - CRIMINAL
FIFTH JUDICIAL CIRCUIT
PRESIDING JUDGE
SOUTH CAROLINA STATE GRAND JURY

June 28, 2005
Columbia, South Carolina

(R.P. 262-of-497. ROA)

Appx. (E)(43-of-75)

ATTACHMENT A)
AFFIDAVIT FOR ARREST WARRANT)

COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

Trafficking Ice more than 400 grams

Code 44-53-375(c)(5) ~~FILED 6/29/2005~~

MAR 29 2017

(Attachment A-3)

That on Sunday June 26, 2005 one Jose Alberto Maldonado did knowingly, willfully, and intentionally transport, deliver, and sell more than four hundred (400) grams of ice, a controlled substance under provisions of SC Code of Laws, to an Agent of the SC Law Enforcement Division (S.L.E.D.) working in an undercover capacity.

This affiant knows this to be true because S/A Rhett Holden of SLED, while working in an undercover capacity, received what was represented as five (5) pounds of "ice" from Jose Alberto Maldonado at the Car Wash Center located at 1521 Cedar Lane Road Greenville, SC.

After the transaction took place, Lisa Ramirez (an acquaintance of Maldonado's) was approached at her residence in Greenville County and after being advised of her Miranda Rights, admitted that she knowingly assisted Maldonado, through telephone conversations she had with a SLED cooperating informant, in arranging the five pound "ice" transaction. Ramirez admitted that she was aware that Maldonado was to deliver five pounds of "ice" to the CI.

This being in violation of SC Code of Laws, 1976, as amended.

Sworn before me on this 27th day of June, 2005.

Signature of Affiant

Signature of Judge

NAME: Jose Alberto Maldonado
DOB: 7/20/1973
RACE: Hispanic
SEX: Male

FILED

JUN 29 2005

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

(R. P. 263-of-497. ROA)

FILED

APR 10 2007

JAMES R. PARKS
CLERK, STATE GRAND JURY

(Attachments: A-H)

MAR 29 2017

ATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

UNTY OF Greenville
ATE
VS.
Jose Alberto Maldonado
I:
e: H Sex: M Age: 33
I: SS#:
ess: Dandelion Court
State, Zip Lot 104 Greenville SC
SID# 29611

INDICTMENT/CASE#:
2005 -GS- 47 - 26 Count IV
A/W#:
Date of Offense: 6/26/2005
S.C. Code §: 44-53-375(C)(5)
5 CDR Code #: 62-1399
0 / 3 / 7 / 0
☐ CASE RESTORED
SENTENCE
☑ PLEA ☐ TRIAL

APPX. (G) (44-OF-78)

position of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☑ PLEADS
Trafficking Methamphetamines 28-100 grams, second offense (7-30 yrs & $50,000 Fine)(85%)
ation of § 44-53-375(C) of the S C. Code of Laws, bearing CDR Code # 0 / 3 / 8 / 9
)N-VIOLENT ☑ VIOLENT ☑ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

harge is: ☐ As Indicted, ☑ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
ea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☑ Recommendation by the State.

Solicitor

Jose Maldonado
Defendant

Attorney for Defendant

EFORE, the Defendant is committed to the ☑ State Department of Corrections, ☐ ~~County Detention Center,~~ for the ~~terminate~~ term of 20 ~~days/months~~ years or ☐ ~~under the Youthful Offender Act~~ not to exceed ____ years ~~o pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment of ____; plus costs and assessments as applicable*; the balance is suspended with probation for ____ years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, e incorporated by reference.~~

JCURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26) Count I & 03-GS-23-4547
Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State ent of Corrections. Credit since Aug. 6) 2005
Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

ITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
$ ____ plus 20% fee: $ ____
Terms:
SCDPPPS

PTUP (R. P. 264-OF-497. ROA)
____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ ____ beginning
$ ____ paid to Public Defender Fund
Other:

(Assessments 107.5%)		$
(A)(1) (Conv. Surcharge)	$100	$ 100.
(A)(2) (DUI Surcharge)	$100	$
5 (DUI Assessment)	$12	$
ublic Def/Prob)	$500	$
TP (Law Enforce. Funding)	$25	$ 25
TP (Drug Court Surcharge)	$100	$ 1000
4(BUI Breath Test Fee)	$50	$
2(J) (Vehicle Assessment)	$40/ea	$
nty (if paid in installments)		$ 6.75
		$ 28.75
		231.75

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires $500 be paid to Clerk during probation.

James R. Parks
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE
Judge Code: 1 / 1 / 613
Sentence Date: 4-10-07

rter: Robin Hild

7 (2/2006) White – Clerk Green – Corrections

FILED

APR 10 2007

JAMES R. PARKS
CLERK, STATE GRAND JURY

OF SOUTH CAROLINA

Y OF Greenville
VS.
Alberto Maldonado

H Sex: M Age: 33
SS#:
Van de Leah Court, Lot #104
te, Zip Greenville SC 29611
SID#

IN THE COURT OF GENERAL SESSIONS
MAR 29 2017
INDICTMENT/CASE#: (Attachment: A-5)
-GS- 47 - 26 Count I
A/W#: Direct Indictment
Date of Offense: 4/1/05 - 2/22/06
S.C. Code §: 44-53-375(c)(5)
CDR Code #: 0 1 3 1 7 1 0
☐ CASE RESTORED
SENTENCE
☑ PLEA ☐ TRIAL
Appx. (G)(45-of-76)

ition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☑ PLEADS
Trafficking Methamphetamines 28-100 grams, ■ second offense (7-30 years; $50,000)(85%)
n of §44-53-375(c) of the S.C. Code of Laws, bearing CDR Code # 0 1 3 1 8 1 9
VIOLENT ☑ VIOLENT ☑ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

ge is: ☐ As Indicted, ☑ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☑ Recommendation by the State.

C.O.R.
Solicitor

Jose maldonado
Defendant

Attorney for Defendant

FORE, the Defendant is committed to the ☑ **State Department of Corrections,** ~~☐ County Detention Center,~~
erminate term of 20 ~~days/months~~/years ~~or ☐ under the Youthful Offender Act not to exceed~~ _____ years
~~pay a fine of $_____; provided that upon the service of _____ days/months/years and/or payment~~
~~_____;~~ plus costs and assessments as applicable*; ~~the balance is suspended with probation for _____~~
~~ears and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,~~
~~e incorporated by reference.~~
CURRENT or ☐ CONSECUTIVE to sentence on: 05-GS-47-26, Count IV, and 03-GS-23-454;
Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
ent of Corrections. Credit since Aug. 6, 2005
Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

ITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
$ _____ plus 20% fee: $ _____
Terms:
SCDPPPS
t:

		$
16 (Assessments 107.5%)		$
1(A)(1) (Conv. Surcharge)	$100	$ 100.00
1(A)(2) (DUI Surcharge)	$100	$
195 (DUI Assessment)	$12	$
(Public Def/Prob)	$500	$
3 TP (Law Enforce. Funding)	$25	$ 25.00
3 TP (Drug Court Surcharge)	$100	$ 100.00
14(BUI Breath Test Fee)	$50	$
942(J) (Vehicle Assessment)	$40/ea	$
ounty (if paid in installments)		$ 6.75
		$ 200.00
		231.75

James R. Parks
Clerk of Court/ Deputy Clerk
eporter: Robin Hild

PTUP (R. D. 265-of-496.ROA)
_____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other:
ATC

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires $500 be paid to Clerk during probation.

PRESIDING JUDGE C. Orr
Judge Code: 1 1 6 1 3
Sentence Date: 4-10-07

217 (2/2006) *White* – Clerk *Green* – Corrections *Canary* – Probation *Pink* – Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

MAR 29 2017

Appx. (5)(46-of-76) (Attachment: A-6)

Jose Alberto Maldonado, #312648, Petitioner, v. Warden Aril Chapman and the Attorney General of the State of South Carolina, Respondent.	)	C/A No. 8:11-1372-TLW-JDA **RETURN AND MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Respondents, through below signed counsel, hereby make a Return to the Rule to Show Cause issued by the Honorable Jacquilin D. Austin United States Magistrate Judge, in response to the *pro se* petition for writ of fedreral habeas corpus filed by Petitioner on June 2, 2011. Respondents would show the Court there is no genuine issue of material fact, and Respondents are entitled to summary judgment as a matter of law pursuant to Rule 56 FRCP. In support of its Motion, Respondents would show the Court as follows.

PROCEDURAL HISTORY

Petitioner is presently confined in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The South Carolina State Grand Jury indicted Petitioner at the December 2005 term of the State Grand Jury for conspiracy to traffick methamphetamines more than 400 grams *(2005-GS-0026, Count 1)* and Trafficking in methamphetamines more than 400 grams *(2005-GS-47-0026, Count 4)*.

The Guilty Plea(s)

Petitioner pled guilty on August 22, 2006 before the Honorable Alexander Macaulay, Circuit Court Judge, to lesser included charges of conspiracy to traffick in more than 28 grams but less than

(R p. 266-of-497: ROA)

STATE GRAND JURY OF SOUTH CAROLINA

MAR 29 2017

(Attachment: A-7)

Appx. (5)(47-of-46)

STATE OF SOUTH CAROLINA	CASE NO: 2005GS 47 26
VS.	**INDICTMENT FOR UNLAWFUL DRUGS**
EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, DEFENDANTS.	Trafficking Methamphetamine (Conspiracy) S.C. Code Ann. § 44-53-375(C)(5) Trafficking Methamphetamine > 400 grams – Two Counts S.C. Code Ann. § 44-53-375(C)(5) Possession of a Firearm during the Commission of a Violent Crime S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on December 13, 2005, the State Grand Jurors present upon their oath:

ORIGINAL FILED

DEC 13 2005

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

(R. p. 267-of-497, ROA)

PRICE, ASHMORE & BEASLEY, P.A.
ATTORNEYS AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 467-1001
FACSIMILE (864) 242-6560

JAMES H. PRICE, III *
BEATTIE B. ASHMORE
RYAN L. BEASLEY
*Licensed to practice law in South Carolina and New York

COPY

MAR 29 2017

(Attachment: A-8)

October 13, 2008

Appx (G)(48-of-76)

Rodney W. Richey, Esq.
Richey and Richey Attorneys At Law
PO Box 10916
Greenville, SC 29603-0916

Re: Jose Alberto Maldonado, SCDC # 312648 vs. The State of South Carolina
Case No.: 2008-CP-23-2140

Dear Mr. Richey:

I am responding to your subpoena demanding copies of my entire file concerning Jose Maldonado.

I have enclosed copies of what I can give you which is primarily letters between Mr. Maldonado and me. The reason that I can not give you anything more is the following:

1. The primary case was a Statewide Grand Jury case;

2. All Statewide Grand Jury materials were covered by a standing Order requiring their destruction or return to the Attorney General's Office. I chose to simply have them destroyed.

I represented Mr. Maldonado in another case which was a garden variety state case with Assistant Solicitor, Joyce Monts. Unfortunately, the discovery in that case was destroyed with the Statewide Grand Jury discovery.

I will be glad to meet with you at anytime to discuss Mr. Maldonado's situation. If you have any questions, please do not hesitate to contact me.

As always, I remain,

Yours very truly,

(R. P. 268-of-497. ROA)

PRICE, ASHMORE & BEASLEY, P.A.

James H. Price, III

HP:fab

MAR 29 2017

(Attachment: A-9)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

APPX. (G) (49-of-76)

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

(R.P. 269-of-497. ROA) [redacted]

MAR 29 2017

Appx (G)(50-of-76) **COUNT III** (Attachment: A-10)

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

(R. P. 270-of-497 ROA)

[redacted]

MAR 2 9 2017

(Attachment: A-11)

APPX. (G)(51-of-76)

COUNT V
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

[redacted]

A True Bill

Cathy P. Caffey
FOREMAN

(R. P. 271-of-497. ROA)

HENRY McMASTER (sop)
ATTORNEY GENERAL

MAR 29 2017

(Attachment: "B-I")

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

APPX. (E)(52-of-76)

Jose Alberto Maldonado, Petitioner, v. Henry McMaster and Warden of Perry Correctional Institution, Respondents.	Case No. 8:11-1372-TLW-JDA **REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE**

This matter is before the Court on Respondent Warden of Perry Correctional Institution's[1] motion for summary judgment [Doc. 15] and Petitioner's motion to amend/correct the Petition [Doc. 20]. Petitioner is a state prisoner who seeks relief pursuant to Title 28, United States Code, Section 2254. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), D.S.C., this magistrate judge is authorized to review post-trial petitions for relief and submit findings and recommendations to the District Court.

Petitioner filed this Petition for writ of habeas corpus on June 2, 2011. [Docs. 1, 1-3.] On August 22, 2011, Respondent filed a motion for summary judgment and a return and memorandum. [Docs. 15, 16.] On September 14, 2011, Petitioner filed a response in opposition to Respondent's motion for summary judgment [Doc. 19] and a motion to amend/correct the Petition [Doc. 20]. Having carefully considered the parties' submissions and the record in this case, the Court recommends that Respondent's motion for summary

[1] Respondent Henry McMaster was terminated as a party on June 28, 2011 by the Court's Order authorizing service of process. [Doc. 8.] Accordingly, throughout this Report and Recommendation, the Court will refer to Warden of Perry Correctional Institution as "Respondent."

(R. p. 272-of-497. ROA)

Appx. (G)(53-of-76) MAR 29 2017 (Attachment: B-II)

judgment be granted, Petitioner's motion to amend/correct be denied, and the Petition be denied.

BACKGROUND

Petitioner is currently incarcerated in the Perry Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment from the Clerk of Court for Greenville County. [Doc. 1 at 1.] On February 22, 2006, Petitioner was indicted by the state grand jury for conspiracy to traffic methamphetamine and trafficking 400 grams or more of methamphetamine. [Doc. 16-4.] On August 22, 2006, Petitioner pled guilty to two counts: conspiracy to traffic between twenty-eight and 100 grams of methamphetamine and trafficking between twenty-eight and 100 grams of methamphetamine, second offense.[2] [Doc. 16-1 at 8, 11, 13; *see also* Doc. 16-2 at 4.] On April 10, 2007,[3] Petitioner was sentenced to twenty years imprisonment for each count; the twenty-year sentences were to run concurrent with each other and concurrent with the seven-year sentence for trafficking cocaine he received in November 2005. [Doc. 16-2 at 10–11.] Petitioner was also credited with time served beginning August 6, 2005. [*Id.*] Petitioner was represented by James H. Price ("Price") on the charges [Doc. 16-1 at 1], and Britt Hunt interpreted for Petitioner at the plea hearing and the sentencing hearing [*id.* at 2; Doc. 16-2 at 3]. Petitioner did not file a direct appeal.

---

[2] Petitioner was serving a seven-year sentence for trafficking cocaine at the time he pled guilty to the methamphetamine charges. [Doc. 16-1 at 18; Doc. 16-3 at 1, 5 (sentencing sheets dated November 29, 2005).]

[3] The title page of the sentencing hearing transcript states the date of the hearing as April 10, 2008. [Doc. 16-2 at 1.] However, Petitioner was sentenced on April 10, 2007. [*See, e.g.*, *id.* at 12; Doc. 16-5 at 2.]

(R. p. 273-of 497. ROA)

FILED

FEB 22 2006

LISA G. [illegible]BAR,
CLERK, STATE GRAND J

("Attache:B")(1) MAR 29 2017

STATE GRAND JURY OF SOUTH CAROLINA

Appx. (G)(54-of-76)

STATE OF SOUTH CAROLINA)
)
VS.)
)
EMILIANO GARCIA AGUIRRE,)
PAMELA RENEE BOZZI,)
JOSE ALBERTO MALDONADO,)
KENNETH SCOTT POPE aka "SCOTTY",)
LISA LAVERN RAMIREZ,)
THOMAS ERNIE ROBERTS,)
OSCAR SANCHEZ,)
JOHN NELSON TURNER, JR. aka "JJ",)
KELLY LEE NALLEY TURNER,)
)
DEFENDANTS.)

CASE NO. 2005-GS-47-26

SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS

Trafficking Methamphetamine (Conspiracy)
S.C. Code Ann. § 44-53-375(C)(5)

Trafficking Methamphetamine > 400 grams – Three Counts
S.C. Code Ann. § 44-53-375(C)(5)

Possession of a Firearm during the Commission of a Violent Crime
S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on February 22, 2006, the State Grand Jurors present upon their oath:

(R. p. 274-of-497 ROA)

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

RECEIVED

MAR 06 [illegible]

("Attached:B") (2) MAR 2 9 2017 ~~(2017 2:14-cr-00642-RMG Date Filed 04/14/2014~~ Appx. (G)(55-of-76)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

(R. p. 275-of-497. ROA)

("Attached:B")(3) MAR 2 9 2017 APPX. (E)(56-of-76)

COUNT III
POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State. (R. P. 276-of-497. ROA)

("Attached:B")(4) MAR 29 2017

APPX. (G)(57-of-78)

COUNT V
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

Cathy P. Coffey
FOREMAN

(R. P. 277-of-497. ROA)

HENRY McMASTER (sop)
ATTORNEY GENERAL

5 (Attachment: "C-I")

MAR 29 2017

Appx. (5)(58-of-76)

STATE OF SOUTH CAROLINA
COUNTY OF Greenville
STATE VS.
Jose Maldonado
AKA:
Race: W Sex: M Age: 32
DOB: SS#:
Address: 300 SULPHER SPRINGS RD 13
GREENVILLE SC 29611
DL#: 26678119 SID#:

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:
2003GS2304547
A/W#: G803304
Date of Offense: 04-10-2003
S.C. Code § : 44-53-0370
CDR Code #: 0388
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: TRAFFICKING IN COCAINE > 28 GRAMS, 2ND OFFENSE
in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0388
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Joyce K Mouta — Solicitor: | Jose B Maldonado — Defendant | Attorney for Defendant

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 7 ~~days/months~~/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. (15 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms:
☐ set by SCDPPPS
Recipient:

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv Surcharge	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharg	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 35.13 (Public Def/Prob)	$500	$
§ 73.3, 1B TP (Law Enforce. Funding	$25	$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	$100	$ 100.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment	$40/ea	$
3% to County (if paid in installments		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel, § 35.13 TP Requires $500 be paid to Clerk during probation.

Paul B. Wickensimer
Clerk of Court/ Deputy Clerk
Court Reporter: Jenkins

PRESIDING JUDGE J. Ott Lee
Judge Code: 2 11 B B
Sentence Date: 11-29-05

(R. P. 278-of-497. ROA)

ARREST WARRANT 531

G-803304 4-23-03

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of GREENVILLE

THE STATE

Against CASE NUMBER 25-01-0333

JOSE ALBERTO MALDONADO

Address: 300 SULPHER SPRINGS RD 1-?
GREENVILLE SC 29611

Phone: _____ SSN: _____

Sex M Race: H Height 510 Weight 200

DL State _____ DL # _____

DOB: _____ Agency ORI #: SC0230000

Prosecuting Agency: S.C LAW ENFORCEMENT DIV

Prosecuting Officer: S/A C. BRAGG

Offense: TRAFFICKING COCAINE

Offense Code: _____

Code/Ordinance Sec 44-53-370

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/ ☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law

_____ (L.S.)
Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Jose Albert Maldonado on 4-10-03

John J. Smith
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: CAGLE

App. (E)(5-9-op-78)

(R-P. 2-9-of-1997-ROA)

STATE OF SOUTH CAROLINA)
☐ County/ ☐ Municipality of) **AFFIDAVIT**
GREENVILLE)

Form Approved by
SC Attorney General
July 26, 1990
SCCA 518

Personally appeared before me the affiant S/A C. BRAGG who being duly sworn deposes and says that defendant JOSE ALBERTO MALDONADO did within this county and state on 04-10-03 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of _____) in the following particulars

DESCRIPTION OF OFFENSE: TRAFFICKING COCAINE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts.

ON 04-10-03 THE DEFENDANT JOSE ALBERTO MALDONADO SOLD A QUANITY OF A WHITE POWDER SUBSTANCE TO A AN CONFIDENTIAL INFORMANT OF THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION. THE SUBSTANCE WAS GREATER THAN 10 GRAMS THE INFORMANT WAS WORKING UNDER THE DIRECT CONTROL OF THE SOUTH CAROLINA LAW ENFORCEMENT DIV. THIS INCIDENT OCCURRED IN GREENVILLE COUNTY, S.C. AND IS A VIOLATION OF THE S.C CODE OF LAWS 44-53-370.

Sworn to and subscribed before me on April 10, 2003

S B Keaton (L.S.)
Signature of Issuing Judge

Christ E. Bragg
Signature of Affiant

Affiant's Address 666 PERIMETER RD
GREENVILLE, SC 29605

Affiant's Telephone 422-2020

(Attachment C-II.)
MAR 20 2017

STATE OF SOUTH CAROLINA)
☐ County/ ☐ Municipality of) **ARREST WARRANT**
GREENVILLE)

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 04-10-03 defendant JOSE ALBERTO MALDONADO did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE:

TRAFFICKING COCAINE

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

S B Keaton (L.S.)
Signature of Issuing Judge

Judge Code: 3701

Judge's Address 6247 WHITE HORSE RD
GREENVILLE, SC 29611

Judge's Telephone 294-4810

Issuing Court ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

APPX. (G)(60 -OF- 76)

(Attachment C-1)

MAR 2 9 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 28 grams of Cocaine. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

(R. P. 280 -OF- 497. ROA)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Joyce K Mouta
SOLICITOR

WITNESSES

BRAGG CORLOF/5

GCSO

04/10/03

ARREST WARRANT NUMBER

~~DIRECT INDICTMENT~~

(G803304)

ACTION OF GRAND JURY

~~TRUE BILL~~

~~FOREMAN GRAND JURY~~

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury *Date:*

DOCKET NO. 2003-GS-23-

JLK 004547

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE

PLEAD GUILTY

vs.

JOSE ALBERTO MALDONADO

Indictment for

TRAFFICKING COCAINE

VIOLATION § 44-53-370

(R. P. 281 - OF - 497. ROA)

0388

2359

DL SUSPENDS

Did Clerk receive driver's license?

YES _____ NO ✓

If no, explain Lost

Defendant

APPX. (G)(61 - OF - 761)

(Attachment: C-2)

MAR 29 2017

550

(Attachment: C-3)

MAR 29 2017

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE)
VS.)
Jose Maldonado)
AKA:)
Race: W Sex: M Age: 32)
DOB: — SS#: —)
Address: 5 FLETCHER ST)
GREENVILLE, SC 29611)
DL#: 26678119 SID#:)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#:
2003GS2304545
A/W#: H441256
Date of Offense: 04-10-2003
S.C. Code §: 44-53-0445
CDR Code #: 0107
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: POSSESSION WITH INTENT TO DISTRIBUTE COCAINE W/IN 1/2 MILE in violation of § 44-53-0445 of the S.C. Code of Laws, bearing CDR Code # 0107
☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Joye K Morris
Solicitor

Jose Amaya Rojo
Defendant

Attorney for Defendant

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $_____. plus costs and assessments as applicable*: the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference. APPX. (5)(62-of-76)
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. (15 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv Surcharge	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharg	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 35.13 (Public Def/Prob)	$500	$
§ 73 3, 1B TP (Law Enforce. Funding	$25	$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	$100	$100.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment	$40/ea	$
% to County (if paid in installments		$
TOTAL		$

Paul B. Witherspoon
Clerk of Court/ Deputy Clerk
Court Reporter: Jenkins

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 35.13 TP Requires $500 be paid to Clerk during probation.

PRESIDING JUDGE EDWARD
Judge Code: 2 11 13 10
Sentence Date: 11-29-05
(R. P. 282-of-497. ROA)

SCCA/217 (7/2003)

ARREST WARRANT 531

H-441256 4-23-03

STATE OF SOUTH CAROLINA

☒ County/☐ Municipality of Greenville

THE STATE

against 25-01-0333

Jose Alberto Maldonado

Address 300 Sulpher Springs Rd. J-3
Greenville, SC 29611

Phone _____ SSN. _____

Sex: M Race: M Height: 510 Weight: 200

DL State: NC DL#: _____

DOB: _____ Agency ORI#: _____

Prosecuting Agency: S.C. Law Enforcement Div.

Prosecuting Officer S/A C. Bragg

Offense: P.W.I.D Cocaine 1/2 mile School Offense Code: 44-53-445

Code/Ordinance Sec. _____

This warrant is **CERTIFIED FOR SERVICE** in the ☐ County/☐ Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date. _____

RETURN

A copy of this arrest warrant was delivered to defendant Jose Albert Maldonado on 4-10-03.

John J. Smith
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Cayle

Appx. (G) (63-OF-76)

(R. P. 983-OF-1487. ROA)

STATE OF SOUTH CAROLINA)
☒ County/☐ Municipality of) **AFFIDAVIT**
Greenville)

Form Approved by S.C. Attorney General July 26, 1990 SCCA 518

(SBK)

Personally appeared before me the affiant S/A C. Bragg who being duly sworn deposes and says that defendant Jose Alberto Maldonado did within this county and state on 4-10-03 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/☐ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE: Poss. with intent to distribute Cocaine w/i 1/2 mile of a school.

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts.

On 4-10-03, the defendant, Jose Albert Maldonado, sold a quanity of a white powder as cocaine to a under-cover operative of the S.C. Law Enforcement Division. The opertive was working under the direct control and supervision of the S.C. Law Enforcement Division. This incident occurred within a 1/2 mile of Greenville Tech. North west campus on Farrs Bridge Rd. in Greenville, SC.

Sworn to and subscribed before me on April 10 2003

S.B. Keaton
Signature of Issuing Judge (L.S.)

Signature of Affiant

Affiant's Address 4400 Broad River Rd.
Columbia, SC. 29221

Affiant's Telephone 803-734-4312

(Affidavit - G-H)

MAR 29 2007

STATE OF SOUTH CAROLINA)
☒ County/☐ Municipality of) **ARREST WARRANT**
Greenville)

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 4-10-03 defendant Jose Alberto Maldonada did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Poss. with intent to distribute Cocaine within 1/2 mile of School.

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

S.B. Keaton
Signature of Issuing Judge (L.S.)

Judge Code: 3707

Judge's Address 6247 White Horse Rd.
Greenville, SC 29611

Judge's Telephone 294-4810

Issuing Court. ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

~~("Attached B")~~
~~(TCP) EXHIBIT (7) File on 12/11/2014~~

(Attachment: C-5)
MAR 29 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE WITHIN CLOSE PROXIMITY TO SCHOOL

Appx. (5) (64 of- 76)

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, willfully and unlawfully possess with the intent to distribute a quantity of Cocaine. This incident occurred within one-half (½) mile from Greenville Tech College, Northwest Campus. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as amended.

(R. P. 284 - of - 497. ROA)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Joyce K Mortz
SOLICITOR

(IGP) ~~EXHIBIT (8) File on 12/11/2014 ("Attached-B")~~

DOCKET NO. 2003-GS-23- JLK 004545

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

PLEAD GUILTY THE STATE

vs.

JOSE ALBERTO MALDONADO

WITNESSES

BRAGG COR-3/15

GCSO

04/10/03

ARREST WARRANT NUMBER

H441256

MAR 29 2017

ACTION OF GRAND JURY

TRUE BILL

Russell P. Thomas

Foreperson of Grand Jury FOREMAN/GRAND JURY

VERDICT

Foreperson of Petit Jury Date:

Indictment for

0107

POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE WITHIN CLOSE PROXIMITY TO SCHOOL

VIOLATION § 44-53-445

DL SUSPENDS

Did Clerk receive driver's license?

YES _____ NO ✓

If no, explain LOST

Defendant

(Attachment 3-6)

APPX. (3)(65-of-76)

(R. p. 285-of-497. ROA)

MAR 2 9 2017

(Attachment: "D-I")

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Plaintiff/Applicant, Pro-Se,

Case No. 2015-CP-23-04747

v.

State of South Carolina,

Respondent.

SUMMONS

FILED
CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2017 JAN 25 PM 2 20

APPX. (G)(66-of-76)

You are hereby summoned and required to serve upon Jose Alberto Maldonado, Plaintiff/Applicant's Pro - Se, whose address is Kershaw Corr. Inst. MB/Room, #59 4848 Goldmine Highway, Kershaw, South Carolina 29067, an answer to the complaint which is herewith served upon the State of South Carolina, Respondent, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Respectfully Submitted

(SC) Attorney General Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South Carolina 29211

To:

The Hon: Paul B. Wickensimer
305 E. North Street,
Suite, # 325
Greenville, S.C. 29601

PROOF OF SERVICE

Further, Plaintiff/Applicant said and Notarized This 10th day of January 2017.

SWORN TO and SUBSCRIBED Before Me
This 10th day of January 2017.

Catherine A Amaya
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires:
My Commission Expires December 22 2021

Clock - Stamped Clerk of Court

(R. P. 286-of-497. ROA)

LEGAL

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

Greenville County

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 JUL 31 PM 2 49

Appx. (B)(67-of-76) (Attachment: "E-I.")

MAR 29 2017 MAR 29 2017

(doc. 5)

JULY 31, 2015

JOSE ALBERTO MALDONADO 312648
KERSHAW CORRECTIONAL INSTITUTE
4848 GOLDMINE HWY
KERSHAW SC 29067

Refiled on: AUG 01 2017
(4th PCR Act. Doc. 6)

MR. MALDONADO,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2015CP2304747.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(Attached: (2)) (R. p. 287-of-497. ROA)

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Greenville)

IN THE COURT OF COMMON PLEAS

(Attachment: "E-II")

MAR 2 9 2017

Jose Alberto Maldonado,)
Full name and prison number (if any) of Applicant)
Applicant,)
v.)
Appx. (5)(68 - of - 76))
)
State of South Carolina,)
Respondent.)
Refiled on: AUG 0 1 2017)
(Hbc PCR. Doc. 6) (4h))

(Doc. 5)

APPLICATION FOR

POST-CONVICTION RELIEF

2015-CP-23- 0447

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMER
2015 JUL 31 PM 2 49

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center, 20 McGee Street Greenville South Carolina.
2. Name and location of Court which imposed sentence Greenville County Courthouse 305 East North Street Suite 325 Greenville SC. 29601
3. Name(s) of co-defendant(s) (if any) Mrs. Lisa Lavern Ramirez, Mr. John Nelson Turner, See, others at the C/A#.:05-GS-47-0026,Unknow Co-Defendant(s).
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2005-GS-47-0026/2003-GS-23-45-0047/03-GS-23-45-0045
   (a) Count I, Direct Indictment/28-100 grams,2nd offense,(7-30 years),&(IV)
   (b) At the Sentencing Sheet; The Dec.13, 2005 Indictment, have count (Two).

(R.P. 288 - of - 497 - ROA) 1

(Attached: (3))

Appx. (G)(69-of-76)

MAR 29 2017

(Attachment: E-III)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

(4757)

Jose Alberto Maldonado, #312648,

Applicant, Pro se,

AUG 01 2017

Replied on: (All PCR. Act. Doc. 6)

V.

State of South Carolina,

Respondent.

Case No. 2015-CP-23-04757

MAR 28 2017

(doc. 5)

AMENDMENT TO POST CONVICTION RELIEF APPLICATION
4TH PCR. ACTION

(Rule 15(a)(b), SCRCP)

FILED
GREENVILLE CO. S.C.
PAUL H. WICKENSIMER
JAN 5 PM 2 20
COURT

The Applicant hereby amendeds answers to number [4 through 19] of his Application for Post-Conviction Relief Action, to state the following:

1. The indictment C/A#:2005-GS-47-0026, upon which the offenses for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);

2. [Ground 4(a)]. The indictment numbers upon which the sentences was imposed, violated the S.C. And U.S. Constitution;

The prosecutor's broadening the charges to include co-nduc within the "State Grand Jury."(Fn.1) Did not incorporate in "original indictments". Violates the S.C. Const. Art. I, § 11; art. V, § 22, and the United States Constitution. Holdings, the Applicant's C/A#.:2005-GS-47-0026/2003-SG-23-45-0047/03-GS-23-45-0045. And U.S.C.A. Const. Amends. 5th, 6th, and 14th. Set this grounds to Applicant's INITIAL BRIEF, ALTERNATIVE PETITION FOR STATE HABEAS CORPUS. At: (Pp. 14, and 15. Argument III. Doc.2). Because, a "Superseding

1. See, S.C. Code Ann. § 17-27-45(C): McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, 627 (2013); State v. Douglas, 411 S.C. 307, 316, 768 S.E.2d 232, 244 (SC. App. 2014); Hendrick v. State, 387 S.C. 221, 692 S.E.2d 892 (2010).

(Attached: (4))

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Jose Alberto Maldonado, #312648,

Applicant,

App. (5)(70-of-76)

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-04757

MAR 29 2017

First: (Attachment: "E") wrong Case Number

RETURN AND MOTION TO DISMISS

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. S.C.
2017 MAR -8 AM 11:21

Respondents respectfully move this Court, pursuant to 12(b), SCRCP for judgment on the pleadings. In response to the post-conviction relief (PCR) application filed July 31, 2015, the Respondent would show this Court:

I.

Underlying Charges and Trial

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

(R. P. 290-of-497. ROA)

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Jose Alberto Maldonado, #312648,

Exhibit (9)
Appx (G) (71 of 76)

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-04756

FILED-CLERK OF COURT
PAUL A. WICKENSIMER
GREENVILLE CO. SC
2017 MAR 13 PM 4:32

CONDITIONAL ORDER OF DISMISSAL

MAR 29 2017
Second (Attachment: "E")
MAR 29 2017

This matter comes before this Court by way of an application for post-conviction relief filed July 31, 2015.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

2008-CP-23-2140

(R. p. 291 of 447 ROA)

plr

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Appx (G)(72-of-76)

Jose Maldonado, 312648, Exhibit (9) Appellant, vs. South Carolina Department of Corrections, Respondent.	)	Docket No.: 15-ALJ-04-0567-AP Grievance No.: KRCI 4415-14 **ORDER** MAR 29 2017 (Attachment: E-1)

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the Notice of Appeal filed October 20, 2015, by Jose Maldonado (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (Department). In this appeal, the Appellant argues the Department has miscalculated his prison sentence.

On December 3, 2015, the Appellant filed a "Motion for Leave to Conduct Discovery" and Appellant's Brief. On December 18, 2015, this court issued an order denying the motion on the grounds that such discovery is not permitted under ALC rules. The Department filed the Record on Appeal on January 4, 2016. The Appellant seems to have objected to the order denying the motion and the contents of the Record on Appeal and filed a "Writ of Mandamus" with the Court of Appeals. The Court of Appeals construed the Appellant's filing as an improperly perfected appeal and eventually dismissed the case (Number 2016-000055). The matter was remitted to this court on February 29, 2016.

Subsequently, on April 1, 2016, the Appellant filed a "Motion for Summary Judgement" with a supporting affidavit and additional documents. Among other things, the Appellant argued that the the Department had failed to file a brief. On May 2, 2016, the Department filed the Respondent's Brief and a Motion to File out of Time. The Department cited Appellant's filings in the Court of Appeals as reason for confusion and the late brief. On May 16, 2016, the Appellant filed a response to the Department's motion and a Reply Brief.

Because this is an appeal, and not a contested case, the court may not apply the South Carolina Rules of Civil Procedure in order to entertain a motion for summary judgment. *See* SCALC Rule 68. Instead, the court will construe the Appellant's motion as one to resolve the appeal adversely to the Department for failure to meet prescribed time limits, pursuant to SCALC

(CR-2-92-of-497: ROA)

FILED
MAY 20 2016
SC ADMIN. LAW COURT

MAR 29 2017 (Attachment: E-2)

Rule 62.[1] Pursuant to SCALC Rule 3(B), the court may for good cause shown extend the time to file, unless otherwise proscribed by rule or law. After reviewing the file and the Department's Motion to File out of Time, the court concludes that the Appellant's interlocutory Court of Appeal filing constitutes good cause for confusion regarding the briefing deadline. Therefore, the court denies the Appellant's motion and grants the Department's Motion. Having received the briefs of all the parties and ruled on the above motions, the court now reviews the case on the merits.

Appx. (E)(73-of-76) **ISSUE ON APPEAL**

Whether the Department erred in calculating the Appellant's sentence under the relevant statutes.

STANDARD OF REVIEW

The Court's jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). The *Al-Shabazz* decision explained that "procedural due process is guaranteed when an inmate is deprived of an interest encompassed by the Fourteenth Amendment's protection of liberty and property." *Wicker v. S.C. Dep't of Corrs.*, 360 S.C. 421, 424, 602 S.E.2d 56, 58 (2004) (citation omitted). A liberty interest is at stake in the calculation of an inmate's sentence. *Tant v. S.C. Dep't of Corrs.*, 408 S.C. 334, 341, 759 S.E.2d 398, 401 (2014) (citation omitted) ("There can be no doubt the length of an inmate's incarceration implicates a constitutional liberty interest."); *see also Sullivan v. S.C. Dep't of Corrs.*, 355 S.C. 437, 441–42, 586 S.E.2d 124, 126 (2003) (quoting *Al-Shabazz*, 338 S.C. at 369, 527 S.E.2d at 750) (recognizing that *Al-Shabazz* created review in the ALC for sentence calculation cases).

In sentence calculation cases, the court sits in an appellate capacity, applying the appellate standard of the Administrative Procedures Act (APA). *Al-Shabazz*, 338 S.C. at 377–80, 527 S.E.2d at 754–56. Consequently, the court's review is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2015). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2015). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in

(R. p. 293 -of- 497. ROA)

[1] The court notes that the Appellant makes his arguments based upon an older version of ALC rules. In April of 2015, new rules went into effect that extended the filing deadlines for inmate appeals. *See* SCALC Rules 59 & 60(A).

MAR 2 9 2017
(Attachment E-3)

violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.*

Appx. (5)(74-of-76) **DISCUSSION**

In this case, the Appellant seems to be challenging the overall validity of his sentences. Because this court exists to review the actions of administrative agencies and not the actions of circuit court judges, this court cannot rule on the validity of the Appellant's sentences. *See Engaging & Guarding Laurens County's Environment ("EAGLE") v. S.C. Dep't of Health & Envtl. Control*, 407 S.C. 334, 344, 755 S.E.2d 444, 449 (2014) (quoting S.C. Const. art. I, § 22) (recognizing ALC's function of reviewing administrative action under the South Carolina Constitution); *Jernigan v. State*, 340 S.C. 256, 259–60, 531 S.E.2d 507, 508–09 (2000) (citations omitted) (distinguishing between collaterally challenging the validity of a sentence under post-conviction relief laws and non-collaterally seeking review of the Department's actions under the procedure established in *Al-Shabazz*). Instead, this court reviews the Appellant's case to determine if the Department is properly enforcing the Appellant's sentence, pursuant to the order of the circuit court judge and under the relevant laws. *See State v. Bennett*, 375 S.C. 165, 170, 650 S.E.2d 490, 493 (Ct. App. 2007).

The Appellant has been committed to the Department to serve multiple concurrent sentences. The longest sentence the Appellant is currently serving is twenty (20) years for Trafficking Methamphetamines 28–100 grams, second offense. The Appellant was sentenced on April 10, 2007. However, the Department has credited the Appellant with time served prior to sentencing, creating a sentence "start date" of August 6, 2005. The earliest date by which the Appellant could potentially be released is determined by the rules of "no parole" offenses. The Appellant was convicted of Trafficking Methamphetamines pursuant to section 44-53-375(C)(2)(b) of the South Carolina Code. This offense is classified as a Class A felony, pursuant to section 16-1-90(A). A Class A felony is one to which a penalty of not more than thirty years applies, as stated in section 16-1-20(A). A Class A felony is a "no-parole offense." S.C.

(R.P. 294-of-497. ROA)

MAR 2 9 2017 MAR 2 9 2017
(Attachment E-4)

Code Ann. § 24-13-100 (2007).[2] An inmate serving a no-parole offense "is not eligible for early release, discharge, or community supervision . . . until the inmate has served at least eighty-five percent of the actual term of imprisonment imposed." S.C. Code Ann. § 24-13-150(A) (Supp. 2015).[3] "This percentage must be calculated without the application of earned work credits, education credits, or good conduct credits, and is to be applied to the actual term of imprisonment imposed, not including any portion of the sentence which has been suspended." *Id.*

The Appellant was sentenced to twenty (20) years, which is seven thousand three hundred (7,300) days. Eighty-five (85) percent of seven thousand three hundred (7,300) is six thousand two hundred five (6,205) days. Assuming that the Department correctly applied time served and running the sentence from August 6, 2005,[4] the earliest possible date by which the Appellant could be released is August 2, 2022.[5] Because the Department reached the same conclusion in its final decision and because the Appellant has established no reason to differ from that conclusion, the court affirms.

APPX. (G)(73-of-78)

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Appellant's Motion to Resolve Appeal Adversely is **DENIED**.

IT IS FURTHER ORDERED that the Respondent's Motion to File out of Time is **GRANTED**.

IT IS ALSO ORDERED that the decision of the Department is **AFFIRMED**.

(R. P. 295-of-497. ROA)

[2] Recently, the Court of Appeals found that this statute was preempted for the purposes of calculating the sentence for certain drug offenses by the expression of legislative intent contained in amendments to section 44-53-375 made in 2010. *See generally Bolin v. S.C. Dep't of Corrs.*, 415 S.C. 276, 781 S.E.2d 914 (Ct. App. 2016) (reh'g denied Feb. 24, 2016). However, in this case, the Appellant was sentenced prior to the enactment of those amendments and under a different subsection.

[3] Section 24-13-150 was amended in 2010. However, subsection (A), which applies in this case, was not altered in any way that affects the issues presented here.

[4] Section 24-13-150 neither expressly includes, nor expressly excludes, time served from the percentage calculation. However, it stands to reason that time served is indeed time served on the sentence imposed and that credit for that time would be included in the calculation. This conclusion is further supported by the fact that the Department appears to have interpreted the law in that manner and by the rule that ambiguities in sentencing statutes are construed in favor of the defendant. *See State v. Sweat*, 386 S.C. 339, 351, 688 S.E.2d 569, 575 (2010) (quoting *Dunton v. S.C. Bd. of Exam'rs in Optometry*, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987)) ("'The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons.'"); *Nelson v. Ozmint*, 390 S.C. 432, 436, 702 S.E.2d 369, 371 (2010) (citing *State v. Blackmon*, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991)) ("When a statute is penal in nature, it must be strictly construed against the State and in favor of the defendant.").

[5] The court notes that a budget proviso regarding release dates from the 2007 to 2008 fiscal year budget would be applicable to the Appellant. *See* 2007 S.C. Act 117, Part 1B, § 37.25 (effective July 1, 2007). However, the court does not apply it here since the Appellant's actual release date may vary.

MAR 2 9 2017
(Attachment: E-5)

AND IT IS SO ORDERED.

Appendix: (G) Page (76)
Exhibit: (9)

S. Phillip Lenski, Judge
S.C. Administrative Law Court

May 20, 2016
Columbia, South Carolina

MAR 2 9 2017
(Attachment: E-5)

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date mailed this order in the above-entitled action upon all parties to this cause by depositing a copy hereof in the United States Mail, postage paid, or by interagency mail service addressed to the party(ies) or their attorney(s).

This 27th day of May 2016

Judicial Law Clerk

(CR-P. 296 of 497 - ROA)

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648, Applicant, v. State of South Carolina, Respondent.	2015-CP-23-04757 **RETURN AND MOTION TO DISMISS**

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. S.C.
2017 MAR -8 AM 11:21

Respondents respectfully move this Court, pursuant to 12(b), SCRCP for judgment on the pleadings. In response to the post-conviction relief (PCR) application filed July 31, 2015, the Respondent would show this Court:

Exhibit: (10)
Appendix: (H)(Report of Page (1) through (10))

I.

Underlying Charges and Trial

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

(R. p. 297 of 497. ROA)

Applicant subsequently filed an application for post-conviction relief on March 18, 2008. Respondent filed its return on or about September 30, 2008. An evidentiary hearing was convened on December 8, 2008, at the Greenville County Courthouse before the Honorable Edward W. Miller. Applicant was present and represented by Rodney W. Richey, Esquire. At the hearing, Applicant chose to voluntarily withdraw his PCR application. After questioning Applicant about his decision, Judge Miller dismissed the matter with prejudiced by Order filed on December 29, 2008.

2010-CP-23-3391

On April 28, 2010, Applicant filed his 2nd application. The State made its Return and Motion to Dismiss on or about August 20, 2010, requesting that the application be summarily dismissed. By Conditional Order of Dismissal filed on September 9, 2010, the Honorable Robin B. Stillwell dismissed the 2nd application finding it was time barred by the statute of limitations and successive to Applicant's first application. Applicant filed a Motion for Immediate Release from the Conditional Order of Dismissal on or about September 30, 2010. On December 14, 2010, Judge Stillwell dismissed the application finding the reasons stated in Applicant's responses to the Conditional Order had not shown sufficient reason why the order should not become final. Judge Stillwell found the application clearly successive and filed outside the statute of limitations.

Applicant appealed the denial of the second application to the South Carolina Supreme Court. Applicant submitted a lengthy document as his Rule 243(c) explanation. However, by Order dated April 20, 2011, the court determined Applicant failed to show there was an arguable basis for asserting that the PCR court's determination was improper. The court dismissed

(R. p. 298-of-497. ROA)

Applicant's appeal. Applicant then filed a request to reconsider its denial of Applicant's petition, but the court declined to take action because Applicant failed to submit a certificate of service upon opposing counsel. The remittitur was issued on June 3, 2011.

Appx. (H)(3-of-10)

2011-cv-01372

Applicant then filed a *pro se* petition for writ of habeas corpus on June 2, 2011, in federal district court. Applicant raised the following issues verbatim:

1. The Clerk of Court of Supreme Court of South Carolina failed and refused to raise other my Grounds again. (Under PCR Act).
2. Professional conduct for court interpreters. As officer of the court, interpreter help assume that such person may enjoy equal access to justice and that court proceeding.
3. The H abes Corpu* Remedies will reverse or Order, for Relief, under invalid indictments. Lack of Jurisdiction. Over:
4. The plea form currently used in any court provide notice of possible immigration consequences. Court and Counsel Adverse in issues of:

On August 22, 2011, Respondent filed a return and motion for summary judgment. The district court granted the State's Motion for Summary Judgment on December 5, 2011, and dismissed the petition. Applicant then filed a notice of appeal on December 14, 2011. The United States Fourth Circuit Court of Appeals issued an opinion dismissing the appeal on March 20, 2012.

II.

Finally, in his *third* and current application for post-conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons verbatim:

1. Because, the Respondent have Fraudulent Indictments, and had been misrepresent the State of South Carolina, by use ("two Counties") and lack jurisdiction, upon the State Grand Jury, in Columbia;
2. Violated Code of Laws its "Statutes", when at the time that: fall inside the State Constitutional/United States its Constitution;
3. That trial judge(s) with "Bias", against the Rule 501 canon 3(A)(B)(5), (C)(1), and canon 5(D), SCACR, (Ex Parte Communication. See also Rule 502 cite Rule 11, & 12(c), RJD Ex-Parte Contacts; In re Woodham, 386 S.C. 495, n.1, 499, 689 S.E.2d 605, 607, (2010); See at (per se rule); see id., State v. Cheatham, 349 S.C. 101, 109, 112, 561 S.E.2d 618, 624 – 627 (2002), citing Rule 104, & 404(b);

(R. p. 399-of-497. ROA)

4. Because therein is a CONFLICT OF INTEREST between the prosecutor with held to the STATE GRAND JURY from Columbia, was this County, allow them, by let used a "FRAUDULENT SWORN AMENDED SUCH INDICTMENTS ..." with the same series of (Numbers); and
5. Which Applicant had been prosecuted in the GENERAL SESSIONS court term/indicted with CONSECUTIVELY OFFENSES, MULTIPLE GRAND JURY DATES, and Counts: That, the "State Grand Jury from (SC) Columbia deprive a Court in the Greenville County is jurisdiction," before the Applicant agree inside of both INDICTMENTS/where not had or, have being present, upon the State Grand Jury, and which choice not being indict relative of any exsistanced, (i.e.,). But who later sued for malicious prosecution;
6. The Susana O. Porter, solicitor, "MANDATORY" has toAMEND the "TRUE BILL INDICTMENT" to: A second Offenses; (28 –unless- 100) grams; and "quashed" the (Inf., Indictmens for 7-years sentences) included the (Inf., from Dec. 13, 2005 indictment's (Count Two)), with the unknow names; and pursued with a single name. As an Applicant upon the SUPERSEDING INDICTMENT, because the (100 –grams, more than - >400 grams: Therefore, this PROVISION, had been EXCHANGED its NATURE of LANGUAGE at the STATUTE; SC. Code of Laws Ann. § 44-53-375(C)(2)(b); and quashed the LENGUAGE of: § 44-53-375(C)(5) at front as the Applicant's Greenville County. In his "PRIOR BREACH IS NEGOTIATION of GUILTY PLEAD," see the "PLEAD AGREEMENT: Was therein, is no been signed" and that against Mr. Maldonado is relief. Because Applicant didn't signed the Waiver, was that barred by res judicata to been prosecute Applicant with those papers.
7. Counsel was ineffective for not attempting to get all the drug charges ran together pursuant to South Carolina Ann., § 17-25-50; see e.g., Brayan v. State, 384 S.C. 525, 530, 683 S.E.2d 280, at 283 (S.C. 2009)(quoting State v. Gordon, 356 S.C. 143, 150, at 153, 188 S.E.2d 105, (111) (S.C. 2003) ("[C]ounsel was ineffective for not challenging the invalid "Indictment(s)" before Applicant plead guilty'? Hereby, (Mr. Maldonado), had been filed ("Tw PCR. Act.), but the State denied such applications, for a successive petitions, was against the (1-year of limitations Act.). But now, I am ("a motions"). In the "General Sessions Court Term." Holdings, the Ground for Relief as follows:
8. The null and void indictments" makes the "conviction(s) and sentences constitutionally" (invalid)? Because, during the prosecution, the "State is failure to collateraly review a "physically presented [Applicant] at the imposition of sentences" such (Inf., Indictments")' See Jimenez v. Quarterman, 555 U.S. 120, N.4, 121, 129 S.Ct. 681, at 686 (2009) ("[t]he statute thus carries out "AEDPA's goal" of promoting 'comity, finality, and federalism' by givin state courts 'the first opportunity to review (the) claim,' and to 'correct' any constitutional violation in the first instance." (Quoting, Carrey v. Safforld, 536 U.S. 214, 220 (2002). The statute requires a federal court, presented with an individual (is) first "Petition for habeas corpus" relief? Sending, those facts at (C/A#.:8:11-cv-01372-TWL DAte Filed 9/27/11 (Entry-Number 24 at Page 2/between the State's Summary Judgment, (Doc.

Appx. (H)(5-of-10)

15) when the Jacquelyn D. Austin Denied the § 2254 Petition and grant ("Doc. 15")? Was this motion showing the judgments is recommendation is "Null and Void". Against the relief. Because the "dates didn't match (Eah one?"); see the ("Inf., Sworn to the State Grand Jury inside the filed Motions/Doc. 15 from the State and Doc.24 from "Jacquelyn D. Austin" Indictments"' and

9. Was the plea constitutionally invalid due to the court failure to comply with the mandate of Rule 11, FRCrimP; see Boykin v. Alabama? ...Did prosecutorial misconduct make this plea invalid ...; U.S. v. Lawrence, 248 F. 3d 300, 305 (4th Cir. 2001)(recentencing vacated and Remended, because defendant must be "physically present at imposition of sentenced"); see, id., Keeney v. Tamayo Reyes, 504 U.S. 1, 11-12 (1962)). To obtain hearing, Petitioner mus show cause for his failure to develop the facts in "State Court" proceedings and actual prejudice resulting from that failure: unless failure to hold evidentiary hearing would result in "fundamental miscarry of justice") Barr v. City of Colum,bia, at 149, 84 S.Ct. at 1736 (1964)("([S]tate, requirements which are not strictly deprive 'Applicant' of the right to review his claim).
10. Applicant, showdown to this C ourt, why this case be heard and Rule? Upon, Accordingly, Williams v. State, 354 S.C. 360 n.1, 632, 583 S.E.2d 52 54 (2003)(before the issue summon and complaint) See, also Garner v. State, 371 S.C. 1; 2, n.1, 3:, 636 S.E.2d *60 __ (2006)(holding, the State filed a "void" motions; (1) to alter or amend the Order; and (2) the preside (3rd PCR Act.) judge granted, as Applicant is Rule 59(e), SCRCP, and a mislead is "Motions; Order from November 8, 2013/April 3, 2014". Preside judge Edward W. Miller.

Applicant then filed a document captioned "Motion to Address All Issues," on December 22, 2016. Attached was a document captioned "Initial Brief in Support of the Application for Post Conviction Relief," where Applicant sets forth four (4) issues:

1. Counsel was ineffective for not attempting to have all drug charges consolidated pursuant to S.C. Code Ann. § 17-25-50.
2. Counsel was ineffective for not challenging the invalid indictments before advising Applicant to plead guilty.
3. Did the invalid indictments make the convictions and sentences constitutionally invalid.
4. Was the plea constitutionally invalid to the court's failure to comply with the mandates of Rule 11, FRCrimP. And Boykin v. Alabama, (1963)?

On January 25, 2017, Applicant filed a documents captioned "Motion to Allow Transfer and Consolidate Cases Pursuant to Rule 42(a), SCRCP, Between Rule 60(b), SCRCP Pending

(R. p. 301 -of- 497. ROA)

Appx. (H)(6-of-10)

File Motion." In the motion Applicant asks the court to transfer the general sessions cases into this common plea case number. Also on January 25, 2017, Applicant filed a document captioned "Amendment to Post Conviction Relief Application 4th PCR. Action (Rule 15(a)(b), SCRCP)". In this document, Applicant presents the following issues:

1. The indictment C/A#: 2005-GS-47-0026, upon which the offense for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);
2. [Grounds 4(a)]. The indictment numbers upon which the sentences were imposed violated the S.C. And U.S. Constitution;
3. [Ground 5(a)]. The date upon which sentences was wrong had been imposed and the term of the sentence;
4. [Ground 6(a)]. Check, the Applicant whether a finding of guilty was made;
5. [Ground 7] Applicant did not appeal from the judgment of conviction for the impotition of his sentence(s)?
6. [Ground 8] The Applicant, answered to (ground 7) to no had "any appeal" in his due process to the S.C. Court of Appeals.
7. [Ground 9(a)]. Applicant's answer "no" to grounds (7), and (8) why Applicant did not so appealing;
8. The Applicant hereby this amends answers to (number 10 through 11) in his Application for Post-Conviction Relief to stat the following:
9. Enter [Ground 12(a)] Prior to this Application have beenfile with respect to this conviction, against Applicant's relief, included Petitioner first, second and "third, had been argued at his petition with The SC State Courts; (b)(c), see:
10. [Ground 13 through 18] hat Applicant constitutionally answered to all parts of his Application, and part of (12), list with respect to each petition, motion or application:
11. [Ground 19]. The Applicant, addressing all's grounds for the relief have been sought to file his "Post-Conviction Relief (4th PCR.Act) Application, after his Initial Brief had, been filed with this Court:

For the purpose of this Return, Respondent incorporates the Clerk of Court records, Applicant's prior PCR records, and the South Carolina Department of Corrections' records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

(R. p. 302-of-497. ROA)

III.

Appx.(H)(7-of-10)

This Court should also summarily dismiss the current Application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980). S.C. Code Ann. § 17-27-90 (1985) states:

> All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence, or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which, for sufficient reason, was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a "sufficient reason" why new grounds for relief were not raised or were not properly raised in previous applications. Aice, 305 S.C. 448, 409 S.E.2d 392. Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. Applicant bears the burden of showing that the allegations could not have been raised previously. Land, 274 S.C. 243, 262 S.E.2d 735 (1980).

Applicant could have raised the new grounds for relief in his prior post-conviction relief applications. The Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief applications. Accordingly, Respondent moves for a summary dismissal of the application because it is successive.

(R. p. 303 -of- 497. RoA)

IV.

Appx.(H)(8-of-10)

Respondent also submits this Application for Post-Conviction Relief should also be dismissed for failing to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to –160 (Supp. 2003). S.C. Code Ann. §17-27-45(a) reads as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant pled guilty to the offenses he challenges on August 22, 2006, so he was therefore required to file his application on or before August 23, 2007. This Application was filed on July 31, 2015, which was over five (5) years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court dismiss the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

V.

Respondent denies each allegation that is not expressly admitted, qualified or explained. R. p. 304-of-497, ROA)

Appx.(H)(9-of-10)

VI.

WHEREFORE, Respondent moves to summarily dismiss the application because it is successive to Applicant's previous PCR applications and was filed after the statute of limitations had expired.

Respectfully submitted,

ALAN M. WILSON
Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: _____
Attorneys for the Respondents

3/6, 2017

(R. p. 305-of-497. ROA)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
EXHIBIT (10)
APPX (H) (Report Page (10))
)
JOSE ALBERTO MALDONADO, #312648,)
)
Applicant,)
)
vs)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS

2015-CP-23-4757

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE, SC
2017 MAR -8 AM 11:21

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jose Alberto Maldonado, #312648
Kershaw Correctional Institution
4848 Goldmine Hwy
Kershaw, SC 29067

DATED this 7th day of March, 2017.

(R. p. 306 of 497 ROA)

Ashley Haworth

Ashley Haworth, Paralegal
For Respondent

ALAN WILSON
ATTORNEY GENERAL

Exhibit F (11)
Appendix: (I) (Report page 1 through 11)

March 7, 2017

The Honorable Perry H. Gravely
Presiding Judge – 13th Judicial Circuit
Post Office Box 219
Pickens SC 29671

Re: **Jose Alberto Maldonado v. State of South Carolina**
2015-CP-23-4757

Dear Judge Gravely:

Enclosed please find the proposed original **Conditional Order of Dismissal** in the above-captioned cases. If these orders meet with your approval, please sign and forward to the Greenville Clerk of Court to be filed and served.

Sincerely,

J. Clayton Mitchell
Assistant Attorney General

JCM/ah
Enclosure(s)

cc: Jose Alberto Maldonado, #312648

(R. p. 307 of 497 ROA)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO: 2015CP2304757

Jose Alberto Maldonado *vs.* **South Carolina State of**

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO SC
2017 MAR 13 PM 4:32

APPX.:(I)(2-of-11)

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

(R. P. 308-of-497. ROA) **PRESIDING JUDGE - Perry H Gravely**

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

Jose Alberto Maldonado Kershaw Correctional Institute 4848 Goldmine Hwy Kershaw, SC 29067

James Clayton Mitchell III PO Box 11549 Columbia, SC 29211

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS THIRTEENTH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648, Applicant, v. State of South Carolina, Respondent.	2015-CP-23-0475 **CONDITIONAL ORDER OF DISMISSAL**

FILED-CLERK OF COURT
PAUL B. WICKENSIMER
GREENVILLE CO. SC
2017 MAR 13 PM 4:32

Appx.:(I)(3-of-11)

This matter comes before this Court by way of an application for post-conviction relief filed July 31, 2015.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury. Applicant was indicted by the State Grand Jury in December 2005 for trafficking in crack cocaine conspiracy, more than 400 grams (2005-GS-47-0026, Count 1) and trafficking in methamphetamines, more than 400 grams (2005-GS-47-.0026, Count 4). Applicant was represented on the charges by James H. Price, Esquire. Applicant pleaded guilty on August 22, 2006, before the Honorable Alexander Macaulay to the lesser included charges of conspiracy to traffick in more than 28 grams but less than 100 grams of methamphetamine (2nd offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2nd offense). Sentencing was deferred until April 10, 2007, where Applicant was sentenced to concurrent terms of twenty (20) years' imprisonment. Applicant did not appeal his pleas or sentences.

(R. p. 309-of-497. ROA)

plr

Applicant subsequently filed an application for post-conviction relief on March 18, 2008. Respondent filed its return on or about September 30, 2008. An evidentiary hearing was convened on December 8, 2008, at the Greenville County Courthouse before the Honorable Edward W. Miller. Applicant was present and represented by Rodney W. Richey, Esquire. At the hearing, Applicant chose to voluntarily withdraw his PCR application. After questioning Applicant about his decision, Judge Miller dismissed the matter with prejudiced by Order filed on December 29, 2008. Appx.: (I)(4-of-11)

2010-CP-23-3391

On April 28, 2010, Applicant filed his 2nd application. The State made its Return and Motion to Dismiss on or about August 20, 2010, requesting that the application be summarily dismissed. By Conditional Order of Dismissal filed on September 9, 2010, the Honorable Robin B. Stillwell dismissed the 2nd application finding it was time barred by the statute of limitations and successive to Applicant's first application. Applicant filed a Motion for Immediate Release from the Conditional Order of Dismissal on or about September 30, 2010. On December 14, 2010, Judge Stillwell dismissed the application finding the reasons stated in Applicant's responses to the Conditional Order had not shown sufficient reason why the order should not become final. Judge Stillwell found the application clearly successive and filed outside the statute of limitations.

Applicant appealed the denial of the second application to the South Carolina Supreme Court. Applicant submitted a lengthy document as his Rule 243(c) explanation. However, by Order dated April 20, 2011, the court determined Applicant failed to show there was an arguable basis for asserting that the PCR court's determination was improper. The court dismissed

(R. p. 310-of-497. ROA)

Applicant's appeal. Applicant then filed a request to reconsider its denial of Applicant's petition, but the court declined to take action because Applicant failed to submit a certificate of service upon opposing counsel. The remittitur was issued on June 3, 2011.

APPX. :(I)(5-OF-11) **2011-cv-01372**

Applicant then filed a *pro se* petition for writ of habeas corpus on June 2, 2011, in federal district court. Applicant raised the following issues verbatim:

1. The Clerk of Court of Supreme Court of South Carolina failed and refused to raise other my Grounds again. (Under PCR Act).
2. Professional conduct for court interpreters. As officer of the court, interpreter help assume that such person may enjoy equal access to justice and that court proceeding.
3. The H abes Corpu* Remedies will reverse or Order, for Relief, under invalid indictments. Lack of Jurisdiction. Over:
4. The plea form currently used in any court provide notice of possible immigration consequences. Court and Counsel Adverse in issues of:

On August 22, 2011, Respondent filed a return and motion for summary judgment. The district court granted the State's Motion for Summary Judgment on December 5, 2011, and dismissed the petition. Applicant then filed a notice of appeal on December 14, 2011. The United States Fourth Circuit Court of Appeals issued an opinion dismissing the appeal on March 20, 2012.

CURRENT APPLICATION

In his current application for post-conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Because, the Respondent have Fraudulent Indictments, and had been misrepresent the State of South Carolina, by use ("two Counties") and lack jurisdiction, upon the State Grand Jury, in Columbia;
2. Violated Code of Laws its "Statutes", when at the time that: fall inside the State Constitutional/United States its Constitution;
3. That trial judge(s) with "Bias", against the Rule 501 canon 3(A)(B)(5), (C)(1), and canon 5(D), SCACR, (Ex Parte Communication. See also Rule 502 cite Rule 11, & 12(c), RJD Ex-Parte Contacts; In re Woodham, 386 S.C. 495, n.1, 499, 689 S.E.2d 605, 607, (2010); See at (per se rule); see id., State v.

(R. P. 311-OF-497. ROA)

PLR

APPX.: (I)(6-of-11)

Cheatham, 349 S.C. 101, 109, 112, 561 S.E.2d 618, 624 – 627 (2002), citing Rule 104, & 404(b);

4. Because therein is a CONFLICT OF INTEREST between the prosecutor with held to the STATE GRAND JURY from Columbia, was this County, allow them, by let used a "FRAUDULENT SWORN AMENDED SUCH INDICTMENTS ..." with the same series of (Numbers); and
5. Which Applicant had been prosecuted in the GENERAL SESSIONS court term/indicted with CONSECUTIVELY OFFENSES, MULTIPLE GRAND JURY DATES, and Counts: That, the "State Grand Jury from (SC) Columbia deprive a Court in the Greenville County is jurisdiction," before the Applicant agree inside of both INDICTMENTS/where not had or, have being present, upon the State Grand Jury, and which choice not being indict relative of any exsistanced, (i.e.,). But who later sued for malicious prosecution;
6. The Susana O. Porter, solicitor, "MANDATORY" has toAMEND the "TRUE BILL INDICTMENT" to: A second Offenses; (28 –unless- 100) grams; and "quashed" the (Inf., Indictmens for 7-years sentences) included the (Inf., from Dec. 13, 2005 indictment's (Count Two)), with the unknow names; and pursued with a single name. As an Applicant upon the SUPERSEDING INDICTMENT, because the (100 –grams, more than - >400 grams: Therefore, this PROVISION, had been EXCHANGED its NATURE of LANGUAGE at the STATUTE; SC. Code of Laws Ann. § 44-53-375(C)(2)(b); and quashed the LENGUAGE of: § 44-53-375(C)(5) at front as the Applicant's Greenville County. In his "PRIOR BREACH IS NEGOTIATION of GUILTY PLEAD," see the "PLEAD AGREEMENT: Was therein, is no been signed" and that against Mr. Maldonado is relief. Because Applicant didn't signed the Waiver, was that barred by res judicata to been prosecute Applicant with those papers.
7. Counsel was ineffective for not attempting to get all the drug charges ran together pursuant to South Carolina Ann., § 17-25-50; see e.g., Brayan v. State, 384 S.C. 525, 530, 683 S.E.2d 280, at 283 (S.C. 2009)(quoting State v. Gordon, 356 S.C. 143, 150, at 153, 188 S.E.2d 105, (111) (S.C. 2003) ("[C]ounsel was ineffective for not challenging the invalid "Indictment(s)" before Applicant plead guilty'? Hereby, (Mr. Maldonado), had been filed ("Tw PCR. Act.), but the State denied such applications, for a successive petitions, was against the (1-year of limitations Act.). But now, I am ("a motions"). In the "General Sessions Court Term." Holdings, the Ground for Relief as follows:
8. The null and void indictments" makes the "conviction(s) and sentences constitutionally" (invalid)? Because, during the prosecution, the "State is failure to collateraly review a "physically presented [Applicant] at the imposition of sentences" such (Inf., Indictments")' See Jimenez v. Quarterman, 555 U.S. 120, N.4, 121, 129 S.Ct. 681, at 686 (2009) ("[t]he statute thus carries out "AEDPA's goal" of promoting 'comity, finality, and federalism' by givin state courts 'the first opportunity to review (the) claim,' and to 'correct' any constitutional violation in the first instance." (Quoting,

(R. P. 312-of-497. ROA)

PM

Appx.:(F)(7-of-11)

Carrey v. Safforld, 536 U.S. 214, 220 (2002). The statute requires a federal court, presented with an individual (is) first "Petition for habeas corpus" relief? Sending, those facts at (C/A#.:8:11-cv-01372-TWL DAte Filed 9/27/11 (Entry-Number 24 at Page 2/between the State's Summary Judgment, (Doc. 15) when the Jacquelyn D. Austin Denied the § 2254 Petition and grant ("Doc. 15")? Was this motion showing the judgments is recommendation is "Null and Void". Against the relief. Because the "dates didn't match (Eah one?"); see the ("Inf., Sworn to the State Grand Jury inside the filed Motions/Doc. 15 from the State and Doc.24 from "Jacquelyn D. Austin" Indictments"' and

9. Was the plea constitutionally invalid due to the court failure to comply with the mandate of Rule 11, FRCrimP; see Boykin v. Alabama? ...Did prosecutorial misconduct make this plea invalid ...; U.S. v. Lawrence, 248 F . 3d 300, 305 (4th Cir. 2001)(recentencing vacated and Remended, because defendant must be "physically present at imposition of sentenced"); see, id., Keeney v. Tamayo Reyes, 504 U.S. 1, 11-12 (1962)). To obtain hearing, Petitioner mus show cause for his failure to develop the facts in "State Court" proceedings and actual prejudice resulting from that failure: unless failure to hold evidentiary hearing would result in "fundamental miscarry of justice") Barr v. City of Colum,bia, at 149, 84 S.Ct. at 1736 (1964)("([S]tate, requirements which are not strictly deprive 'Applicant' of the right to review his claim).
10. Applicant, showdown to this C ourt, why this case be heard and Rule? Upon, Accordingly, Williams v. State, 354 S.C. 360 n.1, 632, 583 S.E.2d 52 54 (2003)(before the issue summon and complaint) See, also Garner v. State, 371 S.C. 1; 2, n.1, 3:, 636 S.E.2d *60 __ (2006)(holding, the State filed a "void" motions; (1) to alter or amend the Order; and (2) the preside (3rd PCR Act.) judge granted, as Applicant is Rule 59(e), SCRCP, and a mislead is "Motions; Order from November 8, 2013/April 3, 2014". Preside judge Edward W. Miller.

Applicant then filed a document captioned "Motion to Address All Issues," on December 22, 2016. Attached was a document captioned "Initial Brief in Support of the Application for Post Conviction Relief," where Applicant sets forth four (4) issues:

1. Counsel was ineffective for not attempting to have all drug charges consolidated pursuant to S.C. Code Ann. § 17-25-50.
2. Counsel was ineffective for not challenging the invalid indictments before advising Applicant to plead guilty.
3. Did the invalid indictments make the convictions and sentences constitutionally invalid.

(R. P.313-of-497. ROA)

plp

Appx.: (I)(8-of-11)

4. Was the plea constitutionally invalid to the court's failure to comply with the mandates of Rule 11, FRCrimP. And Boykin v. Alabama, (1963)?

On January 25, 2017, Applicant filed a documents captioned "Motion to Allow Transfer and Consolidate Cases Pursuant to Rule 42(a), SCRCP, Between Rule 60(b), SCRCP Pending File Motion." In the motion Applicant asks the court to transfer the general sessions cases into this common plea case number. Also on January 25, 2017, Applicant filed a document captioned "Amendment to Post Conviction Relief Application 4th PCR. Action (Rule 15(a)(b), SCRCP)". In this document, Applicant presents the following issues:

1. The indictment C/A#: 2005-GS-47-0026, upon which the offense for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);
2. [Grounds 4(a)]. The indictment numbers upon which the sentences were imposed violated the S.C. And U.S. Constitution;
3. [Ground 5(a)]. The date upon which sentences was wrong had been imposed and the term of the sentence;
4. [Ground 6(a)]. Check, the Applicant whether a finding of guilty was made;
5. [Ground 7] Applicant did not appeal from the judgment of conviction for the impotition of his sentence(s)?
6. [Ground 8] The Applicant, answered to (ground 7) to no had "any appeal" in his due process to the S.C. Court of Appeals.
7. [Ground 9(a)]. Applicant's answer "no" to grounds (7), and (8) why Applicant did not so appealing;
8. The Applicant hereby this amends answers to (number 10 through 11) in his Application for Post-Conviction Relief to stat the following:
9. Enter [Ground 12(a)] Prior to this Application have beenfile with respect to this conviction, against Applicant's relief, included Petitioner first, second and "third, had been argued at his petition with The SC State Courts; (b)(c), see:
10. [Ground 13 through 18] hat Applicant constitutionally answered to all parts of his Application, and part of (12), list with respect to each petition, motion or application:
11. [Ground 19]. The Applicant, addressing all's grounds for the relief have been sought to file his "Post-Conviction Relief (4th PCR.Act) Application, after his Initial Brief had, been filed with this Court:

(R.p. 314-of-497.ROA)

Before this Court are the records of the State Grand Jury Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, Applicant's previous PCR records, Applicant's PCR application and Respondent's Return and Motion to Dismiss. APPX. :(I)(9-of-11)

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Successiveness

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

> All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-

(R. P. 315-of-497. ROA)

plr

conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992). APPX.:(10-of-11)

Statute of Limitations

This Court further finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to –160 (2003). S.C. Code Ann. §17-27-45(a) reads as follows:

> An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the Remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). Applicant pled guilty to the offenses he challenges on August 22, 2006, so he was therefore required to file his application on or before August 23, 2007. This Application was filed on July 31, 2015, which was over five (5) years after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court summarily dismisses the application for post-conviction relief for failure to file within the time mandated by the Post-Conviction Procedure Act.

(R. P. 316-of-497. ROA)

PPP

III. CONCLUSION

Pursuant to S.C. Code Ann. §17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Greenville County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
J. Clayton Mitchell, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 10th day of March, 2017.

Exhibit "(11)
APPENDIX "(F)(R.COSH Page 11)

PERRY H. GRAVELY
Chief Judge for Administrative Purposes
Thirteenth Judicial Circuit

Greenville, South Carolina

(R. P. 317 of 497 ROA)

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court for Greenville County
Greenville, South Carolina

www.greenvillecounty.org

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 JUL 31 PM 2 49

JULY 31, 2015

JOSE ALBERTO MALDONADO 312648
KERSHAW CORRECTIONAL INSTITUTE
4848 GOLDMINE HWY
KERSHAW SC 29067 Exhibit (12)
Appendix: (J)(Report Page (1) through (11))

MR. MALDONADO,

ENCLOSED YOU WILL FIND A COPY OF YOUR POST CONVICTION RELIEF APPLICATION. YOUR CIVIL CASE NUMBER IS 2015CP2304747.

A COPY OF YOUR PCR HAS BEEN FORWARDED TO THE ATTORNEY GENERAL'S OFFICE.

ONCE IT IS DETERMINED THAT A HEARING SHALL BE SCHEDULED, YOU PROCESS FOR ATTORNEY ASSIGNMENT WILL BEGIN. THIS MAY TAKE SEVERAL MONTHS.

WE ONLY FILE THE PCR APPLICATIONS. WE DO NOT SET COURT DATES NOR ARE WE ABLE TO ANSWER QUESTIONS CONCERNING YOUR CASE.

THANK YOU
CLERK OF COURT'S OFFICE

(R. P 318 of 497. ROA)

FORM 5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
County of Greenville)

Jose Alberto Maldonado,)
Full name and prison number (if any) of Applicant)
Applicant,)
v.)

State of South Carolina,)
Respondent.)

Exhibit (12)
Appx.:(5)(2-of-11)

FILED-CI GREENVILLE CO. S.C.
2015 JUL 31 PM 2 49
PAUL B. WICKENSIMER
CLERK OF COURT

APPLICATION FOR
POST-CONVICTION RELIEF
2015-CP-23-04477

INSTRUCTIONS – READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center, 20 McGee Street Greenville South Carolina.
2. Name and location of Court which imposed sentence Greenville County Courthouse 305 East North Street Suite 325 Greenville SC. 29601
3. Name(s) of co-defendant(s) (if any) Mrs. Lisa Lavern Ramirez, Mr. John Nelson Turner, See, others at the C/A#.:05-GS-47-0026,Unknow Co-Defendant(s).
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:2005-GS-47-0026/2003-GS-23-45-0047/03-GS-23-45-0045
   (a) Count I, Direct Indictment/28-100 grams,2nd offense,(7-30 years),&(IV)
   (b) At the Sentencing Sheet; The Dec.13, 2005 Indictment, have count (Two).

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(c) That, Superseding Indictment, from Feb. 22, 2006 have (Count-3, & Not Count-4).

5. The date upon which sentence was imposed and the terms of the sentence:

(a) November 29th 2005, for (7-years, Presided Edward W. Miller judged);

(b) August 22, 2006/April 10, 2007;(guilty plead/sentenced: Presided Macaulay judge);

(c) (20-years, 2nd offenses, run-concurrent); by 11/29/2005, & 4/10/2007. Sentence(s)

6. Check whether a finding of guilty was made: Aplicant unknowingly (plead guilty);

(a) after a plea of guilty Yes

(b) after a plea of not guilty N/A

(c) after a plea of nolo contendere N/A

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No Appeal

8. If you answered "yes" to (7), list: APPX. (J)(3-of-11)

(a) the name of each Court to which you appealed:

i. N/A

ii. N/A

iii. N/A

(b) the result in each such Court to which you appealed:

i. N/A

ii. N/A

iii. N/A

(c) the date of each such result:

i. N/A

ii. N/A

iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. N/A

ii. N/A

iii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) No right to Appeal Guilty Pleas in South Carolina?. And also the Applicant is a layman under the laws, in: (US. its Const.); and (State Const.);

(b)

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(c) This mean's that: I am not had the skill by laws; to be use, my defensed

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See [Index attach., to the State of SC]; and Table of Contents.

(b) Const., Right Being Violate/Resulted From an Ilegal Grand jury:

(c) A Void Indictments & Criminal Acts ...Constitutional Provisions.

11. State concisely and in the same order the facts which support each of the grounds set out in (10): The "allegation" of ineffective assistance of counsel probably

(a) raises "questions of facts" that cannot be conclusively refuted by the court;

(b) That Respondent've Fraudulent Indictments/and Misrepresent the (State of S.C.);

(c) The Applicant requests an evidentiary hearing to fully resolve this issue; See, e.g., Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? Yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? Yes

(d) any other petitions, motions or applications in this or any other Court? Yes

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application: Clerk of Court Greenville County 301 E. North St. Greenville, SC. 29601

(a) the specific nature thereof: See Constitutional Provisions: At (A)(1);

i. Hon: Jacquely D. Austin judge, Denied the Petition USCA.§ 2254;

ii. and granted [Doc.15]? Was this motions had mislead the "Sworn Information's dates"

iii. Because, the "dates didn't match one at the indictments" Pursuant (Doc.24).

iv. See A).(2) Did prosecutorial misconduct make this plea invalid: At Rule 11 FRCrimP.

(b) the name and location of the Court in which each was filed:

i. SC. Supreme Court, P.O. Box 11330 Columbia, SC 29211

ii. Clerk, U.S. District Court 300 E. Washington Street Greenville, SC. 29601

iii. Clerk, (4th Cir) Court of Appeals 1100 E. Main St., Suite 501 Richmond, Va,23219.

iv. Office of the Clerk Supreme Court of the United States Washington, DC. 20543-0001.

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(c) the disposition thereof: That, the following authorities to the

i. filed, (3rd-PCR.Act) [in the 13th Judicial Circuit]: This, court issued the

ii. final Order of dismissal, Entered - Notice of Appeal, of Rules 203,206, & 243;

iii. the S.Ct. returned a Explanation requirement within (20) days and dismissed.

iv. Petioner filed a Rehearing and Remittitur, against the matter of dismissal.:

(d) the date of each such disposition: This Court Granted two PCR. Hearings. First, came on Oct. 25, 2013. Second April 1, 2014.

i. This PCR.Act had been posted Mar.7,2013: The Final Order of Dismissal Entered

ii. April 9, 2014; a Notice of Appeal filed on 5/28/2014. On 6/4/2014 Petitioner,

iii. Filed R.243(c) SCACR; the Court Returned written Order 4/3/14 to 20 days, but

iv. the SC.S.Ct. dismissed the Petition, before to Dealine had Expired, 6/19/2014.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition: Hereby "ORDER" to the Notice of Appeal had been dismissed, and a Petition for Rehearing and Remittitur's denied on August 6, 2014;

i. That, SC. Supreme Court Entered the Order to the Lower Court on August 6,2014.

ii. see also the RETURN AND MOTION TO DISMISS, entered judgment on:August 15, 2013;

iii. (same two) CONDITIONAL ORDERS OF DISMISSAL: Entered On Aug. 22, 2013/THE RETURN,

iv. MOTION TO ALTER OR AMEND THE ORDER DENYING THE MOTION FOR A DEFAUL:Aug.15,2014. And a ORDER DENYING MOTION FOR DEFAULT, Entered on November 8, 2013.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? Petition, Under 28 USCA.§§ 2254; 636(b)(1)(B): and Local Rule 73.02(B)(c),(D.S.C.); Petitoner, issued the petition for Writ of Habeas Corpus on June 2, 2011.[Doc.1-3].

15. If you answered "yes" to (14) identify: Ineffective Assistance of Counsel; Judicial Misconduct; and Violation of Due Process.

(a) which grounds have been presented: Denial Constitutional rights on Appeal

i. Included, denial my acces to the court, records, Reasonable doubt to stop my rights

ii. A Constitutional violation with the SC.S.Ct. To hold unfinished copies of papers,

iii. Violated the SC.Const. Articles's Statutes; at trial, judge(s) with bias,[etc.]

(b) the proceedings in which each ground was raised: See the Petition's Grounds 1(a) By the [Doc.24, pages,(6-7)];

i. same Subdivision(e). Conflict of Interest/judges with personal bias,(1st, & 3rd,PCR)

ii Ground 3(a): Invalid Indictments; hereby, Defendant was convicted In Greenville is

iii. County; and had indicted in the Grand Jury in Columbia; such conviction was not vested; See Grounds 2, & 4(a): Violation to a Court Interpreter; and also any court have the right to provide a "Notice" to Possible Immigration consecuenss, Immigrant Defendants. Were the court and defense of counsel adversed in this issue at trial.

Appx. (J)(6-of-11)

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: The State issued; Applicant was indicted at Dec.2005). See Return & Motion To Dismiss Agust/13/2013. Each Motions.

(a) That, Respondent, argued upon the Jacquelyn D. Austin's Report & Recommendation.

(b) But those facts fall at her recommendation dates of [Indicted from Feb/22/2006].

(c) And That against the Final Order to Feb.29,2014: Was's not true bill indictment.

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes

(b) your trial, if any? No

(c) your sentencing? Twenty year 85 % 100.

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No Appeal at the imposition of sentences

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
Three Post - Conviction Relief Applications had been submitted

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. James H. Price 644 East Washington Street
Greenville, S.C. 29601

ii.

iii. Richey & Richey, Post Office Box 10916
Greenville, S.C. 29603

(b) the proceedings at which each such attorney represented you:

i. (First, Sentenced for 7-years), without guilty plead hearing: Nov. 29, 2005; The guilty plead hearing on August 22, 2006/Sentenced April 10, 2007.

ii. [First Post Conviction Hearing], held on December 8, 2008;

iii. Proceeding hearing C/A Number: 2008-PC-23-2140.

Revised 3/2003

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19. State clearly the relief you seek in filing this application:

There, will be an Initial Brief to be "amended in regard to our Grounds" for Relief. Under the Alternative Petition For State Habeas Corpus. Pursuant To SC.Ann.§§ 17-17-10/110; and SC. Const.Art. 1,§ 18.

20. Are you now under sentence from any other court that you have not challenged?

N/A

N/A

STATE OF SOUTH CAROLINA)
County of Greenville) VERIFICATION

I, Jose Alberto Maldonado, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Cathrine A. Conrad

SWORN to and subscribed before me this 27 day of July, 2015.

Cathrine A Conrad (L.S.)
Notary Public

My Commission Expires: My Commission Expires December 22, 2018

(R. P. 324-of-497.ROA)

APPX. (J)(8-of-11)

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Jose Alberto Maldonado, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Jose A. Maldonado
Applicant

SWORN or affirmed to and subscribed before me this 27 day of July, 2015.

Catherine A. Cornejo
Notary Public

My Commission Expires: My Commission Expires December 22, 2018

(R. @ 325-of-497. ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE : IN THE COURT OF COMMON PLEAS
) FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado,
Applicant,

APPX.(J)(9-of-11)

V.

State of South Carolina,
Respondent.

APPLICATION FOR POST-CONVICTION RELIEF/and

ALTERNATIVE PETITION FOR STATE HABEAS CORPUS PURSUANT TO S.C. Code 1976, §§ 17-17-10/20; 17-17-50/70-110; & Art.I, § 18

I N D E X

-Attachments-

CONSTITUTIONAL RIGHT BEING VIOLATED/RESULTED FROM AN ILLEGAL GRAND JURY/VOID INDICTMENTS AND CRIMINAL ACTS

To:

The Honorable: Paul B. Wickensimer
In The Court of Common Pleas
301 E. North Street/Room,# 224
Greenville,S C. 29601

Greenville County Solicitor's Office
W. Walter Wilkins,
305 E. North Street Suite 325
Greenville, S.C. 29601

Steve Loftis, Sheriff of Greenville County, and Captain Scott R. Bodiford
Greenville County Detention Center
20 McGee Street Greenville, S.C. 29601

State Grand Jury of South Carolina
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building
Columbia, S.C. 29201

Holding The Records: The Chief,
(SC) Attorney General Alan Wilson
Office
Post Office 11549
Columbia, S.C. 29211

Trial Counsel of Records:
James H. Price, Esquire
644 East Washington Street
Greenvill, S.C. 29601

Counsel of Records:[First, (PCR)]
Rodney Richey P.O. Box 10916
Greenville, S.C. 29603

[Former Asst., Attorney General]
Solicitor of Records: Susan O. Porter/"General COUNSEL SLED"
Office P.O. Box 21398
Columbia, S.C. 29221

Sincerely, Remitter

s/ Jose A. Maldonado
José Alberto Maldonado, #:312648
The Petitioner,
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067

File: This 7th, day of July, 2015

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Arguments:

A). Because, the Respondent have Fraudulent Indictments, and had been misrepresent the State of South Carolina, by use ("two Counties") and lack of jurisdiction, upon the State Grand Jury, in Columbia;

(1) Violated Code of Laws its "Statutes", when at the time that: fall inside the State Constitution/United States its Constitution;

(2) That trial judge(s) with "Bias", against the Rule 501 canon 3(A)(B)(5), (C)(1), and canon 5(D) SCACR, (Ex Parte Communication. See also Rule 502 cite Rule 11, & 12(c), RJD Ex-Parte Contacts; In re Woodham, 386 S.C. 495, n.1, 499, 689 S.E.2d 605, 607, (2010); See at (per se rule); see id., State v. Cheatham, 349 S.C.101, 109, 112, 561 S.E.2d 618, 624 - 627 (2002), citing Rule 104, & 404(b);

(3) Because, therein is a CONFLICT OF INTEREST between the prosecutor with held to the STATE GRAND JURY from Columbia, was this County, allow them, by let used a "FRAUDULENT SWORN AMENDED SUCH INDICTMENTS ..." with the same series of [Numbers]; and

B). Which Applicant had been prosecuted in the GENERAL SESSIONS court term/INDICTED with CONSECUTIVELY OFFENSES, MULTIPLE GRAND JURY DATES, and Counts: That, the "State Grand Jury from (SC) Columbia deprive a Court in the Greenville County is jurisdiction," before the Applicant agree inside of both INDICTMENTS/where not had or, have being present, upon the State Grand Jury from (SC) Columbia; Applicant, over the State Grand Jury, and which choice not being indict relative of any exsistanced, (i.e.,). But who later sued for malicious prosecution;

(1). The Susana O. Porter, solicitor, "MANDATORY" has to AMENDED the "TRUE BILL INDICTMENT" to: A Second Offenses; (28 -unless- 100) grams; and "quashed" the [Inf., Indictmens for 7-years sentences] included the (Inf., from Dec. 13, 2005 indictment's [Count Two]), with the unknow names; and pursued with a single name. As an Applicant, upon the SUPERSEDING INDICTMENT, because the [100 -grams, more than- >400 grams: Therefore, this PROVISION, had been EXCHANGED its NATURE of LANGUAGE at the STATUTE; SC. Code of Laws Ann. § 44-53-375(C)(2)(b); and quashed the LENGUAGE of: § 44-53-375(C)(5) at front as the Applicant's Greenville County. In his "PRIOR BREACH is NEGOTIATION of GUILTY PLEAD," see the "PLEAD AGREEMENT: Was therein, is no been signed" and that against Mr. Maldonado is relief. Because Applicant didn't signed the Waiver, was that barred by res judicata to been prosecute Applicant with those papers.

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Appx.(J)(Report of Page (11))

Exhibit (Q)

CONSTITUTIONAL PROVISIONS

That, The Concisely of Grounds For Relief:

A). Counsel was ineffective for not attempting to get all the drug charges ran together pursuant to South Carolina Code Ann.,§17-25-50; see e.g., Brayan v. State, 384 S.C. 525, 530, 683 S.E.2d 280, at 283 (S.C. 2009)(quoting State v. Gordon, 356 S.C. 143, 150, at 153, 188 S.E.2d 105, (111)(S.C. 2003). ("[C]ounsel was ineffective for not challenging the invalid "Indictment(s)" before Applicant plead guilty'? Hereby, (Mr. Maldonado), had been filed ["Two PCR. Act.], but the State denied such applications, for a successive petitions, was against the [1-year of limitations Act."]. But now, I am hold ("a motions"). In the "General Sessions Court Term." Holdings, the Greunds for Relief as follows:

(1). The null and void indictments" makes the "conviction(s) and sentences constitutionally" [invalid]? Because, during the prosecution, the "State is failure to collateraly review a "physically presented [Applicant] at the imposition of sentences" such [Inf., Indictments"]; See Jimenez v. Quarterman, 555 U.S. 120, N.4, 121, 129 S.Ct. 681, at 686 (2009)("[t]he statute thus carries out "AEDPA's goal" of promoting 'comity, finality, and federalism' by givin state courts 'the first opportunity to review [the] claim,' and to 'correct' any constitutional violation in the first instance."(Quoting, Carrey v. Safforld, 536 U.S. 214, 220 (2002). The statute requires a federal court, presented with an individual [is] first "Petition for habeas corpus" relief? Sending, those facts at [C/A#.:8:11-cv-01372-TWL DAte Filed 09/27/11(Entry-Number 24 at Page 2/between the State's Summary Judgment, [Doc.15] when the Jacquelyn D. Austin Denied the § 2254 Petition, and granted ["Doc. 15"]? Was this motions showning the judgments is recomendation is "Null and Void". Against the relief. Because the "dates didn't match" [Each one?"]; see the ["Inf., Sworn to the State Grand Jury inside the filed Motions/Doc. 15 from the State, and Doc.24 from "Jacquelyn D. Austin" Indictments"); and

(2). Was the plea constitutionally invalid due to the court failure to comply with the mandates of Rule 11, FRCrimP; see Boyking v. Alabama? ...Did prosecutorial misconduct make this plea invalid...; U.S. v. Lawrence, 248 F .3d 300, 305 (4th Cir. 2001)(recentencing vacated and Remended, because defendant must be "physically present at imposition of sentenced"); see, id., Keeney v. Tamayo Reyes, 504 U.S. 1, 11-12 (1962)). To obtain hearing, Petitioner mus show cause for his failure to devolop the facts in "State Court" proceedings and actual prejudice resulting from that failure" unless failure to hold evidentiary hearing would result in "fundamental miscarry of jutice") Barr v. City of Colum,bia, at 149, 84 S.Ct. at 1736 (1964)("[S]tate, requirements which are not strictly deprive 'Applicant' of the right to review his claim).

B). SUPPORTING POST CONVICTION RELIEF ACTION

(1). Applicant, showdown to this Court, why this case be heard and Rule? Upon, Accordingly, Williams v. State, 354 S.C. 630 n.1, 632, 583 S.E.2d 52, 54 (2003)(before issue summon and complaint) See, also Garner v. State, 371 S.C. 1, 2, n.1, 3:, 636 S.E.2d 860 ___(2006)(holding, the State filed a "void" motions;(1) to alter or amend the Order; and (2) the preside (3rd PCR Act.) judge granted, as Applicant is Rule 59(e) SCRCP, and a mislead is "Motions; Orders from November 8, 2013/April 3, 2014". Preside judge Edward W. Miller

Issue File: 7/17/2015.

Respectfully Submitted
s/ Jose A. Maldonado
Jose A. maldonado,#312648

(R.P. 328 of 497 ROA)

STATE OF SOUTH CAROLINA) COUNTY OF GREENVILLE)	IN THE COURT OF COMMON PLEAS FOR THE 13TH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648,) Applicant,) V.) State of South Carolina,) Respondent.)	Case No. 2015-CP-23-04747 MOTION TO ADDRESS ALL ISSUES

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 DEC 22 AM 11 35

EXHIBIT: (13)

Appendix: (K)(Report Page (1 through 4))

Now comes the Applicant, Jose Alberto Maldonado, 312648 who ask this Honorable Court to require any/all attorneys involved in this Post-Conviction Relief/Alternative Petition For State Habeas Corpus and any amendment(s) thereof to be meticulous in the preparation of any "Order" prepared in this matter.

Specifically, the Applicant request that each and every issue within the "PCR" Application/Petition for State Habeas Corpus, with an Initial Brief In Support thereof, be addressed in the "Order" of the Court in the Conclusion of this matter.

The Applicant request this Motion pursuant to S.C.Code, § 17-27-80. Citing, Bryson, v. State, S.C. ,500 S.E.2d 500(1997) (quoting, Pruitt v. State, 310 S.C. 254, 423 S.E.2d 127 (1992); McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991), and for the Interest of Justice.

File: (4th PCR. Act. Doc.2)

(R. P. 329 of 497. ROA)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

Appx. (K)(2-of-4)

January 10th, 2017

The Honorable Paul B. Wickensimer
Clerk of Court/305 North Street, Suite #325
Greenville, South Carolina

Re: Jose A. Maldonado, C/A#.:2015-CP-23-04747 v. State of South Carolina Respondent.

Dear Clerk of Court:

Please find enclosed my "AMENDMENT TO POST-CONVICTION RELIEF APPLICATION (4th PCR. ACTION) Pursuant to Rule 15(a)(b) SCRCP.

Further, Applicant, demand an original clock - stamped a copy, and return's copy in envolope provide.

In reference to the above - captioned criminal, or civil case. Thus, if this file meets your approval with this court, signed and return, for been filed the enclosure self-address stamped envolope.

Thank you for your Kind Servoce,

Sincerely

Jose Alberto Maldonado
#312648
Plaintiff, Pro Se.

Cc: Counsel of Records
(SC) Alan Wilson's Office
P.O. Box 11549
Columbia, South Carolina 29211

File: (4th PCR. Act. Doc. 3)

(R.P. 330-of-49. ROA)

Appx.(K)(3-of-9)

Supporting Amendment after this file motion, has been addressed in the 13th Judicial Circuit's Court of Common Pleas. Pursuant to Arnold v. State, 309 S.C. 157, 173, 174, 420 S.E.2d 834, at, 842 (1992); see, e.g., Mayer v. Felix, 545 U.S. 644, 125 S.Ct. 2562 162 L.Ed.2d 582 (2005)(A motion to amend a pleading is addressed to the discretion of the (PCR Act) presided judge, and the party opposing the motion prejudice. (Citing Maldonado v. McMaster, ___F.Supp.2d___ 2011 Case No. 602651)); See, also Yates v. Evatt, 500 U.S. 391, 111 S.Ct. 1884 1144 L. Ed.2d 432 (1991)(quoting Arnold, at 160, 420 S.E.2d at, 837.

The Petitioner, invoked this "jurisdictional deffect be cured by amendment to the petition of the 30-days" period prescribed by 28 U.S.C. § 1446(b); and Finally does 28 U.S.C. § 1653, "permitting amendment to defective allegations of jurisdiction, even as late as appeal," answer the "initial question" raised it in this matter. See e.g., Hendricks v. State, 387 S.C. 221, 223, 692 S.E.2d 892 (SC. App. Ct. 2010)(ORDER). This Court dismiss the notice of appeal and remand this matter to the circuit court with intructions to consider his "Rule 60(b) Motion as an application for PCR relief." Therefore, this court have to be granted the motions.

Done this 14th, day of December, 2016. Respectfully Submitted

File: (4th PCR. Act. Doc.2)

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

(R. p. 331 -of-497. ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Jose Alberto Maldonado, #312648,

Applicant, Pro Se,

V.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Case No. 2015-CP-23-047-47

Certification Of Service

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2016 DEC 22 AM 11:36

(EXHIBIT: (13).
APPX. (K) (Report of Page (1))

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have serve copy of the MOTION TO ADRESS ALL ISSUES.

Upon the below listed names:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #224
Greenville, South Carolina 29601

(SC) Attorney General's Office
Alan Wilson
P.O. Box 11549
Columbia, South Carolina 29211

Further, Applicant said and Notarized
This 14th day of December, 2016.

Respectfully Submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me

This 14th day of December, 2016.

Catherine A Cirrone

Notary Public For South Carolina

My Commission Expires:
My Commission Expires December 22, 2018

File: (4th PCR. Act. Doc.2)

(R.P. 332 - of - 497 ROA)

Exhibit: (4)
Appendix: (L) (Report of Page (1) through (27))

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS FOR THE 13TH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648, Applicant, v. State of South Carolina, Respondent.	Case No.2015-CP-23-04747 INITIAL BRIEF IN SUPPORT OF THE APPLICATION FOR POST CONVICTION RELIEF

ALTERNATIVE PETITION FOR STATE HABES CORPUS

Subscribed, This 14th day of December, 2016.

Respectfully Submitted

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

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ISSUES PRESENTED

See, The PCR Act. (Attachment (i) at Statement Presented.....:..(iv);

Issue A: Counsel Was Ineffective For Not Attempting To Have All Drug Charges Consolidated Pursuant To S.C. Code Ann. § 17-25-50.

Issue B: Counsel Was Ineffective For Not Challenging the Invalid Indictments before advising Applicant to Plead Guilty.

Issue C: Did the Invalid Indictments Make the Convictions And Sentences Constitutionally Invalid.

Issue D: Was The Plea Constitutionally Invalid To The Court's Failure To Comply With The Mandates of Rule 11, FRCrimP. And Boykin v. Alabama, (1963)?

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Appx. (L)(6-of-27)**

STATEMENT OF THE CASE

The Applicant was indicted on December 13, 2005, by a State Grand Jury, for Conspiracy To Traffick Methamphetamines, Two Counts Trafficking Methamphetamines more than >400 grams, and Possession of a firearm During the Commission of a violent Crime. On August 22, 2006, Applicant pled guilty to the lesser - included offense and "Trafficking Methamphetamines, 28-100 grams, for a (2nd offense)" by a "Superseding Indictment" for Conspiracy To Traffick Metamphetamines "Three Counts" Trafficking In Methamphetamines, more than >400 grams, and a Possession of (Firearm During The Commission of Violent Crime). Applicant has been discovered such indictments thru the State Grand Jury on 4/22/2010."

This "Superseding Indictment for Unlawful" was supposely issued on February 22th, 2006. Both indicments beared No: 2005-GS-47-0026. The State Recommended a twenty (20) years sentence, which he receive from the Honorable Alexander S. Macaulay On April 10, 2007. Defendant was represented by James H. Price, Esquire. Britt Hunt Interpreter for Applicant at the Plea and Sentencing Proceedings. Applicant didn't filed a direct appeal.

Applicant filed his 1st, PCR. on March 18, 2008. A hearing was held on December 8, 2008. Applicant was represented by Rodney who pursueded Applicant to withdraw his PCR without the aid of an interpreter. Consequently the PCR Court filed an Order dismissing Applicant's PCR with prejudice on: December 29th, 2008.

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This forced Applicant to file his (second PCR Act) on Apr. 28, 2010. The PCR court filed a "Conditional Order of dismissing Applicant's PCR with prejudice on September 9th, 2010. The PCR Court filed a "Final Order" on December 14th, 2010. Applicant appealed the denial of his second PCR. The Appeal was dismissed on April 20th, 2011. Applicant filed for reconsideration because Applicant failed to submit a Certificate of Service upon opposing counsel. Remititur was issued on June 3, 2011.

Applicant filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on June 2, 2011. The Petition was untimely dismissed from (S.C. Greenville District Judge Jacquelyn D. Austin) on September 27, 2011. Applicant filed his "3rd PCR. Actions" on March 12, 2013 which was dismissed January 15, 2014. Applicant has filed many Motions and objections in regards to this matter, which have been denied, as well.

***

Appx.(L)(8-of-27) **ARGUMENT I.**

ISSUE A: Counsel Was Ineffective For Not Attempting To Have All Drug Charges Consolidated Pursuant To South Carolina Code Ann. § 17-25-50.

Applicant was indicted for Conspiracy To Traffick Methamphetamines, Three Counts Traffic Methamphetamines, unlawful possession of a Firearm During The Commission of a Violent Crime. In The "State Factual basis for the plea," the Prosecutor stated that "these offenses was part of the drug transaction from April, 2005, through June 25, 2005) See: Guilty Plea Transcript, Pp. 1, 16, Ln - 14, & p. 18, Ln-9). Applicant pled guilty to ("Count One, Through Count Four") ("[o]f the 'Five Counts indictment which were Conspiracy To Traffick Methamphetamines ("28 - 100 grams, 2nd Offences.") S.C. Code Ann. § 44-53-375(C)(2)(b). It's inconceivable upon this statute, that counsel would prejudice his client by not moving to have all the offenses within Indictment No 2005 - GS-47-0026. Considared as One. Pursuent to, S.C. Code Ann.§ 17-25-50.

All the drugh offence were closely connected in point and time to come within the per view of; S.C. Code § 17-25-50. State v. Brown, 319 S.C. 404, 461 S.E.2d 828, at 830 (1995); State v. Woody, 345 S.C. 34, 545 S.E.2d 521 at, 523 (2001). These, "many offences" should have been considered as one offence. For sentencing purpose. "State v. Boyd, 288 S.C. 206, 341 S.E.2d 144-46, (1986). In Boyd the Court held," conviction on ("Two") or more counts for violating the "Controlled Substance Act" arising out of simultaneous acts committed in the course of the same insident will be

considered as only one for sentencing purposes under subsequent conviction for violation of the act." S.C. Code, § 17-25-50.

Had counsel moved "pre - trial" to have the many drug offenses, as well as, motion the State to elect, Consolidated could have presured the prosecution, to quach, and dismissed the State prosecution C/A#: 2005-GS-47-0026. Upon the indictment of (December 13th, 2005) and let the prosecution to continued with the ("Superseding Amended Indictment") from Feb. 22th, 2005) into a much batter deal than twenty (20) years he received. This would have been a more favorable deal and Applicant would not have felt like he had no other option but to take the twenty (20) years sentence. Counsel had plenty legal reasons and case law for argument upon these points. U.S. v. Breckridge, 93 F.3d 132, 138 (4th Cir. 1996). Counsel had no strategy or tactical decision by failing to at least making an effort to consolidate offenses. U.S. v. Prytz, 822 F.Supp. 311, affirmed 35 F.3d 557, cert. denied, 115 S.Ct. 1313 (D. S.C. 4th Cir. 1993). Counseln't have investigate and research this issue as he stood nothin to lose by challenging the many drug charges. Counsel's performance was deficient and it prejudiced Applicant from a least having an opportunity to receive a much lighter sentence. See, Stevenson v. State, 365 S.C. 309, 312 , 617 S.E.2d 366-68(2005). Counsel's representation fell below the standard of reasonableness required by the Norms of Lawyer's competency. Horton v.

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State, 306 S.C. 252, 411 S.E.2d 223 (1991); Hill v. Lockhart, 474 U.S. 52, 53,106 S.Ct. 366, at 361 (1985). If not for counsel's errors, there is a probability that the result of the sentencing proceedings would have been differtent. Glover v. U.S., 531 U.S 198, 198, 203-04 (2001); Williams v. Taylor, 529 U.S. 362, 397 (2000); Strickland v. Washigton, 466 U.S. 688 (1984).

This Case Should Be Remanded For Further Proceedings.

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APPX. (K)(11-of-27) **ARGUMENT II.**

Issue B: Counsel Was Ineffective For Not Challenging the Invalid Indictments Before Advising Applicant To Plead Guilty?

AS previously argued, Applicant pled guilty to the "Superseding Amended Indictment under this Number: 2005-GS-47-0026." ("[T]his issue is throughly argued within "Issue C of this Brief," as well".) Please see, ("Issue C"). Assistant Attorney General "Susan O Porter usurped the grand jury's Constitutional role" and presented the "Decree of invalid indictment" to the "General Sessions Court Term," that she had added additional charges against the Applicant. Defense counsel stood by and allowed, or actual convenced Applicant to plead guilty to the "fake decree", invalid indictment without making the least bit of effort to challenge the grand jury process or the indictment. This constituted ineffective of counsel for the following reasons:

Defense counsel should always challenge an indictment if it appears if the elements of the allege crime is anyway uncertain, or other wise invalid. State v. Wilson, 315 S.C. 289, 439 S.E.2d 864, at, 867 (1993). Clearly both the grand jury procedure and the indictment would have been subject to challenge by contemporaneous objections; by Motion To Squash. See, State v. Coleman, 365 S.C. 258, at, 262-265, 616 S.E.2d 444, 446 (S.C.App.

2005). Counsel had plenty of time and oportunity, before the state grand jury was sworn, to challenge the indictment but fail to do so, which result in legal error. State v. Gentry, 363 S.C . 93, 101 , 610 S.E.2d 494 at, 498 (2005). A trial or plea cannot be fair unless the nature of charges against the defendant are adequately made known to him or her in a timely fashion. See: Strickland v. Washington, 466 U.S. 668 (1984). No principle of procedure due process is more clearly established than that "Notice of the Specific Charge(s)", if desired, are among the "Constitutional Rights of Every Accused in Criminal proceedings in all Courts," "State or federal." Rabe v. Washington, 405 U.S 313, 316 , 93 S.Ct. 993, 995 (1972). In this case, "Applicant spoke very little English" and did not "understand any thin about American Law, neither in his own Country," at the time of his "plea negotiation" and his counsel never explained to him about indictments or the "State Grand Jury Process." Counsel was not concerned about Applicant's rights in regard.

An attorney's competency is measured accord to what an objectively reasonable attorney would have done under the circumstances existing at the time of his representation. Under the circumstance here, an objectly reasonable attorney would have at least challenged at the first time the Number: 2005-GS-47-26 upon the "State Grand Jury's Decree," and such indictment's information, in question, before advised his client to plead guilty

to a twenty (20) years sentence for these serious offenses, see Savino v. Murray, 82 F.3d 593, 599 (4th Cir. 1996). Counsel's performance did not reach the range of competence required of attorney in criminal cases. Turner v. Bass, 753 F.2d 342, at 348 (4th Cir. 1987). Counsel could not have investigated or research this; Stevenson v. State, 365 S.C. 309-312, 617 S.E.2d 366, 368 (2006). Nor could counsel had any strategy or tactical decision by failing to challenge the grand jury process and indictments. U.S. v. Prytz, 822 F.Supp. 311 (D. S.C. 1992). This failure constituted ineffective assistance of counsel. Padgett v. State, 324 S.C. 22, 29, 484 S.E.2d 101, at, 104 (1997). If not for counsel's error there is a probability the proceedings would have been different. Hill v. Lockhart, 474 U.S. 52, 53, 106 S.Ct. 366, 368 (1985). Counsel was ineffective for not making pretrial contemperaneous objections to the superseding indictment. See e.g., Hopkings v. State, 317 S.C. 7, (9), 451 S.E.2d 389, 390 (1994).

This case should be reversed and remanded for further procedding.

Appx. (L)(14-of-27) **ARGUMENT III.**

Issue C: Did The Invalid Indictment Make The Convictions and Sentence(s) Constitutionally Invalid?

The Applicant was indicted by a "State Grand Jury" on: December 13th, 2005 for Conspiracy To Traffic Methamphetamines; Two Counts, "Trafficking Methamphetamine, more than >400 grams; Possession of a Firearm during the Commission of a Violent Crime." However, Assistant Attorney General Susan O. Porter (Prosecuting Agent over this case) presented to the Court a "Superseding and Amended[?]" Indictment charging Applicant with Conspiracy To Traffic Methamphetamines; and now "Three Counts" of Trafficking Methamphetamine, more than >400 grams; and Possession of a firearm During the Commission of a Violent Crime, which is dated as being issued on: "February 22th, 2006." This action by the Assistant Attorney General amended Indictment No: 2005-GS-47-0026 to included and "add Three Counts of Trafficking Methamphetamine," whereas, the Original Indictment charged only Two Counts.

Furthermore, in direct contradiction to the term information printed upon the "Superseding and Amended" Indictment, only the face of the indictment has been amended, but the back sheets, are exactly as the Indictment for ("Two - Counts") with the exact same signatures and "True Bill" markings positioned exactly the Indictment with the issue date of "February 22th, 2006" and left the remaining pages as they were upon the copy indictment with the issue date of "December 13th, 2005."

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The "Superseding and Amended" Indictment "bearing issue date of February 22th, 2006 could not have passed before the 'State Grand Jury.'" Or Neither the First Indictment with ("Two Counts") issue date Dicember 13th 2005. This document was knowingly and fraudulently pocessed printed, and published by the hands of Assistant Attorney General (Susan O. Porter). Ms. Porter, being the prosecutor in this case was responsible for the preparation, processing, and "publishing of Applicant's Indictments." See, Applicant's files Records: In The General Sessions Court Term, for comparison; (Attachments, A-1 thrue A-4, & B-1, thrue B-4), pursuing with Rule 60(b)(5). Post-Conviction Motion Pursuing the True Bill. Under Rule 60(b)(5) SCRCP.

Even further, according to recent letter from the South Carolina Office Of The State Grand Jury's information, there is no record what-so-over of an indictment pertaining to Applicant's case passing before it at all. See, The Applicant's Files Records in the general sessions court term, Filed "Motion To Supplement the Pleading, at p. 3) (Issue date July 31th 2015.)(Attachment: A-5) showed that, there's no record of said charges. Discovery from the State Grand Jury April 17th, 2015.

Either way, the Indictment in which the Aplicant was obviously invalid for the following reasons:

A superseding indictment is an indictment filed without dismissal of a proceding indictment. U.S. v. Rojas - Contreras,

474 U.S. 231, 237, 106 S.Ct. 555, at 558, 88 L.Ed.2d 537 (1985). A superseding indictment may narrow but not broaden, the charges made in the original indictment. U.S. v. Miller, 471 U.S. 130 (1985); U.S. v. Grady, 544 F.2d 598 (2nd Cir. 1976), superseding indictment that is filed while initial indictment is pending is timely unless it broaden or substantially amends charges made in original indictment. U.S. v. Schmick, 904 F.2d 936, denied Brewer v. U.S., 498 U.S. 1067, 111 S.Ct. 782, 112 L.Ed.2d 845 (5th Cir. 1990). "An indictment may not "be amended" except by resubmission to the grand jury. U.S. v. Soskin, 100 F.3d 1377 (7th Cir. 1996). Broading charge to embrace conduct which Grand Jury didn't incoparate in indictment "violates Fifth Amendment's grand jury clause." Id. at 1381. U.S.C.A Const. Amend. 5.

The superseding indictment in this case was not filed at all with the court or grand jury and "Prosecutor took it upon to amend and broaden the 'nature of the charges in the indictment.'" Only the grand jury may broaden or alter the charges in the indictment. U.S. v. Homer, 10 Fed. Appx. 205 (4th Cir. (S.C.) 2001). Amendments to an indictment are permissible if they do not change the nature of the offense, the charge is a lesser included offense of the crime charged in the indictment or defend waiver presentment to the grand jury and pleads guilty. State v. Fonseca, 383 S.C. 640, 681 S.E.2d 1, at 3-4 (S.C. App. 2009)(quoting, State v. Gentry, 363, S.C. 93, 101, 610 S.E.2d 494, at 499 (2005); (same) Evans v. State, 363 S.C. 495-508, 611 S.E.2d 510, at 517

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(2005). An indictment may be amended if:(1) it does not change the nature of the offense; (2) the amended charge is a lesser included offense of the original crime charged in the indictment ; or (3) the defendant waives presentment to the grand jury and plead guilty. State v. Myers, 313 S.C. 391, 393, 438 S.E.2d 236, 237 (1993); Tant v. South Carolina Dep't of Corrections, 408 S.C. 334, 344, at 345-46, 759 S.E.2d 398, 400, at, 404 (2014)("[t]hose sentences would be null and void"); Clair v. State, 324 S.C. 144, 478 S.E.2d 54 (1996)(quoting , Hopking v. State, 317 S.C. 7, at, 10, 451 S.E.2d 398, at 390 (1994)(under this case, the "defendant move for postconviction relief (PCR)." And Justice Waller, J., held that counsel was ineffective for failing to "object to amendment of indictment" that changed nature of offense from lesser to greater offense. Applying, Strickland v. Washington, 466 U.S. 668 (1984). To prove ineffective assistance of counsel, a defendant must show that he was prejudiced by counsel's deficient performance. See, Cuyler v. Sullivan, 446 U.S., at 344-45, 350, 100 S.Ct. 1716, at 1719 (1980); McMann v. Richarson, 397 U.S. 759, 770-771, 90 S.Ct. 1448-49, 25 L.Ed.2d 763 (1970); Herring v. New York, 422 U.S. 853, 95 S.Ct. 2550, 45 L.Ed.2d 593 (1995).

Thus, the Sixth Amendment does more than require the "State to appoint counsel for indigent defendant." The right to counsel prevents the "State from conducting trials" at which person who face incarceration must "defend themselves without adequate legal assistance." See, Tant v. SCDC, at 343-44, 759 S.E.2d at, 402-03. (Quoting, Boan v. State, 388 S.C. 272 at 274, 275, 695 S.E.2d at, 851-82 (2010). Boan, filed an application

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for post-conviction relief (PCR) arguing his counsel provided ineffective assistance in failling to object to or file a motion regarding the discrepancy between the oral and written sentences. Id. at 275, 695 S.E.2d at 852. The PCR court dismissed his application, but on certiorari the court reversed. Id. at 278, 695 S.E.2d at 853 (2010).

Here, the amendment broaden the nature of the charges by increasing the number of charges. This change wasn't a lesser included offense of the crime charged and Applicant certainly did not waive presentment to the State Grand Jury. The South Carolina Supreme Court has ruled that the law requires the precedent to the trial of a crime. Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (2005); State v. Lazarus, 83 S.C. 215, 65 S.E. 215 (1909). The prosecutor's Broadening the charges to include conduct which the State Grand Jury did not incorporate in original indictment violates the S.C. Const. Art. I, § 11- art. V,§ 22. and the Five Amendment's "Grand Jury." Soskin, at 1381. Defendant may only be tried on charges alleged in an indictment, and only the grand jury may broaden or alter the charges in the indictment. U.S. v. Bolden, 171 F.3d 195, 210 (4th Cir. 2003). Amendments of an indictment are per se violations of the fifth Amendment that require reversal even without a showing of prejudice. After an indictment has been returned,its charges not be broadened through amendment except by the Grand Jury. U.S. v. Fogel, 901 F.

2d 23 (4th Cir. 1990); U.S. v. Randall, 171 F.3d 195, 210 (4th Cir. 1999); U.S. v. Dawson, 423 U.S. at 855, 104 S.Ct. at, 96 (1984).

The Superseding Amended Indictment deprived the Applicant of his Constitutional and Statutory Right to Have the Indictment Issued by Legally Constituted Grand Jury. See e.g., State v. Meason, Op. No. 26105 (S.C. Sup. Ct. Filed Feb. 6, 2006); Evans v. State , 363 S.C. 495, 611 S.E.2d 510 (2005); S.C. Const. Art. I,§ 11; and art. V, § 22; S.C. Code Ann. § 14-9-210, § 14-5-820, and § 14-5-920. ...Lawfully obtained indictments prevents the prosecutor from usurping the power of the Grand Jury by ensuring [a] defendant is tried upon the crime which he/she was indicted. State v. Tabory, 262 S.C. 136, 139, 202 S.E.2d 852-53 (1974); State v. Guthrie, 352 S.C. 103, 108, 572 S.E.2d 309, at, 312 (Ct. App. 2002).... Overruled on other grounds by State v. Gentry, 363 S.C. 93, at, , 610 S .E.2d 494, at, 499 (2005); and see also U.S. v. Begnaud, 783 F. 2d 144, 147 n.4 (1986). (Because an amendment usurps the constitutionally guaranteed role of the grand jury, it is reversable error per se). If it lies within the province of the Court to honor a change such as this one, in the charging paper, the purpose of the Grand Jury dissolves. Ex Parte Bain, 121 U.S. 1, 7 S.Ct. 781, 30 L.Ed . 849 (1887). Amendments such this one in this case are erroneous per se and require reversal regardless of preservation. U.S. v. Robison, 627 F.3d 941 (4th Cir. (S.C.) 2010). This also rendered Applicant's indictments void, invalid and without legal force. State v. Smalls, 364 S.C. 343, 613 S.E.2d 754 (2005)

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(due process requires that "a criminal defendant" be properly "served with a valid indictmen".). When an indictment is invalid, the judgment rendered on such indictment is null and void.

Accordingly, the conviction(s) and sentence(s) should be vacated with prejudice.

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APPX. (K)(21-of-27) **ARGUMENT IV.**

Issue D: Was The Plea Constitutionally Invalid To The Court's Failure To Comply With The Mandates of Rule 11, FRCrimP. and Boykin v. Alabama, (1963)?

The Plea Court inquires whether Counsel (Price) had explained the indictment, that it was accepting the plea to, to the Applicant and whether he understood the charges, the ponishment, and his rights. Plea Counsel answered in the affirmative and agreed that the State had sufficienty of guilt upon the charges, as well. See: (Guilty Plea Hearing Aug. 22th, 2006; p.4, Ln.16, and p. 16, Ln. 20 - 23).

Then the General Sessions Court Term, began its colloquey to the Applicant. See, at: (Guilty Plea, p. 5, Ln. 24 through p. 6, Ln. 2 - 17) Therein, is not a full understanding by Applicant agreed (through the use of interpreter) that his counsel had explained the charges, punishment and his constitutional and he understood these things. See: (Guilty Plea, p. 8, Ln. 3-8) Within Sixty (60) years, up Applicant's setences consecutively on those indictments, him did not had chose to plead a twenty (20) years. See, (Guilty Plea p. 8, Ln. 15-17). The court questioned Applicant whether he under the nature of the charges, but not whether he understood the essential and crucial elements of the/or whether his counsel explain the elements to him as required by Rule 11, FRCrimP. See Guilty Plea, p.9 lns. 6 - 12). See at 395 U.S. 238, 89 S.Ct. 1709,23 Ed.2d (1969). It was verty doubful that Applicant actually realizes the elements of these many charges and even more doubtful that

counsel Price' had explained the charges from an invalid superseding - amended indictment to the Applicant? Please see: (Issues, A, B, & C) of this "Initial Brief." Furthermore, it is obvious that Applicant did not understand the charges he was pleading guilty to. See (Guilty Plea Hearing, p. 11, Ln.4 - 25; & p. 13, Ln. 9 - 11). If fact, there was "off -the- record conference about the invalid indictments" and the charges "because the court didn't even have a copy of the indictments." See at: (Guilty Plea, p. 11, 17, & 18; and also see p. 12, Lns.1 - 5; & Ln. 5 - 19). It is also doubtful if the "indictments were ever published in open court as required by law." When asked if he believed that he would be found guilty, if he stood trial, Applicant answered, (through interpreter), ["I'm not -- didn't Understand"]. See, at (Guilty Plea p. 11, Ln.16, & p.13, Ln. 25 - p.14. Ln.1 - 19). When Applicant answer to the Court, "I think so". (Through Interpreter Hunt). Applicant indicated to the Court that he still did not understant the charges. See, (Guilty Plea p. 15. Ln, 14 - 22). Therein, Applicant answer to the Court that, "posibly had same questions during the sentencing above's charges". See at (Guilty Plea, p. 15. Ln. 14-17). It should have been obvious to the Plea Court that Applicant could not have possibly understood the charges he was pleading to. This is the ("question during his sentences above's charges to this Court").

The State gave its factual basis for the acceptance of the plea to the charges. See (Guilty Plea, p. 16. Ln.12-19, and

p. 18, Ln 4 - 25). The Plea Court found there were substantial factual basis for the plea to [both - indictments] although "he did not possess a copy of the superseding - amended indictment. See, at: ('Guilty Plea Hearing, p. 11. Ln. 13 - 18'"); and (Guilty Plea, p. 19. Lns. 22 - 25). The Court further found that the Applicant's decision to plead guilty was freely, voluntarily, knowingly and intelligently made. The Court accepted the plea to each Count of the indictment without realizing how many counts were on the indictment. Then, Court turned right around and states that the Applicant "pleads guilty to Count One and Four suppossing of the (Superseding - amended) Indictment No: 2005-GS-47-0026. See at (Guilty Plea p. 20. Ln. 1 - 9). The Plea in this case show no indication of being knowingly, Intelligently or Voluntarily entered and the irregular preceedings failed to comply with Rule 11, FRCrimP. and Boykin v. Alabama made the plea and conviction(s) and sentence(s) therefrom, invalid. Now comes this "Law Analysis" to explain further. States as follows:

Law Analysis

It is required that before the plea can be accepted, the defendant understands the nature and crucial elements of the charges, the consequences of the plea, the constitutional rights he is waiving, and a sufficient factual basis for plea. Rollison v. State, 346 S.C. 506, 552 S.E.2d 290 (2001); State v. Rikard, 371 S.C. 295, 638 S.E.2d 72 (2006). See also; Rule 11, (C)(1) and (f) FRCrimP.

A plea is not voluntary if the accused "has an incomplete understanding of the charges; thus, the plea cannot stand as an understandingly and intelligent admission of guilty." Simply put, to convict somecome of a crime charged on the basis of conduct that does not constitute the crime charged offends the basi notions of justice and fair play embodied in the constitution and due process is violated, thus making the plea invalid and involuntary. Henderson v. Morgan, 426 U.S. 637, 658, 96 S.Ct. 2253, at, 2 56 (1974).

There was no "affirmative showing" that the Applicant understood the charges and the Plea Court failed to ascertain that he realized what he was pleading to. U.S. v. Lowery, 60 F. 3d 1199 (6th Cir. 1995); In re Johnny Lee W., 371 S.C. 217, 638 S.E.2d 628 (2006).

A defendant may challenge a guilty plea on other constitutional "grounds beside ineffective assistance of counsel." The United States Supreme Court explained in Boykin v. Alabama, 395 U.S. 238 (1969) that "a plea of guilty is more than admission of conduct; it is a conviction." Ignorance and incomprehnsion may be a perfect cover - up of unconstitutionally.' Boykin, 395 U.S. at, 242-243. In State v. Armstrong, 263 S.C. 594, 211 S.E.2d 889 (1975); the Court held the "essence" of Boykin was to make the requirements of Rule 11 of the Federal Rules of Criminal Procedure applicable to the States. When Constitutional requirements or mandates are violated, a plea cannot be said to

establish a valid plea. Dover v. State, 304 S.C. 433, 405 S.E. 2d 391 (1991). A defendant's conviction must be reversed when the Plea Court fails to fully adhere to the procedures provided in Rule 11, FRCrimP. U.S. v. Boone, 543 F.2d 1090 (4th Cir. 1976). Under the Circumstances, this plea cannot assumingly be voluntarily or understandingly made and therefore, the convictions and sentences should be reversed, specifically as this plea was not voluntary and it was constitutionlly invalid in Boykin.

The Plea should be reversed for further proceedings.

EXHIBIT: (14)
APPX. (L)(26-of-27)

CONCLUSION

For the legal reasons and principles cited in this Application for Post-Conviction Relief/Alternative Petition For State Habeas Corpus, with an Initial Brief, the Conviction and sentence should be vacated, reversed for new trial, or judgment of acquittal entered.

Furthermore, if this action is not heard as a Post-Conviction Relief; then it should be heard as a State Habeas Corpus Action pursuant to South Carolina Constitution Article 5, § 5; and S.C. Code § 17-17-10 et. seq.

There is no limitation of time on such actions, and the Issues have not been previously presented to any Appellate Court. The right to State Habeas Corpus is expressly guaranteed by South Carolina Constitution Article I, § 18, and that right cannot be suspended.

This Case Should Be Heard and Constitutional Issues Rule Upon Their Merits.

Respectfully Submitted

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

Done this 14th day of December, 2016.

File: (4th PCR. Act. Doc. 2)

(R. P. 358-of-497. ROA)

EXHIBIT (14)
APPX (L) (Repeat Page 27)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Applicant,

V.

State of South Carolina,
Respondent.

Case No. 2015-CP-23-047-47

Certificate of Service

FILED IN THE CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2016 DEC 22 AM 11 35

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have served copies of the Application For Post-Conviction Relief "Alternative Petition" for State Habeas Corpus, with Initial Brief, Motion To Address All Issues and a Certificate Of Service upon the below listed parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #224
Greenville, South Carolina 29601

SC. Attorney General
Alan Wilson's Office
P.O. Box 11549
Columbia, South Carolina 29211

Further, Applicant said and Notarized,
This 14th day of December, 2016.

Respectfully Submitted

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

SWORN TO and SUBSCRIBED Before Me
This 14th day December, 2016.
Catherine A Amaya
Notary Public For South Carolina
My Commission Expires:

(R.D. 359 of 497 ROA)

EXHIBIT (15)
APPENDIX: (M) (Report Page 1 through 21)

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF COMMON PLEAS FOR THE 13TH JUDICIAL CIRCUIT
Jose Alberto Maldonado, #312648, Applicant, Pro se, V. State of South Carolina, Respondent.	Case No. 2015-CP-23-04757 AMENDMENT TO POST CONVICTION RELIEF APPLICATION 4TH PCR. ACTION (Rule 15(a)(b), SCRCP)

FILED IN COURT
GREENVILLE CO. S.C.
PAUL K. WICKENSIMER
JAN 5 PM 2 20

The Applicant hereby amendeds answers to number [4 through 19] of his Application for Post-Conviction Relief Action, to state the following:

1. The indictment C/A#:2005-GS-47-0026, upon which the offenses for which sentences was imposed, therein's in violation of 5th, 6th and 14th Amendments to the United States Constitution, and the S.C. Article I, §§ 11, 14; art. V, § 22. That grounds to Applicant's allegations are being held in custody unlawful. Setting this claims an evidentiary hearing. Under Arnold v. State, 309 S.C. 157, 160, 420 S.E.2d 834, 842 (1992);

2. [Ground 4(a)]. The indictment numbers upon which the sentences was imposed, violated the S.C. And U.S. Constitution;

The prosecutor's broadening the charges to include co-nduc within the "State Grand Jury." (Fn.1) Did not incorporate in "original indictments". Violates the S.C. Const. Art. I, § 11; art. V, § 22, and the United States Constitution. Holdings, the Applicant's C/A#.:2005-GS-47-0026/2003-SG-23-45-0047/03-GS-23-45-0045. And U.S.C.A. Const. Amends. 5th, 6th, and 14th. Set this grounds to Applicant's INITIAL BRIEF, ALTERNATIVE PETITION FOR STATE HABEAS CORPUS. At: (Pp. 14, and 15. Argument III. Doc.2). Because, a "Superseding

1. See, S.C. Code Ann. § 17-27-45(C): McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, 627 (2013); State v. Douglas, 411 S.C. 307, 316, 768 S.E.2d 232, 244 (SC. App. 2014); Hendrick v. State, 387 S.C. 221, 692 S.E.2d 892 (2010).

Jose Alberto Maldonado,No.:312648
Kershaw, Corr. Inst. MB/Room,#:59
4848 Goldmine, Highway
Kershaw, S.C. 29067

July 27th, 2015

APPX.(M)(2-of-21)

The Hon: Paul B. Wickensimer
In the Court of Common Pleas
Clerk of Court's Office
305 E. North Street
Greenville, S.C. 29601

Re: State of South Carolina the Defendant v. Jose Alberto Maldonado, Petitioner, pursuit with the [four] Post-Conviction Relief Action.

Mr. Paul B. Wickensimer's Clerk of Court

Enclosed please find proposed Petition [four,(4)] (P.C.R. Act.), in the above case. If these Post-Conviction Relief Action file: Meet your approval, please ("clock - stamped"), signed and forward to the Court of Common Pleas. for filed it into your Office.

Please Overturn my "Original" [clock-stamped] After You Service, is placed by the Attorney General's Office.

For being file: This (Post-Conviction Relief) in the above -captione Civil Action, Would be "preserve in a further review" if the Court of General Session failed to rule my pending motions between this "Clerk of Court".

Thank You For Your Valuable Time! In this Matter.
With Kindly, Requireds.

Sincerely,

Jose A. Maldonado

Jose Alberto Maldonado,#,:312648
Petitioner, Pro - Se.

Cc: File(1)

Enclosures:(2)

(R.P. 361-of-497. ROA)

amended indictment deprived the Applicant of his Constitutional and Statutory Right to have the Indictment Issued by Legally Constitute Grand Jury"; Appx.(M)(3-of-21)

(b). The sentencing sheet, upon to the indictment issue date December 13th, 2005 have Two (2) counts, did not mach by the "superseding amended indictment from February 22th, 2006 with the count Three (3)." When Applicant plead to (Count Four (4). And such indictments papers have ("Counts five (5) at the end.")): See, State v. Durden, 264 S.C. 212 S.E.2d 587 (1975); and State v. King, 222 S.C. 108, 71 S.E.2d 793, 798 (1952) "....She [prosecutor] must see that no conviction takes place except in strict conformity with law, and that the accused is not deprived of any right or privilege...." (insent added); State v. Burgess, 408 S. C. 421, 759 S.E.2d 407, 417 (2014) "....conviction is valid, despite the validity of "net agreement under which arresting officer acted...." 78 Am. Jur. Proof of Facts 3d 357, Proof of Violation the False Claim Act. S.C. Code § 15-78-60; Gist v. Berkely County Sheriff's Dep't., 336 S.C. 611, 521 S.E.2d 163 (SC. App. 1999), "Tort Claims Act exceptions for law enforcement and for losses resultin form act or omission of person other than employee did not apply. Exception to Waiver of Immunity is the exception to the normal rule of immunity applies. Jackson v. South Carolina Dep't of Corrections, 301 S.C. 125, 390 S.E.2d 467, Certiorary Granted, affirmed 302 S.C. 519, 397 S.E.2d 377. Sovereign immunity, tort claim, "corrections officer, other law enforcement officers, statutory interpretation, see Ali v. Federal Bureau of Prison, 2008, 128 S.Ct. 831, 552 U.S. 214

(R.P. 362 of-497 ROA)

, 169 L.Ed.2d 680 Certiorari was Granted. 5 U.S.C.A. Const. Art. I, § 9 Cl. 3. See, id., Chapter 78 S.C. Tort Claim Act. § 15-78-20, declaration of Public Policy; "extent of and Construction of Waiver of Immunity." 162 ALR, Fed. 147, Construction and Application of "Reverse 'False Claim Provision of False Claim Act.'" (31 U.S.C.A.(A)(7). Davis v. South Carolina Dep't of Corr., 2014 Case No. WL 666451). The Respondent have to "...Produce admissible evidence to support the facts...." See, Will v. Mich. Dep't of State Policy, 491 U.S. 58, 109 S.Ct. 2304 105 L.Ed.2d 45 (1989)(recognizing that "arms of the State are not 'person under § 1983 claim'"). Moreover, because the State of South Carolina has not waived its immunity, and that's a claim to the State for suit under § 1983 claim, the Respondent voluntary have to removal the case by the "Common Pleas Court," when the Federal Court hasn't in this instance, effected a "waiver of the State's immunity from suit" for these claim? See also Staward v. N.C., 393 F.3d 484, 490 (4th Cir. 2005). Holding such fact, the State did not waive sovereing immunity by voluntary removed the action to the Circuit Court, common pleas, or before, going to Federal Court for resolution of the immunity question;

3. [Ground 5 (a)]. The date upon which sentences was wrong had been imposed and the term of the sentence:

Applicant's sentences stared on Nov. 29th 2005 for (7 - years, Presided Edward W. Miller judge;(b) August 22th, 2006's Guilty Plead, and Sententenced issued date April 10th, 2007 Presided, Hon: Macaulay judge; and (c) the Applicant, received Twenty - (20) years, "consecutive offense," the General Sessions Court Term, Falsely run-cuncurrent Applicant's Sentences on Nov. 29,

(R. P. 363-of-497. ROA)

Appendix (M)(5-of-21)

2005, and April 10, 2007. S.C. Code Ann. § 15-78-20(e) Cf. Lapides v. Bd. of Regents, 535 U.S. 613, 622, 122 S.Ct. 1640, 152 L.Ed.2d 806 (2002) (holding that a "State that voluntary invokes the jurisdiction of the federal Court waives immunity to claims in which it has consented to suit in its own Court.") See, id., Davis v. SCDC, 2014 No. 6606451, the Defendant of "SCDC" removed this action from the "Kershaw County Court of Common Pleas" (ECF. N.1) Before the court is the Magistrate judge's Report and Recommendation. Under Fed. R. Civ. P. 56(C)(1). Rule 56 Mandates entry of "Summary Judgment against a party who fails to make a showing sufficient to establish essential to the party's case." Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); Law v. S.C. Dep't of Corrections, 368 S.C. 436, 629 S.E.2d 642, at; 648 (2006). Rule 56(c) SCRCP;

4. [Ground 6(a)] Check, the Applicant whether a finding of guilty was made:

Applicant unknowingly (plead guilty), "After plead guilty" was discovery that counsel was ineffective to his guilty plead was involuntary. See, Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2015, 80 L.Ed.2d 674 (1984); (quoting, Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989); Martin v. State, 304 S. C. 39, 403 S.E.2d 113 (1991); Kimmelman v. Morrison, 477 U.S. 365-385 (1984); and U.S. v. Cronic, 466 U.S. 684, 104 S.Ct. 2039 L.Ed.2d (1984). See, (Applicant's INITIAL BRIEF: "ALTERNATIVE PETITION FOR STATE HABEAS CORPUS") to Support of the Applicant his Post - Conviction Relief, at (Pp. 6, & 8).

 File: (4th PCR. Act. Doc.3)

(R. P. 364 - of - 497 ROA)

Appx.(M)(6-of-21)

See also, the Complainant/Plaintiff, Motion For General Docket, or Transfer Case To Jury Trial: (Pages, 4, & 8); S.C. Art. I, § 14; and U.S.C.A. Art. IV, § 1, 28 U.S.C.A. § 1738;

5. [Ground 7] Applicant did not appeal from the judgment of conviction for the impotition of his sentence(s)?

On petition for this Post-Conviction Relief Act. In this (ground 7), the Court of Common Pleas have to held that remand is required for evidentiary hearing on issue of whether movant requested and was denied opportunity to seek appellate review. Where convict alleged in his (Four Post-Conviction Relief Act). (PCR) application that he expressed now to desire to seek review, the Applicant stated claim of ineffective assistance, thus requiering remand for evidentiary hearing, or "Transfer Case To Jury Trial" on issue of whether in fact Applicant requested and "...was denied opportunity to seek appellate review. Code 1976, § 17-27-100; Sup.Ct.Rules, Rule 50(9) (Repealed); U.S.C.A. Const. Amend. 6. See, e.g., Austin v. State, 305 S.C. 453-54, at 455, 409 S.E.2d 395 (SC. Sup. Ct. 1991) (quoting, Strickland v. Washignto, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); and Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989)) (if the circuit court finds that the petitioner never in fact sought discretionary review, the petitioner may appeal that finding and we shall review the appeal based on the normal ["any evidence"] standard..." See id. Applicant aware the constitutional right to counsel does not extend to discretionary appeals on collateral attack, this, court have to "rule that" Ander v.

(R. p. 365-of-497, ROA)

California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), shall continue to appli in PCR matters. Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988); Pennsylvania v. Finley, 481 U.S. 551, 107 S.Ct. 1990, 95 L.Ed.2d 539 (1987)). Anders requires appellate counsel's belief the appeal is frivolous, as a safeguard of the right to appeal. In applying "Anders on PCR", this court, have to recognized a prisoner's right to the assistance of appellate counsel in seeking review of the denieal of (1st - PCR, 2nd, & 3rd. PCR Actions). See, Sup. Ct. Rule 50(6);

6. [Ground 8] The Applicant, answered to (ground 7) to no had "any appeal" in his due process to the S.C. Court of Appeals.

If this 13th Judicial Circuit Court finds that. Therefore, Petitioner never in fact sought discretionary review, and may appeal that finding and shall review the appeal based on the normal "any evidence" standard. See, that Applicant's INITIAL BRIEF, ALTERNATIVE PETITION FOR STATE HABEAS CORPUS, at (Pages, 2-3). Poston v. State, 339 S.C. 37, 528 S.E.2d 422 (SC. Sup.Ct. 2000)(Applicant did not have the right to a discretionary appeal from decision of the Court of Appeals affirming his conviction. Appellate Court Rule 226(b) see id., this Court of Appeals stated: Under, State v. Barroso, 320 S.C. 1, 462 S.E.2d 862 (SC. Ct.App. 1995)(Holdings, the Court of Appeals Affirmed. And the Petitioner/Respondent moved to relieve appellate counsel and to withdraw his petition for a writ of certiorary so that he could pursue post-conviction relief (PCR). See, at Garner v.

State, 371 S.C. 1, 2, 636 S.E.2d 860, (2006)(quoting White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974)). holding, the State filed a motion to alter or amend the order the PCR judge granted the motion "to extent that the findings and conclusion [were] "amended" to determine that the statute of limitations does not apply to [petitioner's] allegation that he didn't knowingly and voluntarily wiaved his right to an appeal of his guilty plea [sic]." This, Court of Common Pleas, have to setting a "ORDER", in this further ["AMENDED"] to reflect the State's "objections to petitioner's motion to "DISMISS" See, the "Complainant/Plaintiff Motion For General Jury Docket" Pursuant to S.C. Rules 40 (f), & 41(b) SCRCP. Code 1976 § 44-53-375(C)(2)(b) at (pages 7, 8, and see also ¶(8). p. 11 - lines, 17 - 19) Evidence of filed Complainant/Plaintiff's Motion to Dismiss indictments. From Oct. 23th, 2015. And had been support withing a "Notice of Motion To Dismiss." Garner, 636 S.E.2d 860, Fn. 1, to Petitioner's Motion to "DISSMISS the remaining allegations without prejudice and to preserve the State's right to raise any and all defenses, such as the "statute of limitations and lanches," to any and all allegations raised in this future Post-Conviction Relief Act. (PCR) application. An order in a PCR matter which does not include specific finding of fact and conclusions of law relating to each issue presented, but instead dismisses some of the issues without prejudice to them being raised in this future PCR proceeding, does not constitute a final order or judgment under the Uniform Post-Conviction Relief Act may be reviewed. See (quote, Pruitt

(R. P: 367-of-497. ROA)

State, 310 S.C. 254, 423 S.E.2d 127 (SC. Sup.Ct. 1992), failure to finally resolve each of the issues presented in the PCR application when it is initially considered untimately increses the work load of all involved when a new hearing is required to secure the rulings which should have been made initially. Applicant, is subject to this Hon: Court to Preparing proposed orders in postconviction relief (PCR) proceeding should be meticulous in doing so, opposing counsel from State of South Carolina should call any omissions to the attention of the PCR judge prior to issuance of the order, and the PCR judge should carfully review the order prior to signing it. After a postconviction relief (PCR) order is filed. Accordingly, this court have to find necessary to vacate Judgement "Letitia H. Verdin, Circuit Court Appellate C/A#: 2014-001164, Lower Court 'Case No.:2013-CP-23-01440'" order and remand this matter to the circuit court to hold a new hearing. Petitioner shall be entitled to file an "amended application" if necessary and the order shall address all issues properly raised at the hearing. McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991); S.C. Code Ann. § 17-27-80 see The "FINAL ORDER OF DISMISSAL to Hon: Letitia H. Verdin's signed ORDERED on April 29, 2014. The Clerk issued date May 1, 2014 prior to issuance of order, failed below and the PCR judge didn't should carfully review the Orders, to Honorable D. Garrison Hill - acting in his capacity as Chief Administrative Judge - issued a Conditional Order of Dismissal filed August 22, 2014, included the Edward W. Miller filed an Order on Nov. 8, 2013, see also orders January 15, 2014, and Apr. 9, 2014. And Judge Edward W.

APPX. (M) (11-OF-21)

Miller filed an order on April 9, 2014 in which he denied the Applicant's motions? See: the "Ordered From Letitia H. Verdin, April 29, 2014 when this judge dismissed the PCR Act. Case No. 2013-CP-23-1440, under State v. Gentry 363 S.C. 93, 610 S.E.2d 494 (2005) and finds the "indictments in this case were true-billed and clearly adequate to provide notice of the charges the, Applicant face. State v. Douglas, 411 S.C. 307, 316, 329, 768 S .E.2d 232, 242, 244 (SC.Ct.App.2014)"". A statute as a whole must receive pratical, and fair interpretation consonant with the purpose, design , and policy of lawmakers. See (Quoting, Sparks v. Palmetto Hardwood, Inc., 406 S.C. 124, 128, 750 S.E.2d 61, 63 (2013). State Grand Jury had subj-ect matter jurisdiction over counts of conspiracy and abtaining "property under false pretenses, even thoug those specific cr-mes may not have been enumerated in statute governing jurisdic-tion of a state grand jury," because they committed in the same course of conduct "as securities fraud." S.C. Code 1976 § 14-7-1630(A)(7); United State v. Cotton, 535 U.S. 625-26,122 S.Ct. 1781,152 L.Ed.2d 860(2002). The jurisdiction of this Court is invoked under 28 U.S.C.A. §§ 1254(a), 1257(a) "A case in the Court of Appeals may be

> reviewed by the Supreme Court by the following methods: (1) By writ of certiorary granted upon the petition of any party to any civil or cri-minal case, before or after rendition of judgment or "decree";
>
> (2) Final judgments or decrees rendered by the highest court of a Sta-te in which a decision could be had, may be reviewed by the Suppreme Court by writ of certiorari where of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on ground of its being repugnant to the Co-nstitution, treaties, or laws of the United States or where any title, right, privilege or immunity is specifically set up or claimed under the Constitution or the treaties or statutes of, or any commission he-

(R.P. 369-OF-497, ROA)

ld or authority exercised under, the United States."

7. [Ground 9(a)] Applicant's answer "no" to grounds (7), and (8) why Applicant did not so appealing:

The, Applicant question on ground (9) stated in ¶(a); is not right to "Appeal Guilty Pleas in South Carolina"? That Constitution of United States on absent extraordinary circumstances, there is no "constitutional requirement that a defendant be informed of the right to a direct appeal from plea. See, answer of ¶(b), Applicant at the time did not "qualfy, to represent him-self. See Goodson v. Am. Bankers Inc. Co. of Florida, 295 S.C. 400, 368 S.E.2d 687 (SC.Ct. App. 1988)([a] pary has a duty to monitory the progress of his case. Lack of familiarity with the legal proceeding is unacceptable and the court will not hold a layman to any lesser standard than's applied to an attorney, at the time of his direct appeal. Jones v. State, 382 S.C. 589, 677 S.E.2d 20,23,24 (SC.Ct. App. 2009)." A counsel must advise a defendant of the right to appeal from a guilty plea when the defendant inquires about an appeal. U.S.C. A. 6, SC. Art. I § 14. It is well established that prisoner have a constitutional right of access to the courts Bound v. Smith, 430 U.S. 817, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977) (quoting, Lewis v. Casey, 518 U.S. 343, 351-52, 116 S.Ct. 2174, 135 L.Ed.2d 606 (1996); Cochran v. Morris, 73 F.3d 1310 (4th Cir. 1996). The Lewis Court explained That:

> The injury requirement is not satisfied by just any type o frustrated legal claim. Nearly all of the access-to-courts cases in the Bonds line involved attempts by inmates to pursue "direct appeal" from the convictions for which they were incarcerated, or habeas petitions. In Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974).

This Court, extended the universe of relevan claims only slightly, to "civil right actions" -i.e., actions under 42 U.S. C.§ 1983 to vindicate "basis constitutional rights.": Lewis v. Casey, 518 U.S. 343, at 344-45, 116 S.Ct. 2174, at 2182 135 L.Ed. 2d 602 (1996)(Internal Citation Omited); see also Cristoper v. Harbury, 536 U.S. 403, 414-15, 122 S.Ct. 2179 153 L.Ed.2d 413 (2002)(stating that "the very point of recognizing any access is to provide some effective vindication for a separate and distinct right to seek judicial relief for some wrong"); and (c) This mean's the "defendant Jose A. Maldonado didn't had the skill by laws in his defense from his [both] guilty plead in this process to received twenty (20) years sentence. Jones v. State, 382 S.C. 589, 677 S.E.2d 20, at, 24 (2009). Counsel must advise a defendant of the right to appeal from a guilty plea when the defendant inquires about an appeal. U.S.C.A. Const. Amend. 6;

8. The Applicant hereby this amends answers to [number 10 through 11] in his Application for Post-Conviction Relief to state the following:

Strogn arm concisely this grounds on which my base to the allegations that Applicant are being in custody unlawfully:

(A) See Arguments at Table of Contents at the Application file (4th, PCR.Act.), when Applicant denied effective assistance of counsel. And let the State, Respondent to prosecuted Applicant with a fraudulent fraimed a fraudulent papers of indictments, the State, prosecutor misrepresent the State of South Carolina, by use "two Counties" and lack of jurisdiction, upon

(R.P. 371-of-497 RoA)

Appx.(M)(14-of-21)

the State Grand Jury, from Columbia? See also (PCR's Attachement [Argument (B)] therein is a CONFLICT OF INTEREST between of the SC Rules, Rule 501 canon (3)(A)(B)(5), (C)(1), & canon 5(D) SCACR, (Ex Parte Contact; In re Woodham, 386 S.C. 495, at Fn.1 , 499, 689 S.E.2d 605, at 607, (2010); State v. Cheatham, 349 S.C. 101, 109, 112, 561 S.E. 618, 624 - 627 (2002) Citing Rules Of Evidence, Rule 104, & 404(b);(quoting, State v. Simmons, 308 S.C. 80, 417 S.E.2d 92, 94 (1992); See, the File (4th PCR Act.) at, (p. 3 at ground 11(c))(Applicant substand his filed Request at the (4th PCR Act) is entitle to a evidentiary hearing to fully resove this issue. See the, ("INITIAL BRIEF IN SUPPORT OF THE '4th PCR ACT', ALTERNATIVE PETITION FOR STATE HABEAS CORPUS RELIEF" at (pgs. 17, & 18)) Applicant's [Argument IV] argued of the issued upon the trial judge accept his guilty plead without a copy of indictment, "is a Notice Document" if the Applicant did not accepted the offer from the State, to pled of Twenty-(20) years, him will face Sixty-(60) years, if he going to jury trial. See Guilty Plea p. 8, ln. 3-8, & at p. 11, Lns. 4 - 25; the record conference about the invalid indictments and the charges in court did not "even have the copy of the indictments". Sharper v. State, 279 S.C. 264, 266, 305 S.E.2d 247-48, 249 (SC. ("[T]he record confirms Applicant's factual assertion that his indictments cames; (1) the First (PCR) was the (Two consecutive offenses indictments, included the Indictment issued date December 13, 2005, count (Two); and (2) the Superseding amended indictment from issued date August 22, 2006 within,

(R. p. 372 -of- 497. ROA)

(Couns Three) and a "Possession of Firearm During The Commission of Violent Crime" the Applicant has been received this indictment between the State Grand Jury "April 22th 2010." That, is after his guilty plead hearing", but does not conclusively show he nevertheless had sufficient opportunity to assist in the preparation of his own defense. Because Counsel never notified Applicant the full process above to the guilty plead with the copies indictments. The claim that this circumstance opperated to deny Applicant access to the court for ineffective assistance in both counsels was not squarely presented to the trial court, so the record cannot be said to conclusively refute it. Cf State v. Carpenter, 277 S.C. 309, 286 SE.2d 384 (1982) Applicant have to assert his claim under his, (4th, PCR Act.) Code 1976, § 17-27-10 et seq. Claim of ineffective assistance of counsel at trial will not normally be considered on appeal from a conviction, particularly when the issue is not argued to the trial judge. See id., Guilty Plead hearing, (p. 11, Ln. 4 - 25). The Applicant is intitled to a hearing de novo in this specific allegations of ineffective assistance of counsels, at trial, and his "First PCR Application, see the Transcript of record in such transcript when the Applicant ever have a copy for this hearing. See, Bowder v. Dep't of Corr. Ill., 434 U.S. at, 266.

However, this was not a sufficient and legal waiver of Petitioner's constitutional right to redress his grievances and access to the courts. S.C. Const Art. I, § 2, by the Fourteenth Amendment against State action. In South Carolina for there to be a legal waiver and withdrawal of an Applicant's Post-Conviction Relief Application, it must "be do in writing" and

(R. P. 373 - of - 497. ROA)

APPX.(M)(13-of-21)

signed by the Applicant under "oath waivers" of Constitutional rignts not only must be voluntary but must be knowing and "intelligent acts done with sufficient awarencess of the relevant circumstances oneces and likely consequences." Gibson v. State, 334 S.C. 515, 523, 514 S.E.2d 320, at 324 (1999) and see, Gustine v. State, 325 S.C. 123, 327-28, 480 S.E.2d 444, 446 (1997). Applicant did not intentionally nor voluntarily reloquish or abandon his statury and due process rights to have all his Constitutional grounds for relief the prior actions. Holding, this (2) cases stated:(1) when an Applicant withdraws his PCR application. Often this decision is "made the duty of the hearing to signed a waiver" an applicant withdraws the application, it is with prejudice. Therefore, it is important that the applicant understand that the applicant withdraws the PCR court will ensure that the Applicant's decision to withdraw an application is knowing and voluntary prior to dismissing the appication with prejudice. Brannon v. State, 345 S.C. 437, 548 S.E.2d 866-67 (2002)(PCR judge must, if a hearing is held either appoint counsel for indigent defendants or obtain a knowing, "voluntary waiver thereof"); and (2) See e.g., Gamble v. State, (1989) Gamble filed an application for post-conviction relief December 9, 1985. Before this application was heard on its merits, in May of 1986, Gamble contacted his appointed the pending application be withdrawn. Counsel requested the application's withdrawal, and the Circuit Court ordered the dismissal in May 1986. This Order recited that the State agreed to the dismissal but did not state that the application was to be dismissed with prejudice. The Applicant's 1st PCR Application is desmissed with out signed waiver to withdraws such application. See, id. at 298 S.C. 176, 379 S.E.2d 118. The voluntary dismissal of

(R. P. 374 = of - 497. ROA)

Appx.(M)(16-of-22)

an action by a plaintiff with the consent of the opposing party is without prejudice unless otherwise stated in the "notice of dismissal or stipulation." Rule 41(a)(1), SCRCP;

9. Enter [Ground 12(a)] Prior to this Application have been file with respect to this conviction, against Applicant's relief, included Petitioner first, second and "third, had been argued at his petition with The SC State Courts; (b)(c), see:

Applicant, instead ("Grounds 8, and 12(c) in this matter first, ground 8 is been arguing in the (amended pgs. 6 through 10), instead Ground 12; see the (4th PCR Act) application page (3) adding ground 12(d);

10. [Grounds 13 through 18] that Applicant constitutionally answered to all part of his Application, and part of (12), list with respect to each petition, motion or application:

The Applicant files it in the S.C. 13th Circuit Court's petions included motions.

ENTER, Applicant's INITIAL BRIEF IN SUPPORT OF THE APPLICATION FOR POST-CONVICTION RELIEF/ALTERNATIVE PETITION FOR HABEAS CORPUS

1. See the (4th PCR Act. Attached, Constitutional Provisions; (A)(1); Under Jimenez v. Quarterman, 555 U.S. 120, 121, 129 S.Ct. 681, at 686 (2009) stated the following facts:

The statute explaint, thus carries out "AEDPA's Goal" of promoting "comity, finality, and federalism" by givin a "State Courts the first opportunity to review [the] claim,' and to correct any constitutional violation in the first instance." See (quoting, Carrey v. Safforld, 536 U.S. 214, 220 (2002). The statute requires a fedral court, presented with an individual's first petition for habeas corpus relief? Sending those facts at "Case No.:

(R-P.375-of-497. ROA)

Appx.(M)(17-of-21)

8:11-cv-01372-TWL issued date 09/27/11 Entry-Number 24 at p. 2) between the State motion for "Summary Judgment, [Doc.15] now Applicant against the Respondent. When, this due proces between Hon: "Jacquelyn D. Austin denied, § 2254 Application for Habeas Courpus, and granted Attorney General's [Doc.15] Applicant show this motion, and recommendation is "Null and Void", and fall a full review to such judge in habeas petition? Because such dates at, the indictment did not mach each other, "information sworn to the state grand jury"; and

2. The Guilty Plead is Constitutionally invalid due to the trial court, failure to comply with the mandates of Rule-11 , FRCrimP; See the Initial Brief, Argument IV. Issue (D); Boykin V. Alabama, 395 U.S. 238 (1969), when the prosecutor provide a misconduct and make this pled invalid; U.S. v. Lawrence, 248 F .3d 300, 305 (4th Cir. 2001), because defendant must be "Physically present at iposition of sentences within a indictments and plead guilty. See, id., Keeney v. Tamayo Reyes,, 504 U.S.1 , 11-12 (1962). To obtain a hearing, the Petitioner must shown cause for his failure to devolop the facts in "State Court, Proceedings" and actual prejudice resulting from that failure , unless failure to hold a evidentiary hearing would result in "fundamental miscarry of justice." Barr v. City of Columbia, at 149, 84 S.Ct. at 1736 (1964)("[S]tate, requirement which are not strictly deprive "Applicant" of the right to review his claim); Butler v. State, at 441, 334 S.E.2d 813 (1985), see also Hill v. Lockhardt 474 U.S. 88 (1985); and See, ¶(B). SUPPORTING POST CONVICTION RELIEF; Pursuant's Williams.

(R. p 376-of-497. ROA) 16-of-19 File: (4th PCR. Act. Doc.3)

APPX. (M) (18-of-21)

1. The Applicant provide with this amendment and showing to this court that, why this case be heard and Rule? According to Williams v. State, 354 S.C. 360 n.1, 632, 583 S.E.2d 52, 54 (2003), see also Garner v. State, 371 S.C. 1, 2, Fn. 1, 636 S. E.2d 860, 861 (2006); and

11. [Ground 19]. The Applicant, addressing all's grounds for the relief have been sought to file his "Post - Conviction Relief (4th PCR.Act) Application, after his Initial Brief had, been filed with this Court:

This Jurisdiction have been invoke pursuant to the INITIAL BRIEF IN SUPPORT OF THE APPLICATION FOR POST - CONVICTION RELIEF/ALTERNATIVE PETITION FOR HABEAS CORPUS; Pursuant To The S.C. Code Ann. §§ 17-17-10/110; and S.C. Const. Art. 1, § 18; and U.S.C.A. Const. Amend 14. Rule 15(a) SCRCP, stated:

Aparty may amend his pleading once as a matter of course at any time before or within 30 days after a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial roster. S.C. Code Ann. § 14-5-180, S.C. Const. Art. 5, § 14:(Overcrowded Docket); State v. Best, 257 S.C. 361, 186 S.E.2d 272 (1972). Otherwise, a party may amend his pleading only by leave of court or by written consen of the adverse party. Set this Amendment within 30 days after it is served, his last pleading: Applicant's InitialL Brief ... in this Court. See, id., Broder v. Director, Dep't of Corr. Ill., 98 S.Ct. 556-561 (1978);

(R. P. 377-of-497, ROA)

State v. Thompson, 355 S.C. 255, 584 S.E.2d 131 (2003). A "PCP" process is specifically designed to allow for inquir into relevant facts surrounding the adequacy of the Applicant's information and waiver or rights, and where evidence is lacking, appropriate remedy is to have another hearing to determine whether Applicant was truly apprised of his right. Cartrette v. State, 323 S.C. 15, 448 S.E.2d 533 (1994). Applicant is entitle to full and fair hearing to present his grounds. Overruling on other grounds by Browder v. Director, Dep't of Corr. Ill., 434 U.S. 257, 265, 98 S.Ct. 556, at 561 54 L.Ed.2d 521 (1978).

The 13th Judicial Circuit (3rd PCR. Act") proceeding lies from a "final Order," S.C. Const. Art. I, § 11, art. V, § 22; and 28 U.S.C. § 2253. The 13th Judicial Circuit Court's Order from "Letitia H. Verdin, judge," of April 29, 2014 purported to be final, as it granted Petitioner's new (4th PCR Act.) application, as amended and directed that Petitioner be discharged if the "State did not retray him within 60 days." See, id., at Browder, 256, 89 S.Ct. at 561 54 L.Ed.2d 521 (1978). Respondent disclaimed reliance of Rule 60(b) SCRCP. Enoree Baptis Church v. Fletcher, 287 S.C. 602, at Fn.2, 340 S.E.2d 546-47 (1986)(quoting, State v. Mills, 314 SE.2d 324 (1984).

CONCLUSION

A convicted Applicant's claim that, misconduct, and false imprison, against relief, thrue the false information upon the court, and the counsel's assistance was is the result to defective as to require reversal of a conviction requires that the Applicant show first, that the deficient performance pre-

(R. P. 378-of-497 ROA)

judicial, whitin his trial counsel, and Susan O, Porter, deprived the Applicant of a fair trial. In His Guilty Plead with the false documents of indictments, inside's this Honorable Court, from Greenville County.

EXHIBIT (15)
APPX (M) (20-21-22)

Done this 10th day of January .20

Respectfully Submitted

Jose Maldonado

Jose Alberto Maldonado, #312648
Kershaw Corr. inst. MB/Room,#59
4848 Goldmine Highway
Kershaw, South Carolina 29067

19. File: (4th PCR. Act. Doc.3)

(R. P. 399 - of - 497 ROA)

Appendix (M) (Report of Page (21))

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Jose Alberto Maldonado, #312648,
Applicant, Pro-Se,

Exhibit (13)

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Case No. 2015-CP-23-04747

AMENDMENT TO POST CONVICITON
RELIEF APPLICATION
4th PCR. ACTION

CERTIFICATE OF SERVICE

2017 JAN 25 AM 10:21
PAUL WICKENSIMER
CLERK OF COURT
GREENVILLE CO. S.C.

I, Jose Alberto Maldonado, #312648, the above - stated Applicant, do under oath and penalty of perjury certify that I have serve a copy of the AMENDMENT TO POST CONVICTION RELIEF APPLICATION (4th PCR. Act.) with a SUMMONS within two separate files have been attached. Upon the below listed of parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

(SC) Attorney General's Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South carolina 29211

Further, Applicant Said and Notarized

This 10th day of January, 2017.

Respectfully Submitted

Jose Alberto Maldonado, #312648
Applicant Pro - Se

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina

File: (4th PCR. Act. Doc.3)

SWORN TO and SUBSCRIBED Before Me

This 10th day of January 2017.

Notary Public For South Carolina

My Commission Expires:

My Commission Expires December 24, 2019

(R. p 380 of 497 ROA)

LEGAL

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,
Plaintiff/Applicant, Pro-Se,

Case No. 2015-CP-23-04747

v.

State of South Carolina,

SUMMONS

Respondent.

(EXHIBIT: (16))

(Append X: (N) (Record Page 1))

FILED
CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2017 JAN 25 PM 2 20

You are hereby summoned and required to serve upon Jose Alberto Maldonado, Plaintiff/Applicant's Pro - Se, whose address is Kershaw Corr. Inst. MB/Room, #59 4848 Goldmine Highway, Kershaw, South Carolina 29067, an answer to the complaint which is herewith served upon the State of South Carolina, Respondent, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

(SC) Attorney General Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South Carolina 29211

Respectfully Submitted

[signature] To:

The Hon: Paul B. Wickensimer
305 E. North Street,
Suite, # 325
Greenville, S.C. 29601

PROOF OF SERVICE

Further, Plaintiff/Applicant said and Notarized This 10th day of January 2017.

SWORN TO and SUBSCRIBED Before Me
This 10th day of January 2017.

[signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

My Commission Expires December 28, 2017

Clock - Stamped Clerk of Court

(CR-P 381 of 497 ROA)

LEGAL

Jose Alberto Maldonado, #312648
Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

January 10, 2017

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

EXHIBIT (17)
(APPENDIX: (O) (Record Page 1 through 5))

Re: Jose A. Maldonado v. Ex-rel Walter Wilkins, And Karen Ratigan, Solicitor, In The General Sessions Court Term

Dear Clerk of Court:

Please find enclosed my "Motion To Allow Transfer and Consolidate Cases" Pursuant to Rule 42(a) SCRCP.

Further, Plaintiff/Applicant, demand an original clock-stamped a copy, and return copy in envelope provide.

Also, Please take notice that I am servin both courts, the Court of Common Pleas and Court of General Sessions with same Motion, respectively and separately files.

In reference to the above - captioned criminal, or civil case. Thus, if this file meets your approval with this court, signed and return, for been filed the enclosure self-address stamped envolope.

Thank You for your Kind Service,

Sincerely,

Jose Alberto Maldonado
#312648
Plaintiff/Applicant

Cc: Counsel of Records
(SC) Alan Wilson's Office
P.O. Box 11549
Columbia, South Carolina 29211

(R-0-280-of-17 RON)

Appx. (O)(2-of-5)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

Plaintiff/Applicant, Pro-Se,

v.

State of South Carolina,

Respondent.

Case No. 2015-CP-23-04747

MOTION TO ALLOW TRANSFER AND CONSOLIDATE CASES PURSUANT TO RULE 42(a), SCRCP

BETWEEN RULE 60(b), SCRCP PENDING FILE MOTIONS

FILED
GREENVILLE CO. S.C.
PAUL KICKENSIMER
2017 JAN 25 PM 2:24
COURT
S.C.
KENSIMER

The Plaintiff/Applicant, Jose Alberto Maldonado #312648 moves this Honorable Court to "allow transfer Case No. 2005-GS-47-0026, Arrest Warrant, #G-530070, and Case No(s). 2003-GS-23-45-0047/03-GS-23-45-0045":When this court failed to Sended the ("Docket Number") or made any rule for the relief have been sought? See, the "Motion For General Jury Docket Or Transfer Case To Jury Trial Roster, Pursuant to Rules, Rule 40(f), AND 41(b), SCRCP, to compel Clause, §§ 44-53-375(C)(5),44-53-375(C)(2)(b); See File (Doc.9) Issue Filed On December 14 - 15, 2016."

A Pendings Rule 60(b), Motions' To Set Aside Or Vacate Judgment' with "corresponding pleadings", from the "Court of General Sessions" to the "Court of Common Pleas, Case No. 2015-CP-23-04747; See, File (Doc.9. Pp. 10-11) at Hendrick v. State, 287 S.C. 221, at 223, 692 S.E.2d 892 (2010); see also at, (Doc.

9. Pp. 1-2, INTRODUCTION") To Holdings the Followings Reasons:

(1). Pursuant to Rule 40(f), SCRCP the clerk shall review the General "Docket and shall transfer the "Jury Trial Roster all cases" which have remained on 'General Docket for 12 months, and in which the court has not enter a schaduling Order.'"

Now Plaintiff/Applicant, asked to this Court to setting the date when the case is to be transferred to the "Jury Trial Roster" when there is pending Motions for a "schaduling Order" upon the files. See (Doc. 9(p. 2); the clerk shall notify Respondent with this filed ("Doc.9")? This Clerk of Court has/Have to provide with clock stamped when such file (Doc.9) entered in this court because Plaintiff/Applicant did not have any return clock-stamped of the transfer, to be in publication of the Jury Trial Roster also shall be deemed notice of the authomatic trasfer. See, State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012)(quoting, J. v. Spring Valley Country Club, S.E.2d Case No. WL 5047789 SC. August 26, 2015.)

This Court have to Consolidate the cases and Issues. See The "Amendment To Post Conviction Relief Application (4th PCR. Act) C/A#: 2015-CP-23-04747. File (Doc. 3. At, Page 18) arguing, to purported to be final. And granted Plaintiff/Applicant's new Post Conviction Relief (4th), Application, as ameded and directed that Plaintiff/Applicant, be discharged if the "State did not retray him within 60 days." After him have been filed his allegations of documents, ("Doc.9"); and (Doc.2) issues dates Dec. 14 -

Appendix: (O)(Report of Page(5))

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

Jose Alberto Maldonado, #312648,

Plaintiff/Applicant, Pro-Se,

v.

State of South Carolina,

Respondent.

Case No. 2015-CP-23-04747

CERTIFICATE OF SERVICE

FILED
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2017 JAN 25 PM 2:23
COURT

I, Jose Alberto Maldonado, #312648, the above - stated Plaintiff/Applicant, do under oath and penalty of perjury certify that I have serve copies of the "MOTION TO ALLOW TRANSFER AND CONSOLIDATE CASES PURSUANT TO RULE 42(a), SCRCP," and "A Copy, of SUMMONS have been attached". Have been Certify, upon the below listed of parties:

The Honorable Paul B. Wickensimer
Clerk of Court
305 E. North Street, Suite #325
Greenville, South Carolina 29601

Attorney General's Office
Alan Wilson/Karen Ratigan
P.O. Box 11549
Columbia, South carolina 29211

Further, Plaintiff/Applicant said and

Notarized This 10th day of January, 2017.

Respectfully Submitted

SWORN TO and SUBSCRIBED Before Me

This 10th day of January, 2017.

Notary Public For South Carolina

My Commission Expires:

My Commission Expires December 28, 2017

Jose Alberto Maldonado, #312648
Plaintiff/Applicant

Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South carolina 29067

File: (4th PCR. Act. Doc.4)

(R. p. 385 -of- 497, ROA)

LEGAL

App.(C)(4 of 5) Exhibit (7)

15, 2016." See id., at Browder, 256, 89 S.Ct. at 561 54 L.Ed.2d 251 (1978). The Respondent disclaimed reliance of **Rule 60(b), SCRCP,** upon this three, Rules: Enoree Baptis Church v. Fletcher, 287 S.C. 602, at Fn.2, 340 S.E.2d 546-47 (1986)(quoting, State v. Mills, 314 S.E.2d 324, (326)(1984)(Citing, State v. Gaskings, 263 S.C. 343, at 347, 210 S.E.2d 590, 592 (1974).

The Court of Common Pleas and Court of general Sessions are both Circuit Courts of the "13th Circuit" within Greenville County. The **Rule 60(b), SCRCP,** motions contains issues of common facts and law as does the Application for "Post Conviction Relief/Alternative Petition For State Habeas Corpus Case No. 2015 -CP-23-04747, with the amendment, and it would greatly benefit all parties and promote judicial economy in resolving these issues in one proceedings."

Wherefore, the Motion Should be granted.

Respectfull Addressed

Done this 10th day of January, 2017.

Jose Alberto Maldonado, #312648
Plaintiff/Applicant Pro Se

Kershaw Corr. Inst. MB/Room #59
4848 Goldmine Highway
Kershaw, South Carolina 29067

(R.P. 386-of-497 ROA)

Greenville County

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

EXH. 5 F (18).
APPENDIX: (P) REPORT - PAGE 1 OF 3

March 32, 2015

Jose Alberto Maldonado #312648
Kershaw Correctional Inst.
4848 Goldmine Hwy
Kershaw, SC 29067

Re: Filing "Motion for Counsel and Interpreter", "Post-Conviction Motion Pursuing the True Bill", "Notice and Motion to Set Aside or Vacate Judgment Pursuant to Rule 60 (b) (5)", "Memorandum of Law in Support of Motion to Set Aside of Vacate Judgment", "Affidavit", and "Attachments"

Dear Mr. Maldonado:

Your letter and filings were received 3/23/2015. Enclosed please find a copy of your clocked filings as you requested. As a courtesy to you, a copy of your motions as referenced above have been forwarded to the Solicitor's Office and to the Administrative Judge.

Please note that the Clerk of Court for General Sessions is a filing office and we do not set the motion docket, therefore we cannot provide motion status updates or information, nor do we have the authority to make any sort of ruling in the matter.

Sincerely
Clerk of Court
Greenville County General Sessions

(R. P. 387 OF 497. ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS
FOR THE 13TH JUDICIAL CIRCUIT

State of South Carolina,)
EXH. 61 F (18) Plaintiff,)
APPX. (P) (2-of-51))
)
V.)
)
Jose Alberto Maldonado,)
Defendant.)

Case(s) No.: 2005-GS-47-0026,
2003-GS-23-45-0047/03-GS-23-45-0045

MOTION FOR COUNSEL AND
INTEREPRETER

I, **Jose Alberto Maldonado,** Defendant hereby moves, **Pro-Se,** and pursuant to: **S.C. Art. I.§ 14.** Defense of Due Process, and Equal Proctetion of laws. Under the South Carolina State Const. **Art. I, § 3, Code 1976 § 17-3-10,** et seq.; **USCA. Const. Amends. 5th. 6th. 14th.** Pursuant of the Sixth Amendment, the Defendant claims for appointment of counsel in the above-captioned criminal case(s). This Motion is based upon the following reasons:

1. Defendant has herewith filed a **Rule 60(b)(5) SCRCP,** Post - Conviction Motion raising a claim of Extrinsic Fraud Upon the Court, Seeking Relief from judgment. In the above-captioned criminal case(s);

2. The Six Amendment provides that ("[i]n all criminal prosecutions the accused shall enjoy the right to have the assistence of counsel for his defense".) U.S.C.A. Const. Amend. VI.;

3. The right to counsel attaches at critical stages of a criminal prosecution after the initiation of adversarial judicial proceedings. See, Kirby v. Illinois, 406 U.S.862, 689 (1972); Gideon v. Wainwright, 372 U.S.335, 342 (1963); Rothgery v. Gillespie County, 128 S.Ct. 2578, 2583, at [2605] (2008) ("right to counsel attached at 'Judicial Officer, arraingment hearing', that the counsel is to provide a Defendant with a preindictment private investigater"); Gardener v. State, 351 S.C. 413, 570 S.E.2d 184, at [187] (S.C. 2002). (Quoting State v. Cash, (Ct.App.1992)). This right would enconpass a **Post - Conviction Motion** seeking relief from judgment;

4. That an interpreter to relay **(translate)** the English to Spanish Legal facts and reasoning them with the law would be necessary in this matter for the Defendant to be meaningfully heard in this matter. See, Appellate Court Rules, Rule 511. Reading, into **"PREAMBLE"** state as follows:

1). A non-English Speaker should be able to understand just as much as an english speaker with the same level of education and inteligence. As officers of the court, interpreter help assure that such person may enjoy equal access to justice and that court proceedings and court support service function efficiently and effective.... Anyone serving as a court interpreter out in these Rules. Judges and attorneys should be familiar with the Rules and expect conduct from interpreters that's consistant with them; and Appx. (P)(3-of-51)

2). **APPLICABILITY**, this Rules shall guide and be binding upon all persons, agencies and organization who administer, supervise use of, or deliver interpreting services to the judiciary.

Here by the interpreter, have to showing, the full name, before the Court hearing, shall accurately and completely represent their **Certification, trining, and pertinent experince."** Appellate Court Rules. Rule 511 (1)(2). Interpreter In Criminal Proceedings. See S.C. Code Ann. § 17-1-50.

Wherefore, Defendant, **Jose Alberto Maldonado,** respectfully moves this Honorable Court to grant this Motion and appoint counsel to represent him in the Above - Captioned Criminal Case(s) and interpreter be appointed to assist Defendant at an evidentiary hearing in this matter. Holdings is grounds upon the Defendant **Affidavit** have being Submit in this Hon: Court.

This 2 day of March, 2015.

Respectfully Submitted

s/Jose Alberto Maldonado

Jose Alberto Maldonado,#:312648
Pro - Se Defendant.

Kershaw Corr. Inst. MB/Room, # 59
4848 Goldmine Highway
Kershaw, S.C. 29067.

File on: 2-3-2015

(R. P. 389-of-497. ROA)

Appx. (P)(4-of-51)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

State of South Carolina,
Plaintiff,

v.

Jose Alberto Maldonado,
Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE 13TH JUDICIAL CIRCUIT

Case(s) No.: 2005-GS-47-0026,
2003-GS-23-45-0047/03-GS-23-45-0045

NOTICE AND MOTION TO SET ASIDE OR VACATE JUDGMENT PURSUANT TO RULE 60 (b)(5)

To: Plaintiff, State of South Carolina.

You will please take notice that Defendant, **Jose Alberto Maldonado, Pro Se,** will so move before this Honorable Court seeking an Order to Set Aside or Vacate Judgment of Convictions and Sentences entered On: **November 29, 2005, August 22, 2006** and **April 10, 2007.** In the Above-Captioned Criminal Case(s).

The above-captioned Defendant, **Jose Alberto Maldonado** pro se, hereby moves, pursuant **Rule 60(b)(5) SCRCP,** to have the **August 22, 2006,** and **April 10, 2007** judgment of conviction and sentences entered in the above - captioned cases, Set Aside or Vacate because of Extrinsic Fraud Upon the Court. Specifically , Greenville County. Solicitor, in Office at the times alleged herein, engaged in misconduct and acts of perjury to interfere with the proper functioning of the judicial process. This Motion is supported with the Memorandum of Law and Attachments here to Affixed. Therefore, for good cause shown, Defendant, **Jose A. Maldonado,** respectfully requests this Honorable Court to sched-

(R. P. 390-of-497. ROA)

ule an evidentiary hearing at the soonest available date for the purpose of taking any additional evidence and testimony or for any other action deemed necessary for resolution of this Circuit may establish a pre trial hearing calendar. South Carolina Rules of Civil Procedure Rule 16(d) SCRCP, Rule 26(c)(8) SCRCP, Protective Orders, Rule 30(c) Record of Examination; Oath; Objections; & Rule 82(b) SCRCP, Jurisdiction and Venue.

Defendant, move this Honorable Court to addressee Jurisdiction and Venue, outside SCDC is Regular transfer, on available date for his pre-trial hearing calendar. S.C. Art 5, § 23; Code 1976 § 17-21-80, by empaneling the resolution to this Extrinsic Fraud Upon the Court claim present herein.

Wherefore, Defendant so moves.

This 2 day of March, 2015.

Respectfully Submitted

s/ Jose Alberto Maldonado

Jose Alberto Maldonado, #312648
Pro Se Defendant,
Kershaw Corr. Inst. Mb/Room #59
4848 Goldmine Highway
Kershaw, S.C. 29067

File on: 2-3-2015

(R. P. 391-of-497. ROA)

Appx. (P)(6-of-51)

STATE OF SOUTH CAROLINA) COUNTY OF GREENVILLE :	IN THE COURT OF GENERAL SESSIONS
State of South Carolina,) Plaintiff,)	FOR THE 13TH JUDICIAL CIRCUIT
V.	Case(s) No.: 2005-GS-47-0026, 2003-GS-23-45-0047/03-GS-23-45-0045
Jose Alberto Maldonado,) Defendant.)	AFFIDAVIT OF JOSE ALBERTO MALDONADO

Personally appeared before me Jose Alberto Maldonado, who being first duly sworn, depose and states as follows:

1. I am an inmate at the Kershaw Correctional Institution located at 4848 Goldmine Highway, Kershaw, S.C. 29067, and Defendant in the Above - Captioned Case(s):

2. Defendant was said to have been indicted by the grand juror see, at first page of Memorandum of law in Support's Motion to Set Aside of Vacate Judgment. [ISSUE I]; Defendant did not appealed his conviction and sentences. But he had filed Three, (Postconviction Relief ("PCR")). 1st: C/A#;08-CP-23-2140;(Second PCR.Act.C/A#;2010-CP-23-3391); and (Third PCR. Act. C/A#:2013-CP-23-1440). That ["3rd PCR. Act."], does is for mandatory relief, was Defendant filed it in the Greenville County, Court of Common Pleas. But this Court failed to "Relief of Reversed the Conviction," because therein is "a conflict of interest bewteen, the same judge." Was presided over the (1st. PCR. 2nd, PCR.Act. & 3rd PCR.Act.), deprivated a Defendant of his right to due process, for presided upon his PostConviction Relief (PCRs). Defendant filed his Notice of Appeal, May 28, 2013. But the S.C.Supreme Court dismissed the Notice of Appeal, and send the "Remittitur" by Rule 221 (b) SCACR, entered Order June 19, 2014. Defendant Received

the "Remititur" on August 7, 2014 from the Mailroom in the Kershaw, CI. Petitioner, moves this Court to send a rehearing and Remittitur, but the Court denied my filed Motion, Aug. 12, 2014 with the same Order in August 6, 2014. "Appellate C/A#.:2014-001164. Thus the SC. Supreme Court's Clerk sended the remittitur to the lower court. Further the Defendant submit the Motion of Rule 60(b)(1-through-5). See a Motion For Automatic Stay filed on May 12, 2014 were Defendant Raise the Rule 60 SCRCP, been and Conclusion to do so. Supporting Affidavit's (Attachments;A-4, B-4, & C- D). See below (1-through-3):

(1). That, Affiant is Pro-Se Defendant in this matter;

(2). That, Affiant has made an attempt to resolved this matter with the (State Plaintiff), without public "is View", but if this Honorable Court did not fix the matter, or return the Original indictment [through] the "Appropriate County Defendant will submitted this facts in public biew;

(3). Because, the (State Plaintiff), has failed to file or served an answer or take other actions as may be permitted by law to resolve this matter;

3. Had I known that the indictment in my case were superseded and were supposely returned without presentment to grand jury was not open, I would have made contemporaneous objections to the make up of that grant jury and the indictments returned or presented to the Court as True Bill;

4. That, Affiant has been "Deprived of his 'Life and Liberty'" by the 'State of South Carolina' under the use of fraud inctments to assert jurisdiction upon a Trial Court to convict and sentence Affiant. Thus, the judgment is void;

5. That, Affiant's criminal guilty pleas was held in a General Sessions Court Term, (unknown) if the happen is in Columbia, or Greenville County? Which such "Court Term" failed to provide the proper authority to hold such Trial; (R. P. 393-of-497. ROA)

Appx. (P)(8-of-51)

III. AFFIDAVIT OF JOSE ALBERTO MALDONADO

6. That, this Motion and Affidavit if Not Rebutted point for point by any man or woman Representing the State of South Carolina at any level, in any matter, in the time they receive this "Motion", shall serve his answer within (30) days. See (Rule 12(a), quoting, Rule 4(e) SCRCP), upon receipt, these Motion, stand as true in both the private and public record ... as true;

7. That, the State of South Carolina, Plaintiff, and the oppose party, the State Grand Jury (SC) Office of the Clerk, was served within a copy of the "Motion and Affidavit" as appears from the Certificate of Service;

8. As best I can determine, the facts and evidence contained within my Notice and Motion, "Memorandum" and (Attachments: A-1,A-4; B-1,B-4); (C-1. - Through - C-9); and (D-1. - Through - D-8), are True and Correct;

9. I, believe a complaint and "Criminal Sanctions for misconduct" are warranting and should be file against the oppose party, ant the Solicitor for her willful acts of perjury in violation of: S.C. Code of Laws Clause, §§ 16-9-10, 17-19-90/100. Against §§ 44-53-375(C)(5), [and instead § 44-53-375(C)(b)(2) failed at the face of the Superseding Indictmen].

Wherefore sayeth naught. To, the following Persons:

Greenville County Solicitor's Office
305 E. North Street Suite 325
Greenville, S.C. 29601

SC Attorney General's Office
Post Office 11549
Columbia, S.C. 29211

The Honorable Jeanette W. Mcbride
Clerk of Court
Richland County General Sessions Court
P.O. Box 2766
Columbia, S.C. 29202

The Honorable Paul B. Wickensimer
Courthouse
In The General Sessions Court
305 E. North Street
Greenville, S.C. 29601

State Grand Jury of South Carolina
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building
Suite, 519
Columbia, S.C. 29067

Further, Defendant said & Not:
This 2 day of March 2015.

Respectfully Submitted

SWORN To and SUBSCRIBED Before Me
This 2 day of March 2015

Cathrine A. Amason
NOTARY PUBLIC for SOUTH CAROLINA
My COMMISSION Expires:
December 22 2018

s/Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
The Affiant,
Kershaw, Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067
Addressee on: March 3, 2015.

(R.P. 394-of-497. ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

State of South Carolina,
Plaintiff,

v.

Jose Alberto Maldonado,
Defendant.

IN THE COURT OF GENERAL SESSIONS

FOR THE 13TH JUDICIAL CIRCUIT

Case(s) No.: 2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

POST - CONVICTION MOTION

PURSUING THE TRUE BILL

Appx. (P)(9-of-51)

SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS

To:

Counsel of Records:
James H. Price, Equire
644 E. Washington Street
Greenville, S.C. 29601

Greenville County Solicitor's Office
305 E. North Street Ste. 325
Greenville, S.C. 29601

SC Attorney General'S Office
Alan Wilson
Post Office 11549
Columbia, S.C. 29211-1549

State Grand Jury of South Carolina
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, S.C. 29201

Counsel of Recors ([First PCR)
Rodney Richey P.O. Box 10916
Greenville, S.C. 29603

The Honorable, Paul B. Wickensimer
Courthouse
305 E. North Street
Greenville, S.C. 29601

Susan O. Porter:
General Counsel SLED
[Former] Assistent General/
Solisitor, Atty. General's Office
P.O. Box 21398 Columbia, S.C. 29221

The Honorable Jeanette W. Mcbride
Clerk of Court
Richland County General Sessions Court
P.O. Box 2766
Columbia, S.C. 29202

Respectfully Submitted

s/Jose Alberto Maldonado

Jose Alberto Maldonado, #312648
Kershaw, Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067

(R.P. 395-of-497 ROA)

Appx. (P)(10-of-51)

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	IN THE COURT OF GENERAL SESSIONS FOR THE 13TH JUDICIAL CIRCUIT
State of South Carolina, Plaintiff, V. Jose Alberto Maldonado, Defendant.	Case(s) No.: 2005-GS-47-26, 2003-GS-23-45-0047/03-GS-23-45-0045 MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SET ASIDE OF VACATE JUDGMENT

Now comes the Defendant, **Jose Alberto Maldonado,** Pro - Se, who here by submit this memorandum of law in Support of his Motion to Set Aside of Vacate Judgments of Convictions and Sentences rendered against him on **November 29, 2005, August 22, 2006** and **April 10, 2007** in the Above-Captioned Cases:That the Action invoked herewith raise a claim; **Extrinsic Fraud Upon the Court.** Therefore, Defendant **Maldonado** would show this Hon: Court the Followings:

I.
STATEMENT OF THE CASE

The Defendant was indicted at a Sessions of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on **December 13, 2005,** the State Grand Jurors present upon their oath: for Conspiracy to Trafficking Methamphetamine, **("[Two Counts, Trafficking Methamphetamine More Than >400 Grams]"),** and possession of a firearm during the Commission of a violent crime. On **August 22, 2006.**

Fn.1

Defendant plead guilty to the lesser - included offenses of Conspiracy to Trafficking in Methamphetamines [28 - 100 grams]. For 2nd offenses, run concurrent, pursuant to a **"Superseding Indictment"**

1. State v. Wilson, 315 S.C. 294 at, [fn.1], 433 S.E.2d 865, 867-68 (1993); U.S. v Sears, & Co., Inc., 785 F.2d 77-80, 781 (1986)(Conspiracy/Superseding Indictment); Finley v. State, 291 S.C. 281, 64 S.E.2d 881, 882-83 (1951);Simmon v. State, 322 S.C. 46, 471 S.E.2d 455 (1993);United States v. Mechanik,475 U.S. 66, 70, 72 (1986); See, also Ruelas, 106 F.3d 1416-19.

for Conspiracy to Trafficking, Methamphetamine, Trafficking in Methamphetamines more than >400 grams **[Three Counts]** and possession of a firearm during the commission of a violent crime, supposely issued on **February 22, 2006.** Those indictments bared No:**2005 -GS-47-0026.** The State recommended a **Twenty (20) years sentence.** Whereas, the Defendant did receive from the Honorable Alexander S. Macaulay on **"April 10, 2007"**[?] Defendant was represented by James H. Price, Esquire and the State was represented by Susan O. Porter. Appx. (P)(11-of-51)

II.
STATEMENT OF FACTS

This **Rule 60(b)(5) SCRCP,** Motion raise Extrinsic Fraud Upon the Court resulting from Solicitor Susan O. Porter (Hereinafter Mrs. Porter) willful acts of perjury and gross misconduct as committed on **February 22, 2006, August 22, 2006, & April 10, 2007.** Moreover, the facts and evidence presented below demonstrates that **Porter** is acts of Perjury and misconduct inferferred with the proper functioning of the judicial process in such a way as to deprive **"Jose Alberto Maldonado"** of the opportunity to fully present his case.

III.
ARGUMENTS

A. Fraud Upon The Court:

It is clear that a Motion made for relief from judgment under **Rule 60(b)(5) SCRCP,** rests within the sound discretion of the trial court. See, Investment v. Ocean Holiday Parnership, 314 S.C. 116, 441 S.E.2d 835, 848 (Ct. App. 1994) citing Rule 43(e) SCRCP, and Rule 56(e) SCRCP, Thompson v. Hammond, 279 S.C. 115, 382 S.E.2d 900 (S.C. 1989).

(R.P. 397-of-497.ROA)

1. A motion asserting "fraud upon the court concerns the integrit of the judicial process itself [and] a judgment may be Set aside for fraud upon the Court at any time." See; 12 Joseph T. Mclaughlin, Morris Federal Practice, § 60.21 (4)(a) at 60-61.

That is, when a party can show [extrinsic] "Fraud Upon the Court, [t]here's no time limit on any party or Court." Id. Chewning v. Ford Motor Co., 346 S.C. 28, at 33, 34, 550 S.E.2d 584, 588 (2001),("Relief for Fraud Upon the Court's not subject to ['one-year limit placed on relief under Rule 60(b)(3)']"). See also: H. Lightsey & J. Flanagan. SCRCP, 408 (2nd Ed.1985). (Overruling on other grounds by Chewning v. Ford Motor Co., 354 S.C. 80, 81, 579 S.E.2d 605, at 610 (S.C. 2003). ("There is no statute of limitations when a party seeks to set aside a judgment due to fraud upon the Court.")Rule 60(b)(1-to-5), SCRCP; Hagy v. Pruitt, Supra. (This court have the inherent authority to set aside a judgment on the grounds of extrinsic fraud in spite of any facially applicable statute of limitation). In order to secure equitable relief on the basis of fraud, the fraud must be extrinsic ... ("[e]xtrinsic fraud is necessary in order to secure equitable relief vacating a prior judgment".).

App'x.(P)(12-of-31)

2. Thus, this motion raising a claim of extrinsic fraud upon the Court is timely and under the circumstances found here, is the proper procedure by which relief from judgment have [to] be granting. Below, the Defendant will establish by clear and constitute Grand Jury from Columbia's procedure, and then committed

Appx. (P)(13-of-51)

willful acts of perjury which deprived **Defendant, Jose Alberto Maldonado** of the opportunity to make contemporaneous objections.

The Defendant was indicted by State Grand Jury in Columbia on **December 13, 2005** for ("Conspiracy to Trafficking")Methamphetamine; **(Two Counts),** Trafficking in Methamphetamine **(More than>400 Grams);** and ("[p]ossession of a[firearm]" during the commission of a "violent crime.") However, Solicitor Porter presented to the court a **("Superseding Indictment")** charging Defendant with Conspiracy to Trafficking in Methamphetamines;**("Three Counts")** of Trafficking in Methamphetamines more than >400 grams; and possession of a firearm during the commission of violent crime, which was supposely issued on **February 22, 2006.** This action by Solicitor Porter actually **Amended the Indictment** to **("Fourth Counts")for Trafficking Methamphetamines?** Code 1976 § 17-19-100. See e.g.,**Weinhauer v. State,** 334 S.C. 327, 513 S.E.2d 841 (S.C. 1999)(quoting, **Clair v. State,** 334 S.C. 144, 478 S.E.2d 54 (1999). The established procedure in this State is for the action of the grand jury to be entered on the indictment over the signature of the forman. See, **Sentenced** within **Fourth Counts,** & didn't with a three Counts.

A). The indictment is then presented to the court where, in open Court and in the presence of the grand jury, the clerk of court reads the action take. Opportunity is thus afforded any member of the grand jury to disagree with the correctness of the precedence read by the Clerk. S.C. Const.art.I,§ 11; Art.V.§ 22; & § 17-23-120.

B). The procedure to be adopted and the inquiry to be made in the reception of the indictment by the court, short of a poll of the grand jury, to assure that the requisity number of grand jurors agreed to the present is a matter left to the sound discretion of the trial judge and will not be disturbed in the absence of a "clear showing of abuse thereof." State v. Sander, 251 S.C. 431, 163 S.E.2d 220 (S.C. 1968). S.C.C.A. Const. Amends. 5th, and 14th.

(R. P. 399-of-497. ROA) 4-of-16

Appx.(P)(14-of-51)

3. Whereas, the "Original Indictment charged only Two Counts", the "Superseding Indictment" was intentionally charged by Prosecutor to add more presure the Defendant plead guilty without the "Original Indictment being dismissed," the ["first"] and by legal process of (obtaining another indictment) from a legally Sworn and Constituted ["State Grand Jury"]. See, Facts bellow:

(Attachment; A-1, A-4/B-1, B-4/C-1 Through 9. And D-1 through 8).

4. Susan O. Porter, being Solicitor in Greenville County, was Responsible for the preparation, processing and publiching of Jose Alberto Maldonado indictments. See, id., U.S. V. Mechanik Supra, 475 U.S. 66, 75, 76 (1986).

Where a grand jury was duly drawn, duly organized, and acted upon the indictment in the regular and usual manner; where it was "a Grand Jury of the 'Court of General Sessions for the Term at which the indictment was found'"; where it was selected by the Officer having lawful authority so to do and was composed of members duly sworn; and where all the proceeding were regular in every respect, except only that it afterwards appeared that there was a statutory irregularity in the "Issuance of Certificates of Registration to these Grand Jurors," although "each of them was qualified" to received a corrected and proper Certificate" and the Defendant, Mr. Maldonado, expressly waived such irregularity, it was held that he could not later attack the validity of the indictment upon this section because the [indictments [is] totality defective], and the grand jury was not qualified. State v. Hann, 196 S.C. 211, 12 S.E.2d 720, at 726 (S.C. 1940) (quoting United States v. Gale, 109 U.S. 65,

(R. P. 400-of-497. ROA) 5-of-16

3 S.Ct. 1, 27 L.Ed 857, quoting the following from the Opinion:

"There are cases undoubtedly which admit of a diferent consideration, and in which the objection to the 'Grand jury may be take at any time,'" See, (Ante at Page [3] of this Motion).

5. Rendered by Mr. Justice Woods, in the Case of: State v. Lazarus, 83 S.C. 215, 65 S.E. 270, 271, wherein this Court held that the law requires the presentment of grand jury as a condiction precedent to the trial of a crime (Except Certain Minor Offenses), the Grand jury being a Constituent part of the Court, and without its presentment the Court has no Jurisdiction of the cause. In the Lazarus case it was held that a Motion after sence to Set Aside A Conviction on an Indictment presented by a grand jury, because the writ of venire facial did not have "attached the Seal of the Court, and came too late, it being an irregularity." See id., Hann, 196 S.C. 12 S.E.2d at 727. (Quoting) State v. Faile, 43 SC. 52, 20 S.E. 798, 800. The Court held that a Defendant might waive objection to the "amendment." This Court said: "The question in this case, however, is not whether such amendment is against the "Constitutional Right Guaranteed to the prisoners' for his proctetion", but whether he has waived his Right to insist Upon such Constitutional Provision. These Provisions of the Constitution are for the Procteti-on and benefict of the Prisoners, and "can be waived by him when in his judgment it's to his advantage to do so." S.C. Code Ann. §§ 17-19-90, & 17-19-100; State v. Fonseca, 383 S.C. 647, 681 S.E.2d 1, at, [3, 4] (S.C. 2009). See also S.C.Code Ann., §17-23-120 through 140.

Appx. (P)(16-of-51)

However, in direct contradiction to the Court Term information printed upon the Superseding Indictment, only the face of the indictment has been amended, but the back sheet is exactly as "Original with the exact same signatures" and the this indictment date **February 22, 2006** did not pass before the State Grand Jury at all. See **(Attachment: A-4 & B-4)**,[in comparison].

6. It is obvious the Solicitor Porter recreated the "face Sheet of the indictment" and leaft the remaining pages as they are of the State Grand Jury is Original Indictment dated: **December 13, 2005."** Therefore, **"False Court Term Information"** is contained in Maldonado's **True Bill Indictment** which was knowignly and fraudulently processed, printed and published by the hand of Solicitor Porter. See: **(Attachment: C-1, Through C-6; See also D-1, & 2).** Mrs. Porter shown that, in the Sentencing Sheet. See, (Attachment D-1, & D-2).

It is an offense against Public Justice to wilfully, give false information in a State indictment. South Carolina Code of Laws, **§ 16-9-10**: "Perjury and subornation of perjury", provides irrelevant misleading, or incomplete information on a document, record, or report, or form required by law of this State:

B(2). A person who violates the **Provision of Subsection A(2)** is guilty of a misdemeanor, and upon conviction, must be imprisoned not more than **Six(6) Months,** or fined not less than one hundred dollars, or both; **(C)**. A person may be convicted under this **Section** if he induces, procures, or pursuades another person to commit perjury of if he commits perjury by his own act, consent or agreement: **First,** should be noted that **Jose Alberto Maldonado** ...

(R. P. 402-of-497. ROA).

criminal indictment are documents required by the law of this State. See, S.C. Code Ann., § 17-19-10. ("[N]o person shall be held to answer in any Court for an alleged crime or offense, unless upon indictment by a grant jury"). Thus, for purposes of establishing perjury under the provisions of: § 16-9-10 (Supp.2003). Mr. "Maldonado True Bill," State indictments would sastify the requirement of Subsection, A(2); and

Second, it should be further noted the **"Greenville County 13th Judicial Circuit"** have, had been **["usurper"]** from Susan O. Porter-Solicitor, to came with a indictments through; **(Richland County 5th Judicial Circuit)** upon **(Columbia's State Grand Jury)**, and prosecuted Defendant in the Greenville County, without of **"jurisdiction of venue"** was by virtue of her office, requires to see that justice was done. See, **Rule 407 SCACR:** Comment. See also; State v. Quattlebaum, 338 S.C. 441, 527 S.E.2d 105 (S.C. 2000); State v. Durden, 264 S.C. 86, 212 S.E.2d 587 (1975); and State v. King, 222 S.C. 108, 71 S.E.2d 793, 798 (1952). "...She [prosecutor] must see that no conviction takes place except in [strict] conformity with the law, and that the accused is not deprived on any Constitutional Right or privilege...." [insert added].

7. Therefore, the acts of Solicitor Porter of printing and **(amending False Court Term Information Superseding)** in Maldonado in State required **[§ 17-19-10]** indictment would by necessity have to be viewed as wilfully done. The Law is clear-solicitor Porter was required to know and obey the Laws of South

Carolina. Accordingly, Mrs. Porter is guilty of perjury; an offense against Public Justice, in violation of: S.C. Code § § 16-9-10, 17-19-90, & 17-19-100. See: (Attachment C-1 through C-6).

Appx. (P)(18-of-51)

8. Defendant was charged with Conspiracy to Trafficking methamphetamine, ("Two Counts"), Traffificking Methamphetamin more than (400-grams) and possession of "a firearm" during the commission of a violent crime. Hereby Defendant, he did not have in "such Commission, any firearm with him[?]" The Solicitor Porter, provided a incorrect information; that indictment document showing that, and she didn't have record to identify the Defendant Jose A. Maldonado had a "Weapon or Firearm" during such commission, Mrs. Porter rely in the indictment, was wrongly asserted to be presenting a Defendant [within] the firearm in the indictments. and charged him with firearm, amended, false dates on: December 13th, 2005/February 22th, 2006.... On August 22th, 2006 Defendant plead guilty to the lesser - included offenses of Conspiracy to Trafficking in Methamphetamine [28-100 grams] Second offense, (instead Code § 44-53-375(C)(b)(2)) had been violated pursuant: § 17-19-100, Porter, prosecuted a Defendant with Trafficking Methamphetamine (Conspiracy); and >400 grams - Three Counts S.C. Code 1976, Ann.§ 44-53-375(C)(5), Possession of a Firearm during the Commission of Violent Crime, upon of S.C.Code Ann.§ 16-23-460. In (Superseding Indictment). The falsity possession of firearm during the commission of violent crime, failed to be a ("True Bill") upon the Defendant case. Set forth below upon the Court in

(R. P. 404-of-497: ROA)

the **(General Sessions from 'Richland County)**, or **("[G]reenville County'")**. Supposely issued on **[February 22, 2006]**, without any documentation, to prove has been **["amended"]** in the Greenville County, or Richland County. Therein show a false and fraudulent representation from this State, in this case with such papers'.

9. Defendant raise his defense and showing alibi. That trial court, charged the Defendant with respect to the time fixed in the **("Bill Superseding Indictment").** It is undoubtely, Defendant assert that:

Appk.(P)(19-of-51)

"I will say in the connection that the **("Exact dates is inmaterial").** It does not make any difference, so far as the crime is concerned, if the Defendant committed the crime "as charged at any time within the information was fixed." Defendant, demanding the true upon the **"State Grand Jury in the Greenville County,"** and did [no] state in Richland County: This County had or have **"Jurisdiction of Venue"**, to prosecuted A Defendant therein? The facts is not, and ("[a] Motion between State Grand Jury in the Richland County failed without its "Jurisdiction and Venue). S.C. Const. Art. V, § 23; Code 1976 § 17-21-80. Sheppard v. State, 357 S.C. 655, 594 S.E.2d 468 (2004) (quoting, State v. Manning, 329 S.C. 9, 495 S.E.2d 191, [194] (S.C.1997). The grant of the State's request for a change of venue hasn't been addressed by this Court. And abuse of discretion accurs when judge's ruling on motion to change venue has no evidentiary support." See id. , at State v. Caldwell, 300 S.C. 494, 388 S.E.2d 816 at 821-22 (SC.1989); **State v. Wilson,** 315 S.C. 292, 433 S.E.2d 864 [866]

(S.C. 1993) Supporting facts the grand jury is jurisdiction must be "set forth in the indictment". (Quoting, **State v. McIntire,** 221 S.C. 205, 71 S.E.2d 413 (1952)(Holding, to vacate judgment), where the **("Two Counts/'Three Counts'")** is totally defective in that it alleges an offense cherged that: Appx.(P)(20-of-51)

> The offense charged has significance in other **"Counties as 'Multi-Counties Impact'"** is necessary to establish jurisdiction of the **"State Grand Jury."** **See and Cf.;(attachment;A-1,4.B-1,4. C-1,9.&D-1,8. Up).**

The State Grand Jury was created to inprove the State is ability "to detect and eliminate Multi-Counties criminal activity." S.C. Code Ann. §§ 14-7-1610, 14-7-1615. To this end; THE **"Grand Jury has Statewide Authority"** but its jurisdiction is limited to certain offenses. **S.C. Code of Laws, § 14-7-1630 (A)(Supp. 1992).** While, State Grand Jury may properly return indictment alleging **Single County offense; State v. Evans,** 319 S.C. 323, 460 S.E.2d 580 (S.C. 1993); State v. Evans, 322 S.C. 78, 82, 470 S.E.2d 97, at 98 (S.C.1996); Evans, 363 S.C.495-510, 611 S.E.2d 510, at 518 [Fn.7] (2005). **See, S.C.Code Ann.,§ 17-27-80.: Castaneda v. Partida, 430 U.S. 487, (Fn.7-12) a prime facie case.**

10. Fraud upon the court is "Fraud which ... suvert[s] the integrity of the court itself, or is a fraud perpetrated by **Fn.2** Officer of the Court so that, the judicial machinery cannot perform in the usual matter; it impart task of adjuging cases that are presented for adjudication. See Chewning v. Ford Motor Co., 346 S.C. 81,550 S.E.2d 580 (2001) citing, Evans v. Gunter, 249 S.C. 525, 529, 366 S.E.2d 44, 46 (Ct. App. 1988) (quoting,

---

2. Ex Parte Siebold & Clark, 100 U.S. 371, 381, 1879 WL 16559. See also, State v. Haden, 2.Rich.233, WL 2237 S.C.App. Law (1846)(quoting, United State v. Gale, 109 U.S. 65, 72-73, 3 S.Ct. at, 7 (1883), see ante Pages 5, & 6. Citing, State v. Hann, 196 S.C. 211, 12 S.E.2d at 726.

H. Lightsey & Flanega, SCRCP, 408 (2nd Ed. 1985). Although perjury willn't serve to vacate a judgment, it's considered "Fraud Upon The Court" when it involves or is suborned by an attorney, See, Chewning, 346 S.C. 28, 33-34, 550 S.E.2d 588 (S.C. 2001).

Appx. (P)(21-of-51)

11. Accordingly and above, Maldonado, has established fraud Upon The Court. **Defendant Maldonado** would now show the extrinsic nature of Solicitor Porter's Fraud Upon The Court which operated to deprive him of the opportunity to fully litigate his case. Extrinsic Fraud, "referes to fraud collateral or external to the matter tried such bribery or other misleading acts which prevent the movant from presenting all of his case or deprived one of the opportunity to be heard." See, e.g., (Chewning quoting Lightsey & Flanagan at 486). Below, Maldonado will show how Solicitor Porter's acts of perjury operated to cover up the fact that her Superseding Indictment was not returned by a legally constituted grand jury. That the cover up was effective in that it led the Court and Maldonado into beleving the indictments had been lawfully returned, when in fact they had not; and that Maldonado's reliance on the correctness of the indictment process caused him to unknowing and involuntary forfeit his Constitutional and Statutory Rights to make Contemporaneous Objection to the "fatally defective indictments" as obtained by the Solicitor Porter. The facts and evidence presented, clearly demonstrate that Maldonado is indictment were not returned by a State Grand Jury which had been convened during a time when the

(R.P. 407-of-496. ROA)

State Grand Jury was opened and supervising. **See, And Cf.,:** (Attachments: A-1 through B-1). This rendered Maldonado's indictment void, invalid, and without legal force. **State v. Small,** 364 SC. 343, 613 S.E.2d 754 (2005)(due process requires that a criminal defendant be properly served with a valid indictment). When an indictment is invalid, the judgment rendered on such indictment is null and void. Simmons v. State, 322 S.C. 46, 471 S.E.2d 455 (1993).

See, at: (Effect of Invalidation of Sentence Upon Separate Sentence Which Runs Consecutivelly, 68 A.L.R.2d 712 (1959 Supp. 1993)).

Clearly both the grand jury procedure and the indictment would have been subject to challenge by contemporanous objections; by Motion to quash. See, State v. Coleman, 365 S.C. 258, 262-65, 616 S.E.2d 444, 446 (S.C.App.2005).

B. EXTRINSIC FRAUD UPON THE COURT

1. To his detriment **Maldonado** relied upon the "Court Term" information printed and published in the Superseding Indictment for determination of correctness in the grand jury process and to give up his right to trial and pled guilty due to the **amendment of a "Three Count trafficking within its face."** such reliance would be normally be proper in criminal cases because the regularity of grand jury proceedings are presumed absent clear evidence to the contrary. See, Evans v. State, 363 S.C.510, 611 S.E.2d 510-518 (2005). From the evidence in this case, it appears that Solicitor Porter took unfair advantage of that presumption of correctness to assist in keeping her acts of ("perjury and the illegal grand jury process a secrect"). Clearly it worked because, the ("False State Grand Jury Process Operated") to prevent Mr. Jose Alberto Maldonado, before he plead guilty from making

contemporaneous "objections against the illegal process" and making Motion to Quash the Void and powerless "Superseding Indictment. See **(Supporting Affidavit).** S.C. Code 1976 § 17-27-80.

2. A criminal defendant has a Constitutional and Statutory Right to have and indictment returned by a legally Constituted Grand Jury, and "...challenges to the legality and sufficiency of the process of grand jury also must be made before the grand jury renders a verdict in order to preserve the error for direct review...." See; Evans Supra, and State v. Williams, 263 S.C. 290, 210 S.E.2d at, 301. (1974). Furthermore, a defendant in this State has a right pursuant to S.C. Code Ann., § 17-19-90, to challenge a defective indictment. The full weight and measure of these "rights must be afforded to every criminal defendant." Included, Immigrants. U.S.C.A. Const. Amends. 5th, 6th, and 14th. (2A F.P.D. 4th - 168). Holdings, as Follows:

A). Sad v. I.N.S., 246 F.3d 811, at 813 (2001). This case present a questions of statutory interpretation, which this court review de novo in this Rule Mustata v. U.S. Dep't of Justice, 179 F.3d 1017, at 1019 (1999). Principales of judicial deference to an agency is construction of statute, however, limit the scope of our inguiry in INS v. Aguirre-Aguirre, 526 U.S. 415-45, 119 S.Ct. 1439 (1999). (Defining the circumstances under which Court must defer to an agency is construction of statute), applied to the STATUTORY SCHEME BY the Immigration & Nationality Act.). Aliens Key 54(2)/Statute Key 219(6.1).

B). This Court recognized immigration matter as particularly appropriate for judicial deference because executive "Official Exercise Especially Sensitive Political Funtion that Implicate Questions of Foreign Relations." Overruling, the claims by Chevron U.S. Inc. v. N.R.D.C. Inc., 467 U.S. 837, 104 S.Ct. 2778 L.Ed.2d 694 (1984). If so the agency and the court must give effect to the unambiguosly expressed intentof congress. See id., at 843, 104 S.Ct. 2778. Under this secondary inquiry, the Court needn't concluded that the agency is construction was the only one it could have adopted or the reading a Court would Have Reach. See, 554 US. 221, 128 S.Ct. 2597.

Appx. (P)(24-of-51)

In short, Maldonado, was deceived by his belief of proper and correct procedure in the grand jury process, which cause him to knowingly and involuntary forfeit his right to make contemporaneous objections. U.S. v. Mechanik, 475 U.S. 66, 78 (1986).

3. Given the evidence of the illegal grand jury process, had Maldonado made objection, he would in all probability have prevailed in having the indictment dismissed. However, Fraud upon The Court is an affront to the administration of justice. See, e.g., Hazel - Atlas Class Co. Hartford Empire Co., 322 U.S. 238, 64 S.Ct. 997 (1940). And in order for a party to be entitle to relief from judgment based on fraud, the moving party must demonstrate extrinsic fraud. See Jamison v. Ford Motor Co., 373 S.C.248, 644 S.E.2d 755 (SC. App. 2007) rehearing denied certiorari granted, then dismissed as improvidently granted **2009 WL3068195.** As stated, Extrinsic Fraud, "referes to fraud colleral or external to the matter tried ...acts which prevent the movant from presenting all of his case or deprives him of the opportunity to be heard." Chewney, Supra.

4. Above it has been shown by clear and convincing evidence that Solicitor Porter committed criminal acts of perjury by printing and publishing false State Grand Jury indictment which operated to cause Defendant Maldonado to unknowingly and involuntarily forfeit his right to challange the illegal grand jury process and the fatally defective indictment. Thus, Maldonado has demonstrated a **prime facie case**, or Extrinsic Fraud Upon The Court and accompaning denial of substantial and procedural

(R. P.410-of-497. ROA)

due process as well as equal proctetion of the law, in violation of his State and Federal Constitutional Rights. The merits of this case in addition to that argued above, point also to a miscarriage of justice, which defined, conceivably amounts to a failure of a court or judicial system to attain the ends of justice in a fair and lawful manner. App. (P)(25-of-51)

C O N C L U S I O N

Therefore, based on the foreing facts, evidence and arguments presented, Defendant **Maldonado**, repectfully moves this Honorable Court to Grant this **Rule 60(b)(5)SCRCP, Motion,** Setting Aside or Vacating the Judgment of Convictions and sentences rendered in this case on **August 22, 2006** and **April 10, 2007**, or in the alternative, all entry of "belated objections to the grand jury process" and the fatally defective Superseding Indictment.

Additionally, in Order to Protect the Integrity of this Judicial System, **Maldonado** moves this Honorable Court to Order an Official Investigation into the prosecutorial misconduct and criminal violation of the laws/ alleged within

.

Respectfully Submitted

(R. P. 411-of-497 ROA)

s/ Jose Alberto Maldonado

Jose Alberto Maldonado,# 312648
Pro - Se Defendant,
Kershaw Corr. Inst. MB/Rm.,# 59
4848 Goldmine Highway
Kershaw, S.C. 29067.

Done this 2 day of March, 2015.

Appx. (P)(26-of-51)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS

FOR THE 13TH JUDICIAL CIRCUIT

State of South Carolina, Plaintiff,

V.

Jose Alberto Maldonado, Defendant.

Case(s) No.: 2005-GS-47-0026, 2003-GS-23-45-0047/03-GS-23-45-0045

CERTIFICATE OF SERVICE

I am the Defendant, in the Above - Captioned Matter, do hereby under oath and penalty of perjury **Certify** that I have served a copy of a Motion to Set Aside or Vacate Judgment, with the **Rule 60(b)(5) SCRCP,** within Affidavit, Motion to assistance of counsel, interpreter; and Memorandum in Suport, thereof is (Attachments: (A -Through- D), have being **Certificate,**) to the below listed of persons, and the oppose Party, upon the same file date:

Greenville County Solicitor's Office
305 E. North Street Suite 325
Greenville, S.C. 29601

SC Attorney General's Office
Post Office 11549
Columbia, S.C. 29211

The Honorable Jeanetted W. Mcbride
Clerk of Court
Richland County General Sessions Court
P.O. Box 2766
Columbia, S.C. 29202

The Honorable Paul B. Wickensimer

Courthouse
In The General Sessions Court
305 E. North Street
Greenville, S.C. 29601

State Grand Jury of South Carolina
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building
Suite, 519
Columbia, S.C. 29067

Further, Defendant said & Not:
This 2 day of March 2015

SWORN To and SUBSCRIBED Before Me
This 2 **day of** March **2015**
Catherine A. Conaway
NOTARY PUBLIC for SOUTH CAROLINA
My COMMISSION Expires:
December 23 2017

(R. P. 412-of-497. RDA)

Respectfully Submitted

s/ Jose Alberto Maldonado
José Alberto Maldonado, #312648
The Defendant Pro - Se,

Kershaw, Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067
Addressee on: March 3, 2015.

(Attachment A-1)

~~Exhibit (2)~~

STATE GRAND JURY OF SOUTH CAROLINA

Appx. (P)(27-of-51)

STATE OF SOUTH CAROLINA VS. EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, DEFENDANTS.	CASE NO 2005GS 47 26 **INDICTMENT FOR UNLAWFUL DRUGS** Trafficking Methamphetamine (Conspiracy) S.C. Code Ann. § 44-53-375(C)(5) Trafficking Methamphetamine > 400 grams – Two Counts S.C. Code Ann. § 44-53-375(C)(5) Possession of a Firearm during the Commission of a Violent Crime S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on December 13, 2005, the State Grand Jurors present upon their oath:

ORIGINAL FILED
DEC 13 2005
LISA C. DUNCAN
CLERK, STATE GRAND JURY

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

(R. P. 413.-of-497. ROA)

~~Exhibit (2)~~ (Attachment A-2)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

Appx. (P)(28-of-51)

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

(R. p. 414-of-497. ROA)

~~Exhibit (2)~~ (Attachment A-4)

(Appx. (P)(29-of-51)

COUNT V

TRAFFICKING METHAMPHETAMINE > 400 GRAMS

S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

(R.P. 415-of-497.ROA)

Cathy P. Coffey
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

~~Exhibit (3)~~ (Attachment: B-1)

FILED

FEB 2 2 2006

CLERK, STATE GRAND JURY

STATE GRAND JURY OF SOUTH CAROLINA

Appx. (P)(30-of-51)

STATE OF SOUTH CAROLINA	CASE NO. 2005-GS-47-26
VS.	**SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS**
EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, DEFENDANTS.	Trafficking Methamphetamine (Conspiracy) S.C. Code Ann. § 44-53-375(C)(5) Trafficking Methamphetamine > 400 grams – Three Counts S.C. Code Ann. § 44-53-375(C)(5) Possession of a Firearm during the Commission of a Violent Crime S.C. Code Ann. § 16-23-490

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on February 22, 2006, the State Grand Jurors present upon their oath:

(R-P. 416-of-497. ROA)

COUNT I
TRAFFICKING METHAMPHETAMINE (CONSPIRACY)
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE, PAMELA RENEE BOZZI, JOSE ALBERTO MALDONADO, KENNETH SCOTT POPE aka "SCOTTY", LISA LAVERN RAMIREZ, THOMAS ERNIE ROBERTS, OSCAR SANCHEZ, JOHN NELSON TURNER, JR. aka "JJ", KELLY LEE NALLEY TURNER, and other persons whose names are both known and unknown to the State Grand Jury, did in Anderson County, Greenville County, Oconee County and Pickens County of South Carolina,

Exhibit (3) (Attachment B-2)

during the period of time extending from on or about April 1, 2005 to present, conspire to sell, manufacture, deliver, purchase, or bring into this State, or otherwise, more than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

Appx. (P)(31-of-51)

COUNT II
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That EMILIANO GARCIA AGUIRRE and OSCAR SANCHEZ did, in Greenville County, on or about May 17, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

(R. P. 417-of-497 ROA)

(Attachment B-3)

~~Exhibit (3)~~ Appx. (P)(32-of-51)

COUNT III

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That EMILIANO GARCIA AGUIRRE did, in Greenville County, on or about May 17, 2005, did possess (actually or constructively) or visibly display what appeared to be a firearm during the commission of the crime of trafficking methamphetamine in violation of S.C. Code Ann. § 44-53-375 (C)(5), which is defined as a crime of violence pursuant to S.C. Code Ann. § 16-1-60, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one count of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT IV

TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That JOSE MALDONADO and LISA LAVERN RAMIREZ did in Greenville County, on or about June 26, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State. (R. P. 418-of-497. ROA)

(Attachment: B-4)

~~Exhibit (5)~~ Appx. (P)(33-of-51)

COUNT V
TRAFFICKING METHAMPHETAMINE > 400 GRAMS
S.C. Code Ann. § 44-53-375 (C)(5)

That John Nelson Turner, Jr. aka "JJ" did in Greenville County, on or about May 16, 2005, knowingly possess (actually or constructively), deliver, sell, or bring into this State, or otherwise aid, abet, attempt or conspire to sell, deliver, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

Against the peace and dignity of the State and contrary to the statute in such case made and provided.

A True Bill

(R.P.419-of-497. ROA)

Cathy P. Coppley
FOREMAN

Henry McMaster
HENRY McMASTER (sop)
ATTORNEY GENERAL

(Attachment: C-1)

I FIND THE DEFENDANT'S DECISION TO PLEAD GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY MADE.

I FIND THAT THE DEFENDANT HAS HAD THE ADVICE AND COUNSEL OF AN ATTORNEY WITH WHOM THE DEFENDANT SAYS HE IS SATISFIED.

THE DEFENDANT'S PLEA OF GUILTY TO EACH -- EACH COUNT OF THE INDICTMENT IS ACCEPTED. Appx.(P)(34-of-51)

COMES NOW THE DEFENDANT, JOSE ALBERTO MALDONADO, WHO IN OPEN COURT, IN HIS OWN PROPER PERSON, PLEADS GUILTY TO INDICTMENT NUMBER 2005-GS-47-26, COUNT ONE AND COUNT FOUR AND SUBMITS TO THE SENTENCE OF THE COURT.

I ALSO UNDERSTAND THE SENTENCE OF THE -- THE SENTENCE IS TO BE DEFERRED.

MS. PORTER: THANK YOU, YOUR HONOR.

THE COURT: VERY GOOD. GOOD LUCK TO YOU, SIR.

(WHEREUPON, HEARING ENDED.)

*******END OF REQUESTED TRANSCRIPT*******

(R. P. 420-of-497. ROA)

(Attachment C-2)

YOU ADMIT THE TRUTH OF THE CHARGES MADE AGAINST YOU?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES.

Appx. (P)(35-of-51)

THE COURT: UNDERSTANDING THEN THE NATURE OF THE CHARGES AGAINST YOU AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO YOU WISH TO PLEAD TO THIS CHARGE? GUILTY OR NOT GUILTY?

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): GUILTY.

THE COURT: ARE YOU, IN FACT, GUILTY OF THE CHARGE -- OR, CHARGES? EXCUSE ME.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): YES, COMPLETELY I'M GUILTY.

THE COURT: ALL RIGHT. AND THOSE ARE TWO CHARGES -- TWO COUNTS -- TWO SEPARATE CHARGES.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): UH -- TWO CHARGES? I'M NOT -- DIDN'T UNDERSTAND.

THE COURT: I DON'T HAVE A COPY OF THE INDICTMENTS, BUT, UM---

Exhibit (C)

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): ARE YOU ASKING IF I'M GUILTY OF THE OTHER TWO CHARGES?

THE COURT: UH -- THE -- NO, I'M ASKING -- I -- I UNDERSTAND YOU'RE PLEADING GUILTY TO TWO COUNTS; COUNT ONE AND COUNT FOUR, UH, WHICH ALLEGE TWO SEPARATE OFFENSES.

MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): OH, YES -- YES.

(R. p.421-of-497. ROA)

(Attachment: C-3)

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: WHAT'S THE EXACT LENGTH OF MY SENTENCE?

Appx.(P)(36-of-51)

MR. PRICE: HE HASN'T DONE IT YET. IS THERE ANYTHING ---

THE COURT: IS THERE ANYTHING ELSE YOU WANT TO SAY BEFORE I DO IMPOSE THE SENTENCE?

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: FRANKLY, I'M VERY NERVOUS AND SCARED AND DON'T REALLY KNOW WHAT TO THINK.

THE DEFENDANT: (SPEAKS IN SPANISH).

THE INTERPRETER: WHATEVER THE JUDGE DECIDES.

THE COURT: VERY WELL.

SENTENCE OF THE COURT:

THE STATE OF SOUTH CAROLINA VERSUS JOSE ALBERTO MALDONADO, 2005-GS-47-26, COUNT 1, THE SENTENCE OF THE COURT IS THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF 20 YEARS, PLUS PAY THE COSTS AND ASSESSMENTS AS APPLICABLE.

ON COUNT 4 IT'S THE SENTENCE OF THE COURT THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF 20 YEARS, PLUS PAY THE

(R. p. 422-of-497. ROA)

CREDIT FOR 115 DAYS SERVED. (Attachment: C-4)

THE COURT: ALL RIGHT. AT THAT TIME HE RECEIVED 115 DAYS? Appx. (P)(37-of-51)

MR. PRICE: YES, SIR.

THE COURT: SO DOES ANYBODY ---

MR. PRICE: I JUST GOT NOTICE OF THE PLEA AND I GOT IT THIS MORNING. I CAN CERTAINLY GET A CALENDAR BEFORE I LEAVE HERE TODAY.

THE COURT: WELL... SO I UNDERSTAND THE RECOMMENDED SENTENCE IS 20 YEARS CONCURRENT ON BOTH CHARGES, TO RUN CONCURRENT WITH THE SENTENCE ON 2003-GS-23-4547, DATED NOVEMBER THE 29TH, 2005, COMMENCING 115 DAYS PRIOR TO THAT DATE?

MR. PRICE: YES, SIR, THAT'S CORRECT.

MR. PAULING: THAT'S CORRECT, YOUR HONOR.

THE COURT: IS THAT WHAT YOU UNDERSTAND, MR. MALDONADO?

THE DEFENDANT: YES.

THE COURT: ALL RIGHT. I FIND THAT THE PLEA HAS BEEN FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY ENTERED PRIOR, ON AUGUST THE 22ND, 2006, WITH ADVICE OF COUNSEL, AND THAT IN DOING SO, THE DEFENDANT UNDERSTOOD WHAT THE SENTENCE WOULD BE.

ALL RIGHT. MR. PAULING, WHAT DO YOU HAVE ON BEHALF OF THE STATE?

(R. p. 423-of-497 ROA)

Appx. (P)(38-of-51) (Attachment: C-5)

COSTS AND ASSESSMENTS AS APPLICABLE.

BOTH SENTENCES ARE TO RUN CONCURRENT TOGETHER WITH THE SENTENCE ON 2003-GS-23-4547 WITH CREDIT SINCE AUGUST THE 6TH, 2005.

SPECIAL CONDITION IS TO UNDERGO DRUG AND ALCOHOL TESTING AND TREATMENT, SUBSTANCE ABUSE COUNSELING, TO INCLUDE A.T.U. WHILE INCARCERATED.

VERY GOOD. GOOD LUCK TO YOU, SIR.

MR. PRICE: THANK YOU, YOUR HONOR.

MR. PAULING: THANK YOU, YOUR HONOR.

(WHEREUPON, THE SENTENCING HEARING WAS CONCLUDED AT APPROXIMATELY 10:56 A.M.)

***** END OF REQUESTED TRANSCRIPT *****

(R. P. 424-of-497. ROA)

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

(Attachment: C-G)

NIKKI R. HALEY
Governor

REGINALD I. LLOYD
Director

APPX (P)(39-of-51)

April 28, 2011

Jose Alberto Maldonado, #312648
Perry CI/ Q3B/203
430 Oaklawn Road
Pelzer, SC 29669

Re: Freedom of Information Act Request

Dear Mr. Maldonado,

I have received your November 8, 2010 request for the case file surrounding your State Grand Jury Indictment pursuant to the Freedom of Information Act. However, the Freedom of Information Act does not apply when the information is privileged or protected by another statute. Pursuant to S.C. Code Ann. Section 14-7-1720, State Grand Jury material is secret and cannot be distributed except by order of the court and only for limited purposes. Therefore at this time, I must deny your request.

Re: Freedom of Information Act Request:
answer of Mrs. Susan O. Porter Reviewing
of § 14-7-1720,(A) 1, to 5. & (D) and Rule
5. S.C. Crim. P.

Sincerely,

Susan O. Porter
General Counsel, SLED

A clearly error of Mrs. Porter, under this matter an a requested this fact with this § 14-7-1720. Because under this matter or section, it is so clear that a defendant has the right to review and to reproduce the stenographically or eletronically recorded materials. Transcript of the recorded testimony or proceedings must be when requested by the Attorney General or his disignee. Subject to the limitations of Section 14-7-1720(a) and Rule 5, S.C. of Crim P., a copy of the transcript of the recorded testimony or proceedings requested testimony or proceeding requested by the Attorney General or his designee shall be provided to the defendant by the court reporter, upon request, at the transcript estaolished by the Office of Court Administration. An unintentional failure of any recording to reproduce all or any portion of the testimony or proceedings does not affect the validity of the prosecution. Evans v. State,(SC. 2005) 363 S.C. 495, 611 S.E.2d 510. Id at §14-7-1700.

(R. P. 425-of-497. ROA)

P.O. Box 21398 Columbia, South Carolina 29221-1398 (803) 737-9000 Fax (803) 896-7588

(Attachment: C-7)

The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

App. (P)(40-of-51)

HENRY McMASTER
ATTORNEY GENERAL

January 27, 2006

J. H. Price, III
PRICE, PASCHAL & ASHMORE, P.A.
644 E. Washington Street
Greenville, South Carolina 29601
Facsimile (864) 242-6560

Re: State v. Jose Alberto Maldonado
State Grand Jury
Indictment Numbers: 05-GS-47-26
Charges: Trafficking in Methamphetamines More than 400 grams
Trafficking in Methamphetamines (Conspiracy) More than 400 grams

Dear Mr. Price:

I am writing in response to your letter dated January 24, 2006. I am sorry that you perceive that there are communication problems between the office of the Attorney General and the Office of the State Grand Jury Clerk of Court. Once a defense attorney is on record as representing a defendant in a State Grand Jury case, it is the responsibility of the office of the State Grand Jury Clerk of Court to schedule all hearings and notify defense attorneys of those dates and times.

If you have any further confusion about the State Grand Jury procedures, please do not hesitate to contact me. My direct line at the office is (803) 734-1601.

(R. p. 426-of-497 ROA)

Sincerely,

Susan O. Porter

Susan O. Porter
Assistant Attorney General

Office of the Clerk of Court

Paul B. Wickensimer
Clerk of Court

Appx. (P)(41-of-51) (Attachment: C-8)

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, SC 29601
(864) 467-8551 FAX 467-8540

Family Court Division
301 University Ridge
Post Office Box 757
Greenville, SC 29602
(864) 467-5800 FAX 467-5856

April 7, 2010

Jose Maldonado #312648
Q3B-203
Perry Correctional Inst.
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Maldonado:

We are in receipt of your letter dated 3-29-2010. Enclosed please find the copies you requested for your Greenville County General Sessions case (2003-GS-23-4547).

Please write to the State Grand Jury Clerk (address below) for copies of your State Grand Jury Indictment.

Office of the Clerk
1000 Assembly St.
Rembert Dennis Bldg. Suite 519
Columbia, SC 29201

(R. P. 427-of-497. ROA)

Sincerely,
Paul B. Wickensimer
Clerk of Court

(Attachment: C-9)

South Carolina Court Administration

South Carolina Supreme Court

Columbia, South Carolina

ROSALYN FRIERSON
DIRECTOR

MOTTE L. TALLEY
ASSISTANT DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA
29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0259
E-MAIL: mtalley@sccourts.org

Appx. (P)(42-of-51)

May 5, 2010

Jose Maldonado #312648
PCI Q-3-B-203
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Maldonado:

Any information requested pertaining to the **State Grand Jury and County Grand Jury** schedule may be obtained through the **County Clerk of Court** where your case was heard.

If you need additional information pertaining to your case may be obtained by contacting the County Clerk of Court where your case was heard concerning dockets, orders, motions, grand juries, true bills, and copies of your file in your case.

Clerk of Court - Greenville County
Paul B. Wickensimer
305 E. North Street
Greenville, SC 29601-2120

Respectfully,

South Carolina Court Administration

(R.P. 428-of-497. ROA)

FILED (Attachment: D1)

APR 10, 2007

JAMES R. PARKS
CLERK, STATE GRAND JURY

ATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

UNTY OF Greenville
ATE VS
Jose Alberto Maldonado

INDICTMENT/CASE#
2005 -GS- 47 - 26 Count I

e H Sex: M Age 33
B. SID#:
ress: Vandeleda Court, Lot #104
, State, Zip Greenville SC 29611
SID#

A/W#: Direct Indictment
Date of Offense: 4/1/05 - 2/22/06
S.C. Code §. 44-53-375(C)(5)
CDR Code #: 0/3/7/0

☐ CASE RESTORED
SENTENCE
☑ PLEA ☐ TRIAL

APPX. (P)(43-of-51. ROA)

sposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☑ PLEADS
Trafficking Methamphetamines 28-100 grams, Second offense (7-30 years & $50,000)(85%)
olation of §44-53-375(C) of the S.C Code of Laws, bearing CDR Code # 0/3/8/9

ION-VIOLENT ☑ VIOLENT ☑ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

charge is: ☐ As Indicted, ☑ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury
plea is ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☑ Recommendation by the State.
EST:

Solicitor — Defendant — Attorney for Defendant

REFORE, the Defendant is committed to the ☑ **State Department of Corrections**, ☐ ~~County Detention Center~~,
determinate term of 20 ~~days/months~~/years ~~or ☐ under the Youthful Offender Act~~ not to exceed _____ years
~~r to pay a fine of $_____, provided that upon the service of _____ days/months/years and/or payment~~
_____; plus costs and assessments as applicable*, ~~the balance is suspended with probation for~~ _____
~~hs/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation~~
~~are incorporated by reference.~~

ONCURRENT or ☐ CONSECUTIVE to sentence on 05-GS-47-26, Count IV, and 03-GS-23-454
he Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
tment of Corrections. Credit since Aug. 6, 2005
he Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
(R.P. 429-of-497. ROA)

SPECIAL CONDITIONS:

STITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
$ _____ plus 20% fee $ _____
ent Terms.
by SCDPPPS
ent

PTUP _____ days/hours Public Service Employment
Obtain GED
Attend Voc Rehab. or Job Corp
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning
$ _____ paid to Public Defender Fund
Other.
Attn

206 (Assessments 107.5%)		$
211(A)(1) (Conv. Surcharge)	$100	$ 100.00
211(A)(2) (DUI Surcharge)	$100	$
2995 (DUI Assessment)	$12	$
3 (Public Def/Prob)	$500	$
1B TP (Law Enforce. Funding)	$25	$ 25.00
1B TP (Drug Court Surcharge)	$100	$ 100.00
-114(BUI Breath Test Fee)	$50	$
2942(J) (Vehicle Assessment)	$40/ea	$
County (if paid in installments)		$ 6.75
		$ 220.75
		231.75

☐ Appointed PD or appointed other counsel, §35 13 TP
Requires $500 be paid to Clerk during probation

James R. Parks
Clerk of Court/ Deputy Clerk

PRESIDING JUDGE C. Marion
Judge Code 1/1/613
Sentence Date 4-10-07

Reporter. Robin Hild

/217 (2/2006) *White* – Clerk *Green* – Corrections *Canary* – Probation *Pink* – Defendant

Appx. (P)(44-of-51) (Attachment: D-3)

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville) IN THE COURT OF GENERAL SESSIONS
STATE)
VS) INDICTMENT/CASE# 2003GS2304547
Jose Maldonado) A/W# G803304
AKA:) Date of Offense. 04-10-2003
Race W Sex: M Age 32) S C Code § : 44-53-0370
DOB: SS#) CDR Code # 0388
Address: 300 SULPHER SPRINGS RD J3)
GREENVILLE SC 29611)
DL#: SID#)

☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: TRAFFICKING IN COCAINE > 28 GRAMS, 2ND OFFENSE

in violation of § 44-53-0370 of the S C. Code of Laws, bearing CDR Code # 0388

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State
ATTEST.

Joyce K Mouta
Solicitor:

Jose B Maldonado
Defendant

Attorney for Defendant

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 7 ~~days/months~~/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of $ _____ : provided that upon the service of _____ days/months/years and/or payment of $ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections 115 DAYS

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total $ _____ plus 20% fee. $ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____

*Fine.		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv Surcharge	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharg	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 35.13 (Public Def/Prob)	$500	$
§ 73.3, 1B TP (Law Enforce. Funding	$25	$ 25.00
§ 33 7, 1B TP (Drug Court Surcharge)	$100	$ 100.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment	$40/ea	$
3% to County (if paid in installments		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab or Job Corp _____
May serve W/E begining _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other _____

☐ Appointed PD or appointed other counsel, § 35 13 TP Requires $500 be paid to Clerk during probation

PRESIDING JUDGE John C. Hayes
Judge Code 2 1 1 3 0
Sentence Date 11-29-05

Paul B. Workensuner
Clerk of Court/ Deputy Clerk

Court Reporter: Jenkins

(R. P. 430-of-497. ROA)

SCCA/217 (7/2003)

Appx. (P)(45-of-51)

(Attachment:D-4)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand Jurors of Greenville County present upon their oath

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 28 grams of Cocaine This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

(R.P 431-of-497. ROA)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Joyce K Mouts
SOLICITOR

WITNESSES

BRAGG CORLG/S

GCSO

04/10/03

ARREST WARRANT NUMBER

~~DIRECT INDICTMENT~~

(G803304)

ACTION OF GRAND JURY

~~TRUE BILL~~

Russell Pittman

~~FOREMAN, GRAND JURY~~

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury *Date.*

DOCKET NO. 2003-GS-23- JLK 004547

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

THE STATE

PLEAD GUILTY

vs.

JOSE ALBERTO MALDONADO

Indictment for

~~2359~~ 10388

TRAFFICKING COCAINE

VIOLATION § 44-53-370

(R.P 432-of-497. ROA)

DL SUSPENDS

Did Clerk receive driver's license?

YES _____ NO ✓

If no, explain Don't

Defendant

APPX. (P)(46-of-51)

(Attachment: D-5)

550

Exhibit (D)(4) P. 57 of 102; See Motion P. 12 Ha [23]

Appx. (PJ)(47-of-51)

(Attachment: D-6)

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE)
VS.)
Jose Maldonado)
AKA:)
Race: W Sex: M Age: 32)
DOB: SS#:)
Address: 5 FLETCHER ST)
GREENVILLE, SC 29611)
DL#: SID#:)

IN THE COURT OF GENERAL SESSIONS
INDICTMENT/CASE#: 2003GS2304545
A/W#: H441256
Date of Offense: 04-10-2003
S.C. Code §: 44-53-0445
CDR Code #: 0107
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO POSSESSION WITH INTENT TO DISTRIBUTE COCAINE W/IN 1/2 MILE in violation of § 44-53-0445 of the S.C. Code of Laws, bearing CDR Code # 0107
☐ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State
ATTEST:

Joyce K Marto
Solicitor

Jose Amaro Alfo
Defendant

Attorney for Defendant

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 57 days/~~months~~/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____, provided that upon the service of _____ days/months/years and/or payment of $_____. plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 105 DAYS

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: $ _____ plus 20% fee: $ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv Surcharge	$100	$
§ 14-1-211(A)(2) (DUI Surcharg	$100	$ 100.00
§ 56-5-2995 (DUI Assessment)	$100	$
§ 35.13 (Public Def/Prob)	$12	$
§ 73 3, 1B TP (Law Enforce. Funding	$500	$
§ 33.7, 1B TP (Drug Court Surcharge)	$25	$ 25.00
§ 50-21-114(BUI Breath Test Fee)	$100	$100.00
§ 56-5-2942(J) (Vehicle Assessment	$50	$
3% to County (if paid in installments	$40/ea	$
TOTAL		$

SPECIAL CONDITIONS:
PTUP _____
_____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling _____
Random Drug/Alcohol testing _____
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 35 13 TP Requires $500 be paid to Clerk during probation.

PRESIDING JUDGE Edwin M Cox
Judge Code: 2 11 13 10
Sentence Date: 11-29-05

Paul B. Witherspoon
Clerk of Court/ Deputy Clerk
Court Reporter: Jenkins

(R. P. 433-of-497 ROA)

SCCA/217 (7/2003)

EXHIBIT (D)(4) P. 59 OF 92

Appx. (P)(48-of-51)

(Attachment: D-7)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE WITHIN CLOSE PROXIMITY TO SCHOOL

At a Court of General Sessions, convened on JUNE 24, 2003 the Grand Jurors of Greenville County present upon their oath:

That JOSE ALBERTO MALDONADO did in Greenville County, on or about the 10th day of April, 2003, willfully and unlawfully possess with the intent to distribute a quantity of Cocaine. This incident occurred within one-half (½) mile from Greenville Tech College, Northwest Campus. This is in violation of §44-53-445 of the South Carolina Code of Laws (1976) as amended.

(R.P. 434-of-497 ROA)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Joyce K Morts
SOLICITOR

DOCKET NO. 2003-GS-23- JLK 004545

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2003

PLEAD GUILTY THE STATE

vs.

JOSE ALBERTO MALDONADO

Indictment for

0107

POSSESSION OF COCAINE WITH INTENT TO DISTRIBUTE WITHIN CLOSE PROXIMITY TO SCHOOL

VIOLATION § 44-53-445

WITNESSES

BRAGG COR-6/15

GCSO

04/10/03

ARREST WARRANT NUMBER

H441256

ACTION OF GRAND JURY

TRUE BILL

Russell Pittman

Foreperson of Grand Jury FOREMAN/GRAND JURY

VERDICT

Foreperson of Petit Jury *Date:*

(R.P. 435-of-497. ROA)

DL SUSPENDS

Did Clerk receive driver's license?

YES NO

If no, explain TDOT

Defendant

App. (D)(49-of-51)

(Attachment: D-8)

551

Appx. (P)(150-of-51)

(Attachment: C-1)

Jose Alberto Maldonado, #312648
Kershaw, Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067

State Grand Jury of South Carolina
Office of the Clerk
1000 Assembly Street
Rembert Dennis Building, Suit #19
Columbia, S.C. 29201

March 3, 2015

Re: State of South Carolina, The Plaintiff v. Jose A. Maldonado, Defendant, pursuing the (Statewide Grand Jury), pursuant of Rule 60(b)(5) SCRCP.

To, State Grand Jury Clerk, In The Court of General Sessions:

Greatings! Please taking Notice that, the State Grand Jury of South Carolina Office of the Clerk, it is the opposing party, by the following persons:

Mrs. Jennifer Evans, at the time she's Chief, State Grand Jury, Mrs. Lisa C. Dunbar, in such time she's clerk state grand jury, and Mr. James R. Parker, is a Clerk of Court State Grand Jury. Dates, of: April 10-13, 2007, Prinsipal, prosecutors Mrs. Susan O. Porter, ["with"] Mr. "Robert M. Ariail," solicitor for the 8th Judicial Circuit, the Hon: Garrison Hill Chief administrative judge, and also the (Sheriff Steve Loftis Greenville County), was they built it themselves. Defendant, showing that with this Motion;

Begun, dates of: August 16-22, 2006, April 10-13, 2007. Therein, that the oppose party, would be involve in misconduct. For the "reproduction a false documents." Set Forth Below In The (Superseding Indictment);

Partial they misused, this Honorable Court of General Sessions. For the 5th Judicial Circuit, to prosecuted a Defendant in the 13th Judicial Circuit with the False (True Bills, & Superseding). Defendant demand Justice, in the above-captioned criminal case(s), to compel disclosure. See the Facts Below;

Would You Please, be so kind to "Clock-Stamped" this Notice and Motion to Set Aside or Vacate Judgment, pursuant of Rule 60(b)(5) SCRCP, within the Motion to appointment counsel, interpreter, and the Memorandum of Law in Support of Motion; Affidavit is Attached. Please overtuning it, to Defendant, confinement address.

ThanK You For Your Valuable Time In This Matter,
With Kind Regards:

Enclosures:(4)

Attachments:(4, [A-1, - Through - D-8])

Cc: File

Sincerely,

Jose A. Maldonado

Jose Alberto Maldonado, #312648
The, Defendant.

March 3, 2015

(R.P. 436-of-497. ROA)

CLERK'S OFFICE

MAR - 9 2015

STATE GRAND JURY

Exhibit (18)

Appendix (P) (Report Page 51)

(R. P. 457 of 497 ROA)

Greenville County

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

EXHIBIT F (19)
APPENDIX (G) (Record Page 4708 SUP. 34)

May 26, 2015

Jose Alberto Maldonado #312648
Kershaw Correctional Inst.
4848 Goldmine Hwy
Kershaw, SC 29067

Re: Filing "Notice of Motions", "Motion to Supplement the Pleading", "Motion to Reopen Judgment with Memorandum of Law"

Dear Mr. Maldonado:

Your filings were received 5/22/2015. Enclosed please find copies of your clocked motions as you requested. As a courtesy to you, a copy of your motions as referenced above have been forwarded to the Solicitor's Office and to the Administrative Judge.

Please note that the Clerk of Court for General Sessions is a filing office and we do not set the motion docket, therefore we cannot provide motion status updates or information, nor do we have the authority to make any sort of ruling in the matter.

Sincerely
Clerk of Court 137
Greenville County General Sessions

(R. P. 438 - OF 491 ROA)

APPX.(Q)(2-OF-34)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

State of South Carolina, Plaintiff,

V.

Jose Alberto Maldonado, Defendant.

In The Court Of General Sessions

For The 13th Judicial Circuit

Case(s) No.:2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

NOTICE OF MOTIONS

Now comes the Defendant, Jose Alberto Maldonado, Pro- Se, who hereby notice of filing upon this Court, a "Motion To Supplement The Pleadings; and a "Motion To Reopen Judgment", to be docket, heard, and ruled upon. And Pursuant to: Rule 7(b)(1) SCRCP; See, Valentine v. Davis, 319 S.C.169, at 173, 460 S.E.2d 218, at 220 (S.C. App. 1995). Subject, To Rule 15,20,SCRCP./File:(Document:(3);

and being subject to the Following Authorities:

State v. Cooper, 342 S.C. 389, n.3, 400, S.E.2d 875, 876, 877 (S.C. 2000); Gainey v. Gainey, 382 S.C. 414, 424, 675, S.E.2d 792 at 798 (Ct.App.,2009); State v. Campbell, 376 S.C. 212, n.1, 656 S.E.2d 371, at 374 (2008); (same) Fryer v. S.C.L. Enforcement Div., 369 S.C. 395, 399, 631 S.E.2d 918, at 920 (S.C. App. 2006); Thomas & Howard Co., Inc. v. T.W. Graham and Co. 318 S.C. 286, at 289 n.2, 457 S.E.2d 340 (S.C.1995); Calderon v. Thompson, 523 U.S. 538, at 557, 118 S.Ct. 1489, at 1502 (1998); Browder v. Director, Dep't of Corrections of Ill., 434 U.S. 257, 98 S.Ct. 556, 54 L.Ed.2d 521 (1978); and Williams v. Watkins, 384 S.C. 319, at 325, 681 S.E.2d at, 917, 918 (2009); In re Burnley, 988 F.2d 1, at 3 (4th Cir. 1992). Relevant mix of "criminal cases" Pursuant of Rule 60(b). To lacking subject matter jurisdiction.

Addressee:This 15th, day of May, 5015.

Sincerely,

s/ Jose Alberto Maldonado

Jose Alberto Maldonado,#312648
Kershaw, Corr.Inst. MB/Room,#59
4848 Goldmine, Highway
Kershaw, S.C. 29067

(R. P. 439-OF-497 ROA)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

State of South Carolina,)
Plaintiff,)

Appx. (9)(3-of-34))
V.)

Jose Alberto Maldonado,)
Defendant.)

In The Court Of General Sessions
For The 13th Judicial Circuit

Case(s) No.:2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

MOTION TO SUPPLEMENT THE PLEADING

Now comes the Defendant Jose A. Maldonado, Pro - Se, in the above-caption matter', who hereby moves this court to allow him to "Supplement the Pleadings to include a motion to Reopen Judment" in the above-captioned matter pursuant to **Rule 15(d) SCRCP;** see, TANNER v. FLORENCE COUNTY TREASURE, 336 S.C. 552, 521 S.E.2d 153, at 156 (S.C. 1999). In the current case, the "County failed" to argue that allowing the "Supplemental Pleading would be prejudicial." Further, Defendant "Lack of Notice" that the "New Issue's going to be tried" and a lack of opportunity to refute it.

Pursuant, Motions of Rule 60(b)(4)(5) SCRCP: And have being subject by MOMORANDUM OF LAW IN SUPPORT OF MOTION TO SET ASIDE OF VACATE JUDGMENT/CAPTION, POST - CONVICTION MOTION "PURSUING THE TRUE BILL" WITHIN THE AFFIDAVIT, AND THE MOTIONS FOR COUNSEL, AND INTERPRETER BEING APPOINTING. Support BY: (Attachments; (4), [A-1, - Through - D-8]).

The Defendant, **(Filed: Doc:1)** on March 2-3, 2015. And Entered to the clerk of court "March 23, 2015" see clock-stamped. But, this clerk, only returned a copies from the **"Original Filed"** is **[stamp-print].** Further, Defendant: **(Filed Doc.2),** by proved it that, **"Clock-Stamped"** is no **"Visible"** Filed: (Doc.2, 4/2/2015).

However, the General Sessions Court, Preside:D. Garrison Hill judge, filed a "Written letters" to "Notify the Defendant" above of the Motions from April 2, 2015, and March 2-3, 2015. that he is unable to provide me with the **"Original Motions".** Because the original files must remain in "custody with the Clerk of Court." Information from **April 15, 2015.** But on**(Apr. 24, 2015),** the judge filed a **"second written letter?"** with **same date April 2015, Wednsday 15th.** See, (Attachment:(D-1;Doc.3).

The Hon: D. Garrison Hill judge, he is in the complex, was at the time's Chief Administrative judge; Paul B. Wickensimer, had been a Clerk; Robert M. Ariail, 8th Judicial Circuit Solicitor; Mrs. Desiree Allen Court Services Manager; Mrs. Julia Horton S. C. Court Administration, Statewide, in the "INDICTMENT(s)," "CAPTION - name - OPERATION ICE CREAM". Rocords, in this matter showing that, being clear, throughout the opposed party. "After the State Grand Jury release the 'new issue information'". Defendant, Jose Alberto Maldonado, had issued the Filed (Doc.1) in this Office, to review, if the "TRUE BILL HAVE BEING SUBJECT TO THE STATE GRAND JURY SEAL PRINT, AT THE SUPERSEDING INDICTMENT No.;2005-GS-47-0026," ... but this Office, did and not release the information by (Doc.1);hereby this Office send a information that no related with the (Filed: Doc.1), Motions. They, said: the Defendant; "not had or have any pending charges," see written covert sheet date March 9, 2015. File:(Doc.3) Attachment (A)(1).

Thus, the State Grand Jury, returned (Filed:Doc.1) without any legal documents that Defendant asked above of (Doc.1) Motions under Rule 60(b)(5) SCRCP, but this Office mistread (Doc:1) Motions; Defendant filed directly to "Richland County,"Clerk of Court, "to release (Filed:Doc.1) with the **"clock-stamped"** Pursuit with a new Filed: (Doc:2), in the 5th Judicial Circuit Clerk of Court, is a (Informal Complaint/Return "clock-stamped". Within, the "New Filed:(Doc.2)" had been present an "a prime facie case", cited Rule 60(b); and subject to Constitution of Amendments in the South Carolina State, and also Federal Constitution, and pursuant of: Rule 201 SCRE. Filed: April 15, 2015. By forced, and agree, to the filed (Doc.1) Motions.

However, the State Grand Jury of South Carolina Office of the Clerk. In the Columbia, S.C. Returned, Filed - (Doc.1)." It is the Filed:(Doc.1) from "Richland County's Clerk of Court." When, Defendant had been "submitted such filed to Richland County" is Clerk

See, Webb v. State, 281 S.C. 273, at 238-39, 314 S.E.2d 839 (S. C. 1984)(quoting, Pringle v. State, 287 S.C. 409, at 411, 339 S .E.2d 127, 128 (S.C. 1986), (here, there is a testimony by the **"foreman"** of the grand jury that indicted Defendant that regular procedure was to have the "clerk publish the indictment in open court after the grand jury returned a true bill." ("[B]y forman or members of grand jury"). That certificated to: Mr. C. Barrett Burley, identify, the dissiplinary proceeding against a **"Statewide"** and the State Grand Jury of South Carolina Office of the Clerk. See e.g., In re Bishop, 263 S.C. 289 210 S.E.2d 235 (1974). Because, the Hon: D. Garrison Hill judge, I'm first met him on the records, that information of records is inmaterial. False in material particulars constitutes profesional misconduct meriting public reprimand. (Overruling on other grounds citing "Butler v. State, 302 S.C. 466, 397 S.E.2d 87 (quoting, Gibson v. State, 329 S.C. 37-40, n.1, 495 S.E.2d 427, 429 (1998). ("Violation, which in the setting, constitute a denial of fundamental fairness shocking to the universal of justice.")."

Whether trial judge erred in closing criminal proceeding depends on particular facts of each case. Ex Parte First Charleston Corp. 495 S.E.2d 423, at, 424-25 (1998).

This pleading is to include a motion to **"reopen judgment"** to the above-captioned matter pursuant of **Rule 15(d) SCRCP.** Hereby Hon: D. Garrison Hill judge, have being held, with the written letter, **"refiled April 15-24, 2015."** Those facts in this matter shown me the bias and prejudice, see **Rule 501 canon 3(5) SCRAP.** And a miscarriage of justice had been applied on (4/15-24/2015).

See: Valentine v. Davis, 319 S.C. 169, at 173, 460 S.E.2d 218, at 220 (S.C. App., 1995). Rules of procedure, like should be give their plain meaing.

When the text of a rule is clear and unambiguos, judicial inquiry's complete. Because, Hon: D. Garrison Hill judge delay my Notice to **"appeal"** at the **(10) days:** This information shown me that. Because he said:Defendant

of Court, and had been returned that **(Second, File:(Doc.1)** with **"avaluable information"**, to Defendant. The State Grand Jury for Columbia South Carolina assert that, this Office no have record in this matter: See **<Post-Mark,(X,x)>; First (X), said "There's no record of said charged; Second (x), Please speak with your attorney regarding your request;** and also see **<same Post Mark: [Other]; here affirmed that, and said, (Our Office has no record of a 'State Grand Jury case regarding this matter.'"** James R. Parker, clerk, "(Exchanged the information from March 9, 2015). To Defendant, (File: Doc.1) see ante page (2) in this motion. That, new issue is going to be tried. And is necessary to applied **Rule 15(d), SCRCP; Rule 29(b) SCRCrimP;** to Support as **Rule 60(b)(4)(5)**. ... "The prejudicial Rule 15 SCRCP, is "a lack of notice". Not only had notice that Defendant, want to supplement the complaint, it already thought the trial court had allowed the **Supplemental Pleading**. I.e., see Calderon v. Thompson, 523 U.S. 538, at 557, 118 S.Ct. 1489, at 1502 (1998). The state grand jury **"release the new issue information on April 17, 2015".** See **Attachment (A),** below this Motion. And now this information, against the relief, the Defendant have being seeking.

Pursuant the records, has been "**Certificate** of Mailed, from Mr. C. Barret Burley, on 15th day of August 2006, was the State Grand Jury filed it to Defendant, August 16-17, 2006. And now, Appeared the same judge preside in this criminal case Hon: D. Garrison Hill judge[?] This judge is already failed to presided in this case **(1) time,** and now **[Bar]** at the ("[I]nformation Indictments No.:2005-GS-23-47-0026")[Jose Alberto Maldonado, caption number (3)], see **Attachment (D-3).** That records shown, in the **"Pool of Notice to Guilty pleads confirmation"** been Certify by Mr. C. Barret Burley, and that against a disciplinary proceeding **"Upon the Court"** against members of State Grand jury **Statewide"** of South Carolina, in both **"Counties, 13th Judicial Circuin, and 5th Judicial Circuit.** Bar the **("[I]nformation Superseding Indictment No.:2005-GS-47-0026").**

is subject to South Carolina law provides that a person has **ten (10) days** after the sentence is imposed to request such a change to their sentenced. Hereby, Defendant have being discovery the facts with due dilegence, and not court review the evidence in this matter. See **Rule 29(b) SCRCrimP:** New Trial based on after-discovery evidence. ("[A] motion for a new trial based on after - discovery evidence must be made within a reasonable period of time after discovery of evidence, Calderon v. Thompson, 523 U.S. 538, at 557, 118 S.Ct. 1489, at 1502 (1998).

The Supreme Court Ruling in this case of (Fed. Rule of Criminal Procedure 36, or Federal Rule of Civil Procedure 60 (a). The State can have little interest, based on reliance or other grounds, in preserving a mandate not on accordance with the actual decision rendered by the Court. This also is not a case of fraud upon the court, colling into question the very legitimacy of the judgment. Hazel Atlas Glass Co. v. Hartford - Empire Co., 322 U.S. 238, at n. 3 - 4, 250, 64 S.Ct. 997, at 1002-03 (1944). ("[T]o reason otherwise would be to say that even in a case where the alleged fraud was on the "Circuit Court itself", the relevant facts as to the fraud were agreed upon the litigant), and the Circuit Court concluded **"relief must be granted"**. State v. Neuman, 384 S.C. 395, 683 S.E.2d at 272, (2009) ("Vagueness is whether the law gives fair notice to those to who the law aplies.")

See, e.g., Carter v. Fenner, 136 F.3d 1000 at, 1005 (1998). Motion to set aside judgment as void has not set time limit. Federal Rules Civil Procedure 60(b)(4),28 U.S.C.A., and Motion to set aside judgment as void will be granted only if Court that rendered it "lacked Jurisdiction of Subject Matter, or of with due process of law. U.S.C.A. Const. Amend. 5; Federal Rule 60(b)(4), 28 U.S.C.A. See id., at 136 F. 3d 1006, (quoting U.S. v. Pyne, 532 Fed Appx. 421 C.A.4(Md),

2013; State v. Cooper, 342 S.C. 389, N.3, 400, 536 S.E.2d 875, 876 - 877 (S.C. 2000) ... (State assentially consented to Orders for "Attorney Gen. is Office to denied the relief have being sought," pursued Defendant, (1st. PCR), [2nd PCR.Act .] and [3rd. Post-Conviction Actions]. Where the State plaintiff, failed to object to oral ruling that Atty., Gen., is Office would be contingently liable to relief an a Defendant and drafted order to that effect, was Attorney General Office subsequent regret of that decision did not render from Orders.) Id., at 398 n.3 400, 436 S.E.2d 876, at 877; Jasper-CNTY. BD. OF ED v. CNTY. GR. JUR., 303, S.C. 49, 51, 398 S.E.2d 498, 499 (S.C.1990). "Prevailing Defendant", steted as Follows:

> The one who successfully prosecutes the action or successfully defend against it, prevailing on the main issue, even though not to the extent of the Original contention, and in whose favor the entered. See, Code §§ 15-77-10, a persons appointed by United States may "prosecuted" in its behalf. And 15-77-300, have being applying, involving State Agancies and Official and United States. See also Title 77, [A]t, § 1-7-10; authority of the Attorney General to supervise the prosecution of criminal cases. S.C. Const. Art. 5, § 24.

Here, such information from Hon: D. Garrison Hill, above the Motions Rule 60(b). The judge written letter's arguments and said: "This Court, therefore, no longer has jurisdiction over this case? Further, This is a criminal case'. The "Motion" to Vacate Judgment is a Motion relating to Civil Cases: Rule 60 (b) SCRCP. See: (Attachments D-1). (Doc.3).

Defendant Jose Alberto Maldonado, Pro-se hereby moves, pursuant to Rule 60(b)(4) SCRCP, and S.C. Code Ann.§ 15-27-130 to have the judgment entered on: Agust 22, 2006 and Apr.10,2007 reopened. Because of fraud upon the court and the "Lack of Jurisdiction made the judgment void." See Carter v. Fenner, 136 F.3d 1000, at, 1005, 10006 (1998). In the Followings facts:

Defendant, MR. Maldonado, ... did not have any records from the courts, sentenced ... to him provided, to this general

sessions court, or records from defense counsel at trial, to been pursued his Appeal at the **ten (10) days**, and exchange his conviction. "No judge(s) in both sentences had been award me of my right to filed **"Post - Trial Motion,"** Pursuant, of Rule 29(a) SCRCrimP; (Overruling on other grounds by Calderon v. Thompson, 557, 118 S.Ct. at 1502-1503; see, Schultz v. Butcher, 24 F.3d 626, 630 (4th Cir. 1985). ... Defendant Mr. Maldonado, pro se, filed a **Rule 60(b) SCRCP,** because the "Court of Common Pleas" did not made any review to fix the matter, within; **(3)** "Post-Convictions Relief, with this clerk of Court in the Greenville County." So now Defendant, **Refile the Rule 60(b)(4) SCRCP,** Motion. For a new trial to open judgment, to permit the taking of additional testimony, to **amend the findings of fact and conclusion of law'**. and to enter a new judgment. And quash the Hon: D. Carrison Hill, Indictment(s) because that:**("Bar - No.: 2005-GS-47-0026")** for failure to review the jurisdiction of the "State Grand Jury pass a true bill." And also, for addressed impertinent information, written letter to **"April 15-24, 2015."** Sending those facts to the (Motion To Alter or Amend Judgment pursuant Rule 59(e) 55(c) SCRCP. Filed November 21, 2013. Case Number 2013-CP-23-01440, When this "Motion, shown in the judgment is void and vacated, see its Page (4-of-14) ("[A]t Henry v. State, 275 S.C. 148, 268 S.E.2d at 41. (Quoting, Floyd v. State, 303 S.C. 298, 400 S.E.2d 145 (SC. App. 1991). See Judge Key 47(2).").

Because, Defendant Jose Alberto Maldonado, do not file only the **Rule 60(b), SCRCP;** by his own functions. There, is an auditing recors by legal Due Process, with the State, and Unites State Constitution. U.S.C.A. Const. Amends. 5th, and 14th. S.C. Const. Art. I.§ 11; and art. V. § 22. See, Records of Law below:

That, Memorandum of law should been clear, and is support by a Motion To Set ASide of Vacate Judgment, has or have **being lacked all merits with the General Sessions Court Term.**

See Memorandum of Law In Support Motions: Filed (Doc.1) Pages, [1-of-16]. "Of the several Modes of of prosecution" in behalf to Honorable, D. Garrison Hill judge - Confronted with the Constitutional Problems that might otherwise arise, this Court have to held that, upon the "provisions of Rule 29(b), SCRCrimP; See State v. Campbell, 376 S.C. 212, 216, at, n.1, 565 S.E.2d 371, at, 373 (S.C. 2008). Hon: Garrison Hill judge, without authority to pursue a case after "Term of Court" has "adjourned", and preside, a Defendant, Mr. Maldonado, case. State v. Mixon, 275 S.C. 575, 578, 274 S.E.2d 406, 408 (S.C. 1981). Any expectation subject to due process protection at the time be decided. In Burns, 501 U.S. 129, 111 S.Ct. 2182, 115 L.Ed.2d 123 (1991), that a criminal defendant would received a sentence with the presumptively applicable guideline range did not survive our decision in U.S. v Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005)(quoting, Irizarry v. United States, 553 U.S. 708, 713, 128 S.Ct. 2198, at 2203, U.S., (2008)). Which invalidated the "Mandatory Features of Guidelines." Now faced with advisory Guidelines, neither the Government nor the Defendant may place the same degree of reliance on the type of "expectancy" that gave raise to special need for **"Notice" in Burns.** Indeed, a sentence outside the Guidelines carries no presumtion of ureasonableness.

A). Had, or Have the Jose Alberto Maldonado Term Court Anded?

Defendant's issue frames the "Term of Court rule as [a] rule of subject matter jurisdiction." However this rule does to involve "Lack of Subject Matter Jurisdiction case," [i.e.,] Defendant Mr. Maldonado, have stated that a trial court has lacks jurisdiction over the matter once the term of court has ended. While this "Court have used the "jurisdiction" language." When, have not stated that the trial court lacks subject matter jurisdiction when the term of court ends.

State v. Campbell, 376 S.C. at 216, n.1, 656 S.E.2d 371, at 373 (S.C. 2008). See; e.g., State v. Gilchrist, 343 S.C. 369, 536 S.E.2d 868, 869 (2000). Here, there is no independent evidence of a conspiracy between ("SLED") and Defendant. The fact that Jose Alberto Maldonado was indicted for criminal conspiracy since an indictments is not evidence of the crime charged. Rule 801(d)(2)(E) SCRE; 41 Am.Jur.2d INDICTMENT AND INFORMATION. Appx. (Q)(11-of-34)

B). "REGULAR AND ORDINARY METHOD OF PROCEEDING IN THE COURTS CRIMINAL JURISDICTION." 4. W. BLACKSTONE, (HEREINAFTER BLACKSTONE)

At the outset of his discussion, Blackstone organized the various stages of a criminal proceeding "under twelve general heads, following each other in a progressive order." Ibid. The first six relate to pretrial events: Ibid. (emphasis added). "1. Arrest; 2 Commitment and bail; 3 Prosecution; 4. Process; and issue." The following Term, the Court construed the phrase "criminal prosecution" in a statutory context, and this time the Court squarely held that a "prosecution" does not encompass [preindictment stages of the criminal process. In Virginia v. Paul, 148 U.S. 107, 13 S.Ct. 536, 37 L.Ed. 386 (1893), the Court considered Revised Statute § 643 which authorized removal to federal court of any " 'criminal prosecution'" "'commenced in any court of a State'" against a federal officer.] Id., at 115, 13 S.Ct. 536. The respondent, a deputy marchal, had been arrested by Virginia authorities on a warrant for murder and was held in county jail awaiting his appearance before a justice of the peace "with a view to a commitment to await the action of the grand jury. See, (Doc.1) Page (14-of-16) (quoting Rothgery v. Gillespie County, Tex. 554 U.S. 221, 128 S.Ct. 2578, at 2597 (2008).

However, Rule 60(b)(4)(5) SCRCP, Motions have being Supplement the Pleading, upon Motions of Rule 60(b)(5),

When this Filed: (Doc.1) have being support by due process of law in this State. See, id., Reid v. Angelone, 369 F.3d 363-370 (4th Cir. 2004) a (Rule 60(b) Motion may not be granted "absent extraordinary circumstances."); see also Schultz v. Butcher, 24 F.3d 626 (4th Cir. 1994) (in resolving motion pursuant to Rule 60(b)(3)). APPX.:(9)(12-of-34

Here, Defendant Mr.[Maldonado] pursuant to "Supplementing his Pleading," have being provide, with criminal cases;an a Deendant, no **("Bar the Filed:(Doc.1) Motions**, by Provision of **Rule 60(b)(5), SCRCP.** With, the General Sessions Court. To seeking review? Defendant ask for a case in this matter; by way the Defendant agree with the Hon: D. Garrison Hill judge, above the written letter, **(April 15-24, 2015)** had been placed This, **Rule 60(b)** have being appled? And the, General Sessions Court have to Ruling the issue in this matter. See, Williams v. Watkins, (quoting State v. Goode, 299 S.C.479 at 481 385 S.E.2d 844, at 845 (1989)("[G]eneral Notice Given by Court of General Sessions as to wich Term an individual to effectively, waive his Right to be presented."); Ellis v. State, 267 S.C. 257, 260-61, 227 S.E.2d 304, at 305-306 (S.C.1976), presenting defense in behalf of State, plaintiff. When the Motion to Supplement the Pleading, would be prejudicial. And To **"Reopen Judgment"**, to Defendant showing, the fraud upon the general sessions court term, happening in the Greenville is County, [or Richland County], General Sessions Court. The "State Grand Jury of South Carolina Office of the Clerk, have no records, when Defendant had been indicted." Now, the plaintiff, not have jurisdiction over the Defendant, by holding him into the **(South Carolina Correctional Institutions, him have being confine at the Kershaw, C.I.)**. Hereby, the Defendant, damands his removal to the County pursuant of: Rothger v. Gillespie County, Tex, 554 U.S. 221, 128 S.Ct. at, 2597. Because, the **(SCDC)** didn't have jurisdiction over the Inmate, Mr. **Maldonado,** and him is already pursuit it too).

(R.P. 449-of-497 ROA

The **(SCDOC)** loose jurisdiction, over the Inmate, Jose A. Maldonado, by holding him in prison, because the Defendant have no records subject to his "**conviction**" and the State Grand Jury Affirmed it. On: (**April 17, 2015**) See ante, Post-Motion To Supplement the Pleading, P. (3), was the new issue enter with the "**State Grand Jury**" was they said: [Our Office has not record of a State Grand Jury case regarding this matter]. Setting the relevant issue to being Supplement the Pleading for new evidence. Rule 15(d) SCRCP, Rule 60(b)(4)(5), SCRCP, And Rule 29(b) SCRCrimP:

"Finding a Defendant Mr. Maldonado, "**bond**" by the Notice of the term of court have being provide." To Mr. James Price, who represented the Defendant at trial. Which on: January 24, 2006 a written letter, records had filed to Hon: ("James W. Jhonson, Jr.,), in the Richard[!] County General Sessions Court?" ... ("[T]his County From Richland") have the records to holding a Defendant, Mr. Maldonado, between the ("**SCDOC**") without jurisdiction at the "State Grand Jury of the Clerk Office, after the "**Filed Written Information from: April 17, 2015.**"" When on "Monday 23, 2006" Defendant, Mr. Maldonado, was arraigned on a "**sealed indictments, Defendant,** said which of those indictments had been under the sealed? To be true bill by the sentenced for Conspiracy toTrafficking, Methamphetamine; two Counts, Trafficking In Methamphetamine more's>400 grams. At from Honorable, Alexander S. Macaulay, guilty plead entered on Agust 22, 2006, was this judge senteced a Defendant April 10, 2007. Without Indictments See: (Doc.1), **Attachments: (C - 2).** The Court said: ("[I] don't have a copy of the INDICTMENTS), Solicitor Porter present this case, without indictments, and addressed false term, [No.:2005-GS-47-0026], and now against the fraudulent documents upon this court to said is **[true bill]** was her used the power to prosecuted a Defendant in the Columbia State Grand Jury, and may be through the Richland County Clerk of Court? Thus, is in the

Attorney General Office of Records. Defendant, had been prosecuted by Susan O. Porter, in presenced to Mr. James Price of the Defendant's defensed. Thus, made a **("[E]xtrinsic Fraud Upon The Court").** Chewing v. Ford Motor Co., 354 S.C. 80, 81, 579 S.E.2d 605, at 610 (2003). Because, "Defendant, had not been indicted by the State Grand Jury." See **Attachments: A-1, A-4. And B-1. B-4). That,** made Defendant free of the charged from: August 22, 2006, and April 10, 2007. Inside of General Sessions Court Term. See, **(Doc.1):** Now this Court have toReopen Judgment, to staring a new judgment, after this court withdraw his guilty plead. Were the ["Inf., of Superseding Indictment, failed at the General Sessions Court Term"].

Defendant Mr. Jose Alberto Maldonado, raise this arguments. Holding the following, Authorities:

POST - CONVICTION MOTION PURSUING THE TRUE BILL "SUPERSEDING INDICTMENT" FOR UNLAFUL DRUGS, WITHIN MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SET ASIDE OR VACATE JUDGMENT. Arguments Subject at [P.6-of-16].

This, Motions under the Rule 60(b)(5) SCRCP, have being present to pursuit the "True Bill, and Motion to Set Aside of Vacate Judgment," that, made Hon: D. Garrison Hill judge **"known"** that, Defendant, did not requested for change to their sentenced had been imposed, with the ten (10) days after the sentence is imposed. Defendant, in the above-captioned Motions is "POST - CONVICTION MOTION PURSUING THE TRUE BILL "SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS." Setting, this arguments, a Filed:(Doc.1 Ps.[5-6]). Arguable basis, By **Justice Woods**, which the ["Objection to the **Grand Jury, may be taken at any time",]** because the indictments **["is"]** totality defective and the grand jury was not qualified. **See, Filed:(Doc.1,[P.5]); (i.e.,)** In State v. Hann, 196 S.C. 211, 12 S.E.2d 720 at 726 (1940) (quoting, United States v. Gale, 109 U.S. 65, 3 S.Ct. 1, 27 L.Ed 857. Where a grand jury was duly drawn, duly organized, and acted "upon the indictment" in the regular

and usual manner; where it was "A Grand Jury of the 'Court of General Sessions for the Term,' at which the indictment was found"; where it was selected by the "Officer, (here, Hon: D. Garrison Hill judge," failed below, to "review") the lawful authority so to do and was composed of members duly sworn. State v. Lazarus, 83 S.C. 215, 65 S.E. 270, 271.; U.S. v. Williams, [___,F. Supp. 2d ___,2009 WL 5205969](D.S.C.)(quoting, Reid v. Angelone, 369 F. 3d 363, at 370 (4th Cir. 2004)("[A] Rule 60(b) Motion may not be granted "absent extraordinary circumstances".); standing that the opposing party attorney from the State Plaintiff, 'had been received the mailed and faxed notice of the mandatory, "roster Meeting, between is The "Richland County's Clerk of Court, Defendant, and the Attorney General is Office have the same "Notice" through, State Grand Jury Office of the Clerk by been providing, with USPS PRIORITY MAIL, at the same time Defendant had returned, above - the ("New Issued being Dicovery") See, Post-Motion To Supplement the Pleading, Page 3.

Further, Defendant Jose Alberto Maldonado, Pro-se, demand an "Evidentiary Hearing," in his behalf, to challenge, the mean State, Plaintiff, case, from Agust 22, 2006, guilty plead and, April 10, 2007 General Sessions Court Term sentenced. By way, the State, plaintiff, provide me all "Records under the law". Pursuit, the Records under **"City of Aiken v. David Michal Koontz,** 368 S.C. 545, at 547, 548, 629 S.E.2d 686, 689, at n.3 (S.C.App.,2006),(i.e.,)." Rule 16 SCRCrimP; have being subject in this case to: A defendant shall, or should be appear at ... the Sessions of ... Municipal ... Court biginning on 6-28-04 at ... 8:30 O'clock, Am., 251 Laurens Street, Aiken, SC 29801. So, What happen, by Defendant, Mr. Maldonado, case. Whereas, it was "a State Grand Jury of the Court of "General Sessions" for its Term?" The plaintiff, holding such records, or each, clerk have the records, Grenville County clerk, or "Richland County" Clerk have the records in this matter. "If no final desposition is made during that 'Sessions,' the defendants shall apear at such other times and places as **'order by the court.'"** (.)

File: (Doc.3)

Appx. (Q)(16-of-34)

Thus, Defendant: Mr. Jose Alberto Maldonadon, Pro - Se, request with this case, and the Motion To Supplement the Pleadings. And have being support with; (Attachments;(A),(A-1), (B), (C), (C). And (D-1), (D-2), (D-3), (D-4), and (D-5)). Aphabet order.

Deffendant, Addressee the **(Documents:3)**, to this Court, by release an Order upon The State, Plaintiff. And fixing a "Roster Calendar Hearing", in this matter. **As an Order by This Honorble Court.**

Respectfully Submitted

s/ Jose Alberto Maldonado

Jose Alberto Maldonado,# 312648
Defendant, Pro-Se,
Kershaw, Corr. Inst. MB/Room,#59
4848 Goldmine Highway
Kershaw, S.C. 29067

Addressee: This 15th, day of May, 2015. File:(Doc.3)

(R. P. 453-of-497. ROA)

APPX. (9)(17-of-34)

CERTIFICATE OF SERVICE BY MAIL

I, Jose Alberto Maldonado, a person presently incarcerated at Kershaw Correctional Institution, do hereby affirm that:

Was delivered into the hands of prison official with First Class Postage duly affixed and a return address clearly indenticated on the envoloped for deposit; "A MOTION TO SUPPLEMENT THE PLEADING", in the United States Postal Service, addressee to the Following Persons. To:

The Hon: Paul B. Wickensimer
Courthouse
In The General Sessions Court Term
305 E. North Street
Greenville, S.C. 29601

Attorney Of Records Alan Wilson
Office of the Attorney General
P.O. Box. 11549
Columbia, South Carolina, 29211

Respectfully Submitted

s/Jose Alberto Maldonado
Jose Alberto Maldonado, #312648
Defendant, Pro-Se,

Kershaw Corr. Inst. M/Boom, #59
4848 Goldmine Highway
Kershaw, South Carolina, 29067

Addressee, This 15th day of May, 2015.

In The Court Of General Sessions
For The 13th Judicial Circuit

Case(s) No.: 2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

File: Document:(3)

Further Defendant Pro-Se, said And Not.:

This 14th day of May, 2015.

SWORN To and SUBSCRIBED Before Me
This 14th, day of May, 2015.

Cathrine A. Amaya
NOTARY Public For SOUTH CAROLINA

My COMMISSION Expires:
My Commission Expires December 22, 2016

(R. p. 454-of-497. ROA)

Appx.(Q)(18-of-34)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

State of South Carolina,
Plaintiff,

V.

Jose Alberto Maldonado,
Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE 13TH JUDICIAL CIRCUIT

Case(s) No.:2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

MOTION TO REOPEN JUDGMENT
WITH MEMORANDUM OF LAW

Now comes the above-stated Defendant, Jose Alberto Maldonado pro - se, hereby moves pursuant to: **Rule 60(b)(4)(5) SCRCP;** and **S.C. Code, 1976 § 15-27-130;** to have the judgment entered on: **August 22, 2006 and April 10, 2007,** "reopen" because of Fraud Upon the Court and the **Lack of Jurisdiction** made the judgment Void. Defendant, Mr. Maldonado moves to reopen the judgments in the above-captioned matter, in regards to "a prior Motions, Set forth in this matter," to set aside or vacate judgment thereof. Mr. **Maldonado** makes this motions for the followings reasons:

FACTS

The Defendant was indicted by a State Grand Jury on: December 13th, 2005 for Conspiracy to Trafficking Methamphetamines: **(Two Counts),** Trafficking In Methamphetamines, more then >400 grams; and also the prosecutor, charged with a false possession of a firearm[?] Amended it inside of **(Count-Three)** during the commission of a violent crime, in related that both "indictments";(1) from Dec. 13th, 2005: **(Count - Two);and (2)** "Superseding Indictment": **February 22th, 2006** in **(Count-Three),** in violation of: S.C.Code Ann.,§§ 44-53-375(C)(5), 16-1-60, and § 16-23-490, issuing this arguable ba-

(R. p. 455-of-497 ROA) 1-of-7, File: (Doc.3).

sis for relief, Filed: MOTION MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SET ASIDE OF VACATE JUDGMENT: ("Doc.1") at (Ps,4.8). For the acts of "solicitor Porter, to printed and amended false "Court Term information, and used the **"Superseding Indictment", with a ("Count-Three").**

However, Solicitor Porter presented to the Court a "Superseding Amended Indictment"[?]; charging the Defendant with conspiracy to trafficking in methamphetamines;(Three-Counts) of trafficking in methamphetamines; **more than >400 grams:** And with the possession of a firearm during the Commission of violent crime which was supposely issued on (February 22, 2006), "both indictments beared the same number: [Ind.,2005-GS-47-0026"].

The Defendant was convicted upon this "Superseding amended indictment" as he plead guilty, for **"28-grams, unless a 100, grams"** for consecutively offensed, and that, would had or have being under S.C. Code Ann., §§ 44-53-375(C)(2)(b). Hereby, Solicitor Porter, failed to amended the language of **§ 44-53-375 (C)(2)(b),** and quash the provision "§ 44-53-375(C)(5) (for More than >400 grams". **See ;(Doc.1, [P.9]).** <Section 17-19-10/100>. And Defendant, Mr. Maldonado, was sentenced to twenty:(20) years, from the Honorable Alexander S. Macaulay on April 10, 2007. Defendant was represented by James H. Price, Esquire. And the South Carolina State, was represented by: Susan O. Porter. Esquire.

ARGUMENT

This action by Solicitor Porter amended the indictment, incresing the ("Two-Counts"), for trafficking in methamp-

hetamines. The "Indictment was 'intentionally'" changed by the Prosecutor without "dismissal of the 'original indictment"; 1st and without legal process of another indictment. From "a legally Sworn and Constituted State Grand Jury.'" ("[W]as there is the ["Fraud Upon the Court,"]"). Because the <State Grand Jury from South Carolina Office of the Clerk, had been recognized, On: April 17, 2015> That, there is no **"Record of said charged."** This, "Office no have any records of a 'State Grand Jury [case] regarding this matter.'" See: **(Attachment:(A)).**At, **("File Doc.3").**

In Regarding this Matter "James R. Parkers" Clerk's Office ("[R]eturned the relief in behalf of Defendant' Apr. 17, 2015." See: Motion To Supplement the Pleading, [P.(3)]. Therefore, Defendant was pursued the answer from **("Doc.1")**, the Clerk of Court from Richland failed to returned **(Doc.1), But, I am**, Submitted an (Informal Complaint/Return "clock - stamped" of filed Motion(s) **Pursuant Rule 60(b)(5) SCRCP.** April 15, 2015 Was is **(Filed "Doc.2")**, Upon the Richland County's Clerk: And this Clerk of Court, sended the **("Doc.1")** directly, to the State Grand Jury of S.C. Office of the Clerk, on: April 3-4, 2015. The, Defendant, Mr. Maldonad, had been seeking this information "back on: May 11, 2010" with a written letter, throughout's the State Grand Jury's Office. But now this Office declined, to the **("New Issue")** by Defendant filed Motion To Suplement the Pleading, and ("To Reopen The Judgment") by, Defendant Finding the "relief have being sought. See: (Attachments: (A), & (B); also see; **(Attachment:(C-9. At, Filed:Doc.1).**

This, (attachment) is the written letter through the S.C. Court Administration, in Columbia, South Carolina. May 5, 2010. This Clerk; send me directly to "State Grand Jury, Office of the Clerk," and also addressed the Clerk of Court, in the Greenville County to satisfy my requested; but neither has been satisfied my petition of those Clerks, after **April 17 - 30, 2015.** See, (Attachment: (C) In this Motion (Doc.3). In this matter answer, from: James Parker, Returned my Request on **May 25, 2010.** The, Filed: (Doc. 1); **("[A]**ttachments: **A-1, A-4. & B-1. B-4)** make [a] case **("Motion TO Reopen Judgment")**, and against written letter, from Hon: D. Garrison Hill, see; **(Attachments: (D)(1 - Through - 5).** (Instead: Rule 502 SCACR, Rule 11. RJD. Ex Parte Contacts).

REOPEN JUDGMENT BY THIS ARGUMENTS

1. In direct contradiction to the "Court Term" information printed upon the "Superseding Indictment versus the Original," only the face of the "Superseding Indictment was changed," but into the back side is exactly as the **["original"]** with the exact same signatures and **"True Bill"** markings and it is obvious from viewing both indictments that the "February 22, 2006; indictment did not pass before the State Grand Jury at all. See, (Filed Doc.1, attachments: A-1. A-4. & B-1. B-4):

2. It is obvious that solicitor Porter recreated the face sheet of the Indictment and left the remaining (pages as they were on the State Grand Jury's Original Indictment dated Dec. 13th, 2005), Therefore, false Court Term information was knowingly and fraudulently processed, printed and published by the hand of solicitor "Susan O. Porter.";

3. It is an offense against Public Justice to willfully, give information in a State Indictment. South Carolina **Code of Law Section, 16-9-10;** "perjury and Subornation of Perjury," provides in relevant part: **A(2)** - it is unlawful for a person to wilfully give false, misleading or incomplete information on a document, record, or report, or form required by law of this

State ... let us note that Mr. Maldonado's criminal indictments are documents required by the law of this State. See: S. C. Code § 17-19-10(2003)("[N]o person shall be held to answer in any Court for an alleged crime or offense, unless upon indictment by 'a Grand Jury.'");

4. Thus, for purposes of establishing perjury under the provisions of § 16-9-10, Mr. Maldonado, "True Bill" State Indictments would satisfy the requirement of **Subsection: (A)(2);**

5. Therefore, the acts of solicitor Porter of printing and amending false "Court Term" information ("Superseding") in Jose Alberto Maldonado is state required [§ 17-19-10, and 17-19-100] indictment would by necessity have to be viewed as willfully done;

6. The law is clear - solicitor Porter was required to know and obey the laws of South Carolina;

7. Accordingly, Ms. **Porter** is guilty of perjury; an offense against Public Justice, in violation of S.C. Code § 16-9-10, and thereby committed **"Fraud"** as well. ("Fraud Upon The Court");

8. Fraud Upon The Court is "Fraud ... Subvert[s] the integrity of the Court itself, or is a fraud perpetrated by: Officers of the Court so that, the judicial machinary cannot perform in the usual manner; it impart task of adjudging cases that are presented for adjudication. See, Chewning, 550 S.E.2d at, 587, quoting Evans v. Gunter, 294 S.C. 525, at 529, 366 SE.2d 44, at 46 (Ct. App., 1988) (Overruling on other grounds by, H. Lightsey & J. Flannaga, SCRCP, RPC 408 (2nd Ed.1986). Although, perjury will not serve to vacate a judgment, it is considered "Fraud Upon The Court" when it involves or is suborned by an Attorney. See, Chewining, 550 S.E.2d at 588; and

9. Accordingly and above, Defendant Mr. Maldonado, has established Fraud Upon The Court, and just importantly, that the actions by Solicitor Porter devested the trial Courts jurisdiction as well. See, (Filed: Doc.1, P. 6-of-16), within our previous filed, "Memorandum of Law In Support of Motion TO Set Aside Or Vacate Judgment"), in regards. These actions by Ms. Porter voided the Judgment of the Court on Aug. 22, 2006, and April 10, 2007. ("Judgment of a Court without subject matter juridiction is void and constitutes grounds for the Court to vacte the judgment under Rule 60(b)(4)[SCRCP]." Gainey v. Gainey, 382 S.C. 414, 424, 675 S.E.2d 792, at 797-78 (2009)(quoting State v. Campbell, 656 SE.2d 374.)).

File: (Doc.3)

Appx. (Q)(23-of-34)

DISCUSSION/LAW ANALYSIS

1). Judgment may be reopening for fraud or mistake. It is not to be doubted that upon a showing of surprise or excusable neglect, the Court, even after such adjudication, for fraud or mistake could open the case under this section. S.C.Code,§ 15-27-130. And equity courts retain full equitable jurisdiction unaffected by time limitation in this, Section. In cases where a judgment may be attacked on other grounds of equitable cognizances, such as fraud, unconscionableness, "duress, the State Courts, as Courts of Equity," retain their full equitable jurisdiction, unaffected by the **"one year limitation"** in this Section. See, Sarratt v. Gaffney City Mfg. Co., 57 S. E. 616 (1907):

2). Thus, Rule 29 SCRCrimP, and other Post Trial Motions such as **Rule 52(b) and 59 SCRCP,** has no affect on the issues involving jurisdiction may be raised at any time before any Court. State v. Lancey, 367 S.C. 639, 629 S.E.2d 726 (S.C. 2006); see also, Calderon v. Thompson, 523 U.S. 538, at, 557, 118 S.Ct. 1489, at, 1502 (1998) see the: (MOTION TO SUPPLEMENT THE PLEADING) **(Filed:Doc.3,** P.5);

3). **Rule 60(b), unlike Rules 52(b) and 59 SCRCP,** does not contain a ten (10) day time limit. A Motion for relief from judgment under **Rule 60(b),** however, does not toll the time for appeal from, or affect the finality of, the "original judment." See, 7 J. Moore, Federal Practice ¶ 60.29 pp. 413-414 (1975). See, id., (Filed:Doc.3, p.5); Carter v. Fenner, 136 F .3d at, 1005 (1998) ... (Motion to Set Aside Judgment as void has not Set Time Limit. ... Federal Rules Civil Procedure, 60 (b)(4), 28 U.S.C.A., and Motion to Set Aside Judgment as void will be granted only if Court that rendered in ("Lacked Jurisdiction of Subject Matter, or of with due process of law."") U.S.C.A. Const. Amend. 5. See, id. at 136 F.3d at 1006;

4). **Thus,** while the Court, lost jurisdiction at ten (10) days after entry of the **August 22, 2006** and **April 10, 2007** judgments to grant relief under Rule 52(b) and 59 SCRCP, as well as **Rule 29 SCRCrimP,** its power to grant relief from judgmnet under **Rule 60(b) SCRCP,** (i.e.,); **Browder v. Director, Dep't Of Corrections Of Ill.,** 434 U.S. 257, 98 S.Ct. 556, 54 L.Ed.2d 521 (1978)(State Court Conviction, Criminal Case); S.C. Code, § 15-27-130;Fryer v. S.C.L. Enforcement Div., 369 S.C. 395, 398-99, 631 S.E.2d 918-920, n.2 (SC.App.2006)(quoting Gainey v. Gainey. at 797-78.); Reid v. Angelone, 369 F.3d 363, at 375 (4th Cir.2004);(same)(State v. Campbell, 376 S.C. 212-217, 656 S.E.2d at 374 (2008) Cite Rule 29, SCRCrimP ;& Rule 60(b)(4) SCRCP.)

File: (Doc.3)

(R. p. 460-of-497. ROA)

Appx. (Q)(24-of-34)

5). In most instances a Rule 60(b) Motion, relates to civil case, but this "Motion to Vacate or/to 'Reopen Judgment'" can apply to "Criminal cases judgments as well." See, e.g., Gonzalez v. Crosby, 545 U.S. 524, 125 S.Ct. 2641 (2005)("[A] Habeas Corpus Pettioner" was allowed to used the ("60(b) Motion" criminal convictions). See, id., Gonzalez v. Crosby, 125 S.Ct. at, 2643. In Gonzalez, the Court stated that the Rule 60(b) also preserves parties' opportunity to obtain vacatur of a judgment that is void for "lack of jurisdiction" ... since absence of jurisdiction altogether deprives [a] court "of the power to adjucate the rights of the parties";

6). IN some instances, we may note, it's the [State] that seeks to use Rule 60(b), to reopen judgment, Under 60(b) (a movant seeking relief is required to show "extraordinary circumstances", such as these argued), **Rule 60(b)** allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances including fraud, mistaked, and "Newly Discovered Evidence. Rule 60(b) SCRCP,"and also S.C. Code Ann., § 15-27-130;

7). There are a host of Fourth Circuit (U.S. Court of Apeals, and State cases), where Rule 60(b) Motion was used in vacate judgment. See, Hilman v. Pinion, 347 S.C. 253, 256, 554 S.E.2d 427, 429 (Ct. App., 2000); State Goode, 299 S.C. 479, 481, S.E.2d 844, 845 (S.C. 1989); Williams v. Watkins, 384 S.C. 319, at 325, 681 S.E.2d at, 917, 918 (S.C. App., 2009); Mlc-automotive, LLC. v. Town of Southernpines, 535 F.3d 269 (4th Cir. (N.C.), 2008); In re Burnley, 988 F.2d (4th Cir. 1992). In some instances the Rule 60(b)(5) Motion has been used in mixed at criminal and civil situations, See, e.g., <State v. Cooper, 342 S.C. 389, 536 S.E.2d at, 875, n.3(S.C. 2000)> See, Filed: Motion To Supplement The Pleading; (Doc.3, P.6);

8). In this present case the Defendant did not find out that the solicitor had commited the willful act of fraud; (Extrinsic fraud upon the court) until well after the ten (10) days, after judgment of August 22, 2006 and April 10, 2007 and have been deligently pursuing relief for this issue, but was never heard upon the merits. Therefore, now Defendant, has moved for relief and have presented "a New Issue," grounds substantiated by adequate proof, and this case, should be ruled upon State v. Cooper, 342 S.C. 389, n.3, at 400, 536 S.E.2d at 876 - 877 (2000);(same),In re Burnley, 988 F.2d 1, at 3 (4th Cir. 1992). Wherefore, this Motions should be granted, as well as , all previous Motions filed properly within this Court.

File: This 5th, day of May, 2015.

Respectfully Submitted
s/ [signature]
Jose Alberto Maldonado,
312648. Pro-Se Defendant.

Kershaw, C.I. MB/Room, #59
4848 Goldmine Highway
Kershaw, S.C. 29067.

(R.P. 461-of-497 ROA)

File: (Doc.3)

Appx.: (Q)(25-of-34)

CERTIFICATE OF SERVICE BY MAIL

I, Jose Alberto Maldonado, a person presently incarcerated at Kershaw, Correctional Institution, do hereby affirm that:

Was delivered into the hands of prison official with First Class Postage duly affixed and a return address clearly indenticated on the Envoloped for Deposit: "MOTION TO REOPENT JUDGMENT WITH MEMORANDUM OF LAW", In The United States Postal Service, Addressee to the Following Persons. To:

The Hon: Paul B. Wickensimer
Courthouse
In The General Sessions Court Term
305 E. North Street
Greenville, S.C. 29601

Attorney of Records: Alan Wilson
Office of the Attorney General
P.O. Box. 11549
Columbia, South Carolina, 29211

Respectfully Submitted

s/Jose Alberto Maldonado

Jose Alberto Maldonado, #312648
Defendant, Pro-Se,
Kershaw Corr. Inst. MB/Room, #59
4848 Goldmine Highway
Kershaw, South Carolina, 29067

Addressee, This 15th day of May, 2015.

Further, Defendant said and Not.:
This 14th, day of May, 2015.

SWORN TO and SUBSCRIBED Before Me
This 14th, day of May, 2015.

Catherine A Carrasco
NOTARY Public For SOUTH CAROLINA
My COMMISSIONS Expires:
My Commission Expires December 22, 2018

In The Court Of General Sessions
For The 13th Judicial Circuit

Case(s) No.: 2005-GS-47-0026,
2003-GS-23-45-0047/03-GS-23-45-0045

File: Documents:(3).

(R. P. 462-of-497. ROA)

State Grand Jury of South Carolina

Exhibit: (9).
Appx. (Q)(26-of-34)

(1)

(Attachment: "A-I")

AMES R. PARKS
CLERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

April 17, 2015

Jose Maldonado #312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine HWY
Kershaw SC 29067

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ___ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

_X_ There is no record of said charge.

_x_ Please speak with your attorney regarding your request.

___ Please direct your request to _____county Clerk of Court.

___ Other: Our office has no record of a State Grand Jury case regarding this matter.

_____

(R. p. 463-of-497. ROA)

[redacted]

(2)

Exhibit: (19)
Appx. (Q)(27-of-34)

March 9, 2015

Jose Alberto Maldonado # 312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine Highway
Kershaw SC 29067

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ____ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

__ Please speak with your attorney regarding your request.

___ Please direct your request to _____ County Clerk of Court.

_X_ Other: There are no pending charges, therefore the information is being returned to you.
_____

(R. p. 464-of-497. ROA)

File: (Attachment;(A)(1), Doc.3)

Appx.(Q)(28-of-34)

Attachment:(B)

Jose Maldonado,#312648
Perry Corr. Inst. Q3B-203
430 Oaklawn Rd.
Pelzer, S.C. 29669

(3)

May 11, 2010

State Grand Jury of S.C.
Office of the Clerk
P.O. Box 11508
Columbia, S.C. 29211

Dear Clerk of Court:

I'm submitting this letter to your office in request of a copy of the transcript for the State Grand Jury held on February 22, 2006, concerning my case number 2005-GS-47-26. I also would like a copy of the petition or order that was filed requesting this grand jury by the Attornay General or the Chief of SLED or the order from the judge that granted this petition.

I look forward to hearing from your office soon concerning the content of this letter.

With Kind Regards:

Thank you in advance,

S/ Jose Maldonado
Jose Maldonado,

File: (Attachment:(B) Doc.3)

(R. P. 465-of-497. ROA)

cc: File

State Grand Jury of South Carolina

(4)

File: (Attachment:(C),Doc.3)

JAMES R. PARKS
CLERK OF COURT

Office of the Clerk

1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

ATTACHMENT (C)

May 25, 2010

APPX. (C)(29-OF-34)

Jose Malonado, #312648
Perry Correctional Institute Q3B-203
430 Oaklawn Road
Pelzer, SC 29669

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ___ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

___ There is no record of said charge.

___ Please speak with your attorney regarding your request.

___ Please direct your request to _____ County Clerk of Court.

X Other: Contact CompuScripts to obtain copies of the requested transcript. Their address is: PO Box 7172, Columbia, SC 29202-7172.

(R.P. 466-OF-497. ROA)

(5)

State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

D. GARRISON HILL
JUDGE

GREENVILLE COUNTY COURTHOUSE
305 EAST NORTH STREET, SUITE 213
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 467-8484
FAX: (864) 467-8595
E-MAIL: ghillj@sccourts.org

Exhibit:(19). Attachments: D-1
Appx.(Q)(30-of-34)

April 15, 2015

Mr. Jose A. Maldonado (312648)
Kershaw Correctional Inst.
4848 Goldmine Hwy.
Kershaw, SC 29067

RE: State of South Carolina v. Jose Maldonado

Dear Mr. Maldonado:

This letter is in response to your motions recently received by my office. South Carolina law provides that a person has ten (10) days after the sentence is imposed to request such a change to their sentence. This court, therefore, no longer has jurisdiction over your case.

Furthermore, this is a criminal case. The Motion to Vacate Judgment is a motion relating to civil cases. Rule 60(b) SCRCP, to which you refer in your motions, is a rule from the South Carolina Rules of Civil Procedure.

Sincerely,

D. Garrison Hill

(R. p. 467-of-497. ROA)

File: (Attachment:(D-1), Doc.3)

DGH:wjw

THE HONORABLE D. GARRISON HILL
CHIEF ADMINISTRATIVE JUDGE

JENNIFER EVANS, ESQUIRE
CHIEF, STATE GRAND JURY

(6)

This Judge appear w/his Certific of Service?

HONORABLE PAUL B. WICKENSIMER
GREENVILLE COUNTY CLERK OF COURT

SUSAN PORTER, ESQUIRE
ASSISTANT ATTORNEY GENERAL

Same Appear w/his Certific of Service?

HONORABLE ROBERT M. ARIAIL
SOLICITOR, EIGHTH JUDICIAL CIRCUIT

File: (Attachment:(D-2), Doc.3)

MS. DESIREE ALLEN
COURT SERVICES MANAGER
MS. JULIA HORTON
SC COURT ADMINISTRATION

SHERIFF STEVE LOFTIS
GREENVILLE COUNTY

(Attachment:D-2)

Appx.(9)(31-of-34)

2005-GS-47-03

JOHN NELSON TURNER, JR. - 01 — JOE WATSON, ESQUIRE

2005-GS-47-04

JOSE MENDEZ GUEVARA -01 — DAVID GANTT, ESQUIRE

MARTIN HERNANDEZ TAPIA -02 — KENNETH GIBSON, ESQUIRE

ARTURO RIVERA MENDOZA -03 — RICHARD WARDER, ESQUIRE

EDUARDO BECERRA MARGARENO -04 — RICHARD WARDER, ESQUIRE

2005-GS-47-05

JESSE ROGER OWEN –01 — KEVIN HANVY, ESQUIRE

2005-GS-47-06

KENNETH LEE LAVENDER -01 — KIM VARNER, ESQUIRE

2005-GS-47-07

DENNIS PAUL STYLES –01 — MICHAEL MACKINNON, ESQUIRE

(R.P. 468-of-497 ROA)

2005-GS-47-08

CHAD EARNEST SEXTON -01 — JACK LYNN, ESQUIRE

(7)

2005-GS-47-26

(Attachments: D-3) **File: (Attachment:(D-3),Doc.3)**

EMILIANO GARCIA AGUIRRE –01	RAY NOVELL, ESQUIRE PAUL THURMOND, ESQUIRE
Appx. (Q)(32-of-34)	
PAMELA RENEE BOZZI –02	MICHAEL ATWATER, ESQUIRE
The Defendant	
JOSE ALBERTO MALDONADO –03	JAMES H. PRICE, III., ESQUIRE
KENNETH SCOTT POPE –04	ANDREW MCKENZIE, ESQUIRE
LISA LAVERN RAMIREZ –05	DANIEL FARNSWORTH, ESQUIRE
THOMAS ERNIE ROBERTS –06	JOHN B. WHITE, ESQUIRE
OSCAR SANCHEZ –07	BILL GODFREY, ESQUIRE
JOHN NELSON TURNER, JR. -08	JOE WATSON, ESQUIRE
KELLY LEE NALLEY TURNER -09	FRANK EPPES, ESQUIRE

2005-GS-47-27

ROBERT DOLL –01	MATTHEW KAPPEL, ESQUIRE
JACK WILLIAM ADDINGTON –02	DOROTHY MANIGAULT, ESQUIRE

2005-GS-47-28

JASON EDWARD BAGWELL –01	MICHAEL BARCROFT, ESQUIRE

2005-GS-47-29

JEFFREY STEVEN CHASTAIN –01	THOMAS J. QUINN, ESQUIRE

2005-GS-47-30

DANNY CARL HOLCOMBE –01	FRANK EPPES, ESQUIRE
PATRICIA LYNN REEVES –02	BEATTIE B. ASHMORE, ESQUIRE
MICHAEL LYNN RUSSELL –03	RANDALL S. HILLER, ESQUIRE
DENNIS PAUL STYLES –04	MICHAEL MACKINNON, ESQUIRE

(R.P.469-of-497.ROA)

2005-GS-47-22

Appx. (Q)(34 - of - 34)

KENNETH LEE LAVENDER -01	KIM VARNER, ESQUIRE
JOSE J. ORTIZ –02	NOT ARRESTED
JOEL MICHAEL SHIRLEY –03	NOT ARRESTED

(8)

(Attachments: D-4) File:(Attachment:(D-4),Doc.3)

2005-GS-47-23

PAMELA RENEE BOZZI –01	MICHAEL ATWATER, ESQUIRE
MARIO RAMOS HINOJOS -02	RODNEY RICHEY, ESQUIRE
EFRIN ESPINEO MARTINEZ –03	GREG HARRIS, ESQUIRE
SHEENA MARIE MCALISTER –04	CLAYTON L. JENNINGS, ESQUIRE
THOMAS ERNIE ROBERTS –05	JOHN B. WHITE, ESQUIRE
JOSE SOTO –06	RAY NOVELL, ESQUIRE PAUL THURMOND, ESQUIRE

2005-GS-47-24

MARIO RAMOS HINOJOS -01	RODNEY RICHEY, ESQUIRE
JORGE A. HEREDIA-VERDIER –02	Solicitor 8th Judicial Circuit R. MILLS ARIAIL, ESQUIRE With Conflict of Interest?
EFRAIN ESPINEO MARTINEZ –03	GREG HARRIS, ESQUIRE
EMILIO SALAZAR-ORTEZ -04	JAN STRIFLING, ESQUIRE

2005-GS-47-25 (R.P. 470 - of - 497 ROA)

AMANDA FORDHAM –01	NOT ARRESTED
KENNETH LEE LAVENDER –02	KIM VARNER, ESQUIRE
KEVIN DALE MOSER –03	DOUG RICHARDSON, ESQUIRE
BRIAN OLIVER MUELLER -04 ——→	JAMES H. PRICE, III., ESQUIRE
CHAD EARNEST SEXTON -05	JACK LYNN, ESQUIRE
ROBERT LAWRENCE SEXTON –06	RODNEY RICHEY, ESQUIRE
SETH AARON STEARNS –07	MATTHEW KAPPEL, ESQUIRE

(APPENDIX - (9) (Report Page 34))

EXHIBIT (19)

CERTIFICATE OF MAILING

(9)

(Attachments: D-5)

I, Mr. C. Barrett Burley, do hereby certify that I have, this 15th day of August 2006, mailed **NOTICE OF GUILTY PLEA CONFIRMATION** to the following parties by delivering a copy of the same to the United States Post Office, first-class postage prepaid:

Jack William Addington
C/o USP Terrehaute
4700 Bureau Road
Terrehaute, IN 47802

Dorothy Manigault, Esquire
PO Box 392
Greenville, SC 29602

Jack Addington
204 Pearl Drive
Easley, SC 29642

Emiliano Garcia Aguirre
C/o Greenville County Detention Center
20 McGee Street
Greenville, SC 29601

Ray Norvell, Esquire
1530 Dunwoody Village Pkwy
Suite 115
Atlanta, GA 30338

Paul Thurmond, Esquire
15 Mid-Atlantic Wharf Suite101
Charleston, SC 29401

Jason Edward Bagwell
110 Chipley Trail
Easley, SC 29640

Michael W. Barcroft, Esquire
204 Lavinia Ave.
Greenville, SC 29601

E-Z Out Bail Bonds
3650 B Bluff Road
Columbia, SC 29209

Samuel Baker
103 Cedar St.
Laurens, SC 29360

John DeJong, Esquire
214 E. Main St., B-240
Pickens, SC 29671

Pamela Bozzi
C/o Greenville County Detention Center
20 McGee Street
Greenville, SC 29601

Michael Atwater, Esquire
5115 Forest Drive, Suite E
Columbia, SC 29206

Jeffrey S. Chastain
11 Hunt Street
Travelers Rest, SC 29690

Thomas J. Quinn, Esquire
114 Manly Street
Greenville, SC 29601

Steven Chastain
11 Hunt Street
Travelers Rest, SC 29690

Robert Doll
1029 North Norris Dr
Liberty, SC 29667

Matt Kappel, Esquire
P.O. Box 10334
Greenville, NC 29603

Betty J. Sprouse
1029 North Norris Drive
Liberty, SC 29657

File: (Attachment: (D-5), Doc. 3)

(R. P. 477 - of - 497 ROA)

Greenville County

Office of the Clerk of Court

Greenville, South Carolina

Paul B. Wickensimer
Clerk of Court

Circuit Court Division
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601
(864) 467-8551 FAX (864) 467-8540

EXHIBIT (20)
APPENDIX: (R) (Report - Page - 1 through 24)

July 31, 2015

Jose Alberto Maldonado #312648
Kershaw Correctional Inst.
4848 Goldmine Hwy
Kershaw, SC 29067

Re: Filing "Notice of Summons & Complain"

Dear Mr. Maldonado:

We are in receipt of your filing. Enclosed please find a copy of your clocked filing as you requested. As a courtesy to you, a copy of your filing as referenced above has been forwarded to the Solicitor's Office and to the Administrative Judge.

Please note that the Clerk of Court for General Sessions is a filing office and we do not set the motion docket, therefore we cannot provide motion status updates or information, nor do we have the authority to make any sort of ruling in the matter.

Sincerely
Clerk of Court
Greenville County General Sessions

(R. P. 472 - of - 497. ROA)

Appk.(R)(2-of-22)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS

State of South Carolina ex rel, W. Walter Wilkins, Solicitor, 13th Judicial Circuit, and Ms. Karen Ratiga, Assistant Deputy Attorney General, Plaintiff,

Vs.

Defendant's May 28, 2015 letter, Jose Alberto Maldonado pro se; Interested, Defendant.

FOR THE THIRTEENTH JUDICIAL CIRCUIT
Co-Plaintiff: Fifth Judicial Circuit

Case(s) No.: 2005-GS-47-0026, 2003-GS-23-45-0047/03-GS-23-45-0045

S U M M O N S

(Evidentiary Hearing Demanded)

[And, "Attorney have being Appointed"]

To: THE INTERESTED PLAINTIFF, and the APPOSSIT PARTY ABOVE NAME(s):

YOU ARE HEREBY SUMMONED and required to answer the Complaint in the above entitled action, a copy of which is herewith served upon you (and which has been filed in the Office of the Clerk of Court(s)) and to serve a copy if your Answer upon the subcribers, at their offices;(1) at the Thirteenth Solicitor's Office, 305 E. North Street, Suite 325, Greenville, South Carolina 29601;and (2) Fifth Circuit Solicitor's Office P.O. Box 192 Columbia, South Carolina, 29202 within twenty (20) days after the date of such service, exclusive of the day of service, and if you fail to answer the said Complaint within that time, judgment by default will be rendered against you for the relief demanded in the Complaint.

Sincerely,

Done this 27 day of July, 2015

s/ Jose A. Maldonado

Addressed on: July 27th, 2015.

(R. P. 473-of-497. ROA)

Jose A. Maldonado, # 312648
Pro se Defendant
Kershaw, Correctional Institution
Magnolia MB/Room, 59
4848 Goldmine Highway
Kershaw, South Carolina, 29067

13th Cir. File: (Doc.4)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF GENERAL SESSIONS

FOR THE THIRTEENTH JUDICIAL CIRCUIT

Co-Plaintiff: Fifth Judicial Circuit

State of South Carolina Ex rel, W. Walter Wilkins, Solicitor, 13th Judicial Circuit, and Ms. Karen Ratigan, Assistant Deputy Attorney General,

Plainitiff,

Vs.

Defendant's May 28, 2015 letter, Jose Alberto Maldonado pro se; Interested,

Defendant.

Case(s) No.:2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

NOTICE OF SUMMONS AND COMPLAINT

(BY EVIDENTIARY HEARING DEMAND)

[WITHIN AN ATTORNEY]

Appx. (R)(3-of-22)

Now comes the Defendan, Jose Alberto Maldonado, pro se, who hereby notice of filing upon this [two] "Clerk-of-Courts", a ("SUMMONS", and "AMENDING COMPLAINT"), to be "docket, heard, and ruled upon." Pursuant to: South Carolina Rules of Civil Procedure. Rule 3(a), rule 12(a), and Rule 60(a)-(b); Ex Parte (SCDOR), 350 S.C. 404, fn.1, 408, 566 S.E.2d 196, 198-99 (S.C. App., 2002) (quoting, State v. Sanders, 118 S.C. 498, 502, 110 S.E. 808 at, 810 (1920)("The purpose of the summons is to acquire jurisdiction of the person of the defendant...."); Rule 3 (a) SCRCP,: "The plaintiff now have "Notice of the Action" and opportunity to appear and defend. In addition, Rule 60 SCRCP; specifically provides for a Defendant's relief from a judgment , not the enforcement of that judgment against not-parties.

See Rulew 60(a)-(b) SCRCP:

Thus, attempting to bind a "non-party" to a judgment extinguishing its lien changes the scope of the "original judgment" and extends beyond the relief contemplated by Rule 60, SCRCP.

Done this 27, day of July, 2015.

Addresseee: July 27th, 2015.

(R. P. 47H-of-497. ROA)

Sincerely,

s/Jose A. Maldonado

Jose Alberto Maldonado, #312648
Kershw, Corr. Inst. MB/Room#59
4848 Goldmine Highway
Kershaw, S.C. 29067

13th Cir. File: (Doc.4)

Appx.(R)(4-of-22)

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLEE)

State of South Carolina ex rel, W. Walter Wilkins, Solicitor, 13th Judicial Circuit, and Ms. Karen Ratigan, Assistant Deputy Attorney General, Plaintiff(s),

Vs.

Defendant's May 28, 2015 letter, Jose Alberto Maldonado pro se, Interested,

Defendant.

IN THE COURT OF GENERAL SESSIONS
FOR THE THIRTEENTH JUDICIAL CIRCUIT
Co-Plaintiff: Fifth Judicial Circuit

Case(s) No.: 2005-GS-47-0026,
2003-GS-23-45-0047/03-GS-23-45-0045

AMENDING COMPLAINT

(By EVIDENTIARY HEARING DEMAND)

[WITHIN AN ATTORNEY]

Defendant complaining of the "above listed Name(s)", in the State of South Carolina ex rel, W. Walter Wilkins, Thirteenth Judicial Circuit Solicitor Office; and Ms. Karen Ratigan, Assistant Deputy Attorney General, the plaintiff, ("[i]n defense to the opposed parties names") and Interested Defendant would respectfully show unto this Honorable Court as follows:

GENERAL ALLEGATIONS

¶(1). That, the Defendant Jose Alberto Maldonado pro se, is the designee of the "State Inmate" in the South Carolina Kershaw Correction Institution, and now amend the Summons and Complaint (leave to amend "almost always" granted, citing 2A J. Moore and Lucas, Moore's Federal Practice ¶ 9.03 (2d ed 1984) (quoting, Minotti v. Wheaton 630 F.Supp. 282 at, 283-84, cite Tyrolf v. Va, 82 F.R.D. 372, 374 (E.D. La. 1979). Looking beyond the caption, of this case, and the Court will found that the complaint gave adequate notice that relief was sought against both Counties; one is for the "Thirteetn Judicial Circuit in the Court of

(R. p.475-of-497. ROA)

General Sessions from Greenville County; and **Second**, is the ... "Fifth Judicial Circuit to Richland County"? That, records, shown me that. See Jose A. Maldonado [is] Certificate Complaint above("Returned's clock-stamped") pursuant to Rule 60(b)(5), SCRCP.; and the Rule 201(b) SCRE, filed April 15th 2015, within is clerk of court from "Richland County"; and the Attorney General is Office. Holdings, the following Allegations:

Unlike Mr. Maldonado, which involved adding the government as a ("[D]efendant, plaintiff's State criminal case,") here needs only to add the both counties, and the ("S.L.E.D.") as a **("Co-Plaintiff")**. Inasmuch as plaintiff correctly identified the South Carolina State "as the real party" in interest in its complaint from **June 26 2005**, and arguably provided adequate notice to the South Carolina Law Enforcement **("SLED")** of its claim against, a Jose A. Maldonado, see MOTION TO SUPPLEMENT THE PLEADING, at p. 2-of-14, and MOTION TO REOPEN JUDGMENT WITH MEMORANDUM OF law, was the judgment against the "Defendant in Aug. 22th, 2006/Apr. 10, 2007. Thus, the plaintiff's State criminal case, claim under S.C.Code of Laws Ann.§ 44-53-375(C)(5) (Inf. Indictment No.: 2005-GS-47-0026) will be dismiss, and the judge have to provide **"a proper ORDER"**, between both counties is clerk(s). After, the "Evidentiary Hearing, within ten (10) days", hereof Mr. Maldonado amend his "COMPLAINT" to name the ("[b]oth Counties as a Co-Palintiff").

II(2). Prosecutorial Immunity:

Thus, Jose A. Maldonado incorrectly is as listed in the above caption State of South Carolina and authorized by Section

44-53-375(C)(5) and is currently in the **(SCDC) through the S.C. Law Enforcement Division ("SLED")**. See MOTION TO SUPPLEMENT THE PLEADING, Pursuant, the Motions of **Rule 60(b)(4) SCRCP;** and MOTION TO REOPEN JUDGMENT WITH MEMORANDUM OF LAW, had been [clock-stamped on May 26, 2015]. Pursuant to **Code of Laws Ann., §§ 44-53-375(C)(2)(b), 17-19-10/100,** i.e., instead § 17-25-10; ("[N]o person shall be punished for an offense unless duly and legally convicted thereof in a court having competent jurisdic- of the cause and the person") see State v. Johnston, 333 [S.C.] 459, 463, PCR, 510 SE.2d 423,425, (1999) See also, Anderson v. State Attorney General of South Carolina, Fed. Supp.2d 2008 WL 5100801. Holdings, that:

"the Susan O. Porter, is the solicitor who deliberete and intentionally prosecuted this case". See MOTION TO SUPPLEMENT THE PLEADING, at pages [2], and p. [12]. The Jose A. Maldonado, raised the amended in the Court of General Sessions from Greenville County; ("that against the S.C. Code of laws §§ 15-78-20, and 15-78-70(b). Id. at Anderson v. State Atty Gen. of S.C.") The law is well stablished that the decision whether to prosecute or not to prosecute is procted from [suit] by prosecutorial immunity. see at, Imbler v. Pachtman, 424 U.S. 409, 96 S.Ct 984, 47 L.Ed 128. Similarly, the allegations against Defendant, by Solicitors involved in **Plaintiff's state criminal case,** relate to his action in court and the fact he "deliberete and intentionally signed her signature" on **"Sentence sheets" and an "indi-tment." See also the, AMENDMENTS TO POST-CONVICTION RELIEF APP-LICATIONS, in the Jose A. Maldonado C/A#.:2008-CP-23-2140; When**

Appx.(R)(7-of-22)
the Applicant, between his (Defense PCR, amended answer to number 9 number 10 of this Application for "Post-Conviction Relief to")state the following:

See at, (9)(A). The Applicant was denied effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution and Article I, Section 14 of The South Carolina Constitution; see the 10.

In the same Order the facts which support each of the grounds set out in (9)(a): Under the Strickland v. Washington, 466 U.S. 668 (1984), (hereby the defense of Applicant in his First (PCR), failed below to amend those (31) numbers of the grounds for the relief had been sought pursuant to; State v. Boyd, 288 S.C. 206, 341 S.E.2d 144 (1986) see ¶[17] in the Amenment No.:2008-CP-23-2140; Filed in the Court November 24, 2008;

prejudiced the defense(s) at the Post-Conviction Relief ("PCR") so as to deprived the Defendant of a fair trial, and the PCR hearing. Thus, the General Sessions Court(s) both Greenville County, and the Richland County have to handed down an amending version to the decision in "Austin v. State Op. No. 23356 (S.C. Supp. Ct. Filed Aug. 27 1990)" in the matter that the Austin could attack his PCR counsel as ineffective. See id., at Austin v. State, 305 ,S.C. 453, 454,409 S.E.2d 395 396, (1991) (see, the Third PCR. Act. C/A#.:2013-CP-23-01440's [SUPPLEMENTAL AMENDMENT OF COMPLAINT at page (-5, & 6-, at Fn.5] in the following issue to:

December 8th, 2008 a hearing was held See [Doc. 16-8 at p.2] was "those facts identify the untrued to the State Plaintiff argument untrue to the allegations in behalf to Richey defense counsel PCR" that Defendant was "WITHDRAW his POST-CONVICTION RELIEF APPLICATION" the only way from the State plaintiff's criminal case to prove had, or have the "Applicant to signed a 'WAIVER'" within an "AFIDAVIT". See Gamble v. State, 298 S.C. 179, 379 S.E.2d 118 (1989) Holdings, that;

an "Applicant decided to "WITHDRAW his PCR" application. Often this Decision is made the day of the hearing. When an ["Applicant WITHDRAWS"] the application, it is with prejudiced. Therefore, it is important that the Applicant understand ensure that the Applicant's decision to "WITHDRAW" an application is "knowing and voluntary prior to dismissing the application with prejudice. Overrulen on other grounds by "Brannon v. State, 345 S.C. 437, 439, 548 S.E.2d 866 867 (2001);

(R.p.478-of-497.ROA)

The allegations relate to the judicial phase of the criminal process, was the Jose A. Maldonado invoke, prosecutorial immunity. The prosecutorial immunity established in Jose Alberto Maldonado to "post-conviction proceedings, such as appeals" and "habeas corpus Proceedings." See Houston v. Partee, 978 F.2d 362, 365 (7th Cir. 1992) (recognizing "substantial

case law granting absulute immunity for act done in various "post-conviction proceedings"); and Bruce v. Wade, 537 F.3d 850 (5th Cir. 1976)(challenges to conviction protected by the immunity doctrine). The State Plaintiff, now is against such names of "Defendant(s)", including Karen C. Ratigan, as Deputy Attorney General with the South Carolina Attorney General is Office? Represented the State at the Plaintiff's Post-Conviction relief hearings. The factual allegations conserning the (first, second, and third, post-conviction relief, within third hearing upon the same judge Hon: Edward W. Miller), was

therefore, against the "S.C. Code of Laws §§ 15-78-20(b), 15-78-70(b) noting in this chapter may be construed to give an employee of a government entity immunity from suit and liability if is proved that the employee's conduct was not within the scope of his official duties or that it constituted actual "fraud, malice, intent to harm or a crime involving moral turpitud). Entered the South Carolina Rule 60(b)(4) SCRCP.

¶(3). Suvereign Immunity Subject to South Carolina Code of laws Clause 15-78-20, 15-78-70(b)(c), and 42 U.S.C.A. § 1983: This provisions of Section 15-78-70(c) state as follows;

Prior to Juanuary 1, 1989, a person, when bringing an action against a governmental entity under the provisions of this chapter, names as a party defendant anly the agency or political subdivision for which the employee was acting and is not required to name the employee individually, unless the agency or political subdivision for which the employee was acting cannot be determined at the time the action is instituted. See also at 15-78-20(e) the following proceeding in this matter;

Noting in this chapter is construed as a "WAIVER" of the State's or political subdivision's immunity from suit in federal court under the Eleventh Amenment to the Constitution of the United States nor as consent to be sued in any state court beyond the boundaries of the State of South Carolina; See, S.C. Jur. False Imprisonment § 11, Immunity.; S.C. Jur. Public Officers and Public Employees § 76, South Carolina Tort Claim Act;

The State plaintiff's the Defendant in this matter, and acting under color of state law, sued in their official capac-

ity, have sovereing immunity[?] at Section 1983, and that would be held against the state official(s) in his "official capacity is a suit against the official's office," which is the same as suit against the "State." See e.g., Bright v. McClure, 865 F.2d 623, 626 (4th Cir. 1989) The [State] has an Eleventh Amendment immunity from an action for damages, for the "Statewide Grand Jury" has made no move to "impose § 1983 liabilities upon Plaintiff's state criminal case, and Statewide grand jury has done nothin to waive its immunity. McConnell v. Adams, 829 F.2d 1319 1328 (4th Cir. 1987), cert. denied sub nom., Va., ex rel. State Bd. of Elections v. Kilgore, 486 U.S. 1006, 108 S.Ct. 1731, See id., Burchett v. Cheek, 637 F.Supp. 1249, 1252 (W.D. Va. 1985) ("[a]

> reasonably competent public official should know the law governing his conduct" and that the defense should generally fail when the law is clearly established. [And the both "Counties was named as a Defendant(s)]"). See Harlow v. Fitzgeral, 457 U.S. 800, 818 (1982) See id., at Page 1252.
>
> Freedom of Information Act requires that presentce reports be disclosed to prisoners who are subject of reports, except as to matters relating to confidential sources,, diagnostic opinions, and possibly harmful information. U.S. DEPT. OF JUSTICE v. JULIAN, 486 U.S. 1, at 9 (1988) Cite 5 U.S.C.A.§ 552.; Evans v. State, 363 S.C. 495, at 503-4, 611 S.E.2d 510, at fn.4, 514-15 (2005).

The State Plaintiff's criminal case against the provision of "Tort Claims Act". S.C. Gen. Stat. §§ 15-78-20(a)(b), 15-78-70(b) pursuant to Rule 60(b) SCRCP. Motions

Thus, Plaintiff's State criminal case, with the [FORMAN] Cathy Coffy, see the name at (Attachment A, 1-of-4, & Attachments B. 1-of-4): [At the SUPERSEDING INDICTMENT FOR UNLAWFUL DRUGS). Issue filed "NOTICE AND MOTION TO SET ASIDE OR VACATE JUDGMENT" withheld to the Rule 60(b)(4) & (5) SCRCP, the "General Sessions

Court Term", from Greenville County, and Richland County have discretion in this matter, the "clock-stamped" shown that on: March 15th 2015, & May 23th 2015; arguments to the ["Statewide, grand jury failed to the general facts to a TRUE BILL had been ["Stamped both indicments"] see ante, the AMENDED COMPLAINT, at pages, [2, & 3] arguable basic being support by the STATE GRANT JURY to <POST-MARK(s) (X, & x) see (Attachments (A) that "facts is clearly,' That State Plaintiff's criminal case failed at the State Grand Jury SUPERSEDING INDICTMENT at issue TRUE BILL and didn't have support arguments to hold the (INMATE JOSE A. MANDONADO, in the ("SCDOC") after new trial. See at page (3) incide of this "COMPLAINT". Instead <Rule 33(a) INTERROGATORIES TO PARTIES; (citing Rule 37(a) SCRCP, is Note 10. (Discovery Orders pursuant to Enriquez v. South Carolina Dept. of Corrections (S. C. 2007)(as basis for imposing "DISCOVERY SANCTIONS on (SCDOC), where a **"STANDING ORDER" or "LETTER** by Hon: (D. Garrison Hill, presided judge, did not required to the State Plaintiff, **[by]:** call them ("[P]lease review and take whathever action you deem appropriate" latter from **May 28, 2015).** See (Attachments (B)). This, Hon: Court have to "ORDER [a] DEADLINE" to rigid, State Plaintiff. The Rules provided that courts "may extend the time under Rule 16(b), & (d) SCRCP; except as stated in ["Rule 33(a) SCRCP, within 30 days after the service of the interrogatories, 'except that a State Plaintiff defend, and may serve answers or objections within (45 days) after service of the ["SUMMONS AND COMPLAINT"]>.'" Time limitations as **"JURISDICTIONAL"** permitting

THE Government to raise noncompliance with those limitations for the first time on the (3rd PCR. Act C/A#.:2013-CP-01440). However, there is "a critical difference between a rule governing "a lack subject matter jurisdiction and an inflexible claim - processing rule." Under Eberhart v. United States, 546 U.S. 12, 126 S.CT 403 (2005) (quoting Kontrick v. Ryan, 540 U. S. 445, 456, 124 S.Ct. 906, 157 L.Ed 867 (2004);

Henderson v. Allied Signal, Inc., 373 S.C. 179, 182, 644 S.E.2d 724, 726 (2007) Cited Rule 33 SCRCP, see Gen. Stat. § 15-5-150 (2005), and Rule 12 (b)(1), SCRCP: Quoting State v. W.T. Rawleigh Co., 172 S.C. 415, at 2nd, 174 S.E. 385 394, (S.C. 1934) Sending a ORDER to Vacating and setting aside the Attempted service of the State Plaintiff's criminal case: [2005-GS-47 -0026] by the -SUMMONS AND COMPLAINT- in this action; 106 U.S.350 (1882);

S.C. Code 1976 § 16-9-10 stated as follows:
Indictment for perjury is not defective in failing to allege that the proceeding before magistrate was commenced by information under "OATH" See, State v. Byrd, 28 S.C. 18, 4 S.E. 793 (S.C.1888)(It is essential tha the falsity of the oath, the falsity of the statement laid in the indictment, be either proved by the testimony of more than one witness or by the testimony of one witness and corroborating circumstances. State v. Crowlley, 226 S.C. 472, 474, 475, 85 S.E.2d 714, 716 (1955); State v. Stanley, 365 S.C. 24, 35, 615 S.E.2d 455, 461 (SC. App.2005) (SC.Supp. 2003 § 16-9-10)("given false testimony at trial constitutes the folony of perjury and subjects the perjury to a fine and/or up to five years imprisonment";

Collins v. Doe, 343 S.C. 119, 124, 539 S.E.2d 62, 64 (Ct. App., 2000) rev'd on other grounds, 352 S.C. 462, 574 S.E.2d 739 (2002)(perjury or false swearing may constitute contemt of court); see also Whitner v. State, 328 S.C. 1, at (PCR) 15, 492 S.E.2d 777, at 779 (1997)(the primary concern in interpreting a statute is to determine the inten of the legislature if it reasonably can be discovered in the language when construed in the light of its intended purpose. Id. at 124, 539 S.E.2d at 64;

State v. Marriman, 287 S.C. 74, 89 337 S.E.2d 218, 228 (S.C. App.1985) (the classic definition of a declatory statute is found in "BLACKSTONE IS COMMENTARIES").

See e.g., Williams v. Watkins, 384 S.C. 319, 325, 681 S.E. 2d 214, at 917-18 (S.C. App. 2009) pursuant to (Rule 60(b)(1) SCRCP, at its [Fn.3] shall following to <Rule 12(b), SCMCR, allows a magistrate court to provide relief from a final judgment under the same conditions>). See SC. Fed. R.Civ. P, 1, at 18; U.S. v. Mosavi, 138 F.3d 1365.

(R. P. 482-of-497. ROA)

Appx. (R)(12-of-22)

FOR A FIRST CAUSE OF ACTION

Each and every allegation is realleged as if fully set forth herein.

The Defefendant Jose Alberto Maldonado is informed and believes he is entitled to an order of the "General Sessions Court Term declaring the above listed of State plaintiff's Defendants; was they misleading information upon the court, and now Defendant Jose A. Maldonado contends the following, First, the defendant argues that the (2003 criminal indictments) for trafficking cocaine, as part of his [FIRST SENTENCE] by the S. C. Code Ann. §§ 44-53-370, 44-53-445 of the South Carolina Code of laws (1976) as ameded. And the State plaintiff's criminal case was taking off without due process in violation of the "Fifth Amendment." Second, the Defendant Jose Alberto Maldonado "pro se" challenges the legitimacy of the Guilty plead and Sentenced On: August 22, 2006, & April 10, 2007 for trafficking methamphetamines more than >400 grams; to which he was sentence to (20) years an a guilty plead (unless, 28 - 100 grams) since the particular "indictments count Four (4) is 'NULL AND VOID' to which he pled guilty contained no forfiture provision at the S.C. Code Ann., § 44-53-375(C)(2)(b). S.C.Const Art. I, § II.; and art V. § 22.

State v. Means, 367 S.C. 374, 382, 626 S.E.2d 348, 353 (S.C.2006) ("in determining an indictment meets the sufficiency standard), the Trial Court must look at the Indictment with a "practical eyes in view of all the sorrounding circumstances". See (quoting State v. Tumbleston, 376 S.C. 90, 92-93, 654 S.E.2d 849, at 853 (Ct.App. 2007));

(R. p.483-of-497.ROA)

Rule 1 of the Federal Rules of Civil Procedure unambiguosly provides that ("[t]hese rules govern the procedure in the United States District Courts in all suits of a civil nature...." See at United States v. Mosavi, 138 F.3d 1365, at 1366 (1988).

Pursuant of Rule 1, 81(a), ¶(3)(4)(A)(B), (5) & ¶(6)(b); (c) Removed actions Applied Rule 81(c)(1)(2)(A)(B) Rule of Civil P. (21 days after being served with the summons for an initial pleading of file at the time of cervice; (C) 7 days after the notice of removal is filed.)). See Eberhart, 546 U.S. 12, (2005).

¶(4). WHEREFORE, Defendant Jose Alberto Maldonado Pro se, respectfully prays:

Pursuant to this provisions, § 15-78-20(f). The provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State. See STAUBES v. CITY OF FOLLY BEACH, 339 S.C.406, 416, R.15, 529 S.E.2d 543 fn.[5], 549, (2000) (The Tort Claim Act provides that the State, its agencies, political subdivicion, and other governmental entities are "liable for their torts in the same manner and to the same extent as a private individual under like circumstances," subject to certain limitations and exemptions within the Act. S.C.Code Ann., § 15-78-40 (Supp.1999). Section 15-78-60 sets out "exceptions" to this waiver of sovereign immunity. See (quoting Jackson v. South Carolina Dep't of Corrections, 301 S.C. 125, 390 S.E.2d S.E.2d 467 (Ct.App., 1989), aff'd 302 S.C. 519, 397 S.E.2d 377 (1990).

¶(5). Thus, the COMPLAINT in this TITLE: C/A#.:2005-GS-47-0026, and 2003-CP-23-45-0047/03-CP-23-45-0045 <INDICTMENTS> of the Defendant Jose A. Maldonado property be bested and transferred to the "Statewide Grand Jury". Where <SUPERSEDING INDICTMENT> charging trafficking in "cocaine, methamphetamines," for [second offense a guilty pled unless 28-100 grams] was regularly signed by circuit solicitor, was ... "properly signed and indorsed by foreman of grand jury," and signeture of clerk of court of "general sessions" appeared on back of indictment from indicate that substitution of names in indictment from, a ("four counts, or one count, and no for the counts appear into the indictments ['count two, count three, and five'"]). See Gen. Stat. § 44-53-375(C)(2)(b) to name of person actually second offenses was not by solicitor, before submission of indictment to grand jury, indictment would be presumed to have been duly returned by grand jury in [open court] with name of person trafficking consecutive offense(s). State of South Carolina and is authorized by § 44-53-(375(C)(2)(b)), Code of Laws of South Carolina (1976) (Supp. 2006) as amended; see [e.g.] Pringle v. State, 278 S.C. 409 at 411, 339 S.E.2d 128. :(Here, there was testimony by the forman of the grand jury that indicted Defendant Jose Alberto Maldonado that the regular procedure was to have the clerk publish the indictment in open court after the grand jury returned a <"TRUE BILL">.)

By Foreman or Members of Grand Jury. See id., Webb v. State, 281 S.C. 273, 238-39, 314 S.E.2d 839 ___,(1984);(same) State v. Grim, 341 S.C. 63, at 66, Fn.1, 533 S.E.2d 329, 330 (SC.2000).

Enter, S.C. Code of Laws § 15-78-20(e).

¶(6). Thus, that the Attorney General of South Carolina shall be notify:

For such other and further relief as this Court shall deem just and proper;

"Error Preservation" requirements are intended to enable the lower court to rule properly after it has considered all relavan facts, law, and arguments; STAUBES V. CITY OF FOLLY BEACH, 339 S.C. 412, 417, 529 S.E.2d 543-548, (2000)(S.C.Code Ann.§§ 15-78-40 (Supp.1999) § 15-78-60 sets out "exceptions" to this waiver of sovereing immunity. These exceptions act as limitations on the liability of governmental entity;

The burden of establishing a limitation upon liability under the Tort Claim Act is upon the governmental entity asserting it as an affirmative defense; I.T.O. Corp. of Virginia v Pettus, 73 F.3d 523, Certioari denied 519 U.S. 807 (1996)

(Statute of limitation represent pervative legislative judgment that right to be free of state claim in time cames to "prosecute them") See, id., U.S. ex rel. Hyatt v. Northrop Corp., 91 F.3d 1211 (1996).

Limitation periods proctect "defendants" against State claims and are designed to promote justice by preventing surprises through revival of claims that have been allowed to slumber until evidence has been lost, memories, have faded, and "witnesses have disappeared"; even one has just claim it is unjust not to put adversary on notice to defend, within period of limitation and right to be free of stale claims in time comes to prevail over right to prosecute them. See id.,

See McCoy v. City of Columbia, 2013, 929 F.Supp.2d 541. "False imprisonment, Malicious Prosecution" was the officers and city were entitled to governmental immunity under the Sou-

th Carolina "Tort Claim Act" (SCTCA) for State-Law tort claim of malicious prosecution, false imprisonment, and trafficking, in cocaine, and methamphetamines, for consecutive offense? Asserted by arrestee, in connection with his arrest for violation of city ordinance;

officers were acting pursuant to their official duties at all relevant times, there was no showing that officers' conduct "constituted actual fraud," "actual malice," or "intent to harm," and the <"claims against both citie(s)">;(1) from Greenville County; (2) is South Carolina in the Columbia's County were based on enforcement of the ordinance. Rule 60(b)(4)(5), S.C.Code of laws 1976 § 15-78-20(e):

> Tort Claim Act provides a limited waiver of governmental immunity and delineates the condictions upon which a claimant may pursue actions against the <State and its political subdivisions. Jinks v. Richland County, 349 S.C. 298, 563 S.E.2d 104, Certiorari granted, 123 S.Ct. 437 U.S. 972, 154 L.Ed.2d 328, reversed 123 S.Ct. 1667, 538 U.S. 456, 155 L.Ed.2d 631, on remand 355 S.C. 341, 585 S.E.2d 281. States Key 112(2).>

See <"[file Doc.3] MOTION TO SUPPLEMENT THE PLEADING p.[6]"> Clause 15-77-300, 1-7-10; S.C. Const. art. 5, § 24 this arguable basis to <"[Filed Doc.3"] MOTION TO REOPEN JUDGMENT WITH MEMORANDUM OF LAW see ["p.4 in this filed"]>; were, this judge Hon: "D. Garrison Hill presided judge did not present his authority to made the State plaintiff's criminal case to do so." See (Attachment (B)) letter do not had or have power, by Ordered the "State made his return with limitation of actions" like "due process within deadline to answer". Stay; against the Rule 502 SCACR, <"RULE 11, RJD, Ex Parte Contacts). See also, Rule

16(a),SCRCP; Pre-trial Hearing; see subsection;(1) The simplification of the issue; and (5) The limitation of the time allowed for discovery; see also R. 16(b) SCRCP, Pre-trial Order", that allow the preside judge to entered the <"[deadline Order by answer the New Issue of avaluable information in relation" to the "State Grand Jury's Writter letter,"> was is the new issue information against the State Plaintiff is criminal case. See (Attachment (A). and also see the ("MOTION TO SUPPLEMENT THE PLEADING" [file Doc.3]). Ex Parte (SCDOR), 350 S.C.408-09, Fn.1 at R.12(a),& 60(b), 566 SE.2d 198-199 (S.C. App., 2002) Vacated

¶(7). Defendant Jose A. Maldonado defending an action brought by a State plaintiff(s) between the Statewide grand jury will be overturned unless the complaining party show that the trail judge abused his discretion in considering the applicable statutory factors Code of laws §§ 15-77-300, 15-78-40/60, see ante page 12; the circuit court erred in finding "Respondents' State plaintiff's letter to Hon: D. Garrison Hill Presided was not an unrequired and inapropriate [ex parte communication ; Rouvet v. Rouved, 388 S.C. 301, 308, 696 S.E.2d 204 207 (20-10).]("The decision to grant or deny a motion made pursuant to Rule 60(b) [,SCRCP,] is within the sound discretion of the [circuit court].") Williams v. Watkins, 384 S.C. 319, 324, 681 S.E.2d 914, 917 (2009) See ("[filed Doc.3"] MOTION TO REOPEN JUDGMENT WITH MEMORANDUM OF LAW at [p.6, & 7]. It's not enoug for a Defendant Mr. Maldonado, seeking disqualification of a Hon: D. Garrison Hill preside judge to simply allege bias of prejudice; the Defendant, Mr. Maldonado, show some evidence of that bias of prejudice. See e.g., State v. Jackson,

353 S.C. 625, 578 S.E.2d 744 (S.C. App., 2003)(quoting, Roche, 332 S.C. at 85, 504 S.E.2d 316 (S.C.1998)) alleged bias of prejudicial source and result in a decision based on information other than what the judge learned from his or her participation in this case, and also in the [3rd PCR Act: C/A#.: 2013-CP-23-1440; "an ORDER ENTERED" August 22th 2013 signed D. Garrison Hill; <"[a] CONDICTIONAL ORDER OF DISMISSAL"> on Aug. 8th, 2013. As a judge; see id., JACKSON, p. [744];

Solicitor's decision not to call "Defendant, Mr. Maldonado is case before judge who had suggested off the record, that he would grant "Defendant Mr. Maldonado's motions to suppress evidence of prior offenses/did was require subsequently called judge to recuse himself." Mr. Maldonado, did and assert, subsequent; Hon: (D. Garrison Hill presided judge would be partial with bias again, or acted improperly in "presiding over the case," was him directly mislead Mr. Maldonado, his <guilty plead, sentence(s) to (20) years, at trial. See, State v. Cheatham, 349 S.C. 101, 561 S.E.2d 618 (S.C. App., 2002).

State Grand jury have ["lack subject matter jurisdiction" over counts of conspiracy and obtaining property under "false pretenses," even thoug those specific crimes mayn't have been enumerated in "statute "governing" jurisdiction of "a state grand jury," because they were committed in the same course of conduct; <"[as securities fraud]"> see Code 1976, § 14-7-1630(A)(7); Instead, 60(b)(4)(5) SCRCP; Defendant its Motios]; State v. Followin, 352 S.C. 235, 260, 573 S.E.2d 812 at 825 (SC. App.,2002)(hold-

ing motion for "arrest of judgment" should have been granted where trial court did not have jurisdiction to impose sentence and that made the convictions vacated); State v. Sheppard, 391 S.C. 415, 422-23, 706 S.E.2d 16, at 19-20 (2011)(quoting Gentry, 102, 610 S.E.2d at 499-500; citing State v. Faile, 43 S.C. 52, 59-60, 20 S.E. 798, at 801 (1895))("The name and additional of the party indicted ought regularly to be truly inserted in every indictment; see (quoting United States v. Gale, 109 U.S. 65, 3 S.Ct. 1 (1883))).

II(8). DECLARATION OF RIGHTS AS TO: The "FOURT POST-CONVICTION RELIEF APPLICATIO" FOR

ALTERNATIVE PETITION FOR STATE HABEAS CORPUS PURSUANT TO S.C. Code 1976, §§ 17-17-10/20; 10-17-50/70-110; & Art. I, § 18. Defendant would be file before the time be "Expirie,":

Defendant Mr. Maldonado, upon by the time limitation have being expired at "one year" at front; an Order to the SC. Supreme Court sended the Remittitur to the lower court; thus, the Defendant Mr. Maldonado must have been raised to; and the Clerk of Court From "Greenville's County is jurisdiction" to [clock-stamped and ruling", if [that] "GENERAL COURT TERM" fail at the <"AMENDING COMPLAINT">,

See the Post-Conviction Application's (Attachments, "INDEX" "TABLE OF CONTENTS", and CONSTITUTIONAL PROVISIONS"; see at subsection (B) (Citing "William v. State, 354 S.C. 360 Fn.1, 632, 583 S.E.2d 52,at 54 (2003) That the Defendant addressee, his four PCR Application in the "Court of Common pleas" to be preserved for appellate review;

See, e.g, STAUBES V. CITY OF FOLLY BEACH, 339 S.C. 396, 406, 529 S. E.2d 543 547, (2000); Lapides v. Bd. of Regents, 535 U.S. 613, 622, 122 S.Ct. 1640 (2002)(quoting, Ford Motor Co. v. Department of Treasury of Ind., 323 U.S. 459, at 464 (1945) Instead § 15-78-20(e);

In State v. Lyles, 381 S.C. 442, 444, 673 S.E.2d 811, at Fn.2, 813 (2009). As this Court explained in In re Exhaustion of State Remedies in Criminal and Post-Conviction Relief Cases, 321 S.C. 563, 471 S.E.2d 170 (2008). In re Exhaustion of State Remedies in Criminal Post-Conviction Relief Cases, Supra. Releasing the Waiver pursuant to Code 1976 § 15-78-20(e) or "(GRANTING THE "Next POST-CONVICTION RELIEF Application" in this Matter:

¶(9). CAUSE OF ACTION:

Rule 16 SCRCP was drafted to prevent parties from disregarding the agreed-upon course of litigation. The "Rule" assures the court and the parties that "at same point both the parties and the pleadings will be fixed." Advis. Comm. Notes for 1983 Amend. Consistant with the Rules's intent, this court has adminished litigants that ("[a] scheduling order is not a frivolous Piece of Paper, idly entered, which can be cavailierly disregarded by [State Plaintiff counsel that used defense, withou peril."]) Jordan v. E.I. du Pont De Nemours 867 F.Supp. 1238, 1250 (D.S.C. 1994)(quoting Johnson, 975 F. 2d at 610).

Rule 16(b)(c), and (d) "good cause" standard is much different than the more lenient standard contained in [Rule 15(a). Rule 16(b) SCRCP] does not focus on the bad faith of the movant , or the prejudicice to the opposing party. Rather, it focuses on the diligence of the party seeking leave to modify the "scheduling order to permit the proposed amendment. Smith, 902 F.Supp. at 720; Marcum, 163 F.R.D. at 254; Forstmann, 114, F.R. D. at 85; Johnson, 975 F.2d at 85; Johnson, 975 F.2d at 609. Properly construed, "good cause" [means that] "schaduling deadlines" cannot be met despite a party's diligent efforts. 6A Charles A. Wright, Arthur R. Miller & Mary Kay Kane, Federal Procedure § 1522.1 at 231 (2d ed. 1990). In other words, this court may "modify the "schadule" on a showing of good cause if [the deadline] cannot be met despite the diligence

of the party seeking the extension." Advis. Comm. Notes for 1983 Amend.: Forstmant, 114 F.R.D. 83, at 85-86 (M.D.N.C.1987).

¶(10).Limitation of Actions:

To prove equitable stoppel under "South Carolina Law", aggrived party must have reasonably relied on words and conduct of person to be estopped in allowing limitations period to expire. S.C.Code 1976 § 15-3-530(1), & (7); Dillon County School Dist. #2 v. Lewis Sheet Metal Works, Inc., 286 S.C. 207, 332 S.E.2d 555, 561 at, 975 (1985). Mr. Maldonado could shouuld've known, through exercise of reasonable diligence, that cause of action exist in his favor. Dilmar Oil Co., Inc. v. Federated Mut. Ins. Co. 986 F.Supp.959, 976, Affirmed 129 F.3d 116. (under South Carolina law, limitations period may be extended by discovery rule); See, § 15-3-530(7) at Wilson Group. Inc. v. Quorum Health Resources, Inc. 880 F.Supp. 416,424, (D.S.C. 1995), see also Lowery, 92 F.3d at 224 (quoting, 986 F.Supp. at 976 (D.S.C.1997). As explained by the "Fourth Circuit, as Judge Posner atly stated:

> The doctrine presupposes a judgment (or its administrative equivalent), for all it does is forbit a person who has "Won a judgment" on one ground to repudiated that ground in a subsequent litigation in an effort to obtain a "second judgment." it is thus about abandoning winning, not losing, grounds.

The "prior succes rule" is based upon the overriding rationale behin the doctrine of judicial estoppel - protection of judicial integrity. See id., Hon: D.Garrison Hill presided judge, as "a Chief at trial and him failed by Defendant to examine government documents material to preparation of their defense against government's Case-in-Chief," butn't material to preparation of "SELECTIVE PROSECUTION CLAIM.: United States v. Armstrong, 517 U.S. 456, at 460, 116 S.Ct. 1480, 1484, (1996), permitting A Defendant to discover material within government's possession which is material to defense or intended for use by government as evidence in "Chief at Trial." Including audio and videotapes. When that belong to Defendan Mr. Maldonado's Case.

Done this 27 day of July 2015. Respecfully Submitted

Kershaw, Corr. Inst. MB/Rm., #59
4848 Goldmine Highway
Kershaw, S.C. 29067

s/ Jose A. Maldonado
Jose A. Maldonado,#312648

13th Cir. File: (Doc.4)

(R. P.492-of-497. ROA)

APPENDIX.:(R)(Report page 22.) See, the (Attachments: "A-B, & C.")

In The Court Of General Sessions
For The 13th Judicial Circuit

C/A#.:2005-GS-47-0026
2003-GS-23-45-0047/03-GS-23-45-0045

CERTIFICATE OF SERVICE BY MAIL

I, Jose Alberto Maldonado, a person presently incarcerated at Kershaw, Correctional Institution, do hereby affirm that:

Was delivered into the hands of prison official with First Class Postage duly affixed and a return address clearly identicated on the Envoloped for Deposit: "SUMMONS", And "Amending COMPLAINT", with an "(ATTACHMENS (A), & (B)) Defendant's complaint have being submit against the Plaintiff, under Rule 12 (a) SCRCP; This File take place, In the United States Postal Service, Addressee to the Following Persons:

The Hon: Paul B. Wickensimer
Clerk of Court
In The General Sessions Court Term
305 E. North Street
Greenville, S.C. 29601

The Hon: Jeanette W. Mcbride
Clerk of Court
Richland County's General Sesions Court
P.O. Box 2766
Columbia, S.C. 29202
"Co-Plaintiff's 5th Judicial Circuit"

SC. Attorney General's Office
Alan Wilson
Post Office 11549
Columbia, S.C. 29211

Susan O. Porter:
General Counsel SLED
P.O.Box 21398
Columbia, S.C. 29221

State Grand Jury of South Carolina
Office of the Clerk
1000 Assemble Street
Rembert Dennis Building
Suite, #519
Columbia, S.C. 29201

Further, Defendant said & Not.:
This 27 day of July, 2015.

SWORN TO and SUBSCRIBED Before Me
This 27 **day of** July, **2015**
Catherine A Carrasco
NOTARY Public For SOUTH CAROLINA
My COMMISSION Expires: _____
(My Commission Expires October 10, 2023)

Respectfully Submitted
s/ Jose A. Maldonado
Jose Alberto Maldonado, #312648
Kershaw, Correctional Institution
Magnolia, B/Room, #59
4848 Goldmine Higway
Kershaw, South Carolina, 29067

(R, P. 493-of-497. ROA) **Addressee:** July 27th, 2015. **File (Doc.4)**

State Grand Jury of South Carolina

Appx. 1(R)(23-of-24)

(1)

JAMES R. PARKS
CLERK OF COURT

Office of the Clerk
1000 Assembly Street
Rembert Dennis Building
Suite 519
Columbia, South Carolina 29201

POST OFFICE BOX 11508
COLUMBIA, SC 29211-1508
TELEPHONE: 803-734-0497
FAX: 803-734-0513

April 17, 2015

Jose Maldonado #312648
Kershaw Correctional Institution MB/Room #59
4848 Goldmine HWY
Kershaw SC 29067

We have received you inquiry:

___ A copy of all enclosed has been forwarded to: ___Your Attorney ___ Public Defender's Office

___ For matters concerning PCR's, please contact the Office of the Attorney General, PCR Division, P.O. Box 11549, Columbia, S.C. 29211.

___ SCDC calculates credit for time served. Please contact your classification caseworker at your institution for assistance.

___ We need more information:
___ Case Number ___ Charge ___ SSN ___ Court Location ___ Date of Arrest

___ This office does not provide Legal Advice or Legal Forms.

_X_ There is no record of said charge.

_x_ Please speak with your attorney regarding your request.

___ Please direct your request to _____county Clerk of Court.

___ Other: Our office has no record of a State Grand Jury case regarding this matter.

_____

File: (Attachment:(A) Doc.3)

File: July 27th 2015 (R.P. 494-of-497 ROA)

State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

D. GARRISON HILL
JUDGE

GREENVILLE COUNTY COURTHOUSE
305 EAST NORTH STREET, SUITE 213
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE: (864) 467-8484
FAX: (864) 467-8595
E-MAIL: ghillj@sccourts.org

APPENDIX "C" (R) (Report Page 24)
Exhibit (20)

May 28, 2015

Ms. Karen Ratigan
Assistant Deputy Attorney General
PO Box 11549
Columbia, SC 29211

RE: Jose Alberto Maldonado (#312648)

Dear Ms. Ratigan:

Enclosed please find a copy of Mr. Maldonado's motions received recently by my office.

Please review and take whatever action you deem appropriate.

Sincerely,

D. Garrison Hill

cc: Mr. Jose A. Maldonado (#312648)
Kershaw Correctional Institute
4848 Goldmine Highway
Kershaw, SC 29067

(R.P. 495 OF 497 ROA)

File: (Attachment (B) Doc.4)

July 27th, 2015

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor

MARK A. KEEL
Chief

Exhibit (21)
Appendix "S" (Report Page 1 of 1-2)

August 10, 2015

Mr. Jose Alberto Maldonado - #312648
Kershaw Correctional Inst. – MB/Room #59
4848 Goldmine Highway
Kershaw, SC 29067

Re: State v. Maldonado

Dear Mr. Maldonado:

I write today in response to the materials you send dated July 24, 2015. Be advised that SLED does not approve, sign, "forward to the General Sessions Court Term" or to the Solicitor's Office, file or serve documents in matters such as these as you have requested. As such, I am returning all of the documents that you sent to SLED.

Sincerely,

Adam L. Whitsett
General Counsel

Enclosures – original documents received

End, (R. Page 496 of 497. RoA)

EXHIBIT: (21)
APPENDIX: 1(S)(Report Page 2)

Jose Alberto Maldonado,#.:312648
Kershaw, Corr. Inst. MB/Room,#59
4848 Goldmine, Highway
Kershaw, S.C. 29067

July 24th, 2015

South Carolina Law Enforcement Division
[Former Solicitor] Susan O. Porter
General Counsel (SLED)
P.O. Box 21398
Columbia, S.C. 29221

Re: State of South Carolina the Plaintiff v. Jose Alberto Maldonado, Defendant. C/A#.:2005-GS-47-0026/2003-GS-23-45-0047/03-23-45-45.

To: Former Solicitor, Susan O. Porter/General Counsel ("SLED")

Enclosed please find proposed original "NOTICE OF SUMMONS AND COMPLAIN," in the above case. If these "SUMMONS", and "AMENDING COMPLAINT", ("[B]y EVIDENTIARY HEARING DEMAND"), and ["WITHIN AN ATTORNEY"], File: Meet your approval, please **("clock - Stamped")**, sign and forward to the General Sessions Court Term. Include, to the Solicitor's Office. To be file and served.

Would you please overturn my "Original, ["clock - stamped"] after your service is placed. At my confinement address.

For being file: This Document,(1). In The Above-Captione Civil Action. With the Rules having placed in theis filed!

Thank You For Your Valuable Time, In This Matter.
With kindly, requireds:

Sincerely,

Jose Alberto Maldonado,
Pro-Se Defendant.

File:(1)

Attachment:(2, (A, & B).

(R.P.-H.7.ROA)