

P.S. - I probably will be in  
South Carolina Department of Corrections  
in Columbia, SC. KIRKLAND R 3E  
By the time you receive this  
letter

RECEIVED

MAY 30 2019

Monday MAY 27<sup>th</sup>  
2019

DEAR Court of Appeals,

SC Court of Appeals

I AM filing a Appeal, to get a Reduction in my sentence from 2 YEARS to 18 MONTHS A possible Habeas Corpus.

I, James Henry Thompson is filing an Appeal, for Reduction in sentence, a re-sentence; Habeas Corpus - which means "A Habeas Corpus is Asking A Judge for a hearing to determine whether my sentence (imprisonment) is lawful - Instead of deciding me guilty or not - the Judge will evaluate the fairness of the Procedure used to convict and sentence me.

Here are the reasons for my petition to file Appeal for Re-sentence Reduction of sentence from 2 years Non-violent to 18 months Non-violent; I, James Henry Thompson went to Court for: ① Resisting Arrest (A), ② Possession of Crack 1<sup>st</sup> offense, ③ Throw of bodily fluids on Employee by Prisoner on in Court MAY 23<sup>rd</sup> 2019 #1. I had Ineffective Counsel by my Attorney (Public defender) had ONLY been Assigned to my case MAY 22<sup>nd</sup> 2019 for one (1) day and didn't have the proper time to OVERLOOK my case in the Court of General session in York, South Carolina 29745

also #2 my Attorney (Public defender) didn't follow professional standards while representing me, By not explaining to me what kind of plea to use in court whether a AIF plea (No Contest) After the Judge Edward W. Miller asked me "how I plead" and "I said I plead the Alford plea (No Contest)" and the Judge falsely stated "I could not plead The Alford plea in this state" and my Attorney Jessica Russo of the sixteenth Judicial Circuit York S.C 29745 803-628-3031 did not inform me then to withdraw from court. #3 reasons for Appeal my conviction for a Reduction in sentence or re-sentence HABEAS CORPUS is that my Attorney, Jessica Russo of sixteenth Judicial Circuit 803-628-3031 with "Reasonable probability that my Attorney's poor representation" and "Negatively Affected the outcome of my case because when my Attorney talked to the Judge on May 23rd 2019 said "I had been in jail 5 months (150 days)" when in fact it was 168 days closer to 6 months and Also my Attorney told the Judge that "I had family support when I get out of jail" when I do not have family support when I get out of jail - I feel if my Attorney never did these things I would get time served or lesser than 2 yrs

#4 - reason for my Appeal - for Re-Sentence for reduction in sentence from 2 years to 18 months because the factors making my plea of guilty not voluntary, knowing or intelligent by "Coercion" because Plea must be entered without threats or coercion by the Court (the Judge), the prosecutor or defense counsel and Allegations of plea not voluntary, should be amply supported by record - Challenge constitutionality of Plea - People v. Sung min, 249 A.D.2d 130, 132, 671 N.Y.S.2d 480, 481 (1st Dept 1998) "Holding that defendant's motion to withdraw plea should have been granted because his allegations of coercion were supported by record, The record showed that the lower court wrongly burdened the defendant's right to trial by telling defendant, defendant will receive the max sentence or max consecutive sentences after trial but a significantly lighter sentence after a plea which was inaccurate - Because Judge on May 23<sup>rd</sup> 2019 told me James Henry Thompson II that "there is no Alford Plea (No Contest) in this state." When I, James Thompson II, defendant was asked "how do I plead?" I said (No Contest) Alford plea and the Judge said over and over that I could not do that Plea and Coercion by say he will not take the plea and that I could only Plead guilty in which By The Judge continued

to ask me and tell me to Plead guilty, and would not accept my (No Contest) Alford Plea meaning I'm not saying I'm guilty and I'm not saying I'm innocent the first time I entered Plea, but when the Judge finally Coercion and Threats made to me to plead guilty he accepted the guilty plea once I said it only once but I tried to enter the Alford plea multiple times and Judge didn't accept Plea or let me leave court. And by the Coercion and Threats by Judge Edward W. Miller on May 23<sup>rd</sup> 2019 - People v. Rothman, 161 A.D.2d 70, 76, 560 N.Y.S. 2d 409, 413 (1st Dept. 1990) ("Finding that a plea induced by materially false information imparted by the trial Judge, it has been coerced and cannot be permitted to stand.")

Also by the Judge made me plea guilty I lost my rights to Plead my innocence because I was charged with Resisting Arrest (A) and Possession of Crack 1<sup>st</sup> offense and by the Judge making me Plead guilty I could not present my evidence and my testimony about me Resisting Arrest because I didn't Resist Arrest because I was Intoxicated and could not walk and by Police officer "Liana Miller's" statement that I appeared to be Swaying on my feet and that I was arrested first (1<sup>st</sup>) for Public Intoxication

also that the Crack was not mine and the Police did not take fingerprints or DNA off the Bag to determine if it was mine and also that the prosecutor did not test the Bag to see if it really was Crack (drugs) - That's why I wanted to Plead The (No Contest) and Plead the Alford Plea I think if I was able to Plead Alford Plea it would "Mitigate" my Charges and I could have received Probation. - The statute of "People v. Lopez, 71 N.Y.2d 662, 666, 525 N.E.2d 5, 6-7, 529 N.Y.S. 2d 465, 466-67 (1988)" (Noting - that where the defendant's recitation of the facts casts doubt upon the defendant's guilt or otherwise calls into question the voluntariness of the plea, the trial court has a duty to inquire further to ensure that the guilty plea is both knowing and voluntary. If the trial court fails to conduct this inquiry, the defendant's right to Appeal may be preserved even if the issue was not raised in the Court of First Instance

In Conclusion I am asking for Appeal to have a Re-Sentence and Reduction in Sentence from 2 years to 18 months or less in time served "HABEAS CORPUS" - Do to the facts in the letter entirely.

Sincerely James Henry Thompson II

P.S - Enclosed with letter is AFFIDAVITS AND Police statement



## Primary Report By Liana Miller, 12/07/18 02:02

1812060185

Case #P1812060185

Typed By Liana Miller

On December 6, 2018 at approximately 10:47PM, Officers Miller and Gipson responded to 860 Heckle Blvd (Gulf Station) in reference to an Alcohol Violation. This incident occurred within the city limits of Rock Hill, York County, South Carolina.

On scene, Officers Gipson and Miller observed a black male, later identified as James Henry Thompson II, who was wearing a black jacket with blue jeans and red shoes in the parking lot. James appeared to be swaying on his two feet as he began to walk away from officers. Officer Miller smelled a strong odor of alcohol coming from his person as his eyes were also blood shot. James continued to order officers to let him go. At this time, Officer Miller detained James for further investigation. Once Officer Miller detained James, he became belligerent by using profanity. Officer Miller asked James if he had identification on his person. James stated he did have an Identification card and stated to Officer Miller she could look for it, but only look for his Identification card. While Officer Miller began to look through the black front pocket to James' jacket, James continued to ramble and scream obscenities. Officer Miller told James he was placed under arrest at this time for Public Disorderly Intoxication.

Officer Miller began to search James prior to placing him inside of the patrol vehicle, Officer Miller found one white small paper towel inside of James' front right pocket of his blue jeans. Officer Miller unwrapped the paper towel and found one small clear plastic baggie inside with .22 grams of Cocaine. James claimed the paper towel in his pocket was his "nose rag." Officer Miller seized the .22 grams of Cocaine at 10:54PM. At this time, Officer Miller Mirandized James at 10:56PM. James then began to shift his body weight forcing officers to restrain him until the search was complete prior to placing James in the patrol vehicle.

While Officer Gipson kept James' left side stable, Officer Miller had Officer Pitters keep his right side stable as Officer Miller finished the search. Once officers were finished searching James for any other drugs or weapons, Officer Miller and Gipson then began to escort James to the patrol vehicle (#35). James continued to use profanity and began to tense his body as officers were at the rear passenger side to the patrol vehicle. Officer Miller pushed James up against the vehicle as he started to resist officers placing him in the patrol vehicle. Officer Miller unlocked her vehicle, opened the door, and told James to have a seat. Although James turned his body in order to place himself, he stood at the door and began to scream and began tried to get in Officer Miller's face. Officer Miller then grabbed James' and forced him into the vehicle where he sat in between the seat and floor board. Officer Miller then got on top of James to get him onto the seat. James' feet both of his feet where partially inside of the vehicle. James then tried to kick and spit toward Officer Miller's face. Officer Miller had Officer Pitters retrieve leg restrains from the drivers door of Officer Miller's vehicle. Once Officer Pitters was able to get the restrains, Officer Miller placed the leg restraints on James ankles which were double locked. Officers were able to place the seat belt on James. Officers closed the patrol vehicle door. James immediately began to head-butt the rear passenger window and then started to kick the window. Officer Miller opened the back door to secure James' legs and feet.

At this time, Officer Miller requested Officer Bailey to arrive on scene to assist with the hobble-cord. While standing-by for Officer Bailey, Officers Philson, Soto, and Crowe arrived on scene. Officer Soto and Philson secured James' upper body and Officer Miller restrained his lower limbs to prevent further issues. Officer Bailey arrived on scene. Officer Bailey was able to place the hobble-cord around James' ankles which were then attached to the seat belt. While tying the hobble-cord, James also spit toward Officer Bailey's face. Officer Bailey then placed a hood mask over James' face to prevent James from spitting on officers. During this event, Officers Bailey and Miller's Body Worn Camera detached and fell outside of the Officer Miller's patrol vehicle. Officers were then able to gather the BWC prior to transporting James to Rock Hill city jail where he was booked.

Officers Bailey and Miller arrived at the Sally Port with James. As Officers Bailey and Jones grabbed James' upper body, Officer Miller grabbed his legs to escort him into Cell #6. Officers were able to remove James' jacket and other small items from his person to place into his property.

Officer Miller placed the .22 grams of Cocaine into evidence at the Law Center. James was arrested for Public Disorderly Intoxication, Possession of Cocaine-1st Offense (Warrant: 2018A4620302869), Resisting Arrest (Warrant: 2018A4620302870), and Throwing Bodily Fluids on Employees by Prisoner (Warrant: 2018A4620302871). Case is cleared by arrest.

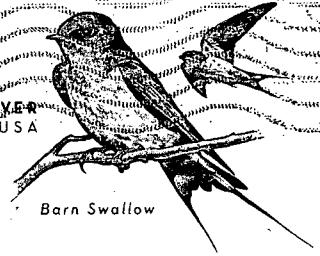
JAMES HENRY THOMPSON II #34029A  
York County Detention Center  
Moss Justice Center  
1675-3A York Hwy  
York SC 29745

DEMB

CHARLOTTE NC 282

THE YORK COUNTY DEPT. OF CORRECTIONS  
HAS NEITHER CENSURED NOR INSPECTED  
THIS ITEM. THEREFORE, THE DEPARTMENT  
DOES NOT ASSUME RESPONSIBILITY  
FOR ITS CONTENTS.

FOREVER  
USA



Barn Swallow

South CAROLINA Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29210

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MAY 30 2019  
SC Court of Appeals

29211-162929

