

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY

COURT OF COMMON PLEAS

R. MARKLEY DENNIS, JR. CIRCUIT COURT JUDGE

Case No. 2017-CP-10-1194

Rev. Willie Johnson, #1270b9 Petitioner

v.

State of South Carolina Respondent

PETITION FOR A WRIT OF CERTIORARI

Rev. Willie Johnson, #127069
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

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QUESTIONS PRESENTED

1. Did the PCR Judge erred in his ruling that the Petitioner unsigned Court Order from Trial Court to be without Merit?
2. Did the PCR Judge erred in his ruling that Respondent failing to answer Petitioner PCR Application within thirty (30) days to be without Merit?
3. Did the PCR Judge erred in his ruling that the Respondent failed to address merits in PCR Application they ignored the [Probative facts] in the case and PCR Judge allow the Respondent to change[d] the caption in the case and Petitioner initially file under Rev. Willie Johnson v. Bryan Striling, Director of South Carolina Department of Corrections?
4. Did the PCR Judge erred in denying the Petition for Post-Conviction Relief without first holding an "Evidentiary Hearing"?
5. The Petitioner challenges to Uniform Post-Conviction Procedure Act, pursuant to S.C. Code Ann. S 17-27-10 to S 17-27-160 ("The Act"), to be Unconstitutional.
6. Did the original PCR Judge erred by refusing to recuse herself from the case and appointing another judge?

STATEMENT OF THE CASE

On April 18, 1985 Petitioner was convicted of murder and was sentenced to prior of His Life Imprisonment on Direct Appeal, his conviction was Affirmed by the South Carolina Supreme Court, State v. Johnson, OP.No.80-MO-455 (S.C. Sup.Ct.Order filed Dec.8,1986). Some time in 2004 Rev.Johnson discovered that the trial judge failed to actually sign the commitment order to the South Carolina Department of Corrections.

Petitioner then brought this action seeking post-conviction relief in March 8,2016. He alleged:

1. "The trial judge failed to actually sign the Court Order to the South Carolina Department of Corrections to [validity] the conviction and sentence."
2. "Respondent Conditional Order of Dismissal is moot because the Respondent failed to Answer Summons within thirty (30) days".
3. "Respondent filed their Conditional Order Dismissal prematurely, before the Court [adjudicate] the Motion for Default Judgment."
4. "Applicant argues that Respondent failure to plea an Affirmative Defense waives the defense."
5. " Respondent failed to address merits in PCR Application, they ignore the [Probative Facts in the case and Respondent change[d] the caption in the case and Applicant initial file under Rev.Willie Johnson v. Bryan-Stirling, Director of South Carolina Department of Corrections."
6. "Respondent has no jurisdiction over the Applicant being illegally detained by SCDC. As a result, the Court Order, dated April 22,1985 bear only a ty[p]ewritten name of the trial judge. It appear[s] that someone signed the trial judge['s] name on the face of the indictment."
7. "Respondent violated the Procedural Due Process by the failure to follow the Supreme Court Ruling in In Re Smith, 559 S.E.2d 584 (2002)."
8. "Respondent committed [an] obstruction of justice and conspiracy to commit official misconduct and perjury."

PCR Judge was not faithful to the law and denied the Application on October 10,2017, and a Notice of Appeal was served on November 3,2017. Petitioner now seek a Writ of Certiorari to review this denial.

ARGUMENT

GROUND A. Did the PCR Judge erred in ruling that the petitioner unsigned court order from trial court to be without merit?

SUPPORTING FACTS:

The Petitioner contends it is well established that the trial judge actually failed to sign the Court Order to South Carolina Department of Correction ("SCDC"). Here, it render ("SCDC") lacked of subject matter jurisdiction and without a judge signature on the Court Order and where a void Order has been entered in a criminal case; the effect is the same as if no order at all has been made, and the case necessarily remains pending before Court of General Sessions but being unsigned Court Order, and therefore such Court Order was void.

Thus, Petitioner like to take a page out from the sport world to share some insight of the facts in this case. As such, a good story comes to mind, and that is the story of the great Hank Aaron, someone asked Mr. Aaron, "How do you hit so many home runs" Mr. Aaron's reply was, "I keep my eyes on the ball." That is what the Petitioner is asking the Chief Justice and Justice of Supreme Court to do in these proceedings, and that is to look directly at the facts surrounding this case. The Petitioner further request that each Members of Supreme Court don't allow the original PCR Judge misconception in her Order on Recusal to divert this Honorable Court attention from what is important; it is not how the water is muddled. Here, the Petitioner has presented to the Supreme Court a prima facie case to support the material facts in this case.

Petitioner can establish that conduct of both PCR Judges, was deliberately to interfere with the wheel of justice in this case. This case is controlled by In Re Smith, 348 S.C. 222, 559 S.E.2d 584 (2000); in which Supreme Court Ruled a judge must personally signed his on Court Order. However, just as in In Re Smith, Supra, a case involving a very similar to Supreme Court Ruling in Smith. As set forth, on page 9 of the Final Order of Dismissal PCR Judge alleges the case of In Re Smith, Supra was meritless and inapplicable. In this case, PCR Judge deliberately misconstrued the Supreme Court Ruling in Smith.

In instant case, Supreme Court Rule, public reprimand was warranted for Judge's failure to personally sign various Court Orders issued in his name and for his failure to designate any factual basis to support the issuance of those orders. Appellate Court 501 Code of Judicial Conduct Canon 1-3. Here, PCR Judge misquoted the Supreme Court Ruling to apply (the Supreme Court of South Carolina reprimanded a Magistrate Judge for knowingly allowing his Office personnel to sign orders in his name.) Therefore, the PCR Judge failed to be faithful to the law, pursuant to Rule 501 Code of Judicial Conduct Canon 3 (B)(2)(5).

In the case at bar, while both Davis v. Sanders and DuBose v. Dubose, is exactly on point to the case at bar, these cases are analogous and the Court's language is unequivocal. In both cases, the South Carolina Supreme Court has established all court documents must signed by a Judge, regardless it is search warrant or court orders, these court document must be signed by a [Judge]. In Davis v. Sanders, 40 S.C. 507, 19 S.E. 138 (1894), "[Our Supreme] Court held that the warrant was not 'issued' as required by law, and conferred no authority on the Sheriff to make the arrest, because the magistrate did not sign at the foot as he intended to do, and because he did not intend the indorsement on the back as his signature of the warrant." As a result, Supreme Court has established since [1894] that all documents must signed by a Judge. DuBose v. DuBose, 90 S.C. 87, 90, 72 S.E. 645, 646 (1911). Further, a warrant is not issued until signed by an appropriate Magistrate, Municipal Judicial Officer, or Judge of a Court of Record. See 77-370 S.C. OP.Att'y Gen.295 (1977),(stating a warrant is properly issued only when signed by the magistrate and only upon a sworn affidavit.) Thus, the Court Order in this case was unsigned because there was no evidence that the trial judge signed the Court Order before Petitioner was committed in Custody of ["SCDC"]. In [1911] the Supreme Court reestablish their Ruling that was made in [1894] these are Landmark cases, that a Judge must signed all court documents that the trial judge preside over. In both cases, the PCR Judge alleges on page 9 [Final Order of Dismissal] set forth that Davis v. Sanders and DuBose v. DuBose, was [Meritless]. Also, [are not dispositive of the issue presently before this Court because these cases discuss the requirement concerning judicial signatures on warrant application.] [As set forth, both PCR Judge Ruling is a slap in the face of our [Chief Justice] and [Justices] that seat on South Carolina highest Court. Further, both PCR Judge place themselves above the law. Specifically, the Government is a government of laws, not of men, no one is above the law. No Officer of the Government can use authority unless the Constitution or the law permits.

Moreover, both PCR Judge has no authority to overrule a Supreme Court Ruling. As set forth, both PCR Judge suppose to implement law as it is written and carry out the Supreme Court.

In the case at bar, "the trial judge did not sign at the foot of the Court Order as he suppose to do, and it appeared the trial court endorsed on the on the face of the indictment." In State v. Gentry, 313 S.C. 931, 610 S.E.2d 494 (2005). In the Gentry case, the Supreme Court Ruled that an indictment is merely a "notice document." For a primary example; for instant, a individual walks into a convenience store with a typewritten check, intent to cash the check. The Clerk refuse to cash the check because it was unsigned. Thus, Judge must execute a Court Order is to sign it, and make it valid and to execute an obligation created by the Court Order is to carry it out or perform it. Executed means completed, signed, done, etc.

Simply put, the trial judge failed to sign the Court Order to give ["SCDC"] jurisdiction over the Petitioner. See Payne v. Madigan, 274 F.2d 702 (1960), a court order must be sign by a judge. Thus, a void Court Order is an Order that never really existed and is void forever. It doesn't become unvoid with the passage of time or inaction of the litigants. A void order has no power to bind or protect anyone. As a result, When you type or write out a proposed judgment or order that is exactly what it is until it is signed: PROPOSED. A judgment or order does not take on any official meaning until someone with the proper authority put their "John Hancock" on it. Thus, in so many words both PCR Judge, ~~saying a trial judge is not require~~ to sign an Order from the Court.

As set forth, this is the order that follows the Petitioner throughout his stay in prison and upon which prison authorities, parole board, and the Petitioner himself generally rely.

Moreover, the language of S.C. Code Ann. § 39-3-330 . . . An Order must be signed by the Justice or Judge making it and service of a copy thereof, with an endorsement by the Attorney General, signed by him, to the effect that the person named therein is required to appear and be examined at the time and place and before the Justice, Circuit Judge . . .

The requirements for Official signatures are more rigid. 80 C.J.S. Signatures § 9.

Furthermore, the law regarding these Courts have produced documents that were unsigned Court Order for decades. In this case the trial judge actually failed to sign the commitment order to the Department of Corrections. See In Re Smith, 559 S.E.2d 584, in this Case the Supreme Court ruled that the judge must personally sign their own Court Orders. Here, Judge Smith,.... failed to personally sign various Court Orders issued in Judge Smith's name. Judge Smith, knowingly allowed his Office personnel to sign his name to the Orders. Judge Smith, admits allowing his Office personnel to sign his name to the Orders, but asserts that he was unaware this practice was improper. Judge Smith, acknowledges that he should have been aware that this practice was contrary to the published orders, opinions, and guidelines of the South Carolina Supreme Court and South Carolina Administration, "which requires" that judges personally sign their own Court Order. As a result, Judge Smith are smiliar to the Applicant case, as it appear on the Court Order, the judge name appear typewritten on the Court Order.

Specifically, the typewritten name on the Court Order is not [signature] under Rule 11, SCRPC and Fed.Rules Civ.Proc. 28 U.S.C.A., the signature constitutes a certication that a Court Order is valid.

B. Due Process

As a matter of law, it is well established by South Carolina Supreme Court, Ruled in Boan v. South Carolina, Supra, also see, Bradley v. State, 864 P.2d 1212 (Nev. 1993),(holding an oral pronouncement is modifiable by Judge, and the sentence is only final once signed by the judge and entered by the Clerk). Specifically, neglecting to have adequate factual basis for signed paper(s), constitutes violation of Rule 11, SCRPC. See Walker v. Walker, 834 F.Supp. 1413. Thus, a void judgment is a judgment that never really existed and is void forever. It doesn't become unvoid with the passage of time or inaction-

of the litigants. A void judgment has no power to bind or protect anyone.

Simply put, without a personal signature on these Court Orders it will merely be just a piece of paper that can not be inter-locked and or in these matters. It nullifies the subject matter judiciary action. They are distinct from one another the same way the inner-making of a unsigned Court Order is distinct from the bread of the "sandwich", but both make the man. The Criminal Court can have Subject Jurisdiction all day long, but without the judge's signature the conviction and sentence would be ~~be~~ just like a blank piece of paper. That power is useless. Thereof does effect their ability and or power to hear the cases of this general class to which the proceedings in question belong. To determine otherwise is an error law. In comparison, you can have a "sandwich". Being a unsigned Court Order that never existed.

The legislature has made a provision in the [Uniform Commercial Code the atandard for documents and Court Order to be signed.] Pursuant to S.C.Code Ann.§§ 36-3-401. Siganture.

° Sec. (1) No person is liable on an instrument unless and until he has signed it. The Chief Application of the rule has been in cases holding that a principal whose name does not appear on an instrument signed by his agent is not liable on the instrument even though the payee knew when it was issued that it was intended to be the obligation of one who did not sign.

Here the facts and evidence will establish by the [Chamber Exhibit A] will prove beyond a reasonable doubt, that the Respondent failed execute their [Ministerial Duty] as set forth in their Policy and Statutory Laws. Pursuant to S.C. Code Ann.§§ 39-330,... Order must be signed by the Justice or Judge making it and service of a copy thereof, with an endorsement by the Attorney General, signed by him, to the effect that the person named therein is required to appear and be examined at the time and place and before the Justice, Circuit Judge...

The requirement for official signature are more rigid. 8¹/₂ C.J.S. Signature § 9. Specifically, under 18 U.S.C.A. § 505. Seals of Court: signatures of judges or court officers. The [Chamber Exhibits A] will prove beyond a reasonable doubt there was no signature on the Court Order.

Applicant begin with the framework established by 18 U.S.C.A. § 3621:

Sec. (c) Delivery of Order of Commitment. When a prisoner, pursuant to a Court Order, is placed in the Custody of a person in charge of a penal or correctional facility a copy of the Order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original Order, with the return endorsed thereon, shall be returned to Court that issued it.

Here, this issue is not a "isolated" subject matter. In the present case, the Respondent failed to abide by its own Policy, Statutory Laws, and State Constitution. As set forth, a agency must follow its regulation as well as Statutory mandates. See Cross v. United States, 512 F.2d 1212. There is no exception to the well established Policy and Laws hereinabove stated have led the Applicant to the conclusion that the interests of justice, in the lights of unsigned Court order. As set forth, it was [Director Stirling, primary responsibility] to bring this subject matter to the Court attention. As a result, Director Stirling, is a Officer of the Court, the Respondent did Obstruct the Due Administration of Justice, by the failure to execute his [Ministerial Duty] as set forth in his Policy. The Applicant being held in SCDC as a [Political Prisoner] under unsigned [Court Order] for thirty-one (31).

The Applicant like to take out a page out of the sport world, just suppose a football team step out on the field without the football, they can not play the game without the football. And that is the same with a unsigned Court Order, a unsigned order is a order that never really existed and is void forever. It doesn't become unvoid with the passed of time or inaction of the litigants. A unsigned Court Order has no power to bind or protect anyone.

On the one hand, it is well established by procedures on entries in ("SCDC"), pursuant to OP-21.04, Inmate Classification Plan, "Januray 1,2005".

Section Two: Reception and Evaluation (R&E) Center.

Section 4.2 Each inmate's commitment papers will be reviewed by the receiving person and delivered to the appropriate R&E Records person for processing. The R&E Record Staff will review the commitment papers to ensure that the inmate has a valid South Carolina sentence. Inmates who do not have valid commitment paper or a valid South Carolina sentence will not be accepted by SCDC.

Here, Director Stirling, promulgated another Policy that set forth that the Court Order [must] be signed by the trial judge, pursuant to OP-21.09, "inmate Record Plan":

Section 6.3.1. Review each commitment order for offense dates, sentence, signatures, indictment and warrant numbers, and any special condition indicated by the Court. In addition, a check for a previous SCDC number(s) will be complete. If a previous SCDC number(s) is identified, the old and new inmate records will be combined.

Moreover, SCDC must follow its regulation and Policy as well as Statutory mandates. See also, *Cross v. United States*, 512 F.2d 1212. As set forth, any kind of proceeding to cancel a void Court Order is proper. And it is the duty of this Court to declare the Order void as a matter of law. This Order wasn't even signed by the trial court to validity conviction and sentence.

Specifically, SCDC has no jurisdiction over [Rev.Johnson] and he is being illegally detained. As a result, the Court Order, dated April 22,1985, bare only a tyewritten name of the trial judge. Further, the typewritten name on the Court Order is not [signature] under Rule 11, SCRCF and Fed.Rules Civ.Proc.28 U.S.C.A., the signatue constitutes a certification that a Court Order is valid. Walker v. Walker, 834 F.Supp. 1413.

The purpose of Rule 32, (1)(B), 18 U.S.C.A., the judgment shall be signed by the judge and entered by the Clerk of Court, and Rule 77 (d), SCRPC, the judgment must be signed by the judge and sent to the Clerk of Court for filing. Under Fed. Rules Evid. Rule 902 (4), 28 U.S.C.A.; signature on a Court Order was to be given weight equivalent to a signature for the purpose of establishing authentication of document (901, section 114.

Specifically, neglecting to have adequate factual basis for signed paper constitutes violation of Rule 11, see Walker v. Walker, 834 F.Supp. 1413. that a trial judge must execute all paperwork before the Court. Here, the signature constitutes a certification that a Court Order is valid. Thus, both PCR Judge seriously undermined the Statute and Constitution. But to reiterate a critical point, a typewritten name on [Rev.Johnson] Court Order is not "signature" for Rule 11 purposes, under S.C. Rules Civ. Proc. Rule, see also, Giebelhaus v. Spindrift, 938 F.2d 962.

Both due process and common sense dictate that the plain and unambiguous language of § 39-3-330 plainly applies to an Order must be signed by trial judge. (words of a statute should be accorded their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand statute's operation). There is simply no language in the statute which implies it excludes an typewritten signature. If the Legislature had intended a typewritten name, it could have included such language in the statute. (If Legislature intended statute to include a typewritten name of a signature, it could have done so by including such language). Here, the Petitioner find no persuasive arguments as to why § 39-3-330 should be construed to apply to a typewritten name as a signature on Court Order.

In this case, Petitioner alleged that both PCR Judge had failed to be faithful to the law, pursuant to Rule 501. Judicial Conduct Cannon 3 (B)(2) A Judge shall be faithfully to the law and maintain professional competence in it. A Judge shall not be swayed by partisan interests, public clamor or fear of criticism. Here, the record is clear that both PCR Judge conspired with several other State Judicial personnel in order to stop the wheel justice in [Rev.Johnson] case. As set forth, the Petitioner has shown beyond a reasonable doubt that there is a "conspiracy" against [Rev.Johnson] clearly both PCR Judge have forgotten what the purpose of law is. The feelings of others have nothing to do with function of judicial system, whether our judicial system is basis on justice not feelings. Such presumptions of both PCR Judge in this case destroy the very metal of the shield of protection placed around American citizenry and abolishes the very core integrity of the Due Process Clause, our Constitutional -

forefathers have died and shed their best blood to establish and preserve. Here, our forefathers never basis the Constitutional on feelings or unbiased it is basis on Equal Protection of Laws.

GROUND B. Did the PCR Judge erred in his ruling that Respondent failing to answer Petitioner PCR Application within thirth (30) days to be without Merit?

SUPPORTING FACTS:

The Petitioner contend that the PCR Judge failed to enforce Rule 12 (A), SCRPC, requires that the State file its return within thirty (30) days after the docketing of the PCR Application. Petitioner contends that he is entitled to relief because the return was timely filed by Respondent.

Moreover, PCR Judge, deprived Petitioner of his due process by its failure to be faithful to the law and enforce Respondent to come in compliance with Statute by make them filed their return within [30] days that limit prescribed by Statute providing that within [30] days after docketing of application for post-conviction relief, or within any further time the Court may fix, the State shall respond by answer or by Motion is discretionary with trial court rather than mandatory. See Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973). As set forth, Attorney General's Office has regular Policy to request extensions of time to file return in order to request and receive trial or plea transcript of relevant proceedings. Here, Respondent did not request for a [extensions of time] as prescribe by Attorney General's Office. In the instant case, Respondent [12] month delay, deprived the Petitioner of his "procedural due process".

Specifically, Respondent lack subject matter jurisdiction to remove the Petitioner from Richland County, Clerk of Court to Charleston County, Clerk of Court. Further, the Supreme Court has held that §17-27-80 does not require that hearing be in Court of conviction, but before a judge who has jurisdiction to pass upon matter rising within South Carolina. Buchanan v. State, 276 S.C. 127, 276 S.E.2d 302 (1981). [Circuit wide terms of post-conviction hearing are the preliminary motions are reviewed by the Administrative Judge of the Circuit]. As a result, the Court deprived the Petitioner of his due process by removing the case to Charleston County, Clerk of Court and denied an Hearing.

GROUND C. Did the PCR Judge erred in ruling that the "Respondent" failed to address merits in PCR Application they ignor the [probative facts] in the case and PCR Judge allow the Respondent to change[d] the caption in the case and Petitioner initial file under Rev. Willie Johnson v. Bryan Striling, Director of South Carolina Department of Corrections?

SUPPORTING FACTS:

The Petitioner contend that the PCR Judge has failed to present any competent evidence to disclaim the Petitioner unsigned Court Order issue from which a reasonable inference could be drawn that there was a "total failure and obstructing and impeding the administration of justice. Here, both PCR Judge that was apart of this case, their Official Misconduct is so serious and blatant that integrity of the judicial process has been compromise. See U.S. v. Duclow, 631 F. 1485.

In the at bar, the Petitioner begin with the framework established by the United States Supreme Court in Life & Fire Ins. Co. of New York v. Wilson's Herra, 33 U.S. 291 8 PCT. 291 1834 WL 3789, " By a positive law of the State of Louisiana all judgment render, if not set aside for legal casue within a given number of days, must be signed by the judge before execution can be taken out upon them; in other words, the judgments at all, until they are so signed. A law of this state expressly requires the signature of the judge, before the judgment can be carried into effect; for there may arise sufficient reasons between the rendition of a judgment Pro forma, and the time allowed for signing it, to induce the judge to withhold his signature. That such reasons did arise in this case, may be presumed; for for it is a legal presumption, that public functionaris perform their duty when required; and although it is not expected that a judge will call for and sign judgments, without being so required; yet it is strange, that a party so much interested, should not have made application to the judge in the covers of tw years to sign this judgment; and it is also remarkable, that both PCR Judge would turn a deaf ear and sidestep the judicial process that the Constitutional machinery provided in the law and Constitution.

Specifically, the judge's signature to a judgment being, by our law, an essential part of it, inasmuch as it is a dead letter without it, it follows, that he who signs it his own Court Order.

The evidence presented thus far shows the statute, (commonly called the practice act, which by the act of congress of 26th May 1824, adopting the practice of the State Courts, regulates the practice of the United States Courts in Louisiana, which contains the provision requiring judgments to be signed, is of the 10th April 1805 (5 Martin's Digest 1647); and is not be found in Morcu's Digest. The Code of practice has changed the course of proceeding in the State Courts; but that Cod of practice has changed the course of proceeding in the State Courts, but that Code is not observed in the district court of the United States: It was enacted on the 2d October 1825, since the act of Congress regulating the oractice of the United States Courts in Louisians. The inquiry, then, is to be directed to the laws in force previous to the adoption of the Code of Practice.

Why sign an Court Order before? signing uiltually authorises an execution to be issue. The signature constitutes a certification that a Court Order is valid. Under 18 U.S.C.A. § 505. Seals of Courts; signatures of Judges or Court Officers. [Under this section word "forges" included photocopying genuine signatures of judge and deputy clerk and using such photocopied signatures to authenticate false order for fraudulent purposes. U.S. v. 714 F.2d 1558 (1983). Here, both PCR Judge has used the face of indictment to be order of trial judge. As set fort, on page 9 [the Court finds the Order committing the Applicant to the SCDC to be valid, and thereby concludes that the Applicant is lawfully detained by SCDC.] Both PCR Judge has ... violated their Oaths by failure to be faithful to the law. PCR Judge statement was with fraudulent intent. The purpose of the signature is to hold the "trial judge to strict accountability." Pusuant to 5 Wright § Miller, Federal Praticce and purpose and effect of signature. Here, PCR Judges committed [Obstruction of Justice] by Ruling a unsigned Court Order is valid [Order].

Moreover, State of Louisiana laws are applicabile to South Carolina and this "State" is South Carolina [Sister] State.

Specifically, PCR Judges in this case, has violated Rule 501 under Code of Judicial Conduct, Cannon 3 (B)(2), SCACR, by failure to be faithful to the law and it should be noted that the Code of Judicial Conduct, Cannon 2 (A), states, "A judge shall respect and comply with the law, and shall act at all times in a manner that promotes public confidence in the intigrity and impartiality of the judiciary."

Furthermore, the record will prove beyond a reasonable doubt that PCR Judges has shown little or no respect for the law or Supreme Court Ruling in State v. Covert, Davis v. Sanders, and DuBose v. DuBose, PCR Judges states these cases is inapplicable in this case.

In addition, this misconduct by PCR Judges is an assault on the integrity of the judicial process, which defiles the Court itself or is perpetrated by Officers of the Court in such a manner that the impartial system of justice fails to function. As set forth, all persons are equal before the law; and anyone, rich or poor, can demand the protection of the law in the exercise of his rights. As such,, the unsigned court order issue was never adjudicated by a trier of fact, in State Court or Federal Court.

GROUND D. Did the PCR Judge erred in denying the petition for post-conviction relief without first holding an "Evidentiary Hearing?"

SUPPORTIN FACTS:

The Petitioner contends that the PCR Judges deprived Rev.Johnson of access to the Court by failure to hold an [Evidentiary Hearing]. There was holding made in Sanders v. State, Supra, the South Carolina Supreme Court held that the PCR Court should not have dismissed Sanders petition without an "Evidentiary Hearing". However, juist as in Sanders v. State, Supra a cause involving a very similar to Petitioner. As set forth, Rev.Johnson is entitled to an "Hearing" on the unsigned court order.

Specifically, the United States Supreme Court has stated in Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491 (1977), "It is established beyond a reasonable doubt that Petitioner have a Constitutional Right of Access to the Courts. Here, PCR Judge infringe upon the Petitioner Constitutional Rights by denying Rev.Johnson of an [Evidentiary Hearing].

In the case at bar, the right access to the Court is distinct from the right of indigent persons to have lawyers appointed for them under the Sixth Amendment and the Due Process Clause. This right to appointed counsel is limited to criminal trial and Appellate Proceedings, see Muarry v. Giarrateno, 492 U.S. at 7. As such, PCR Judges deprived the Petitioner of his Constitutional Rights to appointment of counsel.

GROUND E. The Petitioner challenges to Uniform Post-Conviction Procedure Act. pursuant to S.C.Code Ann. § 17-27-10 to § 17-27-160 ("The Act"), to be Unconstitutional.

SUPPORTING FACTS:

The Petitioner contends that the Uniform Post-Conviction Act. are Unconstitutional, this Procedure Act. place limit on individual access to the Court. Here, it is well established by United States Supreme Court and the has repeatedly affirmed that one of the fundamental rights within the due process clause of the Fourteenth Amendment includes the right of access to the court, essential to the concept of due process of law is the law is the rights of a individual to have "an opportunity granted a meaningful time and in a meaningful manner," for [a] hearing appropriate to the nature of the case." Armstrong v. Manzo, 85 S.Ct. 1187 (1965). Here, Petitioner has a fundamental requirement of due process and the opportunity to be heard; it is an opportunity which must be granted at a meaningful time in a meaningful manner.

In the case at bar, South Carolina Uniform Post-Conviction Procedure Act., take away the right by limiting a individual to a one year window to file a PCR Application pursuant to 17-27-10 § to 17-27-160. Further, the United States or State Constitution doesn't place a limit when an individual could file a PCR Application with the Court for Relief.

Moreover, it is clear that the Legislature has violated the commands laws which directly deny an individual of his due process. Here, there is a conflict between [Statute] and United States Constitution and state Constitution overrides Statute. See Anton v. South Carolina Coastal Council, 469 S.E.2d 604 (S.C. 1996).

Specifically, the Constitution laws of the United States made "in pursuance of" the Constitution and treaties made under authority of the United States, Judges throughout the Country are bound by them, regardless of anything in separate State Constitution or laws.

However, Section 17-27-10 to § 17-27-160 are inapplicable to this case, due to [Rev.Johnson] unsigned Court Order, and conviction and sentence was never validity and one year Statute of Limitations are inapplicable. In addition, this unconstitutional [Statute] was not effect at time [Rev.Johnson's] received his unsigned Court Order from the Court..

In order to make a finding answering this question, the PCR Judges needs to hear and judge unsigned court order to be given at trial. A finding on this point is necessary to deny a petition for post-conviction relief, and PCR Judges erred in making this sort of judgment without first hearing the evidence. Here, PCR Judges was not faithful to the law, and "morally and ethically bound to act to see that justice was done." In other words, the State seems to believe that Petitioner convicted before subsection 17-27-10 to § 17-27-160 went into effect should have ... fewer rights and heavier burdens than those convicted later, that proposition is simply unfair, inequitable, and unjust, and this [Court] should not promote it.

Moreover, the South Carolina Supreme Court has held that the Statute of Limitations shall apply to all application filed after July 1, 1995, that the new Statute would apply only to individual convicted after July 1, 1995.

The rule of *Armstrong v. Manzo*, *Supra*, arguably applies to United States Supreme Court, which did not place a limitations on right to the access to the court, and Fourteenth Amendment includes the right of access to the courts. Here, South Carolina Legislature new statute is unconstitutional.

1. REV. JOHNSON, CHALLENGES UNCONSTITUTIONAL SAME SEX-MARRIAGE IN STATE OF SOUTH CAROLINA.

Both Due Process and Common Sense Dictate, Judicial Official in State of South Carolina for decades has sidestep the Constitutional machinery provided in South Carolina Constitution and Statutory Laws.

Moreover, same sex-marriage was a big issue in this State, after United States Supreme Court Ruling on same sex-marriage. As set forth, United States Supreme Court Ruling are inapplicable to the State of South Carolina. Why? because "The General Assembly has made a provision within South Carolina Statutory and Constitution against same sex-marriage in State of South Carolina. Therefore, same sex-marriage in State of South Carolina is unconstitutional.

Here the facts and evidence will establish that South Carolina's [Statutory and Constitution] provision prohibiting same sex-marriage. Pursuant to S.C. Const. Art. XVII § Sec.15 [A marriage between one man and one woman is the only lawful domestic union that shall be valid or recognized in this State.]

However, Our Statutory Laws, such as S.C. Code Ann. § 20-1-15. Prohibition of same sex-marriage. [A marriage between persons of the same sex is void ab initio and against the public policy of this State.

In general, South Carolina Statutory and Constitutional provision, prohibit the marriage of same sex- couples, which is [unconstitutionally] and it is unethical and Biblical immoral of the Word of God, it was said in Leviticus 20: 13 If a man also lie with mankind, as he lieth with a woman, both of them have committed as abomination: they shall surely be put to death; their blood shall be upon them.

Under S.C. Const. Art. XVII § Sec.15 [Homosexuals] is unconstitutional in State of South Carolina. Here, "Marriage" is defined as "the status or relation of a man or a woman who have been legally United as husband and Wife." 52 AM.Jur. 2d Marriage, § 1. Our Supreme Court has repeated, recognized that it is the Public Policy of South Carolina to "foster and protect marriage."

Thus, the State of South Carolina Statutory and Constitution does not recognize same sex-marriage and God does not recognize same sex marriage either.

Moreover, the Federal Law, defined "marriage" only as a legal union between a man and a woman and "spouse" only as a person of opposite sex who was a husband or wife. U.S. v. Windsor, U.S. 2013, 133 S.Ct. 2675, 136 L.Ed. 2d 808, U.S.C.A. Const. Art. III § 2. Under 1 U.S.C.A. § 7 Definition of "marriage" and "spouse" Effective: September 21, 1996. Defense of Marriage Act. A critical analysis of its Constitutionality under the full faith and credit clause. Heather Hamilton, 47 DePaul L. Rev. 943 (1998) ... Homosexual Activity is not a fundamental right guaranteed under the Constitution. Bowers v. Hardwick, 478 U.S. 186 (1986), no right of privacy guaranteed under due process clause of the Fourteenth Amendment to engage in consensual Homosexual Conduct.

As stated in South Carolina Constitution Art. I § 7. Suspension of Laws. The power to suspend the laws shall be exercised only by the General Assembly or by its authority in particular cases expressly provided for by it. Specifically, United States Supreme Court has no authority to suspend laws or State Constitution in South Carolina. As set forth, the General Assembly has not repealed S.C. Const. Art. XVII § 15 or S.C. Code of Laws § 20-1-15. But to reiterate a critical point, there is no Equal protection of laws for someone that engage in [Homosexual Activity] in South Carolina and to allow such practice it will infringe upon [Statutory and Constitution in State of South Carolina. Here, Public Official are afraid to attack this issue, because their Public Office. Thus, "Every Public Officer is bound to perform the ... duties of his or her office honestly, faithfully, and to the best of his ability." See United States v. Thomas, 15 Wall. (US), 337, 21 L.Ed 89; the Public Official in this

case and their [Political Ambuse] toward the people of State of South Carolina by admitting same sex-marriage in South Carolina. As set forth, "An officer acts corruptly in submitting to personal influence in deciding what his action in a public matter shall be, with knowledge of the facts and purpose." See Kaufman v. Catzen, 81 W.Val 1, 94 SE 338, LRA 1918B; "An officer's or Public employee's duty of loyalty to the public and to his superiors is similar to that of an agent of a private principal. They is bound to impart material information which they has ... received in the course of their employment and is derelict in their duty when they knowingly allows others to profit by their silience. See Coos County v. Elrod, 125 Or 409, 267 P.530; Political Official was intimidated by [LGBT] community to sidestep the Statutory and Constitution in State of South Carolina, the Politician and Judges was more concern about they Policial Office, then being faithful to people that place them in Office. Therefore, Political Official has slap the people in South Carolina the face and this State being the [Bible] belt and it is not the people Politician and Judges going answer too, it is God they will answer too.

Thus, VII powers of General Assembly §5. Constitutional Power to Enact Statutes

The South Carolina Constitution grants the General Assembly express powers to enact Statutes dealing with various and specific subjects. The Ligislature power of this State is vested in two distinct branches, the House of Representatives and the Senate, and together they form the General Assembly has exclusive Legislative power in the State government. the power to Legislate cannot be delegated to private persons or corporations, nor to any other body. See S.C. Const. Art. I, § 1.

Typically, Judicial Official, Politican and Judges has sidestep South Carolina [Statutory and Constitution] for decades. Here, Respondent and PCR Judges utilize "[P]ostconviction Proceedings as fishing expedition to denied Petitioner of his due process and deprived him of his access to the Court. Further, the Petitioner opinion a PCR Application should be heard in the Court of General Sessions, because it is a criminal manner not a Civil manner. When a Petitioner applies for postconviction relief, [Rev.Johnson] claims for relief should include an [Hearing] to developed a record to be heard in Supreme Court. The PCR Judges Orders has place [Rev.Johnson] at a significant disadvantage in litigating his case, [Rev.Johnson] has establish budren proof to an [Evidentiary Hearing].

Simply put, Rev.Johnson filed a [Motion for After-Newly Discovered Evidence] within Charleston County, Clerk of Court in Ninth Judicial Circuit in the Court of General Sessions. Here, Ninth Judicial Circuit Solicitor Scarlett Wilson, refuse to answer the "Motion". As set forth, Solicitor Wilson, committed Obstruction of Justice and Con-

spiracy to Commit Official Misconduct. Further, misconduct in Office occurs when persons in Public Office fail to properly and faithfully discharge duty imposed by law. At common law, it is an offense to do any act which prevents, obstructs, impedes, or hinders the Administration of Justice. Here, Solicitor Scarlett Wilson has a history of Official Misconduct and was suspended for misconduct.

Specifically, beyond a reasonable doubt there is a [conspiracy] against [Rev. Johnson] in Ninth Judicial Circuit, that was the purpose the Petitioner filed his PCR Application in Fifth Judicial Circuit, to seek justice.

Here the facts and evidence will establish that Ninth Judicial Circuit, along with Attorney General Office to conspired with several other State Judicial personnel in order to cover-up unsigned [Court] Order to shielded the trial judge from any repercussion that Supreme Court set forth in In Re Smith, Supra. and there are eight principal and standard that Solicitor, Attorney General Office and Judges; 1) taking personal responsibility to uphold what is pure, right and true. 2) Keep a clear conscience, when faced with a decision, discern and apply what is right to experience the freedom of a clear conscience. 3) Take personal responsibility: Your relationship to the situation will determine your specific responsibility, but your underlying dedication to moral principle must not change. 4) Use the right method. Whatever the case, always remain personally Faithful to what is true and right. 5) Face it: Do not use authorities as a mean to avoid confronting your responsibility. Invest your time and energy to face the problem and correct it. 6) Promote Reform-not revenge: When correction is needed, a just person looks beyond the surface problem and identifies the underlying issue. Remember that the goal of correction is reform, not revenge. 7) A personal commitment: Those with a strong sense of justice feel personally accountable to correct what is wrong. And 8) A consistent stand: Do not let someone's position or power influence your sense of justice take a stand to correct injustice whenever it is found. Here, the factor basis the PCR Judges did not follow these principal in their decision in this case.

Specifically, the law applies to ever one in the same manner, the Gvoernment is a government of laws, not of men. No one is above the law. No officer of the Government can use authority unless the Constitution or the law permits.

As presented above, instead of discharging his responsibilities in conformity with State law the Ninth Judicial Circuit Solicitor Wilson and Attorney General Wilson broke their Oath of Office by turning a blind eye to injustice in Ninth Judicial Circuit and State of South Carolina, they took a solemn oath and swore that they would uphold, and they are "morally and ethically bound to act to see that justice was done." Specifically, that is the purpose we have same sex-marriage in State of South Carolina because Attorney General Wilson was made aware by Rev. Johnson, about the Statutory and Constitution that govern against same sex-marriage. Here, the Attorney General Wilson and Good Ol Boys are focus more on their Political Career than injustice and corruption in State of South Carolina.

Thus, South Carolina Good Ol Boys are the one who use government to line their pockets at the expense of taxpayers. They value power over public service, and they place their own interests ahead of the interests of South Carolinians.

They're the elected officials, lobbyists, government bureaucrats and political "power brokers" who for too long have held our State back. It is time to snatch the blindfold off the injustice in the State of South Carolina.

Individually, they might not seem like such bad people. Collectively, however, they form a system that has kept the State we love from reaching our full potential and from solving many of the problems South Carolina face.

Here, Good Ol' Boys represent the "so along to get along". They're the ones who oppose government reform, even when reform is clearly in the State's best interest.

They're satisfied, even happy, with the way things are- the status-quo because they draw their reform from the current judicial system. As set forth, Politician and Judges in South Carolina are afraid to do what morally right, Politician and Judges are afraid to act against the special interest group and [LGBT] community these are group that line their pockets and Re-election. Thus, these Politician forget about the people who place them in Public Office.

Specifically, majority of Judges has turn a deaf ear to injustice in South Carolina. Rev. Johnson, case is so blatant that the trial judge failed to sign the Court Order. As set forth, it is so blatant Statutor and Constitution that same sex-marriage are unconstitutional in State of South Carolina.

Here again, All Members of the Unified Judicial System in this State shall take the following oath of office: Pursuant to Rule 502.1, SCRCR

- I do solemnly swear (or affirm) that:
- I am duly qualified, according to the Constitution of this State, exercise the duties of the Office to which I have been appointed, and that I will preserve, protect and defend the Constitution of this State and of the United States;
- I Pledge to uphold the integrity and independence of judiciary;
- I Pledge, in the discharge of my duties, to treat all persons who enter the Courtroom with Civility, fairness, and respect;
- I Pledge to listen courteously, sit impartially, act promptly, and Rule after careful and considerate deliberation;
- I Pledge to seek justice, and justice alone;
[so help me God.]

Both Due Process and Common Sense Dictate that [Judges] has a [Adjudicative Responsibilities] to uphold [Statutory and Constitution] and be swayed by "Political pressure" to derailed [Statutory and Constitution] in State of South Carolina by allowing same sex-marriage in our State. Here, Political pressure has derailed the PCR Judges decision in Rev. Johnson, case and it can be substantiated that Judges and Solicitors knowing they are immune from Civil and Criminal charges from duties performed as Judges and Solicitors, they know their action in violation of the State and Federal Constitution all under pretext to line their pockets at the expense of taxpayers. Their real motive is to perpetuate South Carolina's number one industry -- prison industry.

For a primary, while Pilate was hesitating as to what he should do, a messenger pressed through the crowd, and handed him the letter from his wife which read: "Have thou nothing to do with that just man, for I have suffered many things this day in a dream because of him." Pilate did not want to deliver Jesus. But he saw that he could not do this and yet retain his own position and honor. Rather than loose his worldly power, he chose to sacrifice an innocent life. How many, to escape lose or suffering, in like manner sacrifice principle. Conscience and duty point one way, and self-interest points another. The current sets strongly in the wrong direction, and he compromises with evil is swept away into the thick darkness of guilt. Pilate yielded to the demands of the mob rather than risk losing his position. He delivered Jesus up to be crucified. But in spite of his procurement, the very thing he dreaded afterward came upon him, his honors were stripped from him. He was case down from his office,-

and stung by remorse, and wounded pride. Not long after the crucifixion, he ended his own life. Jesus said, all who comprise with injustice will gain sorrow and ruin.

Here, the story of Pilate are similar to action of Judges and Political Official in State of South Carolina. Here, the only different between Pilate and Judges, in our time, they have laws that govern them. As such, Judges and Political Official was worry about their position and honor. Rather than loose their worldly power, they chose to turn a blind eye to injustice in South Carolina. Why? They was afraid of [LGBT] community and other Public Official. Here, U.S. Supreme Court do not have Judicial power to overturn South Carolina Statutory and Constitution, their decision is [Moot] in State of South Carolina.

Nevertheless, the Judges and Policitical Official has operated in our State like "Lone Ranger" for decaded in South Carolina, it its time for these Judges and Pol-icitical Official to be lassoed in. Now, it is the responsibility of this Honorable Court enforce Statutory and Constitution. Here, it its time to stop putting a [band-Aid] on the injustice and Judicial corruption in South Carolina. On page 10-11 of Final Order Dismissal, PCR Judges, alleges [the Court does not find the argument about the injustice and corruption to be particularly relevant here]. Therefore, PCR Judges failed to realize that Rev. Johnson, has a First Amendment Rights to his opinion. Thus, if PCR Judges would have open their eyes to facts that there is injustice and corrupt-ion in South Carolina.

Courts have no legislative powers, and in the interpretation and construction of Statute their sole punction is to determine the intention of the legislature; the responsibility for the justice or wisdom of legislation rests with the legislature, and it is province of the Courts to construe not to make, the laws. Belk v. Nationwide-Mut. Ins. Co., (S.C,1978), 271 S.C. 24, 24 S.E.2d 744. But to reiterate a critical point, the United States Supreme Court Ruling on same sex-marrage is inapplicable to State of South Carolina. Why? Article XVII S Section 15 of the South Carolina Constit-ution provides that" "A marriage between one and one woman is the only lawful domestic union that shall be valid or recognized in this State. This State and its political subdivisions shall not create a legal status, right, or claim respecting any other domestic union, however denominated. This State and its political subdivisions shall not recognize or give effect to a legal status, right, or claim created by another jurisdiction respecting any other domestic union, however denominated. Nothing-

in this section shall impair any right or benefit extended by the State or its political subdivisions other than a right or benefit arising from a domestic union that is not valid or recognized in this State. As set forth, South Carolina's Statutory and Constitutional provision prohibiting same sex-marriage in this State.

Nowhere in the South Carolina Constitution does the the legislature provide for the same sex-marriage. Furthermore, the South Carolina Code (20-1-15). Prohibition of same sex-marriage. Further, United States Supreme Court Ruling is in controversy with Statutory and Constitution in South Carolina. See Speller v. Allen, 30 U.S. 835, 71 S.Ct. 18, 95 L.Ed. 613 and Brown v. State, 341 U.S. 93, 71 S.Ct. 997, 95 L.Ed 1369, the United States Supreme Court has disregarded the Constitution in South Carolina and the Court never Rule that South Carolina Constitution was unconstitutional.

As presented above, Rev.Johnson have a constitutional right of access to the Courts. See Kocaya v. Kocaya, (S.C. App. 2001), 347 S.C. 26, 552 S.E.2d 765. Here, the unconstitutional Uniform Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to § 17-27-160 ("The Act"). However, the Statute denied Rev.Johnson right of access to Courts.

When the Supreme Court is called upon to interpret the South Carolina Constitution, it is guided by the ordinary and popular meaning of the words used. Richardson v. Town of Mount Pleasant (S.C. 2002), 350 S.C. 291, 566 S.E.2d 523.

Article XVII, § Section 4 of the South Carolina Constitution provides: "The General Assembly recognized "Supreme Being" which is "God" in South Carolina. Thus, for all authority comes from God and those in positions of authority have been place there by God, for His purpose. Thus, same sex-marriage is unacceptable in eyes of God. Specifically, Judges and Policitical Official failed to follow God's moral standards. Therefore, when "Jesus" return back to this earth, ever Politician, Judges and Public Official will answer to that "Supreme Being".

Finally, Uniform Post-Conviction Procedure Act. are a discriminatory Statute it deprived Rev.Johnson, the right of access to the Courts, and Statute place a limit on access to the Courts. If a right to a hearing is a liberty interest, and if Due Process accords that right to a hearing, then one has interpreted the Fourteenth Amendment to mean that the Courts should not deprive a person of a hearing without providing him with a hearing. See Hill v. Jackson, 64 F.3d 163 (4th Cir. 1995). Reductio ad Absurdum.

GROUND F. Did the original PCR Judge erred by refusing to recuse herself from the case and she appointing another Judge?

SUPPORTING FACTS:

The Petitioner contends it is established under Rule 53, SCRPC, absent consent of the Petitioner, a successor judge cannot make credibility determinations. Here, Petitioner was never given a [Notice] of original PCR Judge [Order of Recusal]. As set forth, a Judge has no power of her own mere "motion" to make an Order in a cause affecting the rights of a party. State v. Parker, 7 S.C. 335, 1876 WL 8958 (Supreme Court); Wesley-Burke v. Wesley-Burke, 222 S.C. 28, 339, S.E. 2d 512 (1986), the fact that the Order was made without notice is sufficient ground for setting aside, as a direct violation of Statute requiring notice to be given in such cases. The circumstance that it was not asked for on behalf of the party for whose benefit it was made cannot properly be passed without notice it is a dangerous innovation, subversive of the conception of the proper limits of judicial authority entertained by our laws, as the idea of a government of laws emanating from a Legislative Representation distinct from the judicial body has obtained clearness and force, a concurrent tendency has developed to separate entirely the functions of the judge and those of the advocate. Whatever may have been the practice at times when the liberty of the subject stood on no higher ground than a concession, either voluntary or extorted, of the dynastic head of government, at this day the judicial office has been so far simplified and purified, in theory at least, that the idea of a judge initiating any proceeding for the vindication of any right, either public or private, is anomalous. The case of punishment for actual contempt, especially that committed in the presence and to initiate and apply a summary remedy. This power, although liable to abuse, is the result of the necessities of the case.

In the case at bar, the original PCR Judge initiated her own of [Order of Recusal]. Here, Petitioner did not file an [Motion for Recuse] with the Court, Rev. Johnson made Judge Jefferson aware in a cover letter that she presided over his "Motion for After-Newly Discovered Evidence" on January 9, 2009. As set forth, Judge Jefferson was very familiar with issue set forth in this case. Therefore, Judge Jefferson failed to adjudicate the unsigned Court Order issue by a trier of facts.

Under App. Ct. Rule 501, Code of Jud. Conduct Canon 3(e), a Judge should disqualify herself, the record will prove beyond a reasonable doubt Judge Jefferson-

impartiality deprived the Petitioner of his due process, and Judge Jefferson committed Obstruction of Justice with Conspiracy to Commit Official Misconduct and Denial of Procedural Due Process. As a result, Judge Jefferson must act with absolute impartiality in the performance of Judicial Duties. Thus, Judge Jefferson, failed to perform her judicial duties and her [Bias] and personal [bias] denied [Rev.Johnson] of his Equal Protection of Law.

Both Due Process and common sense dictate that Rev.Johnson filed a Objection to Respondent Conditional Order Dismissal on May 16,2017. Here, Judge Jefferson ignored Rev.Johnson [Objection] on May 18,2017, Judge Jefferson made a [rusty judgment] in signing [Conditional Order of Dismissal on May 18,2017. Here, Rev. Johnson was going through a very emotional period of his life, Rev.Johnson was diagnose with [Myeloma] bone cancer, while in KCI Infirmary the Petitioner filed his [Objection]. As set forth, Judge Jefferson was made aware that she presided over a Motion for After-Newly Discovered Evidence of Rev.Johnson on January 9,2009.

In the case at bar, Judge Jefferson referred the [Final Order for Dismissal] to Honorable R. Markley Dennis, Jr. for his Consideration. Here, Rev.Johnson humbly quotes that which allege in Judge Jefferson, [Order of Recusal].(The Court denies any motion for Recusal. However, out of an abundance of caution the Court has referred the Final Order for Dismissal to Judge Dennis for consideration.) On page 9 of "Order of Recusal".

Simply put, Rev.Johnson, argues PCR Judge erred in failing to order a New Trial or void Unsigned Court Order and in signing the proposed order under Rule 63, SCRPC. Rule 63 Provider:

If at any time after a trial or hearing has been commenced, but before the Final Order or Judgment has been issued, the judge is unable to proceeds a successor judge familiarity with the record and determining that the proceedings may be completed without prejudice to the parties. In a hearing or a trial without a jury, the successor judge shall at the request of a party, recall any witness whose testimony is material and disputed and who is available to testify without undue burden. A successor judge may also provide the recall of any witnessess.

Moreover, Judge Jefferson, failure to comply with the requirements of this rule, there was no "Hearing" conduct in this case and Judge Jefferson was not unable to continue this proceeding, Judge Jefferson was not suffering from any "disability". Under the general operation of the Rule of Civil Procedure governing situations when

a judge become disable, first, if all parties consent, Rev. Johnson, never consent to bring in a successor judge, because Rev. Johnson was never given a "Notice" of Judge Jefferson, "Order of Recusal".

In the instant case, Judge Jefferson did not make a [Findings of Fact or Conclusion of Law] in Petitioner unsigned Court Order is in dispute, and thus Proposed Order that was simply signed by successor judge, absent consent of the parties, a successor judge cannot make credibility determinations. Christy v. Christy, 347 S.C. 503, 556 S.E.2d 701 (S.C. App. 2001). To reiterate, Judge Jefferson was not disable, had no sickness, Judge Jefferson refuse disqualify herself from this case and there was no transcript for successor judge to based his Finding of Fact and Conclusions of Law. Pursuant to Rule 501, SCACR, requiring a judge to recuse herself when there is a personal bias. Here, Judge Jefferson, shown a personal bias in this case, by appointing a successor judge without consent.

More important, successor PCR Judge allow Respondent to modify original [Proposed Order] respecting custody refers must, at the very least, embrace those matters which are related to assurance that PCR Applicant will appear in response to modify Proposed Order. Therefore, the Respondent never sent Rev. Johnson, a blank copy of the modify Proposed Order, the Petitioner was denied his due notice.

First and foremost, Rev. Johnson has established that his confinement is .. presumptively entitled to be release immediately.

This legal framework and foundation being firmly in place, a Statute granting a litigant the right to peremptorily challenge a judge guarantees a litigant the extraordinary right to disqualify a judge when timely and properly made, and the judge has no discretion to deny the motion but immediately loses jurisdiction and must self-recuse. A party's right to excusal of a judge without cause is a procedural right meant to effectuate the substantive right of a fair and impartial tribunal recognized by the State and Federal Constitution. A Statute authorizing a peremptory challenge of a judge is to be liberally construed in favor of allowing a peremptory challenge, and challenge should be denied only if the Statute absolutely forbids it.

With this legal framework in place the Petitioner further contends, Judge Jefferson and Successor PCR Judge violated Code of Judicial Conduct Canon that required judge to uphold integrity and independence of judiciary, avoid impropriety and appearance of impropriety, respect and comply with the law, be faithful to the law;

accord to every person who had a legal interest in a proceeding the right to be heard according to law; personally observe high standard of conduct, and persistently performing Judicial Duties in an incompetent or neglectful manner. Appellate Court Rule 501, Code of Jud. Conduct Cannon 1,1A,2,2A,3B (24,7), 7 (a) (1,47).

The Petitioner contends that upon examination of the record Judge Dennis presided over a proceeding involving Rev. Johnson on May 21, 2015 [Case no. 2015-CP-10-2001] Judge Dennis was very familiar with issue in this case. As set forth, Judge Dennis, denied Rev. Johnson of his constitutional right access to the courts.

Finally, if Judge Jefferson would have carefully examia the record, Judge Jefferson would have found in the Record that Judge Dennis was involve with Rev.-Johnson and Petitioner was denied access to the Court by Judge Dennis.

Here again, the Supreme Court by Order from the form Chief Justice Jean Hoefler Toal dated February 4, 2011.

The Petitioner humbly quotes that which is stated in the Order:

IT IS FURTHER ORDERED that when a Chief Judge for administrative purposes has a conflict in a matter or proceeding and is thereby prevented from performing these duties in a matter or proceeding reserved to the Chief Judge for administrative purposes, the following procedures shall be followed.

Section B. In those circuits with two Chief administrative judges, the matter or proceeding shall be referred to the other Chief Administrative judges. If other Chief administrative judge is also disqualified, the matter or proceeding shall be referred to the Chief Justice for assignment to the chief administrative judge of an adjoining circuit.

Section C. Should the chief administrative judge(s) in the circuit and those of an adjoining circuit be disqualified, the matter or proceeding shall be referred to the Chief Justice for assignment to a judge.

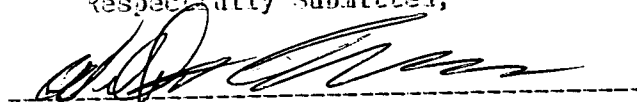
With respect, Judge Jefferson and Judge Dennis, was in [Contempt] of Court by failure to follow the [Official Court Order] that was set forth by form Chief Justice Jean Hoefler Toal of the Supreme Court, this was a [criminal contempt]. Here, both Judges willful disobeying the [Official Court Order]. But to reiterate a critical point, Judge Jefferson, should have disqualified herself before signing the [Conditional Order of Dismissal] and when Judge Jefferson was made aware by Rev. Johnson, that she was involved in his case in January 9, 2009, Judge Jefferson should have recuse herself right then, not wait until five month later.

The Petitioner contends it is well established the Supreme Court has held that § 17-27-80 does not require that hearing be in county of conviction, but before a judge who has jurisdiction to pass upon matters arising within such county. Buchanan v. State, 276 S.C. 127, 276 S.E.2d 302 (1981). Here, the Honorable DeAndrea G. Benjamin, Chief Administrative Judge of Fifth Judicial Circuit, deprived [Rev. Johnson] of his [Procedural Due Process] by Transfer his case to Charleston County, Clerk of Court. As set forth, it should be obvious the motive beheld the [State] removing PCR Application to Charleston County Clerk of Court. Such is a substantive disadvantage and procedural disadvantage to the Petitioner related to his Rights of Due Process. Here, their motivation was to dismiss the case without a "Hearing". As such, Rev. Johnson took the position that "Order to Transfer Venue" was premature until Petitioner were "given the opportunity to be heard on Motion for Default Judgment. As a result, Judge Benjamin, grant of [Order to Transfer Venue" was premature because Motion for Default Judgment should have been executed before any action of this case.

CONCLUSION

For the reason stated, Petitioner asks this Court to grant the Petition For A Writ of Certiorari.

Respectfully Submitted,



Rev. Willie Johnson, #127069 E-A1-7
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

February 27, 2018

Columbia, S.C. 29210

THE STATE OF SOUTH CAROLINA

In The Supreme Court

RECEIVED

APPEAL FROM CHARLESTON COUNTY

MAR 07 2018

COURT OF COMMON PLEAS

R. MARLEY DENNIS JR., CIRCUIT COURT JUDGE

S.C. SUPREME COURT

CASE NO. 2017-CP-10-1194

Rev. Willie Johnson, #127069 Petitioner

v.

State of South Carolina Respondent

PROOF OF SERVICE

I, Rev. Willie Johnson, certify that I have served the Petition for Writ of -
Certiorari upon Rasheeda Clevelanda, Assistant Attorney General by depositions
a copy in the United States Mail Postage Prepaid, on March 2, 2018, at P.O. Box
11549, Columbia, South Carolina 29211.

March 2, 2018.



Rev. Willie Johnson, #127069
Kirkland Correctional Institution
4344 Broad River Road
Columbia, South Carolina 29210

WILLIE JOHNSON #127069-E-AI-7
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