

TO COURT: APPEAL NO 2017-002219, 2015 CP 1400549

I AM WRITING IN REGARDS TO THE ORDER IN APPELLATE CASE NO 2017-002219 AND LOWER COURT CASE NO 2015.CP14-00549 PROHIBITING ME FROM FILING A POST CONVICTION RELIEF, HABEAS-CORPUS ETC THE PETITIONER STATES THAT THIS IS ERROR BECAUSE THE ORDER IMPINGES UPON MY FIRST AMENDMENT RIGHT TO ADEQUATE AND MEANINGFULL ACCESS TO THE COURT TO CHALLENGE THE WRONG THAT WAS DONE BY THEM

THE LOWER COURT ERRED AS WELL BECAUSE THE PETITIONER PRESENTED CLAIMS THAT WAS NOT PRESENTED BEFORE OR RULED UPON AND IN WHICH RAISES THE ISSUE OF SUBJECT MATTER JURISDICTION TO ACCEPT GUILTY PLEA

THE ORDER IS FLAWED BECAUSE THE PARTICULAR CLAIM IS NOT BARRED BY THE DOCTRINE OF RES JUDICATA OR STATUTE OF LIMITATIONS FOR EXAMPLE CRIMINAL LAW KEY 1032 (?) A DETERMINATION OF WHETHER A DEFENDANT WAS CONVICTED AND SENTENCE FOR A CRIME FOR WHICH HE WAS NOT INDICTED INVOLVES A QUESTION OF SUBJECT MATTER JURISDICTION AND THEREFORE CAN BE RAISE FOR THE FIRST TIME ON APPEAL

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JUN 07 2019

S.C. SUPREME COURT

## INDICTMENT AND INFORMATION Key 3

CRIMINAL LAW KEY 273 (4-1)

FORM INDICTMENT IS CONDITION PRECEDENT TO VALID WAIVER OF PRESENTMENT OF CHARGE TO GRAND JURY WHICH IS PREREQUISITE TO VALID GUILTY PLEA  
STATE V SMALLS SC APP 2008) 354 SC 498 581 SE2d 850

THE PETITIONER REQUEST THAT THIS COURT TAKE JUDICIAL NOTICE THAT THE PETITIONER PRESENTED SUCH A CLAIM SEE RESPONDENT RETURN AND MOTION TO DISMISS PAGE 3/4 OF 10 YET SUCH WAS NOT RULED UPON SEE ORDER. IT IS AXIOMATIC THE COURT MUST RULE UPON EACH AND EVERY CLAIM PRESENTED  
COURTS KEY 37 (2) "SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANYTIME.

THE RECORD WOULD REFLECT THAT THE STATE FILE ITS RETURN AND MOTION TO DISMISS ON JULY 21 2011 AND THE HONORABLE FERRELL COTHRAN DENIED AND DISMISS THE APPLICATION ON JULY 6th 2012 THIS WAS ERROR WARRANTING REVERSAL DUE TO A CONFLICT OF INTEREST ON THE PART OF FERRELL COTHRAN BECAUSE HE WAS THE SOLICITOR THAT PROSECUTED THE CASE

THE ONE YEAR STATUTE OF LIMITATION FOR P.C.R. DOES NOT APPLY TO APPEALS FILE PURSUANT TO AUSTIN V STATE UNDER SC CODE ANN 17-25-45 (A)

AUSTIN APPEALS ARE CONSIDERED BELATED  
APPEALS AND ARE USED TO RECTIFY UNJUST  
PROCEDURAL DEFECTS SUCH AS WHEN AN ATTORNEY  
DOES NOT FILE A TIMELY APPEAL  
THE PETITIONER CASE IS SIMILAR IN THAT HE  
DID NOT GET HIS ONE BITE OF THE APPLE  
BECAUSE HIS COUNSEL DID NOT FILE AN APPEAL  
AFTER HIS GUILTY PLEA OR FROM THE FILING AND  
DISMISSAL OF HIS FIRST P.C.R.  
IN CLOSING THERE IS NO INDICTMENT THAT  
IS STAMPED TRUE BILL AND DATED OR SHOW  
ACTION TAKEN BY A GRAND JURY OR "FILED"  
THE PETITIONER WAS DENIED AND DEPRIVED OF  
LIBERTY WITHOUT DUE-PROCESS OF LAW WHEN  
THE STATE FAILED TO FOLLOW THE PROCEDURES  
FOR DISPOSING OF CASE BY WAY OF GUILTY PLEA

RESPECTFULLY SUBMITTED

MARCUS A JOSEPH 147264

KIRKLAND CORRECTIONAL Inst.

4344 BROAD RIVER Rd

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UNIT F2 B241

with the warrant, and

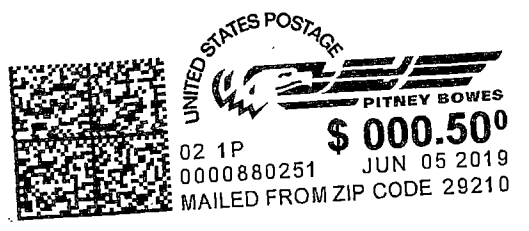
- b. 'the warrant and alleged Full Written Statement was not filed in accordance with SC Rules of Criminal Procedure Rule (1), therefore no valid indictment could not be return, see Grand Jury Key 25.'
3. "The petitioner was denied and deprived of Liberty without Due Process ... and such exceeds the statutory amount authorized by law. The punishment to be imposed by a Magistrate is thirty (30) days ... The Clerk of Court for Circuit and Judge did not issue a warrant for petitioner's arrest."
4. "The Solicitor did not prepare an indictment as required by law in the case and returned it to the Clerk of Court for petitioner to sign with Waiver of Presentment. The Petitioner's plea was entered in regards to life without the possibility of parole, without the consent of the Solicitor, and as such violates SC State Statute 17-23-130, SC Const. Art. I Section II<sup>1</sup>
5. "The Petitioner's confinement on the basis of arrest warrant is fraudulent in that the statute allegedly violated has already been satisfied by the service of twenty-two (22) years for Section 16-3-10 is a 'D' Felony and provides the maximum punishment of ten (10) years, and such was issued by a magistrate."
6. "The Court was further without jurisdiction of Petitioner because petitioner is a non-resident defendant and was not served with any warrant, indictment, or commitment for a violation of South Carolina State Statute 16-3-20(A)."
7. "The Court also lacked Subject Matter jurisdiction because the time for preparing [an] indictment and filing was not complied."

The State filed its Return and Motion to Dismiss on July 21, 2011 and the Honorable R. Ferrell Cothran, Jr. denied and dismissed the application on July 6, 2012.

Applicant filed his sixth application for post-conviction relief (2011-CP-14-00102) on February 15, 2011. The Respondent filed its return and motion to dismiss on September 15, 2011. The Honorable R. Ferrell Cothran denied and dismissed the application by Final Order filed October 25, 2012.

Applicant filed his seventh application for post-conviction relief (2013-CP-14-209). Respondent filed its Answer to complaint on June 26, 2013. Applicant filed his objection to motion to dismiss on September 18, 2013. The Honorable W. Jeffrey Young dismissed the

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TO

CLERK OF COURT  
SOUTH CAROLINA Supreme Court  
P.O. Box 11330  
Columbia SC 29211

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