

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

FEB 01 2019

SC Court of Appeals

Appeal from Edgefield County  
Honorable Diane Schaffer Gaudstein, Circuit Court Judge

THE STATE

Appellee - Respondent

VS

STEVEN LOUIS BARNES

Appellant - Petitioner

Appellate Case No. 2017-002140

MOTION TO STAY AND ABEYANCE UNTIL MOTION TO RELIEVE APPELLATE COUNSEL ON THIS APPEAL IS HEARD AND/OR TO REMAND THE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL TO THE POST CONVICTION RELIEF STAGE FOR AN EVIDENTIARY HEARING

The petitioner challenges the constitutionality of the South Carolina Appellate Court Rules of procedures as unconstitutional as applied to the petitioner and/or on its face, because the statute doesn't provide the petitioner a remedy or direct review in order to challenge ineffective assistance of appellate counsel while direct review is still pending such as in the petitioner case. Furthermore, Rule 71.1 (b) of the South Carolina Civil Rules of procedure is also

Unconstitutional as applied to the petitioner, and for on its face, because the Statute places unconstitutional conditions on the petitioner to give up his fundamental rights to access to the courts and to petition the government on direct appeal for raising his underlying federal causes of actions of ineffective assistance of Appellate Counsel on post conviction relief (PCR) where South Carolina mandates the latter claims to be raised at, see *Dolan City of Tigard* 512 US 374 (1994) (Requiring that courts determine whether an essential nexus exist between the legitimate state interest and the conditions imposed by the government)

Rule 71.1 (B) Reads in pertinent parts:

"An application for post conviction relief cannot be made while an appeal from the conviction or sentence is pending or during the time in which an appeal may be perfected . . ."

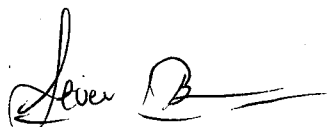
→ This Court must provide the petitioner an Evidentiary Hearing either in this Court or the lower trial courts or on PCR. *Stevenson v Washington*

mandates a Evidentiary Hearing in order for this Court to determine whether or not appellate Counsel on this appeal is ineffective for not raising substantial underlying objected to and ruled on by the trial judge federal causes of action in this Court. This Court as a matter of due process of law must have an Evidentiary Record in front of in order to make factual determination whether or not appellate Counsel or the petitioner is right on this appeal. See *Lasalle Bank Nat'l Ass'n v Davidson* 686 S.E.2d 121 (2009) (Due process of law requires that a person shall have a reasonable opportunity to be heard before a legally appointed and qualified impartial tribunal before any binding decree, order, or judgment can be made affecting his rights to life, liberty, and property)

furthermore, the petitioner leave reference to and incorporate the facts in his motion to Relieve Counsel or ineffective assistance of appellate Counsel Katherine H. Hudgins in this motion in order to prove the importance of why this Court should grant this motion.

WHEREFORE, the petitioner prays that this Court grant this motion and/or such other Relief this Court seems just and proper.

Date: 1/27/19

  
STEVEN LOUIS BARNES #327117  
McCORMACK CT  
386 Redemption way  
McCORMACK SC

STATE of SOUTH CAROLINA  
IN THE COURT of APPEALS

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SC Court of Appeals

Appeal from Edgefield County  
Honorable Diane Schafer Goodstein, Circuit Court Judge

THE STATE

Appellee - Respondent

VS

STEVEN LOUIS BARNES

Appellant - Petitioner

Appellate Case No. 2017-002140

MOTION for AN EVIDENTIARY HEARING REGARDING MOTION TO  
RELIEVE Appellate Counsel, KATHRINE H HUDGINS, ON INEFFECTIVE  
ASSISTANCE of Counsel ON DIRECT APPEAL

Traditionally, when this Court hears a motion to relieve Counsel no evidentiary hearing is required; in particular, prose prisoners / criminal defendants cases. This is unconstitutional under both this state and this great Country Constitution, in particular, the due process clause. see Moore v Moore 657 S.E.2d 743 (SC 2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses); Channel Outcast v City of Myrtle Beach 642 S.E.2d 565, 567 (2007); SC Art I § 5; 14th Amendment of the United States Constitution; Bundy v Shirley 772 S.E.2d 163 (SC 2015)

for example, in Barnes vs SCSC Appellate Case # 2018-001253 this Court denied both a Motion to Relieve Counsel and a Ineffective Assistance of Counsel motion without any Evidentiary Hearing as required by due process of law. furthermore, this Court had forced Court appointed Counsel on Appeal of the petitioner Administrative Court proceedings without giving the petitioner a right to self representation on appeal. see e.g. United States v Gallop 836 f.2d 105, 109 (4th Cir 1988) ( finding that once the Court has appropriately determined that a substitution of Counsel is not warranted the Court can assist that the defendant choose between continuing representation with his existing Counsel or appearing pro-se )

### RELIEF

Because of the State of South Carolina Continuous interferences with the effectiveness of appointed Counsel advancing the petitioner federal Causes of Action in State Courts, the petitioner is specifically asking this Court to grant him an Evidentiary Hearing of some kind in order to prove the ineffectiveness of Appellate Counsel. This Court in making any decisions without an Evidentiary factual Record is an arbitrary decision making by this Court. see Carey v Piphus 435 US-247, 259-262, 266-267 (1978) ( The due process entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This Requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decision making process ) ( quoted from Marshall v

Jearlo, Inc. 446 us 238 (1980); Silvester v Spring Valley Country Club 543 S.E.2d 563 (Cl App. 2001); patel v patel 599 S.E.2d 117 (2004) (A judge impartiality might reasonably be questioned when his factual findings are not supported by the record)

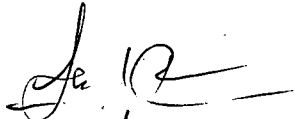
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### CONCLUSION

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WHEREFORE, the petitioner pray that this court grant this motion and/or such other and further relief this court seems just and proper.

Date: 1/27/19

  
STEVEN LOUIS BARNER #327117  
McCORMICK C-I  
386 Redemption way  
McCORMICK S.C

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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FEB 01 2019

SC Court of Appeals

Appeal from Edgefield County  
Honorable Diane Schafer Woodstein, Circuit Court Judge

THE STATE

Appellee - Respondent

v

STEVEN LOUIS BARNES

Appellant - Petitioner

Appellate Case No. 2017-002140

MOTION TO RELIEVE Appellate Counsel, KATHRINE H HUDGINS, ON THE  
GRANDS OF INEFFECTIVE ASSISTANCE OF COUNSEL ON DIRECT APPEAL

This Court has the legal authority to relieve the petitioner Appellate Counsel, Kathrine H. Hudgins, on the grounds of ineffective assistance of Counsel, only after an Evidentiary Hearing, see *Strickland v Washington* 466 US 668 (1984); *Miller v State* 697 S.E.2d 527 (2010) (since there is no right to hybrid representation that is partially pro se and partially by Counsel, substantive documents with the exception of motion to relieve Counsel, filed pro se by a person represented by Counsel are not to be accepted unless submitted by Counsel) so the petitioner can show easily state interference with Counsel on appeal or direct review. See *Weatherford v Bursey* 429 US 545 (1977); *U.S. v Stringer*

535 f. 929 (2008) ( A claim of government interference with the attorney-client relationship has three elements: (1) the government was objectively aware of an ongoing personal attorney-client relationship; (2) the government deliberately intruded into that relationship; and (3) as a result, the defendant suffered actual and substantial prejudice )

The petitioner base this motion on both the background facts and the facts section below in proving state interference with the petitioner appellate counsel on direct review - and these facts should be sufficient for this court to see that a remand to either the lower courts or the post conviction relief courts for an evidentiary hearing in order to show appellate counsel ineffectiveness on direct appeal. Lastly, assuming arguendo, that this court will request the petitioner to dismiss his appeal before the petitioner have a post conviction relief (pcr) hearing on appellate counsel ineffectiveness on direct appeal, an evidentiary hearing should be ordered by this court as well so the petitioner can object on record that this court is placing unconstitutional conditions on the petitioner constitutional rights.

### BACKGROUND FACTS

On 11/28/16 the petitioner had filed both a writ of mandamus and writ of Habeas Corpus to the South Carolina Court of appeals because of various state interferences with the petitioner ongoing litigations in court, in which the petitioner will outline in details below. (See RON I ) on 12/16/16, the state supreme court had denied both the petitioner writs of mandamus.

and writ of Habeas Corpus. On March 16, 2017, the petitioner had filed a writ of certiorari to the United States Supreme Court regarding the various state interferences in the petitioner pending litigations in the South Carolina state courts. On May 23, 2017, the United States Supreme Court had requested the South Carolina Attorney General to file briefs regarding the petitioner writ of certiorari. See (Roa 2). On June 21, 2017, the attorney general had filed a brief regarding the petitioner writ of certiorari. See (Roa 3). In the attorney general brief, the attorney general had manipulated the United States Supreme Court in believing that the state of South Carolina officials, Judge William P. Heasley, Judge Diane S. Goodstein, John Doe Judge of Richland County Court House, and so on were not interfering in the petitioner pending litigations in state courts. See (Roa 3); for example, the petitioner suit against the office of indigent defense, the court will not hear the petitioner *in forma pauperis* and *habeas ad litem* motions. This is pending in this court on appeal. See *Barnes v Ryan* Appellate Case no. 2018-001970. Furthermore, the state of South Carolina is still intentionally interfering with the petitioner pending post conviction relief. The petitioner leave reference to and incorporate the facts and arguments in the petitioner motion to challenge the constitutionality of the post conviction relief statute as unconstitutional for not having a remedy in order for the petitioner to challenge the ineffectiveness of pro counsel, in which is attached to this motion for relief; and then the petitioner pending lawsuit against court reporter, Carol M. Thueme, and the South Carolina Administrative Office, see *Barnes v Thueme* (in the United States District Court of South Carolina) federal docket # 5:13-cv-2349-RMG, in which the state courts of South Carolina will not process

see (Roa 1, 3) Then lastly, the safekeeper issue that is still pending on this appeal as the petitioner will described in details below. see (Roa 12)

In the attorney General brief to the United States Supreme Court, the attorney General had argued hybrid representation regarding the petitioner law suit against Court Reporter Thuermer. Although the attorney General had manipulated the United States Supreme Court, and although the petitioner writ of certiorari had set in the United States Supreme Court from March 16, 2017 to October 2, 2017 until the Court denied the writ, the State of South Carolina in general as the petitioner will described below had proved up the doctrine of hybrid representation to again intentionally deny the petitioner access to the Courts, although the law of South Carolina grants the petitioner to proceed in an action, for example, when either a motion for ineffectiveness of counsel is filed or motion to relieve counsel is filed in the state courts of South Carolina - whether or not a civil or criminal case

## DENIAL 1 - ABUSE OF HYBRID REPRESENTATION

While the petitioner writ of certiorari was pending in the United States Supreme Court, on September 28, 2017, the petitioner had filed an one hundred page initial brief regarding the safekeeper issues in the contested hearing of the Administrative Law Court in both this Court and the state supreme Court. see (Roa 4) This Court had sent the petitioner a letter informing the petitioner that the Court can not file the petitioner brief because of hybrid representation - see (Roa 4) The petitioner one hundred page brief had consisted of on and about twenty-five (25)

ineffective assistance of both Administrative law Court Counsel and appellate Counsel who both had represented the petitioner in his criminal cases, see (ROA 4) Because of the conspiracy between the Court of Appeals Clerk, South Carolina Department of Corrections lawyers, and the petitioner former appellate counsels, see (ROA 5) the petitioner had filed his first writ of mandamus against those officials on the grounds they were denying the petitioner via conspiracy of federal cause of action, and among other grounds. see (ROA 6) on November 22, 2017, the South Carolina supreme Court had denied the petitioner writ of mandamus on the grounds of hybrid Representation when the petitioner had showed a clear sign of conspiracy by the above officials that was prejudicial to the petitioner (ROA 7) on December 15, 2017, the South Carolina supreme Court had denied the petitioner motion to reconsider his writ of mandamus on hybrid Representation grounds; However, the Court stated in part:

"petitioner is reminded that the only motion that he can file related to this matter is a motion to relieve Counsel. As long as he is represented by Counsel in this matter, any motion or other document seeking relief above and beyond the relief of Counsel will not be accepted by either this Court or the Court of Appeals."

see (ROA 8)

On December 21, 2017, the Court of Appeals had denied the petitioner motion to relieve Counsel / ineffectiveness of Counsel's motion. see (ROA 9) The petitioner then filed a timely motion to Reconsider the petitioner motion to relieve / ineffectiveness of Counsel motion. On January 12, 2018, the Court of Appeals clerk had denied the petitioner motion for Reconsider and Rehearing En Banc on the grounds of hybrid Representation. see (ROA 10) on the same day the

petitioner on January 26, 2018 had filed in both the Court of Appeals and the Supreme Court a second writ of Habeas corpus against the South Carolina Court of Appeals and a Motion to Recall the Remittitur there. sua sponte the Court of Appeals recalled the Remittitur and heard the petitioner motion for reconsideration but the motion was subsequently denied by the Court. see (Roa 11)

On October 9, 2017, the petitioner had a pretrial speedy trial motion in front of Judge Diana S Goodstein. The petitioner had tried to talk at the hearing regarding both his Interstate Agreement of Detainers (IAD) Act and the grounds that were missing in trial counsel speedy trial motion that the Court should hear. Judge Goodstein had refused to let the petitioner speak on the grounds of hybrid representation despite the fact the petitioner raised in the trial Court ineffectiveness of trial counsel, see *State v Carpenter* 286 S.E.2d 384 (1982) (Appellant's sole ground for appeal is ineffective assistance of counsel at trial. This Court usually will not consider that issue on appeal from a conviction. We follow the principal particularly when, as here, the issues were not argued to the trial judge); *State v Williams* 223 S.E.2d 38 (1976); *State v Felder*, 351 S.E.2d 852 (SC 1986) (It is a well established rule of appellate practice that ... questions neither presented to nor passed upon by the trial Court cannot be raised for the first time on appeal), and the petitioner raised motion to Relieve Counsel, see *Miller v State* 697 S.E.2d 527 (2010) (since there is no right to hybrid representation that is partially pro se and partially by counsel, substantive documents, with the exception of motions to Relieve Counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel). see (Roa 12)

On post conviction relief (PCR) the petitioner had repeatedly asked for an Evidentiary Hearing before the petitioner PCR because of state of South Carolina interferences with Counsel. The petitioner had requested the PCR Judge, William P. Hensley to relieve PCR Counsel to the extent of the petitioner putting up evidence at the hearing so the petitioner can show why the Court should appoint outside Counsel such as the NAACP because of the state interference in the petitioner case. Judge Hensley denied those motions. The petitioner then filed both a Rule 59(c) and Rule 52(b) of the South Carolina Civil Rules of procedure regarding the motion to relieve. These motions were denied by the judge on the grounds:

"as you mention in your letter that you want to relieve Counsel based on your ongoing position that no one should be appointed who has a connection to state government or the Commission on Indigent Defense. I encourage you to talk with Mr. Goldberg, who is an independent attorney working on a contract..."

(Roa 13)

Judge Hensley denied those motions on hybrid representation grounds when the law of South Carolina allows the petitioner the right to relieve Counsel. (Roa 13)

Abuse 2 - ARBITRARY ENFORCEMENT of Court Rules AS APPLIED TO THE PETITIONER IS UNCONSTITUTIONAL

Due process bars state Courts from enforcing a procedural Rule in circumstances where the Rule deprived the litigant of a reasonable opportunity to present the petitioner case. see *Brinkerhoff-Faris Trust & Sav. Co v Hill* 281 US 673, 681 (1930)

State Courts utilizing Rules of Courts to deprive the petitioner through Counsel the Right to be heard on his federal Causes of actions in state Courts violates as applied to the petitioner various fundamental Rights; for example, the Court proceeding in front of Judge Goodstein where the petitioner objected on first Amendment grounds, and due process state action grounds, and ineffectiveness of trial Counsel grounds, just to name of few, was ignored on this appeal by the petitioner Appellate Counsel, Katharine Hudgins. This alone shows state interference with the petitioner federal Causes of action - and the Courts of this State are allowing appointed Counsel to deprive the petitioner of federal Causes of actions by invoking procedural Rules everytime the petitioner Request to be heard in Court. This alone is state action. see *Polk County v Dodson* 454 US 312 (1981)

### CONCLUSION

WHEREFORE, the petitioner pray that this Court grant this motion and/or such other and further Relief this Court seem just and proper.

Date: 1/27/19

*Steven Louis Barnes*  
STEVEN LOUIS BARNES #327117  
McCormick C.I.  
386 Redemption way  
McCormick SL

ROA (1)

**RECEIVED**  
FEB 01 2019  
SC Court of Appeals

Writ of Mandamus the petitioner had  
filed in the South Carolina Supreme Court  
on 11/28/16

STATE OF SOUTH CAROLINA

COUNTY OF

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

STEVEN LOUIS BARNES

Plaintiff(s)

-CP-

vs.

JUDGE WILLIAM P. Keesley, et. al

Defendant(s)

2016-002437

(Please Print)

Submitted By: Steven Louis Barnes SS #5290

Address: Lee Correctional Institute  
990 Wilsall Highway  
Bishopville SC 29010

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

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)

- |                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <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 checked="" 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"/> Transfer of Structured Settlement Payment Rights Application (760)<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 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: Steven Barnes

Date: 11/28/16

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.

SUPREME COURT of SOUTH CAROLINA

ORIGINAL COURT JURISDICTION

STEVEN LUTS BARNES

Applicant - petitioner

VS

[ Pending cl # in question:

2015-CP-19-035; 2016-CP-

4005524

2016-002437

Greenville Court House, Administra-

tive Vice William P. Keester;

Trial Vice Diana S. Goodstein;

John Doe Vice of RICHLAND

County Court House

All nominal parties

MOTION for WRIT of HABEAS

PART I FACTS - PENDING POST CONVICTION PETITION

On January 15, 14, the state supreme court has overturned petitioner capital case on the ground of self representation; However, the court denied relief for the petitioner Interstate Agreement of Detainer (IAD) Act claim.

On January 23, 15, the petitioner has filed for post conviction relief (PCR) regarding his Interstate Agreement of Detainer (IAD) Act claim. The state then filed a Return and moved to stay the PCR proceeding until the supreme court heard the extraordinary writ to Reinstate the Defendant's capital sentence of death.

On July 1, 16, the state supreme court denied the state petition for extraordinary relief and granted the petitioner right to counsel. see State v Barnes 774 S.E. 2d 454 (2015)

from the time of petitioner filed his PCR petition up and until the below date of this motion, a period of on and about one (1) year and eleven (11) month and counting has passed without the petitioner hearing anything from the court's view his PCR petition.

Upon information and belief, the petitioner was told by private counsel that either trial judge Diane S. Bernstein, who is assigned to the Defendant Capital Case, and/or Administrative Judge, William P. Keesley, supposed to appoint two Capital Attorneys and to order a hearing re: hearing the petitioner PCR petition.

S.C. Code § 17-27-160 states in plain and language: "in to state:

" If the applicant is indigent and desires representation by counsel, two counsel shall be immediately appointed to represent the petitioner in this action . . . The court may not appoint an attorney as counsel under this section if the attorney represented the applicant at trial or in a direct appeal unless the applicant and attorney request appointment on the record or the court find good cause to make the appointment . . .

And "if the applicant elects to proceed pro-se, any findings made by the court shall be done on the record and in open court concerning the waiver of assistance of counsel";

And "(c) not later than thirty days after the filing of state's return, the judge shall convene a status conference to schedule a hearing on the merits of the application for post conviction relief."

## PART II FACTS - PENDING LAWSUIT AGAINST THE COMMISSION OF SOUTH CAROLINA INDIGENT DEFENSE

On September 9, 16, the petitioner filed a lawsuit in the Richland County Clerk's Office, in S.C., against the Commission of South Carolina Indigent Defense, General Counsel Hugh Ryan. C/A # 2016 - CP - 4005524

Two (2) months are counting has passed that the petitioner did not hear anything regarding that suit.

## PART III FACTS - PENDING LAWSUIT AGAINST COURT REPORTER CAROL M. THURME

### Background facts

In 2013, the petitioner filed both a 42 USC § 1983 suit, and pursuant to 28 USC § 1332, a diversity Jurisdiction against both

Court Reporter Carol M. Thurne and South Carolina Administrative Office in the United States District Court of South Carolina, Florence Division. See Bailes v Thurne, Federal docket # 5:13-cv-2349-RMG. Regarding strictly the petitioner diversity jurisdiction state law claims, the District Judge presided over that case stated that the petitioner state law claims against the above officials must be filed in state court. Id.

The United States Court of Appeals for the 4th Circuit agreed with said District Judge on. See Bailes v Thurne, 4th Cir. docket # 14-6011.

Furthermore, the petitioner attempted to file a writ of Habeas Corpus to the United States Supreme Court, see Application # 13A1263, on the diversity jurisdiction issue, and among other issues, in that Court, but because of petitioner indigency status and failure of both Aiken Jail officials and Edgefield officials to provide the petitioner with, upon request for his prison housing legal supplies, legal photocopying, and legal materials, he could not meet the Court deadline for him to file a petition on August 2, 14. Id.

### FACTS

After the petitioner could not file the writ of Habeas Corpus to the U.S. Supreme Court, he timely filed a lawsuit in the state supreme court while his petition for writ of Habeas Corpus, Motion to Reinstate

Appeal and original Court Jurisdiction petition was pending in that Court.  
See Appellate # 2014-001283.

The state supreme court not only denied those motions but also Remanded back to the state court for the Honorable Judge Goodstein to appoint counsel for the petitioner in 30 days of the supreme court order. In the meantime of that order the supreme court clerk sent the petitioner back the lawsuit against Cuzi Romero there, because the clerk said the petitioner filed it in the wrong court, instead of sending it to the circuit court. Because of Judge Goodstein was assigned to the petitioner Capital Case by the state supreme court, he sent the lawsuit to Judge Goodstein immediately after the supreme court clerk sent it to petitioner.

On and about two (2) years has passed and nothing and the petitioner has not heard anything about that suit. The petitioner do not have a civil action # for that suit.

### CONCLUSION

The above Caption Judge has a Ministerial duty to timely hear the civil action suits, including appointing counsel for the suits, outlined through part I through III above. It obvious that the petitioner doesn't have an adequate Remedy at law because of the excessive period of time that has passed Regarding his civil suits.

The lower court officials in South Carolina, in general, Regarding not processing or delaying or not filing petitioner pro-se civil actions are capable of Repetition.

WHEREFORE, the petitioner pray that this court grant this motion and/or such other further Relief this court seem just and proper.

Date: 11/28/16

STEVEN LOUIS BARNES  
STEVEN LOUIS BARNES  
SJS # 5290  
Lee Correctional Institute  
990 Wilcox Highway  
Bishopville SC 29010

### VERIFICATION

I have Read the foregoing writ of mandamus and hereby verify that the matters alleged therein are true and correct, except as to matters alleged on information and belief, and, as to those I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Lee Correctional Institute on 11/28/16

STEVEN LOUIS BARNES  
Signature

ROA (2)

United States Supreme Court order on  
May 23, 2017 ordering the South Carolina  
Attorney General to file brief to the  
petitioner March 16, 2017 petition for a  
writ of certiorari

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

May 23, 2017

Ms. Melody Jane Brown  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549

Re: Steven Louis Barnes  
v. Henry McMaster, Governor of South Carolina, et al.  
No. 16-8581

Dear Ms. Brown:

On March 16, 2017, a petition for a writ of certiorari in the above case was filed in this Court to review an order of the Supreme Court of South Carolina dated December 16, 2016. Our records indicate that you were served with a copy of the petition.

The Court has directed this office to request that a response be filed in this case. Ten typewritten or otherwise reproduced copies of your response, together with proof of service thereof, should be filed on or before June 22, 2017.

Sincerely,

*Scott S. Harris*

Scott S. Harris  
Clerk

cc: Steven Louis Barnes

ROA (B)

South Carolina Attorney General BRIEF  
To the United States Supreme Court  
Court Regarding the petitioner writ of  
Certiorari.



ALAN WILSON  
ATTORNEY GENERAL

June 21, 2017

The Honorable Scott S. Harris  
Clerk, United States Supreme Court  
1 First Street, NE  
Washington, DC 20543

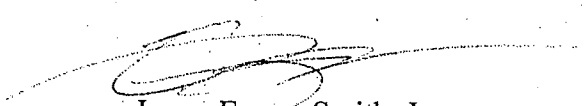
Re: Steven Louis Barnes v. Henry McMaster, Governor of  
South Carolina, et al.  
No. 16-8581

Dear Sir:

On behalf of Judge William P. Keesley, I have joined in the Brief in Opposition in this case. Please note on your records that I am appearing for Judge Keesley. I am admitted to practice before the Supreme Court.

Thank you for your assistance.

Sincerely,



James Emory Smith, Jr.  
Deputy Solicitor General

cc: Steven Louis Barnes  
Melody J. Brown, Senior Assistant Deputy Attorney General  
The Honorable Daniel E. Shearouse, Clerk, Supreme Court of South Carolina  
The Honorable S.R. Hubbard, III, Solicitor, Eleventh Judicial Circuit  
Trisha Allen, Victim Services, Office of the Attorney General, State of South Carolina

No. 16-8581

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**In the Supreme Court of the United States**

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**Steven Louis Barnes,**

*Petitioner,*

vs.

**Henry McMaster, Governor  
of South Carolina, et al.,**

*Respondent.*

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**ON PETITION FOR WRIT OF CERTIORARI  
TO THE SUPREME COURT OF SOUTH CAROLINA**

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**BRIEF IN OPPOSITION**

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## PETITIONER'S QUESTIONS PRESENTED

1.

Whether the Respondent failure to process the Petitioner post conviction relief petition so he can exhaust his state administrative remedy to file writ of habeas corpus pursuant to 28 USC § 2241 violates his fourteenth Amendment Due Process Right

2.

Whether the Petitioner has a corrective process regarding his Interstate Agreement of Detainer Act claim before trial on post conviction relief. And if no, does this violate his due process rights

3.

Did the Respondents in not providing the Petitioner, a pretrial detainee, the same type of corrective process as convicted prisoners in order to exhaust state administrative remedies of federal claim are showing invidious discrimination and arbitrariness according to *Griffin v Illinois* 351 US 17 (1956)

4.

Whether the Respondents is arbitrarily denying the Petitioner meaningful access to the Court by not hearing his post conviction relief petition, Tort Claim Act suit, and civil suit in state court

5.

Whether the Respondents is denying the Petitioner to procedural Due Process to state created rights regarding his habeas corpus, post conviction relief, and Tort Claim suits pursuant to *Hicks v. Oklahoma* 447 US 343 (1980)

(Petition, Question(s) Presented) (errors and misspellings in original).

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On behalf of the State of South Carolina and all parties listed by Petitioner as parties to the action except for Judge William Keesley,<sup>1</sup> the South Carolina Attorney General submits this brief in opposition to the petition.<sup>2</sup> Judge Keesley joins in this brief by separate counsel J. Emory Smith, Jr., Deputy Solicitor General.

### CITATION TO OPINIONS BELOW

In his petition to this Court, Petitioner Steven Louis Barnes asserts he seeks review of two separate actions filed, and summarily dismissed, in the Supreme Court of South Carolina – actions that seek two separate forms of relief on two separate types of allegations.<sup>3</sup> (See Petition, p. 1, referencing Petition Appendix G and H).

In Petition Appendix G, Petitioner provides a copy of a Motion for Writ of Mandamus filed in the Supreme Court of South Carolina. He also provides a copy of the December 16, 2016 Order of the Supreme Court of South Carolina summarily dismissing the action, along with several others, “because no extraordinary reason exists to entertain them in this jurisdiction.” Respondent notes the Order is not published.

Petition Appendix H is a copy of a petition for writ of habeas corpus filed in the original jurisdiction of the Supreme Court of South Carolina. Petitioner includes

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<sup>1</sup> The undersigned counsel represents the Governor of South Carolina, formerly Nikki Haley, presently Henry McMaster; Circuit Court Judge Diane Goodstein; Director of the South Carolina Department of Corrections Bryan Stirling and Warden Cecilia Reynolds; and also the Richland County Clerk of Court.

<sup>2</sup> It does not appear Petitioner properly served the petition; however, the Clerk’s Office provided the undersigned a copy of the petition which was received on June 5, 2017.

<sup>3</sup> It appears Petitioner has improperly consolidated these two judgments in one petition. *See* Rule 12.4, Supreme Court Rules (“When two or more judgments are sought to be reviewed on a writ of certiorari to the same court *and involve identical or closely related questions*, a single petition for a writ of certiorari covering all the judgments suffices.”) (emphasis added).

a copy of the December 16, 2016 Order summarily dismissing the petition finding "habeas relief is not proper in this instance," indicating by parenthetical that Petitioner failed to present an issue that warranted review. Respondent notes the Order is not published.

## JURISDICTION

Petitioner does not explain the basis for jurisdiction. (See Petition, p. 2). Petitioner's form indicates "jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a)." (Petition, p. 2). 28 U.S.C. § 1257(a) constrains jurisdiction to matters of federal law:

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

28 U.S.C.A. § 1257 (a).

Respondent asserts there is no basis for jurisdiction. Petitioner cannot show a federal question decided by the Supreme Court of South Carolina in rejecting a state motion for mandamus to a state judge concerning a state collateral action. Further, Petitioner cannot show a federal question decided by the Supreme Court of South Carolina in failing to exercise discretionary jurisdiction in a state writ of habeas corpus in its original jurisdiction.

## CONSTITUTIONAL PROVISIONS INVOLVED

Petitioner lists only state statutes and one state court rule as involved. (Petition, pp. 3-5). Respondent submits no Constitutional provisions are involved as the matters presented concern decisions on discretionary state remedies.

## RESPONDENT'S STATEMENT OF THE CASE

Petitioner Barnes is held in pre-trial status as a safekeeper in the South Carolina Department of Corrections. He was previously sentenced to death but received a new trial on direct appeal. *State v. Barnes*, 753 S.E.2d 545 (S.C. 2014). On January 23, 2015, after the new trial was granted, Petitioner filed a post-conviction relief application alleging ineffective assistance of counsel, a procedural due process violation, and an illegal indictment hold, all arising from his interpretation of certain provisions of the Interstate Agreement on Detainers. (BIO Appendix, pp. 1-8). That action was stayed while the State of South Carolina sought to reinstate the conviction. On July 1, 2015, a majority of the court denied the motion to reinstate. *State v. Barnes*, 774 S.E.2d 454 (2015), *reh'g denied* (Aug. 6, 2015). The dissent in that action made this concise summary of the direct appeal ruling and the subsequent decision:

...We reversed on [direct] appeal, finding the judge erred in applying the [*Indiana v. Edwards*] competency standard to Respondent's [Barnes'] request to waive his right of counsel and proceed pro se.

Now that he has been granted a new trial on this basis, Respondent is requesting counsel. In my opinion, he cannot have it both ways. Therefore, I would find that Respondent has waived his right to counsel in his second trial because he already had a trial where he was

represented by counsel. Respondent's conduct here should be examined for what it is: an effort to manipulate the system and pollute the administration of justice.

*Barnes*, 774 S.E.2d at 413 (Toal, C.J., dissenting) (citations omitted).

Of note, it was defense counsel who used *Indiana v. Edwards*, 554 U.S. 164 (2008), to argue his client's waiver should be rejected. See *Barnes*, 753 S.E.2d at 548.<sup>4</sup>

Petitioner is presently being held in pre-trial custody.<sup>5</sup> The county facility requested, after a series of infractions, that Petitioner be transferred to and held as a safekeeper in pre-trial status in the South Carolina Department of Corrections.

In addition to the motion for mandamus and petition for habeas corpus at issue here, Petitioner has filed a number of *pro se* petitions and motions. He is also currently appealing, with the aid of counsel, an Order from the Administrative Law Court regarding his status as a safekeeper and his multiple grievances. (BIO Appendix, pp. 15-47). See also <http://ctrack.sccourts.org> (Appellate Case Number 2015ALJ300318AP).

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<sup>4</sup> This Court concluded in *Edwards*:

...the Constitution permits States to insist upon representation by counsel for those competent enough to stand trial under *Dusky* but who still suffer from severe mental illness to the point where they are not competent to conduct trial proceedings by themselves.

*Indiana v. Edwards*, 554 U.S. at 178. Under the *Barnes* decision, South Carolina courts cannot reject an otherwise valid waiver of counsel where the defendant meets the base requirements of competency to stand trial, regardless of mental illness.

<sup>5</sup> *Barnes* is still awaiting retrial. In December 2016, new trial counsel advised the Supreme Court of South Carolina the State was ready to proceed but one defense counsel held a standing order of protection from another case. (BIO Appendix, pp.10-11). By Order dated December 16, 2016, the Court lifted the protection. (BIO Appendix, p. 12). The retrial preparations are now proceeding. (See BIO Appendix, p. 14). See also <http://ctrack.sccourts.org> (Appellate Case Number 2010-178247).

It is, however, only his two actions in the Supreme Court of South Carolina at issue here. (See Petition, p. 1, and Petition Appendix G and H).

### RESPONDENT'S STATEMENT OF FACTS

The Supreme Court of South Carolina previously summarized the crime as follows:

Appellant was approximately twenty-three years old and living in Augusta, Georgia, where he surrounded himself with high school students. Two of the high school boys, Richard Cave and Antonio (Tony) Griffin testified that on Labor Day 2001, appellant called them to meet him at his "green house" in Augusta. The boys were high school seniors, who enjoyed hanging out with appellant because, as Cave testified, appellant had money, girls, and cars. When Cave and Griffin arrived, they found victim already there, along with Charlene "China" Thatcher and appellant's younger half-brother William Harris.

Appellant accused victim of stealing appellant's money, and was beating the victim with his fists, a pole, and a shock absorber. China was also accused and hit, and Griffin obeyed appellant's order to beat victim. As the night progressed, Harris left and appellant called two South Carolina brothers, the Hunsbergers, to come to the green house in Augusta. After the Hunsbergers arrived, everyone left for South Carolina. Appellant, China, Griffin, and Cave followed the Hunsbergers in appellant's car, with the victim in their car trunk, to a remote area of Edgefield County. There, appellant ordered China, Griffin, and Cave to shoot the victim, with appellant administering the *coup de grace*. Appellant told the others they were as guilty as he, and all kept quiet until parts of victim's skeleton and other identifying information were found in November 2001.

China, Griffin, and Cave, all of whom testified in the guilt phase, were serving eighteen-year sentences in Georgia for their assault of victim and faced the potential for additional charges in Georgia and South Carolina.

*State v. Barnes*, 753 S.E.2d 545, 547 (S.C. 2014).

## **REASONS WHY THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED**

The primary reason the writ should be denied is that the two Supreme Court of South Carolina actions at issue were denials of review based solely on state law and state procedure – the court declined to exercise jurisdiction in the actions seeking relief by extraordinary writ in the original jurisdiction of the Supreme Court. There is no federal question to review. Further, Petitioner has other remedies available, including current and continuing litigation and appeal(s) in state court. At present, Petitioner brings undeveloped claims to this Court by way of two matters decided under state law. Certiorari should be denied.

### **ARGUMENT**

1. The Supreme Court of South Carolina found no special or important reason to consider Petitioner's motion for mandamus to direct appointment of counsel in Petitioner's PCR and that the matter be heard; to direct the Richland County action against Indigent Defense to be heard; or to direct Judge Goodstein to forward documents to the Clerk of Court for filing on Petitioner's behalf. The state court did not accept jurisdiction or decide any matter of federal law for this Court to review.

Petitioner filed a "Motion for Writ of Mandamus" in the Supreme Court of South Carolina on or about November 28, 2016. (Petition Appendix G). In the motion, Petitioner requested the Supreme Court of South Carolina order the circuit court appoint two attorneys to represent him in the 2015 PCR action; schedule the matter to be heard; direct the action against Indigent Defense filed September 9, 2016, be heard in Richland County; and also for Judge Goodstein to file a separate action against the court reporter from his first trial. (Petition Appendix G, Motion

pages 1-6). On December 16, 2016, the Supreme Court of South Carolina dismissed the motion finding "no extraordinary reason exists to entertain them in th[e] Court's jurisdiction." (Petition Appendix G).

As to the PCR action, Petitioner alleged in his motion for mandamus that he "was told by private counsel that either trial Judge Diane S. Goodstein, who is assigned to the Defendant Capital case; and/or Administrative Judge, William P. Keesley, supposed to appoint two Capital Attorneys and to order a hearing ...." (Petition Appendix G, Motion p. 2). However, Petitioner is aware that the State's position is that the capital post-conviction relief procedures do not apply since there is no death sentence in place. (See Petition Appendix C (email of February 25, 2015), and F (Motion to Dismiss, dated September 30, 2015, n.1)). He does not acknowledge the conflicting position on state law. Moreover, Petitioner has not filed any motion regarding a request for counsel or a motion to be heard. (See BIO Appendix, p. 9).

As to the civil action in Richland County against Indigent Defense, the Public Index shows Petitioner is presently litigating that action. (See BIO Appendix, pp. 49-50). See also <http://www6.rcgov.us> (Case Number 2016CP4005524). In fact, while Petitioner seeks review in this Court, he personally requested a continuance. (BIO Appendix, pp. 71-72).

As to the remaining action against the court reporter, Petitioner alleged an error in transcription for the prior trial which he was unable to address. (Petition Appendix G, Motion, pp. 3-5). He also claims that he gave his documents for filing

to Judge Goodstein, the circuit court judge assigned the retrial. *Id.* Consequently, Petitioner, who is well-versed in filing suits, admits he has not properly filed the suit with the Clerk of Court. To the extent Petitioner would suggest the filing should be a part of his retrial action, he is represented by counsel and any attempt to file would run afoul of the state prohibition against hybrid representation. *See State v. Stuckey*, 508 S.E.2d 564, 564 (S.C.1998) ("Since there is no right to hybrid representation, substantive documents filed *pro se* by a person represented by counsel are not accepted unless submitted by counsel.").

Though the PCR and Richland County actions are filed and pending, a more fundamental error bars review here: Petitioner has failed to show any federal issue in the denial of the motion for mandamus. In fact, he has failed to show that the mandamus action was even proper under state law given the question of whether counsel need be appointed is in the PCR is contested, and the Richland County matter is progressing. *See City of Rock Hill v. Thompson*, 563 S.E.2d 101, 103 (S.C. 2002) ("Issuance of a particular decision by a judge is typically a matter of discretion and, therefore, not proper for mandamus."); *Redmond v. Lexington Cty. Sch. Dist. No. Four*, 445 S.E.2d 441, 445 (S.C.1994) ("To obtain a writ of mandamus requiring the performance of an act, the applicant must show 1) a duty of respondent to perform the act, 2) the ministerial nature of the act, 3) the applicant's specific legal right for which discharge of the duty is necessary, and 4) a lack of any other legal remedy."). Even so, lack of state-law viability aside, the lack of a decision on a federal issue frustrates a showing of jurisdiction.

The District Court of South Carolina, in federal habeas matters, has considered the state extraordinary writ process and concluded: "...a state habeas petition filed in the South Carolina Supreme Court's original jurisdiction that does not provide the court with a well-supported extraordinary reason for the exercise of original jurisdiction 'is an insufficient mechanism for review on the merits [to] properly present the issue to the state's highest court.'" *Alkebulanyahh v. Byars*, No. 6:13-CV-00918-TLW, 2015 WL 2381353, at \*4 (D.S.C. May 18, 2015) (*quoting* *McFarland v. Warden, Lieber Correctional Inst.*, C.A. No. 6:07-588-TLW-WMC, 2008 WL 697152, at \*6 (D.S.C. March 11, 2008)). In short, the District Court has acknowledged that state action may be properly dismissed on procedural grounds alone. This correctly reflects the Supreme Court of South Carolina's observation that its "primary function is to act as an appellate court to review appeals from the trial courts" and "it will not entertain matters in its original jurisdiction where the matter can be entertained in the trial courts of this State." *Key v. Currie*, 406 S.E.2d 356, 357 (S.C.1991). The Order at issue here reflects only the matter was a procedural dismissal and not a decision on the merits, much less a decision on a matter of substantive federal law. Where there is no question of federal law to review, jurisdiction cannot be properly before the Court. Thus, Petitioner has failed to make a showing or probable jurisdiction. Moreover, Petitioner's miscellaneous allegations do not support a basis for jurisdiction, and are also otherwise without merit.

Petitioner's allegation in his Question 1, that failure to obtain a PCR ruling is

preventing his ability to seek relief in the federal District Court of South Carolina is incorrect. Rather, it is the lack of a federal question that prevents a merits review of his Interstate Detainer issue. It has been long established that district courts will, and have, considered pre-trial detainee complaints from state-detained defendants; however, there must still be a federal question at issue. Title 28 U.S.C.A. § 2241(c)(3) provides: "(c) The writ of habeas corpus shall not extend to a prisoner unless-... (3) He is in custody in violation of the Constitution or laws or treaties of the United States." The Tenth Circuit has concluded: "...rights created by the IADA are statutory, not fundamental, constitutional, or jurisdictional in nature." *Greathouse v. United States*, 655 F.2d 1032, 1034 (10th Cir. 1981). Mere violation of the terms of the agreement will not invariably support relief. *Id.* Further, the Supreme Court of South Carolina found in Petitioner's direct appeal that it had to also consider Petitioner's allegation of error under the IAD before granting remand for retrial, and concluded: "On the face of this record, it appears appellant waived his speedy trial rights under this Act, and we therefore decline to reverse on this ground." *Barnes*, 753 S.E.2d at 550-51. In fact, trial counsel conceded that the terms of the agreement were met, though he contested the length of time granted by the continuance. (BIO Appendix, pp. 74-79). There is neither a factual or legal basis to find relief was warranted.

Petitioner's allegations in his Question 2 involve solely state court law and in particular the parameters of state post-conviction relief jurisdiction as set by state statute. See S.C. Code § 17-27-20 (post-conviction relief statute setting out "Persons

who may institute proceedings” and “exclusiveness of remedy”). Asking this Court to rule on whether he has a corrective process under state law improperly asks this Court to consider and decide a matter solely of state law. Moreover, Petitioner asks this Court to do so when the federal District Court is perfectly capable of considering whether there is a corrective process available for Petitioner’s claim(s), but only if the underlying claims are cognizable. See generally 28 U.S.C. § 2254 (b)(1)(B)(may consider issue to grant relief if “there is an absence of available State corrective process; or ... circumstances exist that render such process ineffective to protect the rights of the applicant.”). The availability of the process is moot in the absence of a violation of federal law. See 28 U.S.C. § 2254 (a) (relief allowed “only on the ground” the petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.”). Again, it is the absence of a federal issue that would bar federal review, not the state review process availability.

Petitioner’s allegation in his Question 3 that state pre-trial detainees must have access to state post-conviction relief processes again shows the lack of a federal question. Moreover, it is illogical. A pretrial detainee is not similarly situated to a convicted defendant – they remain separated by their distinct legal status. *See, for example, Moreland v. United States*, 968 F.2d 655, 660 (8th Cir. 1992) (“...presentence defendants and postsentence defendants are legally distinct from one another and, therefore, are not similarly situated.”).

Lastly, Petitioner’s allegation in Question 4 that he is being denied meaningful access to the court – and suffers an infringement of procedural due

process – because his PCR case and Richland county action are not yet heard ignores a critical fact: Both cases are currently being litigated. A status hearing was held in the PCR matter on June 20, 2017. The action was not dismissed and presently continues on the docket. In the Richland County action, the Defendants in the suit have filed a motion to dismiss and an answer with a demand for jury trial. (BIO Appendix, pp. 48-49). The last entry on the public index for that case, which was dated March 17, 2017, indicates Petitioner requested an extension of time to file a response to the motion to dismiss as he was preparing his writ of certiorari to this Court and did not have time to complete documents for litigation of the matter. (BIO Appendix, p. 48 and pp. 70-71).

But again, Petitioner comes to this Court with an undeveloped factual record on unidentified or unsupported allegations of federal law issues. His petition should be denied.

2. **The Supreme Court of South Carolina found no facts supportive of a “shocking violation to the universal sense of justice” to allow an extraordinary writ for review of Petitioner’s safekeeper status in the South Carolina Department of Corrections. The state court did not accept jurisdiction or decide any matter of federal law.**

On December 5, 2016, Petitioner filed a petition for “Writ of Habeas Corpus in the original jurisdiction of the Supreme Court of South Carolina. (Petition Appendix H). Petitioner appears to have alleged he is severely mentally ill<sup>6</sup> and

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<sup>6</sup> Petitioner alleges the State is unable to contest his severe mental illness as his illness was established in the prior trial and the appellate ruling in the direct appeal. Respondents note, however, Petitioner contested his mental illness. See *State v. Barnes*, 753 S.E.2d at 549 (“Appellant reiterated that the question was *Faretta* because his was not an Edwards situation as there is no indication that he, unlike the defendant Edwards, is “sick.”

should not be held in the South Carolina Department of Corrections. (Petition Appendix H, petition pages 1-7). The Supreme Court of South Carolina denied the petition finding "habeas relief is not proper in this instance," citing *Simpson v. State*, 329 S.C. 43, 495 S.E.2d 429 (1998), with the parenthetical: "... a petitioner seeking habeas relief must allege a constitutional violation that constitutes a denial of fundamental fairness shocking to the universal sense of justice." (Petition Appendix H). Again, Petitioner has failed to show any federal question involved. See also *Wilson v. Moore*, 178 F.3d 266, 278 (4th Cir. 1999) (finding denial a "procedural disposition" and noting "the South Carolina Supreme Court's historical reluctance to exercise its original jurisdiction, especially when there are other potential avenues of relief" supporting conclusion the disposition was procedural in nature and not a comment on the merits). Respondents note, however, that Petitioner is presently litigating multiple grievances stemming from his safekeeper status. (See BIO Appendix, pp. 46-47). Attached is a copy of the most recent order from the South Carolina Administrative Law Court which is currently on appeal. (BIO Appendix, pp. 19-44). The Order gives a great deal of context to Petitioner's status and claims.

According to the record before the Administrative Law Judge ("ALJ"), Edgefield County sought confinement as a safe keeper due to a history of disruptive behavior in Edgefield (20 infractions); Richmond Co., Georgia (assault and possession of weapon); Lieber Correctional (assault and possession of a weapon); Ware State Prison, Georgia (9 instances of failure to follow instructions); and

complaints from other county detention centers asked to house Petitioner before Edgefield turned to the South Carolina Department of Corrections. (BIO Appendix, pp. 24-25). Further, the ALJ found no interference with or denial of a state-created liberty interest in having legal materials, access to the law library, contacts with counsel, and materials “for legal pleadings or correspondence.” (BIO Appendix, pp. 36-41). Though Petitioner has the assistance of counsel in the grievance matters, (see BIO Appendix, p. 19), he has apparently not raised and had ruled upon a direct issue regarding severe mental illness preventing him from being held in safekeeper status under state statutes. The South Carolina Court of Appeals has accepted the appeal from the ALJ, but briefing has not yet been completed. (BIO Appendix, p. 15). See also <http://ctrack.sccourts.org> (Appellate Case Number 2015ALJ300318AP). That action, though, is separate from the Richland County action Petitioner referenced in the petition for writ of habeas corpus to the Supreme Court of South Carolina.

In the Richland County action, Petitioner alleged the General Counsel of the South Carolina Commission on Indigent Defense improperly interfered in the appointment of counsel in his retrial for the capital murder charge when he argued that private counsel should not be appointed, but two attorneys should be appointed from Commission’s Capital Trial Division. (BIO Appendix, pp. 53-57). Petitioner’s claim – to the extent he could show a federal claim – is not ripe for consideration.

Respondent notes as to Petitioner’s allegations that he is being “denied” the right to file “*in forma pauperis*,” he makes reference to a conditional denial in a

separate action for failure to request *in forma pauperis* status in proper form. Respondent notes even if the March 1, 2011, order he submits to the Court, (see Appendix J, which should be considered, if nothing else, quite stale as it could relate to his 2016 filings), the Order does not relate to the two actions presented here which were in the original jurisdiction of the Supreme Court of South Carolina.

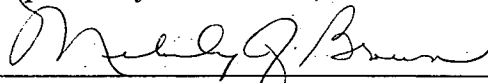
Even so, Petitioner's allegation in Question 4 that he is being denied meaningful access to the court is rebutted by the very fact the state litigation continues both in the 2015 PCR and the Richland County action.

As with Question 1, Petitioner has come to this Court with an undeveloped or underdeveloped factual record on unidentified or unsupported allegations of federal law issues. His petition should be denied.

## CONCLUSION

Given the state of the record and the arguments presented, there is no clear basis for jurisdiction to review the petition, or cause to remand to the Supreme Court of South Carolina for any specific action regarding any federal claim. Petitioner's reliance on a hodgepodge sampling of allegations from unrelated actions fails to support probable jurisdiction or justification for intervention in ongoing state litigation. Respondents submit the petition should be denied.

Respectfully submitted,



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Senior Assistant Deputy Attorney General

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Judge Diane Goodstein, Director Stirling  
and Warden Reynolds, and the Richland  
County Clerk of Court



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June 21, 2017

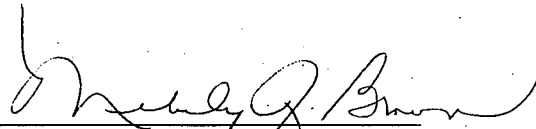
\*counsel of record

*Certificate of Service*

I, Melody J. Brown, certify I served the *Brief in Opposition* on Petitioner by depositing a copy of same in the United States mail, postage prepaid, addressed to him as follows:

Steven Louis Barnes, #SK5290  
Lee County Prison  
990 Wisacky Highway  
Bishopville, SC 29010

This 21st day of June, 2017.



MELODY J. BROWN  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
(803) 734-6305

ROA (4)

The South Carolina Court of Appeals  
November 8, 2017 letter in which the  
Court of Appeals will not file the  
petitioner one hundred page brief raising  
ineffectiveness of counsel on the grounds of  
hybrid representation



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

October 05, 2017

Steven L. Barnes  
Lee Correctional Institution  
990 Wisacky Highway  
Bishopville SC 29010

Re: Steven Barnes v. SCDC  
Appellate Case No. 2017-000967

**RECEIVED**

NOV 08 2017

SC Court of Appeals

Dear Mr. Barnes:

The Court has received your motion and initial brief. Because you are represented by counsel, we are returning your filings to you. See *Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527, 527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel.").

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Lake Eric Summers, Esquire  
Stephen Hollis Lunsford, Esquire

ROA (5)

the Court of Appeals clerk, Appellate Counsel  
Shane Goranson, South Carolina Department of Correction  
lawyers conspiracy to deprive the petitioner of  
federal Cause of action of Raising ineffectiveness  
of Counsel, and among other federal Causes  
of Actions



SOUTH CAROLINA COMMISSION FOR INDIGENT DEFENSE

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S. Boyd Young, Deputy Attorney  
Shane Goranson, Trial Attorney  
E. Brenton Sadreamell, Investigator  
Claedrika Mulligan-Green, Paralegal

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September 28, 2019

The Honorable Jenny Abbott Kitchings,  
Clerk of Court, Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201  
(Via hand delivery)

Mr. Lake Eric Summers,  
339 Heyward Street  
Suite 200  
Columbia, SC 29201

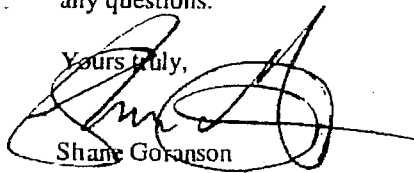
Mr. Stephen Hollis Lunsford, Esquire  
4444 Broad River Road  
Columbia, South Carolina 29221

Re: Steven Barnes v. SCDC  
Appellate Case No. 2017-000967

Dear Ms. Kitchings,

I hope all is well with you. The above captioned case involves issues related to Mr. Barnes's pre-trial detention within SCDC. The issues could become moot following Mr. Barnes's non-capital jury trial which is scheduled to begin October 9, 2017 in Edgefield County. We would respectfully request the appeal proceedings be delayed until after the trial. I have spoken with Mr. Summers and he is not opposed to such a delay. Please do not hesitate to contact me with any questions.

Yours truly,



Shane Goranson

Cc: Bill McGuire, Steven Barnes

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM THE SOUTH CAROLINA ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

---

Appellate Case No. 2017-000967

---

Steven L. Barnes, ..... Appellant.

v.

South Carolina Department of Corrections, ..... Respondent.

---

**RESPONDENT'S MOTION TO DISMISS  
THE APPELLANT'S APPEAL AS MOOT**

---

The Respondent in the instant matter, the South Carolina Department of Corrections [“the Department”], respectfully moves, pursuant to South Carolina Appellate Court Rule [“SCACR”] 240, to dismiss the appeal filed by the Appellant, Steven L. Barnes [“Barnes”], on the grounds that the three (3) issues on appeal Barnes identified in his brief appeal are now moot.

**I. RELEVANT CHRONOLOGY**

By his notice of appeal dated April 18, 2017, Barnes appealed two (2) orders issued by the South Carolina Administrative Law Court [“ALC”], on November 5, 2015 and March 29, 2017. (R. pp. 48 – 55 and pp. 186 – 212).<sup>1</sup>

---

<sup>1</sup> Barnes, by and through his counsel, filed the Record on Appeal with the Court on October 2, 2017. Accordingly, the Department includes references to the Record in its instant motion whenever possible.

In his brief,<sup>2</sup> Barnes identified the following three (3) issues on appeal, each of which concerned his status as a pre-trial detainee admitted to the Department's custody as a Safekeeper in accordance with S.C. Code Ann. § 24-3-80 and Executive Order No. 2000-11:<sup>3</sup>

- I. Did the ALC err by not remanding to the Department for further fact finding the Department's recommendation for Barnes to be classified as a Safekeeper?
- II. Did the ALC err by not reversing the Department's decision to deny Barnes a specific publication?
- III. Did the ALC err when it determined that Barnes had not established that § 24-3-80 had been unconstitutionally applied?

---

<sup>2</sup> See Barnes' Brief, p. 1, and the Department's Brief, p. 1. Obviously, the parties filed their respective initial briefs, and the Department includes references to the parties' briefs whenever possible.

<sup>3</sup> In its entirety, § 24-3-80 (Supp. 2010), which is entitled "Detention of prisoner when authorized by Governor," provides as follows:

The director of the prison system shall admit and detain in [the Department] for safekeeping any prisoner tendered by any law enforcement officer in this State by commitment duly authorized by the Governor, provided, a warrant in due form for the arrest of the person so committed shall be issued within forty-eight hours after such commitment and detention. No person so committed and detained shall have a right or cause of action against the State or any of its officers or servants by reason of having been committed and detained in the state prison system.

The introductory provisions of Executive Order No. 2000-11, which our state's Governor issued February 16, 2000, provide as follows:

WHEREAS, an individual held in a pretrial confinement facility may be transferred to the custody of the [Department] for safekeeping by commitment duly authorized by the Governor pursuant to § 24-3-80; and

NOW, THEREFORE, I hereby establish the following criteria and procedures for approval for the admission and detention in an institution of the [Department] for safekeeping of a prisoner tendered by a law enforcement officer of this State and rescind the previous safekeeping procedures set forth in Executive Order #76-15:

Section I of Executive Order No. 2000-11 provides as follows:

An individual held in a county pretrial confinement facility may be transferred to the custody of the [Department] by commitment duly authorized by the Governor pursuant to § 24-3-80, if the individual: (1) is a high escape risk; (2) exhibits extremely violent and uncontrollable behavior; and/or (3) must be removed from the county facility to protect the individual from the general population or from other detainees.

In the first paragraph from the section of his brief entitled "STATEMENT OF THE FACTS,"<sup>4</sup> Barnes provided the following accounting of the events by which he entered the Department's custody as a Safekeeper:

Beginning February 7, 2014 through April 28, 2015, [Barnes] was housed as a **pre-trial detainee** at the following county jails: Aiken; Laurens; and Greenwood. On or about April 20, 2015, Edgefield County Sheriff Adell Doby petitioned the [Department's Office of General Counsel] to classify [Barnes] as a "Safekeeper" and transfer him [into the Department's custody]. **On or about April 28, 2015, [Barnes] was approved by [the Department] as a "Safekeeper."** The Governor then issued an **Executive Order on April 28, 2015, also approving [Barnes'] designation as a "Safekeeper."** On the same day, [April 28, 2015], [Barnes] was removed from a county jail and transferred to the [Department's custody] as a Safekeeper (assigned SK #5290). [emphasis supplied].

As the Department explained in its brief,<sup>5</sup> Barnes' assertions in the above-quoted paragraph that the Department "approved" him as a Safekeeper represented a key factual error, and, by its March 29, 2017 Order, one of the two (2) orders from which Barnes appealed, the ALC correctly described the Department's action regarding the petition submitted by the Edgefield County Sheriff (R. p. 186):

The Department **recommended** that [Barnes] be designated as a Safekeeper, and the Governor issued an Executive Order on April 28, 2015 **approving** that designation, which was renewed on August 12, 2015. [emphasis supplied].

In the footnote associated with the above-quoted passage from his brief,<sup>6</sup> Barnes added the following relevant information:

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<sup>4</sup> See Barnes' Brief, p. 3, and the Department's Brief, pp. 1 – 2.

<sup>5</sup> See the Department's Brief, p. 2.

<sup>6</sup> See Barnes' Brief, p. 3, n. 1.

Barnes had previously been incarcerated within SCDC pursuant to a murder conviction and death sentence; however, his case was reversed in January 2014, [*State v. Barnes*, 753 S.E.2d 545 (2014)], and he was remanded on February 7, 2014, by [the Department] to the custody of the Edgefield County jail for re-trial. The Edgefield Sheriff then asked other county jails to house Barnes.

By a letter dated September 28, 2017,<sup>7</sup> Barnes' appellate counsel advised the Clerk of this Court as follows:

[Barnes' appeal] involves issues related to [his] pre-trial detention [as a Safekeeper within the Department]. **The issues could become moot following [Barnes'] non-capital jury trial which is scheduled to begin October 9, 2017 in Edgefield County.** We would respectfully request the appeal proceedings be delayed until after the trial. I have spoken with [the Department's outside counsel], and he is not opposed to such a delay. [emphasis supplied].

By an order issued October 6, 2017, this Court granted the request made by Barnes' appellate counsel in the above-quoted letter, and it imposed a 30-day abeyance of the proceedings in the instant matter.

On October 13, 2017, an Edgefield County jury convicted Barnes of murder, and the presiding judge sentenced Barnes to life in the Department's custody without the possibility of parole.<sup>8</sup>

Barnes then entered the Department's custody on October 16, 2017, where he remains as of the date of its instant motion.<sup>9</sup>

---

<sup>7</sup> The Department respectfully submits a copy of the letter from Barnes' appellate counsel dated September 28, 2017 as Exhibit A in support of its instant motion.

<sup>8</sup> The Department respectfully submits a copy of the sentence sheet (South Carolina Court Administration Form 217) signed October 13, 2017 by the Honorable Diane S. Goodstein that reflects Barnes' conviction and sentence as Exhibit B in support of its instant motion.

<sup>9</sup> The Department respectfully submits a copy of the "Inmate Search Detail Report" secured from its website (<https://public.doc.state.sc.us/scdc-public/>) which reflects Barnes' admission into its custody on October 16, 2017 as Exhibit C in support of its instant motion.

## II. APPLICABLE PRECEDENT

In *Wachesaw Plantation East Community Services Ass'n, Inc. v. Alexander*, 778 S.E.2d 898, 900 (S.C. 2015), our Supreme Court addressed mootness as follows:

**"A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court."** [*S.C. Ret. Syst. Inv. Comm'n v. Loftis*, 741 S.E.2d 757, 758 (S.C. 2013)]. **"[M]oot appeals result when intervening events prevent a decision on appeal from having an immediate impact on the parties."** 15 S.C. Jur. *Appeal and Error* § 19 (Supp. 2014). "Appellate court[s] will not pass on moot and academic questions or make an adjudication where there remains no actual controversy." [*Linda Mc Co., Inc. v. Shore*, 703 S.E.2d 499, 506 (S.C. 2010)]. [emphasis supplied]

See also *S.C. Public Interest Foundation v. S.C. Dep't of Trans.*, -- S.E.2d --, 2017 WL 4052370, \*4 (S.C. Sept. 14, 2017). ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy." [*Sloan v. Greenville Cnty.*, 670 S.E.2d 663, 667 (S.C. Ct. App. 2009)]").

In *Shah v. Richland Memorial Hospital*, 564 S.E.2d 681, 687 (S.C. Ct. App. 2002), this Court also addressed mootness:

An appellate court "will not pass on moot and academic questions or make an adjudication where there remains no actual controversy." [*Mathis v. South Carolina State Highway Dep't*, 195 S.E.2d 713, 714 (S.C. 1973)]. **"A case becomes moot when judgment, if rendered, will have no practical legal effect upon [an] existing controversy. This is true when some event occurs making it impossible for [a] reviewing [c]ourt to grant effectual relief."** [*Id.*, 195 S.E.2d at 715]. "Moot appeals differ from unripe appeals in that moot appeals result when intervening events render a case nonjusticiable." [*Curtis v. State*, 549 S.E.2d 591, 596 (S.C. 2001)]. [emphasis supplied].

In *Shah*, 564 S.E.2d at 687, this Court again quoted *Curtis*, 549 S.E.2d at 596, when it articulated the three (3) general exceptions to the mootness doctrine in the civil context:

**First**, an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review. **Second**, an

appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest. [Third], if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case. [citations omitted by this Court and emphasis supplied by the Department].

### III. ANALYSIS

As a result of his conviction and sentencing on October 13, 2017 and his admission into the Department's custody on October 16, 2017, Barnes is no longer a pre-trial Safekeeper.

Under *Wachesaw Plantation*, 778 S.E.2d at 898, Barnes' October 2017 conviction and sentencing constitutes an "intervening event" that renders impossible any grant of effectual relief to him by this Court on the three (3) issues on appeal he identified in his brief.

Moreover, Barnes's October 2017 conviction and sentencing constitutes an "intervening event" that prevents a decision by this Court on Barnes' pending appeal from the two (2) orders issued by the ALC on November 5, 2015 and March 29, 2017 "from having an immediate impact" on Barnes and the Department. *Id.*

Given his October 2017 conviction and sentencing, any judgment rendered by this Court regarding Barnes' appeal will have no practical legal affect upon the existing controversy between Barnes and the Department, and, accordingly, the Department respectfully asserts that Barnes' appeal is moot. *Id.* See also *S.C. Public Interest Foundation*, 2017 WL 4052370, \*4; and *Shah*, 564 S.E.2d at 687.

The Department further respectfully asserts that just as in *Shah*, 564 S.E.2d at 687 – 88, none of the three (3) general exceptions to the mootness doctrine applies to any of the three (3) issues on appeal Barnes identified in his brief.

First, none of the three (3) issues Barnes identified on appeal regarding his status as a pre-trial Safekeeper and his treatment by the Department while a pre-trial Safekeeper are capable

of repetition. As he is now incarcerated in the Department while serving a sentence of life without the possibility of parole, Barnes is no longer a pre-trial detainee in the Department's custody as a Safekeeper. Consequentially, the policies promulgated by the Department which address Safekeepers (i.e. Policy Numbers SK-22.02 and OP-22.12) no longer apply to Barnes after his October 2017 conviction and sentencing.<sup>10</sup>

Even if his October 2017 conviction and sentence are overturned on appeal and he again enters the Department's custody as a pre-trial Safekeeper, Barnes may not confront the same issues that lie at the heart of his instant appeal concerning whether he should be classified as a Safekeeper or the Department's treatment of him as a Safekeeper. Even if he confronts the very same issues upon his re-entry into the Department's custody as a pre-trial Safekeeper, Barnes may seek review of such issues by filing a grievance with the Department, and, if the Department denies his grievance, Barnes may appeal the Department's denial to the ALC.

Second, none of the three (3) issues on appeal Barnes identified in his brief constitute "questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest."

Third and finally, neither the ALC's decisions regarding the three (3) issues on appeal identified by Barnes in his brief nor, for that matter, the Department's decisions on the same three (3) issues will affect future events between Barnes and the Department. Likewise, neither the ALC's decisions regarding the three (3) issues on appeal identified by Barnes in his brief nor the Department's decisions on the same three (3) issues will have any collateral consequences for Barnes and the Department.

---

<sup>10</sup> See the Department's Brief, pp. 6 – 7.

#### IV. CONCLUSION

As persuasively demonstrated above, the three (3) issues on appeal Barnes identified in his brief are, given his October 2017 conviction and sentencing, now moot.

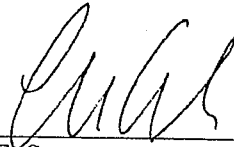
As also persuasively demonstrated above, none of the three (3) general exceptions to the mootness doctrine apply to Barnes' the three (3) issues on appeal Barnes identified in his brief.

Therefore, the Department respectfully urges this Court to dismiss as moot Barnes' appeal of the orders issued by the ALC on November 5, 2015 and March 29, 2017.

Finally, the Department respectfully requests that this Court continue to hold Barnes' appeal in abeyance pursuant to its October 6, 2017 order until it rules upon the Department's instant motion.

**RESPECTFULLY SUBMITTED,**

BY:



Lake E. Summers

**Malone, Thompson, Summers & Ott LLC**

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Columbia, South Carolina 29201

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Fax: (803) 254-0309

E-mail: [summers@mtsolvlawfirm.com](mailto:summers@mtsolvlawfirm.com)

Counsel for the Respondent

Columbia, South Carolina  
October 31, 2017



SOUTH CAROLINA COMMISSION FOR INDIGENT DEFENSE

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November 7, 2017

Mr. Steven L. Barnes

SCDC 00327117 A2-0023-B

c/o Kirkland R&E

4344 Broad River Road

Columbia, SC 29210

Re: Safekeeper suit

Dear Mr. Barnes,

I hope all is well with you and you've had at least a marginal improvement moving from safekeeper at Lee to Kirkland. I am enclosing a copy of the Department of Corrections's motion to dismiss as moot the safekeeper suit. I agree that the case is moot – there is no longer a controversy since you are no longer in safekeeper. I will also enclose a self-addressed stamped envelope so that if you have any objections to this you can notify me immediately.

Yours truly,

Shane

Encl: motion to dismiss, SASE

ROA (6)

Writ of Mandamus against the South Carolina  
Court of Appeals, Appellate Counsel Shane Garmonson,  
and the SCPC, and the office of  
Indigent Defense

SUPREME COURT OF SOUTH CAROLINA

STEVEN LOUIS BARNES # 327117

petitioner

clerk #

RECEIVED

NOV 22 2017

S.C. SUPREME COURT

VS

Office of Indigent Defense

Shane Garanson, South Carolina

Commission on Indigent Defense

South Carolina Court of Appeals

South Carolina Department of  
Correction

Respondents

WRIT of HABEAS

SUMMARY OF FACTS

This writ of Habeas to this Court has three purposes that all coincide with each other: one (1) to compel the South Carolina Commission Office of Indigent Defense from:

(A) The usurpation of the Traditional function of private counsel, who are employed for indigent defendants in its office, and/or public Defender in its office for the interest of the state as shown in paragraph (3) below; and (A) To follow all laws such as SC Code § 17-3-340 in appointing effective counsel to the appellant

without state interferences; and two (2) to order the South Carolina Court of Appeals that the Court have subject matter jurisdiction in part for two reasons: Regarding the safekeeper issue (A) that SC Code § 44-22-20, which is the Habeas Corpus statute, has jurisdiction over the South Carolina Department of Correction (SCDC) and the South Carolina Department of Correction (SCDC) ordered placement of the petitioner in the Department of Correction as a safekeeper inmate and (B) that this Court gave Judge Diana L. Gaudet exclusive jurisdiction over the petitioner's criminal case when it was a capital case. (See Appendix (1) for further details on these arguments.) Also for the record, the petitioner leave reference to the one hundred (100) page brief that was filed both in this Court and the Court of Appeals that goes into details about the safekeeper issue; and three (3) to order the South Carolina Court of Appeals to drop the Habeas order that was agreed upon by both state action between SCDC lawyers and the office of indigent defense lawyer, Shane Goranson, a state puppet (Shane Goranson, a state puppet), and to hear the petitioner's one hundred page brief in a timely fashion in the Court of Appeals so the issues can be reviewed by this Court in the future. See Appendix (1).

## JURISDICTION

This Court has Jurisdiction of this writ on the following South Carolina laws:

SC Const Art V § 5 ; SC Const Art V § 20<sup>th</sup>; Rule 65 of the South Carolina Civil Rules of procedure ; and SC Code § 14-3-310 that Reads in pertinent part :

"The supreme Court shall have the power to issue writs or orders of injunctive, mandamus and other remedial and original writs."

Id

## PARTIES

South Carolina Commission on Indigent Defense; Shane Lickanson, a state puppet; South Carolina Court of appeals; South Carolina Department of Correction (SCDC)

## BACKGROUND FACTS

On January of 2014, this Court had overruled the petitioner's capital case on the grounds of self representation. This Court had acknowledged the the petitioner's history of Severe mental health but did not adopt the Edmund standard for denying a Severe Mental Health Criminal defendant the Right to self representation, but instead this Court

had adopted the *farrington v. California* standard for self representation.

This Court can take judicial notice that the state on appeal to this Court had argued that the petitioner is/was a severe mental health inmate. The South Carolina Governor, and its agents, such as the state are judicially estopped and res judicata from arguing differently on this writ regarding the petitioner's severe mental health status.

On April 30, 2015, the petitioner's former counsel, Jeff Blum, and Bill McGuire of the office of Indigent Defense (former counsel) had sent a letter to the SCDC regarding the petitioner being in safekeeper status within the Lee County Correctional Facility in Bishopville, South Carolina. See Appendix (2).

On June 10, 2015, the petitioner's former counsel again had sent a letter to SCDC officials regarding the location of confinement within the SCDC. See Appendix (3). On July 2, 2015, SCDC had responded to the letter regarding the petitioner's former counsel. See Appendix (4). On July 6, 2015, the petitioner's former counsel had filed a contested hearing in the Administrative Law Court (contested hearing) see Appendix (5). Both the SCDC General Counsel and former counsel, before and after any briefs or hearings in the contested hearing, had known that the petitioner

was a Severe Mental health inmate who was not eligible for the placement within the SCL as a safekeeper. The extreme harsh conditions has affected the petitioner Severe Mental health worse than before. Despite them knowing this, the sole purpose of the petitioner being placed there by SCL because he'd invoked his 6th Amendment right to Counsel and being punished for it. A contested hearing was held in Columbia, South Carolina, at the Administrative Law Court Building where the SCL General Counsel and one of former Counsel was present. The petitioner doesn't know what was raised by former Counsel at the contested hearing nor did he know a hearing was being held in the Administrative Law Court. Former Counsel did not call any of the contested hearing witnesses such as the Governor and SCL officials regarding the petitioner's safekeeper status. Upon information and belief of the South Carolina Commission on Indigent Defense would not provide former Counsel's funding for preparation of evidentiary matters such as deposition of witnesses like the former South Carolina Governor, and it's co-conspirators, who are all responsible for placing the petitioner within the SCL when he was a Severe mental health inmate and who is not eligible under South Carolina mental health statutes to be there.

See SC Code § 44-22-20 through 44-22-220 and SC Code

§ 44-23-220; and section 6 of Governor Executive order 200-1 on november 5, 2015, the Administrative Judge had dismissed the petitioner's Petitionary transfer issue. See Appendix (6). No appeal was taken by former Counsel regarding the november 5, 2015 Administrative Judge order to the South Carolina Court of appeals. Lack of subject matter jurisdiction, for instance, can be raised at any time. SC Code § 44-22-20, a habeas corpus statute, has jurisdiction over the petitioner's severe mental health issue. See Appendix (1).

Furthermore, on April 23, 14, the then 11th Circuit Solicitor, Dennis Myers had resought the death penalty against petitioner. This case gave Judge Diana S. Goodstein Exclusive Jurisdiction on the then petitioner's capital case.

The Administrative Judge november 5, 15 order regarding the petitioner's transfer within the SCJC is void, see Appendix (6) as a matter of law on the ground that the Court lacks subject matter jurisdiction because of 1) SC Code § 44-22-20, a habeas corpus statute, has jurisdiction over the severe mental health issue and 2) Judge Goodstein was given Exclusive Jurisdiction over the petitioner's then capital case by this Court. Furthermore, former Counsel had raised his version of the safekeeper issue on

Counsel speedy trial brief in front of Judge Grinstead. It's obvious that there's conflicting Jurisdiction over the safekeeping issue that presents a live controversy for this Court to sort out. See appendix (1). On September 29, 17, the petitioner had sent by fee laden institutional mailing to this Court, a hundred page brief that goes into details regarding former Counsel, and Counsel on this appeal, Shane Garanson, a puppet for the state, ineffectiveness concerning the subject matter Jurisdiction, and among other issues, in his brief. The petitioner leave reference to and incorporate the brief in this section for relief.

## FACTS

On September 29, 17, the petitioner had sent a copy of his one hundred page brief to the following: this Court, the Court of Appeals, the Administrative law Court to be filed there; and Shane Summers, a lawyer for SCOC on Appeal, (lawyer for SCOC).

The SCOC lawyer, upon information and belief, had showed a copy of the petitioner brief with Shane Garanson, a state puppet, who is continuously messing up the petitioner appeal to the Court of Appeals; for example, both SCOC lawyer and Shane Garanson, a state puppet, are aware of the petitioner one hundred page brief regarding his issues of law of subject matter jurisdiction and the three exceptions to the mootness doctrine but both of

them are trying to conspire to deprive the petitioner in the Court of Appeals to access to the courts, to equal protection of law, to petition the Government for the redress of grievances, and to deprive the petitioner of a cause of action. This constitute state action; for example, instead of advancing the petitioner issues an appeal to the Court of Appeals in counsel brief, Shane Goanenson, a state puppet, is continuously advancing issues contrary to the petitioner interest in his one hundred page brief, for instance, in a letter to the petitioner dated November 7, 2017, Shane Goanenson, a state puppet, states in part:

"I am enclosing a copy of the Department of Corrections' motion to dismiss as moot the Saferepco suit. I agree that the case is moot - there is no longer a continuing state. You are no longer in Saferepco."

See Appendix (1)

In the conclusion section of his one hundred page brief to both the Court of Appeals and this Court he had advanced the three exception to the mootness doctrine. Shane Goanenson, a state puppet, knows the petitioner legal positions. Both state lawyer and Shane Goanenson, a state puppet, have a copy of the petitioner one hundred page brief that is filed in the record in both this Court and the Court of Appeals.

furthermore, according to page 9, fn 7, of the SCDC lawyer brief, see Appendix (8), Shane Guranon, a state puppet, had sent a letter to the SCDC lawyer, the Honorable Jeany Albert Kitching, and the SCDC General Counsel, Stephen John Lufford, Esquire, on September 28, 2017, requesting for a 30 day abeyance of the Court of Appeals proceedings. See Appendix (9). Shane Guranon, a state puppet, was already and away before he had sent the September 28, 2017 letter to those officials. I do agree, that the petitioner was previously filing a brief in the South Carolina Court of Appeals and this Court about former Counsel, and Shane Guranon, a state puppet, poor performance in representing the petitioner in the Administrative Court proceedings and the Court of Appeals. The Court of Appeals had granted the thirty day abeyance upon information and belief, when the Appellant one hundred page brief had arrived at that Court, his case was still in abeyance. The Appellant brief had raised ineffective Assistance of Counsel to Release state Counsel off that case, but SCDC lawyer and Shane Guranon, a state puppet, is trying to, pursuant to their conspiracy, secretly deny the petitioner of a cause of action, and the right to be heard, regarding his one hundred page brief in this Court and the Court of Appeals. They are trying to get the Court of Appeals to delegate the Court fact-finding Authority to their brief. See Appendix (8) and (10). For example, Neither SCDC lawyer brief, I do agree, nor Shane Guranon, a state puppet, letter to state officials, see Appendix (9), nor a letter by him

to petitioner, see Appendix (7), nor share Croanison Reiter brief in the Court of Appeals, in which is against the three Exception to the mootness doctrine in the conclusion section of the petitioner brief, states the petitioner interest in his one hundred page brief in the Court of Appeals and this Court. see Appendix (10). This is state action to it's finest.

## LEGAL STANDARD for GRANTING THIS WRIT of MANDAMUS

To obtain a writ of mandamus requiring the performance of an act, the petitioner must show:

(1) a duty of Respondent to perform the act, (2) the ministerial nature of the act, (3) the petitioner specific legal Right for which discharge of the duty is necessary, and (4) a lack of any other legal remedy.

### A Duty of Respondent To perform The Act

The petitioner will name the above-caption Respondent's duties to perform, but not limited to other ones, and their conspiracies below:

S.C. Code § 17-3-346 lays the foundation for the South Carolina Commission on Indigent Defense, and its employees. It Reads the following:

"(A) All members of the Commission shall at all times act in the best interest of indigent Defendant who are receiving legal representation pursuant to the provision of this chapter."

When Shane Goanson, a state puppet, pursuant to a conspiracy with some lawyers, usurpation of the petitioner's right to a cause of action in his one hundred page brief to this court and the court of appeals, or just gave up counsel's traditional function to the state's interest in state action. See *Palm County v. Pedron* 454 A.2d 312 (1983). Furthermore, pursuant to their conspiracy, for private parties such as lawyers to use the court's judicial power for evil means against a private citizen, the petitioner, for judicial advantage in a litigation is state action as well. See *Stansland v. Washington* 104 S.Ct. 2052 (1984); *State v. Quattlebaum* 531 S.2d 105 (1988); *Weatherford v. Byars* 429 U.S. 545 (1977). Shane Goanson, an employee of the Commission, has a duty to the petitioner to represent the petitioner's interest and not the state's. See *Donnelly* 42 F.3d 210 (1st Cir. 1994).

Furthermore, the South Carolina Commission of Indigent Defense has a constitutional legal duties to:

- (1) Appoint effective assistance of counsel; (2) to appoint counsel without conflict of interest; (3) to appoint counsel who will advance the petitioner's legal interest in court without state interference; (4) and among other constitutional duties to the petitioner right to counsel such as necessary funding in a criminal case.

Also, South Carolina Department of Correction has a duty to perform the Act: (1) to advise to the courts; (2) to equal protection of law; and (3) to petition their government for the redress of grievances; and

and from depriving the petitioner of a cause of action by state action. These are constitutional legal duties of the state, and its agents.

These duties are ministerial in nature and these duties are specific legal rights to the petitioner that the above-captioned Respondents must discharge their duties to. The question now is lack of remedy.

### A LACK of Any other Remedy

And lastly, the South Carolina Court of Appeals has a duty to hear and side to a legal dispute — the petitioner is entitled to a fair hearing process and access to the courts as a matter of law — nor can a court render an arbitrary decision from the bench. Lack of subject matter jurisdiction and the abeyance issues are two of them. See Appendix (1). Furthermore, the Court of Appeals have a duty not to exercise subject matter jurisdiction over a case and controversy where the court does not have the power to do so. This includes the Administrative Law Court. This means that these courts will be in excess of jurisdiction because the South Carolina Habeas Court pursuant to SC Code § 44-22-20 has jurisdiction over this case and/or Judge Diana Goodstein, who was given by this Court, Exclusive Jurisdiction over the petitioner case. See Appendix (1). There is no other remedy but this Court to adjudicate these issues in this writ.

## Conclusion

The petitioner prays for the following reliefs:

- (1) for the Court of Appeals to hear the petitioner one hundred page brief that is also filed in this Court;
- (2) To enjoin the South Carolina Department of Correction that if a Petition is granted in the petitioner's criminal case that SCDC cannot place the petitioner back with the SCDC as a safekeeper inmate because he is severe mental health inmate;
- (3) A Declaration that SCDC and its controlling actors, has violated the petitioner's rights by placing the petitioner in the SCDC as a safekeeper detainee when they know that the petitioner is a Severe mental health inmate and not eligible to be placed in the SCDC;
- (4) To fashion a remedy for the unique case because there is still a live case and controversy because of 1) SCDC access to the Court, and among other policies, in special management unit are the same as safekeeper, and 2) because the safekeeper issue has violated various Constitutional rights that give the petitioner defenses in his criminal case such as the Bill of Attainder and punishment for being counsel, and punishing a pretense detainee prior to an adjudication of guilt and the speedy trial issue. The

petitioner due to raising ineffective Assistance in his one hundred page brief have to have a forum to raise those issues on direct appeal;

(b) regarding those defenses, the petitioner as a matter of due process is entitled to a hearing and to call witnesses and to put up evidence at the hearing;

(c) and lastly, counsel from the state defense fund should be appointed to him at the hearing so that cross examination of witnesses and obtaining evidence will not be tampered with by state interests.

The petitioner pray for such other and further relief that this Court will grant.

Date: 11/21/17

Steven Louis Barnes  
STEVEN LOUIS BARNES #327111  
Klanland R & C  
4344 Brown River Rd  
Columbus, IL 62510

ROA (7)

The South Carolina Supreme Court November 22, 2017 letter, in which the clerk will not file the petitioner writ of Mandamus showing State officials conspiracy with the petitioner Appellate Counsel on the grounds of hybrid representation



# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330  
COLUMBIA, SOUTH CAROLINA 29211  
TELEPHONE: (803) 734-1080  
FAX: (803) 734-1499

November 22, 2017

Mr. Steven Lois Barnes, #3217117  
Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, SC 29210

Re: Steven Barnes v. SCDC  
Appellate Case No. 2017-000967

Dear Mr. Barnes:

This responds to your petition for a writ of mandamus dated November 21, 2017. This petition is related to the above case that is pending before the South Carolina Court of Appeals.

Since you are represented by counsel in the above case, I cannot accept this *pro se* petition for filing and no action will be taken on it by this Court. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).<sup>1</sup>

Very truly yours,

CLERK

---

<sup>1</sup> If, of course, you desire to have your current counsel relieved, then that is a matter that you will need to raise by appropriate motion to the Court of Appeals.

ROA (8)

The Supreme Court of South Carolina on December 15, 2017 denying the petitioner motion to reconsider hearing the petitioner writ of Mandamus on the grounds of hybrid representation

LEGAL MAIL  
MAIL ROOM

# The Supreme Court of South Carolina

Steven L. Barnes, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2017-002505

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## ORDER

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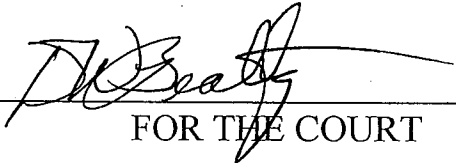
The appeal in this matter is pending before the South Carolina Court of Appeals under Appellate Court Case Number 2017-002505. Petitioner is represented by counsel in this appeal.

By letter dated November 22, 2017, the Clerk of this Court rejected a petition for a writ of mandamus petitioner had filed *pro se* relating to the above appeal. This rejection was based on the cases of *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010); *Jones v. State*, 348 S.C. 13, 558 S.E.2d 517 (2002); *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989).

Petitioner has now filed a motion asking for reconsideration of the rejection of this petition for a writ of mandamus. The request for reconsideration is denied, and the petition for a writ of mandamus is hereby stricken and dismissed under the cases listed above.

Petitioner is reminded that the only motion that he can file related to this matter is a motion to relieve counsel. As long as he is represented by counsel in this matter, any other motion or other document seeking relief above and beyond the relief of counsel will not be accepted by either this Court or the Court of Appeals.

Finally, to the extent that petitioner may be asking this Court to relieve counsel or appoint new counsel, that request is dismissed without prejudice since this relief should be sought in the Court of Appeals rather than in this Court.<sup>1</sup>

  
\_\_\_\_\_  
FOR THE COURT C.J.

Columbia, South Carolina  
December 15, 2017

cc: Shane Edwin Goranson, Esquire  
William Sean McGuire, Esquire  
Lake Eric Summers, Esquire  
Stephen Hollis Lunsford, Esquire  
✓Mr. Steven L. Barnes

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<sup>1</sup> According to the Appellate Case Management System, petition has filed a motion to relieve and substitute counsel with the Court of Appeals. This motion was received by the Court of Appeals on December 6, 2017.

ROA (a)

The South Carolina Court of Appeals December 21, 2017 denying both the petitioner motion to relieve counsel and ineffectiveness of counsel

# The South Carolina Court of Appeals

Steven L. Barnes, Appellant,

v.

South Carolina Department of Corrections, Respondent.

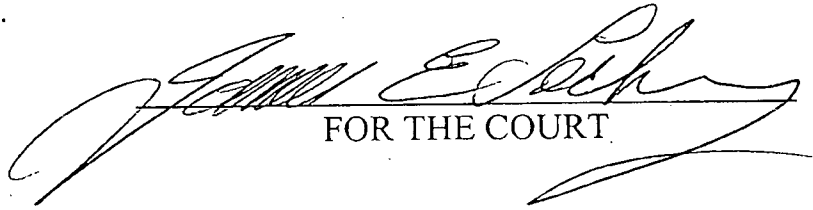
Appellate Case No. 2017-000967

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## ORDER

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After careful consideration, Appellant's motion to relieve counsel is denied. Furthermore, because Appellant was convicted and sentenced to life imprisonment on October 13, 2017 and entered into the South Carolina Department of Corrections' custody on October 16, 2017, this appeal is moot and Respondent's motion to dismiss is granted. *See Shah v. Richland Memorial Hospital*, 350 S.C. 139, 150, 564 S.E.2d 681, 687 (Ct. App. 2002) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon [an] existing controversy. This is true when some event occurs making it impossible for [a] reviewing [c]ourt to grant effectual relief."). The remittitur will be sent as required by Rule 221(b), SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:

Steven L. Barnes, 327117

Lake Eric Summers, Esquire

Stephen Hollis Lunsford, Esquire

Shane Edwin Goranson, Esquire

William Sean McGuire, Esquire

**FILED**

Dec. 21, 2017

ROA (10)

The South Carolina Court of Appeals  
Clerk letter on January 12, 2018, in which  
the Clerk will not file the petitioner  
motion for reconsideration / En Banc of motion  
to relieve counsel and motion for ineffectiveness  
of counsel on hybrid representation grounds.



ROA (11)

Both the petitioner Second writ of Mandamus against the Court of Appeals and motion to Recall the Remittitur that was filed on January 26, 2018 to get the Court of Appeals to hear the petitioner motion to Relieve Counsel and motion for ineffectiveness of Counsel.

# SUPREME COURT of SOUTH CAROLINA

STEVEN LOUIS BARNES # 32711.7

petitioner

VS

SOUTH CAROLINA COURT of APPEALS  
Respondents

SECOND WRIT of MANDAMUS  
AGAINST THE SOUTH CAROLINA  
COURT of APPEALS

## SUMMARY of FACTS

This second writ of Mandamus against the South Carolina Court of Appeals is in regards to this Court December 15, 2017 order that states in part:

"petitioner is reminded that the only motion that he can file related to this matter is a motion to Relieve Counsel. As long as he is represented by Counsel in this matter, any other motion or other document seeking relief above and beyond the relief of Counsel will not be accepted by either this Court or the Court of Appeals.

See Barnes v SC Dept of Correction, Appellate Case # 2017-002505

the Court of Appeals had sent the petitioner a letter on December 7, 2017, threatening to dismiss the petitioner appeal if he did not supply the Court a proof of service and twenty-five (25) dollars for processing his motion to Relieve Counsel; however, on December 15, 2017, this Court had instructed the Court of Appeals to only hear as stated above the petitioner motion to Relieve Counsel. Furthermore, although this Court December 15, 2017 order has completely closed the writ of Mandamus doors where Counsel who is appointed by the state of South Carolina to the petitioner is conspiring with state officials in intentionally depriving the petitioner of a cause of action not only in the Court of Appeals but also other South Carolina Courts, the petitioner is forced to file a writ of Certiorari in the United States Supreme Court within ninety (90) days of the Court order. On December 21, 2017 the Court of Appeals had denied both the petitioner motion to Relieve Counsel and his appeal of the Administrative Law Court proceeding under the mootness doctrine, although the Court of Appeals in part lacks subject matter jurisdiction. Within fifteen (15) days of the Court order the petitioner filed a Motion for Rehearing and for En banc hearing in the Court of Appeals regarding his motion to Relieve Counsel and the grounds of ineffectiveness of Counsel for Counsel conspiring, and among other grounds, with South Carolina officials in depriving the petitioner of a cause of action as to the three exception of the mootness doctrine. On January 8, 2018, the Court of Appeals had filed a Remittitur regarding the Administrative Law Court proceeding without hearing the petitioner motion.

more capricious decision-making concerning the Rules of Court or the laws of South Carolina, and the Right not to be punished by Court officials for exercising the petitioner Constitutional Rights, see *Crawford et v Britton* 523 US 574, 585 n 10 (1998), and the Right to procedural due process, see *Wolff v McDonnell*, 418 US 539 (1974), and among other Rights. These Rights are indisputable Constitutional Rights in which are ministerial to both the Court of Appeals and this Court.

furthermore, the petitioner has an inadequate Remedies in the South Carolina Courts as shown above.

Also, the petitioner is Requesting this Court to enjoin and to compel the Court of Appeals and its agents in the petitioner first writ of Mandamus to stop playing with the petitioner and his Constitutional Rights.

### RELIEF

The petitioner prays for such other and further Relief this Court seems just and proper.

Date: 1/28/18

Steven Lantz Jones  
STEVEN LANTZ JONES #32717  
McCORMICK Correctional Institution  
386 Redemption way  
McCORMICK, SC 29899

Pg 5 of 5

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from THE ADMINISTRATIVE LAW COURT  
Ralph King Anderson, III, Administrative Law Judge

Case No. 15-ALJ-30-0318-AP

Steven Louis Barnes

Appellant

vs

SC Dept of Correction  
and Et. Al

Respondent

MOTION TO RECALL THE REMITTITUR SO THE APPELLANT TIMELY  
MOTION for RECONSIDERATION, for EN BANC HEARING TO BE CONSIDERED  
By THIS COURT

The Appellant crave reference to and incorporate the facts and arguments in his  
second writ of Mandamus against the South Carolina Court of Appeals in which  
is attached to this motion, in this section for relief.

Appellant Motion for Reconsideration of Motion to Relieve. See Exhibit (5) on January 26, 2018, the Appellant had filed his second writ of Mandamus against the Court of Appeals. See Exhibit In the abundance of caution the Appellant on January 26, 2018 had filed a notice of Appeal to the State Supreme Court regarding the above facts.

### ARGUMENT IN SUPPORT TO RECALL THE REMITTITUR

The state supreme court in *State v Barnes* 774 S.E.2d 454 (2015) had addressed the issue of recalling the Remittitur from the lower court. "In order to justify this court in exercising the unusual power of recalling the Remittitur after it has been sent down, a very strong showing would be required that the Remittitur was sent down through some mistake or inadvertence on the part of this court or its officer. See *State v Barnes* supra (quoting *State v Reels* 17 S.E. 802 (1893))

The Court of Appeals clerks are utilizing the Rules of Court capriciously and arbitrarily against the Appellant, see *Hamilton v Board of Trustees* 319 S.E.2d 212, 721 (Ct. App 1984) to defeat his cause of actions, see *Logan v Zimmerman Brush Co.*; 455 US 422 (1982) in a retaliatory and punishing ways, see *Crawford et al v Britton* 523 US 574, 585 n 10 (1998) because the Appellant is exercising his access to the courts. See *Bonds v Smith* 430 US 817 (1977) Therefore, the Appellant has met the standard for this court to

ROS (12)

Judge Diane S. Goodstein denying the  
petitioner's motion to relieve counsel / motion for  
ineffective assistance of counsel at the  
petitioner's October 9-13 trial on hybrid  
representation grounds

1 State of South Carolina ) Court of General Sessions  
2 County of Edgefield ) Eleventh Judicial Circuit  
3

4 State of South Carolina, ) Transcript of Record  
5 vs. ) 2017-GS-19-01788  
6 Steven Louis Barnes, )  
7 Defendant. )  
8

9  
10 October 9th - 13th, 2017  
11 Edgefield, South Carolina

12 B E F O R E:

13 The Honorable Diane S. Goodstein, Judge; and a Jury.

14  
15 A P P E A R A N C E S:

16 S.R. Hubbard, III, Eleventh Circuit Solicitor  
17 L. Suzanne Mayes, Deputy Solicitor  
18 David Shawn Graham, Deputy Solicitor  
19 Lucas A. Pincelli, Assistant Solicitor

20 Attorneys for the State

21 Jeffrey Bloom, Esquire  
22 William McGuire, Esquire  
23 Shane Goranson, Esquire

24 Attorneys for the Defendant  
25

Stacy S. Johnson  
Circuit Court Reporter

1       (The following proceedings were held October 9, 2017,  
2 beginning at 11:40 AM.)

3       **BAILIFF:** All rise.

4       **THE COURT:** Thank you very much. Please be seated.  
5 Thank you.

6       Good morning. How are you, Mr. Barnes?

7       **THE DEFENDANT:** Hanging in there. I know you already  
8 addressed what's going on, so whenever you're ready.

9       **THE COURT:** Okay. The way that -- here's, I think,  
10 where it makes an appropriate place to begin. I want to  
11 hear about, first of all, discovery. I want to be sure  
12 discovery is settled and folks are satisfied with discovery  
13 and then I'll hear any motions from the State and then  
14 motions from the defense.

15       **MR. HUBBARD:** And I do have the new indictment, Your  
16 Honor.

17       **THE COURT:** Perfect. Do you want to go ahead and  
18 serve that?

19       **MR. HUBBARD:** If that pleases Your Honor.

20       **THE COURT:** Sure. Sure.

21       **MR. HUBBARD:** Your Honor, we have Indictment  
22 2017-GS-19-1788, the State versus Louis -- Steven Louis  
23 Barnes, an indictment for murder. This is a new  
24 indictment, but still based on that 2001 murder. The  
25 purpose for this was he'd gone to trial in 2010, a foreman

1       **THE COURT:** And have you had a chance to read the  
2 indictment?

3       **THE DEFENDANT:** Yes, ma'am.

4       **THE COURT:** And how would you plead to that  
5 indictment, Mr. Barnes?

6       **THE DEFENDANT:** Not guilty.

7       **THE COURT:** And how would you wish to be tried?

8       **THE DEFENDANT:** By jury.

9       **THE COURT:** Very well. Very well.  
10 Anything further?

11       **MR. BLOOM:** Nothing further on behalf of the defense.

12       **MR. HUBBARD:** Thank you, Your Honor.

13       **THE COURT:** Thank you so much, Solicitor.

14 All right. Any other motions from the -- well,  
15 actually I want to talk about discovery and then motions.  
16 I'm not even following my own rules. With regards to  
17 discovery from the perspective of the State, are you  
18 satisfied you've given to defense everything you have?

19       **MR. HUBBARD:** We have, Your Honor. In fact, what I  
20 did is had defense come to our office -- to my office,  
21 gave them free rein of the conference room to go through  
22 the old files. As Your Honor knows, this was a capital  
23 case back in 2010 --

24       **THE COURT:** Yes.

25       **MR. HUBBARD:** -- so there was voluminous boxes and

1 something that they thought they had, in other words, if  
2 they have a bad copy of something, we'll do our best to  
3 make sure they get what they need.

4 **THE COURT:** You'll accommodate that. Thank you.

5 And is that correct, Mr. Broom?

6 **MR. BLOOM:** That is correct. I concur with the  
7 Solicitor, Your Honor. We actually -- the defense team  
8 lawyers met at the Solicitor's office on August 17th of  
9 2017. We went through all their files. There were a few  
10 items we weren't sure that we had. We made a list of that  
11 and requested those and they were provided to us. And I  
12 sent a letter -- I believe I sent a letter to Your Honor  
13 and copied the Solicitor and copied the Clerk of Court  
14 confirming that. As of last week, there were two very  
15 short documents we were missing or could not find from the  
16 prior trial counsel files. Those were provided to us. One  
17 was a five-page search warrant from Georgia and one was a  
18 two-page lab report from Georgia, and those were provided  
19 to us, I believe, within hours of when I notified the  
20 Solicitor's office and requested those. So as of this  
21 time, we're in agreement with the Solicitor that we've been  
22 provided everything that we believe we need and think the  
23 State has.

24 **THE COURT:** Thank you very much. I appreciate that.

25 All right. Now -- now that we've sort of concluded

1 that way I can be prepared and be listening.

2 **MR. HUBBARD:** Right. Gives you a heads-up.

3 **THE COURT:** Right. But let's hold that until we've  
4 argued the other motion, if that's okay?

5 **MR. HUBBARD:** That would be fine. Thank you, Your  
6 Honor.

7 **THE COURT:** Thank you.

8 Mr. Bloom and Mr. McGuire, I'll turn it over to you.

9 **MR. BLOOM:** All right. If it please the Court, Your  
10 Honor, we have four oral motions regarding evidentiary  
11 issues we'd like to bring up in limine, but I'll do that  
12 last if that please the Court.

13 **THE COURT:** Thank you. Yes.

14 **MR. BLOOM:** If I may address the Court now as to the  
15 two written motions the defense filed back in August of  
16 2017; one is a written motion to dismiss and/or preserve  
17 under the Interstate Agreement on Detainers Act and the  
18 second motion is to dismiss for lack of a speedy trial.

19 As to the motion regarding the Interstate Agreement  
20 on Detainers, I'll be very brief. We rely on the  
21 memorandum. I acknowledge that the State Supreme Court  
22 in the first State versus Barnes appeal, which I've  
23 referred to in the memoranda as Barnes 1, addressed and  
24 denied that motion. After researching it and reviewing  
25 it, we believed the State Supreme Court may not have had

1 would simply highlight several things.

2 First, the main case on point, the current case for  
3 speedy trial analysis in our state, of course, is the  
4 Hunsberger case. H-U-N-S-B-E-R-G-E-R. And they, of  
5 course, were co-defendants of Mr. Barnes in this very  
6 scenario, so I think the Supreme Court analysis that went  
7 through in the Hunsberger opinion, clearly that same  
8 analysis applies to Mr. Barnes. I would note, again, that  
9 the paper record that we've laid out and submitted to the  
10 Clerk of Court's office sets forth the timeline and I think  
11 in any speedy trial analysis under the Hunsberger case, of  
12 course, it's incumbent upon the trial judge to construct  
13 and look at the timeline. That's what Hunsberger tells us  
14 is that the timeline is important in the first part of the  
15 analysis. We respectfully submit in our memorandum the  
16 State is responsible for an eight-year and seven-month  
17 delay. There are a couple periods in there in our  
18 memorandum where we concede under Hunsberger are not  
19 attributable to the State, and that's laid out in our  
20 memorandum, but we do believe they're responsible for an  
21 eight-year and seven-month delay. I would add in that  
22 with all due respect to Solicitor Hubbard, it makes no  
23 difference who the solicitor was prior to him and who the  
24 Solicitor is now. State conduct is State conduct. So the  
25 mere fact that there was a prior solicitor in charge of

1 clerk hot off the press came running up with the Hunsberger  
2 case when it came down, so I am aware of it. I say all of  
3 that because I'm gonna be rudely interrupting because --  
4 because I've been thinking about what about this, what  
5 about that, what about this, and so forgive me as you go  
6 through this.

7 **MR. BLOOM:** Yes.

8 **THE COURT:** When you talk about the change in  
9 solicitors, if you merely had a change in solicitor, I  
10 would agree with that, but it comes to mind, and as you  
11 know, the case law talks about there is to be allowed  
12 to the solicitor's office, to the State, some period of  
13 time to ascertain whether or not a case is going to be a  
14 death penalty case or not. And they talk about that in  
15 Hunsberger and they talk about the fact that Judge Keesley  
16 was pushing the State, okay, you know, come on, we've  
17 talked about this twice, what's it gonna be with regards  
18 to Hunsberger, and as we know there was an oral  
19 communication early on that Mr. Barnes' case was gonna  
20 be a capital case.

21 So when you say that is irrelevant, my question to  
22 you is -- and recently I have been tagged for maybe it's  
23 not appropriate to look at the reverse, if you have the  
24 ability to associate do you not then have the ability to  
25 dissociate? I've been living with that. However, I

1       **MR. BLOOM:** -- the current prosecutor in and of  
2       itself cannot say well, that was somebody else making those  
3       decisions, so those aren't attributable to me. I think it  
4       is attributable to State conduct and that's the only point  
5       I was making. But in your direct question, again, I would  
6       have to acknowledge --

7       **THE COURT:** Exactly. And to that end, interestingly  
8       enough, in the case law of the State is considered to be  
9       the Court as well.

10      **MR. BLOOM:** Yes, and I would -- part and parcel to  
11      that I would have to acknowledge, too, that this -- let me  
12      make sure I phrase this correctly.

13      **THE COURT:** Yes. I was thinking about how to phrase  
14      it.

15      **MR. BLOOM:** It is a distinguishing factor, so I'm  
16      not trying to dance around it, that Mr. Barnes' case  
17      started as a capital case and the Hunsbergers never were  
18      one. Verbally there was some discussion of that in the  
19      transcripts against them, but never did, and so while that  
20      -- that also is obvious in the Hunsberger opinion. Having  
21      acknowledged that, however, the Defendant's position is  
22      that the delay is still excessive and triggers a speedy  
23      trial analysis or we wouldn't even, I think, have a basis  
24      to make the motion. I think the stronger argument Barnes  
25      perhaps has than the Hunsbergers on the tail end is the

1 listed in a sequential order, but let me address that one  
2 lastly. It's our position that he's asserted at least  
3 four times in a pro se manner and those dates are in the  
4 record.

5 **THE COURT:** Let me ask you this question. We do not  
6 have hybrid representation in South Carolina and in the  
7 Hunsberger case clearly the speedy trial request was made  
8 by counsel at trial and at the directed verdict stage or  
9 involuntary nonsuit stage, so it was clearly raised by  
10 counsel and I am mindful that the Interstate Compact was  
11 raised by Mr. Barnes, but at the time Mr. Barnes was  
12 pro se, had every right to raise that in a pro se manner,  
13 but at the time that the -- I think twice that the speedy  
14 trial motion was made he was keeping -- Mr. Barnes was  
15 represented by counsel and we do not have hybrid  
16 representation. Talk to me about that.

17 **MR. BLOOM:** Yes, ma'am. I would submit that the first  
18 three times Mr. Barnes raised his own pro se speedy trial  
19 claims he was not represented by counsel. And if I can  
20 throw those --

21 **THE COURT:** Talk to me about that because I don't know  
22 about those.

23 **MR. BLOOM:** If I could throw those dates out, the  
24 first would have been approximately January 2005 when he  
25 submitted a request to be -- from Georgia to be tried by

1 file with their county jail or the prison they're in. I  
2 would submit in good faith that that document has been lost  
3 or misfiled. The Solicitor argues it never occurred and he  
4 never made the request because it's not in the Edgefield  
5 Clerk of Court's file. It wouldn't be because Mr. Barnes,  
6 as any inmate, files it with the institution he's at.  
7 We've made repeated requests from the Georgia Department of  
8 Corrections and have been unsuccessful to obtain a copy.  
9 It was done in 2005. They may have purged their file. I  
10 don't know. It is obvious to me though that Mr. Barnes  
11 filed that somewhere around January of 2005 or possibly  
12 February of 2005 because the Solicitor responds and the  
13 Solicitor's document, which is in the record, signed by at  
14 the time Solicitor Joseph -- or Assistant Solicitor Joseph  
15 Mizell, in the section of our records on the extradition  
16 documents, use Form 7, and as we -- as the form itself  
17 recites at the top, if the inmate hasn't requested to be  
18 brought back under the IAD, but you're requesting, use a  
19 different form. This is for responding to an inmate form,  
20 and that's what they do and they send it back to the warden  
21 at the Georgia prison where Mr. Barnes is at. So we know  
22 Mr. Barnes filed an IAD claim. The document appears to be  
23 lost to the public record. So that's the first time he  
24 submits that and we respectfully submit that we understand  
25 it's an open question that an IAD claim is identical to a

1 to make a decision. Is this important enough, are you  
2 gonna go forward or are you not gonna go forward? And the  
3 policy behind that could actually be one set by the  
4 Legislature to cause our state to make a determination is  
5 this something you're going to prosecute or not because  
6 you're dealing with another state, either you are or you're  
7 not, which I think probably is the basis by which the  
8 Supreme Court upheld Judge Keesley denying the request  
9 based on the 180 days because good cause was shown to go  
10 beyond the 180 days.

11 Having said that, having said that, while I believe  
12 that the policy is different and while we don't know at  
13 this moment even in the face of Hunsberger what is the  
14 effect of the IAD vis-à-vis speedy trial, clearly it  
15 appears to me -- I won't say clearly because I don't think  
16 it's clear, but it appears to me that in its denial of the  
17 IAD issue in this case, in Mr. Barnes' case -- we'll call  
18 it Barnes 1 and Barnes 2. In Barnes 1, when the Supreme  
19 Court talks about the IAD, it talks about the lack of  
20 prejudice and that he was unable to demonstrate prejudice  
21 up to the trial of 2010. Well, that is an analysis under  
22 the speedy trial.

23 **MR. BLOOM:** Yes, ma'am.

24 **THE COURT:** But they don't -- and the witnesses.  
25 We're talking about the witnesses and we're talking about

1 statute. I think Your Honor has a -- has broader  
2 discretion to analyze the prejudice prong at this stage.  
3 And I won't recite everything that I did before, but I  
4 think that weighs into your prejudice analysis.

5 As to the other dates that Mr. Barnes --

6 **THE COURT:** Mr. Barnes, I want to share with you --  
7 Mr. Barnes is raising his hand. Hold on a second. Here's  
8 what we're gonna do. Here's what we're gonna do. I know  
9 that you are proactive and -- no, no, no. Just -- just  
10 hear me out. And I know that unless you have a health  
11 concern, and just tell Mr. McGuire, but I want to stop you  
12 and I want you to understand this. I am not going to put  
13 you in a position where you do not have an opportunity to  
14 participate in talking to your lawyers.

15 **THE DEFENDANT:** In the state action --

16 **THE COURT:** Let me stop you.

17 **THE DEFENDANT:** I object on the grounds of the state  
18 action because I specifically --

19 **THE COURT:** I want you to listen to me.

20 **THE DEFENDANT:** Okay.

21 **THE COURT:** I want you to listen to me.

22 **THE DEFENDANT:** And my objection is state action --

23 **THE COURT:** What I'm not gonna do is that we do not  
24 have hybrid representation in South Carolina --

25 **THE DEFENDANT:** I understand that.

1       **THE COURT:** It is. Yes, it is.

2       **THE DEFENDANT:** I have a right to speak. I have a  
3 First Amendment right to speak.

4       **THE COURT:** I'm not gonna fuss with -- I'm not gonna  
5 debate with you.

6       **THE DEFENDANT:** Okay.

7       **THE COURT:** Having said that, you have your hand, you  
8 have paper. I want you to make your notes.

9       **THE DEFENDANT:** How am I gonna be able to do that?  
10 You already have my notes. You have the writ of certiori  
11 from the United States -- what I filed in the United States  
12 Supreme Court that specifically states that my issue is  
13 that under the Interstate Agreement on Detainers Act that I  
14 wanted to litigate that issue.

15       **THE COURT:** I'm with you. I know.

16       **THE DEFENDANT:** Okay. You have that paperwork.

17       **THE COURT:** I know that.

18       **THE DEFENDANT:** So under agency principal law --

19       **THE COURT:** Hold on, hold on.

20       **THE DEFENDANT:** -- I am liable to anything he say in  
21 the court.

22       **THE COURT:** Hold on. Hold on.

23       **THE DEFENDANT:** I'm saying understand he's ineffective  
24 right now. I'm telling you he's ineffective.

25       **THE COURT:** Mr. Barnes -- Mr. Barnes, what I'm gonna

1       **THE COURT:** I'm gonna let you go talk to your lawyers  
2 a little bit --

3       **THE DEFENDANT:** You know my position.

4       **THE COURT:** -- so they can talk to you a little bit  
5 about this trial.

6       **THE DEFENDANT:** This is a state action.

7       **THE COURT:** Mr. Barnes --

8       **THE DEFENDANT:** I object for the record.

9       **THE COURT:** Mr. Barnes -- Mr. Barnes, Mr. Bloom can  
10 share with you a little bit about how I flesh out the  
11 issues.

12       **THE DEFENDANT:** I have a right to speak.

13       **THE COURT:** No, you -- actually you don't in --

14       **THE DEFENDANT:** I have a First Amendment right to  
15 speak. If you're saying that hybrid representation is  
16 gonna override my First Amendment right to speak --

17       **THE COURT:** Mr. Barnes. Mr. Barnes.

18       **THE DEFENDANT:** -- to explain to you factual matters  
19 that's essential to my defense for my case, I object on the  
20 grounds of the Fourteenth Amendment, and I object on the  
21 grounds that this is a state action because you allowed my  
22 counsel to proceed against my interest.

23       **THE COURT:** Mr. Barnes.

24       **THE DEFENDANT:** It's a state action.

25       **THE COURT:** Mr. Barnes, if you don't keep yourself

1 and talk with your lawyers?

2 **THE DEFENDANT:** No, no. What's to talk about? I told  
3 you my objections. It's a state action.

4 **THE COURT:** Do you -- it's a yes or no. Are you good?

5 **THE DEFENDANT:** I told you my position. It's on the  
6 record. I'm done with it.

7 **THE COURT:** Okay. Now so, Mr. Bloom --

8 **MR. BLOOM:** Yes, ma'am.

9 **THE COURT:** -- you were talking about January of 2005.

10 **MR. BLOOM:** Yes, ma'am.

11 **THE COURT:** Okay.

12 **MR. BLOOM:** And I think I concluded what I needed to  
13 say. What I was going to do next is Mr. Barnes has an  
14 exhibit or some copies, which I'm glad to make an exhibit.  
15 They are a -- let me say this. They appear to be the  
16 initial IAD forms he filled out and submitted in Georgia --

17 **THE DEFENDANT:** No, let me get that.

18 **MR. BLOOM:** -- and he's had them --

19 **THE COURT:** Mr. Barnes, you have to be quiet.

20 **THE DEFENDANT:** No, he's got my paperwork. I'm asking  
21 for my paperwork back. That belongs to me.

22 **MR. BLOOM:** And I will -- I will make a copy of them  
23 so he can have them. I didn't initially attach them to --

24 **THE DEFENDANT:** I'm not giving you, Mr. Bloom, my  
25 paperwork for the record.

1           **MR. BLOOM:** The other three times we respectfully  
2 submit that Mr. Barnes presented his own pro se speedy  
3 trial motion and why this Court should consider them is  
4 this. First, I fully recognize the Solicitor's argument in  
5 his brief and what Your Honor stated on the record, that  
6 the Defendant is not entitled to hybrid representation. He  
7 either has to represent himself or have the lawyers do so  
8 such that pro se motions that are filed don't necessarily  
9 need to be considered by the trial court or the appellate  
10 court. They can be, but they don't necessarily have to be.  
11 I respectfully submit from May 25th, the second time he  
12 makes what we say is a speedy trial claim, and then  
13 September of 2005 where he makes another pro se speedy  
14 trial claim, that the Court was entitled to consider those  
15 and is entitled for these reasons. The May 25, 2005  
16 hearing he appears pro se, he is by himself in front of  
17 Judge Keesley. There's no appointed attorney, no public  
18 defender, so he's having to represent himself. It is his  
19 first hearing when he is extradited from Georgia and  
20 appears in a courthouse. After that there are documents in  
21 here. The supporting documents show that he was appointed  
22 to a public defender, Mr. Sturkey.

23           **THE COURT:** Let me ask this question. So this  
24 hearing, the first hearing before Judge Keesley, I know he  
25 had the IAD, but he also had a speedy trial motion as well?

1 clearer than that. I do acknowledge that same month,  
2 September 2005, the Court appoints Robert Hart, but I think  
3 since that appointment is fairly contemporaneous with  
4 Defendant's letter that that pro se document should be  
5 considered.

6 The last pro se document is November 2005. Obviously  
7 in the timeline Attorney Hart has been appointed and is  
8 representing Mr. Barnes, but I think that's still  
9 significant because it is early on in the appointment and  
10 Mr. Barnes is trying to preserve his speedy trial right.

11 Unless you have further questions, that is the gist of  
12 our argument. I'm trying hard not to repeat everything in  
13 the written brief and I'll turn it over to the Solicitor at  
14 this point. Thank you, Your Honor.

15 **THE COURT:** Thank you so much. So I think the  
16 appointment of Mr. Hart -- wait a minute, I've got that.  
17 Let me see. It appears based on just the information that  
18 we have in our study, and you tell me now if -- if I'm  
19 wrong, but it appears that on September the 8th, although  
20 the letter is dated September 5, 2005, that it appears  
21 probably it was received by the clerk on the -- on  
22 September 8th because it says 8:30 AM it was filed, but  
23 then it's dated September 5th, and it also appears that the  
24 -- that the order of appointment is September 1, 2005, is  
25 when Mr. Hart was appointed as counsel, but what you're

1 that at twenty-eight months old we have a case on point  
2 that says you do the analysis. So I think we can all agree  
3 that given that we're twenty-six months we do the analysis,  
4 correct? Yes?

5 **MR. GRAHAM:** Yes.

6 **MR. BLOOM:** Yes, ma'am.

7 **THE COURT:** All right. So even under the State's  
8 theory we go through the analysis.

9 Now one of the questions that I have is, and I  
10 probably would want you to answer this question for me  
11 first, the Supreme Court in Barnes 1 dealt with what the  
12 Supreme Court had before it in terms of the IAD, yes?

13 **MR. GRAHAM:** Correct.

14 **THE COURT:** And while I understand that counsel has  
15 filed what counsel has filed and if that preserves the  
16 record, that's a wonderful thing, but the Supreme Court  
17 has dealt with that issue I believe. Now whether or not  
18 there's something down the road that happens or is even  
19 required we necessarily need it, that's something different  
20 whether or not there's a collateral attack, but with  
21 regards to what the Supreme Court has done on the IAD I  
22 think that -- and that's the position of the State, right?

23 **MR. GRAHAM:** Yes.

24 **THE COURT:** All right. The question -- here's the  
25 question for the State. The right to a speedy trial is a

1 Normally the IAD arguments are it's either -- it's a black  
2 and white, yes and no, where you're tried within 180 days  
3 or it's continued for good cause.

4 **THE COURT:** Uh-huh. Yes.

5 **MR. GRAHAM:** I don't believe that the prejudice  
6 analysis was a part of the majority opinion. I don't  
7 believe --

8 **THE COURT:** Well, and clearly that occurred. I mean,  
9 Judge Keesley clearly found that there was good cause shown  
10 to continue it beyond 180 days.

11 **MR. GRAHAM:** Correct. I guess my -- and we cited -- I  
12 don't think there's any South Carolina directly on point,  
13 but there's other case law out there that states -- and the  
14 truth is there's a speedy trial under the Sixth Amendment  
15 and then there's an IAD --

16 **THE COURT:** Yes.

17 **MR. GRAHAM:** -- and so the IAD is statutory.

18 **THE COURT:** Yes.

19 **MR. GRAHAM:** I don't think that prejudice plays in  
20 there although it was discussed in the dissent.

21 Going over to the speedy trial side, it's a  
22 constitutional right. He can waive that right by not  
23 asking for it and that's what he did. Back in the three  
24 earlier ones -- I mean, clearly he's requested a speedy  
25 trial in August --

1 have a copy of that that we can pass up if Your Honor would  
2 like.

3 **THE COURT:** Hold on. Hold on one second.

4 **MR. GRAHAM:** I guess what they're -- what I'm trying  
5 to understand here, Your Honor, and I'll pass a copy to the  
6 defense as well --

7 **MR. HUBBARD:** She's got it.

8 **THE COURT:** Well, now I want you to look at the  
9 conclusion that comes obviously prior to the dissent of the  
10 decision. I want to be clear about that. Looking at the  
11 conclusion, and I'm gonna publish it for the record. It's  
12 pretty important. Since the Faretta error mandates  
13 reversal, we need not reach any of Appellant's other issues  
14 save, which means obviously except, that alleging he was  
15 entitled to a dismissal of all charges under the IAD Act.  
16 On the face of this record, it appears Appellant waived  
17 his speedy trial right under this Act and we, therefore,  
18 decline to reverse on this ground.

19 So this is the majority opinion, this is not part of  
20 the dissent. This is the majority opinion and I want you  
21 to look at the conclusion and tell me if maybe I'm reading  
22 it wrong or my pages got mixed up or something because I  
23 want you to look at that and tell me whether or not you  
24 think that that is maybe a determination -- that that's  
25 actually ruled on in the majority opinion in Barnes 1.

1       Second is State's memoranda in opposition to  
2 Defendant's motion to dismiss the indictments based on  
3 violation of the Defendant's speedy trial rights.

4       **THE COURT:** So you would say that the -- that the  
5 period that would be considered would simply be the last  
6 twenty-six months. Is that your position?

7       **MR. GRAHAM:** Correct, Your Honor.

8       **THE COURT:** In other words, you could call it  
9 acquiescence or you could call it waive or, irrespective,  
10 speedy trial has just now been raised because the only  
11 speedy trial that has been raised within the speedy trial  
12 pursuant to IAD, that's been ruled on, that's done. And  
13 while he certainly can raise the speedy trial at this  
14 point, the period to be looked at because he received the  
15 trial in 2010, the period to be looked at is this  
16 twenty-six months.

17       **MR. GRAHAM:** Correct, Your Honor. Since the  
18 remittitur came back.

19       **THE COURT:** Uh-huh. Yes, which I think was in 2014,  
20 January of 2014, or was that -- wait a minute. Let me get  
21 my -- January 31, 2014, is when the Supreme Court issued  
22 the remittitur remanding the case back to Edgefield general  
23 sessions court, okay?

24       All right. Now talk to me about then the State's  
25 position regarding what you think the appropriate timeline

1       **THE COURT:** Well, now that's January 31, 2014, until  
2 what period?

3       **MR. GRAHAM:** Well, when I say that, then, I guess,  
4 there was -- then there was an appeal. I'm trying to think  
5 procedurally what happened next. There was an argument  
6 about representation and reinstatement of the sentence, so  
7 actually it should be further, until all of the appellate  
8 work was done.

9       **THE COURT:** And that return, that came back -- it  
10 would have to be from Barnes 2.

11       **MR. BLOOM:** August 10th of 2015.

12       **THE COURT:** Thank you. August 10, 2015.

13       **MR. GRAHAM:** Correct, Your Honor.

14       **THE COURT:** All right. And it's -- all right. And  
15 then how would you then characterize the timeline?

16       **MR. GRAHAM:** For that time period, I know one of the  
17 things -- I mean, obviously there was the regular status  
18 motions, there was the attempt to set trial dates. They  
19 were looking at the Solicitor's schedule as well as defense  
20 counsel's schedule. I know Mr. McGuire was involved with  
21 the Dylan Roof case, which would have taken up a portion of  
22 that time that can't be attributed to the State.

23       **THE COURT:** Well, let me -- I want to be sure that the  
24 record is clear about that. It wasn't that he was involved  
25 in -- he was involved in the Roof case, but he was under an

1 of time that the Solicitor had under consideration well,  
2 what to do with regard to the capital portion at some  
3 point and I guess the Solicitor will share -- I need  
4 somebody to tell me when it was that that -- I know that  
5 the actual documentation was done in July of 2017, the day  
6 that the trial was set, but the question is at what period  
7 of time was that determination being made?

8 **MR. GRAHAM:** I guess it was finalized when the  
9 document was sent. It was discussed before then amongst  
10 his office, as well as with defense counsel as well, Your  
11 Honor. I would say that that was probably at least a  
12 two to three-month process just on that issue alone.

13 **THE COURT:** Okay.

14 **MR. GRAHAM:** I know that we had regular status  
15 conferences either by phone or in person because I believe  
16 -- I almost felt like they were monthly, Your Honor.  
17 Mr. Bloom, if I remember right was --

18 **THE COURT:** They were.

19 **MR. GRAHAM:** -- drafting those orders.

20 **THE COURT:** Yes.

21 **MR. GRAHAM:** And the rest of it, I would submit,  
22 really is just normal scheduling of court dates, and I  
23 don't know that there's been any requests from our side or  
24 their side because once -- I mean, the date was set, and  
25 if I remember right, then that's when he filed his motion,

1 addressed in his order, and it was not. If the speedy  
2 trial had been independently brought in front of Judge  
3 Keesley, I believe his order would have reflected that.  
4 The September 8th of 2005, at that point, Your Honor, he  
5 was represented by counsel, September 1st, and that would  
6 -- his pro se filings would be a nullity under case law.  
7 So what you have is him vigorously pursuing the IAD speedy  
8 trial component which the Supreme Court denied making no  
9 further or specific comments under the constitutional  
10 speedy trial until this summer. So that would address the  
11 third issue.

12 The fourth issue is the prejudice prong and what I  
13 wrote down is Mr. Barnes would have been incarcerated  
14 whether he was in South Carolina or Georgia. He had  
15 received a life sentence in Georgia, so he was not going to  
16 be a free man. He did have the notice of a death penalty  
17 over him and although the case was reversed, he had been  
18 convicted at the time and had that over his head. That's  
19 just a fact, but, I mean, it is what it is as well. I  
20 mean, he's charged with a crime, the State chose to seek  
21 that penalty and he was convicted.

22 The safekeeper status that he has been in, the sheriff  
23 is in the courtroom and could tell you, Your Honor, the  
24 reason he is there is because of his own actions. It's not  
25 anything that the State did. It's what he chose to do. If

1 there was a disruption write-up and it continues on from  
2 there. Throwing rocks from the rec yard, throwing food  
3 trays and threats, throwing bodily fluids, disturbances,  
4 threats, flooded toilets, disturbance in August of 2005,  
5 throwing food trays in October of 2005, possession of  
6 contraband in February of '06, throwing food tray and urine  
7 in June and July of '06, refusing to be cuffed up in  
8 February of '07, destroying lunch trays in July of '07,  
9 attempting to destroy food trays in July of '07, throwing  
10 bodily fluids in August of '07. Again, in September of  
11 '07. Again, in September of '07. A confrontation with  
12 another inmate in October and throwing fluids again in  
13 November of 2007.

14 The prejudice is it's his actions that took him to be  
15 a safekeeper and he was going to be incarcerated whether it  
16 was in Georgia or here. Our position would be that there's  
17 no actual showing of prejudice, Your Honor.

18 Just -- just one second, Your Honor.

19 **THE COURT:** Okay.

20 **MR. GRAHAM:** I'm sorry. Back in April of 2015, I  
21 believe he was in Laurens County Detention Center being  
22 held there as a safekeeper, or at least on behalf of  
23 Edgefield County, and because of problems he was causing  
24 there, he asked Edgefield to take him back. I guess it  
25 would just to go show -- the State's position is that any

1 addresses speedy trial as opposed to the IAD speedy trial,  
2 and I don't see -- I don't see it raised separately and  
3 what we -- and I really ask the question because I don't  
4 know at this moment that the Supreme Court has  
5 differentiated between the two. I think they have probably  
6 differentiated between the speedy trial under IAD and the  
7 speedy trial motion pursuant to the statute and pursuant to  
8 the constitution and so I'm wanting to just give you an  
9 opportunity to direct me to that language in his filings  
10 prior to yours obviously that was just filed.

11 **MR. BLOOM:** So you're asking me where does he ask for  
12 a speedy trial in the September of 2005 filing?

13 **THE COURT:** Yes, and the other ones that -- that you  
14 were talking about and what you gave me.

15 **MR. BLOOM:** Yes, ma'am. In the supporting documents  
16 we've submitted, and it's in the section labeled  
17 September 2005, Defendant's pro se court filings, the  
18 first page shows at the top filed 8:30 AM, September 8,  
19 2005, and that is dated by Mr. Barnes. It's seven pages.  
20 The document after that from my review of the Clerk of  
21 Court's file was attached, so it would have been filed at  
22 the same time. It says the State of South Carolina versus  
23 Steven Barnes and he captions a rule nisi, N-I-S-I. Do you  
24 see where I am?

25 **THE COURT:** Tell me what page.

1 of his argument and I acknowledge that.

2       **THE COURT:** And let me tell you what I know and I  
3 think the record ought to reflect. Because we were having  
4 continual status conferences I have bothered you-all a lot  
5 and I know two things that were going on. I know that  
6 Solicitor Hubbard was trying to acclimate himself to a new  
7 position and I think that that certainly is just reality,  
8 but at the -- at the same time as he was doing that he was  
9 also very focussed on this case based on my observation  
10 and also based on my observation I believe as being the  
11 advocate that you are that you were also taking advantage,  
12 Mr. Bloom. I don't know this, but I believe this to be  
13 true based on my conversations that you were also taking  
14 advantage. As Solicitor Hubbard was getting up on speed  
15 on this trial, you were also taking every advantage you  
16 possibly could to -- also on behalf of your client to give  
17 him the benefit of your advocacy as well, and if I may just  
18 make that note since I was meeting and listening to you-all  
19 on a regular basis. I think you were meeting with him to  
20 talk about this case as many times as he would meet with  
21 you.

22       **MR. BLOOM:** Yes, ma'am.

23       **THE COURT:** So I think you were giving him the benefit  
24 of your opinion. In other words, you were twisting his arm  
25 as he was trying to learn about the case.

1 just out of fairness want to -- I think I should disclose  
2 that.

3 THE COURT: And --

4 MR. BLOOM: Am I communicating clearly?

5 THE COURT: You are communicating clearly --

6 MR. BLOOM: Okay. All right. Thank you.

7 THE COURT: -- but what I want to add to that is I'm  
8 delighted you've done that for the record, but that happens  
9 to be information of which I am apprised. I know that.  
10 The reason that I know that is because of the status  
11 conferences that we had throughout the process and it was  
12 it was certainly abundantly clear to me that while  
13 Solicitor Hubbard was getting up to speed that you were  
14 also meeting with him and as an advocate on behalf of  
15 Mr. Barnes and there's no question in my mind and find that  
16 Mr. Barnes clearly is the beneficiary of that period of  
17 time; that it was not a period of time that Solicitor  
18 Hubbard was simply closeted as he got up to speed, if you  
19 will, but it was a period of time also that Mr. Barnes was  
20 the beneficiary of advocacy and the result is that death  
21 came off the table.

22 Also I think it's also very important as we look at  
23 the time period, and I may have some questions about -- and  
24 I think I probably do in a minute have just a few questions  
25 of you, but I think that the time period is -- well, I

1 I know Your Honor is aware of this, but I want to make sure  
2 it's on the record so should it be reviewed, I'm sure it  
3 will be reviewed, that the court understands -- the high  
4 court understands that although I worked for Solicitor  
5 Myers, I had no prior dealings in this case and Your Honor  
6 was very gracious early on and so was Mr. Bloom when we  
7 met, it's understood that I needed -- I had a duty to the  
8 victim, I'd never met her before, so I had to go to Augusta  
9 and meet her, I had to get with our sheriff here in  
10 Edgefield, I had to get with the officers here in  
11 Edgefield. There were a lot of people I needed to meet  
12 for the very first time dealing with this case. Mr. Bloom  
13 was in communication with me throughout the whole time.  
14 Obviously I knew, and he argued very hard about taking  
15 death off the table and that was a tough decision, and  
16 there was a very voluminous file we had to go through to  
17 make that, so that did take time, but I appreciate Your  
18 Honor letting me put that on the record.

19 **THE COURT:** Thank you, Solicitor.

20 All right. We're gonna take a little bit of time.  
21 In fact, about twenty minutes.

22 **MR. MCGUIRE:** Judge, if I could just raise one matter  
23 before we take a break. It's very, very short. As you can  
24 see, I've been sitting next to Mr. Barnes and communicating  
25 with him, and this kind of goes back to his exchange with

1       **THE DEFENDANT:** Forgive me.

2       **THE COURT:** Here's what I want you to know and I want  
3       to be absolutely clear with you. It is my intention that  
4       you have as fair a trial as I know how to give any human  
5       being because I think you are 100 percent entitled to that.  
6       If you need to take more breaks because you need to  
7       communicate with your lawyers, I want you to feel real free  
8       to pass him a note and if I can take a break at that time,  
9       I'm gonna to do that assuming we go forward, and I haven't  
10      -- I've got a little bit of work I've got to do. Assuming  
11      we do that, since I'm addressing you, I want you to know  
12      that. I want you to understand that. I really mean that  
13      to you. You are engaged, you have been engaged, you have  
14      been fighting for yourself and that is evident in this  
15      record.

16      However, we do not in South Carolina have hybrid  
17      representation. We don't. So when I have someone who's  
18      like you, who is, A, bright and, two, you have an opinion,  
19      you are participating, I have to honor the fact that we  
20      don't have hybrid representation, and the way that I think  
21      I can accommodate you and do what I'm supposed to do is to  
22      -- is to accommodate you in that way, to give you -- if you  
23      need more frequent breaks, ask for them. You have no idea  
24      how fine that is. That is so completely and totally okay  
25      with me because I need you to be able to feel like through

1 -- you know I know how to talk, but -- I'm sorry, but  
2 anyway, you know, to make a long story short, you know, I  
3 told him we're men and, you know, whatever we differ from,  
4 you know, let's just, you know, hash it out like men and  
5 then it's over with.

6 **THE COURT:** Right. Or people.

7 **THE DEFENDANT:** Or people. Okay. So -- and just the  
8 same thing with you. Just because -- keep in mind I had to  
9 get it on the record, so I'm trying to let you know for the  
10 record I wasn't trying to be disrespectful. I was just  
11 trying to get my grounds on the record because just like  
12 they say according to law if you have a -- correct me if  
13 I'm saying the word wrong. I think it's recalcitrant --  
14 recalcitrant, if I'm saying that right. That means like a  
15 mean judge or who don't want to hear your issue. I'm not  
16 calling you a mean judge, but when you have a judge that's  
17 being adversarial -- not adversarial. If you have a judge  
18 that don't want to hear your point of view at the time when  
19 you're -- when you're arguing.

20 **THE COURT:** I know that's frustrating, but you know  
21 what, one of the ways -- just so you know, one of the ways  
22 I get educated is to push and push and push and push  
23 because I've done -- you know, I've done homework, so I've  
24 got some all right, tell me this, tell me that, and that's  
25 the way that -- that I learn is to push because I'm

1 I'm gonna move on to the other issues.. Some -- I'm gonna  
2 ask my questions. That's where we'll start.

3 Okay. And I'm gonna direct this to the Solicitor.  
4 Tell me what was the -- and I'm looking in general -- what  
5 was happening in the case from May of '08 until November of  
6 '10? I've looked at the timeline and the timeline wasn't  
7 particularly all that helpful. One -- and let me just say  
8 -- let me say this and tell you what I do know and I don't  
9 know any more than this. I know that during that period  
10 of time the case had been assigned to Judge Maddox, that  
11 Judge Maddox in the order granting continuance says that  
12 the matter will be continued until it is set by the Court  
13 and it's -- and then I have looked at the date, but at  
14 some point Judge Maddox is -- Judge Maddox apparently is  
15 relieved from this case, it's reassigned to Judge McMahon  
16 on the basis of Judge Maddox having a conflict. It seems  
17 like I remember seeing that somewhere and I don't -- I  
18 can't put my hands right on it and so I know something was  
19 going on. I don't know if there were hearings being held  
20 and --

21 Oh, and let me -- but even before we do that I want  
22 to tell you-all -- I just want to let you-all know -- on  
23 both sides know that I wanted to look at some of the  
24 filings, I wanted to look at the originals of some of the  
25 filings, and I didn't want -- I didn't want to just handle

ROA (13)

Judge William P. Neesley September 24, 2018  
Memorandum denying the petitioner Rule 52(b) &  
and Rule 59(e) motion, and Rule 15 supplemental  
amendment of post conviction relief or hybrid  
representation grounds when the petitioner was  
filing those motions under motion to Revoke  
Sentence

LEGAL MAIL  
MAIL ROOM



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

WILLIAM P. KEESLEY  
JUDGE

POST OFFICE BOX 10  
EDGEFIELD, SOUTH CAROLINA 29824-0010  
TELEPHONE: (803) 637-4095  
FAX: (803) 637-2035  
E-MAIL: wkeesleyj@sccourts.org

MEMORANDUM

Date: September 24, 2018

To: Mr. Steven Louis Barnes, 327117  
McCormick Correctional Institution  
386 Redemption Way  
McCormick, SC 29899

Re: Steven Louis Barnes v. State  
Case Number: **2015CP1900035**

This is in response to a packet of motions and a letter that you sent to me, received today. You have been appointed an attorney. Because of the hybrid representation rule, the motions will not be scheduled for hearing. You may confer with your attorney to see if she will adopt your motions.

You mention in your letter that you want to relieve counsel based on your ongoing position that no one should be appointed who has a connection to state government or the Commission on Indigent Defense. I encourage you to talk with Ms. Goldberg, who is an independent attorney working on a contract. This arrangement certainly does not appear to be materially different from the arrangement with Ms. Elizabeth Franklin-Best, whom you insisted on having the court represent you previously. If anything, there is less of an issue. If you are unable to resolve your differences, a hearing will be scheduled on that matter. Thank you.

cc: Melody Brown, Office of the Attorney General (via email)  
Kristy Goldberg, Esquire (via email)  
Edgefield County Clerk of Court's file

STATE of SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Steven L Barnes  
petitioner  
vs

South Carolina Department  
of Corrections,  
Respondent

CL# 15-ALJ. 30-0318-ZJ

PROOF OF SERVICE

The petitioner declare that the petitioner had served Stephen Hollis Lunsford, General Counsel for the South Carolina Department of Correction, at 4444 Broad River Rd, Columbia SC, a Motion To set aside Judgment Due to Inter-  
vening changes in the safeskeeper law by depositing the document in the united states mail with sufficient postage.

Date: 1/27/19

Steven L Barnes  
Signature

STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT

Steven L Barnes  
petitioner  
vs

Case no# 15-ALJ-30-0318-1J

South Carolina Department  
of Corrections,  
Respondent

MOTION TO SET ASIDE JUDGMENT DUE TO INTERVENING CHANGES  
IN THE SAFE KEEPER LAW

pursuant to Rule 60(b)(5) of the South Carolina civil procedure, the petitioner moves this Court to set aside the safekeeper judgment due to intervening changes in the law on 12/21/2015 in the United States Court of Appeals for the 4th Circuit. See Dustin Williamson v Bryan Stahling opinion # 176922 (2015). The petitioner moves this motion lesser than one (1) year of the United States Court of Appeals decision, and/or within a reasonable time of the Court decision. See Williamson v Stahling supra.

WHEREFORE, the petitioner pray for such other and further relief that Court seems proper.

Date: 1/27/19

Steven L Barnes  
Steven L Barnes #322115  
HCCORP L.L.C.  
356 Redemption way  
HCCORP S.C.

STATE of SOUTH CAROLINA  
COUNTY of EDGEFIELD

IN THE COURT of Common Pleas

Steven Louis Barnes  
petitioner

ca # 2015-CP-19-35

vs

State of South Carolina  
respondent

PROOF of SERVICE

The petitioner declares that he have served the South Carolina Attorney General at P.O. Box 11549, Columbia, SC 29211, the following Motion for Deposition upon oral Examination of witnesses; motion for funds for private investigator on the petitioner post conviction relief; motion for stand-by counsel; motion for the petitioner to represent himself at the pre hearing; Declaratory Judgment Complaint; and motion challenging the constitutionality of the pre statute, by depositing said documents in the United States mail with sufficient postage.

Date: 1/27/19

Steven Louis Barnes  
Signature

STATE of SOUTH CAROLINA  
County of EDGEFIELD

IN THE COURT of Common Pleas

Steven Louis Barnes  
petitioner

C/A # 2015-CP-19-35

VS

State of South Carolina  
Respondent

MOTION FOR DEPOSITIONS UPON ORAL EXAMINATION OF WITNESSES

The petitioner pursuant to Rule 30 of the South Carolina Civil Rules of procedure request this Court to allow the petitioner private investigator and/or the petitioner stand-by counsel, of course along with the petitioner, to take oral depositions by video tape and/or some other reliable recording devices of the following, but not limited, witnesses:

- 1). South Carolina Court of Appeals Clerk of Court Jenny Abbott Kitchings;
- 2). Attorney General Melody Brown;
- 3). Appellate Attorney Katherine Hudgins;
- 4). Appellate Attorney Share Gorenson;
- 5). Trial Attorney Jeffrey Blum;
- 6). Trial Attorney Bill McGuire;
- 7). Trial Attorney David Tarr;
- 8). Trial Attorney Robert Harte;

- 9). Justin Williamson ;
- 10). Edgefield Sheriff A. Dell Doby ;
- 11). Edgefield County Detention Center (ECDC) Lt. Pelly Hall ;
- 12). former Laurens MHS. Haley ;
- 13). Aiken County Captain N. Galloway ;
- 14). Aiken County Lt. Rasak ;
- 15). Joseph Harris Jr. in new post news VA ;
- 16). Augusta Ga, Richmond County, Sheriff Partridge ;
- 17). Charles Thatcher ;
- 18). Richard Cave ;
- 19). Antonio Grier ;
- 20). Dr. Price ;
- 22). Laurens County Jail Captain Kathy Tucker ;
- 23). Laurens County Jail nurse MRS. Ross ;
- 24). South Carolina Department of Correction Director Brian Stealings ;
- 25). SCDC General Counsel Stephen Hollis Lunsford ;
- 26). post conviction Counsel Kristy Goldberg ;
- 27). Court Reporter Carol Thorne

The petitioner will take Deposition of other witnesses who are not abused when their names becomes available to the petitioner. The petitioner had already sent a subpoena list to this Court of names the petitioner is requesting this Court to subpoena to the post conviction hearing.

Wherefore, the petitioner pray that this Court grant this motion and such other and further relief this Court seem just and proper

Date: 11/27/19

Pt 2 of 2

*[Signature]*  
 Peter Luis Barnes #322117  
 Attorney at Law  
 356 Pedernales Way  
 McCormick SC

STATE of SOUTH CAROLINA  
COUNTY of EDGEFIELD

IN THE COURT of Common Pleas

STEVEN LOUIS BARNES  
petitioner

CL# 2015-CP-19-35

VS

State of South Carolina  
Respondent

MOTION for funds for PRIVATE INVESTIGATOR ON THE PETITIONER  
POST CONVICTION RELIEF

The petitioner Request this Court for funding to appoint private investigator ERIC Sadrearneli for investigative services as described in, but not limited to, the petitioned motion for stand-by counsel to assist the petitioner on post conviction relief By this Court Authorizing Needed funding on per pursuant to SC Code § 17-3-50 (B) and (c) And/or the Due process clause. The private investigator is needed to obtain the cover-up evidence and the showing on per pursuant to Rule 404 (b) of the South Carolina Rules of Evidence the existence of a scheme and plan by both the Edgefield Sheriff Department and the Edgefield Solicitor office, along with other co-conspirators to convict the petitioner under outrageous Government conduct, in which is showing to the conscious and warrants the dismissal of the Indictments. See *Reich v. California*, 342 U.S. 125, 172-74 (1951)

Regarding assisting the private investigator in the petitioner showing by the preponderance of evidence the petitioner federal cause of action on per, the petitioner will have, along with his private investigator if this court grant this motion, Black Lives Representative organization in helping obtain in particular the look-up taser video of former Edgefield Deputy by both Edgefield solicitor and Edgefield Sheriff Department. The petitioner too will be hiring taser expert witnesses that the taser video is still in existence today.

Wherefore, the petitioner pray that this court grant this motion and such other and further relief this court seen just and proper.

Date: 1/27/19

Steven Louis Barnes  
STEVEN LOUIS BARNES #327117  
McCormick CZ  
386 Redemption way  
McCormick SC

STATE of SOUTH CAROLINA  
County of EDGEFIELD

IN THE COURT of Common Pleas

Steven Louis Barnes  
petitioner

c/a # 2015-cp-19-35

VS

State of South Carolina  
Respondent

MOTION for STAND-BY Counsel TO ASSIST THE PETITIONER ON POST CONVICTION RELIEF BY THIS COURT AUTHORIZING NEEDED FUNDING ON PCR PURSUANT TO SC CODE § 17-3-50 (B) AND (C) AND/OR THE DUE PROCESS CLAUSE

The petitioner, Steven Louis Barnes, moves this court for an Ex parte hearing regarding why needed funding for experts, private investigator, and among other things are needed on post conviction relief (PCR) because Rule 71.1 (e) places the burden on the petitioner to prove by the preponderance of the evidence that the petitioner is entitled to relief from the showing of the federal causes of actions on this PCR. see Rule 71.1 (d)(e) of SCORP

The petitioner bases this motion on the following facts:

In the dissent from *Olmstead v United States* 277 US 438, 485 (1928), Justice Brandeis stated:

"Decency, security and liberty alike demand that government officials shall be subjected to the same Rules of Conduct that are Commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. our government is the potents, the omnipresent teacher for good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the Administration of criminal law the end justifies the means - to declare that the government may commit crimes in order to secure the conviction of a private criminal - would bring terrible Retribution."

see Olmstead v United States supra

### FACTS IN support of FUNDING

pursuant to Rule 404(b) of the South Carolina Rules of Evidence, the petitioner is not allowed to show "other crimes, wrongs, or acts to prove the character of the government witnesses that the petitioner will be subpoenaing to the pier but the petitioner can show " motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent at the pier of the legal theory, but not limited to it, of government outrageous conduct more severe than Rochin v California, 342 us 165, 172-74 (1951)

for example, the petitioner will show the "scheme or plan" of both the Edgefield Sheriff Department and the Edgefield solicitor offices covering up

evidence such as 2007 taser video from former Edgefield Deputy George Sedmore and impeachment statements of Charles Thatcher - letters to the now Augusta Georgia Sheriff Richard Randtree of a sexual relationship - to the defense. This alone is an existence of a common scheme or plan by those governmental officials.

plus, those governmental officials including by an existence of a common scheme or plan witnesses to testify falsely repeatedly in both state and federal courts. for example, in two throwing bodily fluid totals, 2008 and 2015, both the Edgefield solicitor and Edgefield Sheriff Departments had repeatedly lied in state courts, along with their witnesses, to send the petitioner to prison under false evidence in court. This same scheme or plan was used in the petitioner 2010 and 2017 murder totals.

The petitioner needs funding to assist the petitioner in the one time development of the plea record so the petitioner can show by the preponderance of the evidence one of his federal Causes of Action outrageous Government conduct. see *Rochin v California supra*; *United States v Russell*, 411 us 423, 431-32 (1962)

lastly, the petitioner is requesting this Court pursuant to § 17-3-50 (B) and (C) to direct the funding, if this Court appoints, the following:

Blume Norris & Franklin - Best, LLC  
900 Elmwood Avenue, Ste. 101  
Columbia, SC 29201  
(803) 765-1044

## Due process

In determining whether or not funding for stand-by counsel and/or the petitioner is needed on the petitioner pro, this Court must apply the legal test of *Mathews v. Eldridge* 424 US 319 (1976) where the Supreme Court had said this Court must balance (1) the private interest that is at stake; (2) the effect on governmental interests of incorporating a particular safeguard into the decisionmaking process; and (3) the safeguard value and the risk of an erroneous deprivation of the private interest at stake if the safeguard were not put in place.

Wherefore, the petitioner prays that this Court grant this motion and/or such other and further relief this Court seems just and proper.

Date: 1/27/19

Steven Louis Barnes  
STEVEN LOUIS BARNES #327117  
McCOMMER C-1  
386 Redemption Way  
McCOMMER SC

STATE of South Carolina  
County of EDGEFIELD

Steven Louis Barnes  
petitioner

vs

State of South Carolina  
Respondent

IN THE COURT of Common Pleas

C/A # 2015-CJ-19-35

MOTION for THE PETITIONER TO REPRESENT HIMSELF ON POST  
CONVICTION RELIEF (PCR) AND for THIS COURT TO APPOINT  
STAND-BY COUNSEL TO ASSIST THE PETITIONER ON PCR

The petitioner, Steven Louis Barnes, makes this motion pursuant to *Hilton v. South Carolina* - Appellate Case # 2015-002140 (2018) where the South Carolina Supreme Court allows post conviction relief (PCR) applicants the right to self representation on PCR. The petitioner further request this Court to appoint stand-by counsel pursuant to the due process clause. see *washington v. washington* 419 S.E.2d 729 (SC 1992) (a due process right to counsel generally involves the deprivation of a liberty interest); *lassiter v. Department of Social Services of Durham County* 452 US 18 Rel'g denied 453 US 927 (1981)

The petitioner base this motion on the following facts.

## FACTS

The petitioner leave reference to and incorporate the facts of his Motion To Challenge The Constitutionality of The post Conviction Relief statute as unconstitutional for not Having a Remedy In order for The petitioner To challenge the Ineffectiveness of per Counsel and the facts in the petitioner Motion To Relieve Appellate Counsel, Nathaniel H. Huelgins, on The grounds of Ineffective Assistance of Counsel on Direct Appeal.

The petitioner contends that both his Appellate Counsel and per Counsel are depriving the petitioner of a full and fair hearing on both direct and collateral review. This alone is prejudicial for two reasons, but not limited to it: one: pursuant to the federal Habeas Corpus statute 28 USC § 2254 (c)(1) the state court factual findings are presumed correct. § 2254 (c)(1) Reads:

" In a proceeding instituted by an application for a writ of habeas Corpus by a person in custody pursuant to the judgment of a state court, a determination of a factual issue made by a state court shall be presumed correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. "

and two: The state of South Carolina by its appointment of Counsel system in general is denying the petitioner of his right to one full and fair bite of the appellate process and collateral process that then in turn causes the state of South Carolina corrective process ineffective pursuant to 28 USC § 2254 (b)(1)(B)(ii)

furthermore, because of the substantial interest at stake, the petitioner liberty and property interests, *on per*, this court must appoint stand-by counsel on the petitioner's choice because of the unique situation of the various Government agencies attempts to deprive the petitioner of fair procedures in violation of various Constitutional rights, in particular one, the Thirteenth Amendment that reads:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

The state of South Carolina is trying to cover-up that the petitioner is actually innocent of the charges in this state and the petitioner can prove that the petitioner at trial was unduly convicted by perjurious witnesses testimony and tainted evidence.

In determining whether or not stand-by counsel is needed on the petitioner *per*, this court must apply the legal test of *Matthew v. Eldridge* 424 US 319 (1976) where the supreme court had said this court must balance (1) the private interest that is at stake; (2) the effect on governmental interests of incorporating a particular procedural safeguard into the decisionmaking process; and (3) the safeguard's value and the risk of an erroneous deprivation of the private interest at stake if the safeguard were not put in place.

The petitioner is Requesting this Court to appoint as his stand-by Counsel as per:

John Blume and/or Elizabeth Franklin - (Bes)  
900 Elmwood Avenue, Ste 101  
Columbia, SC 29201  
(803) 765-1044

Wherefore, the petitioner pray that this Court grant this motion and/or such other and further relief this Court seems just and proper.

Date: 1/27/19

Steven Laiz Barnes  
STEVEN LAIZ BARNES #327117  
McCormick C-2  
386 Redemption Way  
McCormick SC

STATE of SOUTH CAROLINA  
County of EDGEFIELD

IN THE COURT of Common Pleas

Steven Louis Barnes  
petitioner

C/A #

vs

State of South Carolina  
Respondent

## DECLARATORY JUDGMENT COMPLAINT

The petitioner pursuant to Rule 57 of the South Carolina civil Rules of procedure Request this Court to issue a Declaratory Judgment that the South Carolina post conviction Relief (PCR) statute on its face and/or as applied to the petitioner is unconstitutional.

## PARTIES

1). Respondent the state of South Carolina (state) is a state of the united states of America embodying and exercising the sovereign powers of the people.

2). petitioner Steven Louis Barnes is a citizen of the united states and is incarcerated at the McCormick Correctional Institution, in McCormick South Carolina.

## JURISDICTION

3) This Court is vested with subject matter jurisdiction with regard to matters raised by virtue SC Code § 17-27-10 et al; and SC Code § 15-53-10 et al

## FIRST CAUSE OF ACTION

Article 1, section 15, of South Carolina Constitution

## REMEDY

4). In September of 2018 the petitioner was appointed attorney Kristy Grafton Goldberg as the petitioner post conviction relief (PCR) Counsel.

5). Because of various forms of state interferences with Counsel, the petitioner PCR Counsel is trying to deprive the petitioner of his federal causes of actions on PCR.

6). South Carolina PCR statute does not have a Remedy like Austin v State 409 S.E.2d 395 (1991) (Austin Hearing) where the petitioner can raise the deprivations by PCR Counsel of the petitioner federal causes of action.

7). These matters present a Real and justiciable issue which is presently ripe for decision. Therefore, petitioner respectfully Request a declaratory Judgment that the PCR statute is unconstitutional under Article 1, section 15 of SC Constitution.

— — — — —  
SECOND CAUSE OF ACTION  
EQUAL PROTECTION CLAUSE TO BE  
SIMILAR SITUATED TO A REMEDY  
— — — — —

8). The petitioner leave reference to and incorporate the facts in paragraph one (1) through seven (7) in this section for Relief.

9). In *Austin v State* 409 S.E.2d 795 (1991) per counsel did not put in for an appeal to the South Carolina supreme court for counsel client, Austin, in that case.

10. The supreme court held in *Austin* the following:

" The Right to appellate review of the denial of per is expressly authorized by state law. SC Code Ann. § 17-27-100.

" Because petitioner is entitled to the assistance of appellate counsel on per and because we must find a remedy to correct the unfairness which has occurred, we find his allegation that counsel failed to seek review in this case specifically states a claim of ineffective assistance."

11). The petitioner is not being similarly situated to an *Austin* hearing because there is no difference between being denied an appeal to the state highest court and being denied a federal cause of action at the per hearing.

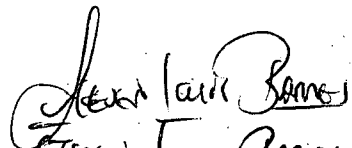
— — —  
THIRD CAUSE OF ACTION  
DUE PROCESS VIOLATION  
— — —

- 12). The petitioner gave reference to and incorporate the facts in one (1) through seven (7), and eight (8) through eleven (11), in this section for Relief.
- 13). The petitioner has both a liberty and property interests under the South Carolina per statute.
- 14). This Court should declare that when the petitioner shows that per Counsel deprived the petitioner of a federal cause of action on per that the same Austin Hearing should apply to the petitioner:
- (A) Remand for an evidentiary hearing on the issue of whether in fact the petitioner was denied a federal cause of action on per;
  - (B) If per Counsel did deny per claimant the right to federal cause of action, the per Court must review whether the petitioner was prejudiced by the failure to obtain review of a Meritorious issue; and
  - (C) The per Court must construe paragraph (2) under the *Stansbury v. Washington* test; and
  - (D) The Supreme Court would apply the "any evidence standard to all cases where the petitioner was deprived of a federal cause of action by per Counsel.

RELIEF

15). The petitioner prays for such other and further Relief that Court seem just and proper

Date: 1/22/19

  
STEVEN LOUIS BARNES  
# 327117

McCormick C-1  
386 Redemption way  
McCormick SC

STATE of SOUTH CAROLINA  
COUNTY of EDGEFIELD

IN THE COURT of Common Pleas

Steven Louis Barnes  
petitioner

C/A # 2015-CP-19-35

VS

State of South Carolina  
Respondent

MOTION TO CHALLENGE THE CONSTITUTIONALITY OF THE POST  
CONVICTION RELIEF STATUTE AS UNCONSTITUTIONAL FOR NOT  
HAVING A REMEDY IN ORDER FOR THE PETITIONER TO CHALLENGE  
THE INEFFECTIVENESS OF PCR COUNSEL

The petitioner, Steven Louis Barnes, files this motion in order to challenge the constitutionality of the post conviction relief (PCR) Act statute as unconstitutional due to the statute doesn't have a remedy in order for the petitioner to challenge PCR counsel Kristy Grafton Goldberg abandonment of federal issues, see Maples v Thomas 132 S Ct 912 (2012) on PCR where ineffective assistance of trial and appeal counsels are raised for the first time on PCR. see Martinez v Ryan 526 US 1 (2012)

The petitioner asks this court three (3) constitutional questions:

- 1 WHETHER THE MATHEW V ELDRIDGE LEGAL STANDARD SHOULD APPLY WHERE THE PETITIONER CAN SHOW PCR COUNSEL DEPRIVING THE PETITIONER OF A LIBERTY AND PROPERTY INTEREST RIGHTS
- 2 SHOULD THIS COURT ADOPT THE SAME LEGAL STANDARD OF AUSTIN V STATE 409 S.E.2D 395 (1991) IN DETERMINING WHEN PCR COUNSEL HAS DEPRIVED THE PETITIONER OF A LIBERTY AND PROPERTY INTEREST RIGHT
- 3 IS THE SUCCESSIVE PCR STATUTE UNCONSTITUTIONAL IN LIGHT OF MARTINEZ V RYAN 566 US 1 (2012)

The petitioner base this motion on the following facts :

#### QUESTION 1 FACTS

#### MATHEW V ELDRIDGE DUE PROCESS STANDARD

On June 8, 2015, Judge William P. Keesley had issued an order regarding appointment of counsel and not finalizing conditional order of dismissal of the petitioner post conviction relief (PCR) petition because of "unique factors . . . leave the court with lingering concerns about dismissing the PCR case . . . and wants to evaluate whether there are pitfalls in summary dismissal of this PCR case that would prevent the applicant from being able to pursue these claims. It is typically said

that an applicant has one bite at the pcr apple. The court wants to allow the applicant to be able to avail himself of any opportunity to maintain possible claims of ineffective assistance of counsel concerning the IAD from the first trial. The section in judge Goodstein's order quoted above refers to two factors: (1) that the supreme court decided the issue in 2014; and, (2) that no new IAD action and no new evidence was submitted.

On August 29, 2018, Judge Neesley had denied the petitioner an Evidentiary Hearing Regarding state interference with counsel. On September 14, 2018, the petitioner had filed a Rule 52(b) and Rule 59(e) of the South Carolina Civil Rules of procedure regarding Judge Neesley's order denying the petitioner Evidentiary Hearing before the petitioner pcr regarding state interference with counsel. On September 24, 2018, Judge Neesley issued a memorandum denying the petitioner Rule 52(b) and Rule 59(e) motions on frivolous grounds inconsistent to state and federal law. The petitioner then filed a petition for writ of certiorari to the South Carolina Supreme Court regarding an Evidentiary Hearing, and appointment of non state sponsored counsel for the Evidentiary hearing.

furthermore, on September 14, 2018, the petitioner had filed a supplemental pcr petition raising various grounds such as ineffective assistance of appellate counsel, Katherine Hugins, and William McGuire and Shane Lockman, regarding the former appellate representation on current direct appeal and latter appellate counsels regarding their actions in the Administrative law court proceeding where trial judge Diana S Goodstein had subject matter jurisdiction over the administrative court actions.

The petitioner was appointed by the Court Kristy Grafton Goldberg as the petitioner per Counsel because South Carolina Civil Rules of procedure Rule 71.1(d) mandates the following:

"(d) Appointment of Counsel for Hearing. If, after the state has filed its Return, the application presents question of law or fact which will require a hearing, the Court shall promptly appoint Counsel to assist the applicant if he is indigent. Counsel shall be given a reasonable time to confer with the applicant. Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary."

The petitioner contends that the mandatory language "shall" in Rule 71.1(d) creates a liberty interest, see *Born v Calderon* 59 f.3d 815 (1999) ("protected liberty interest may be created by state law but only in limited circumstances" - to create liberty interest protected by due process state law must contain substantive predicates specifying the outcome that must be reached if substantive predicates have been met); *Snipes v McAndrew* 313 S.E.2d 294, 297 (1984) (citing  *Bd of Regents of State Coll. v Roth*, 408 US 564 (1972) ("To determine if the expectation of entitlement is sufficient will depend largely upon the extent to which the statute contains mandatory language that restricts the discretion of the [agency] . . ."); *Tns Mills Inc v SC Dept of Revenue* 503 S.E.2d 471, 476 n. 3 (1998) (finding the use of the word "shall" in a statute ordinary means the actions referred to is mandatory); see e.g. *Washington v Washington* 419 S.E.2d 779 (SC 1992) ("a due process right to Counsel generally involves the deprivation of a

liberty interest), and property interest right to a federal or state cause of action. see *Zipperer v City of Fort Myers* 41 F.3d 619 (1995) (The Supreme Court has specifically held that "a cause of action is a species of property interest protected by the fourteenth Amendment Due process clause"; *Labaree v Payne* 329 S.E.2d 533 (1988) (In *Logan v Zimmerman Brush Co.*, 455 US 422 (1982) the Supreme Court held that a state court cause of action did constitute a property interest under the fourteenth Amendment so that the state would not terminate the cause of action due to failure of state officials to comply with a statutorily mandated procedure).

Rule 71.1 and the PCR statute doesn't have a remedy to challenge in state court the petitioner PCR counsel deprivation of his federal and state cause of action where the petitioner must mandatorily raise for the first time on PCR ineffective assistance of trial counsel. see *Martinez v Ryan* supra. The mandatory language shall in Rule 71.1 (d) gives the petitioner two interests: property and liberty. The liberty interest is the right to PCR counsel once the petitioner shows a valid "question of law or fact which will require a hearing". The property interest is a federal cause of action when Rule 71.1 (d) mandates "counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary."

furthermore, the South Carolina Constitution mandates a hearing when a person is deprived of life, liberty, and property interests. see SC Article section 3 (the privileges and immunities of citizens of this

State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law . . . )"; 51 Article Section 23 (The provision of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its term.) The South Carolina Constitution too gives the petitioner a liberty interest right to a remedy by itself.

Once the petitioner shows a deprivation of a liberty and/or property interest rights, this court must then apply the three standards of *Mathew v. Eldridge* 424 US 319 (1976):

(1) The private interest that is at stake; (2) the effect on governmental interests of incorporating a particular procedural safeguard in the decision-making process; and (3) the safeguard value and the risks of an erroneous deprivation of the private interest at stake if the safeguard were not put in place.

The per Judge, the South Carolina Attorney General, Melaly Brown, and state sponsored Goldberg are trying to deprive the petitioner of a federal cause of actions or federal habeas corpus, if necessary. In order to prove this the petitioner states the following:

On August 29, 2018, Judge Keesley had issued an order denying the petitioner an evidentiary hearing in order to show state interferences with

the petitioner Right to Counsel. on september 14, 2018, the petitioner had filed both a Rule 52(b) and Rule 59(c) regarding the petitioner motion to Relieve Counsel to the extent that an Evidentiary Hearing and the appointment of non state sponsored Counsel for the Evidentiary Hearing so the petitioner can show state interference with Counsel. Also, the petitioner, on the same day, had filed a supplemental pro petition in which he'd stated various grounds for Relief such as ineffective assistance of Appellate Counsel, Nathaniel Hudgins, who currently Represents the petitioner on direct Review. on september 24, 2018 Judge Keeley had issued an order denying the petitioner Rule 52(b) and Rule 59(c) and supplemental pro petition on Hybrid Representation grounds. The petitioner then appealed the Rule 52(b) and Rule 59(c) to the South Carolina supreme Court via writ of Certiorari. on november 1, 2018 pro Counsel Goldberg had filed a Response to the state motion to Dismiss the petitioner pro petition. The petitioner did give state sponsored Counsel permission to file a Response to the state motion to Dismiss because the petitioner stands firm of proving before the petitioner pro hearing state interference with Counsel. furthermore, the South Carolina Attorney General, the pro Judge, and state sponsored pro Counsel all know that the petitioner have pending a writ of Certiorari in the state supreme Court. plus, the petitioner Reasonable Relied on the pro Judge June 8, 2018 order regarding not finalizing conditional order of Dismissal of the petitioner pro. lastly, the sole purpose of the pro judge, the state sponsored pro Counsel, and attorney General in denying the petitioner of a federal Cause of action on pro so they can direct the petitioner

on Appellate Review. To justify their action for this pursuant to their conspiracy, those state officials are trying to use Rule 71.1 (b) of the SCRP that states " [A]n application for post conviction Relief cannot be made while an appeal from the conviction or sentence is pending or during the time in which an appeal may be perfected " in order to dismiss the petitioner pcr. In using state sponsored pcr Counsel as the petitioner agent, under agent and principle law, the state of South Carolina is trying to force the petitioner through pcr Counsel to give up his federal cause of action for habeas corpus Review regarding all the issues in the petitioner supplemental pcr petition.

furthermore, the state of South Carolina is utilizing procedural Rules to violate the petitioner Constitutional Rights in order to Raise his federal claims in federal Court. see Henry v Mississippi 379 us 443, 447 (1965) (deciding that in every case the Court must inquire whether a state procedural [law] serves a legitimate state interest before it undertakes review of whether that procedural Right impinges a federal Right) In the utilization of Rule 71.1 (b) pursuant to the conspiracy of the pcr Judge, state sponsored pcr Counsel, and the attorney General in order to dismiss the petitioner pcr constitutes unconstitutional conditions because the state of South Carolina is forcing the petitioner to give up his fundamental Rights to access to the Courts and to petition the government on direct appeal for raising his underlying federal causes of actions of ineffective assistance of both trial and appellate Counsels on pcr where South Carolina mandates the latter claims to be Raised at. see Dolan v City of Tigard 512 us 374 (1994) ( Requiring that Courts determine

Whether an essential nexus exist between the legitimate state interest and the conditions imposed by the government); Johnson v Tampa Sports Authority 530 f.3d 1320 (2008); Bourgeois v Peters 387 f.3d 1303 (2004) (City Requirement that protestors submit to magnetometer searches prior to participating in protest against Military school constituted an unconstitutional condition that violated the first Amendment; the protestors were required to surrender a constitutional right freedom from unreasonable searches and seizures not merely to receive a discretionary benefit but to exercise two other fundamental rights freedom and assembly)

Since the petitioner has shown a deprivation of liberty and property interests by South Carolina officials, the petitioner contends that this court should apply the procedural safeguards in Austin v State 409 S.E.2d 795 (1991) in question 2 below in showing state sponsored per counsel deprivation of the petitioner federal cause of actions or per.

## QUESTION 2: AUSTIN REMEDY PROCEDURES

In Austin v State 409 S.E.2d 795 (1991) per counsel did not put in for an appeal to the South Carolina supreme court for counsel client, Austin in that case. The supreme court held in Austin supra the following:

"The right to seek appellate review of the denial of per is expressly authorized by state law. SC Code Ann. § 17-27-100.

"Because petitioner is entitled to the assistance of appellant counsel on per and because we must find a remedy to correct the unfairness which has

occurred, we find his allegation that counsel failed to seek review in this case specifically states a claim of ineffectiveness assistance."

There is no difference between being denied an appeal to the state highest court and being denied a federal cause of action at the per hearing.

### AUSTIN REMEDY

The supreme court in *Austin v. State Super* had fashioned a remedy for the per court to deal with any and all issues concerning per counsel failure to appeal to the state supreme court. The remedy the supreme court had fashioned for failure to appeal:

- (1) Remand for an evidentiary hearing on the issue of whether in fact the petitioner requested and was denied an opportunity to seek appellate review;
- (2) If per counsel did deny per claimant the right to appeal, the per court must review whether the petitioner was prejudiced by the failure to obtain review of a meritorious issue; and
- (3) The per court must construe paragraph (2) under the *Stenderland v. Washington* test; and
- (4) The supreme court would apply the "any evidence standard" to all cases where the petitioner never in fact sought discretionary review.

This standard too shall apply to the petitioner according to the due process standard of determining whether or not a remedy or hearing is mandated

for a deprivation of liberty and/or property according to *Mathew v Eldridge* supra.

### QUESTION 3 UNCONSTITUTIONAL SUCCESSIVE PCR STATUTE

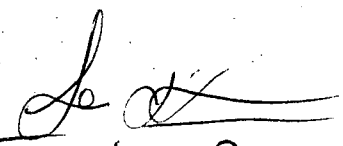
In *Mathinez v Ryan* supra the supreme court had held where a state mandates that trial counsel ineffectiveness be raised on the first time on collateral review then *Mathinez* supra carves out a narrow exception where the petitioner can show cause and prejudice because of collateral review counsel was ineffective at the PCR proceedings. In light of the fact that the petitioner is contending that the PCR statute is unconstitutional for not having a remedy where PCR counsel deprives the petitioner of a federal cause of action, in which is a property interest under the due process clause, see *Hicks v Oklahoma* 447 US 343, 346 (1980) the successive PCR statute is unconstitutional in light of *Mathinez v Ryan* supra. furthermore, A PCR statute that blocks a federal constitutional rights by not having a remedy regarding PCR counsel deprivation of federal claims at the PCR hearing is not an independent and adequate state law where this court will be protected under the doctrine from procedurally barring the petitioner from raising federal claims in federal court. An example of inadequate PCR process where the laws has not been consistently applied are *Mangal v State* 421 SC 85 (2017) (These considerations should guide PCR courts when struggling to balance procedural requirements against the importance of the issues at stake in PCR proceedings, we encourage trial courts in PCR cases to use the discretion we grant them on procedural matters - within the flexibility of our Rules - to reach the merits.

of substantial issues). Compare *Milly v State* 745 S.W.2d 327 (2013) (*Martinez v Ryan* is limited to federal habeas corpus review and is not applicable to state post conviction relief actions)

### CONCLUSION

The petitioner prays for Evidentiary Hearing and for this Court to grant this motion and/or such other and further relief this Court seem just and proper.

Date: 1/27/19

  
Steven Louis Barnes #327117  
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386 Redemption way  
McCormick, SC 29559

STATE of SOUTH CAROLINA  
IN THE COURT of Appeals

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FEB 01 2019

Appeal from Edgefield County  
Honorable Diane Schaffer Goodstein, Circuit Judge SC Court of Appeals

THE STATE

Appellee - Respondents

VS

STEVEN LAZIS BARNES

Appellant - PETITIONER

Appellate Case No. 2017-002140

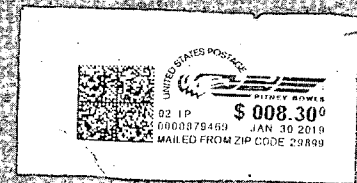
Proof of Service

The petitioner declares that he have served the South Carolina Attorney General at p.o. Box 11549, Columbia, SC 29211, the following Motion to Stay and Abeyance until motion to Relieve Appellate Counsel on this appeal is heard and/or To Remand the ineffective assistance of Appellate Counsel to the post conviction relief stage for an Exigent Hearing; Motion for Exigent Hearing; and motion to Relieve Counsel, and Exhibits (1) - (3) by depositing said documents in the United States mail with sufficient postage.

Date: 1/27/19

Steven Laizis Barnes  
Signature

Steven Law Barnes #327117  
McCormick, C. L.  
386 Redemption Way  
McCormick, SC 29577



The South Carolina Court of Appeals  
Jenny Abbott Kitchings, Clerk  
Columbia, South Carolina 29244

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JAN 28 2019

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