

9.

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

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

v. )

State of South Carolina, )  
Respondent. )

IN THE STATE OF SOUTH CAROLINA  
THIRTEENTH JUDICIAL CIRCUIT

RECEIVED

OCT 17 2017

Case No. 2015-CP-23-04747  
S.C. SUPREME COURT

OCT 10 2017  
SC Court of Appeals

APPLICANT's AMENDMENT OF RULE  
59(f), SCRPC 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), SCRPC, In Support of Rules, Rule 59(b), and 60(b), (SCRPC), (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), SCRPC, (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), SCRPC. In Support of Rules, 59(b), and 60(b), (SCRPC)), (doc. 7), at (R. Pp. 5, & 7).

However, the Rule 59, SCRPC, is clearly and this honorable Court have jurisdiction over the matter. See, Rule 59(d), SCRPC, 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

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 receipt 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.

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 sound discretion of judge); See also: (doc. 7)(R. p. 15); Spreem 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 carefully considering the new trial Motions, fully cognizant of Mr. Maldonado's Amendment).

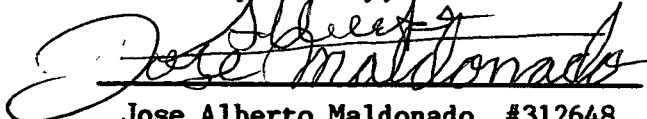
Smith v. Quattlebourn, at, 390, 76 S.E.2d 154, at, 157 (1953), Within State v. Pearson, 223 S.C. 377, 379, 96 S.E.2d 151, at 152 (1953). The, Smith, case stated: ("Wherein the time is not limited within the motion must be made"); and Pearson, case;(holding, to identify by the custodian of the records 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). Pursuant 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 (1992); see also at, McCoy v. State, 401 S.C. 363, 370, 737 S.E.2d 623, at 627 (2013) (doc. 7, p. 19).

### 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 written Motion from September 13, under this Rule 59(g), SCRCP, Applicant provide a copy of the Motion to the Judge.

Respectfully, Submitted



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

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

Done this 15<sup>th</sup> day of September, 2017.

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

RECEIVED  
OCT 17 2017  
S.C. SUPREME COURT  
Jose Alberto Maldonado, #312648  
Kershaw Corr. Inst. MB/Room, #63  
4848 Goldmine Highway  
Kershaw, South Carolina 29067

September 15<sup>th</sup>, 2017

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OCT 10 2017

SC Court of Appeals

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)

8

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

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Case No. 2015-CP-23-04747  
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SC Court of Appeals

S.C. SUPREME COURT  
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 Respondent 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 enter 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.

After carefully 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,<sup>Fn.1</sup>, 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

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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-Contemptuously vacated the Courtroom'" an refused to participate in his mo-

(b) Motion as an application for PCR."

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 Circuit 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,'

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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 interest 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.

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 (attached" 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 ~~stat~~ements 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-

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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 confineman address". See filed (doc. 6) of Aug. 1-2, 2017, Entered with the clerk of court August 14, 2017 (attachments: "E-I, E-II") was Applicant showed prejudice by statement from Respondent's argument in those facts. See Id. Motion of Rule 59(e) SCRCF, Mr. Maldonado again introduced "same evidence" below to the Moti-<sup>Motion</sup> 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) (SCRCF), 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 eamail 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) SCRCF, 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;
- (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 Sec. (R.P. 14) → (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) felony, 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 (attachments), against the "Respondent's various actions," challenging Applicant conviction, with the, (State) of South Carolina Dep't of Corrections.

The Court <sup>amended</sup> 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. <sup>Fn.2.</sup>

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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 bolow 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.

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) SCRCF, (Doc.6)(Attachment: E-II, and E-III). This, Court have to schedule 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), agaist the judgment, of his post-conviction

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

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 Bargaining 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 subject 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 Wharton's Criminal Law and Procedure's 2077 (1957). Cf. America Bar Association, Project on Standards for Criminal Justice. The Prosecution functions.

Missouri 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) SCRPC, (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 offense 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 (Attachments: C-1 through C-6), the records for Trafficking in Cocaine, First offense. 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.

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), SCRPC, (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 consequence, this Court made clear that "the negotiations of a plea bargaining 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 this case that a knowing and voluntary plea supersedes defense counsel's errors. This court held that when finding the State attempts to distinguish 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. Johnson, Jr. c/o, represented a Richland County Genral Sessions Court, but the appearance 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 on 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), SCRP, (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.

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 consequences 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 percent of federal convictions and 94 percent of State convictions are the result of guilty pleas. Plea bargains has become 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 than 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 lawyer counseled him to reject the plea offered). Frye, 132 S. Ct. at, 1404, 1405; Lafler, 132 S.Ct. at, 1380.

### 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 email 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).

### 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 Corrections, 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, thorough 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) SCRCP. 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 Evidence'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 prosecuted a Mr. Maldonado, under Section 44-53-375(C)(5) at his second trial, for second offenses. The "State Grand Jury Clerk of Court recognize the mistake 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 "MEMORANDUM", 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, delayed" to respond to 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 absolved.

The Petitioner 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), SCRCF; 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; 0-1, & 0-2) "Subsection (C), ¶(5) for, "four hundred grams or more, Applicant's plea was for 28-100 grams, at his second offence. 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 Bassemmer, 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 entitled 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 finds a genuine issue of fact exists 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 asserted 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 erred in granting the State's motion for summary dismissal because genuine issue of material fact exists 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 sentence under Section, 44-53-375(C)(2)(b)." And also see the (attached: C-7)(accordingly, the ALJ, properly declined to rule upon the "validity of Appellant's sentence (R.p.3), as that,

the Order from the Administrative Law Court's ruling Applicant's second offences. 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 inconsistent 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 Bureau 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 Conditional Order of Dimissal", (R. Pp. 5 & 14)(therein, is the "invalided 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 <sup>providing</sup> prov- 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); Earley 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 Granting 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 inconsistent 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, 288 S.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 interrelated); 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 indict 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), (SCRCF), 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))".

However, always followed the traditional rule that inconsistent 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 inconsistent statements, 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-  
27-of-31 File (4th PCR. Act. Doc. 7)

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.

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 precludes 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

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. Quattlebourn, 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 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.

Conclusion

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

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

Case No. 2015-CP-23-04747

APPLICANT'S PROOF OF SERVICE  
PROOF AND RETURN OF RULE  
4(g), SCRCP

RECEIVED

OCT 10 2017

I, Jose A. Maldonado, a Person presently incarcerated at the Kershaw Correctional Institution, do hereby affirm that: SC Court of Appeals

Thus, the Applicant, delivered in to the hands of the Mail room's clerk, the "Order Granting Applicant's Rule 59(e), In Support of Rules, 59(b), & 60(b) SCRCP, with a first Class Postal Service, duly affixed and return address clearly identify on each enveloped for deposit in the United States Postal Service, have been support by (Attachments: (A), through (f)).

Further, Applicant complies with Rule 59(g), & Subd.;(f) SCRCP. And also Complies With The South Carolina Supreme Court's April 15, 2014, Order Entitled "Revised Order Concerning Personal Identifying Information on and Other Sensitive Information, Subject by, S.C. Supreme Court, and the Appellate Court. Addressed as Follows:

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

The Honorable Perry H. Gravely  
Presiding Judge - Thirteenth  
Judicial Circuit

Post Office Box 219  
Pickens, South Carolina 29671

Further, Plaintiff, said and Certify  
On this 13 day of September, 2017

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

SWORN TO and SUBSCRIBED Before Me

This 13<sup>th</sup> day of September, 2017

Christine A. Amos  
Notary For South Carolina

My Commission Expires  
My Commission Expires December 22, 2018

Respectfully Submitted

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

File (4th PCR Act. Doc. 7)

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RECEIVED

OCT 10 2017

SC Court of Appeals

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OCT 17 2017

S.C. SUPREME COURT

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

September 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:

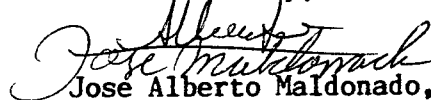
Enclosed please find the propped Original Copies to "Order Granting Applicant's Rule 59(e), In Support of Rules, 59(b), and 60(b), SCRCF." In the above - captioned case.

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

And prove an Applicant, with the clock-stamped, under the Rule 4(g), SCRCF, 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

(4th PCR. Act. Doc. 7)

RECEIVED

OCT 17 2017

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

S.C. SUPREME COURT

IN THE COURT OF COMMON PLEAS  
THIRTEEN JUDICIAL CIRCUIT

RECEIVED

Jose Alberto Maldonado, #312648 )

Applicant, Pro-Se, )

v. )

State of South Carolina, )

Respondent. )

Case No. 2015-CP-26104-10-2017

SC Court of Appeals

MOTION OF RULE 59(e), SCRCP

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

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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:

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, without knowing there is a S.C. Code Ann. § 44-53-375(C)(2)(b). (Supp. 2005) see (Attachments: 0-1 through, 0-4).

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.<sup>Fn.1</sup> Joyce L. Monts represented the State. James H. Price III. represent Mr. Maldonado. Judge 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

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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."

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 failed 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.

§ 17-27-80 in conclusion of laws. Further, on December 14, 2010, Stillwell dismissed with a conditional 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 (Attachments: C-1 through C-10). See also the (Attachments: D-1 through D-5).

Mr. Maldonado appealed the denial of the second application. In the South Carolina Supreme Court, with a lengthy 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-23-04747. 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 Evidence, and "Should 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.

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 whole 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-  
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).

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. (Attachments: 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, I-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 vacated, upon Edward W. Miller judge signature," and should be null and void 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.

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 believe 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)> Pursuant To Rules, Rule 12(a)(b), and (f), 55(a)(b)(c), (SCRCP), As Law Section."

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 Conditional Order of Dismissal."

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.<sup>5</sup>"). 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(s) has --and likely will continue to-- intentionally violate enactment of the

South Carolina General Assembly. By the issued Order on: July 21, 2017.

### 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 (Interpreted 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;

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 fifty thousand dollars.

As the language of the Section 44-53-375(C)(2)(b). See, (Attachments; 0-1, 0-2)(emphasis added).

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

plea the court failed to pronounced 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 whicked to plead guilty for consecutively 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."<sup>Fn.2</sup> 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:

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 carefully 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...." McNally 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 language. 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  
13-of-29  
File (4th PCR. Act. Doc. 6)

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), then all sentencing courts should have greater latitude to impose a sentence that fits not only the crime, but the person before 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 Thousand 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, but neither a greater than necessary.'" See: Sentencing (Tr. Attached: N-4 lines 7-16).

During the hearing trial counsel did not identify this documents to Mr. Maldonado, and did enter 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: 0-1 through 0-4).

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

Mr. Maldonado involuntarily testified against himself 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:

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 specif-  
ic 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), SCRPC 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?

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

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.

- B. Contrary to the Order's findings 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 scheme (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 0-2) 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.

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."

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 strategic decision made at trial counsel must articulate a valid reason for employing a certain 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.).

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,

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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 Thousand Dollars." See: Section 44-53-375(C)(2)(b). At, Frاند Daniel Simpson, #354338 Case 2014-CP-23-00531 filed on "January 28, 2014." his Motion 59(e), SCRCF. 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 imprisonment of at least (60) days) with State v. Thomas, 375 S.C. 466, 642 S.E.2d 724 (2007).

(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.

Additionally, the sentencing court was without authority to impose consecutively 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)).

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 advice.

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).\*

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.

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. and Sentencing (Tr.) records incorrectly relies) on "State, and also Federal authority." See (attachments: M-1, through M-12)(attachments; N-1 through N-12)'s records, and S.C. Code of Laws (unannotated) - 44-53-375 (attachments: 0-1 through 0-4). 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 downward 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 settled "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)."

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

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.

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 asst-ent 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 Oguilty 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.

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.

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) SCRCF" 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,<sup>\*</sup> alter and amended the judgment, and grant post-conviction relief Act. See: (Attachments: Q-1 through Q-3).<sup>\*</sup>

- 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 cover 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.

"In the context of a guilty plea, the deficiency prong inquiry turns on whether the plea was voluntarily, knowingly, 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).

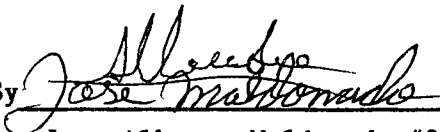
Pittman, 337 S.C. at 599, 524 S.E.2d at 624 (emphasis added). Here, trial counsel did not advised Mr. Maldonado that the minimum, as seven (7) years, the Maximum, as thirty (30) years, sentence is mandatory, the plea judge did not correct trial counsel's erroneous advices with "bias at trial" prejudiced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

V. Conclusion

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

Respectfully submitted

Done this 1 day of August, 2017

By 

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

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

RECEIVED

OCT 10 2017

SC Court of Appeals

CERTIFICATE OF SERVICE

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

SWORN TO and SUBSCRIBED before Me

This 1st day of August, 2017.

Janice G. Jenkins  
Notary Public for South Carolina  
My Commission Expires 8/16/2026

Notary Public, State of South Carolina  
My Commission Expires 8/16/2026

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

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

RECEIVED RECEIVED

OCT 10 2017

OCT 17 2017

SC Court of Appeals S.C. SUPREME COURT

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

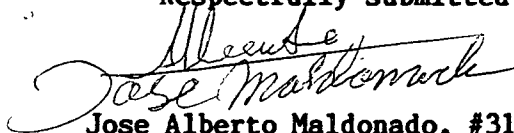
Re: Jose Alberto Maldonado, 2015-CP-23-04747 v. State of South Carolina

Dear Clerk of Court:

Enclosed 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 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

P. PRICE, PASCHAL & ASHMORE, 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 \*  
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

(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.

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

RECEIVED  
OCT 17 2017

RECEIVED

OCT 10 2017

SC Court of Appeals



Office of the Clerk of Court

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

[www.greenvillecounty.org](http://www.greenvillecounty.org)

NOVEMBER 19 2013

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

(Attachments: B-1)  
File on: 9-13-2017  
(Wm. 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

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 9-13-2012

(4th PER. 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

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

Page 1

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-2)

File on: 9-13-2017

Re: Response, In Direction of Summon (4th PCR. Doc. 7)

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 accompanied 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 through-out 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.

Thank You In Regarding this Matter!!!

**P R O O F   O F   S E R V I C E**

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-3)  
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

Catharine A. Amos  
**NOTARY PUBLIC FOR SOUTH CAROLINA**

**MY Commission Expires** ~~My Commission Expires~~ December 22, 2018

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

## CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

JOSE M MALDONADO

Defendant(s)

2013-CP-23-04132

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

2013 JUL 31

(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)

- |                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> Employment (120)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Other (199) | <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299)                                                                                     | <b>Torts - Personal Injury</b><br><input type="checkbox"/> Assault/Slander/Libel (300)<br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Other (399) | <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499)                                                                                                                                                                                                                  |
| <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599)                                                                                                       | <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Other (799) | <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Driver's License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input checked="" type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899)                               | <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Administrative Law Judge (980)<br><input type="checkbox"/> Public Service Commission (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) |
| <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699)                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <input type="checkbox"/> Pharmaceuticals (630)<br><input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Sexual Predator (510)                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

Submitting Party Signature: Sylvia HarrisonDate: 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

GREENVILLE COUNTY

State of South Carolina  
Plaintiff

vs.

Jose M Maldonado  
Defendant.

IN THE CIRCUIT COURT FOR THE  
THIRTEENTH JUDICIAL CIRCUIT

CERTIFICATE OF EXEMPTION  
FROM ADR

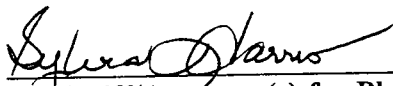
DOCKET NO. 2013-CP-23-

04132

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

  
Plaintiff/Attorney(s) for Plaintiff(s)

Defendant/Attorney(s) for Defendant(s)

Date: July 26, 2013

(Attachment: C-2)  
File on: 9-13-2013  
(4th PCR Doc. 7)

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-23-04132

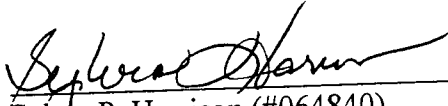
SUMMONS  
(Non-Jury Trial Demanded)

(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.

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

Greenville, South Carolina  
July 26, 2013



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

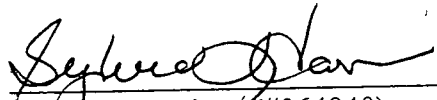
6. Each and every allegation is realleged as if fully set forth herein.
7. The Plaintiff is informed and believes he is entitled to an Order of the Court declaring the above listed Defendant Property forfeited pursuant to Section 44-53-520 and 44-53-530, Code of Laws of South Carolina (1976), as amended, 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.

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

Greenville, South Carolina  
July 26, 2013

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

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

Post Office Box 21787 – Columbia, South Carolina 29221

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 ) 13-CP-23-4132  
COUNTY OF Lancaster ) **AFFIDAVIT OF PERSONAL SERVICE**

On this 8 day of October, 2013, I served the cover sheet, Semmons, 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 9-13-2012  
(4th PCR Act. Dec. 7)

s/ Carolyn Sanders  
SCDC Server

**SWORN TO AND SUBSCRIBED BEFORE ME**

this 8 day of October, 2013.

Catherine A. Amrose  
Notary Public for South Carolina

My commission expires My Commission Expires Date: Oct 22, 2013

**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.

s/ Jose A. Maldonado  
Inmate SCDC#

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, )

Case No. 2015-CP-23-04747

v. )

AMENDMENT TO POST CONVICTION  
RELIEF APPLICATION  
4th PCR. ACTION

State of South Carolina, )

Respondent. )

CERTIFICATE OF SERVICE

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

Respectfully Submitted

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.

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

Cashmere A. Amason  
Notary Public For South Carolina

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

My Commission Expires: \_\_\_\_\_

My Commission Expires December 24, 2017

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

LEGAL

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Jose Alberto Maldonado, #312648

Applicant,

vs.

State of South Carolina,

Respondent.

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

ORDER

FILED-CLERK OF COURT  
PAUL B. MICHAELSON  
GREENVILLE, SC

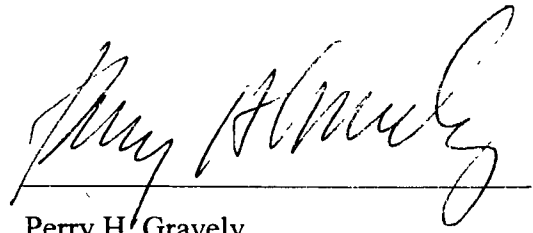
2017 SEP -1 PM 12:42

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. Gravelly  
Presiding Judge

Greenville, South Carolina

August 24, 2017

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, SC

2017 SEP -1 PM 12:42

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: \_\_\_\_\_
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ 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 Act Dec. 7)

PRESIDING JUDGE - Perry H. Gravelly

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



Office of the Clerk of Court  
Greenville, South Carolina  
Paul B. Wickensimer  
Clerk of Court

**RECEIVED**  
OCT 17 2017  
S.C. SUPREME 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

MARCH 18, 2008

(Attachments: A-1)  
Issued on: AUG 01 2017  
(4th PCR. Act. Doc. 6)

**RECEIVED**

OCT 10 2017

SC Court of Appeals

✓ 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

STATE OF SOUTH CAROLINA )

County of Greenville )

IN THE COURT OF COMMON PLEAS

Mr. Jose Alberto Maldonado )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

2008-CP-23- 2140

APPLICATION FOR

POST-CONVICTION RELIEF

(Attachment: A-2)

issued on AUG 01 2017  
(4th 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 Greenville County Detention Center.....  
20 M<sup>C</sup>Gee Street Greenville 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



# 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

(Doc. 6) (Hb. PCR-Act)

APRIL 28, 2010

JOSE ALBERTO MALDONADO 312648

PERRY CORR INSTI

✓ 430 OAKLAWN Rd

PELZER SC 29669

FILED-CLERK OF COURT  
PAUL B. WICKENSIMER  
JUN 11 CO SC  
JUN APR 28 AM 8:49

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

STATE OF SOUTH CAROLINA )

County of Greenville )

IN THE COURT OF COMMON PLEAS

Mr. Jose Alberto Maldonado )

Full name and prison number (if any) of Applicant )

v. )

State of South Carolina )

2010-CP-23-3391

APPLICATION FOR

POST-CONVICTION RELIEF

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

(Attachments B-2)

Issued on AUG 01 2017

(4th 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.

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20 M<sup>C</sup>Gee Street Greenville 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

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

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

(Attachment: C-I, & II)

Issued on:  
AUG 01 2017 Jose Alberto Maldonado, Appellant,  
(4th PCR Act. Doc. 6)

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2016-001274

---

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

(Attachment: C-II) Issued on:  
(Am. Pcr. Act. Doc. 6)

his sentence was properly calculated. We affirm<sup>1</sup> 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").
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.**

---

<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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  
(W. 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

TABLE OF CONTENTS

|                                        |    |
|----------------------------------------|----|
| TABLE OF AUTHORITIES .....             | ii |
| STATEMENT OF THE ISSUE ON APPEAL ..... | 1  |
| STATEMENT OF THE CASE .....            | 2  |
| STANDARD OF REVIEW .....               | 3  |
| ARGUMENT .....                         | 4  |
| CONCLUSION.....                        | 5  |

(Attachment: E-2)  
Issued on AUG 01 2017  
(4th PCR Act. Doc. 6)

## TABLE OF AUTHORITIES

### CASES

|                                                                                            |   |
|--------------------------------------------------------------------------------------------|---|
| <u>Al-Shabazz v. State</u> , 338 S.C. 354, 527 S.E.2d 742 (2000) .....                     | 4 |
| <u>Hendley v. Budget &amp; Control</u> , 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996)..... | 3 |
| <u>Sullivan v. S.C. Dep't of Corr.</u> , 355 S.C. 437, 586 S.E.2d 124 (2003) .....         | 4 |

### STATUTES

|                             |   |
|-----------------------------|---|
| S.C. Code § 1-23-380 .....  | 3 |
| S.C. Code § 1-23-610.....   | 3 |
| S.C. Code § 24-13-100 ..... | 5 |
| S.C. Code § 24-13-150 ..... | 5 |

(Attachment: C-3)  
ISSUED ON AUG 01 2017  
(4th PRC Act. Doc. 6)

STATEMENT OF ISSUE ON APPEAL

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.

(Attorney C-4)

ISSUED ON AUG 01 2017

(4th PCR Act. Doc. 6)

## STATEMENT OF THE CASE

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-S;  
Issued on: AUG 01 2017  
(4th PCR. Act. Doc. 6)

Issued on: AUG 01 2017  
(4th PCR Act. Doc. 6)  
(Attachment: C-5)

### STANDARD OF REVIEW

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.

ARGUMENT

(Appellant: C-7)

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.

1. The jurisdiction of the Administrative Law Court ("ALC") to hear this matter is  
2. derived entirely from the decision of the South Carolina Supreme Court in Al-Shabazz v.  
3. State, 338 S.C. 354, 527 S.E.2d 742 (2000). When reviewing SCDC's decisions in inmate  
4. grievance matters, the ALC sits in an appellate capacity. Id. at 377, 527 S.E.2d at 754.  
5. Subsequently, the Supreme Court clarified the ALC's appellate jurisdiction over inmate  
6. appeals in Sullivan v. S.C. Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003). In affirming,  
7. as modified, the ALC's *en banc* decision of McNeil v. S.C. Dep't of Corr., 02-ALJ-04-00336-  
8. AP (September 5, 2001), the Supreme Court held the ALC's jurisdiction was limited to (1)  
9. cases in which an inmate contends prison officials have erroneously calculated his sentence,  
10. sentence-related credits, or custody status; (2) cases in which SCDC has taken an inmate's  
11. state-created liberty interest in major disciplinary hearings; and (3) cases in which an inmate's  
12. confinement implicates a state-created liberty interest. See Sullivan, 355 S.C. at 443, 586  
13. S.E.2d at 127 (emphasis added).

14. In this case, the Administrative Law Court properly affirmed the decision of the  
15. Department of Corrections. Initially, the Administrative Law Court exists to review the  
16. actions of administrative agencies, and it does not have jurisdiction to review the actions of  
17. circuit court judges in sentencing defendants. Accordingly, the Administrative Law Court  
18. properly declined to rule upon the validity of Appellant's sentences. (R. p. 3). Furthermore,  
19. Appellant has failed to show that the Department of Corrections committed any error with

ISSUE ON: AUG 01 2017  
(4th PCR Act Doc 6)

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.

#### CONCLUSION

For the foregoing reasons, the Court should affirm the Administrative Law Court's decision below.

Respectfully submitted,

SOUTH CAROLINA DEPARTMENT  
OF CORRECTIONS

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

(Attachment: C-8)  
Issued on: AUG 01 2017  
(4th PCR Act- Doc-6)

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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.

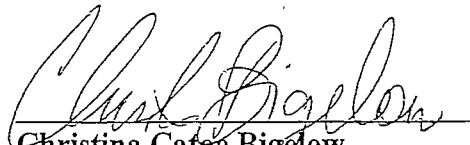
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

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  
(The 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

STATE OF SOUTH CAROLINA  
In The Court of Appeals

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.

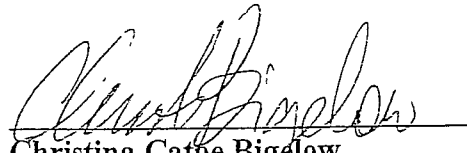
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

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 Cathe 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

ISSUE ON: AUG 01 2017  
D(4)M PCR Act Doc. 6)

(Attachments: D - 1 through 5)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE COURT OF  
GENERAL SESSIONS FOR  
THE THIRTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA )  
-VERSUS- )  
JOSE ALBERTO MALDONADO, )  
DEFENDANT. )  
\_\_\_\_\_ )

CASE NOS. 2005-GS-47-26 Count I  
2005-GS-47-26 Count IV

PLEA AGREEMENT

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.

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

ISSUE ON: AUG 01 2017

(HPL PCR - Act. 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. <sup>\*</sup> 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. <sup>\*</sup> 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: (1) 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

Issued on: AUG 01 2017

(444 PCR Act Doc 6) (Attachments: 0-3)

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

Issued on: AUG 01 2017  
(4th PCR Doc. 6) (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,

AUG 01 2017

Issued on: (4th PER Act 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.

\_\_\_\_\_  
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

JOSE ALBERTO MALDONADO, 312648  
Kershaw Corr. Inst. MB/Room #59  
4848 GOLDMINE HIGHWAY  
KERSHAW SOUTH CAROLINA, 29067

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-23-047(57)

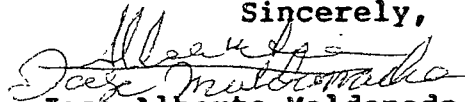
FILED - CLERK OF COURT  
GREGORY D. CO. S.C.  
PAUL B. WICKENSIMER  
2017 APR 13 PM 1 16

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), SCRPC, 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 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:  
Kane PCR - Act. Doc. 6)

FORM 5

STATE OF SOUTH CAROLINA )

County of Greenville )

Jose Alberto Maldonado, )

Full name and prison number (if any) of Applicant )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

(Attachments: "E-II") )

Refined on: AUG 01 2017 )

(4 PCR. Act Doc 6)

IN THE COURT OF COMMON PLEAS

(Attachments: "E-II")

MAR 29 2017

Filed on:

(4 PCR. Doc. 5)

APPLICATION FOR

POST-CONVICTION RELIEF

2015-CP-23-04747

FILED  
CLERK OF COURT  
PAUL B. WILSON  
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 Court-  
house 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).

(Attached: (3))



Office of the Clerk of Court

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

www.greenvillecounty.org

(Attachment: CCE-I.)  
MAR 29 2017

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

*[Handwritten signature]*

JULY 31, 2015

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

Refined 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))

Replied on: AUG 01 2017  
(4th PCR. Act. Doc. 6)  
STATE OF SOUTH CAROLINA :  
COUNTY OF GREENVILLE )

Jose Alberto Maldonado, #312648,  
Applicant, Pro se,

V.

State of South Carolina,  
Respondent.

MAR 29 2017  
(Attachment: E-III)  
IN THE COURT OF COMMON PLEAS  
FOR THE 13TH JUDICIAL CIRCUIT

Case No. 2015-CP-23-047-57  
MAR 29 2017

AMENDMENT TO POST CONVICTION  
RELIEF APPLICATION  
4TH PCR. ACTION

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

4757  
JAN 5 PM 2 20  
PAUL H. WICKENS  
S.C. COURT

The Applicant hereby amends 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,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-04757

MAR 29 2017

First: (Attachments: "E") wrong case number

RETURN AND MOTION TO DISMISS

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

FILED-CLERK OF COURT  
PAUL B. WICKENS  
GREENVILLE CO. SC  
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 (2<sup>nd</sup> offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2<sup>nd</sup> 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.

(Attached: (5))

4

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Jose Alberto Maldonado, #312648,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-0475

CONDITIONAL ORDER OF DISMISSAL

FILED-CLERK OF COURT  
PAUL B. WICKINS  
GREENVILLE, CO. SC  
MAR 29 2017  
Second (Attachment: 6)

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. Dec. 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 (2<sup>nd</sup> offense) and trafficking in methamphetamine, more than 28 grams but less than 100 grams (2<sup>nd</sup> 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

(Attached: (6))



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 01 2017

(4th PCR-Act. Doc. 6)

MARCH 12th 2013

JOSE ALBERTO MALDONADO 312648  
PERRY CORRECTIONAL INSTITUTION  
430 OAKLAWN RD  
PELZER SC 29669

2013 MAR 12 P 1:11

CLERK OF COURT  
GREENVILLE CO SC  
PAUL B WICKENSIMER

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 21 2013

**MAILROOM (NORTH)**

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-

APPLICATION FOR

POST-CONVICTION RELIEF

FILED CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENS  
MAR 12 PM 1:11

(Attachment: F-2)

Issued on: AUG 01 2017 AUG 01 2017

(Att. 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 Greenville County Detention Center.  
20 McGee Street Greenville South Carolina
2. Name and location of Court which imposed sentence Greenville, County Court-  
house 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  
The count [V] is void 2 or more counts for the violation of the Control-  
sentence was imposed: led 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.)

Active  
Appendix  
C/A #504-44 (23)

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, )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

**FINAL ORDER OF DISMISSAL**

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER  
2014 MAY 1 AM 9 41

(Attachments: 5-1 through 5-3)  
Issued on: AUG 01 2017  
(Am 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,



Issued on:  
(Attachment: E-2)  
(4th PCR Act Doc. 6)

Refused Appeal  
C/A# 2014-004 (29)

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).



Issued on:  
(Attachments 5-3)  
(4th PCR. Act. Doc. 6)

WCFIC Appendix  
C/A# 2014-1164 (25)

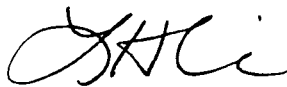
This Court finds the Applicant had the opportunity to litigate all issues related to his case at the evidentiary hearing for his first PCR application on December 8, 2008 and instead chose to voluntarily withdraw his application. See Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999) ("[A]n 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.



Letitia H. Verdin  
Chief Administrative Judge  
Thirteenth Judicial Circuit

\_\_\_\_\_, South Carolina.



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STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE ) IN THE COURT OF COMMON PLEAS  
  
Jose Alberto Maldonado, )  
Applicant, ) TRANSCRIPT OF RECORD  
-vs- ) 2013-CP-23-1440  
The State, )  
Respondent. ) October 25, 2013  
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

(Attachment H-2) Issued on: AUG 01 2017

(4th PCR Act Doc. 6)

(1)

1 MS. RATIGAN: Your Honor, the next case is Jose Alberto  
2 Maldonado ---

3 THE COURT: Oh, wait a minute <sup>1</sup> before we get started ---

4 THE CLERK: Go ahead.

5 MS. RATIGAN: I was gonna ask ---

6 THE COURT: --- Teresa swear.

7 THE CLERK: Oh, okay, alright, sorry about that.

8 (Whereupon, the interpreter was sworn.) *UNKNOWN Name*  
*interpreter*

9 THE CLERK: Thank you.

10 THE INTERPRETER: You're welcome.

11 MS. RATIGAN: Your Honor, this is the case of Jose  
12 Maldonado vs. the State, the Docket Number is 2013-CP-23-1440.  
13 Mr. Maldonado was indicted by the state grand jury in 2005, he  
14 pled guilty before Judge Macaulay and was eventually sentenced  
15 April of 2007 to 20 years for trafficking ---

16 THE COURT: Oh, wait a minute <sup>2</sup>, ---

17 MS. RATIGAN: --- methamphetamine.

18 THE COURT: --- I <sup>(first time accept his resignation of sentence judge)</sup> was the sentencing judge.

19 MS. RATIGAN: Yes, Your Honor, but this is, uh, actually  
20 up here on his motion for default so ---

21 THE COURT: Okay.

22 MS. RATIGAN: --- it -- I figured it's a legal matter and  
23 I guess that's something you could ask Mr. Maldonado about.

24 THE COURT: Alright. *The judge fails first to ask?*

25 MS. RATIGAN: Uh, Your Honor, was, uh, well he received a

(Attachment: A-2)

1, need the full record for this 10th Cir judge because did not had nothing to do in the 10th Cir. after the court have present record to allow us to decide any case. See ruling 5/15/16. ①  
 20-year sentence by Judge Macaulay. He filed a PCR hearing in

2008 and Your Honor was the PCR judge; however, he withdraw  
 (untrue after we file answer to State's)  
 his application voluntarily. He filed a second PCR  
 application 2010 and before, Honorable Edwards had signed  
 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.

THE COURT: Okay. What does he wanna tell me?

THE APPLICANT: Thank you for the hearing, you know, that  
 I request you 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

Issued on: AUG 01 2017

interpreter unknown

{Attachment: H-3}  
 (the PCR Act. Doc. 6)

(Attachment: H-4) Issued on: AUG 01 2017  
(4th PCR Act. Doc. 6)

Exhibit (A) ①

1 I wanna show you somethin', you know, about the indictments my  
2 grounds is no in the, in the right position. <sup>-1-</sup> <sup>-2-</sup> <sup>My grounds is no in the right position</sup>

3 THE COURT: Well, Mr. Maldonado, uh, you've already had  
4 an opportunity to do it previously and apparently it was in  
5 front of me and you withdraw your application and my practice  
6 when someone withdraws their post-conviction relief  
7 application is to put them <sup>APPLICANT had to attack this verbal argument</sup> under oath and explain to 'em that  
8 if they withdraw and I grant their order that that ends it and  
9 you can't raise the issues again. You remember me doing that  
10 with you?

11 THE APPLICANT: Yeah, I I --->

12 THE INTERPRETER: I remember and but in this situation I  
13 do need, I do need to tell you something. <sup>-1-</sup> <sup>-2-</sup> <sup>-1-</sup> <sup>-2-</sup> When when you  
14 represented me or when you <sup>1</sup> <sup>2</sup> or when you, when you heard my  
15 case, if you remember there wasn't an interpreter --->

16 THE COURT: <sup>1</sup> <sup>2</sup> Slow slow down.

17 THE INTERPRETER: --- and there wasn't an interpreter  
18 present, okay, well there's one, well he didn't speak Spanish  
19 at all. If you would look at the transcript and look at all  
20 the details, you will see what I'm talkin' about and I made a  
21 request to get an attorney and <sup>1</sup> <sup>2</sup> that that attorney didn't  
22 represent me well during the PCR and I have -- and I'm in  
23 agreement with what you're saying, I completely agree. <sup>1</sup> <sup>2</sup> I I  
24 will, I will have to sign a paper for an attorney to withdraw  
25 my PCR. I need a private attorney and I don't, I don't have

ISSUED ON: AUG 01 2017

(Attachment: H-5)  
(4th PCR Act Doc. 6)

~~Exhibit (A) (C)~~

1 an attorney, that's -- I haven't got an answer. I applied for  
2 an attorney to do my PCR hearing. I have another thing that I  
3 wanna say.

4 THE APPLICANT: About that that I wanted a counsel to  
5 hear my case to can come in <sup>1</sup>and <sup>2</sup>and do and do great, you know,  
6 no fail, to present all a these facts I have to this day  
7 because one indictment has come with in <sup>1</sup>one, in <sup>2</sup>one section to  
8 twenty-eight to a hundred grams as my plea guilty so the  
9 indictment that I its has issues to 100 grams to 400 grams  
10 it's not conduct with the same, with the same plea guilty  
11 so...

12 THE INTERPRETER: I do need an attorney, I need a lawyer.<sup>7</sup>  
13 <sup>1</sup>If <sup>2</sup>if <sup>3</sup>if you don't can I, but see, I I can I show that to you<sup>7</sup>  
14 and prove that to you that I have all the evidence.

15 THE COURT: Well, this case has been all the way the  
16 United States Supreme Court and they have found that you're  
17 not entitled to relief.

18 THE INTERPRETER: I understand that, sir, but everything,  
19 all the issues that I raised, ---

20 THE COURT: Let her ---

21 THE INTERPRETER: <sup>1</sup>Well <sup>2</sup>well all the thing, all the issues  
22 are are raised to the Supreme, uh, Court I did it myself, I  
23 didn't have any help so I make -- there could have been some  
24 mistakes and I probly did poorly appropriate protocol but I'm  
25 doin' it on my own and I have all the, uh, evidence here with

(Attachment: H-6)

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

THE APPLICANT: Also, I got 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 my my my 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, ---

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 and 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 the the sentence sheet and letting me sign it that see an explanation saying give me any option to understand what what 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,

~~Exhibit (A)~~ (C)

(Attachment: H-7) Issued on: AUG 01 2017  
(4th PCR Act- Doc. 6)

1 it's no fair guilty plea, it's a, I don't ha -- I don't have  
2 choice, you know, how I go to the, to the office arrest me,  
3 they say arrest me with with this do -- I don't have dope in  
4 my, in in my home. They arrest me in other place, they send  
5 me to the, to the place e they puttin' me in the place and  
6 they say I am so I wanted see see you in good faith, you know,  
7 grant me this petition to come from tres witnesses under the  
8 Sixth Amendment e Five Amendment to see the indictments, you  
9 know, this isn't the right way.>

10 MS. RATIGAN: Your Honor, again, the the judge, the  
11 administrative judge set this on a hearing for his motion for  
12 default which has not really been answered.

13 THE COURT: Right.

14 MS. RATIGAN: He filed his motion it looks like September  
15 6th 2013 so again we can argue the motion to dismiss but we  
16 Conflict between Edward & Ratigan are primarily here on the motion for default that he filed.

17 THE COURT: Yeah, and your position on that?

18 MS. RATIGAN: Uh, Your Honor, under Rule 55 (e) of the  
19 civil rules, uh, you're not really allowed to hold the State  
20 in default unless you can prove good cause and there's a case  
21 on point *Kneece vs. State*, that's K-N-E-E-C-E, 236 south  
22 eastern second 746, it says, uh, specifically that, uh, if a  
23 return to post-conviction relief application is filed outside  
24 the statutorily mandated time, the matter can't be held in  
25 default unless the applicant can show prejudice, that's again

~~Exhibit (A)~~ 

(Attachment: H-8) Issued on: AUG 01 2017  
(4th PCR. Ad. Doc 6)

1 a case that's specifically on point and, uh, I have not heard  
2 any kind of prejudice from the return of motion to dismiss  
3 being filed outside the ---

4 (Cross-talk.)

5 THE COURT: Okay. Well I'm <sup>4</sup>gonna, I'm <sup>2</sup>gonna deny your  
6 motion for default and, uh, ask the Attorney General to  
7 prepare an order that reflects that, okay?

8 THE APPLICANT: Thank you, Your Honor. *Applicant never said*

9 THE COURT: Okay. *denial See at the tape recorded*

10 THE APPLICANT: I appreciate that, so wait a minute.

11 THE COURT: You mo -- you moved to hold them in default  
12 and you haven't proved your case so I'm denying that motion  
13 for default.

14 THE APPLICANT: No, ---

15 THE INTERPRETER: Uh-huh, but I I ca -- I can prove here  
16 what ---

17 THE COURT: Well we're not here to argue that, we're just  
18 hear to argue the the motion for default, okay?

19 THE INTERPRETER: So this court is about the motion for  
20 default?

21 THE COURT: Yeah.

22 THE APPLICANT: So <sup>1</sup>all <sup>2</sup>that, all <sup>3</sup>that arguments we  
23 talkin' about it with you what has come? What is it? I'm  
24 waiting for <sup>1</sup>for <sup>2</sup>for <sup>3</sup>for another court and for the Court or you  
25 deny my ---

Exhibit (H) ②

(Attachment: H-9) ISSUED on: AUG 01 2017  
(4th PCR Act Doc. G)

1 THE COURT: This was a motion, your motion that you filed  
2 to hold the State in default for failure to timely respond,  
3 okay, and I don't find that there's any prejudice to you  
4 through any failure of the S -- of the State to fi -- to file  
5 timely so I'm denying your motion, okay?

6 THE APPLICANT: Just, excuse me, Your Honor, I gotta  
7 prove in this issue the State failed to answer my question for  
8 five d -- five days ---

9 THE COURT: Yeah, and you haven't shown any prejudice as  
10 a result thereof so I'm denying your motion, okay? Alright,  
11 best of luck.

12 THE APPLICANT: I'm ---

13 THE COURT: Good luck to ya.

14 THE APPLICANT: --- I talk to the attorney to the  
15 attorney that you will give me a a a ba -- another hearing for  
16 my PCR?

17 THE COURT: That wasn't before me today so...  
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(Attachment: H-10)  
ISSUED ON: AUG 01 2017  
(4th PCA Act - Doc. 6)

CERTIFICATE OF REPORTER

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.

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

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  
Instt 4848 Goldmine Hwy Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

Karen Ratigan Attorney General Office

ATTORNEY(S) FOR THE DEFENDANT(S)

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

(Attachments I-1 through I-3)  
Issued on: AUG 01 2017  
(4h.PRC Act. Doc. 6)

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,

Applicant,

v.

State of South Carolina,

Respondent.

**ORDER DENYING MOTION FOR DEFAULT**

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER  
2013 NOV 8 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.<sup>1</sup> 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.

(Attachment: I-2)  
Issued on: AUG 01 2017  
(4th PCR Act Doc. 6)

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AND IT IS SO ORDERED this \_\_\_\_\_ day of 11/4, 2013.

Edward W. Miller  
Edward W. Miller  
Presiding Judge  
Thirteenth Judicial Circuit

Ad, South Carolina.

(Attachment: I-3)  
issued on: AUG 01 2017  
(4th PCR Act. Doc. 6)

---

<sup>1</sup> 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

**ORDER DENYING MOTION TO  
ALTER OR AMEND**

2014 APR 9 PM 1 41  
CLERK OF COURT  
PAUL E. HARRIS  
JAN 11 2014

(Attachments: I-1 through I-2)  
Issued on: AUG 01 2017  
(File PCR Act - Doc-6)

Applicant filed an application for post-conviction relief (PCR) on March 12, 2013.<sup>1</sup>

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.<sup>2</sup> 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.<sup>3</sup> Respondent was represented by

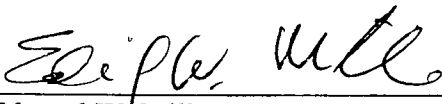
<sup>1</sup> This is the third PCR application in which Applicant challenges his August 22, 2006 guilty plea.

<sup>2</sup> A Spanish language interpreter was present.

<sup>3</sup> The same Spanish language interpreter from the October 2013 hearing was present.

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

Summerville, South Carolina.

(Attachment: I-2)  
Issued on: AUG 01 2017  
(4th PCR Act Doc. 6)

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. I/D#: 312648 )

Pro se, Applicant, )

CASE NUMBER 2013-CP-23-01440

Vs. )

STATE OF SOUTH CAROLINA, AND )  
THE HON: EDWARD W. MILLER )  
PRESIDED JUDGE' )

AFFIDAVIT OF TRUTH

Respondent(s). )

(Attachments: J-1)  
Issued on: AUG-01-2017  
(4) PCR Act Doc. 8

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, Depository His Affidavit, with A Certificate of Service By Mail is showing below. To be, Forward in this 17 day of April, 2014. To:

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

FURTHER THE AFFIANT SAID AND NOT:

DONE THIS 17 DAY OF April, 2014.

SWORN TO and SUBSCRIBED Before Me  
This 17 day of April, 2014.

Catherine A. Amesa  
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:

My Commission Expires December 22, 2014

DAVID TATARSKY/CRISTINA KELLET  
SCDC GENERAL COUNSEL  
P.O. BOX 21787  
4444 BROAD RIVER ROAD  
COLUMBIA, S.C. 29210

Respectfully Submitted

1st 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

C/A#.: 2013-CP-23-01440

CERTIFICATE OF SERVICE BY

Issued ON: AUG 01 2017  
(Att. PCR Act Doc. 6) MAIL  
(Attachments 1-2)

1. I am Jose Alberto Maldonado, 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)(SCRPC): Quote Rule 602 (g)(1,2), & (h)(SCACR). Appoi- ntment of counsel for Defense in behalf Applicant's next "Evidentiary Hearing. And him can shown the burden to stabli- shing his titlement to relief by 'a propoderance of the <Exh- ibits 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)(SCRPC). 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

FURTHER THE APPLICANT SAID AND NOT:  
DONE THIS 17 DAY OF April, 2014.

DAVID TATARSKY/CRISTINA KELLET  
SCDC GENERAL COUNSEL  
POST. OFFICE BOX 21787  
4444 BROAD RIVER ROAD  
COLUMBIA, S.C. 29210

SWORN To and SUBSCRIBED Before Me

This 17 day of April, 2014.

Caroline A. Amerson

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: \_\_\_\_\_

Respectfully Submitted

1st Jose A. Maldonado  
Jose Alberto Maldonado, #312648  
Kershaw, Corr. Inst. MB/Room #59  
4848 Goldmine Highway  
Kershaw, S.C. 29067

ISSUE DATE FILE: 4/1/2014

My Commission Expires December 31, 2018

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

**RETURN TO MOTION TO ALTER OR  
AMEND THE ORDER DENYING THE  
MOTION FOR DEFAULT**

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL P. WICKENS  
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). (Attachments: K-1 through K-4)

4. The Honorable Edward W. Miller denied Applicant's motion for default judgment by order dated November 4, 2013 and filed November 8, 2013. (Issued on: AUG 01 2017 (4th PCR Act: Dec 6))

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

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)

Respectfully submitted,

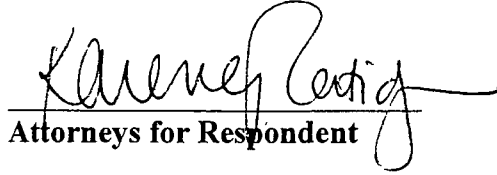
ALAN WILSON  
Attorney General

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)

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE COURT OF COMMON PLEAS

2013-CP-23-1440

JOSE ALBERTO MALDONADO, 312648 )

Applicant, )

vs )

STATE OF SOUTH CAROLINA, )

Respondent. )

AFFIDAVIT OF SERVICE BY MAIL

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMER  
2014 JAN 15 PM 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 to K-4)  
ISSUED ON: AUG 01 2017  
(4th PCR Act Doc. 6)

Judy A. Carey  
Judy A. C. Carey, Legal Assistant  
For Respondent

Exhibit (C)

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:

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

Respectfully Submitted

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

SWORN TO AND SUBSCRIBED before me

this 19, day of November, 2013

Cathrine A. Cooper  
NOTARY PUBLIC FOR SOUTH CAROLINA

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

MY Commission Expires: My Commission Expires February 22, 2018

File On: November 21, 2013



I.

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE :

JOSE ALBERTO MALDONADO )  
S.C.D.C. Id/#.:312648 )  
Pro se, Applicant, )

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

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: L-1)  
Issued on: AUG 01 2017  
(6th PCR Act Doc: 6)

File on: November 21, 2013

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

COURT OF GENERAL SESSIONS  
2005-GS-47-26 (COUNTS 1, 4)

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.

VIVIAN H. CROSS  
OFFICIAL COURT REPORTER

(Attachments: M-1 through M-21)  
ISSUED ON: AUG 01 2017  
(HLM PCR Act Doc: 6)

I N D E X

|                          | <u>PAGE</u> |
|--------------------------|-------------|
| COLLOQUY                 | 3           |
| REPORTER'S CERTIFICATION | 21          |

E X H I B I T S

-----NO EXHIBITS OFFERED-----

(Attachment: M-2)  
Issued on: AUG 01 2017  
(4th PCR-Act. Doc. 6)

P R O C E E D I N G S

(05-GS-47-26)

(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.

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?

Issued on:  
4th PCR-Act Dec 6) AUG 01 2017  
(Attachment: M-3)

1 MR. HUNT: THAT'S CORRECT, SIR.

2 (WHEREUPON, BRITT HUNT WAS DULY SWORN BY THE COURT TO  
3 RENDER AN ACCURATE INTERPRETATION.)

4 INTERPRETER (MR. HUNT): I WILL.

5 THE COURT: VERY GOOD; THANK YOU, SIR.

6 INTERPRETER (MR. HUNT): (THEN INTERPRETS TO DEFENDANT.)

7 THE COURT: NOW, UH, MR. MALDONADO, WOULD YOU RAISE YOUR  
8 RIGHT HAND, PLEASE?

9 (WHEREUPON, JOSE ALBERTO MALDONADO WAS DULY SWORN AND  
10 TESTIFIED AS FOLLOWS:)

11 MR. MALDONADO: (INTERPRETED AND SPOKEN BY MR. HUNT):  
12 YES -- YES.

13 THE COURT: NOW, MR. PRICE, UH -- UH, YOU REPRESENT THE,  
14 UH, DEFENDANT?

15 MR. PRICE: YES, SIR, I DO.

16 THE COURT: OKAY. HAVE YOU EXPLAINED TO THE DEFENDANT  
17 THE CHARGE AND THE INDICTMENT, WHICH I UNDERSTAND IS  
18 TRAFFICKING METHAMPHETAMINES, TWENTY-EIGHT TO -- TO A HUNDRED  
19 GRAMS, SECOND OFFENSE?

20 MR. PRICE: YES, SIR; I HAVE.

21 THE COURT: TWO COUNTS?

22 MR. PRICE: YES SIR; COUNTS ONE AND FOUR.

23 THE COURT: ONE AND FOUR?

24 MR. PRICE: (NO RESPONSE.)

25 THE COURT: YOU HAVE EXPLAINED THAT TO HIM?

Issued on:  
(4th PCR Act Dec 6  
(Attachment: M-4)

AUG 01 2017

(All Schmetz M-5) Issued on: AUG 01 2  
(HLY PCR-Ref Doc 6)

1 MR. PRICE: YES, SIR, I HAVE.

2 THE COURT: AND ALSO THAT, UM, THE MAXIMUM SENTENCE --  
3 OR, THE SENTENCES ON THOSE COUNTS, EACH COUNT COULD BE, UH,  
4 SEVEN TO THIRTY YEARS AND FIFTY THOUSAND-DOLLARS IN FINES?

5 MR. PRICE: YES, SIR.

6 THE COURT: AND ALSO HIS CONSTITUTIONAL RIGHTS? HAVE  
7 YOU EXPLAINED THOSE TO HIM?

8 MR. PRICE: YES, SIR.

9 THE COURT: IN YOUR OPINION, DOES THE DEFENDANT  
10 UNDERSTAND THE CHARGE, THE PUNISHMENTS, AND HIS RIGHTS?

11 MR. PRICE: HE DOES.

12 THE COURT: IN YOUR INVESTIGATION OF THE FACTS AND  
13 CIRCUMSTANCES OF EACH OF THESE CASES, DO YOU FEEL THE STATE  
14 COULD PRODUCE SUFFICIENT EVIDENCE---

15 MR. PRICE: I DO.

16 THE COURT: ---TO ESTABLISH THE DEFENDANT'S GUILT BEYOND  
17 A REASONABLE DOUBT, AND IF HE STOOD TRIAL HE WOULD MOST  
18 PROBABLY BE FOUND GUILT?

19 MR. PRICE: I AGREE.

20 THE COURT: ARE YOU AWARE OF ANY PHYSICAL, MENTAL, OR  
21 EMOTIONAL PROBLEM THAT MIGHT KEEP THIS DEFENDANT UNDER- --  
22 FROM UNDERSTANDING WHAT HE'S DOING TODAY?

23 MR. PRICE: NO, SIR.

24 THE COURT: NOW, MR. MALDONADO, BEFORE I CAN ACCEPT A  
25 GUILTY PLEA, IT'S NECESSARY FOR ME TO ASK YOU SOME QUESTIONS

1 SO I CAN DETERMINE THAT YOUR PLEA IS MADE FREELY AND  
2 VOLUNTARILY. DO YOU UNDERSTAND THAT?

3 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

4 YES.

5 THE COURT: IF YOU DO NOT UNDERSTAND MY QUESTIONS OR YOU  
6 NEED TO CONSULT WITH YOUR ATTORNEY AT ANY TIME, TELL ME SO.  
7 AND THEN I WILL EITHER EXPLAIN THE QUESTIONS OR WORDS I USE  
8 OR PERMIT YOU TO DISCUSS, UH, ANY QUESTIONS YOU HAVE WITH  
9 YOUR A- -- WITH YOUR ATTORNEY. DO YOU UNDERSTAND?

10 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

11 OKAY, YES.

12 THE COURT: HOW OLD ARE YOU?

13 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO  
14 RESPONSE.)

15 THE COURT: HOW OLD ARE YOU, SIR?

16 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
17 THIRTY-THREE.

18 THE COURT: AND HOW FAR DID YOU GO IN SCHOOL?

19 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
20 SIX.

21 THE COURT: AND WHAT KIND OF WORK DO YOU DO?

22 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): IN  
23 CONSTRUCTION.

24 THE COURT: ARE YOU MARRIED?

25 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

(Attachment: M-7)  
(Am. P.C.R. Act. Doc. 6)

Issued on: 10/1/2017

1 YES, IN MEXICO.

2 THE COURT: ALL RIGHT. DO YOU HAVE ANY DEPENDENT  
3 CHILDREN? CHILDREN THAT ARE UNDER EIGHTEEN?

4 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I  
5 HAVE A DAUGHTER UNDER SIX YEARS OLD.

6 THE COURT: DOES YOUR DAUGHTER LIVE WITH YOUR WIFE?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
8 YES -- YES.

9 THE COURT: HAVE YOU EVER BEEN TREATED FOR ABUSE OF  
10 ALCOHOL OR DRUGS OR MENTAL ILLNESS?

11 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
12 BEFORE THIS, I HAD PROBLEMS WITH ALCOHOL AND DRUGS.

13 THE COURT: ALL RIGHT. HAVE YOU BEEN TREATED FOR THOSE?

14 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

15 THE COURT: ARE YOU UNDER THE INFLUENCE OF ANY  
16 MEDICATION, DRUGS OR ALCOHOL AT THIS TIME?

17 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
18 MEDICINE, YES -- PILLS.

19 THE COURT: UM -- DOES THE MEDICATION THAT YOU'RE TAKING  
20 AFFECT YOUR ABILITY TO UNDERSTAND WHAT YOU'RE DOING TODAY?

21 MR. MALDONADO: (INTERPRETED AND SPOKEN BY MR. HUNT):  
22 NO, I'M FINE. I UNDERSTAND EVERYTHING.

23 THE COURT: ARE YOU A- -- ARE YOU AWARE OF ANY PHYSICAL,  
24 MENTAL, EMOTIONAL, OR NERVOUS PROBLEM THAT MIGHT KEEP YOU  
25 FROM UNDERSTANDING WHAT YOU ARE DOING?

(Attachment M-8) Issued on: AUG 01 2004  
(4th PCR Act. Doc. 6)

1 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO,

2 I UNDERSTAND.

3 THE COURT: YOU HAVE HEARD YOUR ATTORNEY TELL ME THAT HE  
4 HAS EXPLAINED TO YOU THE CHARGES AGAINST YOU, THE POSSIBLE  
5 PUNISHMENTS AND YOUR CONSTITUTIONAL RIGHTS, AND THAT YOU  
6 UNDERSTAND THESE THINGS. IS THAT CORRECT?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

8 YES.

9 THE COURT: YOU ARE PLEADING GUILTY TO TWO COUNTS OF  
10 TRAFFICKING METHAMPHETAMINES BETWEEN TWENTY-EIGHT AND A  
11 HUNDRED GRAMS, SECOND OFFENSE.

12 THE MAXIMUM SENTENCE ON EACH OF THESE INDICTMENTS IS  
13 SEVEN -- UP FROM SEVEN TO THIRTY YEARS AND FIFTY THOUSAND  
14 DOLLARS.

15 IF YOU'RE SENTENCED CONSECUTIVELY ON THESE INDICTMENTS,  
16 YOU COULD BE SENTENCED TO SIXTY YEARS AND A HUNDRED THOUSAND  
17 DOLLARS. DO YOU UNDERSTAND THAT?

18 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

19 YES.

20 THE COURT: ALSO, THIS IS WHAT WE CALL GRADUATED -- OR,  
21 THESE ARE WHAT WE CALL GRADUATED OFFENSES. IN OTHER WORDS,  
22 IF YOU ARE CONVICTED OF THE SAME OR SIMILAR CRIMES IN THE  
23 FUTURE, YOUR PUNISHMENT THE NEXT TIME WILL BE GREATER BECAUSE  
24 YOU HAVE PRIOR OFFENSES.

25 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

(Attachment M-9)  
ISSUED on: AUG 01 2017  
(4th PCR Act Doc. 6)

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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.

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.

1 THE COURT: THIRD, YOU GIVE UP YOUR RIGHT TO CONFRONT  
2 AND BE CONFRONTED BY THE WITNESSES AGAINST YOU. THAT IS THE  
3 RIGHT TO SEE, HEAR, CROSS -- AND CROSS-EXAMINE ANY WITNESSES  
4 CALLED AGAINST YOU DURING A TRIAL AND TO -- AND THE RIGHT TO  
5 SUBPOENA AND CALL WITNESSES ON YOUR OWN BEHALF. DO YOU  
6 UNDERSTAND THAT?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
8 YES.

9 THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY  
10 YOU GIVE UP OR WAIVE THESE CONSTITUTIONAL RIGHTS?

11 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
12 YES.

13 THE COURT: YOU MAY HAVE DEFENSES TO THE CHARGE AGAINST  
14 YOU. DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY YOU WAIVE  
15 OR GIVE UP ANY DEFENSES YOU MAY HAVE?

16 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I  
17 UNDERSTAND.

18 THE COURT: YOU -- YOU'VE GIVEN AN INCRIMINATING  
19 STATEMENT IN THIS CASE. IF YOU PLEAD GUILTY, DO YOU  
20 UNDERSTAND YOU WILL WAIVE OR GIVE UP THE RIGHT TO CHALLENGE  
21 WHETHER OR NOT SUCH STATEMENT WAS GIVEN FREELY AND  
22 VOLUNTARILY IN ACCORDANCE WITH YOUR CONSTITUTIONAL RIGHTS?

23 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
24 YES, I UNDERSTAND.

25 THE COURT: DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY

(Attorney M-11)

GUILTY PLEA HEARING-JOSE MALDONADO  
Filed on: AUG 0 2017  
(4th PC Act. Doc. 6)

1 YOU ADMIT THE TRUTH OF THE CHARGES MADE AGAINST YOU?

2 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

3 YES.

4 THE COURT: UNDERSTANDING THEN THE NATURE OF THE CHARGES  
5 AGAINST YOU AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO YOU  
6 WISH TO PLEAD TO THIS CHARGE? GUILTY OR NOT GUILTY?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

8 GUILTY.

9 THE COURT: ARE YOU, IN FACT, GUILTY OF THE CHARGE --  
10 OR, CHARGES? EXCUSE ME.

11 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

12 YES, COMPLETELY I'M GUILTY.

13 THE COURT: ALL RIGHT. AND THOSE ARE TWO CHARGES -- TWO  
14 COUNTS -- TWO SEPARATE CHARGES.

15 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

16 UH -- TWO CHARGES? I'M NOT -- DIDN'T UNDERSTAND.

17 THE COURT: I DON'T HAVE A COPY OF THE INDICTMENTS, BUT,  
18 UM---

19 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): ARE  
20 YOU ASKING IF I'M GUILTY OF THE OTHER TWO CHARGES?

21 THE COURT: UH -- THE -- NO, I'M ASKING -- I -- I  
22 UNDERSTAND YOU'RE PLEADING GUILTY TO TWO COUNTS; COUNT ONE  
23 AND COUNT FOUR, UH, WHICH ALLEGE TWO SEPARATE OFFENSES.

24 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): OH,  
25 YES -- YES.

(Attachment = M-12) Issued on: 06/01/2017  
(After PCR Act. Doc. 6)

1 THE COURT: COUNT ONE, APPARENTLY IT OCCURRED ON -- OR,  
2 COVERS A PERIOD OF TIME FROM APRIL THE 1<sup>ST</sup> 2005 TO THE  
3 PRESENT.

4 AND COUNT FOUR COVERS A PERIOD OF TIME OF, UM, JUNE  
5 THE 26<sup>TH</sup> 2005.

6 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
7 YES -- YES, I UNDERSTAND. I'M DECLARING MYSELF GUILTY.

8 THE COURT: ALL RIGHT. SO YOU'RE PLEADING TO BOTH  
9 COUNTS; IS THAT CORRECT?

10 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
11 YES.

12 THE COURT: ALL RIGHT, YOU WANT TO TELL ME WHAT YOU DID?

13 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
14 ABOUT WHAT I DID?

15 THE COURT: RIGHT. IN OTHER WORDS, FROM THE PERIOD OF  
16 TIME OF APRIL THE 1<sup>ST</sup>, UH, TO PRESENT.

17 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
18 DURING THAT TIME, WHAT DID I DO?

19 THE COURT: YES, SIR. IT SOUNDS LIKE THAT -- THAT YOU,  
20 UH, WITH OTHER PEOPLE--

21 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
22 WHAT I DID IN THAT YEAR?

23 THE COURT: UH -- WITH -- LET'S SEE -- MR. POPE; UH,  
24 MS. RAMEREZ (PHONETIC/SIC) -- RAMIREZ; MR. ROBERTS;  
25 MR. SANCHEZ. DID YOU -- WERE YOU INVOLVED WITH THEM IN

(Attachment: M-13)

Issued on: 10/1/2017

(4th PCR Act Doc. 6)

1 ANY, UH...

2 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

3 WITH THEM, NO. IT WAS -- UH, IT WAS WITHOUT THEM.

4 I ACCEPT RESPONSIBILITY FOR WHAT I HAD.

5 THE COURT: WELL, WHAT -- LET ME ASK YOU, THE FIRST

6 CHARGE, I UNDERSTAND, IS CONSPIRACY; IS THAT RIGHT?

7 MS. PORTER: YES, SIR, YOUR HONOR. IT'S -- IT'S

8 MORE...

9 (WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR A  
10 CONFERENCE, OFF THE RECORD.)

11 (WHEREUPON, COURT RESUMED.)

12 THE COURT: ALL RIGHT. THAT YOU JOINED WITH A

13 GENTLEMAN NAMED J. J., UH, TURNER, AND, UH, OTHERS TO DEAL

14 IN, UH, METHAMPHETAMINES?

15 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

16 YES.

17 THE COURT: ALL RIGHT. AND THEN ON JUNE -- OR, ON OR

18 ABOUT JUNE THE 26<sup>TH</sup>, UM, YOU, UH, DELIVERED SOME, UH,

19 METHAMPHETAMINES -- EITHER ICE OR CRACK?

20 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

21 YES -- YES.

22 THE COURT: OKAY. DID YOU KNOW WHAT YOU DID WAS WRONG?

23 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

24 YES.

25 THE COURT: DO YOU BELIEVE YOU'D BE, UH, FOUND GUILTY IF

(Attachment: M-14) Issued on: AUG 01 2017

(4th PCR-Act. Doc. 6)

1 YOU STOOD TRIAL?

2 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I

3 THINK SO.

4 THE COURT: ALL RIGHT. IT'S MY UNDERSTANDING THAT, UH,

5 SENTENCING IS TO BE DEFERRED; IS THAT CORRECT?

6 MS. PORTER: YES, YOUR HONOR.

7 THE COURT: IS THAT WHAT YOU UNDERSTAND, MR. PRICE?

8 MR. PRICE: YES, SIR.

9 THE COURT: HAS ANYONE HELD OUT ANY HOPE OR 'REWARD, UH,  
10 TO GET YOU TO PLEAD GUILTY?

11 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

12 THE COURT: HAS ANYONE THREATENED YOU OR USED FORCE TO  
13 CAUSE YOU TO PLEAD GUILTY?

14 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

15 THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP YOUR  
16 MIND AS TO WHETHER OR NOT YOU WANT TO PLEAD GUILTY?

17 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
18 YES, I'VE HAD TIME.

19 THE COURT: HAVE YOU FULLY DISCUSSED ALL ASPECTS OF THIS  
20 CASE WITH YOUR LAWYER?

21 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
22 YES.

23 THE COURT: NEED ANY MORE TIME TO TALK TO YOUR LAWYER?

24 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

25 THE COURT: ARE YOU COMPLETELY SATISFIED WITH

1 MR. PRICE'S SERVICES AS YOUR ATTORNEY?

2 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

3 YES.

4 THE COURT: DO YOU HAVE ANY COMPLAINTS YOU WANT TO MAKE  
5 ABOUT YOUR LAWYER, THE SOLICITOR, OR ANY OF THE POLICE  
6 OFFICERS?

7 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

8 THE COURT: IN OTHER WORDS, HAS ANYONE MISTREATED YOU IN  
9 ANY WAY?

10 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): NO.

11 THE COURT: HAVE YOU UNDERSTOOD MY QUESTIONS?

12 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

13 YES.

14 THE COURT: IS THERE ANYTHING YOU'D LIKE TO ASK ME ABOUT  
15 WHAT WE'VE JUST BEEN OVER?

16 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I  
17 DON'T -- I DON'T THINK SO RIGHT NOW, BUT POSSIBLY DURING  
18 SENTENCING I'D HAVE SOME QUESTIONS.

19 THE COURT: WELL, THAT'S WHAT I'M ASKING. I'M -- I'M  
20 JUST CONCERNED ABOUT WHAT WE'VE BEEN OVER SO FAR.

21 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO  
22 RESPONSE.)

23 THE COURT: NOW, I UNDERSTAND THIS IS A SECOND OFFENSE.  
24 YOU DO UNDERSTAND THAT IF YOU'RE ON PAROLE OR PROBATION  
25 AND -- YOUR PLEADING TODAY COULD, UH, VIOLATE YOUR PROBATION

(Attachment: M-16) Issued on: 01 2017  
(4th PCR-Act. Doc. 6)

1 OR YOUR PAROLE. DO YOU UNDERSTAND THAT? THAT COULD MEAN---

2 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):

3 YES, I KNOW.

4 THE COURT: ---AND THAT COULD MEAN THAT YOU, UM, SERVE  
5 ADDITIONAL TIME. DO YOU UNDERSTAND THAT?

6 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): I  
7 UNDERSTAND.

8 THE COURT: DO YOU STILL WISH TO ENTER YOUR PLEA OF  
9 GUILTY TO EACH -- EACH COUNT?

10 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
11 YES.

12 THE COURT: ALL RIGHT. ALL RIGHT, WHAT ARE THE FACTS OF  
13 THE CASES YOU HAVE?

14 MS. PORTER: THANK YOU, YOUR HONOR. WITH, UM, REGARDS  
15 TO COUNT ONE -- A CONSPIRACY FROM APRIL OF 2005 THROUGH  
16 FEBRUARY OF 2006 -- UM, MALDONADO MET AND BEGAN DOING  
17 BUSINESS WITH J. J. TURNER SOME TIME AROUND APRIL OF 2005  
18 THROUGH ANOTHER CO-CONSPIRATOR WHO WILL, UM, PLEAD GUILTY  
19 NEXT -- LISA RAMIREZ.

20 UM -- MALDONADO HAS DELIVERED ICE TO J. J. TURNER ON NO  
21 LESS -- OR, ON LESS THAN TEN OCCASIONS. UM -- SOMEWHERE  
22 BETWEEN ZERO AND TEN TIMES. AT LEAST SIX, BUT HE'S NOT QUITE  
23 SURE..

24 ON AT LEAST SIX OF THOSE OCCASIONS THEY WERE AT J. J.'S  
25 RESIDENCE IN TRAVELERS REST IN GREENVILLE COUNTY.

(Attached to: M-17) Issued on: 11/1/2017  
(GMP CR Act Doc-6)

1 EACH TIME HE DELIVERED APPROXIMATELY FIVE POUNDS OF ICE.  
2 SO IN TOTAL, HE'S DELIVERED APPROXIMATELY THIRTY POUNDS OF  
3 ICE TO J. J. TURNER.

4 LISA RAMIREZ HELPED SET UP THE DEALS FOR MALDONADO ON AT  
5 LEAST THREE OF THOSE OCCASIONS, UM, INCLUDING THE BUY/BUST  
6 WHICH IS THE SUBJECT OF COUNT FOUR.

7 THAT OCCURRED ON JUNE 26, 2005. J. J. TURNER AGREED  
8 TO PURCHASE THE FIVE POUNDS OF ICE FROM MALDONADO. UM --  
9 LISA WAS THE GO-BETWEEN ON THE PHONE.

10 UM -- HE WOULD -- J. J. WOULD CALL LISA, SPEAK TO HER,  
11 RELAY HOW MUCH HE WANTED.

12 LISA WOULD RELAY THAT TO MALDONADO. HE THEN WOULD TELL  
13 HER THE PRICE.

14 SHE COULD THEN TELL J. J. WHAT THE PRICE WOULD BE AND  
15 WHERE TO MEET.

16 ON JUNE 26, 2005, IT WAS FIVE POUNDS FOR FIFTY-FIVE  
17 THOUSAND DOLLARS.

18 UM -- WHILE IN ROUTE TO THE FIRST LOCATION, UM, LISA  
19 CALLED J. J. AND CHANGED IT TO A CAR WASH ON CEDAR LANE IN  
20 GREENVILLE. UM, THE CITY OF GREENVILLE, GREENVILLE COUNTY.

21 UM -- J. J. DROVE THERE AT APPROXIMATELY TEN A.M.,  
22 MALDONADO ARRIVED IN A GREEN HONDA. UM -- J. J. APPROACHED  
23 HIS CAR AND MALDONADO HANDED OVER A CONTAINER WITH THE FIVE  
24 POUNDS OF ICE.

25 UM -- THERE WAS AN UNDERCOVER OFFICER THAT ACCOMPANIED

(Attorney's M-18) issued on: AUG 01 2017  
(4th P.C. Act- Doc-6)

1 J. J. DURING THAT TRANSACTION.

2 UM -- AT THAT TIME, THE OFFICER GAVE A SIGNAL AND LAW  
3 ENFORCEMENT APPREHENDED MALDONADO.

4 IT WAS TWO THOUSAND, TWO HUNDRED AND ONE GRAMS OF  
5 METHAMPHETAMINE.

6 UM -- THE CONSPIRACY IS CORROBORATED BY THIS PARTICULAR  
7 SUBSTANTIVE OFFENSE, THE DEFENDANT'S OWN CONFESSION, UM,  
8 ANOTHER CO-CONSPIRATOR AND THE RECORDED CONVERSATIONS SETTING  
9 UP THE DEAL.

10 HE DOES HAVE A PRIOR RECORD, YOUR HONOR. UM -- DO YOU  
11 WANT JUST THE DRUG OFFENSES?

12 THE COURT: UH -- NO. LET ME FIRST OF ALL FIND OUT, UH,  
13 DO YOU AGREE WITH THE FACTS AS STATED BY THE, UH, ATTORNEY  
14 GENERAL? AS TO BOTH OF THESE, UH, EVENTS?

15 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
16 YES.

17 MS. PORTER: DO YOU JUST WANT THE DRUG OFFENSES,  
18 YOUR HONOR?

19 THE COURT: UH -- JUST -- JUST GIVE ME A -- A LITTLE,  
20 UM, IDEA AS TO THE EXTENT AND THE NATURE OF OFFENSES.

21 MS. PORTER: HE -- HE'S CURRENTLY SERVING A SEVEN-YEAR  
22 SENTENCE FOR TRAFFICKING COCAINE FROM HERE IN GREENVILLE  
23 COUNTY, YOUR HONOR.

24 UM -- I THINK HE ALSO HAS A -- I -- I BELIEVE IT'S A  
25 CHARGE FROM KANSAS. UM -- IN- -- INVOLVING A POSSESSION OF,

(Hatchery: M-19) Issued on: AUG 2017  
(4th PER. Act. Doc. 6)

1 UM, STEROIDS, I BELIEVE. UM -- AND IT LOOKS LIKE HE GOT TIME  
2 SERVED.

3 THE COURT: ALL RIGHT. DOES THAT SOUND LIKE YOUR RECORD  
4 PRETTY MUCH?

5 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT): (NO  
6 RESPONSE.)

7 THE COURT: IS THAT GENERALLY YOUR RECORD? ARE YOU  
8 SERVING TIME NOW FOR, UM, TRAFFICKING COCAINE?

9 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
10 YES.

11 THE COURT: ALL RIGHT. AND YOU HAVE SOME SORT OF, UM,  
12 CHARGES OR, UM -- UH, SENTENCE FROM KANSAS TO DO WITH  
13 STEROIDS?

14 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
15 YES, SIR.

16 THE COURT: OKAY, THEN I -- I'LL JUST CONSIDER THE  
17 PRIOR, UM, OFFENSES THEN, SIR.

18 ALL RIGHT, HAS EACH AND EVERY ANSWER YOU'VE GIVEN THE  
19 COURT TODAY BEEN ABSOLUTELY TRUTHFUL?

20 MR. MALDONADO (INTERPRETED AND SPOKEN BY MR. HUNT):  
21 YES.

22 THE COURT: ALL RIGHT. I FIND THAT THERE IS A  
23 SUBSTANTIAL FACTUAL BASIS FOR THIS PLEA.

24 I FIND THAT TO BOTH INDICTMENTS -- OR, BOTH COUNTS OF  
25 THE INDICTMENT.

1 I FIND THE DEFENDANT'S DECISION TO PLEAD GUILTY IS  
2 FREELY, VOLUNTARILY, KNOWINGLY, AND INTELLIGENTLY MADE.

3 I FIND THAT THE DEFENDANT HAS HAD THE ADVICE AND COUNSEL  
4 OF AN ATTORNEY WITH WHOM THE DEFENDANT SAYS HE IS SATISFIED.

5 THE DEFENDANT'S PLEA OF GUILTY TO EACH -- EACH COUNT OF  
6 THE INDICTMENT IS ACCEPTED.

7 COMES NOW THE DEFENDANT, JOSE ALBERTO MALDONADO, WHO IN  
8 OPEN COURT, IN HIS OWN PROPER PERSON, PLEADS GUILTY TO  
9 INDICTMENT NUMBER 2005-GS-47-26, COUNT ONE AND COUNT FOUR AND  
10 SUBMITS TO THE SENTENCE OF THE COURT.

11 I ALSO UNDERSTAND THE SENTENCE OF THE -- THE SENTENCE IS  
12 TO BE DEFERRED.

13 MS. PORTER: THANK YOU, YOUR HONOR.

14 THE COURT: VERY GOOD. GOOD LUCK TO YOU, SIR.

15 (WHEREUPON, HEARING ENDED.)

16 \*\*\*\*\*END OF REQUESTED TRANSCRIPT\*\*\*\*\*  
17

18 ( Attachment: M-20 )  
19 issued on: AUG 01 2017  
20 (4th PCR Act Doc. 6)  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

CERTIFICATE OF REPORTER

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 22<sup>ND</sup> 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

STATE OF SOUTH  
CAROLINA  
  
STATE GRAND JURY  
COUNTY OF GREENVILLE

) IN THE COURT OF GENERAL  
) SESSIONS  
) STATE GRAND JURY  
)  
) INDICTMENT NO: 2005-GS-47-26  
) COUNT 1 AND COUNT 4  
) (STATE GRAND JURY)  
) AND  
) 2003-GS-23-4547 (GREENVILLE)

STATE OF SOUTH  
CAROLINA

**ORIGINAL**

PLAINTIFF,

-VS-

JOSE MALDONADO,

DEFENDANT.

)  
)  
)  
) 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

ROBIN SUE HILD, FCRR, RPR  
CIRCUIT COURT REPORTER  
POST OFFICE BOX 9  
WALHALLA, SC 29691

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

(Attachments: N-1 through N-12)

(Attachment: N-2)  
 Issued on: AUG 01 2017  
 (4th PCR Act. Doc. 6)

## INDEX

WITNESSES

PAGE

NO WITNESSES WERE CALLED.

SENTENCE OF THE COURT

10

CERTIFICATE OF COURT REPORTER

12

## EXHIBITS

| NO.                          | DESCRIPTION | ID. | EV. |
|------------------------------|-------------|-----|-----|
| NO EXHIBITS WERE INTRODUCED. |             |     |     |

Issued on: AUG 01 2017  
(Attachment: N-3) (Am 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:)

**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?

(Attachment: N-4) Issued on: AUG 01 2017  
MR. PRICE: YES, SIR. (4th PCH Act - Doc. 6) AUG 01 2017

1  
2 THE COURT: DO YOU REMEMBER THE DATE OF THAT  
3 PLEA?

4 MR. PRICE: I DO NOT, BUT I THINK ---

5 MR. PAULING: YOUR HONOR, I BELIEVE IT WAS  
6 AUGUST 22ND OF 2006.

7 THE COURT: MR. MALDONADO, YOU ENTERED A  
8 PLEA OF GUILTY TO INDICTMENTS 2005-GS-47-26, COUNT 1,  
9 TRAFFICKING METHAMPHETAMINE, 28 TO A HUNDRED GRAMS,  
10 SECOND OFFENSE; AND COUNT 4, TRAFFICKING  
11 METHAMPHETAMINE, 28 TO A HUNDRED GRAMS, SECOND OFFENSE.

12 THE MINIMUM SENTENCE ON EACH OF THOSE  
13 CHARGES IS SEVEN YEARS AND THE MAXIMUM IS 30 YEARS AND A  
14 \$50,000.00 FINE. YOU COULD BE SENTENCED TO A TOTAL OF  
15 14 YEARS MINIMUM AND 60 YEARS MAXIMUM AND A  
16 HUNDRED-THOUSAND-DOLLAR FINE. DO YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES.

18 THE COURT: NOW, HAVE YOU DISCUSSED YOUR  
19 SENTENCING FOLLOWING YOUR PLEA WITH YOUR ATTORNEY?

20 THE DEFENDANT: YES.

21 THE COURT: DO YOU NEED ANY MORE TIME TO  
22 TALK TO YOUR LAWYER?

23 THE DEFENDANT: NO, (SPEAKS IN SPANISH).

24 THE INTERPRETER: NO, I'M CONSCIOUS OF IT.

25 THE COURT: PARDON?

(Attachment: N-5) issued on: AUG 01 2017  
(4th PCR Act, Doc: 6)

1 THE INTERPRETER: NO, I'M CONSCIOUS OF IT.

2 THE COURT: VERY GOOD.

3 ARE YOU SATISFIED, COMPLETELY SATISFIED WITH  
4 MR. PRICE'S SERVICES AS YOUR ATTORNEY?

5 THE DEFENDANT: YES.

6 THE COURT: ALL RIGHT. MR. PAULING, WHAT

7 WAS THE, IF ANY, RECOMMENDATION IN THE CASE?

8 MR. PAULING: YOUR HONOR, THE STATE'S  
9 RECOMMENDATION IS 20 YEARS TO RUN CONCURRENT.

10 THE COURT: ON BOTH CHARGES?

11 MR. PAULING: THAT'S CORRECT, YOUR HONOR.

12 THE DEFENDANT: YES.

13 THE COURT: IS THAT WHAT YOU UNDERSTAND,  
14 MR. PRICE?

15 MR. PRICE: YES, SIR. TO RUN CONCURRENT AND  
16 ALSO WITH CREDIT FOR THE SENTENCE THAT HE IS SERVING  
17 NOW. I HAVE A COPY OF THE SENTENCE.

18 THE COURT: ALL RIGHT. SO IT WILL BE  
19 BACKDATED?

20 MR. PRICE: YES, SIR. THAT'S THE SENTENCING  
21 SHEET NOVEMBER 29TH, CREDIT FOR 115 DAYS.

22 MR. PAULING: THAT'S CORRECT, YOUR HONOR.

23 THE COURT: LET ME SEE THAT.

24 MR. PRICE: YOUR HONOR, HE PLED GUILTY ON  
25 NOVEMBER 29TH, '05, RECEIVED A SEVEN-YEAR SENTENCE WITH

1 CREDIT FOR 115 DAYS SERVED.

Issued on: AUG 01 2017 (4th PCR Act Doc 6)  
(Attachment: N-6)

2 THE COURT: ALL RIGHT. AT THAT TIME HE  
3 RECEIVED 115 DAYS?

4 MR. PRICE: YES, SIR.

5 THE COURT: SO DOES ANYBODY ---

6 MR. PRICE: I JUST GOT NOTICE OF THE PLEA  
7 AND I GOT IT THIS MORNING. I CAN CERTAINLY GET A  
8 CALENDAR BEFORE I LEAVE HERE TODAY.

9 THE COURT: WELL... SO I UNDERSTAND THE  
10 RECOMMENDED SENTENCE IS 20 YEARS CONCURRENT ON BOTH  
11 CHARGES, TO RUN CONCURRENT WITH THE SENTENCE ON  
12 2003-GS-23-4547, DATED NOVEMBER THE 29TH, 2005,  
13 COMMENCING 115 DAYS PRIOR TO THAT DATE?

14 MR. PRICE: YES, SIR, THAT'S CORRECT.

15 MR. PAULING: THAT'S CORRECT, YOUR HONOR.

16 THE COURT: IS THAT WHAT YOU UNDERSTAND,  
17 MR. MALDONADO?

18 THE DEFENDANT: YES.

19 THE COURT: ALL RIGHT. I FIND THAT THE PLEA  
20 HAS BEEN FREELY, VOLUNTARILY, KNOWINGLY AND  
21 INTELLIGENTLY ENTERED PRIOR, ON AUGUST THE 22ND, 2006,  
22 WITH ADVICE OF COUNSEL, AND THAT IN DOING SO, THE  
23 DEFENDANT UNDERSTOOD WHAT THE SENTENCE WOULD BE.

24 ALL RIGHT. MR. PAULING, WHAT DO YOU HAVE ON  
25 BEHALF OF THE STATE?

(Attachment: N-7) Issued on: AUG 01 2017  
(9th PCR Act Doc 6)

1 MR. PAULING: YOUR HONOR, I BELIEVE THE  
2 FACTS HAVE BEEN PRESENTED TO THE COURT PREVIOUSLY.

3 THE COURT: NO, I MEAN, IS THERE ANYTHING  
4 OTHER THAN YOUR RECOMMENDED SENTENCE?

5 MR. PAULING: OTHER THAN, NO, YOUR HONOR.

6 THE COURT: ALL RIGHT. MR. PRICE, WHAT DO  
7 YOU HAVE TO SAY ON BEHALF OF MR. MALDONADO?

8 MR. PRICE: YOUR HONOR, MR. MALDONADO IS 33  
9 YEARS OLD, HE HAS A CHILD IN MEXICO. HE HAS NO CHILDREN  
10 HERE, ALTHOUGH HE DOES HAVE A SISTER AND FAMILY LEGALLY  
11 IN CALIFORNIA WHO ARE VERY INTERESTED IN HIM AND ARE  
12 VERY CONCERNED ABOUT HIM.

13 ALL THAT I CAN SAY IS, NUMBER ONE,  
14 MR. MALDONADO AGREED TO COOPERATE WITH THE STATE;  
15 UNFORTUNATELY, I THINK IT'S SAFE TO SAY EVERYBODY ABOVE  
16 HIM AND BELOW HIM WAS ALSO COOPERATING AND THERE WASN'T  
17 MUCH THAT HE COULD DO.

18 THE COURT: NOVEMBER THE 29TH IS THE 333RD  
19 DAY AND 115 ---

20 MR. PRICE: 115, YES, SIR.

21 THE COURT: THAT'S 333 FROM 333. IT LOOKS  
22 LIKE AUGUST THE 6TH.

23 MR. PRICE: SOUNDS GOOD.

24 THE COURT: SO THE COMMENCEMENT WOULD BE  
25 AUGUST THE 6TH OF '05. ALL RIGHT. ANYTHING ELSE?

(Attachment N-8) Issued on: AUG 01 2017  
(4th PCR Act. Doc 6)

1 MR. PRICE: YES, SIR. OTHER -- HE DID AGREE  
2 TO COOPERATE IF NECESSARY; BUT UNFORTUNATELY, THEY DID  
3 NOT NEED HIM. MR. MALDONADO TELLS ME THAT HE JUST DID  
4 NOT HAVE A REALIZATION OR KNOWLEDGE THAT HE COULD GET IN  
5 AS MUCH TROUBLE AS HE GOT INTO BY FOOLING WITH DRUGS.

6 SO HE'S APOLOGETIC, HE'S REMORSEFUL, AND HE  
7 DOES WANT TO ADDRESS THE COURT. HE HAS ASKED ME TO ASK  
8 THAT YOU CONSIDER GIVING HIM A SENTENCE OF LESS THAN 20  
9 YEARS; IF YOU WOULD CONSIDER 15, HE WOULD BE MOST  
10 APPRECIATIVE. I DON'T THINK THAT THERE IS ANY DOUBT  
11 THAT HE WILL BE DEPORTED WHENEVER HE FINISHES HIS  
12 SENTENCE.

13 MR. MALDONADO, WHAT DO YOU WANT TO TELL THE  
14 COURT?

15 THE DEFENDANT: (SPEAKS IN SPANISH).

16 THE INTERPRETER: THAT IF YOU COULD FORGIVE  
17 ME, I DIDN'T KNOW HOW SERIOUS IT WAS, THOSE TYPES OF  
18 DRUGS. THEY GAVE IT TO ME, THEY GAVE IT TO ME IN MY  
19 HANDS, AND ASKED ME TO DELIVER IT TO THAT PERSON.

20 THE DEFENDANT: (SPEAKS IN SPANISH).

21 THE INTERPRETER: MAYBE I WAS USED BY THEM.  
22 I WAS CONFUSED. AND I JUST ASK FOR FORGIVENESS.

23 THE DEFENDANT: (SPEAKS IN SPANISH).

24 THE INTERPRETER: JUST PLEASE CONSIDER  
25 THAT'S -- THAT'S GONNA BE HALF OF MY LIFE, AND IT'S A

(Attachment: N-9) Issued on: AUG 01 2017  
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.

**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?

(Attachment: N-10) ~~FILED ON: AUG 01, 2017~~ (AM PCR Act Doc. 6) (i)

1 THE DEFENDANT: (SPEAKS IN SPANISH).

2 THE INTERPRETER: WHAT'S THE EXACT LENGTH OF  
3 MY SENTENCE?

4 MR. PRICE: HE HASN'T DONE IT YET. IS THERE  
5 ANYTHING ---

6 THE COURT: IS THERE ANYTHING ELSE YOU WANT  
7 TO SAY BEFORE I DO IMPOSE THE SENTENCE?

8 THE DEFENDANT: (SPEAKS IN SPANISH).

9 THE INTERPRETER: FRANKLY, I'M VERY NERVOUS  
10 AND SCARED AND DON'T REALLY KNOW WHAT TO THINK.

11 THE DEFENDANT: (SPEAKS IN SPANISH).

12 THE INTERPRETER: WHATEVER THE JUDGE  
13 DECIDES.

14 THE COURT: VERY WELL.

15  
16 SENTENCE OF THE COURT:

17  
18 THE STATE OF SOUTH CAROLINA VERSUS JOSE  
19 ALBERTO MALDONADO, 2005-GS-47-26, COUNT 1, THE SENTENCE  
20 OF THE COURT IS THAT THE DEFENDANT BE COMMITTED TO THE  
21 STATE DEPARTMENT OF CORRECTIONS FOR A TERM OF 20 YEARS,  
22 PLUS PAY THE COSTS AND ASSESSMENTS AS APPLICABLE.

23 ON COUNT 4 IT'S THE SENTENCE OF THE COURT  
24 THAT THE DEFENDANT BE COMMITTED TO THE STATE DEPARTMENT  
25 OF CORRECTIONS FOR A PERIOD OF 20 YEARS, PLUS PAY THE

ISSUED ON: AUG 01 2007  
(4th PCR. Act. Doc. 6) (Attachment: N-11)  
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 \*\*\*\*\*

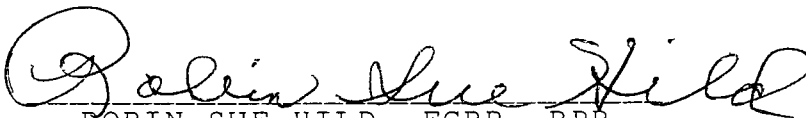
(Attachment: N-12) Issued on: AUG 01 2017  
(Per Act. Doc. 6)

**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.

JUNE 9, 2008



ROBIN SUE HILD, FCRR, RPR  
CIRCUIT COURT REPORTER

Issued on: AUG 01 2017

CRIM. PROC. ACT. DOC. 6

(Attachments: 0-1 through 0-4) Exhibit (0)(1)

§ 44-53-375.

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.

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.

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

(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) Issued on: AUG 01 2017  
(file PCR. Act. Doc. 6)

(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:

(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: 0-3) Issued on:

(44-53-375, 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:

(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

(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: 0-4)  
Issued on: AUG 01 2017  
(8th PCR Act. Doc. 6)

PRICE, PASCHAL & ASHMORE, 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 \*  
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

Jose Alberto Maldonado #00312648  
Perry Correctional Facility  
430 Oaklawn Road  
Pelzer, SC 29669

(Attachments: P-1)  
Issued on: AUG 01 2017  
(4th PCR Act Doc-6)

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.

2

Jose Alberto Maldonado #00312648  
Perry Correctional Facility  
July 28, 2006  
Page 2

(Attachment: P-2)  
Issued on: AUG 01 2017  
(w/ PCO. Act. Doc. 6)

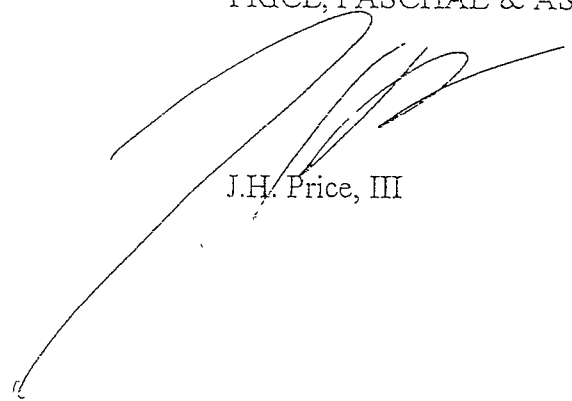
3. If Lisa goes to trial would you be willing to testify against her? The government does not believe that you told them all the truth about her. I want you to know that Lisa is dumping on you – she is telling the government that you were the main supplier picking up the dope from Atlanta and bringing 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,

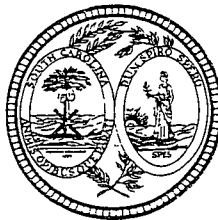
PRICE, PASCHAL & ASHMORE, P.A.



J.H. Price, III

JHP/jmf

cc: Bella Medina



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)  
Issued on: AUG 01 2017  
(4th PCR Act Dec. 6)

Re: Jose Alberto Maldonado  
2005-GS-47-26 Count I  
2005-GS-47-26 Count IV

Trafficking Methamphetamine > 400 grams (Conspiracy)  
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.

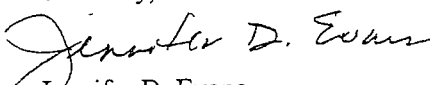
Under the proposed plea agreement, Mr. Guevara would be facing seven (7) to thirty (30) years on each of the Trafficking Methamphetamine 28 - 100 grams charges. The State is only recommending twenty (20) years, the Judge has discretion and is not bound to accept the recommendation. The Judge could go 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.

Sincerely,

  
Jennifer D. Evans  
Chief, State Grand Jury

JOSE A. V. STATE SOUTH CAROLINA  
PLAINTIFF.

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 subsequent 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)  
Issued on: AUG 01 2017  
(4th PGR Act. Doc. 6)

Respectfully Submitted

IS/ Jose A. Maldonado  
Jose A. Maldonado.

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF GREENVILLE

CASE NO: 2015CP2304757

IN THE COURT OF COMMON PLEAS

Issued on: AUG 01 2017  
(4th PCR Act - Doc. 6)  
(Attachments: Q-)

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 21<sup>st</sup> Day of July 2017 .

Court Reporter

**PRESIDING JUDGE - Perry H Gravely**

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

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Jose Alberto Maldonado, #312648,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

2015-CP-23-04757

**FINAL ORDER OF DISMISSAL**

(Attachment: G-1 through G-3)  
Issued on: AUG 01 2017  
(File PCR Act. Doc. 6)

2017 JUL 21 AM 10:10  
FILED CLERK OF COURT  
PUBLIC WORKS  
GREENVILLE

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.

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). SCRCF: As Law Sanction," "Affidavit of Truth," "Objection to Motions of Return and Response to Motion of

*[Handwritten signature]*

Issued on: AUG 01 2017  
(4th PCR Act. Doc. 6)  
(Attachment: CQ-2)

Dismissal/An A Conditional Order of Dismissal,” and a litany of attachments from Applicant’s 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);

*PLR*

Issued on: AUG 01 2017  
(4th PCR. Act. Doc. 6)  
(Attachment: G-3)

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.

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.

Perry H. Gravely  
PERRY H. GRAVELY  
Presiding Judge  
Thirteenth Judicial Circuit

Greenville, South Carolina.