

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Thomas A. Russo, Circuit Court Judge

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S.C. SUPREME COURT

ROBERT LEE WRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-002249

APPENDIX

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ACQUITTAL," IN RE WINSHIP SUPRA; HUMANIK V. BEYERS SUPRA.; MOORE V. DEMPSEY SUPRA. IT INVOLVES DEPRIVATION OF CONSTITUTIONAL PROTECTION SO BASIC AND SO FUNDAMENTAL THAT IN ITS ABSENCE CRIMINAL TRIALS AND OR PLEA PROCEEDINGS "[C]ANNOT" RELIABLY SERVE ITS FUNCTION AS A VEHICLE FOR THE DETERMINATION OF GUILT OR INNOCENCE AND NO CRIMINAL PUNISHMENT MAY BE DEEMED OR REGARDED AS FUNDAMENTALLY FAIR BECAUSE THE STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT AFFECT THE FRAMEWORK AND [C]ANNOT BE VIEWED AS HARMLESS, ROBINSON V. ARONIO SUPRA.; VINES V. UNITED STATES SUPRA.

THE ACTIONS OF THE CONSPIRING AGENTS BOTH STATE AND FEDERAL PRODUCE FRAUD ON THE COURT ALSO IN VIOLATION OF 18 U.S.C §§ 241 AND 242. FRAUD WILL VITIATE ANY LEGAL TRANSACTION WHICH INCLUDE CRIMINAL TRIALS AND OR PLEA HEARINGS, AND ANY ASSERTED TITLE TO PROPERTY IN THE FORM OF THIS MODERN DAY SLAVERY BY THIS BROKE JUDICIAL SYSTEM,

THIS SO-CALLED "DEBT TO SOCIETY" FOUNDED ON IT IS VOID. THE U.S. CONSTITUTION DOES NOT CONFER POWER OR JURISDICTION UPON ANY STATE OR FEDERAL GOVERNMENT OR COURT WITHIN THIS NATION TO ESTABLISH OR LEGALIZE MODERN DAY SLAVERY WHICH IS ESSENTIALLY WHAT THE GOVERNMENT HAS DONE HERE, BOTH STATE AND FEDERAL. ALTHOUGH PUBLIC DOCUMENTS SUCH AS EVEN INDICTMENTS OR CRIMINAL COMPLAINTS, WHICH EMBELLISH THIS MODERN DAY SLAVERY AND PROPERTY OF THE STATES OR FEDERAL GOVERNMENTS BY CRIMINAL CONVICTION ARE DEEMED PRIMA FACIE EVIDENCE OF FACTS WHICH THEY PURPORT TO STATE, THEY ARE OPEN TO BE IMPUNGED FOR FRAUD AND A CLEAR CHALLENGE TO THE COURTS NATIONALLY "[P]OWER" TO ESTABLISH OR LEGALIZE MODERN DAY SLAVERY, THE CONCEPTION, BRUNN, COLL. C. 497, 2 WHEELER CC 597, 6 F.CAS. 359 No. 3137 (CCD SC 1819); THE LA CONCEPTION, 19 U.S. 235, 1821 WL 2188, 5 LED 249, 6 WHEAT 235 USSC (MAR. 8, 1821); THE AMISTAD, 40 U.S. 518, 15 PET. 518, 1841 WL

5024, 2006 AMC 2955, 10 LED 826, U.S. CONN, JANUARY 1841;

CHEWING V. FORD MOTOR COMPANY, 354 SC72, 579 S.E.2d 605 (SC 2003);

APPLING V. STATE FARM MUT. AUTO INS. CO., 340 F3d 769, 780 (9TH CIR. 2003);

KING V. FIRST AMERICAN INVESTIGATORS INC., 287 F3d 91, 95 (2ND CIR. 2002)

CERT. DENIED 537 U.S. 960, 123 SCT 393, 154 LED 2d 314 (2002); BRAILS

FORD 669 S.E. 2d 342, 380 SC 443; CALLON PETROLEUM CO. V. FRONTIER INS.

Co., 351 F3d 204, 208 (5TH CIR. 2003). THIS FRAUD ON THE COURT IS ENDEMIC

AND COMPROMISES THE SYSTEM ITSELF AND INSTITUTION SET UP TO PROTECT THE

COMMONWEALTH FROM UNJUST PROSECUTION CORRUPTING, IRREPARABLY, THE ENTIRE

JUDICIAL SYSTEM AS A WHOLE WARRANTING IT BE ABOLISHED AND OR REFORMED.

THE GRAND JURY DOES NOT HAVE THE POWER TO PREDETERMINE IN ADVANCE THE

OUTCOME OF THE PROCEEDINGS AND MUST REFRAIN ITSELF FROM MAKING ANY

OPINION AS TO GUILT OR INNOCENCE. HOW MUCH MORE EGREGIOUS IS IT IF THEY

SWEAR UPON THEIR OATH A PERSON'S GUILT OR INNOCENCE BEFORE THEY HAVE

A TRIAL OR GIVE A GUILTY PLEA? THIS CANNOT BE DEEMED A HARMLESS
 ERROR, UNITED STATES V. DIRECT SALES CO., 40 F.SUPP. 917 DCSC (1941); UNITED
STATES V. ATLANTIC COMMISSION CO., 45 F.SUPP. 187 D.C.N.C. (1942); STATE V.
BOYD, 2, HILL (S.C.) 288, 1834 WL 1573 S.C. APP. L & ESQ. 1834; STATE V.
BRAMLETT, 166 S.C. 323, 164 S.E. 873 (SC 1932); BECK V. WASHINGTON, 369 U.S.
 541, 82 SCT 955 U.S. WASH. (1962); STATE V. TOLLIN, 352 S.C. 235, 573 S.E.
 2d 812 (SC APP. 2002); BYERS V. REYNOLDS, 2011 WL 7063638, * 8 (DSC 2011);
UNITED STATES V. JEFFERSON, 546 F3d 300 CA4 (Va. 2008); IN RE GRAND JURY
SUBPOENA JOHN DOE, No. 05 GT13 18, 584 F3d 175 CA4 (Va. 2009); IN RE GRAND
JURY SUBPOENA (T-112) 597 F3d 189 CA4 (Va. 2010).

WE ARE ARGUING VIOLATIONS OF THE ANTI PEONAGE ACT OF THE 13TH
 AMENDMENT. UNDER THIS PROVISION OF LAW NO TIME BAR, OR STATUTE OF
 LIMITATIONS OR (3) STRIKE PROVISION OR SUCCESSIVE BAR WHICH ALL ARE
 STATUTE OF LIMITATIONS CAN HOLD A MAN IN PEONAGE.

THE 13TH AMENDMENT PROVIDES: "NEITHER SLAVERY NOR INVOLUNTARY SERVITUDE EXCEPT AS PUNISHMENT FOR CRIMES WHEREOF THE PARTY IS "DULY" (EMPHASIS ADDED) CONVICTED, SHALL EXIST WITHIN THE UNITED STATES, OR ANY PLACE SUBJECT TO THEIR JURISDICTION."

THE COURTS HAVE REPEATEDLY HELD THAT BY THE LANGUAGE OF THE 13TH AMENDMENT THE 13TH AMENDMENT DOES NOT APPLY TO A PERSON SERVING A SENTENCE FOR A CRIMINAL CONVICTION, NEWELL, 563 F2d 123; WL 1415149 (2012); COX V. U.S. ATTORNEY GENERAL, F. SUPP. 2d 2012, WL 1570110 DSC APRIL 10, 2012; GADDY V. SOUTH CAROLINA SUPREME COURT'S DISTRICT OF COLUMBIA, S.C. 2013 WL 6150715 DSC NOVEMBER 21, 2013; FLOOD V. NEWS & COURIER CO., 71 SC 112, 50 S.E. 637 (1905).

THE COURTS IN THESE PREVIOUS CITED CASES ABUSED THEIR DISCRETION IN THEIR DETERMINATION BECAUSE THEY ARE CONTROLLED BY AN ERROR OF LAW IN THEIR INTERPRETATION AND OR THEY FAILED TO ADDRESS A CRITICAL PART OF THE

LANGUAGE WRITTEN IN THE 13TH AMENDMENT.

AN ABUSE OF DISCRETION OCCURS WHEN THE COURT(S) ARE CONTROLLED
BY AN ERROR OF LAW, OR WHEN THE ORDER BASED UPON FINDINGS OF FACT
IS WITHOUT EVIDENTIARY SUPPORT OR FACT, SHARPE V. SHARPES, 535 S.E. 2d
913, 342 SC 71 (2000).

NONE OF THE AFOREMENTIONED LEGAL AUTHORITIES EVER ADDRESSED
WHETHER OR NOT THE ISSUE OF SLAVERY AND VIOLATIONS OF THE 13TH AMENDMENT
HAVE STANDING IF THE CONVICTED PERSON IS NOT "DULY" (EMPHASIS ADDED)
CONVICTED. SINCE NONE OF THE AFOREMENTIONED CITINGS OR ANY SIMILAR ADDRESSED
THE ISSUE OF WHETHER THE 13TH AMENDMENT APPLIES IN CASES WHERE THE PARTY
IS NOT "DULY" (EMPHASIS ADDED) CONVICTED. WHICH IS INDISPUTABLY IN THE
LANGUAGE OF THE 13TH AMENDMENT. USING OR APPLYING ANY OF THOSE CITINGS
OR ANY SIMILAR WOULD BE MISPLACED IF THE CITING DOES NOT ADDRESS THE
ISSUE OF WHETHER SLAVERY APPLIES OR HAVE STANDING WHEN A PERSON IS NOT

"DULY" (EMPHASIS ADDED) CONVICTED.

"DULY - IS DEFINED AS IS RIGHT AND FITTING; PROPERLY; IN ACCORDANCE
WITH LEGAL REQUIREMENT."

BY THE LEGAL ISSUES PRESENTED IN THIS DOCUMENT AND ARGUED
IN THIS AND ITS CONNECTING CASES. THE CONVICTIONS ARE NOT RIGHT. THEY ARE
NOT FITTING. THEY ARE NOT PROPER, NOR ARE THEY IN ACCORDANCE TO THE LEGAL
REQUIREMENTS OF LAW AS IS REQUIRED BY PROPER DUE PROCESS. THUS, WE ARE
NOT "DULY" (EMPHASIS ADDED) CONVICTED VIA THE FRAUD, THE 13TH AMENDMENT
DOES HAVE STANDING, THE SENTENCES AND CONVICTIONS AROUND THE NATION
MUST BE VACATED, I SEEK CLASS ACTION CERTIFICATION UNDER ARTICLE III
SECTION 2 OF THE U.S. CONSTITUTION AND FED. RULE 23 ARGUING PREEMPTION.

(2) DID THE TRIAL COURT ERR, AND WAS THE APPLICANTS 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 AND HIS DUE PROCESS RIGHTS VIOLATED, AS WELL AS RULES OF COURT, TO INCLUDE RULES OF CRIMINAL PROCEDURE, AS WELL AS THE COURTS SUBJECT MATTER JURISDICTION "[P]OWERS" WERE MADE VOID FOR DUE PROCESS VIOLATION, AND OR THEY WERE PROHIBITED FROM ENACTING AND OR INVOLVING AND OR CONTINUING ITS SUBJECT MATTER JURISDICTIONARY "[P]OWERS," DUE TO THE "[P]ROCEDURAL [D]EFFECT," IN THAT THERE IS NO "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE OBTAINED PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO., 228 S.E. 2d 108; STATE V. BROAD RIVER POWER CO., 177 S.C. 240, 181 S.E. 41;

31 C.J.S. EVIDENCE §§ 6 AND 9: FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDING TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF A PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS (BLACK LAW DICTIONARY, 8TH EDITION).

THE APPLICANT HUMBL Y CONTENDS, IN PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION:

"IT IS ORDERED, THAT ALL CRIMINAL CASES IN THE STATE OF SOUTH CAROLINA "[S]HALL" BE DISPOSED OF WITHIN (180) DAYS FROM THE DATE OF THE DEFENDANT'S ARREST. PROVIDED, HOWEVER, THE CIRCUIT COURT MAY CONTINUE A CRIMINAL CASE BEYOND THE (180) DAYS BY "[W]RITTEN" ORDER (EMPHASIS ADDED), IF THE COURT DETERMINES THAT EXCEPTIONAL

CIRCUMSTANCES EXIST IN THE CASE. THIS ORDER DOES NOT CREATE OR DEFINE A RIGHT TO A SPEEDY TRIAL," (SEE S.C. RULES OF COURT 2003 EDITION ON PAGE 652 AND S.C. RULES OF COURT 2004 EDITION ON PAGE 659).

ARTICLE V PRIVILEGES, RULE 501 GENERAL RULE PROVIDES:

"EXCEPT AS REQUIRED BY THE SOUTH CAROLINA CONSTITUTION, BY THE CONSTITUTION OF THE UNITED STATES, OR BY SOUTH CAROLINA STATUTES, THE PRIVILEGES OF A WITNESS, PERSON, OR THE GOVERNMENT (EMPHASIS ADDED) SHALL BE GOVERNED BY THE PRINCIPLES OF THE COMMON LAW AS THEY MAY BE INTERPRETED BY THE COURTS IN LIGHT OF REASON AND EXPERIENCE. THIS RULE MODIFIES THE FEDERAL RULE TO REFER TO THE SOUTH CAROLINA CONSTITUTION."

ARTICLE V PROVISIONS IN THIS CASE MADE IT MANDATORY, DRAGONIAN, REQUIRING ANY INTERPRETATION OF THIS PROVISION TO BE REFERRED TO THE SOUTH CAROLINA CONSTITUTION AS A PRIMARY RULE AND OR FIRST CHOICE, AND

NOT TO THE U.S. CONSTITUTION OR COMMON LAW OR STATE LAW AS IT
PERTAINS TO NORMAL ADMINISTRATIVE MATTERS, ESPECIALLY IN LIGHT OF THE
FACT THAT WE ARE DEALING WITH A JUDICIAL ORDER ISSUED BY THE S.C.
SUPREME COURT UNDER ARTICLE V OF THE SOUTH CAROLINA CONSTITUTION, NOT
THE U.S. CONSTITUTION. NOT ONLY BY JUDICIAL ORDER, BUT ALSO, THE PROVISIONS
OF THE SOUTH CAROLINA CONSTITUTION ARE TO BE DEEMED AND CONSTRUED AS
MANDATORY UNLESS THERE IS SOME LANGUAGE CONTAINED THEREIN THAT WOULD
DICTATE OTHERWISE.

THIS ARTICLE V ORDER HAS NEVER BEEN RESCINDED. THEREFORE IT APPLIES
TODAY. THIS ORDER WAS ISSUED BY THE SOUTH CAROLINA SUPREME COURT IN 1980,
RENEWED IN 1999 MAKING IT DRACONIAN, MANDATORY, BEING APPLICABLE TO EVERY
CRIMINAL COURT WITHIN THE STATE, AND EVERY PCR COURT IN THE STATE REGARDING
THE (365) DAY PROVISION. THE (180) DAY PROVISION WAS AMENDED BY THE S.C.
SUPREME COURT IN 2013 TO REQUIRE THAT ALL CRIMINAL CASES BE CONCLUDED

WITHIN (365) DAYS. BUT THE APPLICANT'S CRIMINAL MATTERS FALL UNDER THE PRIOR (180) DAY PROVISION BEING ARRESTED ON JUNE 12, 2010.

THE REVISION BY THE S.C. SUPREME COURT WHICH OCCURED IN 2013 MUST BE DEEMED VOID BECAUSE IT WAS INITIATED BEHIND A CLASS BASED INVIDIOUSLY DISCRIMINATORY ANIMUS IN THE FORM OF RACIAL HATRED, SURREPTIOUSLY DONE, TO DISPROPORTIONATELY AFFECT AFRICAN AMERICANS AND MINORITY POPULATIONS IN THIS STATE. THUS THE 2013 AMENDMENT RUNS AFOUL OF EX PARTE VIRGINIA, 100 U.S. 339. WHEN THEY REALIZED THAT THE INMATES IN THIS STATE DISCOVERED HOW TO PROPERLY ARGUE THE ISSUE WHICH IS SEEN IN CASES 2006-CP-400-3567, 3568, 3569; 2013-CP-400-0084 IN RICHLAND COUNTY. THE S.C. SUPREME COURT IN ACTS OF RACIAL HATRED AMENDED THE PROVISION EXISTING UNCHANGED IN OVER (35) YEARS TO DEFANG THE PROVISION. THE ARTICLE V POWERS GIVEN TO THE S.C. SUPREME COURT DO NOT PERMIT THEM TO ABRIDGE, DILUTE OR WATERDOWN THE PROTECTIONS ESTABLISHED BY EX PARTE VIRGINIA. THIS THE 2013 REVISION

MUST BE DEEMED VOID ALSO FOR DUE PROCESS VIOLATION SEE MCCULLOCH,
 17 U.S. AT 423; 1997 WL 10291 U.S. (APPELLATE BRIEF) BRIEF OF U.S. SENATORS
ORIN G. HATCH ET AL. THE REVISION IS RESTRICTIVE AND RUNS AFOUL OF
EX PARTE VIRGINIA. THE SAME RESTRICTIONS THAT APPLY TO CONGRESS APPLY TO
 THE S.C. SUPREME COURT.

REFERRING BACK TO THE INITIAL ORDER TO WHICH THE APPLICANT FALLS
 UNDER BEFORE THE 2013 REVISION. THE S.C. SUPREME COURT'S INTENT, LEGISLATIVE
 OR OTHERWISE SHOULD BE ASCERTAINED FROM THE PLAIN LANGUAGE OF THIS
 PROVISION OF LAW. THE LANGUAGE MUST READ ALSO IN A SENSE WHICH HARMONIZES
 WITH ITS SUBJECT MATTER AND RECORDS WITH ITS GENERAL PURPOSE. ONCE THE S.C.
 SUPREME COURT HAS MADE A CHOICE, THERE IS NO ROOM FOR THE COURT TO
 IMPOSE A DIFFERENT JUDGEMENT BASED UPON THEIR OWN NOTIONS. IF THE PROVISION
 OF LAW'S LANGUAGE IS UNAMBIGUOUS AND CLEAR, THERE IS NO NEED TO EMPLOY
 THE RULES OF STATUTORY AND OR COMMON LAW CONSTRUCTION, EVEN PURSUANT

TO THE COURT'S ACTIONS, THE COURT HAS NO RIGHT TO LOOK FOR OR IMPOSE ANOTHER MEANING. WHERE THE LANGUAGE OF THIS PROVISION OF LAW IS CLEAR AND EXPLICIT, THE COURT "[C]ANNOT" REWRITE THE PROVISION OF LAW AND INTERJECT MATTERS INTO IT WHICH ARE NOT IN THE S.C. SUPREME COURT'S LANGUAGE. UNDER THE PLAIN MEANING RULE, IT IS NOT THE COURT'S PLACE TO CHANGE THE MEANING OF A CLEAR AND UNAMBIGUOUS PROVISION OF LAW; BASS V. ISOCHEM, 617 S.E. 2d 369 S.E. 2d 272 (SC. APP 2008); STATE V. PITTMAN, 647 S.E. 2d 144 (SC. 2007); LIBERTY MUT. INS. V. SECOND INQUIRY FUND, 611 S.E. 2d 297 (SC. APP 2015).

TO FURTHER BOLSTER THE PROPOSITION THAT THIS RULE, ORDER OR PROVISION IS MANDATORY, DRACONIAN IN NATURE, THE APPLICANT BRINGS THE COURT'S ATTENTION TO SOUTH CAROLINA RULES OF COURT 2005 EDITION, PAGES 296, 297, 303 AND 304. THEY STATE:

PURSUANT TO ARTICLE V § 4 OF THE SOUTH CAROLINA CONSTITUTION:

"IT IS ORDERED, THAT UPON THE FILING OF A POST TRIAL MOTION UNDER RULES 50, 52, 59 OR 60 (a) S.C.R.C.P., BY A PARTY IN A JURY OR NON JURY ACTION, THE PARTY "[S]HALL" WITHIN (10) DAYS PROVIDE A COPY OF THE MOTION TO THE TRIAL JUDGE.

IT IS FURTHER ORDERED, *** THE CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES IN EACH CIRCUIT SHALL ENSURE COMPLIANCE WITH THIS ORDER, ALSO SEE S.C. RULES OF COURT 2013 EDITION."

IT IS PERSPICUOUS THAT IF THE LOWER COURT IS NOT IN COMPLIANCE TO RULES 50, 52, 59 OR 60 (a) BY THESE JUDICIAL ORDERS ISSUED FROM THE SOUTH CAROLINA SUPREME COURT, THE HIGHER COURT(S) CANNOT ENTERTAIN JURISDICTION, AND MUST REMAND FOR FURTHER ADJUDICATION BY THE LOWER COURTS IN QUESTION IF THE MOTIONS ARE NOT RULED ON WHEN TIMELY SUBMITTED IN ACCORDANCE TO THESE JUDICIAL ORDERS, MAKING THIS ARTICLE V PROVISION AND OR ORDER(S) DRACONIAN, MANDATORY IN NATURE. ON THE SAME

PREMISE, THE CRIMINAL COURT UNDER THE (180) DAY PROVISION, "[C]ANNOT"
 CONTINUE TO INVOKE AND OR ENACT THEIR "[P]OWERS" OF SUBJECT MATTER
 JURISDICTION IF THEY FAIL TO BE IN COMPLIANCE TO THIS ORDER AND
 JURISDICTIONAL REQUISITE, EVEN THOUGH THEY DO INDEED POSSESS SUCH
 POWER BY LEGISLATIVE STATUTE. THEY STAND IN EGREGIOUS VIOLATION OF
 THE DUE PROCESS PRONG OF SUBJECT MATTER JURISDICTION.

ADDITIONAL PROOF THAT THIS PROVISION OF LAW IS DRACONIAN, MANDATORY,
 ATTACHED THE COURT AND PARTIES WILL FIND A COPY OF A SIMILAR ARTICLE V § 4
 ORDER ISSUED FROM THE SOUTH CAROLINA SUPREME COURT RELATED TO PLACING
 CASES WITHIN THE COURT OF COMMON PLEAS ON THE COMPLEX CASE DOCKET. PLEASE
 NOTE THE WORDS THAT ARE SPECIFICALLY CIRCLED BY ME RELATED TO THIS ORDER.
 IT IS PERSPICUOUS THAT BY THE LANGUAGE OF THIS PARTICULAR ORDER THE
 ACTIONS OF THE COURT ARE MADE DISCRETIONARY BY THE LANGUAGE CONTAINED
 THEREIN. NOTE THAT THE LANGUAGE OF THE ARTICLE V ORDER RELIED UPON FOR

THIS PARTICULAR ISSUE IS SIGNIFICANTLY, MATERIALLY, DISTINCTLY DIFFERENT
 DEMONSTRATING THAT THIS PROVISION OF LAW IS DRACONIAN, MANDATORY.

PURSUANT TO THE GOVERNMENT BLATANTLY DISOBEYING THIS ORDER
 ISSUED BY THE S.C. SUPREME COURT, IN THE APPROPRIATE CASE, "THE TRIAL
 COURT AND OR OTHER RELEVANT COURT, SHALL NOT HESITATE TO GRANT RELIEF,
 DEFAULT OR A MISTRIAL WHERE ITS RULINGS, AND OR IN THIS CASE, THE ORDERS
 OF THE SOUTH CAROLINA SUPREME COURT, WERE VIOLATED TO THE PREJUDICE OF
 THOSE THEY WERE DESIGNED AND OR INTENDED TO PROTECT," TOYOTA OF FLORENCE
INC. V. LYNCH, 314 S.C. 257, 442 S.E. 2d 611, 615 (1994); S.C. RULES OF COURT
 ANNOTATED, 2006 EDITION, pg. 270; PANAS V. PANAS, S.E. 2d, 2010 WL 10088 164
 (S.C. APP. 2010); EX PARTE CANNON, 385 S.C. 643, 685 S.E. 2d 814 (S.C. APP 2009);
UNITED STATES V. PEOPLES, 698 F.3d 185 CA4. (S.C. 2012); HOLMES V. HOLMES, S.E.
 2d, 2014 WL 3369006 (S.C. APP. 2014); IN RE JOSHUA R.L., S.E. 2d, 2013 WL
 853 8696 (S.C. APP. 2013); UNITED STATES V. BOSTON, 539 Fed. APPX. 209 CA4

(N.C. 2013); SUN V. SUN, S.E. 2d 2014 WL 777 8971 (S.C. APP 2014);

IN RE McDONALD, 497 B.R. 489 BKRTCY. (DSC 2013); EX PARTE LIPSCOMB,

398 S.C. 463, 730 S.E. 2d 320 (2012).

TO MAKE USE OF THE HOLDINGS MADE IN STATE V. GENTRY RELATED

TO SUBJECT MATTER JURISDICTION WOULD BE MISPLACED. THAT CASE DEALT WITH

INDICTMENT DEFECTS AND IT WAS ADJUDICATED UNDER A CLOUD OF FRAUD UPON

THE COURT. THE PRECEDENT SET BY STATE V. GENTRY IS BEING CHALLENGED

PURSUANT TO S.C.R.A.P., RULE 217. I AM ARGUING AGAINST THE PRECEDENT. ALSO

THIS ISSUE HAS ABSOLUTELY NOTHING TO DO WITH INDICTMENT DEFECTS. TO MAKE

USE OF THE HOLDINGS MADE IN STATE V. CULEBREATH REGARDING RULE 3(c) WOULD

BE MISPLACED. RULE 3(c) IS TOTALLY ADMINISTRATIVE. IF THE HONORABLE COURT

WOULD TAKE NOTICE OF THE BOTTOM OF THE PAGE OF 652 AND 659 AS IT RELATES

TO THIS MANDATE. YOU WILL SEE THAT THE ADMINISTRATIVE FACTORS RELATED TO

THIS PROVISION OF LAW HAVE BEEN RESCINDED. FURTHER, THERE ARE TWO MATERIAL

AND DISTINCT DIFFERENCES BETWEEN RULE 3(c) AND THIS REQUIREMENT OF
DUE PROCESS LAW. RULE 3(c) IS NOT TIED TO THE PROVISIONS OF THE SOUTH
CAROLINA CONSTITUTION. THIS REQUIREMENT OF CRIMINAL AND OR CIVIL PROCEDURE
IS. SECONDLY, RULE 3(c) IS NOT A JUDICIAL ORDER ISSUED BY THE S.C. SUPREME
COURT. THIS REQUIREMENT OF CRIMINAL AND OR CIVIL PROCEDURE FOR THE TRIAL
COURT AND OR COURT OF COMMON PLEAS IS. THIS HAS ABSOLUTELY NOTHING TO
DO WITH A SPEEDY TRIAL ISSUE. WE WOULD ADAMENTLY OBJECT TO THAT NOTION.
A SPEEDY TRIAL IS NOT WHAT THE APPLICANT(S) IS ARGUING. THIS IS SIMPLY A
MATTER OF JUDICIAL ORDER, "STARE DECISIS ET NON QUIENTA MOVERE," SOUTH
CAROLINA RULES OF COURT, SOUTH CAROLINA RULES OF CRIMINAL AND OR CIVIL
PROCEDURE (FOR PCR'S) AND DUE PROCESS LAW. ONCE THIS PROVISION OF LAW WAS
ISSUED AS A JUDICIAL ORDER THEN TIED TO THE PROVISIONS OF THE SOUTH
CAROLINA CONSTITUTION PURSUANT TO ARTICLE I § 4 ITS OBSERVANCE BECAME
MANDATORY BY THE PROVISIONS CONTAINED THEREIN MAKING IT DRACONIAN IN

NATURE. I, WE, ARE NOT ARGUING THAT THE PROSECUTION DOES NOT HAVE THE RIGHT TO CONTROL HIS CASE LOAD. WHAT I, WE, ARE ARGUING IS THAT IN ORDER FOR HIM TO CONTROL THAT CASE LOAD, THERE ARE CERTAIN PROVISIONS OF LAW AND RULES OF COURT SET IN PLACE THAT WOULD ALLOW HIM TO DO SO AND HE MUST ADHERE TO THE RULES SET BY THE SUPREME COURT TO CONTROL THAT CASE LOAD. HE WAS REQUIRED TO OBTAIN A "[W]RITTEN ORDER OF CONTINUANCE. WE ARE NOT ARGUING THAT THIS IS A DUE PROCESS RIGHT CONFERRED UPON US BY THE U.S. CONSTITUTION. THIS IS A DUE PROCESS RIGHT CONFERRED UPON US BY THE SOUTH CAROLINA CONSTITUTION. THUS, MAKING USE OF HOLDINGS MADE IN STATE V. LANGFORD, 400 S.C. 421, 735 S.E. 2d 471 (S.C. 2012); UNITED STATES V. McDONALD, 456 U.S. 1, 102 S.Ct 1497 U.S. (N.C. 1982) WOULD BE MISPLACED.

S.C. CODE ANN § 5 1-7-730, 17-13-150 AND 17-25-10 REQUIRE THAT THE PROSECUTION AND OR PROSECUTING BODY "[S]HALL" FULFILL AND SEE THAT

ALL DUTIES, REQUIREMENTS, AND RULES OF CRIMINAL PROCEDURE RELATED TO
DUE PROCESS AND THE S.C. CONSTITUTION ARE ADHERED TO AND COMPLETED
WITHIN THE COURT.

IN ORDER TO UNDERSTAND THE MEANING OF ANY STATUTE OR PHRASE OF
LAW, IT IS NECESSARY TO DETERMINE THE MEANING OF THE LANGUAGE AS IT
IS USED IN THE PARTICULAR CONTEXT, ROBINSON V. SHELL OIL COMPANY, 117 SCT
843 (1997). ARTICLE 12 § 2 UTILIZES THE WORDS "[S]HALL PROVIDE, ..." IN THIS
CONTEXT "[S]HALL" IS MANDATORY, SEE UNITED STATES V. MEYERS, 106 F3d 936,
941 (CA 10 1997); IN ORDER TO UNDERSTAND THE MEANING OF ANY WORD, SENTENCE
OR PHRASE, "[T]HE CARDINAL RULE IS THAT THE WORDS SHOULD BE GIVEN THEIR
PLAIN AND ORDINARY MEANING AND OR INTERPRETATION WITHOUT THE COURT
INTERJECTING INTO THEM MATTERS OR A CONSTRUING THAT'S NOT IN THE LANGUAGE,"
SECKINGER V. THE VESSAL EXCALIBUR, 483 S.R. 2d. 775 (S.C. APP 1997); UNITED
STATES V. RON PAIR ENTERPRISES INC., 109 SCT 1026, 1030 (1989);

BASS V. ISOCHEM, 617 S.E. 2d 369 (S.C. APP. 2005); STATE V. BRANNON, 666 S.E. 2d 272 (S.C. APP. 2008); STATE V. PITTMAN, 647 S.E. 2d 144 (S.C. 2007); LIBERTY MUT. INS. V. S.C. SECOND INJURY FUND, 611 S.E. 2d 297 (S.C. APP. 2005).

ARTICLE I § 23 OF THE SOUTH CAROLINA CONSTITUTION DICTATES:

"THE PROVISIONS OF THE SOUTH CAROLINA CONSTITUTION SHALL BE TAKEN, DEEMED AND CONSTRUED TO BE MANDATORY AND OR PROHIBITORY AND NOT MERELY DIRECTORY, EXCEPT WHERE MADE DIRECTORY OR PERMISSORY BY ITS OWN TERMS."

ARTICLE 12 § 2 OF THE SOUTH CAROLINA CONSTITUTION IS CLEAR AND UNAMBIGUOUS, "[S] HALL" IS MANDATORY, STATE V. CARSON, 317 S.C. 430, 431, 454 S.E. 2d 888, 889 (1995).

THEREFORE, IT CAN BE FACTUALLY STATED THAT NOT ONLY BY THE PROVISIONS OF ARTICLE I § 4 OF THE SOUTH CAROLINA CONSTITUTION, ALSO BY JUDICIAL ORDER ISSUED BY THE SOUTH CAROLINA SUPREME COURT. IT IS MANDATORY THAT THE APPLICANTS' DUE PROCESS MATTERS BE DISPOSED OF BEFORE THE CRIMINAL

COURT WITHIN (180) DAYS OF HIS ARREST. IF THE COURT WOULD PLEASE TAKE NOTICE OF THE ARREST WARRANT(S) RELATED TO THESE MATTERS. YOU WILL SEE THAT THE ARREST WARRANT(S) WERE SERVED ON THE APPLICANT AND OR INDICATE HE WAS ARRESTED ON JUNE 12, 2010. IF THE COURT WOULD TAKE NOTICE OF THE SENTENCING SHEET AND OR TRANSCRIPT FROM TRIAL THE COURT WILL SEE THAT THE APPLICANT WAS CONVICTED ON FEBRUARY 25, 2014. BY THE ARREST WARRANT(S) THE DATE PURSUANT TO SERVICE AND OR ARREST RELATED TO SAID ACCUSATION(S), THIS MEANS THE APPLICANT'S DUE PROCESS MATTERS SHOULD HAVE BEEN DISPOSED OF AND CONCLUDED BY DECEMBER 12, 2010. YET THEY WERE NOT DISPOSED OF UNTIL FEBRUARY 25, 2014 APPROXIMATELY (3 1/2) YEARS PAST THE (180) DAYS PRESCRIBED BY JUDICIAL ORDER AND THE PROVISIONS OF THE SOUTH CAROLINA CONSTITUTION. THERE IS NO "[W]RITTEN" ORDER (EMPHASIS ADDED) OF CONTINUANCE FILED WITH THE CLERK OF COURT BEFORE THE (180) DAY TIME PERIOD EXPIRED, OR THAT WAS SERVED ON THE APPLICANT

(SEE ATTACHED EXHIBIT AND ORDERS FILED IN CASE). SUCH AN ORDER OF CONTINUANCE BY THE APPLICANT'S RIGHT OF DUE PROCESS AND PURSUANT TO JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT "[C]ANNOT" BE OBTAINED AFTER THE FACT BECAUSE WITHOUT THIS ESSENTIAL JURISDICTIONAL REQUISITE. JURISDICTION WOULD BE MADE VOID FOR DUE PROCESS VIOLATION ON THAT DATE OF FAILURE TO BE IN COMPLIANCE AS WELL AS ANY ACT DONE BEYOND THE PRESCRIBED TIME PERIOD. THE "WRITTEN" ORDER OF CONTINUANCE "[M]UST" BE OBTAINED BEFORE THE (180) DAY TIME PERIOD EXPIRES. TO GO BEYOND THE PRESCRIBED TIME PERIOD AND OR DEADLINE WITHOUT A "[W]ITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE CREATES A "[P]ROCEDURAL AND [J]URISDICTIONAL [D]EFFECT," WHICH "[V]OIDS" THE TRIAL ETC. COURT'S [P]OWERS OF SUBJECT MATTER JURISDICTION. AND OR THEIR "[P]OWER" AND OR "[A]BILITY" TO ENACT, AND OR INVOKE, AND OR CONTINUE ITS "[P]OWERS" OF SUBJECT MATTER JURISDICTION IN COMPLIANCE TO JUDICIAL ORDER FROM THE S.C. SUPREME

COURT, RULES OF COURT AND DUE PROCESS LAW TO ADJUDICATE THE APPLICANT'S TRIAL AND OR ACCEPT HIS GUILTY PLEA. THIS IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION.

THE APPELLANT PLACES FORTH THIS ISSUE IN A STRAIGHT FORWARD FASHION AND WANT TO MAKE CERTAIN THAT THERE IS NO MISUNDERSTANDING AS TO THE SPECIFIC CLAIMS AND OR QUESTION THAT IS PLACED BEFORE THE COURT. THE APPELLANT IS NOT ARGUING WHETHER OR NOT THE CRIMINAL COURT HAS SUBJECT MATTER JURISDICTION TO HEAR AND DETERMINE CASES OF [T] HIS GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG. THE APPLICANT CONCEDES THIS FACT. THE APPLICANT IN THIS CONTEXT AGREES WITH ALL (3), GENTRY, COTTON AND PARKHURST COURT(S) WHEN THEY DETERMINED THAT THE CRIMINAL COURTS DO HAVE SUBJECT MATTER JURISDICTION TO HEAR CASES OF THIS NATURE AND CLASS. THIS IS NOT THE ISSUE OR IS IT WHAT THE APPLICANT IS ARGUING. WHAT THE APPLICANT IS INDISPUTABLY ARGUING IS A QUESTION WHICH CLEARLY WAS NOT

ANSWERED BY EITHER THE GENTRY, COTTON OR PARKHURST COURT(S) IS THIS.

DESPITE THE FACT THAT THE CRIMINAL COURT DOES HAVE SUBJECT MATTER JURISDICTION TO HEAR CASES OF THIS GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG VIA STATE LEGISLATIVE STATUTES. DO THEIR EGREGIOUS, BLATANT FAILURE TO BE IN COMPLIANCE TO SAID CERTAIN, ESSENTIAL, CRUCIAL DUE PROCESS "[J]URISDICTIONAL [P]REREQUISITES AND OR "[J]URISDICTIONAL [R]EQUISITES," AT VARIOUS PHASES OF, AND OR AT THE COMMENCEMENT OF THE SUBJECT MATTER JURISDICTIONARY ACTION AND OR PROCESS; WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. DO THEIR BLATANT, EGREGIOUS FAILURE TO BE IN COMPLIANCE TO SAID CERTAIN, ESSENTIAL, CRUCIAL DUE PROCESS "[J]URISDICTIONAL [P]REREQUISITES" AND OR "[J]URISDICTIONAL [R]EQUISITES" AT VARIOUS PHASES OF, AND OR AT THE COMMENCEMENT OF THE SUBJECT MATTER JURISDICTIONARY ACTION AND OR PROCESS,... HALT, CHECK, CONSTRAIN, RESTRAIN, LIMIT, ARREST, VOID OR STOP THE CONTINUANCE OF THE SUBJECT MATTER

JURISDICTIONARY "[P]OWER BEFORE THE COURT WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, EVEN THOUGH THAT COURT WITHOUT A DOUBT DO INDEED POSSESS SUCH "[P]OWER" BY STATE LEGISLATIVE STATUTE. THIS IS A CRUCIALLY, MATERIALLY, DISTINCTLY DIFFERENT QUESTION RELATED TO SUBJECT MATTER JURISDICTION THAT WAS NEVER ANSWERED BY ANY OF THE (3) THREE COURTS INVOLVED PURSUANT TO GENTRY. THIS IS A NEW QUESTION OF LAW AND FACT, A CHALLENGE TO THE PRECEDENT SET BY THE GENTRY CASE. THUS MAKING USE OF THE HOLDINGS MADE IN THE GENTRY COURT WOULD BE MISPLACED. SUCH A NEW QUESTION OF LAW AND FACT IS NOT BARRED IN SEEKING RELIEF FOR, DOES RELATE TO SUBJECT MATTER JURISDICTION, "[C]ANNOT" BE WAIVED BY THE APPLICANT, CAN BE RAISED AT "[A]NY" TIME, AND THE COURT "[S]HALL [N]OT" FAIL TO TAKE NOTICE. NO TIMELY OBJECTION IS NEEDED TO PRESERVE THIS ISSUE. THIS IS BEING ARGUED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, GRUPO DALA FLUX V. ATLAS GLOBAL GROUP, L.P.,

541 U.S. 567, 124 S.Ct. 1920, 158 L.Ed. 2d 866 (U.S. 2004); LOUMIET V. UNITED STATES, 65 F. Supp. 3d 19 (2014); U.S. V. #41, 320 U.S. CURRENCY, 9 F. Supp. 3d 582, 2014 WL 1266 340; WHITE V. MANIS, 2014 WL 151 32 80 (D.S.C. 2014); U.S. V. ALADEKCHA, 2010 WL 4054267 (D.C. MD 2010); HUNT V. UNITED STATES, F. Supp. 2d, 2007 WL 5131716 (D.S.C. 2007); BROWN V. U.S. 2014 WL 2871398 (D.S.C. 2014).

THE TRIAL COURT, AND OR PROSECUTING BODY, ACTING ARBITRARILY, CONSPIRING UNDER COLOR OF STATE LAW, IN BLATANT DEFIANCE TO RULES OF COURT, S.C. SUPREME COURT JUDICIAL ORDER, AND THE PROVISIONS OF THE SOUTH CAROLINA CONSTITUTION HAS AGAIN FAILED TO BE IN COMPLIANCE TO THEIR OWN STATE LAWS IN VIOLATION OF THE APPLICANT'S SUBSTANTIAL FEDERAL CONSTITUTIONAL RIGHTS OF DUE PROCESS UNDER THE 6TH AND 14TH AMENDMENTS. THUS, SUCH ACTIONS SERVE TO VIOLATE THE APPLICANT'S RIGHTS UNDER THE EQUAL PROTECTION OF THE LAWS CLAUSE, SUBJECTING HIM TO UNJUST PROSECUTION AND ARBITRARY JUDICIAL

ACTION, SCREWS V. UNITED STATES SUPRA.; DUBINKA V. JUDGES OF SUPERIOR
COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES SUPRA.;
JONES V. STATE OF ARKANSAS SUPRA.; HICKS V. OKLAHOMA SUPRA.; DOZIER V. LOOP
COLLEGE, CITY OF CHICAGO SUPRA.; LUGAR V. EDMOND SON OIL CO. SUPRA.; S.C.
 CODE ANN § 17-25-10.

THE S.C. ATTORNEY GENERAL COMPROMISING HIRED AND OR STATE APPOINTED
 ATTORNEY TO GO ALONG WITH IT, HAS ABUSED THE INDICTMENT AND OR DIRECT
 INDICTMENT PROCESS CRIMINALLY BRINGING ACTION AGAINST THE APPLICANT WHEN HE
 WAS VOID OF JURISDICTION OPENING THEM UP TO BOTH CIVIL AND CRIMINAL ACTION
 BEING LEVIED AGAINST THEM. THEY DROPPED THE BALL. THE CASE WAS SUPPOSED TO
 HAVE BEEN THROWN OUT SUBJECTING THE APPLICANT TO OVERWHELMING PREJUDICE
 AND ARBITRARY JUDICIAL ACTION. WHICH IS CLEAR WHERE THE COURT WAS TO ENSURE
 THAT PROPER CARE BE GIVEN TO MY DUE PROCESS MATTERS WHICH IS REQUIRED UNDER
 S.C. CODE ANN § 17-25-10. I SHOULD BE HOME BY NOW WHICH IS ADDITIONAL

PREJUDICE.

SUBJECT MATTER JURISDICTION IS THE "[P]OWER" TO HEAR AND DETERMINE CASES OF A GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG, BELL V. MONSANTO CORP., 579 S.E.2d 325 S.C. 553 (S.C. 2003). IN AS MUCH, SUBJECT MATTER JURISDICTION DOES NOT ONLY COVER AND OR INVOLVE WHETHER OR NOT THE MATTER RESIDES IN A PROPER COURT OF JURISDICTION TO HEAR AND DETERMINE IT. THIS IS THE FIRST PRONG. THE COURT'S "[P]OWER" TO HEAR AND DETERMINE A CASE IS ALSO DEFINED AS THE COURT'S "[A]BILITY" TO HEAR AND DETERMINE A CASE. THUS, SUBJECT MATTER JURISDICTION ALSO INVOLVES ANY ISSUE THAT MAY "[A]FFECT" AND OR "[H]INDER" THAT "[P]OWER" AND OR "[A]BILITY" TO ACT IN ACCORDANCE TO RULES OF COURT, RULES OF CRIMINAL PROCEDURE AND DUE PROCESS LAW. THIS IS CLEARLY ESTABLISHED BY THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, WHICH IS THE SECOND PRONG. SUCH MATTERS CAN BE RAISED AT "[A]NY" TIME "[C]ANNOT" BE WAIVED BY THE DEFENDANTS, AND THE

DEFENDANTS, AND THE COURT "[S]HALL [N]OT" FAIL TO TAKE NOTICE, MATHIS
V. STATE, 355 S.C. 87, 584 S.E. 2d 366 (S.C. APP. 2003); BROWN V. STATE,
 343 S.C. 342, 540 S.E. 2d 846 (2001); STATE V. BROWNING, 320 S.C. AT 368,
 46 S.E. 2d AT 359; STATE V. MUNN, 357 S.E. 2d 461 (S.C. 1987); BROWN V. U.S.,
 2014 NL 2871 398 (D.S.C. 2014); HUNT V. UNITED STATES, F. SUPP. 2d, 2007 NL
 5131716 (D.S.C. 2007).

WITHOUT A "[W]RITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE FILED
 WITH THE CLERK OF COURT ISSUED BEFORE THE (180) DAYS EXPIRED WITHIN THE
 CRIMINAL COURT OR FILED BEFORE THE (365) DAYS EXPIRED IN THE COURT OF
 COMMON PLEAS FOR PCR'S AND FALSE IMPRISONMENT TORTS. JURISDICTION IS MADE
 VOID TO INCLUDE ANY ACT DONE THEREAFTER. THE PARTIES WERE PROHIBITED FROM
 CONTINUING THE CAUSE. SUCH VOIDS THE COURT'S SUBJECT MATTER JURISDICTION
 FOR DUE PROCESS VIOLATION AND OR PROHIBIT THEM FROM CONTINUING AND OR
 INVOKING AND OR ENACTING THEIR "[P]OWERS" OF SUBJECT MATTER JURISDICTION

GIVEN TO THEM BY STATUTE, TO ADJUDICATE THE APPLICANT'S TRIAL, OR
 ACCEPT HIS GUILTY PLEA, AND IF WE ARE DEALING WITH A PCR OR FALSE
 IMPRISONMENT TORT UNDER THE (265) DAY PROVISION, DEFAULT WOULD LIE ANY,
 ANY ACT DONE THEREAFTER WOULD BE VOID. THEREFORE, THE SENTENCE AND
 CONVICTION MUST BE VACATED. THEY PROCEDURALLY DEFAULTED ON THE CAUSE. WE,
 I, SEEK THIS ISSUE BE ARGUED AS A CLASS ACTION. THIS ISSUE EFFECTS MANY
 WITHIN THIS STATE WHERE THIS CONDUCT OPEN THE INMATES TO BEING SUBJECTED
 TO ARBITRARY JUDICIAL ACTION VOIDING THE STATE COURTS JURISDICTION, LOUMIET
V. UNITED STATES, 65 F. SUPP. 3d 19 (2014); U.S. V. "41 320 U.S. CURRENCY,
9 F. SUPP. 3d 582, 2014 NL 126640; WHITE V. MANIS, 2014 NL 1513280
 (DSC 2014).

COURT OF COMMON PLEAS
AND GENERAL SESSIONS
100 BROAD STREET, SUITE 105
CHARLESTON, S.C. 29401-2258
(843)958-5000
(843)958-5020 FAX
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FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT
CHARLESTON COUNTY
100 BROAD STREET, SUITE 143
CHARLESTON, S.C. 29401-2265
(843)958-4400
(843)958-4434 FAX
www3.charlestoncounty.org

JULIE J. ARMSTRONG
CLERK OF COURT
CHARLESTON COUNTY

NOVEMBER 13, 2015

RE: ORDERS

TO: ROBERT LEE WRIGHT

This office has received your request.

- ☐ It is unclear what action is sought. Please clarify and resubmit.
- ☐ In order to provide you with the copies you are requesting you must 1.) Pay the \$5.00 fee or 2.) provide us with a statement from the SCDC East Cooper Trust Fund which shows the financial status of your account. If your account reflects no monies have been received you will not be charged the fee.
- ☐ If copies are requested, you must submit copies with original document. Include a self-addressed stamped envelope for return.
- ☐ Warrant/Indictment number is required for request.
- ☐ No record of referenced case in Charleston County Court of General Sessions.
- ☐ Jail time should be requested through your caseworker.
- ☐ You need to contact the court reporter for your transcript.
- ☐ You will need to contact the agency placing the detainer. This office cannot release a detainer.
- ☐ Research completed. Documents enclosed.
- ☒ Other: MR. WRIGHT, PLEASE FIND ENCLOSED A COPY OF THE ORDERS THAT HAVE BEEN FILED WITH OUR OFFICE. I DO NOT SHOW ANYTHING ELSE PERTAINING TO A CONTINUANCE. THANK YOU

Please return this letter with your correspondence.

JJA/MKH

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

v.)

ROBERT LEE WRIGHT,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2010-GS-10- 6153

ORDER

FILED
2014 MAR 25 AM 11:01
JULIE J. ARMSTRONG
CLERK OF COURT
BY [Signature]

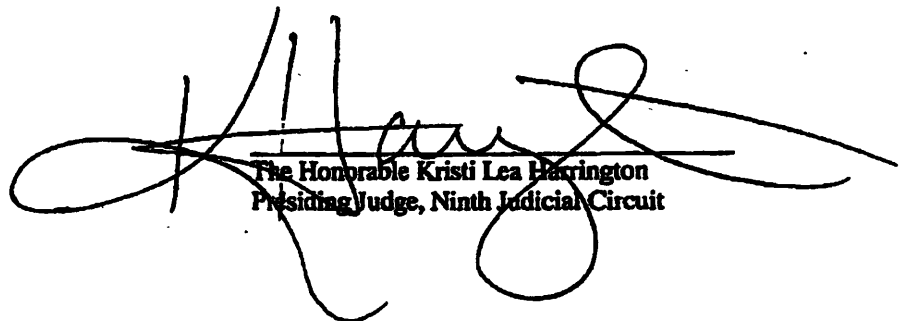
THIS MATTER IS BEFORE THE COURT on Defendant Robert Lee Wright's Motion for a New Trial and Motion to Reconsider Sentence. On February 24, 2014, the above case proceeded to jury trial on Defendant's indictment for Murder. Defendant Robert Lee Wright was found guilty of Murder on February 25, 2014, and was sentenced to forty (40) years in prison. Defendant filed the instant Motion for a New Trial and Motion to Reconsider Sentence on February 27, 2014.

Upon review of the case, the Court finds that the sentence imposed February 25, 2014, shall remain in place.

THEREFORE, IT IS HEREBY ORDERED that Defendant Robert Lee Wright's Motion for a New Trial and Motion to Reconsider Sentence is DENIED.

IT IS ORDERED.

March 21, 2014
Charleston, South Carolina


The Honorable Kristi Lea Harrington
Presiding Judge, Ninth Judicial Circuit

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURT & P.C.
BY [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA

FILED

2014 MAR -3 AM 9:25

COUNTY OF CHARLESTON

JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

vs.

ROBERT LEE WRIGHT,

Defendant

IN THE COURT OF GENERAL SESSIONS FOR
THE NINTH JUDICIAL CIRCUIT

Warrant No(s): 2012A1021000962,,K639859

Charge(s): CDV-2nd, Murder

ORDER

Having appeared for the trial of this case, the defendant now requests that this court allow the defendant to be released during breaks and over night adjournment of the trial. Proir to trial, the defendant was released on a surety bond. Although it is in the court's discretion to place a defendant on his own recognizance after a jury has been drawn and sworn and during trial of the case, the court declines to do so since the original basis for a surety bond continues to exist.

Provided, however, that the defendant may be released upon the same terms and conditions of the original bond, either by continuance of the existing bond by the original surety, or by execution of a new bond upon the same terms and conditions of the original bond which the court hereby approves. Before the defendant is released, the surety must acknowledge on the place provided on this order the consent of the surety to continue the original bond until the close of the trial or to execute a new bond to continue until the close of the trial with the same terms and conditions of the original bond. Upon Compliance with this order, the Sheriff, or his designee, shall release the defendant during trial.

It is so ordered this 24 day of February, 2014.

Judge Kristi L. Harrington

Acknowledgement/Consent of Surety:

Surety

Surety's printed name

I SO MOVE

Defense Counsel

Alicia Penn

Counsel's printed name

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF COURTBy [Signature]
DEPUTY CLERK

2006-07-28-01

The Supreme Court of South Carolina

ADMINISTRATIVE ORDER

Pursuant to the provisions of S.C. CONST. Art. V, §4,

IT IS ORDERED that the following procedures shall be followed in the management and disposition of all complex common pleas cases now pending or hereafter filed in each circuit:

On the Chief Administrative Judge's own motion or on motion of counsel on an approved form, a copy of which is attached and made a part of this order, made after the filing of the original complaint, the Chief Administrative Judge can designate a case as complex, establish a date prior to which the case will not be called for trial and assign the case to a judge assigned to the circuit or an adjoining circuit who will be given exclusive jurisdiction to handle that case from beginning to end.

The motion may be granted on the information contained in the motion or the Chief Administrative Judge may require a hearing to determine whether the case justifies special handling.

If the motion is granted, the case will not be called for trial prior to the date designated in the order. The Chief Administrative Judge will assign the case to a judge assigned to the circuit or an adjoining circuit and all pretrial motions and other matters pertaining to that case will be under the exclusive jurisdiction of the judge assigned to the case. When appropriate, the case should be given a date certain for trial with the trial of the case also handled by the assigned judge.

If the Chief Administrative Judge believes that the case is not so complex as to require the assignment of a specific judge to handle the case from beginning to end, the Chief Administrative Judge can partially grant the motion by providing a date in his or her order before which the case cannot be called to trial. This will allow counsel adequate time to prepare the case for trial without the necessity of having to attend roster meetings and justify a continuance. Continuances beyond the date established in the scheduling order should not be requested or granted by the Chief Administrative Judge without exceptional circumstances being shown. Once the continuance has expired, the case will be handled in the same manner as all other normal cases.

If the Chief Administrative Judge does not believe that the case is complex or requires additional time for preparation, the motion will be denied and the case will be placed on the trial roster and handled in the same manner as all other normal cases.

If the motion is granted and a specific judge is assigned to handle the case from beginning to end, copies of the motion and order granting the motion will be provided by the clerk of court to counsel of record and the judge assigned to the case.

Order of the Chief Justice. All previous Orders regarding procedures to be followed in the management and disposition of complex common pleas cases are hereby rescinded.

s/Jean Hofer Toal
Jean Hofer Toal
Chief Justice

July 26, 2006
Columbia, South Carolina

(3) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 AND HIS DUE PROCESS RIGHTS VIOLATED, DUE TO THE "[P]ROCEDURAL [D]EFFECT," IN THAT THE PROSECUTING AGENTS ACTED AS SOLE WITNESSES ON THE WARRANT(S) AND OR INDICTMENT(S)?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID

NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH EDITION).

THE APPLICANT HUMBLY AVERS, IT IS THE APPLICANT'S 6TH AMENDMENT RIGHT TO BE "[F]ULLY" APPRISED AS TO THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION, AS WELL AS IS HIS CONSTITUTIONAL RIGHT TO BE "[F]ULLY" APPRISED AS TO THE CIRCUMSTANCES AND OR PARTICULAR AVERMENTS RELATED TO THE CHARGE, STATE V. TABORY, 262 S.C. 136, 141, 202 S.E. 2d 853 (1974).

IT IS ALSO HIS 5TH AMENDMENT RIGHT NOT TO BE TRIED ON EVIDENCE AND OR ALLEGATIONS THAT WERE NOT ALLEGED IN THE INDICTMENT(S) PASSED UPON BY THE GRAND JURY, WHOSE BASIS IS GIVEN SOLELY ON HEARSAY TESTIMONY. THUS, IN ORDER THAT THE APPLICANT'S RIGHTS UNDER THE 6TH AMENDMENT TO A FAIR AND IMPARTIAL TRIAL AND RIGHTS OF DUE PROCESS NOT BE FORGOTTEN, KEEPING THIS PORTION OF THE PROCESS NON ADVERSARIAL. THE NAME OF THE WITNESS(ES) WHO HAVE FIRSTHAND KNOWLEDGE AND OR WHO BRING THE ACCUSATION AGAINST THE DEFENDANT, AND OR TESTIMONY

BEFORE THE GRAND JURY MUST BE KNOWN, LISTED, AND PASSED UPON
OR ACKNOWLEDGED BY THE GRAND JURY TO ENSURE COMPLIANCE TO
RULES OF COURT AND DUE PROCESS LAW, STATE V. JONES, 439 S.E.2d 282.

S.C. CODE ANN §§ 1-7-730, 17-13-150 AND 17-25-10, REQUIRE THAT
THE PROSECUTING AND OR PROSECUTING BODY "[S]HALL" FULFILL AND SEE THAT
ALL DUTIES, REQUIREMENTS, AND RULES OF COURT, AS WELL AS RULES OF
CRIMINAL PROCEDURE RELATED TO THE STATE AND FEDERAL CONSTITUTION AND
DUE PROCESS LAW ARE ADHERED TO AND COMPLETED IN THE COURT.

IN STATE V. ANDERSON, 312 S.C. 185, 439 S.E.2d 855 (1993), ANDERSON'S
ISSUE OF CONCERN, PLACED BEFORE THE COURT AS IT PERTAINED TO THIS ISSUE,
WAS WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING HIS CONVICTION,
WHEN THE ONLY WITNESS BEFORE THE GRAND JURY WAS THE ASSISTANT
SOLICITOR. IN ANDERSON SUPRA., THE SUPREME COURT STATED IN HAEC [V]ERBA:

"BECAUSE OF THE UNCERTAINTY AND CONFUSION THAT IS TAKING PLACE AT

ALL LEVELS OF THE JUDICIARY, REGARDING THIS ISSUE, WE TAKE THIS
OPPORTUNITY TO EXPLICITLY PROHIBIT THE PRACTICE OF USING PROSECUTORS
APPEARING AS SOLE WITNESSES BEFORE THE GRAND JURY, "STATE V. CAPP,
275 S.E. 2d 875 (1981); STATE V. DAWKINS, 377 S.E. 2d 298 (SC-1989).

THIS IS NOT AN ISSUE OF A PRELIMINARY HEARING. NOR IS THIS
AN ISSUE OF PARTIES OR WITNESSES SHOWING UP AT A PRELIMINARY HEARING
FOR WHICH NO TESTIMONY BY ANY SUPPOSED VICTIM WAS EVER GIVEN. THIS
SPECIFICALLY DEALS WITH THE REQUIREMENT OF HAVING THE WITNESSES APPEAR
ON THE WARRANTS AND OR INDICTMENTS TO ALSO ENSURE THAT THE GRAND
JURY DID A PROPER JOB OF INVESTIGATING THE FACTS. NO ONE ALLEGED
VICTIM OR WITNESS APPEARED ON ANY WARRANT OR INDICTMENT TO ENSURE
THEY WERE PRESENT DURING THIS PROCESS AND APPEARED BEFORE THE GRAND
JURY. NONE OF THEM WERE DEAD. EXCEPT THE ALLEGED VICTIM. THERE WERE
OTHER DIRECT WITNESSES. THEY WERE ALIVE AND WELL THEN AS THEY ARE

TODAY. NONE WERE MENTALLY ILL; NOR WERE THEY PHYSICALLY INCAPACITATED TO THE POINT WHERE THEY COULD NOT HAVE ONLY SIGNED THE WARRANT(S) OR BE A WITNESS ON THE WARRANTS. THERE WAS ALSO NOTHING THAT WOULD HAVE PREVENTED THEM FROM BEING PRESENT AT THE GRAND JURY PROCEEDINGS AS A MATTER OF "STARE DECISIS." THE ONLY POSSIBLE REASON WHY THEY DID NOT WANT THESE WITNESSES PRESENT AS IS REQUIRED AT THESE PROCEEDINGS IS TO POSSIBLY COVER UP SOME ASPECT OF POTENTIAL DEFENSES THE PETITIONER COULD HAVE ESTABLISHED EVIDENCE FOR, SUCH AS SELF DEFENSE, MUTUAL COMBAT, OTHER DEFENSES AND POTENTIAL PROSECUTIONAL MISCONDUCT. THIS DENIED THE GRAND JURY AN OPPORTUNITY TO DO ITS JOB AND INVESTIGATE THE FACTS IN FULLNESS, ALSO TO GIVE THE APPLICANT KNOWLEDGE OF SUCH WITNESSES, AND TO HAVE THESE WITNESSES PASSED UPON BY THE GRAND JURY OR ACKNOWLEDGED BY THE GRAND JURY IN THE COURT RECORD.

THE WITNESSES WERE NOT DEPLOYED TO IRAQ, AFGHANISTAN OR SYRIA.

THIS SHOWS THAT THIS WAS AN ARBITRARY ACTION DONE ON THE PART OF THE PROSECUTING AGENTS AND POLICE, CONSPIRING AND ACTING UNJUSTLY, ARBITRARILY, UNDER COLOR OF STATE LAW. THEY FAILED TO ADHERE TO THEIR OWN PRESCRIBED STATE LAWS IN VIOLATION OF THE APPLICANT'S FEDERAL CONSTITUTIONAL RIGHTS OF DUE PROCESS ALSO IN VIOLATION OF 18 USC §§ 241 AND 242. SUCH ACTION BY THE INVESTIGATORS AND OR PROSECUTING BODY SERVE TO DENY THE APPLICANT THE EQUAL PROTECTION OF THE LAWS AGAINST ARBITRARY PROSECUTION. IF THIS HAD NOT BEEN DONE THE GRAND JURY INVESTIGATION WOULD HAVE NOT ONLY LIKELY UNCOVERED MISCONDUCT, BUT THEY ALSO COULD HAVE VERIFIED AND OR ESTABLISHED EVIDENCE TO SUPPORT THE DEFENSES OF STAND YOUR GROUND, SELF DEFENSE, MUTUAL COMBAT AND OTHER SUCH DEFENSES. THIS DEMONSTRATES THE PREJUDICE AND DAMAGE THAT WAS CAUSED BY THIS EGREGIOUS INJUSTICE. THE INVESTIGATING OFFICERS AND OR PROSECUTING AGENTS, CAN PRODUCE NO JUSTIFIABLE REASON AS TO WHY ANYTHING

SHOULD HAVE PREVENTED THE PROPER AND REQUIRED WITNESS(ES) FROM
 NOT ONLY SIGNING AND OR CONFIRMING THE WARRANT(S), BUT ALSO
 BEING PRESENT ACTING AS WITNESSES AT THE GRAND JURY PROCEEDING
 EXCEPT TO PREVENT THE APPLICANT FROM HAVING EVIDENCE OF VIABLE
 DEFENSES ESTABLISHED BY THE GRAND JURY AND TO CONCEAL THE FRAUD
 AND DECEPTION THEY WERE INITIATING BEFORE THE COURT IN THEY
 ESTABLISHING THIS MODERN DAY SLAVERY VIA THE STRUCTURAL ERROR ARGUED
 RELATED TO THE INDICTMENTS, SCREWS V. UNITED STATES SUPRA.; STATE V.
MIDDLETON SUPRA.; ESLINGER V. THOMPSON SUPRA.; McLAUGHLIN V. FLORIDA SUPRA.;
JONES V. STATE OF ARKANSAS SUPRA.; DUBINKA V. JUDGES OF SUPERIOR COURT OF
THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES SUPRA.; DOZIER V.
LOOP COLLEGE, CITY OF CHICAGO SUPRA.; HICKS V. OKLAHOMA SUPRA.; LUGAR V.
EDMONDSON OIL CO. SUPRA.; WILLIAMS V. UNITED STATES, CA 5 (FLA.) 1950, 179 F2d
 656 CERT. GRANTED 71 SCT 70, 340 U.S. 850, 95 LED 622 AFF'D 71 SCT

341 U.S. 97, 95 LED 774; BROWN V. UNITED STATES, CA 6 (TENN) 1953,
 204 F2d 247; UNITED STATES V. RAMEY CA 4 (W.VA.) 1964, 336 F2d
 512 CERT. DENIED 85 SCT 649, 379 U.S. 972, 13 LED 2d 564; UNITED
STATES V. KOZMINSKI, (1988) 487 U.S. 931, 101 LED 2d 788, 108 SCT 2751,
 46 CCH EPD 938067 ON REMAND (1988 CA 6 MICH.) 852 F2d 1288, 18 USC
 § 241, 242, 1001; GREENWOOD V. PEACOCK SUPRA.

FURTHERMORE, THE CONFLICT BETWEEN THAT OF A WITNESS, AND OF AN
 ADVOCATE, SHOULD CAUSE COURTS GREAT CONCERN, BECAUSE THE "[A]UTHORITATIVE
 [N]ATURE" OF SUCH A RELATIONSHIP, THE TESTIMONY OF A POLICE OFFICER WHO IS IN
 HIS OFFICIAL CAPACITY A REPRESENTATIVE OF THE STATE, WOULD BE TOO POTENT
 TO ALLOW AS A GENERAL RULE. YOU SEE THE DAMAGE OF SUCH WHICH CLEARLY
 OCCURRED IN THIS CASE, SEE UNITED STATES V. BIRDMAN, 602 F2d 547 (3RD CIR.
 1979) CERT. DENIED 444 U.S. 1032, 100 SCT 703, 62 LED 2d 668.

IN EX PARTE MCLEOD IN RE; INVESTIGATION IN CHARLESTON MAGISTRATE

COURT, 272 SC 373, 252 S.E. 2d 126 (1979), THE COURT IN ADHERING TO THE RULE THAT THE GRAND JURY PROCEEDING SHOULD REMAIN NON ADVERSARIAL. THE PRACTICE OF USING A SOLICITOR OR OTHER OFFICER OF THE STATE, AS A SOLE WITNESS BEFORE THE GRAND JURY, TO PROVIDE ONLY A SUMMARY OF EVIDENCE CAN BE SEVERELY ABUSED AND WE STRONGLY STATE THAT IT BE ABANDONED UNLESS NO OTHER ALTERNATIVE IS AVAILABLE. THIS IS WHAT HAS OCCURRED HERE. THE GRAND JURY WAS DENIED IN ACTS OF FRAUD AND VIOLATION OF DUE PROCESS TO INITIATE THEIR SHIELDING FUNCTION WHERE THEIR FULL INVESTIGATION WOULD HAVE REVEALED EVIDENCE OF VIABLE DEFENSES SUCH AS STAND YOUR GROUND, SELF DEFENSE, MUTUAL COMBAT ETC., AND THEY MAY HAVE CAUGHT THEIR OWN ERROR RELATED TO THE STRUCTURAL CONSTITUTIONAL ERROR WHERE THEY THEMSELVES ARBITRARILY ADJUDICATED GUILT BY THE LANGUAGE OF THE INDICTMENT (S) PRESENTED.

ETHICAL CONSIDERATION 5-9 OF THE CODE OF PROFESSIONAL

RESPONSIBILITY PROVIDE :

"THE ROLE OF AN ADVOCATE AND OF A WITNESS ARE INCONSISTENT:

THE FUNCTION OF AN ADVOCATE IS TO ADVANCE THE CAUSE OF ANOTHER, WHILE
THAT OF A WITNESS IS TO STATE THE FACTS OBJECTIVELY. AS IS INDICATIVE OF
ATTORNEY - WITNESS, THE ENVIRONMENT OF ONE-SIDED PROCEEDINGS BEFORE THE
GRAND JURY INCREASES THE POTENTIAL FOR ABUSE OF THE RELATIONSHIP, WHICH
DID OCCUR ALONG WITH FRAUD UPON THE COURT-MEMBERS HOLDING PROSECUTORIAL
FUNCTION MAY NOT ADDITIONALLY APPEAR BEFORE THE GRAND JURY AS A WITNESS.
THE ROUTINE ACQUISITION OF AN INDICTMENT BASED SOLELY ON HEARSAY EVIDENCE
REQUIRES THAT THE WARRANT(S) AND OR INDICTMENT(S) BE DISMISSED. THIS INCLUDES
MAKING AND OR RENDERING ANY EVIDENCE INADMISSABLE THAT HAS BEEN PASSED
UPON BY THE GRAND JURY, UNNECESSARILY USING THESE PROSECUTING AGENTS IN
ESTABLISHING SAID EVIDENCE AND OR INDICTMENT(S) BEFORE THOSE PROCEEDINGS.
THE ENTIRE RECORD SUBJUDICE IS POLLUTED WITH VIOLATIONS OF THE APPLICANT'S

DUE PROCESS RIGHTS. THIS ONE-SIDED GRAND JURY DUE PROCESS VIOLATION, ARBITRARILY DONE, MUST DEEM THE EVIDENCE PASSED UPON BY THE GRAND JURY, USED AT THE APPLICANT'S TRIAL AND OR TO OBTAIN A GUILTY PLEA, "FRUIT OF A POISONOUS TREE," MAPP V. OTTO - SC- 81 SCT 1684 (1961); ROCHIN V. PEOPLE OF THE STATE OF CALIFORNIA, 342 U.S. 165, 173, 72 SCT 205, 210, 96 LED 183 (1952); WEEKS V. UNITED STATES, 232 U.S. 383, 34 SCT 341, 58 LED 652; UNITED STATES V. GRAMOLINI, 301 FSUPP. 39. DUE TO THIS BLATANT DISREGARD FOR THE APPLICANT'S DUE PROCESS RIGHTS, THE SENTENCE AND CONVICTION MUST BE VACATED.

(4) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2 AND HIS DUE PROCESS RIGHTS VIOLATED, BY THE INDICTMENT FOR MURDER'S FAILURE TO PROPERLY AND OR SUFFICIENTLY APPRISE THE APPLICANT OF THE "[T]IME" OF ASSAULT, IN THE BODY OF THE CHARGING INSTRUMENT, AS "[T]IME" IS

RECOGNIZED BY LAW?

THE APPLICANT DID NOT OBJECT TO THIS DEFECT AND OR ERROR AT THE TIME OF HIS TRIAL AND OR BEFORE HE GAVE HIS GUILTY PLEA, BUT THE DEFECT AND OR ERROR SERVES TO RENDER THE INDICTMENT WHOLLY INVALID. DEFECTS AND OR ERROR IN AN INDICTMENT THAT ARE OF SUCH A FUNDAMENTAL CHARACTER AS TO RENDER AN INDICTMENT WHOLLY INVALID ARE NOT SUBJECT TO WAIVER BY THE DEFENDANT, 41 AM JURS 2d INDICTMENTS AND INFORMATION § 299 (1968); STATE V. MUNN SUPRA. SUBJECT TO CERTAIN MINOR EXCEPTIONS NOT PRESENT, THE TRIAL COURT IS PROHIBITED FROM ENACTING AND OR INVOKING THERE SUBJECT MATTER JURISDICTIONARY [P]OWERS GIVEN TO THEM BY STATUTE TO CONVICT A DEFENDANT FOR AN OFFENSE, WHEN THERE IS NO INDICTMENT CHARGING HIM WITH THAT OFFENSE WHEN THE JURY IS SWORN, AND OR BEFORE HE GIVES HIS GUILTY PLEA WHERE SUCH AN ACTION WOULD VOID THE COURT'S JURISDICTION FOR DUE PROCESS VIOLATION, STATE V. BEACHUM, 288 SC 325, 342 S.E. 2d 597 (1986);

GRUPO DALA FLUX V. ATLAS GLOBAL GROUP, L.P., 541 U.S. 567, 124 S.Ct. 1920,

158 LEd 2d 866 (US 2004); LOUMIET V. UNITED STATES, 65 F.Supp 3d 19 (2014);

U.S. V. "41,320 U.S. CURRENCY", 9 F.Supp 3d 582, 2014 WL 1266 240.

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201 (a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPLICANT DID NOT OBJECT AT THE PROCEEDINGS (BLACK LAW DICTIONARY 8TH EDITION).

THE APPLICANT HUMBLY CONTENDS HIS 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION WERE VIOLATED, AS WELL AS ARTICLE IV § 2, AND HIS DUE PROCESS RIGHTS WERE VIOLATED FOR THE CHARGE IN QUESTION, BECAUSE THE CHARGING INSTRUMENT, IN THE BODY OF THE INDICTMENT DOES "[N]OT" STATE THE EXACT TIME OF THE ALLEGED ASSAULT AS TIME IS RECOGNIZED BY LAW, WHICH IS A NECESSARY AND REQUISITE ELEMENT OF THE OFFENSE FOR MURDER BEING MADE A PART OF THE CRITICAL ELEMENTS OF THE OFFENSE. FOR EXAMPLE, IN STATE V. RECTOR, 158 SC 212, 155 S.E. 385 (1930), THE SUPREME COURT [S]PECIFICALLY AND [U]NEQUIVOCALLY, WITH [C]LARITY AND [P]ARTICULARITY, STATED IN HAEC [V]ERBA:

"THE STATE MUST PROVE NOT ONLY THE ASSAULT AND THE DEATH OCCURRING FROM IT, BUT ALSO THE "[T]IME" OF THE ASSAULT AND THE "[T]IME" OF THE DEATH, AS "[T]IME" IS RECOGNIZED BY LAW. IN ADDITION THE STATE MUST PROVE THE PLACE OF THE ASSAULT, AND THE PLACE OF DEATH ***."

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THESE NECESSARY ELEMENTS OF THE CRIME "[M]UST" NOT ONLY BE PROVEN
BEFORE A PERSON MAY BE LAWFULLY CONVICTED, BUT THEY "[M]UST" BE ALLEGED
IN THE BODY OF THE CHARGING INSTRUMENT, BE PASSED UPON BY THE GRAND JURY
IN THE INDICTMENT RETURNED AGAINST THE DEFENDANT IN ACCORDANCE TO THE
CONSTITUTIONAL RIGHTS OF THE ACCUSED (EMPHASIS ADDED).

INASMUCH, IT IS THE BODY OF THE INDICTMENT THAT IS THE [V]ITAL
PART OF THE CHARGING INSTRUMENT, STATE V. TATE, 345 SC 577, 549 S.E.2d 601
(SC 2001), AND IT "[C]ANNOT" BE SO CRYPTIC OR THE WORDING SO LOOSE, VAGUE
AND AMBIGUOUS AS TO FAIL TO COMPLY WITH THE BASIC RIGHT OF THE ACCUSED
TO BE FULLY INFORMED AS TO THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION
BEING LEVIED AGAINST HIM, WHICH IS ONE OF THE DEFENDANT'S MOST BASIC,
FUNDAMENTAL, AND UNIVERSALLY RECOGNIZED RIGHTS OF DUE PROCESS, SMITH V. GRADY,
312 U.S. 329, 61 SCT 572 (1941); STATE V. TABORY, 262 SC 136, 141, 202 S.E.2d
852 (1974) (HOLDING THAT THE STATE MAY NOT SUPPORT A CONVICTION * 334 FOR

AN OFFENSE INTENDED TO BE CHARGED BY RELYING UPON THE CAPTION TO THE
EXCLUSION OF THE LANGUAGE CONTAINED WITHIN THE BODY OF THE INDICTMENT).

ALSO SEE SC CODE ANN § 17-25-10; UNITED STATES V. MASOTTO, 73 F3d 1233

CERT. DENIED 117 SCT 54, 136 LED 2d 18; CASTILLO V. HOLDER -- F3d -- 2015

WL 161952 CA 4 (2015); STATE V. BRANDT, 393 SC 526, 713 S.E.2d 591 (SC 2011).

INASMUCH, THE STATUTORY TEXT OF S.C. CODE ANN § 17-19-20 AND S.C.

CODE ANN § 17-19-30, ALSO AS A FACT OF "[W]RITTEN [L]AW", REQUIRE THAT THE

"[T]IME OF THE OFFENSE(S) BE STATED IN THE BODY OF THE CHARGING INSTRUMENT

OF THE INDICTMENT. THE LANGUAGE IN THE CHARGING INSTRUMENT OF THE

INDICTMENT FOR MURDER IN QUESTION ALLEGES THE ASSAULT OCCURRED "ON OR

ABOUT" JUNE 10, 2010. COULD THIS MEAN MAY 27TH, 28TH, 29TH, JUNE 1ST, 2ND, 3RD,

4TH, 5TH, 6TH, 11TH, 12TH, 13TH, 14TH, 15TH, 16TH? ALL OF THESE DATES CAN BE

CONSIDERED AS "ON OR ABOUT" JUNE 10, 2010. THE STATE KNEW TO ALLEGE THE

EXACT DATE FOR THE TIME OF DEATH. THIS MEANS THEIR FAILURE TO ASSERT

AN EXACT TIME FOR THE TIME OF ASSAULT WAS AN ARBITRARY JUDICIAL ACTION. MURDER IS A COMPOSITE CRIME. THUS THEY BY NOT ASSERTING AN EXACT TIME OF ASSAULT HAVE IN SOME ASPECTS DESTROYED THE IDENTITY OF THE CORPUS DELECTI. THIS CANNOT BE DEEMED AS REASONABLE NOTICE.

IT IS THE APPLICANT'S CONTENTION THAT THIS IS NOT A PROPER OR SUFFICIENT "[T]IME" OF ASSAULT, WHICH IS MADE PART OF THE ESSENTIAL ELEMENTS OF THE OFFENSE WHICH MUST BE ALLEGED IN THE BODY OF THE CHARGING INSTRUMENT, PASSED UPON BY THE GRAND JURY AND RETURNED AGAINST THE ACCUSED IN ACCORDANCE TO THE CONSTITUTIONAL DUE PROCESS RIGHTS OF THE DEFENDANT. THIS PRODUCES SUBSTANTIAL PREJUDICE, DENYING THE DEFENDANT'S RIGHT TO NOTICE AND SERVE TO DENY HIM THE EQUAL PROTECTION OF THE LAWS.

THE APPLICANT CONTENDS, THAT A PANEL OF JURORS THAT EMBODIED THE GRAND JURY UPON THEIR OATHS AFORESAID, STATED THE MORTAL BLOW AND ASSAULT OCCURRED "ON OR ABOUT" JUNE 10, 2010. THIS IS NOT AN EXACT TIME OF ASSAULT.

THUS IT BECOMES A FALSE AND INVALID OATH, TAINING THIS OATH PRODUCING
FRAUD AND MISREPRESENTATION REQUIRING THAT THE INDICTMENT(S) BE QUASHED.
IT IS UNIVERSALLY RECOGNIZED THAT EVERY OATH "[M]UST" BE FOUNDED UPON
"[C]ERTAIN [K]NOWLEDGE" (OMNE SACRAMENTUM DEBET ESSE CERTA SCIENTIA).
THE REALITY IS THAT SUCH OATH WAS NOT FOUNDED UPON CERTAIN KNOWLEDGE
WHERE THE GRAND JURY WHO SWORE TO SUCH INDICTMENT(S), DID NOT DISCOVER
AS THEY SUPPOSED THAT THE EXACT "[T]IME" OF THE ASSAULT HAD NOT BEEN
ALLEGED IN THE INDICTMENT. FAILING TO PROPERLY STATE THE TIME OF ASSAULT
OF THE DECEASE PARTY ARE CLEAR GROUNDS THAT WOULD DEMAND THAT SUCH
A JUDGEMENT BE REVERSED ESPECIALLY IN LIGHT OF THE OVERWHELMING PREJUDICE
TO THE APPLICANT'S DUE PROCESS RIGHTS. BY THIS THE APPLICANT WAS DENIED
OPPORTUNITY TO MAKE CLAIMS OF ALIBI OR ACTUAL INNOCENCE WHERE THE STATE
WOULD BE PERMITTED THE ASSAULT OCCURRED ON THE NUMEROUS DAYS AFORE
CLAIMED BY ALLEGING "ON OR ABOUT". THE LAW IS CLEAR ON THIS ISSUE.

NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY WHICH ALLOWED THE TRIAL JURY TO SPECULATE THAT THE GRAND JURY INTENDED THE TIME TO BE EXACTLY JUNE 10, 2010 WHERE BY MAKING USE OF THE TERM "ON OR ABOUT" SUCH IS NOT CLEAR OR AN EXACT TIME OF ASSAULT. THIS ALSO DENIED THE APPLICANT HIS DUE PROCESS RIGHT TO MEET THE CHARGE BY BEING ABLE TO CALL SPECIFIC WITNESSES WHO COULD HAVE CLEARLY PROVEN THE ASSAULT DID NOT OCCUR ON ALL THOSE "ON OR ABOUT" DATES THE APPLICANT PREVIOUSLY LISTED. IT IS TRULY UNNECESSARY TO CITE AUTHORITY TO THE FACT THAT IT IS ABSOLUTELY ESSENTIAL IN AN INDICTMENT FOR MURDER, THAT THE EXACT "TIME" OF ASSAULT AND DEATH OF THE DECEASED PARTY SHOULD BE ALLEGED THEREIN, AND IN ABSENCE OF SUCH ALLEGATION SAID INDICTMENT IS FATALY DEFECTIVE AND SHOULD BE QUASHED AND OR JUDGEMENT ARRESTED UPON MOTION MADE, WHICH IS DONE, AND FURTHER, SUCH A DEFECTIVE INDICTMENT IS BEYOND THE REACH OF AMENDMENT OR REPAIR

AS IN A SIMILAR MATTER AS IT PERTAINS TO "[P]LACE" OF ASSAULT
AND DEATH, FOR THE INDICTMENT TO A GREAT EXTENT DESTROYS THE
IDENTITY OF THE CORPUS DELECTI, STATE V. BLAKENEY, 33 SC 111, 11 S.E.
637 INFRA STATE V. STEWART, 26 SC 125, 1 S.E. 468; BALL V. UNITED
STATES, 140 US 118, 11 SCT 761, 35 LED 377; STATE V. PLATT, 154 SC
1, 151 S.E. 202.

IN STATE V. KENNEDY (LA) (1845) 8 ROB, 590, THE COURT IN
HOLDING AN INDICTMENT FOR MURDER BAD, AS NOT ALLEGING THE TIME
AND OR PLACE OF DEATH SAID: "THE MATERIAL FACT IN MURDER ARE THE
MORTAL STROKE AND THE CONSEQUENT DEATH BEING A COMPOSITE CRIME, AND
THE DEATH "[M]UST" APPEAR UPON THE RECORD AND OR ON THE FACE OF THE
INDICTMENT TO HAVE OCCURRED WITHIN ONE YEAR AND A DAY FROM THE TIME
WHEN THE MORTAL STROKE WAS GIVEN." THE AVERMENT THEN OF EACH OF THESE
MATERIAL FACTS. "[M]UST" UNDER WELL ESTABLISHED RULES OF CRIMINAL

PLEADING BE ACCOMPANIED BY AN ALLEGATION OF A CERTAIN TIME AND OR PLACE TO INCLUDE NOT ALLEGING "ON OR ABOUT" AS IT PERTAINS TO TIME.

TO AMPLIFY THIS PROPOSITION, IN STATE V. RALLO, 403 S.E.2d 653 (1991), THE COURT IN RELEVANT PART STATED [V]ERBATIM:

"IT IS TRUE THAT THE STATE NEED NOT PROVE THE EXACT TIME AND OR DATE SET FORTH IN THE INDICTMENT(S), UNLESS "[T]IME" IS AN ESSENTIAL ELEMENT OF THE OFFENSE, OR IS MADE PART OF IT," Id. AT 655.

IN STATE V. HAM, 259 SC 118, 191 S.E. 2d 13 (SC 1972). THE SOUTH CAROLINA SUPREME COURT STATED IN HAEC [V]ERBA:

"IF '[T]IME' IS '[N]OT' OF THE ESSENCE OR GIST OF THE OFFENSE, THE '[P]RECISE [T]IME' OF WHICH THE OFFENSE IS CHARGED TO HAVE BEEN COMMITTED IS '[N]OT' MATERIAL."

ON THE OTHER SIDE OF THE SPECTRUM OF THIS LANGUAGE, THE "[P]RECISE [T]IME" AT WHICH THE OFFENSE IS SAID TO HAVE BEEN COMMITTED "[I]S" MATERIAL

IF TIME IS OF THE ESSENCE OR GIST OF THE OFFENSE AS IT IS IN THIS
CASE.

INASMUCH, TO BE "ON POINT," IN STATE V. PIERCE, 207 S.E.2d 414,
WHICH IS A MURDER PRECEDENT, THE INDICTMENT CHARGES THAT THE OFFENSE(S)
AND OR CRIME(S) OCCURRED ON A CERTAIN DATE, AND DOES "[N]OT" CHARGE "ON
OR ABOUT." THEY KNEW NOT TO DO THIS FOR THE TIME OF DEATH. THEY WERE
REQUIRED TO DO THE SAME FOR TIME OF ASSAULT.

HENCE, BY THE DOCTRINE OF "STARE DECISIS ET NON QUIENTA MOVERE,"
AN INDICTMENT "[M]UST" PROPERLY SET FORTH ALL THE ESSENTIAL ELEMENTS OF
THE OFFENSE. BY HAMLING V. UNITED STATES, 418 U.S. 87, 94 S.Ct. 2887 (1974),
IT IS WELL ESTABLISHED AND RECOGNIZED UNDER AMERICAN JURISPRUDENCE; THAT
IF AN INDICTMENT FAILS TO CHARGE ALL NECESSARY ELEMENTS, IT FAILS TO
CHARGE THE OFFENSE, SUCH VIOLATES THE APPLICANTS' 5TH, 6TH, 14TH AMENDMENT
RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS ARTICLE IX § 2 AND HIS RIGHTS

OF DUE PROCESS WHICH VOID JURISDICTION FOR DUE PROCESS VIOLATION.

THUS, THE SENTENCE AND CONVICTION MUST BE VACATED, UNITED

STATES V. MASOTTO SUPRA.; CASTILLO V. HOLDER SUPRA.; STATE V.

BRANDT SUPRA.; UNITED STATES V. CABRERA-TERON, 168 F3d 141

(5TH CIR. 1999); UNITED STATES V. PUPO, 841 F2d AT 1239 (4TH CIR. 1988)

(EN BANC); UNITED STATES V. HOOKER, 841 F2d 1225 (4TH CIR. 1988);

U.S. V. #41,320 US CURRENCY, 9 F. SUPP. 3d 582, 2014 WL 1266 240;

WHITE V. MANIS, 2014 WL 1513280 (DSC 2014); U.S. V. ALADEKCHA,

2010 WL 4054267 (DCMD 2010); HUNT V. UNITED STATES, F. SUPP. 2d

2007 WL 5131716 (DSC 2007); BROWN V. U.S., 2014 WL 2871398

(DSC 2014).

(5) THERE IS AN ISSUE CONCERNING TESTIMONY IN THE STATEMENTS.

(6) DID THE TRIAL COURT ERR, AND WAS THE APPLICANT'S 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION VIOLATED, AS WELL AS ARTICLE IV § 2, AND HIS DUE PROCESS RIGHTS VIOLATED, BY THE TRIAL AND OR PLEA COURT ALLOWING CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) AT THE APPLICANT'S TRIAL AND OR PLEA HEARING.

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON THE

PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT DID NOT OBJECT AT THE PROCEEDINGS, (BLACK LAW DICTIONARY 8TH EDITION).

IT IS THE BODY OF THE INDICTMENT WHICH IS THE [V]ITAL PART OF THE CHARGING INSTRUMENT, STATE V. TATE SUPRA., AND IT "[C]ANNOT" BE SO CRYPTIC OR THE WORDING SO LOOSE AND AMBIGUOUS AS TO FAIL TO COMPLY WITH THE BASIC RIGHT OF THE ACCUSED TO BE FULLY INFORMED AS TO THE "[C]ASE AND [N]ATURE" OF THE ACCUSATION BEING LEVIED AGAINST HIM, WHICH IS ONE OF HIS MOST BASIC, FUNDAMENTAL, AND UNIVERSALLY RECOGNIZED RIGHTS OF DUE PROCESS, SMITH V. O'GRADY SUPRA.; STATE V. TABORY SUPRA. RELIANCE UPON A CAPTION TO BOLSTER A FATALLY DEFECTIVE INDICTMENT IS THEREFORE CONTRARY TO THE CONSTITUTIONAL MANDATE THAT FOR MOST OFFENSES, A DEFENDANT MAY ONLY BE REQUIRED TO ANSWER AN INDICTMENT OF A GRAND JURY THAT IS DEEMED GOOD,

SC CONST. ARTICLE 1 § 11; STATE V. TABORY SUPRA. (HOLDING THAT THE STATE

MAY NOT SUPPORT A CONVICTION FOR AN OFFENSE INTENDED TO BE CHARGED

BY RELYING UPON THE CAPTION TO THE EXCLUSION OF THE LANGUAGE CONTAINED

WITHIN THE BODY OF THE INDICTMENT.

INSOMUCH, THE INDICTMENT FOR MURDER DO NOT PROPERLY AND OR

SUFFICIENTLY APPRISE THE APPLICANT OF THE "[E]AUSE AND [N]ATURE" OF THE

OFFENSE, OR OF WHAT HE IS CALLED UPON TO MEET AND DEFEND BECAUSE IT

DOES NOT ALLEGE AN EXACT TIME OF ASSAULT AS TIME IS RECOGNIZED BY LAW.

THE WORDING IS TOO LOOSE, AND VAGUE MAKING USE OF THE TERM "ON OR ABOUT"

SUCH DEPRIVES THE APPLICANT OF RIGHTS TO CALL WITNESSES TO DEFEND BECAUSE

HE CAN'T ESTABLISH AN EXACT DATE. IT DEPRIVES HIM OF THE RIGHT TO ESTABLISH

ALIBI NOT BEING CERTAIN OF SAID EXACT DATE. "ON OR ABOUT" JUNE 10, 2010 CAN

BE ANY DAY WITHIN A (3) MONTH RADIUS BEFORE OR AFTER THAT DATE. THE

MATERIAL FACT IN MURDER ARE THE MORTAL BLOW AND THE CONSEQUENT DEATH

OCCURRING FROM IT BEING A COMPOSITE CRIME AND THE DEATH "[M]UST"
 APPEAR UPON THE RECORD OR INDICTMENT AS HAVING OCCURRED WITHIN A
 YEAR AND A DAY FROM EACH OTHER, WHEN THE MORTAL BLOW WAS GIVEN.
 THE AVERMENT THEN OF EACH OF THESE MATERIAL FACTS [M]UST UNDER WELL
 ESTABLISHED RULES OF CRIMINAL PLEADING BE ACCOMPANIED BY AN ALLEGATION
 OF A CERTAIN TIME AND OR PLACE TO INCLUDE NOT ALLEGING "ON OR ABOUT"
 AS IT PERTAINS TO TIME. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE
 GRAND JURY AS TO WHAT EXACT DATE OF THE ASSAULT WAS TO BE ADJUDICATED
 BEING AN ESSENTIAL ELEMENT OF THE OFFENSE. THE LANGUAGE IS TOO VAGUE
 SUBJECTING THE APPLICANT TO ARBITRARY JUDICIAL ACTION AND PROCESS. THE LANGUAGE
 IS SO CRYPTIC, LOOSE AND VAGUE IT CREATES AN ENIGMA AS TO WHAT THE
 APPELLANT IS CALLED UPON TO MEET AND DEFEND SETTING THE APPLICANT UP FOR
 "INDICTMENT AMBUSH" AT THE ONSET OF HIS PROCEEDINGS. THE INDICTMENT CANNOT
 BE DEEMED SUFFICIENT IF THE PROSECUTION IS PERMITTED TO PROVE ALL THOSE

DIFFERENT DATES OF THE ASSAULT AS ASSERTED IN THE ISSUE. THE INDICTMENT DOES NOT DESCEND TO AN EXACT DATE OF ASSAULT. THIS CRUCIAL ELEMENT AND OR AVERMENT MUST BE PASSED UPON BY THE GRAND JURY IN ACCORDANCE TO THE CONSTITUTIONAL RIGHTS OF THE ACCUSED. TO NOT ALLEGE THIS CRUCIAL ELEMENT AND OR ALLEGATION IN THE BODY OF THE CHARGING INSTRUMENT RETURNED AGAINST THE ACCUSED, HAVING THEM PASSED UPON BY THE GRAND JURY, THEN, THEREAFTER THE TRIAL OR PLEA COURT AND OR PROSECUTING BODY ADDS OR MODIFY THIS MATERIAL AVERMENT IN ONE FORM OR THE OTHER TO ASSERT AN EXACT DATE WHEN SUCH WAS NOT CONFIRMED BY THE GRAND JURY FOR THE ASSAULT WITHIN THE PROCEEDINGS, AND ALLOW A TRIAL AND OR PLEA HEARING TO GO FORWARD, WHERE SUCH AN EXACT TIME OF ASSAULT WAS NOT PASSED UPON BY THE GRAND JURY, IS CONSTRUCTIVE AMENDMENT OF THE INDICTMENT. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY, SC CODE ANN §§ 17-19-10, 17-19-20, 17-19-30, 17-25-10; STATE V. RECTOR SUPRA.;

STATE V. TATE SUPRA.; STATE V. TABORY SUPRA.; SMITH V. O'GRADY SUPRA.;
UNITED STATES V. MASOTTO SUPRA.; CASTILLO V. HOLDER SUPRA.; STATE V.
BRANDT SUPRA.; STATE V. BLAKENEY SUPRA.; STATE V. STEWART SUPRA.; BALL
V. UNITED STATES SUPRA.; STATE V. PLATT SUPRA.; STATE V. KENNEDY SUPRA.;
STATE V. RALLO SUPRA.; STATE V. HAM SUPRA.; STATE V. PIERCE SUPRA.; HAWLING
V. UNITED STATES SUPRA.; UNITED STATES V. HOOKER SUPRA.; UNITED STATES V. PUPO
SUPRA.; U.S. V. §41,320 US CURRENCY SUPRA.

IN REGARD TO THE CONSTITUTIONAL STRUCTURAL ERROR AND OR DEFECT
 IN THE INDICTMENT(S), AS CONSTRUCTED IN ALL (13) STATES THAT MAKE USE
 OF AN INDICTMENT, ALSO THE REMAINING (17) STATES THAT MAKE USE OF AN
 INDICTMENT, ALSO THE REMAINING (17) STATES THAT MAKE USE OF A CRIMINAL
 COMPLAINT, AND ALL (50) STATES THAT MAKE USE OF AN INDICTMENT UNDER
 FEDERAL CAPTIVITY, TAKING AWAY THE PRESUMPTION OF INNOCENCE AND
 AUTOMATICALLY SHIFTING THE BURDEN OF PERSUASION, PREDETERMINING IN

ADVANCE THE OUTCOME OF THE PROCEEDINGS BY THE LANGUAGE CONTAINED THEREIN. ACCORDING TO THE FINDINGS AND OR LANGUAGE OF THE INDICTMENTS PRODUCED BY THE GRAND JURY, UNDER THE PLAIN LANGUAGE RULE, THE APPLICANT IS ALREADY FOUND GUILTY AND CONVICTED. THE GRAND JURY DOES NOT HAVE THE POWER AND AUTHORITY BY STATE AND OR FEDERAL LAW, OR BY STATE OR FEDERAL CONSTITUTION TO CONVICT A DEFENDANT. THE LAW IS CLEAR. THE GRAND JURY MUST REFRAIN FROM EVEN MAKING AN "OPINION" AS TO A PERSON'S GUILT. HOW MUCH MORE EGREGIOUS AND CRIMINAL WERE THEY SWEAR UPON THEIR "[O]ATH" OUR GUILT? THIS IS AN EGREGIOUS VIOLATION OF THEIR SHIELDING FUNCTION. THIS SERVES TO AID IN ESTABLISHING MODERN DAY SLAVERY WHICH TOO, THEY DO NOT HAVE THE POWER OR AUTHORITY TO DO UNDER THE NOT BEING "DULY"—, MEANING "PROPERLY" CONVICTED BY VIOLATIONS OF DUE PROCESS LAW PROVISION OF THE 13TH AMENDMENT. FOR THE GRAND JURY TO PRODUCE INDICTMENTS THAT STATE, ADJUDICATE AND OR CHARGE THAT THE

DEFENDANT IS NOT ONLY GUILTY OF THE CRIMES CHARGED, TO INCLUDE THE "MENS REA" ELEMENTS RELATED TO THE OFFENSES; THEN, THEREAFTER, THE COURT ALTERS THE CHARGE OF THE INDICTMENT(S), TO INCLUDE THE "MENS REA" ELEMENTS, AND CHARGES THAT THE DEFENDANT IS INNOCENT UNTIL PROVEN GUILTY, AND THE STATE, COURT, FEDERAL GOVERNMENT OR PROSECUTING AGENTS AID THEM CONSPIRING UNDER COLOR OF LAW, TURNING THE BLIND EYE AND DEAF EAR IN DOING SO, IS CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) AND CHANGES THE VERY NATURE OF THE ALLEGATIONS RETURNED BY THE GRAND JURY. THIS TOO CREATES AN INSTANT DOUBLE JEOPARDY ISSUE. TO ACCEPT A GUILTY PLEA, AND OR TO TAKE A DEFENDANT TO TRIAL ON CHARGES IN AN INDICTMENT FOR WHICH HE HAS ALREADY BEEN FOUND GUILTY OF, VIOLATES DUE PROCESS AND IS DOUBLE JEOPARDY. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY AS TO WHETHER OR NOT THEY INTENDED TO ILLEGALLY TAKE UPON THEMSELVES THE ROLE OF THE TRIAL JURY AND DETERMINE

GUILT OF THE OFFENSES NOT ALLOWING ANY SUBSEQUENT ADJUDICATION TO OCCUR RENDERING ANY SUBSEQUENT PROCEEDING [V]OID FOR DUE PROCESS VIOLATION. THIS MEANS THIS IS AN ERROR WHICH CAN ONLY BE CORRECTED BY THE GRAND JURY AND NOT THE TRIAL JURY. EVEN THE GENTRY COURT CANNOT ADJUDICATE THAT CASE WHERE IT WAS PREMATURELY DETERMINED BY THE GRAND JURY. THIS PRODUCES A SUBJECT MATTER JURISDICTION ISSUE UNDER THE DOUBLE JEOPARDY CLAUSE AND LAW WHICH IS TO BE ADJUDICATED UNDER THE DUE PROCESS VIOLATION PRONG TO SUBJECT MATTER JURISDICTION. THIS FURTHER SERVES TO VALIDATE THAT THE STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT AFFECT THE FRAMEWORK OF THE PROCEEDINGS AND CANNOT BE VIEWED AS HARMLESS, BECAUSE THE COURT MUST CONSTRUCTIVELY AMEND THE INDICTMENT(S) ON THE "MENS REA" ELEMENT(S) OF THE OFFENSE(S) TO CORRECT, OR IN AN EFFORT TO CORRECT THE STRUCTURAL CONSTITUTIONAL ERROR IN ACTS OF FRAUD UPON THE COURT

AND MODERN DAY SLAVERY, THE AMISTAD SUPRA.; STATE V. EASLER
 (SC 1997) 327, 121, 489 S.E. 2d 617; STATE V. LEWIS, (SC APP 1996)
 321 SC 146, 147 SE2d 265; SANDSTROM V. MONTANA SUPRA.; MORISSETTE
SUPRA.; UNITED STATES GYPSUM CO. SUPRA.; HUMANAK V. BEYERS SUPRA.;
UNITED STATES V. CLEMENS SUPRA.; MARTIN V. OHIO SUPRA.; ROBINSON V.
ARVONIO SUPRA.; UNITED STATES V. BRIGGS SUPRA.; UNITED STATES V. CHADWICK
SUPRA.; COMPARE PIERSON V. RAY SUPRA.; JENKINS V. MCKEITHEN SUPRA.;
BRANZBURG V. HAYES SUPRA.; MOORE V. DEMPSEY, 43 SCT 265, 67 L.ED. 542
 (1923); UNITED STATES V. DIRECT SALES CO., 40 F SUPP 917 DCSC (1941);
UNITED STATES V. ATLANTIC COMMISSION CO., 45 F. SUPP 187 DCN.C. (1942);
STATE V. BOYD, 2 HILL (SC) 288, 1834 WL 1573 SC APP. L. 1 ESQ. 1834;
STATE V. BRAMLETT, 166 S.C. 323, 164 S.E. 873 (SC 1932); BECK V.
WASHINGTON, 369 U.S. 541, 82 SCT 955 U.S. WASH. (1962); STATE V. TOLLIN,
 352 SC 235, 573 S.E. 2d 812 (SC APP 2002); BEYERS V. REYNOLDS, 2011

WL 7063638, * 8 (DSC 2011); UNITED STATES V. JEFFERSON, 546 F3d 300 CA4 (Va. 2008); IN RE GRAND JURY SUBPOENA JOHN DOE, No. 05 GJ 1318, 584 F3d 175 CA4 (Va. 2009); IN RE GRAND JURY SUBPOENA (T-112), 597 F3d 189 CA4 (Va. 2010); UNITED STATES V. UMANA, 750 F3d 320 CA4 (N.L. 2014); UNITED STATES V. DINKINS, 691 F3d 358 CA4 (Md. 2012); DICKERSON V. WARDEN OF LIEBER C.I., 2013 WL 4500048 (DSC 2013); JAMES V. REYNOLDS, 2014 WL 2624431 (DSC 2014); CLARK V. ARIZONA, 548 U.S. 735, 126 SCT 2709, 165 L.ED.2d 842, 74 U.S.L.W. 4560 (US 2006); 130 SCT 2896; SC CODE ANN § 17-25-10.

CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE PROVISIONS OF THE 5TH AMENDMENT, WHEN SUCH AMENDMENT AFFECTS AN ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE, BUT ONCE PREJUDICE IS CLEARLY SHOWN, THE SENTENCE AND CONVICTION MUST BE VACATED FOR

DUE PROCESS VIOLATION WHICH MUST BE ADJUDICATED UNDER THE DUE
 PROCESS PRONG TO SUBJECT MATTER JURISDICTION, STATE V. GUTHRIE, 352
 SC 103, 572 S.E.2d 309; ARTICLE IV, § 2 U.S. CONST.; UNITED STATES V.
COYNE, 4 F3d 100 (2nd CIR. 1993); UNITED STATES V. MORGENSTEIN, 933
 F2d 1108, 1115 (2nd CIR. 1991); WILSON V. LINDLER, 995 F2d 1256;
STIRONE V. UNITED STATES, 361 U.S. 212 (1960); GAITHER V. UNITED STATES,
 413 F2d 1061 (DC CIR 1969); DOUGLAS V. STATE OF ALABAMA, 380 U.S. 417
 85 Sct 1074 (1965); DECH V. MISSOURI, 544 U.S. 622, 125 Sct 2007,
 161 L.ED. 2d 953, 73 USLW 4370 (US 2005); UNITED STATES V. WHITFIELD,
 695 F3d 288 CA4 (N.C. 2012); UNITED STATES V. MILLS, 555 FED APPX'
 241 CA 4 (Va. 2014); UNITED STATES V. NAIDU, 480 FED APPX' 180 CA4
 (Md. 2012).

INASMUCH, CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) DID OCCUR
 AND THE UNCONSTITUTIONAL AMENDMENT PREJUDICED THE APPELLANT AT HIS

PROCEEDINGS LEADING TO AN UNFAIR AND IMPARTIAL TRIAL AND OR GUILTY
PLEA THAT WAS NOT FREELY, KNOWINGLY, VOLUNTARILY OR INTELLIGENTLY
GIVEN, DEPRIVING THE APPELLANT OF REASONABLE NOTICE AND OF HIS RIGHT
TO HAVE MATERIAL AVERMENTS PROPERLY PASSED UPON BY THE GRAND JURY
IN EGREGIOUS VIOLATION OF THE APPELLANT'S SUBSTANTIAL RIGHTS OF DUE
PROCESS. THIS OCCURRED WHEN THE CHARGING TERMS OF THE INDICTMENT
WERE ALTERED LITERALLY AND OR CONSTRUCTIVELY IN THE MANNER
AFOREMENTIONED. SC CODE ANN § 17-19-100 (1985) PERMITS AMENDMENT
TO AN INDICTMENT PROVIDED THE NATURE OF THE OFFENSE CHARGED IS [N]OT
CHANGED. IF (A) THERE IS A DEFECT IN FORM IN ANY INDICTMENT, OR (B) ON
THE TRIAL OF ANY CASE THERE SHALL APPEAR TO BE ANY VARIANCE BETWEEN
THE ALLEGATIONS OF THE INDICTMENTS AND EVIDENCE OFFERED IN PROOF
THEREOF, THE COURT BEFORE WHICH THE TRIAL MAY BE HAD MAY AMEND THE
INDICTMENT(S) ACCORDING TO THE PROOF, IF THE AMENDMENT BE BECAUSE OF

VARIANCE, IF SUCH AMENDMENT DOES NOT CHANGE THE "[N]ATURE" OF THE OFFENSE CHARGED. AFTER SUCH AMENDMENT THE TRIAL AND OR PLEA HEARING SHOULD PROCEED IN ALL RESPECTS AND WITH THE SAME CONSEQUENCES AS IF THE INDICTMENTS HAD ORIGINALLY BEEN RETURNED AS SO AMENDED, UNLESS SUCH AMENDMENT SHALL OPERATE AS TO SURPRISE THE DEFENDANT, IN WHICH CASE THE DEFENDANT SHALL BE ENTITLED UPON DEMAND TO A CONTINUANCE OF THE CAUSE.

A VARIANCE BETWEEN, PLEADINGS AND PROOF IS [N]OT MATERIAL WHERE MATTER ALLEGED IS [N]OT AN [E]LEMENT OF THE OFFENSE, STATE V. HIOTT, 276 S.E.2d 163.

ON THE OTHERSIDE OF THE SPECTRUM OF THIS LANGUAGE, A VARIANCE BETWEEN PLEADINGS AND PROOF "[I]S" MATERIAL WHERE MATTER ALLEGED "[I]S" AN ELEMENT OF THE OFFENSE; AND FURTHERMORE SUCH AN AMENDMENT CHANGES THE [N]ATURE OF THE OFFENSE, HOPE V. STATE, 328 SC 78, 492 S.E.2d 76;

STATE V. GRAINGER, 507 S.E.2d 322 (SC 1998); UNITED STATES V. NAIDU,
 480 Fed Appx' 180 CA4 (Md 2012); UNITED STATES V. ALLMENDINGER,
 706 F3d 330 CA4 (Va. 2013); STATE V. GREEN, 406 SC 589, 753
 S.E.2d 259 (SC App. 2014).

ONCE THE NATURE OF THE ELEMENTS BECAME ALTERED IN
 THE MANNER AFOREMENTIONED, THE INDICTMENTS WERE NO LONGER TO
 BE CONSIDERED THE INDICTMENT(S) RETURNED AGAINST THE APPELLANT.
 A DEFENDANT IS ENTITLED TO BE TRIED AND OR GIVE HIS GUILTY
 PLEA ON CHARGES THAT ARE PROPERLY SET FORTH IN AN INDICTMENT
 AND SUCH PROPERLY SET FORTH CHARGES MUST BE PASSED UPON BY THE
 GRAND JURY, SC CODE ANN § 17-19-10 (1976). THE TRUE TEST OF THE
 SUFFICIENCY OF AN INDICTMENT IS WHETHER OR NOT IT CONTAINS THE
 NECESSARY ELEMENTS OF THE OFFENSE INTENDED TO BE CHARGED AND
 SUFFICIENTLY APPRISE THE DEFENDANT OF WHAT HE IS CALLED UPON

TO MEET, THE ESSENTIAL ELEMENTS AND OR ALLEGATIONS ARE NOT
ALLEGED. IT DOES NOT ALLEGE AN EXACT DATE TO THE EXTREME
PREJUDICE OF THE APPLICANT. "ON OR ABOUT" CAN REASONABLY BE
BELIEVED TO BE ANY OF THE DAYS ASSERTED EXPANDING AT MINIMUM
(3) MONTHS IN EITHER DIRECTION OF JUNE 10, 2010. THE INDICTMENT IS
VAGUE AND DO NOT DESCEND TO THIS PARTICULAR. FURTHER BY THE
LANGUAGE AND OR CHARGE OF THE INDICTMENTS AS CONSTRUCTED VIA THE
STRUCTURAL ERROR, IT INFORMS THE APPELLANT THAT HE IS CALLED UPON TO
MEET THE BURDEN OF PRODUCTION ON THE CRITICAL ELEMENTS OF DISPUTE
RELATED TO THE OFFENSES. BY THE MANDATES OF DUE PROCESS LAW, THE
APPLICANT IS NOT, BY STATE OR FEDERAL CONSTITUTION, NOR BY STATE OR
FEDERAL LAW, CALLED UPON TO MEET THE BURDEN OF PRODUCTION ON THE
CRITICAL ELEMENTS OF DISPUTE RELATED TO THE OFFENSE(S). THE INDICTMENT(S)
INFORM THE APPLICANT THAT HIS GUILT IS ILLEGALLY PREDETERMINED IN

ADVANCE UNDER "[O]ATH" (EMPHASIS ADDED) AND THE APPLICANT IS BEING
 SUBJECTED TO ANOTHER PROCEEDING ON THE SAME CHARGES, WHICH PRODUCE
 AN ADDITIONAL DOUBLE JEOPARDY CLAIM. FRAUD UPON THE COURT,
 MISREPRESENTATION AND MODERN DAY SLAVERY DUE TO THIS FRAUD, BROWN
V. STATE SUPRA.; MATHIS V. STATE SUPRA.; FRANCIS V. FRANKLIN SUPRA.;
UNITED STATES V. ABRAMS SUPRA.; MARTIN V. OHIO SUPRA.; IN RE WINSHIP
SUPRA.; MULLANEY V. WILBUR SUPRA.; HUMANAK V. BEYER SUPRA.; MOORE V.
DEMPSEY SUPRA.; THE AMISTAD SUPRA.; CALLON PETROLEUM CO. V. FRONTIER
INS. CO. SUPRA.; CHEWING V. FORD MOTOR CO. SUPRA.; APPLING V. STATE
FARM MUT. AUTO INS. CO. SUPRA.; KING V. FIRST AMERICAN INVESTIGATORS
INC. SUPRA.; SC CODE ANN § 17-25-10.

WHAT'S WORSE THAN THIS THE INDICTMENT(S) NOT ONLY BY THEIR
 VERY NATURE ALREADY PREMATURELY IN ADVANCE CONVICT THE APPLICANT OF
 ALL CHARGES MADE AND OR LAID BEFORE THE COURT, DENYING THE

APPLICANT THE PRESUMPTION OF INNOCENCE, BUT IT ALSO CREATES THIS
EGREGIOUS, BLATANT, OUTRAGEOUS VIOLATION OF DUE PROCESS WHERE
THE INDICTMENTS BY THE STRUCTURAL CONSTITUTIONAL ERROR AND OR
DEFECT, HAS DENIED THE APPLICANT THE RIGHT TO A TRIAL BY A JURY OF
ONE'S PEERS; DENIED THE APPLICANT THE RIGHT TO CONFRONT HIS ACCUSERS
OR TO CROSS-EXAMINE WITNESSES; DENIED THE APPLICANT THE RIGHT TO
CALL WITNESSES IN HIS DEFENSE OR TO PRESENT EXPERT TESTIMONY;
DENIED THE APPLICANT THE RIGHT TO TAKE THE STAND AND TESTIFY
AT HIS PROCEEDINGS; DENIED THE APPLICANT THE RIGHT TO PLACE FORTH
EVIDENCE THAT WOULD VINDICATE HIM AT TRIAL; DENIED THE APPLICANT
THE RIGHT TO COUNSEL OF CHOICE, WAY BEFORE A TRUE TRIAL JURY WAS
SWORN, NOT THIS ILLEGAL TRIAL JURY IN THE FORM OF THE GRAND JURY
WHO SWORE UPON THEIR OATH THE APPLICANT'S GUILT, WAY BEFORE A TRIAL
COMMENCED SATISFYING THESE ESSENTIAL CONSTITUTIONAL REQUIREMENTS

OF DUE PROCESS LAW; OR WAY BEFORE HE VOLUNTARILY FREELY,
INTELLIGENTLY OR KNOWINGLY GAVE THEM UP IF WE ARE DEALING
WITH A GUILTY PLEA, ALSO WAY BEFORE HE HIRED COUNSEL OR WAY
BEFORE THE COURT APPOINTED LEGAL COUNSEL TO ASSIST THE DEFENDANT.
WITH THE EXISTENCE OF THE STRUCTURAL CONSTITUTIONAL ERROR AND OR
DEFECT THE COURT HAS ATTEMPTED TO CLOSE THE BARN DOOR FAR
AFTER THE TIME THE HORSES HAVE ALREADY BEEN RELEASED AND OR
ESCAPED. THE GRAND JURY BEING DULY SWORN, IN CLEAR VIOLATION
OF THEIR SHIELDING FUNCTION HAS TAKEN UPON THEMSELVES THE ROLE
OF THE TRIAL JURY, AND HAS ALREADY CONVICTED THE APPLICANT OF
THE CRIMES CHARGED UNDER OATH (EMPHASIS ADDED). TO PERMIT THE
APPLICANT TO OBTAIN COUNSEL OF CHOICE AFTER THIS EGREGIOUS INJUSTICE,
OR TO APPOINT COUNSEL AFTER THE APPLICANT HAS ALREADY BEEN
ILLEGALLY CONVICTED BY THE GRAND JURY AND DENY THE APPLICANT

THE PREVIOUS MENTIONED CONSTITUTIONAL RIGHTS INVOLVE
DEPRIVATION OF CONSTITUTIONAL PROTECTION SO BASIC AND SO FUNDAMENTAL
THAT IN THEIR ABSENCE NO CRIMINAL TRIAL OR PROCEEDING CAN BE
DEEMED RELIABLE AS A VEHICLE FOR THE DETERMINATION OF GUILT
OR INNOCENCE, AND NO CRIMINAL PUNISHMENT CAN BE REGARDED AS
FUNDAMENTALLY FAIR, BECAUSE SUCH ACTION HAS PREMATURELY, CRIMINALLY,
STRIPPED THE APPLICANT OF HIS INALIENABLE RIGHTS OF DUE PROCESS,
ALSO IN VIOLATION OF THE TAKING CLAUSE OF THE 5TH AMENDMENT.
THE STATE ACTING UNJUSTLY, ARBITRARILY UNDER COLOR OF STATE LAW,
IN VIOLATION OF 18 USC §§ 241, 242, HAS BLATANTLY FAILED TO ADHERE
TO THEIR OWN STATE LAWS, CAUSING EXTREME PREJUDICE TO THE
APPLICANT'S PROCEEDINGS, HAS DENIED THE APPLICANT THE EQUAL PROTECTION
OF THE LAWS. SINCE THE APPLICANT'S GUILT WAS ALREADY UNJUSTLY,
ARBITRARILY DETERMINED AND OR ADJUDICATED BY THE STRUCTURAL

CONSTITUTIONAL ERROR AND OR DEFECT VIA THE GRAND JURY
 INDICTMENTS OR CRIMINAL COMPLAINTS NATIONALLY UNDER "[O]ATH"
 IN ACTS OF FRAUD UPON THE COURT; THIS SERVES TO MAKE ANY
 OTHER SUBSEQUENT PROCEEDING INITIATED "[V]OID", "[N]ULLIFIED",
 "[A]RRRESTED" AND A VIOLATION OF THE 5TH AND 6TH AMENDMENT
 ALSO THE APPLICANT'S RIGHTS OF DUE PROCESS, TO INCLUDE HIS RIGHT
 TO DOUBLE JEOPARDY PROTECTION. HOW CAN THE COURT BE ALLOWED
 AND OR PERMITTED TO HAVE A TRIAL AND OR ACCEPT A GUILTY PLEA
 FOR AN OFFENSE THE GRAND JURY WHO SWORE UPON THEIR "[O]ATH,"
 HAVE ALREADY FOUND THE APPLICANT GUILTY OF? THIS "[C]ANNOT"
 BE CURED BY AN INSTRUCTION THAT CONSTRUCTIVELY AMENDS THE
 INDICTMENT(S) ON THE "MENS REA" ELEMENTS. BY THEIR ACTIONS
 AND FRAUD UPON THE COURT THEY HAVE ESSENTIALLY ESTABLISHED
 MODERN DAY SLAVERY BRANDING US AS FELONS TAKING AWAY OUR

RIGHT TO VOTE IN VIOLATION OF THE 15TH AMENDMENT AND VOTING RIGHTS ACT. CONGRESS CONFERS NO POWER OR AUTHORITY UPON ANY COURT, STATE OR FEDERAL THE RIGHT TO ESTABLISH MODERN DAY SLAVERY OF ANY KIND IN VIOLATION OF THE NOT BEING "DULY" (EMPHASIS ADDED) CONVICTED PROVISION OF THE 13TH AMENDMENT AND ANTI-PEONAGE ACT, DEPRIVING THEM OF JURISDICTION OR VOIDING THEIR JURISDICTION OR PROHIBITING THEM FROM ENTERTAINING JURISDICTION FROM THE CASE'S ONSET, DEMONSTRATING THEY INAPPROPRIATELY ENTERTAINED JURISDICTION RENDERING ALL ACTION DONE VOID STRIPPING ALL JUDGES AND COURTS OF IMMUNITY, THE STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT DOES AFFECT THE FRAMEWORK OF THE PROCEEDINGS AND CANNOT BE DEEMED AS HARMLESS. THE EXTREME PREJUDICE IS OBVIOUS AND NEED NOT BE DEBATED ANY FURTHER, THE AMISTAD SUPRA.; CHEWING V. FORD MOTOR COMPANY SUPRA.; APPLING V. STATE FARM MUT. AUTO INS. CO.

SUPRA.; STATE V. EASLER (SC 1997) 327 S.C. 121, 489 S.E.2d 617;
STATE V. LEWIS (SC APP 1996), 321 SC 146, 147 S.E.2d 265;
STATE V. GUTHRIE, 352 S.C. 103, 572 S.E.2d 309; VINES V. UNITED
STATES, 28 F3d 1123 CRIM. LAW 1116(1), 1156(1); STATE V. REDDICK,
 348 S.C. 631, 635, 560 S.E.2d 441, 443 (CT APP 2002); STATE V. PADGETT,
 354 SC 268, 271, 580 S.E.2d 159, 161 (CT APP 2003); STATE V. HONEY,
 344 SC 85, 97, 544 S.E.2d 30, 36 (2001); GRISWALD V. STATE OF CONNECTICUT,
 381 U.S. 481, 85 SCT 1678 (1965); CARTER V. STATE, 329 SC 355, 362,
 495 S.E.2d 773, 777 (1998); 28 U.S.C.A. § 1654; TURNER V. AMERICAN
BAR ASS'N, D.C. TEX. 1975, 407 F.Supp. 457 AFF'd 539 F2d 715 AFF'd
 542 F2d 56; FARETTA V. CALIFORNIA, 422 U.S. AT 835n. 46, 95 SCT AT 2541,
 45 LED 2d 562, 592 (1975); WIGGENS V. ESTELLE, 681 F2d 266 (1982);
UNITED STATES V. GONZALES-LOPEZ, 548 -- US -- 2006; CHAPLIN É DRYSDALE
CHARTERED V. UNITED STATES, 491 U.S. 617, 624-625 (1989); RODRIGUEZ

V. CHANDLER, 382 F3d 676, 675 (CA 7 2004) CERT. DENIED 543 U.S. 1156 (2005); STIRONE V. UNITED STATES SUPRA.; UNITED STATES V. SILVERMAN, 30 F2d 106, 110 (2nd CIR) LISTED THESE FUNCTIONS MODIFIED 439 F2d 198 (2nd CIR 1970), 91 SCT 1619 (1971); MARTIN V. OHIO SUPRA.; FRANCIS V. FRANKLIN SUPRA.; MATHIS V. STATE SUPRA.; UNITED STATES V. ABRAMS SUPRA.; MOORE V. DEMPSEY SUPRA.; ROBERTS V. STATE 408 SC 123, 757 S.E.2d 744 (SC APP 2014); EPPENGER V. MCFADDEN, 2014 WL 4198862 (DSC 2014); BLANDING V. WARDEN MCCORMICK C.I., 2014 WL 3809656 (DSC 2014).

THE REQUIREMENT OF THE INDICTMENT(S) LIMIT AND CONSTRAIN THE SUBJECT MATTER JURISDICTIONARY [P]OWERS OF BOTH THE PROSECUTION AND THE COURT, BY LIMITING WHAT CAN BE PRESENTED AT TRIAL, CONVICTION AND SENTENCING, UNITED STATES V. PROMISE, 255 F3d 150 (4TH CIR. 2001); STATE V. GUTHRIE SUPRA.. IT IS THE COMMAND OF THE UNITED STATES CONSTITUTION, THAT ANYTHING TO THE CONTRARY IS NOT WITH STANDING

(ARTICLE IV § 2 U.S. CONST.).

AGAIN, THE STATE AND OR PROSECUTING BODY, ACTING UNJUSTLY,
 ARBITRARILY, CONSPIRING UNDER COLOR OF STATE LAW, HAS FAILED TO ADHERE
 TO THEIR OWN STATE LAWS, IN EGREGIOUS VIOLATION OF THE APPLICANT'S
 SUBSTANTIAL FEDERAL CONSTITUTIONAL RIGHTS OF DUE PROCESS, SERVING TO
 DENY THE APPLICANT THE EQUAL PROTECTION OF THE LAWS AGAINST UNJUST
 AND ARBITRARY PROSECUTION, ALSO IN VIOLATION OF 18 USC §§ 241, 242,
SCREWS V. UNITED STATES SUPRA.; STATE V. MIDDLETON SUPRA.; ESLINGER V.
THOMPSON SUPRA.; M'LAUGHLIN V. FLORIDA SUPRA.; JONES V. STATE OF
ARKANSAS SUPRA.; DUBINKA V. JUDGES OF SUPERIOR COURT OF THE STATE OF
CALIFORNIA, FOR THE COUNTY OF LOS ANGELES SUPRA.; DOZIER V. LOOP COLLEGE,
CITY OF CHICAGO SUPRA.; HICKS V. OKLAHOMA SUPRA.; LUGAR V. EDMONDSON
CO. SUPRA.; WILLIAMS V. UNITED STATES SUPRA.; GREENWOOD V. PEACOCK SUPRA.;
UNITED STATES V. OTHERSON SUPRA.

IN WILSON V. LINDLER, 995 F2d AT 1256, IT WAS HELD THAT CONSTRUCTIVE AMENDMENT OF AN INDICTMENT, SOMETIMES REFERRED TO AS FATAL VARIANCE, DENIES THE CRIMINAL DEFENDANT THE FUNDAMENTAL GUARANTEE OF NOTICE OF THE CHARGES PENDING AGAINST HIM. THIS RIGHT IS SAFELY GUARDED AND EMBODIED WITHIN THE 6TH AMENDMENT, THE 5TH AMENDMENT INDICTMENT CLAUSE, AND THE APPLICANT'S 14TH AMENDMENT RIGHTS OF DUE PROCESS, AS WELL AS PURSUANT TO THE APPLICANT'S RIGHT TO EQUAL PROTECTION OF THE LAWS AGAINST ARBITRARY PROSECUTION AND THESE REQUIREMENTS MUST BE ADHERED TO AND NOT DENIED. THEREFORE, DUE TO THE ENORMOUS AMOUNT OF PREJUDICE EXPERIENCED BY THE APPLICANT, THE SENTENCE AND CONVICTION MUST BE VACATED, STATE V. DANIELS, 401 S.C. 251, 737 S.E.2d 473 (SC APP 2012); UNITED STATES V. KIRBY, 547 Fed Appx' 363 CA 4 (N.C. 2013); PLACENCIA V. McFADDEN, 2014 WL 219984 (DSC 2014); SULLIVAN V. CARTLEDGE, 2014 WL 994237

(DSC 2014); VAN DE KAMP V. GOLDSTEIN, 555 U.S. 355 (2009); DENNIS
V. WETZEL, 966 F.Supp.2d 489 (Ed. Pa. 2013); KALEY V. UNITED STATES, 134
 SCT 1090 (US 2014); UNITED STATES DIRECT SALES Co. SUPRA.; UNITED STATES
V. ATLANTIC COMMISSION Co. SUPRA.; STATE V. BOYD SUPRA.; STATE V.
BRAMLETTE SUPRA.; ROBERT V. STATE, 408 SC 123, 757 S.E.2d 744 (SC App.
 2014); STATE V. GREEN, 406 SC 589, 753 S.E.2d 259 (SC App 2014); SC
 CODE ANN § 17-25-10.

(7) WAS COUNSEL INEPT AND CONSTITUTIONALLY INEFFECTIVE IN VIOLATION OF THE APPLICANT'S 5TH, 6TH, 14TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS IN VIOLATION OF ARTICLE IV § 2, AND HIS DUE PROCESS RIGHTS, WHICH LED TO AN UNREASONABLE, PARTIAL AND UNFAIR TRIAL PROCEEDING CREATING CLEAR ERROR AND MANIFEST INJUSTICE?

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER, WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE, MOSS V. AETNA LIFE INS. CO. SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE § § 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR ON THE PART OF THE TRIAL COURT THAT HAS AS IDENTIFIABLY NEGATIVE IMPACT ON THE PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL

1989
RIGHTS OF THE PARTY ARE COMPROMISED. A MANIFEST CONSTITUTIONAL
ERROR CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT
DID NOT OBJECT AT THE PROCEEDINGS (BLACK LAW DICTIONARY 8TH EDITION).

A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO THE EFFECTIVE
ASSISTANCE OF COUNSEL. TO DEMONSTRATE INEFFECTIVE ASSISTANCE OF COUNSEL,
A PETITIONER MUST SHOW, PURSUANT TO THE TWO PRONG TEST ENUNCIATED
IN STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 SCT 2052, 80 LED 2d
674 (1984), THAT (1) HIS COUNSEL WAS DEFICIENT IN HIS REPRESENTATION
AND (2) HE WAS PREJUDICED AS A RESULT, Id. AT 687; ALSO SEE WILLIAM
V. TAYLOR, 529 U.S. 362, 391, 120 SCT 1495, 146 LED 2d 389 (2000)
(STATING THAT THE STRICKLAND TEST PROVIDES SUFFICIENT GUIDANCE FOR
RESOLVING VIRTUALLY ALL INEFFECTIVE-ASSISTANCE-OF-COUNSEL CLAIMS).

TO SATISFY THE FIRST PRONG OF STRICKLAND A PETITIONER MUST
SHOW THAT TRIAL COUNSEL'S ERRORS WERE SERIOUS ENOUGH THAT HIS

PERFORMANCE FELL WELL BELOW THE OBJECTIVE STANDARD OF REASONABLENESS GUARANTEED BY THE 6TH AMENDMENT OF THE U.S. CONSTITUTION. WITH REGARD TO THE SECOND PRONG OF STRICKLAND, THE APPLICANT MUST SHOW THAT THERE IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S PERFORMANCE AND UNPROFESSIONAL ERRORS, THE RESULT OF THE PROCEEDINGS WOULD HAVE BEEN DIFFERENT, STRICKLAND, 466 U.S. AT 694.

INASMUCH, COUNSEL HIRED AND OR APPOINTED BY THE STATE WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE FOR THE FOLLOWING REASONS:

(A) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN THE INDICTMENT(S) POSSESSED A STRUCTURAL CONSTITUTIONAL ERROR AND OR DEFECT, BY THE LANGUAGE AND OR CHARGE CONTAINED THEREIN, TOOK AWAY THE APPLICANT'S PRESUMPTION OF INNOCENCE AND AUTOMATICALLY SHIFTED THE BURDEN OF PERSUASION TO THE DEFENDANT. COUNSEL SAID NOTHING, NOR

DID COUNSEL DO ANYTHING, COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE AND MOTIONED TO QUASH THE INDICTMENT(S). COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER COLOR OF STATE LAW IN ACTS OF FRAUD UPON THE COURT AND PROSECUTORIAL MISCONDUCT IN VIOLATION OF THE CODE OF PROFESSIONAL ETHICS TO COMMENCE WITH AND BRING THE APPLICANT TO TRIAL ON OFFENSES THE GRAND JURY BEING DULY SWORN, ILLEGALLY TAKING UPON THEMSELVES THE ROLE OF THE TRIAL JURY, GOING BEYOND THE SCOPE OF THE POWER AND AUTHORITY GIVEN TO THEM BY EITHER STATE OR FEDERAL LAW, AND OR STATE AND FEDERAL CONSTITUTION BY THE LANGUAGE PRESENTED. THEY ALREADY PREMATURELY UPON THEIR OATH ADJUDICATED AND PREDETERMINED THE APPLICANT'S GUILT IN CLEAR VIOLATION OF THEIR SHIELDING FUNCTION. THEY ALSO VIOLATED THE APPLICANT'S RIGHTS TO DOUBLE JEOPARDY PROTECTION, THE EQUAL PROTECTION OF THE LAWS AND DUE PROCESS, VOIDING THEIR JURISDICTION UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. THIS IS. SHAM LEGAL PROCESS, ABUSE

OF PROCESS AND CONSPIRACY UNDER COLOR OF STATE LAW. THIS CANNOT BE
 DEEMED REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN THE MIND OF
 THE GRAND JURY IN THAT THE REALITY PRESENTS ITSELF THAT THEY NEVER
 BY THE EXISTING LANGUAGE INTENDED ANY SUBSEQUENT PROCEEDING TO OCCUR.
 THE BURDEN OF PERSUASION IS CLEARLY SHIFTED IN VIOLATION OF DUE PROCESS
 LAW. THE APPLICANT NOR THE TRUE TRIAL JURY HAD FACTUAL KNOWLEDGE OF
 THE CHARGES BEFORE THE COURT DUE TO CONSTRUCTIVE AMENDMENT. A
 CURATIVE INSTRUCTION "BOILERPLATE" DO NOT CURE THE DUE PROCESS PROBLEM.
 THIS PREJUDICED THE APPLICANT LEADING TO A PARTIAL AND UNFAIR TRIAL
 PROCEEDING. TO BRING THE APPLICANT TO TRIAL ON CHARGES THE GRAND JURY
 ILLEGALLY PREDETERMINED IN ADVANCE THE OUTCOME OF THE PROCEEDINGS IS
 AN ACT OF FRAUD UPON THE COURT AND PROSECUTORIAL MISCONDUCT AND ARBITRARY
 JUDICIAL ACTION COMPROMISING THE ENTIRE PROCEEDINGS, MOORE V. DEMPSEY
SUPRA.; IN RE WINSHIP SUPRA.; SANDSTROM V. MONTANA SUPRA.; MORISSETTE SUPRA.;

UNITED STATES GYSUM CO. SUPRA.; MULLANEY V. WILBUR SUPRA.; HUMANAK
V. BEYERS SUPRA.; UNITED STATES V. CLEMENS SUPRA.; MARTIN V. OHIO
SUPRA.; STATE V. BREAKIRON SUPRA.; STATE V. ZOLA SUPRA.; FRANCIS V.
FRANKLIN SUPRA.; STROMBERG V. CALIFORNIA SUPRA.; ROBINSON V. ARVONIO SUPRA.;
VINES V. UNITED STATES SUPRA.; STIRONE V. UNITED STATES SUPRA.; GATHER V.
UNITED STATES SUPRA.; STATE V. CALANDRA SUPRA.; BRANZBURG V. HAYES SUPRA.;
JENKINS V. McKEITHEN SUPRA.; COMPARE PIERSON V. RAY SUPRA.; UNITED STATES
V. CHADWICK SUPRA.; UNITED STATES V. BRIGGS SUPRA.; THE AMISTAD SUPRA.;
MOORE V. DEMPSEY SUPRA.; UNITED STATES V. DIRECT SALES CO.; 40 F SUPP 917
 DCSC (1941); UNITED STATES V. ATLANTIC COMMISSION CO. SUPRA.

(B) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE BECAUSE
 COUNSEL FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT
 WHEN THE TRIAL COURT WENT BEYOND THE (180) DAY(S) DEADLINE MANDATED
 AND PRESCRIBED BY JUDICIAL ORDER ISSUED BY THE SOUTH CAROLINA SUPREME

COURT PURSUANT TO THE PROVISIONS OF ARTICLE V § 4 OF THE SOUTH
CAROLINA CONSTITUTION, COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING.
THE COURT'S POWER WAS MADE VOID FOR DUE PROCESS VIOLATION. THEY WERE
PROHIBITED FROM CONTINUING THEIR SUBJECT MATTER JURISDICTIONARY POWERS.
THE APPLICANT SHOULD BE HOME BY NOW. COUNSEL SHOULD HAVE OBJECTED
AND MOTIONED TO RENDER NOL PROS OR DISMISS THE INDICTMENT(S) OR MOVED
FOR DEFAULT AND JUDGEMENT. COUNSEL SHOULD HAVE NEVER CONSPIRED UNDER
COLOR OF STATE LAW WITH THE PROSECUTOR CREATING AND INITIATING THIS
ILLEGAL TRIAL, ABUSING JUDICIAL PROCESS IN ACTS OF FRAUD AND ARBITRARY,
ACTION WHERE THERE EXISTED THIS CLEAR PROCEDURAL DEFECT. THIS IS ARBITRARY
JUDICIAL PROCESS AND PROSECUTIONAL MISCONDUCT WHICH STAND IN BLATANT
DEFIANCE OF JUDICIAL ORDER ISSUED BY THE S.C. SUPREME COURT. THIS
EXTREMELY PREJUDICED THE APPLICANT'S DUE PROCESS MATTERS PRODUCING A
TRIAL PROCEEDING THAT SHOULD NOT EXIST. THE APPLICANT UPON THIS

ARBITRARY JUDICIAL CONDUCT CAN SAY HE IS NOW A VICTIM OF
KIDNAPPING BY WAY OF THIS ARBITRARY JUDICIAL ACTION AND FALSE
IMPRISONMENT. THE TRIAL COURT'S JURISDICTION IS BEING QUESTIONED. I AM
ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE V. GENTRY DUE TO
THE FRAUD THAT OCCURRED WITHIN THAT COURT. THERE EXIST AN INABILITY
FOR THEM TO CONTINUE THE CAUSE DUE TO DEFECT AND DEFICIENCY IN
THE JURISDICTIONAL REQUISITE.

WITHOUT A "[W]ITTEN" (EMPHASIS ADDED) ORDER OF CONTINUANCE
FILED WITH THE TRIAL COURT PRIOR TO THE EXPIRATION OF THE (180) DAY
DEADLINE. THE TRIAL COURT'S JURISDICTION IS MADE VOID FOR DUE PROCESS VIOLATION
EVEN THOUGH THEY DO POSSESS SUCH POWER BY STATE LEGISLATIVE STATUTE.
THIS IS AN EGREGIOUS MISCARRIAGE OF JUSTICE, FRAUD, PROSECUTIONAL MISCONDUCT
PRODUCING OVERWHELMING PREJUDICE. THE STATE ARBITRARILY CONSPIRING
UNDER COLOR OF STATE LAW WITH COUNSEL FOR THE APPLICANT,

HAS FAILED TO ADHERE TO THEIR OWN STATE LAWS, IN CONSPICUOUS
 VIOLATION OF THE APPLICANT'S SUBSTANTIAL FEDERAL RIGHTS OF DUE PROCESS.
 THE PROVISIONS OF THE SC CONSTITUTION UNDER ARTICLE V, ESPECIALLY IN
 LIGHT OF JUDICIAL ORDER ARE MANDATORY, DRACONIAN IN NATURE, SEE SC
 CONSTITUTION ARTICLE V; STATE V. MUNN SUPRA.; STATE V. BEACHUM SUPRA.;
ROBINSON V. SHELL OIL CO. SUPRA.; ARTICLE 12 § 2 SC CONST.; UNITED STATES V.
MEYERS SUPRA.; SECKINGER V. THE VESSAL EXCALIBUR SUPRA.; UNITED STATES
V. RON PAIR ENTERPRISES INC. SUPRA.; ARTICLE 1 § 23 SC CONST.; STATE V.
CARSON SUPRA.; SCREWS V. UNITED STATES SUPRA.; MATHIS V. STATE SUPRA.;
BROWNING V. STATE SUPRA.; LUGAR V. EDMONDSON OIL CO. SUPRA.; HICKS V.
OKLAHOMA SUPRA.; TOYOTA OF FLORENCE INC. V. LYNCH SUPRA.; BASS V. ISOHEM
SUPRA.; STATE V. BRANNON SUPRA.; STATE V. PITTMAN SUPRA.; LIBERTY MUT.
INS. V. S.C. SECOND INJURY FUND SUPRA.; SC CODE ANN § 17-25-10.

(C) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS. IN THAT WHEN THE INDICTMENT FOR MURDER FAILED TO DESCEND TO THE PARTICULARS OF AN EXACT TIME OF ASSAULT, COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. TIME AND PLACE ARE ESSENTIAL ELEMENTS IN THE CHARGE OF MURDER BEING A COMPOSITE CRIME. THE ESSENTIAL ELEMENT OF THE EXACT TIME OF ASSAULT MUST BE ALLEGED IN THE INDICTMENT AND PASSED UPON BY THE GRAND JURY IN ACCORDANCE TO THE DUE PROCESS RIGHTS OF THE ACCUSED. BY THIS ERROR IT PREJUDICED THE APPLICANT IN HIS ABILITY TO CALL MATERIAL WITNESSES TO MEET THE CHARGE AND POTENTIALLY ESTABLISHING AN EXACT DATE OF ASSAULT. THE DAY OF ASSAULT COULD HAVE POTENTIALLY OCCURRED (3) MONTHS IN EITHER DIRECTION OF JUNE 10, 2010 ALL OF THESE DATES CAN REASONABLY BE CONSTRUED AS "ON OR ABOUT" JUNE 10, 2010. THIS IS EXTREMELY VAGUE AND CANNOT BE

DEEMED AS REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE GRAND JURY. COUNSEL SHOULD HAVE OBJECTED TO PRESERVE THIS ISSUE. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENTS INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW WITH THE PROSECUTOR CREATING THIS FIASCO AND MOCKERY OF JUDICIAL PROCEEDINGS ARBITRARILY DENYING THE APPLICANT THE EQUAL PROTECTION OF THE LAWS. THE APPLICANT FELT LIKE GENERAL CUSTER AT "LITTLE BIGHORN." THE APPLICANT WAS FORCED IN HORROR TO GRAB THE ARM REST OF HIS CHAIR, CLINCHING IT, HOLDING HIS BREATH, BRACING HIMSELF AS TO WHAT CAN POSSIBLY COME AT HIM NEXT AS HE WAS SUBJECTED TO THIS "INDICTMENT AMBUSH" AT THE ONSET OF HIS TRIAL. THE INDICTMENT MUST DESCEND TO THE PARTICULARS OF AN EXACT TIME OF ASSAULT AND THIS ESSENTIAL ELEMENT MUST BE PASSED UPON BY THE GRAND JURY IN ACCORDANCE TO THE DUE PROCESS AND CONSTITUTIONAL RIGHTS OF THE ACCUSED. THIS EXTREMELY PREJUDICED

THE APPLICANT LEADING TO AN UNFAIR AND PARTIAL TRIAL PROCEEDING
 PRODUCING A MISCARRIAGE OF JUSTICE AND ARBITRARY JUDICIAL ACTION
 VOIDING JURISDICTION FOR DUE PROCESS VIOLATION, STATE V. RECTOR SUPRA.;
STATE V. PLATT SUPRA.; STATE V. COLEMAN SUPRA.; STATE V. TATE SUPRA.;
STATE V. TABORY SUPRA.; SMITH V. O'GRADY SUPRA.; UNITED STATES V. MASOTTO
SUPRA.; CASTILLO V. HOLDER SUPRA.; STATE V. BRANDT SUPRA.; SC CODE
 ANN § 17-19-10, 17-19-20, 17-19-30, 17-25-10; STATE V. BLAKENEY SUPRA.;
BALL V. UNITED STATES SUPRA.; STATE V. KENNEDY SUPRA.; STATE V. HAM
SUPRA.; STATE V. PIERCE SUPRA.; HAMLING V. UNITED STATES SUPRA.; UNITED
STATES V. CABRERA-TERON SUPRA.; UNITED STATES V. PUPO SUPRA.; UNITED
STATES V. HOOKER SUPRA.; WHITE V. MANIS SUPRA.; HUNT V. UNITED STATES
SUPRA.; BROWN V. U.S. SUPRA.

(D) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS IN THAT WHERE THERE WAS A "[P]ROCEDURAL [D]EFECT" IN THE ESTABLISHING OF THE WARRANT(S) AND OR INDICTMENT(S) DUE TO THE PROSECUTING AGENTS ACTING AS SOLE WITNESSES ON THE WARRANT(S) AND OR INDICTMENT(S), COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE OBJECTED TO AT LEAST PRESERVE THIS ISSUE FOR APPELLATE REVIEW. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENT. THE APPLICANT'S DUE PROCESS MATTERS AT THIS SEGMENT OF THE CAUSE WERE SUPPOSE TO BE AND REMAIN NON-ADVERSARIAL. THIS MEANS ANY EVIDENCE PASSED UPON BY THE GRAND JURY IN THESE ONE-SIDED PROCEEDINGS, UNNECESSARILY USING THE PROSECUTING AGENTS AS SOLE WITNESSES ON THE WARRANT(S) AND OR INDICTMENT(S) MUST BE RENDERED INADMISSABLE. IT BECOMES "FRUIT OF A POISONOUS TREE." COUNSEL SHOULD HAVE NEVER CONSPIRED

UNDER COLOR OF STATE LAW WITH THE PROSECUTOR IN ACTS OF
 PROSECUTIONAL MISCONDUCT, FRAUD UPON THE COURT AND MODERN DAY
 SLAVERY TO BRING FORTH THIS CASE WHEN THEY WERE FULLY AWARE
 OF THESE NUMEROUS VIOLATIONS OF DUE PROCESS LAW COMPROMISING THE
 APPLICANT'S TRIAL PROCEEDING PRODUCING OVERWHELMING PREJUDICE DENYING
 THE APPLICANT THE EQUAL PROTECTION OF THE LAWS, STATE V. TABORY SUPRA.;
STATE V. JONES SUPRA.; STATE V. ANDERSON SUPRA.; STATE V. CAPP SUPRA.;
STATE V. DAWKINS SUPRA.; UNITED STATES V. BIRDMAN SUPRA.; IN RE: EX.
PARTE MCLEOD IN RE: INVESTIGATION IN CHARLESTON MAGISTRATE COURT
SUPRA.; MAPP V. OHIO SUPRA.; ROCHIN V. PEOPLE OF THE STATE OF CALIFORNIA
SUPRA.; WEEKS V. UNITED STATES SUPRA.; UNITED STATES V. GRAMOLINI
SUPRA.

(E) COUNSEL WAS INEFFECTIVE WHEN IT CAME TO CROSS EXAMINATION REGARDING STATEMENTS.

(F) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE, BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS, IN THAT WHEN CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) OCCURRED BEFORE THE COURT, COUNSEL SAID NOTHING, NOR DID COUNSEL DO ANYTHING. COUNSEL SHOULD HAVE AT LEAST OBJECTED TO PRESERVE THIS ISSUE IN THE COURT RECORD. HE SHOULD HAVE MOTIONED FOR A DIRECT VERDICT BASED UPON THIS ISSUE. COUNSEL SHOULD HAVE MOTIONED TO QUASH THE INDICTMENTS OR FOR A MISTRIAL BASED ON THIS ISSUE INSTEAD OF CONSPIRING, UNDER COLOR OF STATE LAW WITH THE PROSECUTOR IN ACTS OF FRAUD UPON THE COURT AND PROSECUTORIAL MISCONDUCT. NO TRIAL SHOULD HAVE COMMENCED ON THE BASIS OF THESE FATALY DEFECTIVE INDICTMENTS. CONSTRUCTIVE AMENDMENT OF AN INDICTMENT IS A PER SE VIOLATION OF THE PROVISIONS

OF THE 5TH AMENDMENT, WHEN SUCH AMENDMENT AFFECTS AN
 ESSENTIAL ELEMENT OF THE OFFENSE. SUCH A VIOLATION REQUIRES
 REVERSAL OF THE CONVICTION, EVEN WITHOUT A SHOWING OF PREJUDICE,
 BUT ONCE PREJUDICE IS SHOWN, CLEARLY AS IT IS IN THIS CASE, THE
 SENTENCE AND CONVICTION MUST BE VACATED, STATE V. GUTHRIE SUPRA.;
UNITED STATES V. COYNE SUPRA.; WILSON V. LINDLER SUPRA.; STIRONE V.
UNITED STATES SUPRA.; GAITHER V. UNITED STATES SUPRA.; DOUGLAS V. STATE
OF ALABAMA SUPRA.; SC CODE ANN §§ 17-19-100 (1985), 17-25-10; STATE
V. HOITT SUPRA.; HOPE V. STATE SUPRA.; STATE V. GRAINGER SUPRA.; STATE
V. HONEY SUPRA.; STATE V. PADGETTE SUPRA.; CARTER V. STATE SUPRA.;
DENNIS V. WETZEL SUPRA.; KALEY V. UNITED STATES SUPRA.; ROBERTS V.
STATE SUPRA.; STATE V. GREEN SUPRA..

(G) COUNSEL WAS INEPT AND CONSTITUTIONALLY INEFFECTIVE,
BECAUSE HE FAILED TO PROTECT THE APPLICANT'S DUE PROCESS RIGHTS,
WHEN ANY COMPETENT ATTORNEY COULD SEE THAT THE S.C. SUPREME
COURT IN STATE V. GENTRY CASE ABUSED THEIR DISCRETION AND CONSPIRED
IN ACTS OF FRAUD UPON THE COURT IN THEIR EFFORTS TO COME UP WITH
THE GENTRY RULING. WE ARE CHALLENGING THE PRECEDENT PURSUANT TO
RULE 217. THE S.C. SUPREME COURT CONSPIRING WITH THE ATTORNEY
GENERAL OFFICE WENT ON A "FISHING EXPEDITION" TO SEARCH FOR A
U.S. SUPREME COURT CASE THAT THEY KNEW WAS VAGUE, PURPOSELY,
) CRIMINALLY AVOIDING OTHER CASES AT THE TIME TO MAKE A FRAUDULENT
DETERMINATION OF LAW. THERE ARE 2 PRONGS TO SUBJECT MATTER
JURISDICTION. THEY KNEW THE INDICTMENT(S) DEFECT(S) ISSUE WERE
SUPPOSE TO HAVE BEEN ADJUDICATED UNDER THE DUE PROCESS PRONG
TO SUBJECT MATTER JURISDICTION. INSTEAD THE S.C. SUPREME COURT

MADE ITS DETERMINATION UNDER THE PRONG THEY KNEW FROM THE
ONSET WAS INCORRECT. JUDGE PLECONES WAS CORRECT UNDER THE DUE
PROCESS PRONG TO SUBJECT MATTER JURISDICTION, BECAUSE OF THE
INDICTMENT DEFECTS ARGUED WITHIN THIS CASE. THE TRIAL COURT'S
JURISDICTION IS MADE VOID FOR DUE PROCESS VIOLATION. THIS IS NOT
A SITUATION WHERE THE S.C. SUPREME COURT SIMPLY WENT WITH WHAT
WAS THE PRECEDENT AT THAT TIME. THERE WERE NUMEROUS OTHER
CASES ADJUDICATED THAT GAVE CLARITY ON THE ISSUE, BUT THEY PURPOSELY
WENT SEARCHING FOR THE VAGUE LAW TO DEFRAUD THE INMATES OF THIS
STATE BEHIND A CLASS BASED INVIDIOUSLY DISCRIMINATORY ANIMUS IN THE
FORM OF RACE WHERE THE DECISION DISPROPORTIONATELY EFFECT AFRICAN
AMERICANS ESTABLISHING MODERN DAY SLAVERY. THEY FORCE US TO WORK
TO KEEP THESE INSTITUTIONS. DUE TO THE FRAUDULENT INTENT. THIS IS
NOT A SITUATION WHERE THE STATE COURT SIMPLY HELD A VIEW

DIFFERENT FROM ITS OWN, WHEN THE PRECEDENT FROM THE U.S. SUPREME COURT IS, AT BEST AMBIGUOUS. THEY CRIMINALLY HELD CASES FOR OVER (5) YEARS WHILE THEY SEARCHED FOR AN AMBIGUOUS CASE WHERE OTHER U.S. SUPREME COURT CASES GAVE GREATER CLARITY AND WERE NOT VAGUE TO DEFRAUD US. THUS USING HOLDINGS MADE IN CASES LIKE GREEN V. FISHER, 132 SCT 38, 43 (2011) WOULD BE MISPLACED. THE TRIAL COURT'S JURISDICTION IS MADE VOID FOR DUE PROCESS VIOLATIONS, 4TH, 5TH, 6TH, 13TH AND EVEN 15TH AMENDMENT(S) CLAIMS ARE ATTACHED TO THE INDICTMENT BY LAW AND THE ISSUES PRESENTED. INDICTMENT ISSUES WERE MANDATED TO BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, WHICH VOID JURISDICTION FOR DUE PROCESS VIOLATION EVEN THOUGH THE TRIAL COURT POSSESS SUCH "[P]OWER" BY STATE LEGISLATIVE STATUTE. COUNSEL SHOULD HAVE DONE A BETTER JOB RESEARCHING AND STUDYING THIS ISSUE AND HIS PROFESSION

INSTEAD OF CONSPIRING UNDER COLOR OF STATE LAW WITH THE
 PROSECUTOR TO CONCEAL MATERIAL FACTS IN VIOLATION OF 18 USC §
 1001. THE TWO CONCEPTS OF SUBJECT MATTER JURISDICTION AND THE
 SUFFICIENCY OF AN INDICTMENT HAVE NOT BEEN MISTAKINGLY COMBINED.
 ONE IS A "[J]URISDICTIONAL [P]REREQUISITE" OF THE OTHER, SHARPES V.
SHARPES SUPRA.; THE AMISTAD SUPRA.; MATHIS V. STATE SUPRA.; BROWN
V. STATE SUPRA.; BROWNING V. STATE SUPRA.; UNITED STATES V. ABRAMS
SUPRA.; STIRONE V. UNITED STATES SUPRA.; GAITHER V. UNITED STATES SUPRA.;
SHARP V. JOHNSON SUPRA.; SANTOS V. STATE SUPRA.; UNITED STATES V. SILVERMAN
SUPRA.; UNITED STATES V. PROMISE SUPRA.; STATE V. GUTHRIE SUPRA..

WHEN AN OFFICER AND OR STATE ACTOR SHALL USE THEIR POWER
 PURSUANT TO THE INSTRUMENT OF ARREST FOR ULTERIOR MOTIVES AND
 INCARCERATE AN ACCUSED FOR THE PURPOSE OF ENGAGING IN MALACIOUS,
 FRAUDULENT AND OR CRIMINAL ACTS, WILLFULLY SUBJECTING THE APPLICANT

TO DEPRIVATION OF ANY RIGHTS, IMMUNITIES OR PRIVILEGES SECURED BY THE CONSTITUTION AND LAWS OF THE UNITED STATES WITHIN ANY STATE, DISTRICT OR TERRITORY. THEY SHALL BE SUBJECT TO STATE AND OR FEDERAL PENALTY. BY WHAT THE STATE HAS DONE HERE. SUCH ACTION IS INDEED DEPRIVATION OF THE RIGHTS OF THE ACCUSED TO LIBERTY AND A VIOLATION OF '18 USC §§ 241, 242; NEITHER THREAT, NOR VIOLENCE IS A NECESSARY INGREDIENT OF THE OFFENSE UNDER THESE CIRCUMSTANCES WHERE THE CONSPIRING INDIVIDUALS WERE CLEARLY ACTING ARBITRARILY UNDER COLOR OF STATE LAW FOR AN ULTERIOR PURPOSE GOING PASSED THE (180) DAYS PRESCRIBED BY LAW, WILLIAMS V. UNITED STATES CA 5 (FLA) 1950, 179 F2d 656 CERT. GRANTED 71 SCT 70, 340 U.S. 850, 95 LEd 622 AFF'd 71 SCT 341 U.S. 97, 95 LEd 774; BROWN V. UNITED STATES CA 6 (TENN) 1953, 204 F2d 247; UNITED STATES V. RAMEY CA 4 (W.Va) 1964, 336 F2d 512 CERT. DENIED 85 SCT 649, 379 U.S. 972,

13 LED 2d 564; UNITED STATES V. KOZMINSKI (1988) 487 US 931,
 101 LED 2d 788, 108 SCT 2751, 46 CCH EPD 9 38067 ON REMAND
 (1988 CAG MICH.) 852 F2d 1288; 18 USC §§ 241, 242; GREENWOOD V.
PEACOCK (1966) 384 U.S. 808, 16 LED 2d 944, 86 SCT 1800; UNITED
STATES V. OTHERSON (1980 CA 9 CAL.) 637 F2d 1276 CERT. DENIED.
 (1981) 454 U.S. 840, 70 LED 2d 123, 102 SCT 149.

BY ALL THE AFOREMENTIONED IN THIS CASE, COUNSEL WAS INEPT
 AND CONSTITUTIONALLY INEFFECTIVE WHICH EGREGIOUSLY VIOLATED THE
 APPLICANT'S 4TH, 5TH, 6TH, 13TH, 14TH AND 15TH AMENDMENT RIGHTS OF
 THE U.S. CONSTITUTION, AS WELL AS ARTICLE IV § 2 AND HIS RIGHTS
 OF DUE PROCESS SUBJECTING THE APPLICANT TO EXTREME PREJUDICE
 PRODUCING CLEAR ERROR AND MANIFEST INJUSTICE. COUNSEL UNJUSTLY,
 ARBITRARILY CONSPIRED UNDER COLOR OF STATE LAW ENGAGING IN
 OVERWHELMING ACTS OF FRAUD UPON THE COURT AND PROSECUTIONAL

MISCONDUCT WITH THE PROSECUTOR IN BRINGING FORTH THIS CASE. BY THIS CONSPIRACY WHICH STANDS IN VIOLATION OF 42 USC §§ 1983, 1985 (2), 1985(3), 1986; 18 USC §§ 241, 242, 1001, THEY FAILED TO ADHERE TO THEIR OWN STATE LAWS IN VIOLATION OF THE APPLICANT'S SUBSTANTIAL FEDERAL CONSTITUTIONAL RIGHTS OF DUE PROCESS, SERVING TO DENY THE APPLICANT THE EQUAL PROTECTION OF THE LAWS AGAINST ARBITRARY JUDICIAL PROCESS WHICH VOIDS THEIR JURISDICTION UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. THE U.S. SUPREME COURT HAS HELD THAT ALL ACTS OF THE STATE ARE AUTOMATICALLY "UNDER COLOR OF LAW" NO MATTER WHAT THE SOURCE OF THE SUBSTANTIVE RULE, SCREWS V. UNITED STATES SUPRA; STATE V. MIDDLETON SUPRA; M'LAUGHLIN V. FLORIDA SUPRA; ESLINGER V. THOMPSON SUPRA; DUBINKA V. JUDGES OF SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES SUPRA; JONES V. STATE OF ARKANSAS SUPRA; HICKS V. OKLAHOMA SUPRA;

DOZIER V. LOOP COLLEGE, CITY OF CHICAGO SUPRA.; LUGAR V.

EDMONDSON OIL CO. SUPRA.

INASMUCH, BY POINTS "A" THROUGH "G" PERTAINING TO THIS
 ISSUE, COUNSEL FELL BELOW THE STANDARD OF COUNSEL APPOINTED IN
 SUCH MATTERS. IT IS PERSPICUOUS THAT THE OUTCOME OF THE PROCEEDINGS
 WOULD HAVE BEEN DIFFERENT HAD THESE INJUSTICES NOT OCCURRED AND
 THEY WERE PROPERLY CHALLENGED BY THE HIRED AND OR STATE APPOINTED
 ATTORNEY. IT IS A REQUIREMENT THAT CANNOT BE DEEMED TO BE
 SATISFIED BY MERE NOTICE AND OR A TRIAL IF THE STATE HAS
 CONTRIVED A CONVICTION THROUGH A MOCKERY OF DUE PROCESS LAW
 AND THROUGH THE PRETENSE OF A TRIAL WHICH IN TRUTH DEFIES
 FUNDAMENTAL FAIRNESS AND IS USED AS A MEANS OF DEPRIVING A
 DEFENDANT OF LIBERTY THROUGH DELIBERATE DECEPTION OF COURT AND
 JURY BY THE PRESENTATION OF A CASE THAT SHOULD HAVE BEEN

NOL PROS OR DISMISSED DUE TO THEY GOING BEYOND THE (180)
 DAYS PRESCRIBED TO ADJUDICATE THE MATTER, AS WELL AS MAKING
 USE OF FATALLY DEFECTIVE INDICTMENTS, WHICH ALSO VIOLATES STATUTORY
 PROVISIONS AND IS UNCONSTITUTIONAL. SUCH A CONTRIVANCE BY A STATE
 TO PROCURE THE CONVICTION AND IMPRISONMENT OF A DEFENDANT IS
 INCONSISTENT WITH THE RUDIMENTARY DEMANDS OF JUSTICE AS IS
 OBTAINING OF A LIKE RESULT BY INTIMIDATION, BRADY V. MARYLAND
SUPRA.; UNITED STATES EX. REL. THOMPSON V. DYE SUPRA.; MOONEY V.
HOLOHAN SUPRA.; ALCORTA V. TEXAS SUPRA.; WILLIAMS V. TAYLOR SUPRA.;
STRICKLAND V. WASHINGTON SUPRA.; MESHANE V. MOLDOVAN, CA MICH.
 1949, 172 F2d 1016; BROWN V. U.S.; UNITED STATES V. RAMEY SUPRA.;
TURNER V. STATE, 335 SC 362, 517 S.E. 2d 442 (SC 1999); UNITED
STATES V. JONES, 143 F3d 1417, 1418 (11TH CIR. 1988); UNITED STATES
V. SIMMONS, 763 F2d 529, 533 (2ND CIR 1985).

THE GOVERNMENT "[M]UST" "[A]LWAYS" BE HELD ACCOUNTABLE TO JUDICIARY FOR A MAN'S IMPRISONMENT, AND THE RESTRAINTS ON LIBERTY IF THE IMPRISONMENT DOES NOT CONFORM TO THE BASIC REQUIREMENTS OF DUE PROCESS LAW. FOR COUNSEL TO CONSPIRE UNDER COLOR OF STATE LAW IN EGREGIOUS ACTS OF FRAUD UPON THE COURT AND PROSECUTORIAL MISCONDUCT WITH THE PARTIES, ABUSING JUDICIAL PROCESS, BREAKING JUST ABOUT EVERY DUE PROCESS RULE UNDER THE SUN TO CRASH AND BURN THE APPLICANT'S TRIAL PROCEEDINGS PRODUCES PREJUDICE, REVEALS THE OUTCOME WOULD HAVE BEEN DIFFERENT HAD ALL OF THIS NOT OCCURRED, PRODUCING CLEAR ERROR AND MANIFEST INJUSTICE THAT MUST BE BROUGHT INTO ACCOUNT. BY THE INJUSTICES THAT OCCURRED WITHIN THIS CASE ITS AS IF THE APPLICANT WENT TO TRIAL WITH NO COUNSEL AT ALL. THEREFORE, THE SENTENCE AND CONVICTION MUST BE VACATED, SHELTON V. CICCONE, CA 8 (MO.) 1978,

578 F2d 1241; EVITTS V. LUCY, 469 U.S. AT 387, 105 SCT 830,
 83 LEd 2d 831 (1985); GRAY, 800 F2d AT 646; POWELL V.
ALABAMA, 287 U.S. 45, 53 SCT 55, 77 LEd 158 (1932); UNITED
STATES V. PROMISE, 255 F3d 150 (4TH CIR. 2001); STRICKLAND V.
WASHINGTON, 466 U.S. 668, 104 SCT 2052, 80 LEd 2d. 674 (1984);
WILLIAMS V. TAYLOR, 529 U.S. 362, 391, 120 SCT 1495, 146 LEd
 2d 389 (2000).

(8) DID THE S.C. SUPREME COURT IN STATE V. GENTRY SUPRA.,
 ERR, ENGAGING, KNOWINGLY, INTENTIONALLY IN ACTS OF FRAUD UPON
 THE COURT, IN THEIR EFFORTS TO ESSENTIALLY ESTABLISH MODERN DAY
 SLAVERY IN VIOLATION OF THE ANTI-PEONAGE ACT, AND ABUSED THEIR
 DISCRETIONARY "[P]OWERS", WHICH THEY EVEN CONSPIRED TO TAKE AWAY
 OUR RIGHT TO VOTE AND OR DID THIS SURREPTITIOUSLY, IN VIOLATION
 OF THE VOTING RIGHTS ACT. AND IN SUCH, THE TRIAL COURT DID ERR,

AND THAT COURT'S JURISDICTION WAS MADE VOID FOR DUE PROCESS VIOLATION, AND THE COURT WAS PROHIBITED FROM ENACTING AND OR INVOLVING AND OR CONTINUING ITS SUBJECT MATTER JURISDICTIONARY "[P]OWERS", EVEN THOUGH THEY DO INDEED POSSESS SUCH "[P]OWER" VIA STATE STATUTE AND OR CONGRESSIONAL INTENT, DUE TO THE INDICTMENT DEFECTS AND OR ERRORS CONTAINED AND ARGUED WITHIN THIS DOCUMENT, IN VIOLATION OF THE APPELLANT(S) 4TH, 5TH, 6TH, 13TH, 14TH, 15TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION, AS WELL AS ARTICLE IX § 2, ALSO 42 USC §§ 1983, 1985(2), 1985(3), 1986; 18 USC §§ 241, 242, 1001; THE RICO ACT; THE ANTI-PEONAGE ACT, AND THE LAWS OF DUE PROCESS?

THE APPELLANT(S) DID NOT OBJECT TO THESE DEFECTS AND OR ERRORS AT THE TIME OF HIS TRIAL AND OR GUILTY PLEA, BUT THE DEFECTS AND OR ERRORS SERVE TO RENDER THE INDICTMENT(S) WHOLLY

INVALID. DEFECTS AND OR ERRORS IN AN INDICTMENT THAT ARE
 OF SUCH A FUNDAMENTAL CHARACTER AS TO RENDER AN INDICTMENT
 WHOLLY INVALID ARE NOT SUBJECT TO WAIVER BY THE DEFENDANT, 41 AM
 JURS 2d INDICTMENTS AND INFORMATION § 299 (1968); STATE V. MUNN
SUPRA.

JUDICIAL NOTICE TAKES PLACE OF PROOF. IT SIMPLY MEANS
 THAT THE COURT WILL ADMIT INTO EVIDENCE AND CONSIDER,
 WITHOUT PROOF OF FACTS, MATTERS OF COMMON AND GENERAL KNOWLEDGE.
 WE ARE ARGUING AGAINST THE PRECEDENT ESTABLISHED BY STATE V.
GENTRY PURSUANT TO SCACR, RULE 217, MOSS V. AETNA LIFE INS. CO.
SUPRA.; STATE V. BROAD RIVER POWER CO. SUPRA.; 31 C.J.S. EVIDENCE
 §§ 6 AND 9; FEDERAL RULES OF EVIDENCE, RULE 201(a).

THIS IS ALSO A MANIFEST CONSTITUTIONAL ERROR. AN ERROR
 AND FRAUD UPON THE PART OF THE SOUTH CAROLINA SUPREME

COURT THAT HAS AN IDENTIFIABLY NEGATIVE IMPACT ON ALL CRIMINAL PROCEEDINGS TO SUCH A DEGREE, THAT THE CONSTITUTIONAL RIGHTS OF ALL DEFENDANTS WITHIN THIS STATE, INCLUDING THE APPLICANT'S ARE COMPROMISED. A MANIFEST CONSTITUTIONAL ERROR, VIOLATIONS OF THE ANTI-PEONAGE ACT AND FRAUD UPON THE COURT OF THIS MAGNITUDE CANNOT BE WAIVED, IS NOT SUBJECT TO ANY TIME LIMITS, AND CAN BE REVIEWED BY A COURT OF APPEALS EVEN IF THE APPELLANT(S) DID NOT OBJECT AT THE PROCEEDINGS, ESPECIALLY IN LIGHT OF THE FACT THAT THE COURT'S DECISION AND FRAUDULENT ACTIONS EFFECT ALL INMATES WITHIN THIS STATE AND POTENTIALLY AROUND THE NATION, (BLACK LAW DICTIONARY 8TH EDITION); THE AMISTAD SUPRA.; CALLON PETROLEUM CO. V. FRONTIER INS. CO. SUPRA.; DIGITAL EQUIP. CORP. V. DESKTOP DIRECT INS., 511 U.S. 863, 868, 114 SCT 1992, 1996, 128 LEd 2d 842 (1994); CHEWING V. FORD MOTOR COMPANY SUPRA.;

APPLING V. STATE FARM MUT. AUTO INS. CO. SUPRA.; KING V. FIRST AMERICAN INVESTIGATORS INC., 287 F3d 91, 92 (2nd CIR. 2002) CERT. DENIED 537 U.S. 960, 123 Sct 393, 154 LEd 2d 314 (2002); THE ANTI-PEONAGE ACT OF THE 13TH AMENDMENT; THE RICO ACT; EX PARTE VIRGINIA, 100 U.S. 339, 346, 25 LEd 676 (1880).

THE APPELLANT CONTENDS, THAT THE INDICTMENT(S) IN SOUTH CAROLINA DO [N]OT PROPERLY AND OR SUFFICIENTLY APPRISE THE APPELLANT(S) OF THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION(S), OR PROPERLY AND OR SUFFICIENTLY APPRISE THE APPELLANT OF WHAT HE MUST PREPARE HIMSELF TO MEET AND DEFEND, BECAUSE THE MURDER INDICTMENT, AS IT IS FOR MOST MURDER INDICTMENTS IN THIS STATE DO NOT PROPERLY ALLEGE THE ELEMENTS OF TIME AND PLACE. IN MY CASE THE INDICTMENT ALLEGES THE ASSAULT OCCURS (ON OR ABOUT) JUNE 10, 2010. BY THIS LOOSE, VAGUE LANGUAGE SUCH GIVES WAY TO

SPECULATE THAT THE ASSAULT POSSIBLY OCCURRED (3) MONTHS BEFORE OR AFTER THIS DATE. ALL THESE CAN BE CONSIDERED (ON OR ABOUT) JUNE 10, 2010. BURGLARY INDICTMENTS IN THIS STATE DON'T ALLEGE WHAT CRIME THE PERSON COMMITTED WHEN ENTERING A DWELLING. THE STATE KIDNAPPING INDICTMENTS DO NOT DESCEND TO PARTICULARS AND MAKE USE OF THE GENERIC TERMS OF THE STATUTE. THE CSC INDICTMENTS DO NOT ALLEGE WHAT BATTERY OCCURRED. THE ARMED ROBBERY INDICTMENTS ALLEGE "WHILE ARMED OR ALLEGING BY WORDS OR ACTIONS TO BE ARMED," TWO MATERIALLY DIFFERENT SETS OF FACTS. THEY DO NOT ALLEGE WHAT WAS STOLEN OR WHAT WEAPON THE DEFENDANTS WERE ARMED WITH NOR DO THEY ALLEGE THE ELEMENT OF ASPORTATION IN MANY INSTANCES. THE STATE DRUG INDICTMENTS, AS OTHER OFFENSES INDICTMENTS, DO NOT ALLEGE THE PROPER CODE AND SUBSECTIONS THAT WERE VIOLATED, OR PROPER DRUG AMOUNTS. THIS IS

WHY THE S.C. SUPREME COURT ENGAGED IN FRAUD IN THE GENTRY CASE. ALL THESE MUST BE ALLEGED IN THE BODY OF THE CHARGING INSTRUMENT OF THESE INDICTMENT(S) IN ORDER THAT THE APPLICANT(S) NOT BE SET UP FOR "INDICTMENT AMBUSH" AT THE ONSET OF HIS PROCEEDINGS. THESE MAKE SUCH INDICTMENTS INCLUDING MY OWN MURDER INDICTMENT VAGUE GIVING WAY TO ARBITRARY JUDICIAL ACTION. SUCH DEFICIENCIES CREATE A SUBSTANTIVE DISADVANTAGE WHERE THESE ELEMENTS DESCRIBE OVERT BEHAVIOR, ILLEGAL BEHAVIOR OR AGGRAVATING CIRCUMSTANCES WHICH CANNOT BE CURED BY AN INSTRUCTION GIVING WAY TO CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) ON ESSENTIAL ELEMENTS AND ALTERING THE VERY NATURE OF WHAT THE APPLICANT(S) IS CALLED UPON TO MEET AND DEFEND EFFECTING EVEN THE SENTENCING. THE INDICTMENT(S) "[C]ANNOT" BE DEEMED SUFFICIENT IF THE STATE IS PERMITTED TO

PROVE ALL THESE MATERIALLY DIFFERENT SETS OF FACTS BEING
 VAGUE AS THEY ARE ASSERTING A TIME OF ASSAULT THAT CAN
 EXPAND (3) MONTHS IN EITHER DIRECTION. THEY DO [N]OT DESCEND
 TO THE ESSENTIAL ELEMENTS AND OR PARTICULARS. ALL THE
 AFOREMENTIONED "[M]UST" BE ALLEGED IN THE BODY OF THE
 CHARGING INSTRUMENT AND PASSED UPON BY THE GRAND JURY IN THE
 INDICTMENTS RETURNED AGAINST THE ACCUSED IN ACCORDANCE TO THE
 CONSTITUTIONAL DUE PROCESS RIGHTS OF THE DEFENDANT. THIS CANNOT
 BE DEEMED AS REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN
 THE MIND OF THE GRAND JURY; STATE V. COLEMAN SUPRA.; STATE V.
MUNN SUPRA.; STATE V. RALLO SUPRA.; STATE V. HAM SUPRA.; STATE V.
BLAKENEY SUPRA.; STATE V. PLATT SUPRA. STATE V. PIERCE SUPRA.; STATE V.
TATE SUPRA.; STATE V. TABORY SUPRA.; STATE V. KEITH SUPRA.; STATE
V. HARDEE SUPRA.; LOCKE V. STATE SUPRA.; STATE V. WILKES SUPRA.;

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UNITED STATES V. DANIELS SUPRA.; UNITED STATES V. ABRAMS SUPRA.;

UNITED STATES V. HOOKER SUPRA.; HAMLING V. UNITED STATES SUPRA.;

UNITED STATES V. PUPO SUPRA.; ASSMAN V. STATE SUPRA.; CASTILLO V. HOLDER

SUPRA.; STATE V. BRANDT SUPRA.; ROBINSON V. COHEN SUPRA.; UNITED

STATES V. GOMEZ SUPRA.; CARR V. UNITED STATES SUPRA.; UNITED

STATES V. ROBARE SUPRA.; UNITED STATES V. UMANA SUPRA.; UNITED STATES

V. DINKINS SUPRA.; JAMES V. REYNOLDS SUPRA.; SULLIVAN V. CARTLEDGE

SUPRA.; DECH V. MISSOURI SUPRA.; CLARK V. ARIZONA SUPRA.; UNITED

STATES V. WHITFIELD SUPRA.; UNITED STATES V. MILLS SUPRA.; UNITED

STATES V. NAIDU SUPRA.; UNITED STATES V. ALLMENDINGER SUPRA.; STATE

V. GREEN SUPRA.; ROBERTS V. STATE SUPRA.; EPENGER V. M^CFADDEN

SUPRA.; BLANDING V. WARDEN M^CCORMICK CORRECTIONAL INSTITUTION SUPRA.;

STATE V. DANIELS SUPRA.; UNITED STATES V. KIRBY SUPRA.; VAN de KAMP

V. GOLDSTEIN SUPRA.; DENNIS V. WETZEL SUPRA.; PLENCIA V. M^CFADDEN

SUPRA.; SC CODE ANN § 17-25-10.

THE APPELLANT(S) FURTHER CONTENDS, THAT THE INDICTMENT(S) DO [N]OT PROPERLY AND OR SUFFICIENTLY APPRISE THE APPELLANT(S) OF THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION(S), OR OF WHAT HE IS CALLED UPON TO MEET AND DEFEND, BECAUSE THE STRUCTURAL CONSTITUTIONAL ERROR, DEFECT, LANGUAGE AND OR CHARGE EMBODIED WITHIN THE INDICTMENTS AND CRIMINAL COMPLAINTS AROUND THE NATION INDICATE AND OR INFORM THE APPELLANT, THAT THE BURDEN OF PRODUCTION BELONG TO THE APPLICANT AND NOT TO THE GOVERNMENT. BY SUCH THEY ALSO VIOLATE SC CODE ANN §§ 17-19-10, 17-19-20 AND 17-25-10. THE LANGUAGE AND OR CHARGE IN THE INDICTMENTS INDICATE AND INFORM THE APPELLANT THAT HE IS CALLED UPON TO MEET THE BURDEN OF PRODUCTION ON THE CRITICAL ELEMENTS OF DISPUTE, IN VIOLATION OF THE APPLICANT'S

6TH AMENDMENT RIGHTS, THE RELEVANT STATUTES, AND DUE PROCESS LAW. THEY ALSO VIOLATE THE APPELLANT(S) 4TH AMENDMENT RIGHTS TO ILLEGAL SEIZURE, HIS 5TH AMENDMENT RIGHT TO DOUBLE JEOPARDY PROTECTION, BECAUSE THEY PREDETERMINE IN ADVANCE THE OUTCOME OF THE PROCEEDINGS, TAKING AWAY OUR PRESUMPTION OF INNOCENCE. AND THEY INFORM THE APPELLANT(S) THAT FOR A SECOND TIME HE IS MADE TO PLEA OR GO TO TRIAL ON A PRIOR CONVICTION FOR THE SAME OFFENSE WHICH PRODUCES FRAUD UPON THE COURT, MODERN DAY SLAVERY IN VIOLATION OF THE ANTI-PEONAGE ACT BECAUSE YOU FORCE US TO WORK ONCE CONVICTED TO UP KEEP THESE INSTITUTIONS. THEN YOU TAKE AWAY OUR RIGHT TO VOTE ONCE CONVICTED IN VIOLATION OF THE 13TH, 15TH AMENDMENTS AND THE VOTING RIGHTS ACT AND EX. PARTE VIRGINIA SUPRA. THEY INFRINGE UPON THE APPELLANT(S) 14TH AMENDMENT RIGHT TO EQUAL PROTECTION OF THE LAWS AGAINST

UNJUST, ARBITRARY PROSECUTION BEHIND A CLASS BASED
INVIDIOUSLY DISCRIMINATORY ANIMUS BECAUSE THE ACT
DISPROPORTIONATELY AFFECT AFRICAN AMERICANS AND OTHER
MINORITIES AND POOR IN VIOLATION OF THE HOLDINGS MADE IN
EX. PARTE VIRGINIA SUPRA. THE GRAND JURY MUST REFRAIN FROM
EVEN MAKING AN "OPINION" (EMPHASIS ADDED) AS TO OUR GUILT.
YET THEY SWEAR AN "OATH," UNDER "OATH" (EMPHASIS ADDED) OUR
GUILT FORECLOSING LEGALLY ANY SUBSEQUENT ADJUDICATION. THE GRAND
JURY BY STATE AND FEDERAL LAW, OR STATE AND FEDERAL CONSTITUTION
DO NOT HAVE THE POWER TO CONVICT. THIS CANNOT BE DEEMED AS
REASONABLE NOTICE. NO ONE CAN SAY WHAT WAS IN THE MIND OF THE
GRAND JURY AS IN DETERMINING WHETHER OR NOT THEY INTENDED
ANY SUBSEQUENT ADJUDICATION TO OCCUR ONCE THEY THEMSELVES
UNDER "OATH" DETERMINED GUILT. DUE TO THE STRUCTURAL CONSTITUTIONAL

ERROR AND OR DEFECT IN THE CONSTRUCTION OF THE INDICTMENTS
 AND CRIMINAL COMPLAINTS AROUND THE NATION, THEY DO "[N]OT
 PROPERLY, SUFFICIENTLY OR FULLY APPRISE THE APPELLANT(S) OF
 THE "[C]AUSE AND [N]ATURE" OF THE ACCUSATION BEING BROUGHT
 AGAINST HIM, OR OF WHAT HE IS CALLED UPON TO MEET OR DEFEND,
STATE V. LEWIS SUPRA.; STATE V. EASLER SUPRA.; MATHIS V. STATE
SUPRA.; BROWN V. STATE SUPRA.; STATE V. BROWNING SUPRA.; STATE V.
MUNN SUPRA.; MOORE V. DEMPSEY SUPRA.; THE AMISTAD SUPRA.; CALLON
PETROLEUM CO. V. FRONTIER INS. CO. SUPRA.; DIGITAL EQUIP. CORP. V.
DESKTOP DIRECT INS. SUPRA.; UNITED STATES V. DIRECT SALES CO. SUPRA.;
UNITED STATES V. ATLANTIC COMMISSION CO. SUPRA.; STATE V. BOYD SUPRA.;
STATE V. BRAMLETT SUPRA.; BECK V. WASHINGTON SUPRA.; STATE V. TOLLIN
SUPRA.; BEYERS V. REYNOLDS SUPRA.; UNITED STATES V. JEFFERSON SUPRA.;
IN RE GRAND JURY SUBPOENA JOHN DOE NO. 05 GT 1318 SUPRA.; IN RE

GRAND JURY SUBPOENA (T-112) SUPRA.; UNITED STATES V. UMANA
SUPRA.; UNITED STATES V. DINKINS SUPRA.; DICKERSON V. WARDEN
OF LIEBER C.I. SUPRA.; JAMES V. REYNOLDS SUPRA.; SULLIVAN V.
CARTLEDGE SUPRA.; CLARK V. ARIZONA SUPRA.; DECK V. MISSOURI
SUPRA.; SKILLING V. UNITED STATES SUPRA.; KALEY V. UNITED STATES
SUPRA.; PLACENCIA V. MCFADDEN SUPRA.; JEANDRON V. BOARD OF
REGENTS OF UNIVERSITY SYSTEM OF MARYLAND SUPRA.; UNITED STATES
V. WHITFIELD SUPRA.; UNITED STATES V. MILLS SUPRA.; UNITED STATES V.
NAIDU SUPRA.; ROBERTS V. STATE SUPRA.; STATE V. GREEN SUPRA.;
UNITED STATES V. KIRBY SUPRA.; UNITED STATES V. ALLMENDINGER SUPRA.

THIS IS HOW THIS THING WENT. THE INMATES OF SOUTH
 CAROLINA WERE BASICALLY GETTING OUT OF PRISON ARGUING THE DEFECTS
 IN THEIR INDICTMENTS. THE INMATES CONVICTED FOR MURDER DISCOVERED
 THAT THERE WAS A FATAL FLAW IN THE MURDER INDICTMENTS RELATED

TO "TIME AND PLACE" BEING ESSENTIAL ELEMENTS OF THE OFFENSE.

THE SOUTH CAROLINA SUPREME COURT IN EFFORTS TO STOP THE INMATE
EXODUS FROM PRISON ENGAGED IN ACTS OF FRAUD UPON THE COURT
AND MACHINATION IN EFFORTS TO COME UP WITH A PLOT, PLAN AND
SCHEME TO DEFRAUD THE INMATES OF THIS STATE. THEY KNEW THAT
BEFORE HAND IN ORDER TO MAKE A FAIR DETERMINATION REGARDING
THE ISSUE OF SUBJECT MATTER JURISDICTION. IT REQUIRED THAT THE
COURT REVIEW, EX PARTE BAIN, RUSSELL, STIRONE AND GAITHER COLLECTIVELY,
BUT THEY PURPOSELY DID NOT DO SO. IN ORDER TO HATCH THEIR PLAN.
IF YOU DO NOT REVIEW THEM TOGETHER, THEY KNEW YOU CAN MAKE
A FRAUDULENT DETERMINATION AND NO ONE WOULD BE THE WISER. SO
THE JUDGES OF THE S.C. SUPREME COURT, CONSPIRING UNDER COLOR OF
STATE LAW BEHIND A CLASS BASED INVIDIOUSLY DISCRIMINATORY ANIMUS,
PLACED THE NUMEROUS VOLUMINOUS PENDING CRIMINAL CASES ON HOLD,

STAYING THEM, MANY FOR OVER-(5) YEARS TO ALLOW THEM TO
 GO ON A "FISHING EXPEDITION" IN SEARCH OF CASE LAW VAGUE
 AND AMBIGUOUS ENOUGH TO ALLOW THEM TO ENACT THEIR ACTS OF
 FRAUD AND MACHINATION. AFTER THIS EXHAUSTIVE SEARCH FOR 5
 PLUS YEARS CRIMINALLY HOLDING THESE INMATES CASES IN LIMBO,
 THEY FOUND COTTON AND PARKHURST, THAT WOULD PERMIT THEM TO
 CIRCUMVENT THE HOLDINGS MADE IN STIRONE, GAITHER AND RUSSELL VIA
 THIS FRAUDULENT "FISHING EXPEDITION," DUE TO THOSE TWO CASES
 BEING ADJUDICATED UNDER THE INCORRECT PRONG TO SUBJECT MATTER
 JURISDICTION, MITCHELL V. CONSECO LIFE INS., FSUPP 2d 2013 WL 2407129
 (DSC 2013); J & J SPORTS PRODUCTIONS INC. V. WOFFORD, 2014 WL 2980250
 (DSC 2014); UNITED STATES V. McDONALD, 444 Fed. Appx 710 CA 4 (Va. 2011);
GINDI V. STRATEGIC OUTSOURCING, INC., FSUPP 2d, 2012 WL 7761543
 (DSC 2012); STATE V. JONES, 364 SC 51, 610 S.E.2d 846 (SC App 2005).

THIS IS WHAT THE S.C. SUPREME COURT JUDGES SPECIFICALLY WANTED. THEY WANTED THESE SPECIFIC CASES TO PERMIT THEM TO PERPETRATE THE FRAUD AND MACHINATION WHICH IS WHY JUDGE PLECONES, HONORABLE SOUL THAT HE IS, JUMPED SHIP. HE KNEW WHAT THEY WERE DOING. THEY KNEW EX PARTE BAIN, U.S. V. COTTON AND PARKHURST WERE VAGUE AND AMBIGUOUS IN THAT THESE CASES FOUND VIA THE "FISHING EXPEDITION" NEVER ADDRESSED THE "[P]REREQUISITE DUE PROCESS ELEMENT, ASPECT OR REQUIREMENT OF THE INDICTMENT AND ADJUDICATED THIS CLEAR DUE PROCESS ISSUE UNDER THE INCORRECT PRONG TO SUBJECT MATTER JURISDICTION. U.S. V. COTTON USED "WORD PLAY", "VERBAL Voodoo", "WORD WINX" TO EVADE THE ESSENTIAL QUESTION RELATED SPECIFICALLY TO THE "[P]REREQUISITE" ASPECT AND REQUIREMENT OF THE INDICTMENT(S) AS IT RELATES TO JURISDICTION WHICH IS A DUE PROCESS CLAIM THAT VOIDS JURISDICTION FOR DUE PROCESS VIOLATION. PLEASE NOT THAT

NOTHING IN U.S. V. COTTON STATED THAT THEY WERE OVERRULING
STIRONE, GAITHER OR RUSSELL. WHY? ITS BECAUSE WE ARE DEALING
 WITH TWO SEPERATE AND INDEPENDENT QUESTIONS RELATED TO SUBJECT
 MATTER JURISDICTION, ESSENTIALLY TWO PRONGS. ONE BEING CERTAIN
 COURTS JURISDICTION ITSELF, THE SECOND BEING THE "[P]REREQUISITES"
 OR "[R]EQUISITES" THAT ARE ATTACHED TO THAT JURISDICTION WHICH IS
 A DUE PROCESS CLAIM WHICH VOIDS JURISDICTION FOR DUE PROCESS
 VIOLATION.

THE S.C. SUPREME COURT JUDGES, IN ACTS OF FRAUD UPON THE
 COURT, ONLY REVIEWED EX PARTE BAIN BECAUSE IT WAS VAGUE ON THE
 "[P]REREQUISITE" OR "[R]EQUISITE" DUE PROCESS ISSUE BY ITSELF, THEN
 ADDED COTTON AND PARKHURST BECAUSE THEY KNEW THESE CASES
 WERE ADJUDICATED IN THE SAME VEIN WHICH DID NOT ADDRESS THE
 PREREQUISITE JURISDICTIONAL DUE PROCESS REQUIREMENT WHICH WAS TO

BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT
 MATTER JURISDICTION; THEN CAME UP WITH STATE V. GENTRY IN
 ACTS OF FRAUD UPON THE COURT AND MACHINATION TO HALT THE
 PENDING INMATE EXODUS. CONSPIRING UNDER COLOR OF STATE LAW IN
 VIOLATION OF 42 USC §§ 1983, 1985(2), 1985(3), 1986; 18 USC §§
 241, 242 AND 1001 BY JUDICIAL ORDER OF STAY THEY HELD GENTRY
 AND THE MASSIVE NUMBER OF PENDING CASES IN LIMBO UNTIL (5)
 YEARS WHERE THEY WERE TIME BARRED FROM SEEKING REVIEW IN THE
 S.C. U.S. DISTRICT COURT. THE S.C. U.S. DISTRICT COURT JUDGES, CONSPIRING
 WITH THEM, WERE PRIVY TO THIS AND AIDED THE STATE CONSPIRING
 JUDGES: KNOWING FULLY WELL THE VAST NUMBER (5) OF THE INMATES
 WHOSE CASES WERE CRIMINALLY HELD IN LIMBO, MANY FOR OVER (5)
 YEARS, LACKED THE INTELLIGENCE TO ARGUE PAST THE SUCCESSIVE OR
 STATUTE OF LIMITATIONS PLACED UPON THEM VIA AEDPA AND PLRA

PROVISIONS, WARRANTING THE S.C. U.S. DISTRICT COURT AND 4TH
 CIRCUIT'S DISQUALIFICATION AND OR THAT SANCTIONS BE IMPOSED
 AND VENUE BE TRANSFERRED PURSUANT TO 28 USC § 1404. WE
 MOTION FOR SUCH.

SIMILAR ACTS WERE DONE WITH INTELLIGENCE TESTS DURING
 RECONSTRUCTION TO DENY MINORITIES THE RIGHT TO VOTE. "HOW MANY
 JELLY BEANS ARE IN THIS JAR?" "HOW DO YOU GET PAST SUCCESSIVE,
 OR THE STATUTE OF LIMITATIONS, AEDPA, AND PLRA PROVISIONS?" ITS
 A SIMILAR CRIMINAL ACT ARGUED IN EX PARTE VIRGINIA SUPRA., IN
 THEIR RACIAL BONDING. THIS PRODUCES MACHINATION AND FRAUD UPON
 THE COURT, ESTABLISHING OF MODERN DAY SLAVERY. BY THAT
 MACHINATION AND FRAUD BECAUSE THEY FORCE US TO WORK TO UP
 KEEP THESE INSTITUTIONS AND OTHER FORCED WORK WHILE IN
 CAPTIVITY; THE TAKING AWAY OF OUR RIGHT TO VOTE BY CONSPIRING

TO KEEP US LABELLED AS FELONS. IT BECOMES AN ILLEGAL SEIZURE
 IN VIOLATION OF THE 4TH AMENDMENT BY THIS MACHINATION AND
 FRAUD, AS WELL AS STAND IN VIOLATION OF THE HOLDINGS MADE IN
EX PARTE VIRGINIA, 100 U.S. 339, ALSO IN VIOLATION OF THE 5TH,
 6TH, 8TH, 13TH, 14TH, AND 15TH AMENDMENTS ALSO THE RICO ACT
 AND 18 USC § § 241, 242 AND 1001, SEE MOORE V. DEMPSEY SUPRA.;
THE AMISTAD SUPRA.; DIGITAL EQUIP. CORP. V. DESKTOP DIRECT INS.
SUPRA.; STATE V. MEANS, 367 S.C. 374, 626 S.E.2d 348 (S.C. 2006)
 (WHERE THEY APPLIED THIS CRIMINAL ACT RETROACTIVELY); SCREWS V.
UNITED STATES SUPRA.; UNITED STATES V. KOZMINSKI (1988) 487 U.S. 931,
 101 LEd 2d 788, 108 SCT 2751, 46 CCH E.P.D.9 38067 ON REMAND
 (1988 CA6 MICH) 852 F2d 1288; GREENWOOD V. PEACOCK (1966) 384 U.S.
 808, 16 LEd 2d 944, 86 SCT 1800; UNITED STATES V. RAMEY (1964 CA4
 W.Va.) 336 F2d 512 CERT. DENIED (1965) 379 U.S. 972, 13 LEd 2d

564, 85 SCT 649; UNITED STATES V. OTHERSON (1980) CA 9 CAL. 637
 F2d 1276 CERT. DENIED (1981) 454 U.S. 840, 70 LEd 2d 123, 102
 SCT 149; MEANS V. WILSON, CA 8 (SD) 1975, 522 F2d 833 CERT.
 DENIED 96 SCT 1436, 424 U.S. 958, 47 LEd 2d 364; BERG V.
OBAMA, Ed Pa 2008, 574 FSUPP.2d 509; UNITED STATES V. FIGUEROA
 CA 3 (N.J.) 2013, 729 F3d 267; EX PARTE VIRGINIA SUPRA.

THIS IS NOT A SITUATION WHERE THE STATE COURT SIMPLY
 HELD A VIEW DIFFERENT FROM ITS OWN, WHEN THE PRECEDENT FROM
 THE U.S. SUPREME COURT IS, AT BEST AMBIGUOUS. THEY CRIMINALLY
 CONSPIRING UNDER COLOR OF STATE LAW HELD ALL PENDING CASES MOST
 FOR (5) YEARS OR OVER WHILE THEY AND THE ATTORNEY GENERAL PURPOSELY,
 MALICIOUSLY, CRIMINALLY WENT ON A "FISHING EXPEDITION" IN SEARCH FOR
 A VAGUE, AMBIGUOUS U.S. SUPREME COURT CASE TO ALLOW THEM TO ENGAGE
 IN MACHINATION AND ACTS OF FRAUD UPON THE COURT WHEN THERE WERE

OTHER CLEARLY ESTABLISHED U.S. SUPREME COURT CASES THAT GAVE
 GREATER CLARITY AND THAT WERE NOT AMBIGUOUS TO DEFRAUD U.S. SO
 USING THE HOLDINGS MADE IN CASES LIKE GREEN V. FISHER, 132 SCT
 38, 43 (2011) WOULD BE MISPLACED DUE TO THE CRIMINAL AND FRAUDULENT
 INTENT THAT CONSPICUOUSLY EXIST, BARLOW V. COLGATE PALMOLIVE CO., 772
 F3d 1001, 90 FED. R. SERV. 3d 85 (md 2014).

PERHAPS THE COURT(S) OF SOUTH CAROLINA WOULD FURTHER
 CONTEND THAT SUBJECT MATTER JURISDICTION, AND THE SUFFICIENCY OF
 AN INDICTMENT ARE, AND HAVE BEEN COMBINED IN THE VARIOUS CITED
 CASES, THAT THE INDICTMENT IS MERELY A "NOTICE DOCUMENT" AND THAT
 SUBJECT MATTER JURISDICTION IS THE COURT'S "[P]OWER" TO HEAR AND
 DETERMINE A MATTER, AND EACH SHOULD BE VIEWED AS SEPERATE AND
 DISTINCT FROM ONE ANOTHER AND THE INSUFFICIENCY OF AN INDICTMENT
 DOES "[N]OT" TAKE AWAY FROM OR "[A]FFECT" AND OR "[H]INDER" A

"[C]RIMINAL" COURT'S "[P]OWER" AND OR "[A]BILITY" TO HEAR THIS
 GENERAL CLASS OF CASE, TO WHICH THE PROCEEDINGS IN QUESTION
 BELONG, STATE V. GENTRY, 363 S.C. 93, 610 S.E. 2d 494, 495 (SC 2005)
 CITING UNITED STATES V. COTTON, 535 U.S. 625, 122 SCT 1781, 152
 LED 2d 860 (2002); STATE V. PARKHURST, 845 S.W. 2d 31 (MO. 1992).
 THE COURT(S) HAS MISINTERPRETED ITS CITINGS AND ARE IN ERROR,
 AND THEY HAVE ABUSED THEIR DISCRETIONARY "[P]OWERS" IN THEIR
 DETERMINATION OF THIS MATTER AND THEY DID THIS ON PURPOSE IN ACTS
 OF MACHINATION AND FRAUD UPON THE COURT IN VIOLATION OF ROSS V.
BLAKE, 136 SCT 1850 (2016). AN ABUSE OF DISCRETION OCCURS WHEN
 THE COURT(S) ARE CONTROLLED BY AN ERROR OF LAW, OR WHEN THE
 ORDER BASED UPON FINDINGS OF FACT IS WITHOUT EVIDENTIARY SUPPORT OR
 FACT. THE ERROR OF LAW THAT THEY ARE CONTROLLED BY IS THERE ARE
 TWO CONCEPTS IN QUESTION. THE COURTS POWERS OF JURISDICTION GIVEN TO

THEM BY STATE LEGISLATIVE STATUTE AND OR CONGRESSIONAL INTENT.

SECONDLY, THE DUE PROCESS PREREQUISITES AND REQUISITES THAT ARE ATTACHED TO THAT JURISDICTION WHICH WERE NEVER PROPERLY ADDRESSED AND WHICH ARE REQUIRED TO BE ADDRESSED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, SHARPES V. SHARPES, 535 S.E.2d 913, 342 S.C. 71 (2000).

THE STATE OF SOUTH CAROLINA, BY THIS LUDICROUS PIECE AND ADJUDICATION OF LAW, IN AN EGREGIOUS ABUSE OF DISCRETIONARY "[P]OWER," ACTING ARBITRARILY, UNJUSTLY, UNDER COLOR OF "STATE LAW", IN DEFIANCE TO FUNDAMENTAL FAIRNESS AND JUDICIAL INTEGRITY, IN VIOLATION OF THE APPLICANT'S FEDERAL CONSTITUTIONAL RIGHTS OF DUE PROCESS, ALSO IN VIOLATION OF 18 USC §§ 241, 242, 1001 HAS EITHER ALTERED, AMENDED, MODIFIED, AND OR DELETED, AND OR DIMINISHED AND OR ERADICATED, JUST ABOUT EVERY SINGLE RIGHT AND PRIVILEGE SECURED AND PROTECTED

BY THE 4TH, 5TH, 6TH, 13TH, 14TH, 15TH AMENDMENTS OF THE U.S.
 CONSTITUTION, AS WELL AS THE SOUTH CAROLINA CONSTITUTION, AS IT
 PERTAINS TO THE "[P]REREQUISITE" DUE PROCESS REQUIREMENT AND USE
 OF AN INDICTMENT IN CRIMINAL PROCEEDINGS, IN BLATANT DEFIANCE TO THE
 APPELLANT(S) RIGHTS TO EQUAL PROTECTION OF THE LAWS, PRODUCING
 MACHINATION, FRAUD UPON THE COURT, ESTABLISHING MODERN DAY
 SLAVERY AND A CONSPIRACY TO BRAND AND DISENFRANCHISE AFRICAN
 AMERICANS AND OTHER MINORITIES WHO ARE DISPROPORTIONATELY EFFECTED
 AS FELONS TO DENY THEM THE RIGHT TO VOTE, SEE EX PARTE VIRGINIA
SUPRA.; SCREWS V. UNITED STATES SUPRA.; STATE V. MIDDLETON SUPRA.;
ESLINGER V. THOMPSON SUPRA.; MC LAUGHLIN V. FLORIDA SUPRA.; DUBINKA
V. JUDGES OF SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES SUPRA.; JONES V. STATE OF ARKANSAS SUPRA.;
DOZIER V. LOOP COLLEGE, CITY OF CHICAGO SUPRA.; HICKS V. OKLAHOMA

SUPRA.; LUGAR V. EDMONDSON OIL CO. SUPRA.; WILLIAMS V. UNITED STATES
SUPRA.; BROWN V. UNITED STATES SUPRA.; UNITED STATES V. RAMEY SUPRA.;
UNITED STATES V. KOZMINSKI SUPRA.; GREENWOOD V. PEACOCK SUPRA.; UNITED
STATES V. OTHERSON SUPRA..

INSOMUCH, THE 5TH AMENDMENT INDICTMENT CLAUSE HAS
 NOT BEEN HELD APPLICABLE TO THE STATES, OR THE FEDERAL CONCEPT
 OF A GRAND JURY BINDING ON THE FEDERAL COURTS UNDER THE 5TH
 AMENDMENT ARE OBLIGATORY TO THE STATES. NEVERTHELESS, BY THEIR
 OWN STATE(S) CONSTITUTION(S), THE STATE OF SOUTH CAROLINA, NEW
 JERSEY, KENTUCKY, GEORGIA, NEW YORK AND POTENTIALLY (28) OTHER
 STATES ADOPTED THE FEDERAL PROVISIONS, REQUIREMENTS, DUE PROCESS
 "[P]REREQUISITES" AND OR "[R]EQUISITES," STANDARDS AND MANDATES
 PERTAINING TO THE USE OF AN INDICTMENT, AND THE REMAINING (17)
 STATES THAT MAKE USE OF A COMPLAINT DOCUMENT POSSESS THE

STRUCTURAL ERROR ARGUED WHERE THE GRAND JURY BY THE
 LANGUAGE PRESENTED, ADJUDICATED GUILT OF THE OFFENSES AS WELL.
 INFURTHER RESOLVING THE CONFLICT, THE FEDERAL COURTS HAVE HELD
 BY THE "BILL OF RIGHTS", MANY RIGHTS GUARANTEED BY THE FIRST (8)
 AMENDMENTS OF THE UNITED STATES CONSTITUTION, HAVE BEEN
 MADE APPLICABLE TO THE SEVERAL STATES THROUGH THE DUE PROCESS
 CLAUSE OF THE 14TH AMENDMENT AND SUPREMACY CLAUSE OF ART. 6 CL. 2
 OF THE U.S. CONSTITUTION, STATE V. WALLS, 465 S.E. 2d 359; HENRY V.
CITY OF ROCK HILL, 376 U.S. 776, 84 SCT 1042, 12 LED 2d 79 (1964);
 ALSO SEE SOUTH CAROLINA CONSTITUTION ART. 1 § 11; EX PARTE BAIN, 121
 U.S. 1 (1887); COSTELLO V. UNITED STATES, 350 U.S. 359; RUSSELL V.
UNITED STATES, 369 U.S. 749, 82 SCT 1038 (1962); WOODS V. GEORGIA,
 370 U.S. 375, 82 SCT 1364, 8 LED 2d 569 (1962); FRISBEE V. UNITED
STATES, 157 U.S. 160, 155 SCT 586, 39 LED 652 (1895); HALE V. HENKEL,

201 U.S. 43, 26 SCT 370, 50 LED 652 (1906); DUNCAN V. LOUISIANA, 391 U.S. 145, 88 SCT 1444, 20 LED 2d 491 (1968); HURTADO V. CALIFORNIA, 110 U.S. 516, 538, 4 SCT 111, 122, 28 LED 232 (1884); POWELL V. STATE OF ALABAMA, 287 U.S. 45, 67, 53 SCT 55, 63, 77 LED 682 (1948); GIDEON V. WAINWRIGHT, 372 U.S. 335, 342-344, 83 SCT 792, 796, 4 LED 2d 799 (1963).

YES, THE INDICTMENT IS A "NOTICE DOCUMENT," BUT BEING A "NOTICE DOCUMENT" IS ONLY ONE OF THE MANY PURPOSES AND "FUNCTIONS" THE INDICTMENT WAS CREATED FOR. THE HONORABLE JUDGE PLECONES IN THE GENTRY COURT, WAS THE ONLY ONE WITH ENOUGH JUDICIAL INTEGRITY AND INSIGHT TO SEE CLEAR TO THE TRUTH OF THIS MATTER IN PART AND DID NOT AGREE TO THIS MACHINATION AND FRAUD.

YES, SUBJECT MATTER JURISDICTION IS THE "[P]OWER" TO HEAR AND DETERMINE CASES OF A GENERAL CLASS TO WHICH THE PROCEEDINGS

IN QUESTION BELONG, BELL V. MONSANTO CORP., 579 S.E. 2d 325 SC 553 (SC 2003). INSOMUCH, THE COURT'S "[P]OWER" TO HEAR AND DETERMINE A CASE, IS ALSO DEFINED AS THE COURT'S "[A]BILITY" TO HEAR AND DETERMINE A CASE. INASMUCH, SUBJECT MATTER JURISDICTION DOES NOT ONLY COVER AND OR INVOLVE WHETHER OR NOT A MATTER RESIDES IN A PROPER COURT OF JURISDICTION TO HEAR AND DETERMINE IT. THIS IS THE FIRST PRONG TO SUBJECT MATTER JURISDICTION. IT ALSO INVOLVES ANY ISSUE THAT MAY "[A]FFECT" AND OR "[H]INDER" THAT "[P]OWER" AND OR "[A]BILITY" TO ACT IN ACCORDANCE TO RULES OF COURT, RULES OF PROCEDURE AND DUE PROCESS LAW. THIS IS THE SECOND PRONG WHICH VOIDS JURISDICTION FOR DUE PROCESS VIOLATION. SUCH MATTERS CAN BE RAISED AT "[A]NY" TIME, "[C]ANNOT" BE WAIVED BY THE DEFENDANT, AND THE COURT "[S]HALL [N]OT" FAIL TO TAKE NOTICE, MATHIS V. STATE SUPRA.; BROWN V. STATE SUPRA.; STATE V. MUNN

SUPRA.; BROWNING V. STATE SUPRA.; U.S. V. 41,320 U.S. CURRENCY, 9

F SUPP 3d 582, 2014 WL 1266240; HUNT V. U.S. F SUPP 2d, 2007 WL 5131716 (DSC 2007).

SUBJECT TO CERTAIN MINOR EXCEPTIONS NOT PRESENT, THE
 TRIAL COURT(S) JURISDICTION IS MADE VOID AND OR THEY ARE
 PROHIBITED FROM ENACTING, AND OR INVOKING AND OR CONTINUING
 ITS SUBJECT MATTER JURISDICTIONARY "[P]OWERS" TO CONVICT A
 DEFENDANT FOR DUE PROCESS VIOLATIONS, EVEN THOUGH THEY HAVE
 JURISDICTION BY STATE LEGISLATIVE STATUTE OR CONGRESSIONAL INTENT,
 WHEN THERE IS NO INDICTMENT CHARGING HIM WITH THAT OFFENSE
 WHEN THE JURY IS SWORN, OR WHEN HE GIVES HIS GUILTY PLEA, AND
 WE CAN ADD, OR WHEN HE HAS ALREADY BEEN UNJUSTLY, ARBITRARILY
 CONVICTED BY THE GRAND JURY, ILLEGALLY ACTING AS THE TRIAL JURY,
 BEING DULY SWORN AND SWEARING UPON THEIR OATH THE APPELLANT(S)

GUILT, PREDETERMINING IN ADVANCE THE OUTCOME OF THE PROCEEDINGS,
 IN VIOLATION OF THEIR SHIELDING FUNCTION, ALSO IN VIOLATION OF
 THE APPELLANT(S) RIGHT TO DOUBLE JEOPARDY PROTECTION AND DUE
 PROCESS LAW, ESTABLISHING FRAUD UPON THE COURT AND MODERN DAY
 SLAVERY, TAKING AWAY OUR RIGHT TO VOTE IN VIOLATION OF THE
 HOLDINGS MADE IN EX PARTE VIRGINIA SUPRA. ALSO SEE STATE V.
LEWIS SUPRA; STATE V. EASLER SUPRA; MOORE V. DEMPSEY SUPRA;
THE AMISTAD SUPRA; UNITED STATES V. UMANA SUPRA; UNITED STATES
V. DINKINS SUPRA; DICKERSON V. WARDEN OF LIEBER C.I. SUPRA; JAMES
V. REYNOLDS SUPRA; SULLIVAN V. CARTLEDGE SUPRA; CLARK V. ARIZONA
SUPRA; DECK V. MISSOURI SUPRA; SKILLING V. UNITED STATES SUPRA;
STATE V. BEACHUM, 288 S.C. 325, 324 S.E.2d 572 (1986); WHITE V.
MANIS, 2014 WL 1513280 (DSC 2014); U.S. V. ALADEKCHA, 2010 WL
 4054267 (DC Md. 2010); BROWN V. U.S., 2014 WL 2871398 (DSC 2014).

THE GENTRY COURT MISINTERPRETING ITS CITINGS ARE IN ERROR IN THEIR DETERMINATION OF THIS MATTER IN ACTS OF FRAUD UPON THE COURT. WHAT GIVES THE COURT IN "[C]RIMINAL" CASES AND OR PROCEEDINGS THE "[A]BILITY" TO HEAR AND DETERMINE CASES OF "[T]HIS" GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG, AND ALLOW IT TO ENACT AND OR INVOKE AND OR CONTINUE ITS SUBJECT MATTER JURISDICTIONARY "[P]OWERS" IN THESE TYPE OF CASES, PLACING THESE "[P]OWERS" IN OPERATION IS "AN INDICTMENT."

S.C.R.C.P., RULE 3(c) PROVIDES: "DISPOSITION ON ARREST WARRANT(s); THE SOLICITOR SHALL TAKE ACTION ON THE WARRANT(s) WITHIN (90) DAYS BY PREPARING "AN INDICTMENT" FOR PRESENTMENT TO THE GRAND JURY." IN TURN SAID INDICTMENT IS TO BE PASSED ON TO THE TRIAL COURT TO ALLOW IT TO ENACT AND OR INVOKE AND OR CONTINUE ITS "[P]OWERS" OF SUBJECT MATTER JURISDICTION, SHARPE V.

JOHNSON, 107 F3d 282 (FOOTNOTES) (5TH CIR. 1997); SANTOS V. STATE, 843 S.W. 2d 953, 956 (TEX. APP. 1992); STUDER V. STATE, 799 S.W. 2d 263 (TEX. APP. 1990); WILLIAMS V. MORRIS, 320 SC 196, 464 S.E. 2d 97 (1995).

THE INDICTMENT IS ALSO THE LEGAL DOCUMENT THAT CONFIRMS THE "[C]RIMINAL" COURT'S "[P]OWER" AND OR "[A]BILITY" TO HEAR THE PARTICULAR CASE, BY STATING AND DOCUMENTING THE CLASS OF CASE, OR ALLEGED OFFENSE, AND THE STATUTE OF THE OFFENSE CHARGED, STATING THE OFFENSE IN THE LANGUAGE OF THE STATUTE, FURTHER VALIDATING THAT THE MATTER(S) RESIDE IN THE PROPER COURT OF JURISDICTION TO HEAR AND DETERMINE THE MATTER. THESE INDISPUTABLE FACTS MAKE THE INDICTMENT MORE THAN MERELY A "NOTICE DOCUMENT." IT IS THE VEHICLE IN "[C]RIMINAL" CASES AND OR PROCEEDINGS WHICH INVEST AND OR ATTACH TO THE "[C]RIMINAL" COURT THE DUE PROCESS MECHANISMS AND RIGHT TO ACT,

AND OR CONFIRMS THAT RIGHT TO ACT; THEREBY MAKING THEM
 INTER-LINKED, INTER-LOCKED, AND INTER-DEPENDENT UPON THE VIABILITY
 OF EACH OTHER. TO DETERMINE THAT WITHOUT THE INDICTMENT(S) IT DOES
 "[N]OT" "[A]FFECT" AND OR "[H]INDER" A "[C]RIMINAL" COURT'S "[P]OWER"
 AND OR "[A]BILITY" TO HEAR AND DETERMINE CASES OF "[T]HIS"
 GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG, IS
 AN ERROR OF LAW, AND IS LIKE STATING NOT HAVING A SOUL,
 CONSCIOUSNESS, OR LIFEFORCE, DO "[N]OT" "[A]FFECT" AND OR "[H]INDER"
 A MAN'S "[P]OWER" AND OR "[A]BILITY" TO BE A MAN. WITHOUT A
 SOUL OR LIFEFORCE, BY THE LAWS OF REASON YOU WILL STILL HAVE A
 "MAN", BUT THE TOTAL TRUTH OF THE MATTER IS THAT YOU WILL HAVE
 A "[D]EAD MAN", WHOSE WORTH TO SOCIETY IS USELESS; THE SAME WAY
 THE "CRIMINAL" COURT'S "[P]OWER" AND OR "[A]BILITY" TO HEAR AND
 DETERMINE "[T]HIS" PARTICULAR CLASS OF CASE IS USELESS WITHOUT THE

ESSENTIALLY NEEDED VEHICLE IN THE FORM OF THE INDICTMENT(S). THE SUFFICIENCY OF AN INDICTMENT IS A "[J]URISDICTIONAL [P]REREQUISITE" IN CASES OF "[T]HIS" GENERAL CLASS, TO WHICH THE PROCEEDINGS IN QUESTION BELONG, AND FOR WHICH AN INDICTMENT IS NEEDED AND OR REQUIRED EVEN THOUGH THE COURT DOES INDEED HAVE JURISDICTION BY STATE LEGISLATIVE STATUTE AND OR CONGRESSIONAL INTENT, SEE INDICTMENT SUFFICIENCY, 70 COLUMN L. REV. 876, 888 (1970); UNITED STATES V. ABRAMS, 539 FSUPP. 378, 384 (SDNY. 1982); STIRONE V. UNITED STATES, 361 U.S. 212 (1960); GAITHER V. UNITED STATES, 413 F2d 1061 (DC CIR. 1969); ALSO SEE SOUTH CAROLINA CONSTITUTION ART. 1 § 11.

THE GENTRY COURT, BY ITS MISINTERPRETING ITS CITINGS CHANGED FEDERAL LAW MADE APPLICABLE TO THE STATE(S) BY THEY ADOPTING SUCH VIA THEIR OWN STATE(S) CONSTITUTION(S) STANDING UNCHALLENGED FOR WELL OVER 100 YEARS. FOR THE GENTRY COURT BY

IT MISINTERPRETING OF ITS CITINGS, IN ACTS OF MACHINATION AND
 FRAUD UPON THE COURT, TO VIEW THE TWO CONCEPTS OF SUBJECT MATTER
 JURISDICTION AND THE SUFFICIENCY OF AN INDICTMENT AS BEING COMBINED,
 WHEN FEDERAL LAW ADOPTED BY THEIR OWN STATE(S) CONSTITUTION(S) DICTATE
 THAT THE SUFFICIENCY OF AN INDICTMENT IS A "[J]URISDICTIONAL
 [P]REREQUISITE" TO SUBJECT MATTER JURISDICTION IN A "[C]RIMINAL"
 COURT, WHICH IS A DUE PROCESS CLAIM, IS AN ERROR OF LAW. NOTHING
 IN U.S. V. COTTON OR STATE V. PARKHURST ADDRESSED AND OR
 ADJUDICATED THE [P]REREQUISITE DUE PROCESS ASPECT OF THE INDICTMENT.
 NOR DID ANYTHING IN THOSE CASES SAY THAT ABRAMS, STIRONE, RUSSELL
 AND GAITHER ARE OVERRULED. IF THEY ARE NOT OFFICIALLY OVERRULED BY
 THE U.S. SUPREME COURT THEN THE "[P]REREQUISITE" DUE PROCESS ASPECT
 OF THE INDICTMENT IS STILL CONTROLLING LAW. THE ABRAMS, STIRONE,
RUSSELL AND GAITHER COURT(S) INTENT SHOULD BE ASCERTAINED FROM THE

PLAIN LANGUAGE OF THESE CITINGS OF LAW AS IS ADJUDICATED BY
THOSE COURTS. THE LANGUAGE MUST READ IN A SENSE THAT HARMONIZES
WITH ITS GENERAL PURPOSE. ONCE THESE PRECEDENT SETTING COURT(S)
HAVE MADE A CHOICE, THERE WAS NO ROOM FOR THE GENTRY COURT
TO IMPOSE A DIFFERENT MEANING OR JUDGMENT BASED UPON THEIR OWN
MISGUIDED NOTIONS. IF THE PROVISIONS OF LAW LANGUAGE IS CLEAR, THERE
WAS NO NEED TO EMPLOY THE RULES OF STATUTORY AND OR COMMON LAW
CONSTRUCTION, AND THE GENTRY COURT HAD NO RIGHT TO GO ON A "FISHING
EXPEDITION" HOLDING THOSE CASES IN LIMBO FOR (5) YEARS TO FORCE THE
INMATES PAST THE STATUTE OF LIMITATIONS TO PREVENT REVIEW IN ANOTHER
HIGHER COURT TO WHICH THEY WERE VOID OF ALL JURISDICTION IN ACTS OF
MACHINATION AND FRAUD UPON THE COURT ALSO DUE TO THEY IMPOSING
ANOTHER MEANING TO THIS PRESCRIBED LAW, IT BECOMES AN ADMINISTRATIVE
FUNCTION AND FOR THESE REASONS IT STRIPS THEM OF IMMUNITY. ACTIONS

SUCH AS THESE WERE AT THE HEART OF THE MATTERS ADDRESSED IN
EX PARTE VIRGINIA IN 1880. WHERE THE LANGUAGE OF THE AFOREMENTIONED
 CITINGS OF LAW ARE CLEAR AND EXPLICIT AT THE TIME THEY RULED,
 THE GENTRY COURT "[C]ANNOT" GO ON A "FISHING EXPEDITION" TO
 PURPOSELY SEARCH FOR AN AMBIGUOUS, VAGUE PROVISION OF LAW THAT
 DID NOT ADDRESS THE "[J]URISDICTIONAL [P]REREQUISITE" DUE PROCESS
 ASPECT AND REQUIREMENT OF THE INDICTMENT TO CRIMINALLY, IN ACTS OF
 MACHINATION AND FRAUD UPON THE COURT, REWRITE THE PROVISIONS OF LAW
 AND INTERJECT MATTERS INTO THE HOLDINGS WHICH ARE NOT IN THE
 LANGUAGE FOUND IN RUSSELL, STIRONE, ABRAMS AND GAITHER. UNDER THE
 PLAIN MEANING RULE, IT IS NOT THE GENTRY COURT'S PLACE TO CHANGE
 THE MEANING OF A CLEAR AND UNAMBIGUOUS PROVISION OF LAW BY A CITING
 OF LAW THAT IS AMBIGUOUS AND VAGUE. THE LAW CLEARLY STATES THAT
 THE TWO CONCEPTS ARE NOT COMBINED, BUT ONE IS A "[P]REREQUISITE" OF

THE OTHER WHICH MUST BE ADJUDICATED UNDER THE DUE PROCESS
 PRONG TO SUBJECT MATTER JURISDICTION. THE LAW CLEARLY STATES
 THAT YES, THE COURTS HAVE JURISDICTION, BUT WITH THAT JURISDICTION
 THERE ARE [J]URISDICTIONAL [P]REREQUISITES AND [J]URISDICTIONAL
 [R]EQUISITES THAT MUST BE ADHERED TO RELATED TO DUE PROCESS WHICH
 VOIDS JURISDICTION FOR LACK OF COMPLIANCE. IF THESE CONCEPTS ARE TO
 BE VIABLE AND OPERATE IN THE FULLNESS AND PURPOSE FOR WHICH THEY
 WERE ESTABLISHED AND CREATED THEY ARE NOT TO BE VIEWED AND OR
 SEPERATED IN THE MANNER REASONED BY THE GENTRY COURT MISINTERPRETING
 THE HOLDINGS MADE IN THE COTTON, PARKHURST COURTS, MITCHELL V. CONSECO
LIFE INS. SUPRA.; J¹ J SPORTS PRODUCTIONS INC. V. WOFFORD SUPRA.; UNITED
STATES V. MCDONALD SUPRA.; GINDI V. STRATEGIC OUTSOURCING, INC. SUPRA.;
STATE V. JONES SUPRA.; BASS V. ISOCHEM, 617 S.E.2d 369 (SC APP 2005);
STATE V. BRANNON, 666 S.E.2d 272 (SC APP 2008); STATE V. PITTMAN,

647 S.E.2d 144 (SC 2007); LIBERTY MUT. INS. V. S.C. SECOND INJURY
FUND, 611 S.E.2d 297 (SC App 2005).

FURTHER, THE INDICTMENT(S) SERVE AS A "[S]AFEGUARD" TO
PROTECT THE AMERICAN CITIZENRY, ALL THOSE WHO ARE HELD BY US,
AND THOSE WHO ENTER OUR BORDERS OR TERRITORIES, FROM VIOLATIONS
OF THEIR INALIENABLE CONSTITUTIONAL RIGHTS. RULE 7(C) REQUIRES THAT
THE INDICTMENT(S) CONTAIN A "[P]LAIN," "[C]ONCISE," AND "[D]EFINITE"
WRITTEN STATEMENT OF ESSENTIAL ELEMENTS AND OR ALLEGATIONS
CONSTITUTING THE OFFENSE CHARGED. THIS REQUIREMENT PERFORMS THREE
CONSTITUTIONALLY REQUIRED FUNCTIONS. IT FULFILLS THE 6TH AMENDMENT
RIGHT TO BE INFORMED AS TO THE "[C]AUSE AND [N]ATURE" OF THE
ACCUSATION (NOTICE DOCUMENT); YET, MORE THAN THIS, IT PREVENTS
A PERSON FROM BEING SUBJECT TO DOUBLE JEOPARDY AS REQUIRED BY
THE 5TH AMENDMENT. IT ALSO SERVES THE 5TH AMENDMENT PROTECTION

AGAINST CRIMES BASED UPON EVIDENCE NOT PRESENTED TO THE GRAND JURY, STATE V. LEWIS SUPRA.; STATE V. EASLER SUPRA.; UNITED STATES V. SILVERMAN, 30 F2d 106, 110 (2nd CIR.) LISTING THESE FUNCTIONS MODIFIED 439 F2d 198 (2nd CIR. 1970) CERT. DENIED 402 U.S. 953, 91 SCT 1619, 29 LEd 2d 123 (1971). THE INDICTMENT CLAUSE OF THE 5TH AMENDMENT REQUIRES THAT THE INDICTMENT(S) CONTAIN SOME AMOUNT OF FACTUAL PARTICULARITY, TO ENSURE THAT THE PROSECUTION WILL NOT FILL IN ELEMENT(S) OF ITS CASE WITH OTHER THAN THOSE CONSIDERED BY THE GRAND JURY, UNITED STATES V. ABRAMS SUPRA.

THE JUDGES IN STATE V. GENTRY SUPRA.; UNITED STATES V. COTTON SUPRA.; AND STATE V. PARKHURST SUPRA IN THEIR DETERMINATION, IT IS PERSPICUOUS THAT THEY HAVE "[N]OT" GIVEN "[F]ULL WEIGHT TO THE TOTAL REQUIREMENTS AND PURPOSE OF S.C. CODE ANN § 17-19-10, SC CODE ANN § 17-19-20 AND SC CODE ANN § 17-19-30 OR THE "[J]URISDICTIONAL

[P] REREQUISITE " DUE PROCESS ASPECT AND REQUIREMENT OF THE INDICTMENT. IT IS FOR THE REASONS AFOREMENTIONED, IN RELEVANT PART, AND FEDERAL RULES OF CRIMINAL PROCEDURE, RULE 7(c), THAT THE REQUIREMENTS OF THE MENTIONED STATUTES ARE IN EFFECT, TO ENSURE THAT THE INDICTMENT(S) COMPLY WITH FEDERAL AND STATE RULES OF CRIMINAL PROCEDURE, THE U.S. CONSTITUTION, THE S.C. CONSTITUTION, AND THE LAWS OF DUE PROCESS, WHICH MAKE THEM MORE THAN MERELY A "NOTICE DOCUMENT."

IN ADDITION TO THIS THE INDICTMENT(S) AID IN INSTRUCTING THE JURY OF THE CIRCUMSTANCES OF THE CRIME, AND THE INCIDENTALS, AS WELL AS THE ELEMENTS OF THE OFFENSE, THAT THEY ARE TO CONFIRM, OR REJECT THE CONFIRMATION OF, BY THE PREPONDERANCE OF EVIDENCE PRESENTED BEFORE THEM BY THE PROSECUTION AND OR DEFENSE IN REACHING A VERDICT. THIS TOO, MAKES THEM MORE THAN MERELY

A "NOTICE DOCUMENT," UNITED STATES V. ABRAMS SUPRA.; UNITED STATES V. SILVERMAN SUPRA. THIS REQUIREMENT THAT THE OFFENSE BE STATED *** SPECIFYING IN DETAIL EACH ELEMENT OF THE CRIME WAS SEEN AS PROVIDING ASSURANCE THAT BOTH THE GRAND JURY UNDERSTOOD WHAT WAS NECESSARY TO ESTABLISH THE OFFENSE, NOT CONVICT, AND THAT THE TRIAL JURY DID NOT ENGAGE IN UNANTICIPATED EXTENSIONS OF THE SUBSTANCE OF THE OFFENSE, WHICH IS ALSO A CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) AND DUE PROCESS CLAIM.

LASTLY, THE REQUIREMENT OF THE INDICTMENT(S) LIMIT AND CONSTRAIN THE "[P]OWERS" OF SUBJECT MATTER JURISDICTION OF BOTH THE PROSECUTION AND THE COURT, BY LIMITING WHAT CAN BE PRESENTED AT TRIAL, CONVICTION AND SENTENCING. THIS TOO, IS POTENTIALLY A CONSTRUCTIVE AMENDMENT OF THE INDICTMENT(S) AND DUE PROCESS CLAIM, UNITED STATES V. PROMISE, 255 F3d 150 (4TH CIR. 2001); STATE V. GUTHRIE,

352 S.C. 103, 572 S.E.2d 319. IT IS THE COMMAND OF THE U.S.

CONSTITUTION THAT ANYTHING TO THE CONTRARY IS NOT WITHSTANDING

(ARTICLE IV § 2 U.S. CONST.),

THE APPELLANT(S) PLACES FORTH THIS ISSUE IN A STRAIGHT
FORWARD FASHION AND WANTS TO MAKE CERTAIN THAT THERE IS NO
MISUNDERSTANDING AS TO THE SPECIFIC CLAIM(S) AND OR QUESTION THAT
IS PLACED BEFORE THE COURT. THE APPLICANT IS NOT ARGUING WHETHER
THE CRIMINAL COURT HAS SUBJECT MATTER JURISDICTION TO HEAR AND
DETERMINE CASES OF "[T]HIS" GENERAL CLASS TO WHICH THE PROCEEDINGS
IN QUESTION BELONG. THE APPELLANT(S) CONCEDES THIS FACT. THE
APPELLANT(S) IN THIS CONTEXT AGREES WITH ALL (3) GENTRY, COTTON
AND PARKHURST COURT(S) WHEN THEY DETERMINED THAT THE CRIMINAL
COURT DOES HAVE SUBJECT MATTER JURISDICTION TO HEAR CASES OF
THIS GENERAL CLASS AND OR NATURE VIA STATE LEGISLATIVE STATUTE

OR CONGRESSIONAL INTENT. THIS IS NOT THE ISSUE. WHAT THE APPELLANT(S) IS INDISPUTABLY ARGUING IS A QUESTION WHICH CLEARLY WAS NOT ANSWERED BY EITHER THE GENTRY, COTTON OR PARKHURST COURT(S) IS THIS. DESPITE THE FACT THAT THE CRIMINAL COURT DOES HAVE SUBJECT MATTER JURISDICTION TO HEAR CASES OF "[T]HIS" GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG. DO THEIR EGREGIOUS, BLATANT FAILURE TO BE IN COMPLIANCE TO SAID CERTAIN, ESSENTIAL, CRUCIAL DUE PROCESS "[J]URISDICTIONAL [P]REREQUISITES" AND OR "[J]URISDICTIONAL [R]EQUISITES" AT VARIOUS PHASES OF, AND OR AT THE COMMENCEMENT OF THE SUBJECT MATTER JURISDICTIONARY ACTION AND OR PROCESS BEFORE THE COURT, WHICH MUST BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. DO THE STATE AND OR FEDERAL GOVERNMENT AND OR COURTS' EGREGIOUS, BLATANT FAILURE TO BE IN COMPLIANCE TO THESE SAID

CERTAIN, ESSENTIAL, CRUCIAL DUE PROCESS "[J]URISDICTIONAL
 [P]REREQUISITES" AND OR "[J]URISDICTIONAL [R]EQUISITES" AT
 VARIOUS PHASES OF, AND OR AT THE COMMENCEMENT OF THE
 SUBJECT MATTER JURISDICTIONARY ACTION AND OR PROCESS, WHICH IS A
 DUE PROCESS ISSUE. DO THAT FAILURE HALT, CHECK, CONSTRAIN, RESTRAIN,
 LIMIT, ARREST, STOP OR VOID THE CONTINUANCE OF THE COURTS' SUBJECT
 MATTER JURISDICTIONARY "[P]OWERS" BEFORE THE COURT FOR DUE
 PROCESS VIOLATION, EVEN THOUGH THE COURT WITHOUT A DOUBT DO
 INDEED POSSESS SUCH "[P]OWER" VIA STATE LEGISLATIVE STATUTE AND
 OR CONGRESSIONAL INTENT SEE U.S. V. 41,320 U.S. CURRENCY SUPRA.;
HUNT V. UNITED STATES SUPRA.; WHITE V. MANIS SUPRA.; U.S. V. ALADEKCHA
SUPRA.; BROWN V. U.S. SUPRA.;

THIS IS A CRUCIALLY, MATERIALLY, DISTINCTLY DIFFERENT
 QUESTION RELATED TO SUBJECT MATTER JURISDICTION THAT WAS NEVER

ANSWERED BY ANY OF THE COURTS INVOLVED PURSUANT TO THE
GENTRY CASE. THIS IS WHY JUDGE PLECONES IN THE SOUTH CAROLINA
SUPREME COURT REFUSES TO BE A PART OF THE UNJUST, ARBITRARY
ACTS OF MACHINATION AND FRAUD WITHIN THE SC SUPREME COURT AND
CONSPIRING PARTIES HANDLING OF THE EZEKIAL HAYNES CASE. THUS
USING THE HOLDINGS MADE IN THE GENTRY COURT WOULD BE MISPLACED,
ESPECIALLY IN LIGHT OF THE FACT THAT IT HAS BEEN ADJUDICATED
UNDER A CLOUD OF FRAUD UPON THE COURT WHERE THEY WENT ON
A "FISHING EXPEDITION" TO FIND A VAGUE AND AMBIGUOUS CITING(S)
OF LAW THAT DID NOT ADDRESS THE JURISDICTIONAL PREREQUISITE
DUE PROCESS ASPECT OF THE INDICTMENT. SUCH A NEW QUESTION OF
LAW AND FACT IS NOT BARRED FROM SEEKING RELIEF FOR, DOES
RELATE TO SUBJECT MATTER JURISDICTION "[C]ANNOT" BE WAIVED BY
THE APPELLANT, AND THE COURT "[S]HALL [N]OT" FAIL TO TAKE NOTICE.

THIS IS A JURISDICTIONAL CHALLENGE TO BOTH STATE AND FEDERAL COURT(S) AS WELL. FOR IF THE STATE AND FEDERAL COURTS FAILED TO TAKE NOTICE. THEY WOULD BE CONSPIRING ALSO IN VIOLATION OF THE RICO ACT TO ESTABLISH MODERN DAY SLAVERY. THE STATE LEGISLATURE OR CONGRESS CONFERS NO POWER ON EITHER STATE OR FEDERAL COURTS TO ESTABLISH MODERN DAY SLAVERY. THE COURTS WOULD ALSO BE IN VIOLATION OF THE C.A.T. (CONVENTION AGAINST TORTURE) TREATY WHERE THIS DEFINITION OF SLAVERY IS FOUND. IT BECOMES THE JURISDICTIONAL DUTY OF BOTH THE STATE AND FEDERAL COURTS TO CORRECT THIS MISCARRIAGE OF JUSTICE. THE HIGHEST STATE COURT HAS HAD OPPORTUNITIES TO DEAL WITH THIS ISSUE INSTEAD CHOSE TO ENGAGE IN FRAUD. THE EXHAUSTION AND EQUITABLE TOLLING REQUIREMENTS BY THESE ACTS ARE SATISFIED, SEE THE AMISTAD SUARA; NEZIROVIC V. HOLT, 779 F3d 233 CA 4 (Va. 2015); UNITED STATES V.

KWAI FUN WONG, 135 SCT 1625, 191 LEd 2d 533, 83 USLW 4258

(48 2015).

INASMUCH, RULES OF CRIMINAL PROCEDURE, THE SUFFICIENCY OF AN INDICTMENT, SUBJECT MATTER JURISDICTION, AND DUE PROCESS LAW ARE INTER-LOCKED AND INTER-LINKED IN THESE MATTERS. YES, SUBJECT MATTER JURISDICTION AND THE SUFFICIENCY OF AN INDICTMENT ARE TWO DISTINCT CONCEPTS, BUT THE INDICTMENT(S) IN "[C]RIMINAL" CASES AND OR PLEADINGS IS THE DUE PROCESS REQUIRED VEHICLE UPON WHICH THE DUE PROCESS ASPECT OF SUBJECT MATTER JURISDICTION IS CONFERRED UPON THE "[C]RIMINAL" COURT, AND OR IS THAT WHICH ENABLES THE "[C]RIMINAL" COURT THE "[A]BILITY" AND OR "[P]OWER", AND OR RIGHT OR MEANS TO ENACT, AND OR INVOKE, AND OR CONTINUE ITS SUBJECT MATTER JURISDICTIONARY "[P]OWERS". IT IS NOT SO MUCH THAT THEY ARE COMBINED OR THAT THE COURT DOES NOT HAVE JURISDICTION TO HEAR THESE TYPE OF CASES VIA STATE LEGISLATIVE

STATUTE AND OR CONGRESSIONAL INTENT. THE SUFFICIENCY OF AN
 INDICTMENT IS A DUE PROCESS "[J]URISDICTIONAL [P]REREQUISITE" IN CASES
 OF "[T]HIS" GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION
 BELONG, AND FOR WHICH AN INDICTMENT IS NEEDED AND OR REQUIRED AS
 DUE PROCESS DEMANDS. ENGLISH 101 AND ENGLISH 102 ARE TWO SEPERATE
 AND DISTINCT ENGLISH COURSES, BUT "[B]OTH" MAKE UP ONE ENGLISH
 PROGRAM TOWARDS ONE SINGLE DEGREE. ENGLISH 101 IS A "[P]REREQUISITE"
 TO ENGLISH 102. YOU "[M]UST" HAVE AND OR TAKE ENGLISH 101 BEFORE
 YOU CAN HAVE AND OR TAKE ENGLISH 102. ITS A SIMPLE CONCEPT. ITS NOT
 HARD. YOU "[M]UST" HAVE AND OR TAKE A SUFFICIENT (EMPHASIS ADDED)
 INDICTMENT, PASSED UPON BY THE GRAND JURY, BEFORE YOU CAN ENACT AND
 OR INVOKE AND OR CONTINUE THE COURT'S SUBJECT MATTER JURISDICTIONARY
 "[P]OWERS" GIVEN TO A "[C]RIMINAL" COURT, EVEN THOUGH THAT COURT DOES
 INDEED POSSESS SUCH "[P]OWERS" VIA STATE LEGISLATIVE STATUTE OR

CONGRESSIONAL INTENT. TO VIEW THE TWO CONCEPTS OF SUBJECT MATTER JURISDICTION AND THE SUFFICIENCY OF AN INDICTMENT AS COMBINED, WHEN, FEDERAL LAW MADE APPLICABLE TO THE STATES THROUGH THE DUE PROCESS CLAUSE AND OR SOUTH CAROLINA, NEW JERSEY, KENTUCKY, GEORGIA, NEW YORK OR OTHER POTENTIALLY (28) RELEVANT STATE(S) CONSTITUTION(S), DICTATE THAT ONE IS A DUE PROCESS "[P]REREQUISITE" OF THE OTHER IS AN ERROR OF LAW AND FRAUD UPON THE COURT. TO DETERMINE THAT FAILURE TO BE IN COMPLIANCE TO DUE PROCESS JURISDICTIONAL PREREQUISITES OR JURISDICTIONAL REQUISITES DO NOT AFFECT THE COURT'S "[P]OWER" TO HEAR AND DETERMINE A CASE IS AN ERROR OF LAW AND FRAUD UPON THE COURT. THIS QUESTION WAS CIRCUMVENTED BY THE COURTS INVOLVED CONSPIRING UNDER COLOR OF STATE LAW AND MUST NOW BE ANSWERED IN FUNDAMENTAL FAIRNESS TO THE APPELLANT(S).

EVEN IF YOU SEPERATE THE TWO CONCEPTS AFOREMENTIONED FROM

ONE ANOTHER, THE "[E]FFECT" AND OR "[O]UTCOME" ON THE TRIAL
 COURT'S "[P]OWERS" OF SUBJECT MATTER JURISDICTION ARE THE SAME. DUE
 TO THE DEFICIENCY IN THE "[J]URISDICTIONAL [P]REREQUISITE" PURSUANT TO
 THE PRESENTMENT OF THE FATALLY DEFECTIVE INDICTMENTS, IT "[N]ULLIFIES,"
 "[V]OIDS" THE SUBJECT MATTER JURISDICTIONARY ACTION, WHICH MUST BE
 ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION,
 EVEN THOUGH THE "CRIMINAL" COURT DO INDEED POSSESS SUCH "[P]OWER."
 THEY ARE DISTINCT FROM ONE ANOTHER THE SAME WAY THE INNER-MAKINGS
 ARE DISTINCT FROM THE BREAD OF A "SANDWICH," BUT "[B]OTH" MAKE THE
 "SANDWICH." THEY ARE DISTINCT FROM ONE ANOTHER THE SAME WAY A MAN'S
 SOUL IS DISTINCT FROM HIS BODY, BUT "[B]OTH" MAKE THE MAN. THE
 "[C]RIMINAL" COURT CAN HAVE SUBJECT MATTER JURISDICTION ALL DAY LONG,
 BUT WITHOUT THE INDICTMENT(S), WHEN INDICTMENTS ARE NEEDED AND OR
 REQUIRED IN THIS INSTANCE BY DUE PROCESS LAW, THAT "[P]OWER" IS

USELESS. THE LACK THEREOF DO "[A]FFECT" AND OR "[H]INDER" THAT
 "[P]OWER" AND OR "[A]BILITY" TO HEAR AND DETERMINE CASES OF
 "[T]HIS" GENERAL CLASS TO WHICH THE PROCEEDINGS IN QUESTION BELONG.
 TO DETERMINE OTHERWISE IS AN EGREGIOUS ERROR OF LAW AND AN ACT
 OF FRAUD UPON THE COURT AND CONSPIRACY TO ESTABLISH MODERN DAY
 SLAVERY IN VIOLATION OF 18 USC § 241, 242, 1001 AND THE ANTI-PEDNAGE
 ACT AS WELL AS IN VIOLATION OF THE RICO ACT AND THE HOLDINGS
 MADE IN EX PARTE VIRGINIA SUPRA. DESIGNED TO DISENFRANCHISE US OF
 OUR RIGHT TO VOTE.

IN COMPARISON, YOU CAN HAVE TWO PIECES OF BREAD ALL DAY
 LONG, BUT WITHOUT THE INNER-MAKINGS YOU WILL NEVER HAVE
 A "SANDWICH." BEING A "NOTICE DOCUMENT" IS ONLY ONE OF THE
 NUMEROUS PURPOSES AND FUNCTIONS THAT THE INDICTMENT SERVES. THESE
 NUMEROUS PURPOSES AND FUNCTIONS CANNOT BE VIEWED AND OR WORK

SEPARATELY AND INDEPENDENTLY OF EACH OTHER WITHOUT AFFECTING
 THE "[T]RUE" NATURE AND PURPOSE FOR WHICH THE INDICTMENT WAS
 CREATED. TO DO SO IS AN ERROR OF LAW, SEE HERMAN WINNS V. STATE,
 MEMO NO. 2000 MO-078 DANIEL F. PIPER JUDGE; SC CODE ANN § 17-25-10.

INASMUCH WHAT THE HONORABLE COURT(S) IN GENTRY, COTTON
 AND PARKHURST FAILED TO SEE, IS THAT THE "[C]ONFUSION" THAT THE
GENTRY COURT SPOKE OF IS "[N]OT" COMING FROM OUR MODERN DAY
 COURTS MIXING THE TWO CONCEPTS OF SUBJECT MATTER JURISDICTION
 AND THE SUFFICIENCY OF AN INDICTMENT TOGETHER. THE "[C]ONFUSION"
 THAT THE GENTRY COURT SPOKE OF, IS COMING FROM OUR MODERN DAY
 COURT(S) AND SYSTEM OF JURISPRUDENCE LOSING VISION AND INSIGHT OF
 WHAT IS LAID AND SET BEFORE US BY OUR CONSTITUTIONAL FOREFATHERS
 IN THE ESTABLISHING OF OUR JUDICIAL SYSTEM, THAT BY ALL JURISPRUDENCE
 WAS NOT MEANT TO BE TAMPERED WITH. THAT BEING A SYSTEM OF

CHECKS AND BALANCES, WITHIN A SYSTEM OF CHECKS AND BALANCES. YOU HAVE ISSUES OF SUBJECT MATTER JURISDICTION, JURISDICTIONAL PREREQUISITES AND OR REQUISITES, RULES OF CRIMINAL PROCEDURE, SUFFICIENCY OF AN INDICTMENT ISSUES, AND ISSUES OF DUE PROCESS LAW PERTAINING TO THE U.S. CONSTITUTION, AS WELL AS THE SOUTH CAROLINA, NEW JERSEY, NEW YORK, KENTUCKY, GEORGIA AND POTENTIALLY REMAINING STATES CONSTITUTIONS, OVERLAPPING EACH OTHER AND CHECKING EACH OTHER AS A "[S]AFEGUARD" TO ENSURE THAT THE U-S. CITIZEN, THOSE WHO ARE HELD BY US, AND THOSE WHO ENTER OUR BORDERS OR TERRITORIES, INALIENABLE RIGHTS TO A FAIR AND IMPARTIAL TRIAL AND OR PLEA HEARING ARE PRESERVED. OUR CONSTITUTIONAL FOREFATHERS PURPOSELY MEANT AND DESIGNED FOR THEM TO BE VIEWED AS A WHOLE UNIT, INTER-LOCKED AND INSEPARABLE THOUGH INDEPENDENT TO THEMSELVES AS AN INTEGRAL PART OF THE OVERALL JUDICIAL MACHINE, SO THAT IF ONE PART FAILS, THE OTHER PARTS PICK UP AND KICK IN.

THUS, REMAINING TRUE TO THE VERY NATURE OF [L]EGAL "SYSTEM."

A SYSTEM IS COMPRISED OF VARIOUS COMPONENTS, NEVERTHELESS, IT IS STILL TO BE CONSIDERED AS ONE. AS THE APPELLANT(S) MENTIONED IN ONE OF THE PREVIOUS ISSUES. OUR CONSTITUTIONAL FOREFATHERS IN THEIR WISDOM AND JURISPRUDENCE SET UP "[B]ULWARKS," "[B]ARRIERS" OF PROTECTION FORTHRIGHTLY ESTABLISHED TO PROTECT THE AMERICAN CITIZENRY, THOSE WHO ARE HELD BY US, AND THOSE WHO ENTER OUR BORDERS OR TERRITORIES, FROM UNJUST ARBITRARY PROSECUTION, THAT OUTSIDE OF AN INDIVIDUAL COMMITTING ACTS OF TREASON WERE "[N]OT" MEANT TO BE TORN DOWN. THESE ARE THOSE SACRED "[B]ULWARKS," "[B]ARRIERS" OF PROTECTION. TO VIEW THEM AS SEPARATE AND INDEPENDENT IN THE MANNER VIEWED BY THE GENTRY COURT(S), AS THEY RELATE TO EACH OTHER OR TO DETERMINE THAT THEY DO NOT AFFECT A [C]RIMINAL COURT'S "[P]OWER" TO HEAR AND DETERMINE THIS CLASS OF CASES, GOES AGAINST THE RIGHTLY

ESTABLISHED PATTERN AND DESIGN OF OUR JUDICIAL SYSTEM, IS AN ACT OF MACHINATION, FRAUD UPON THE COURT, AN ACT OF ESTABLISHING MODERN DAY SLAVERY BY FORCING US TO WORK ONCE CONVICTED, AND IS AN ERROR OF LAW. IT IS A FORM OF TREASON. IT IS THE VERY EPITOME OF BETRAYAL TO OUR CONSTITUTION AND SETS ITSELF AT WAR AND ENMITY TO THE SUBSTANTIAL RIGHTS OF THE COMMONWEALTH, AND SEEKS TO ERADICATE THE VERY CORE INTEGRITY OF THE RIGHTS, IMMUNITIES, AND PRIVILEGES OF ALL CITIZENS, THOSE WHO ARE HELD BY US, AND THOSE WHO ENTER OUR BORDERS OR TERRITORIES, OUR CONSTITUTIONAL FOREFATHERS HAVE DIED AND SACRIFICED THEIR BEST BLOOD TO ESTABLISH AND PRESERVE. THESE SACRED "[B]ULWARKS" AID TO ENSURE THAT "[L]ADY [J]USTICE" REMAINS BLINDFOLDED, AND THE DEFENDANT'S INALIENABLE RIGHTS TO A FAIR AND IMPARTIAL TRIAL AND OR PLEA HEARING REMAIN SECURE AND ARE NEVER TAKEN AWAY. SUCH ACTION PRODUCES AN ACT OF MACHINATION, FRAUD UPON

THE COURT, MODERN DAY SLAVERY VITIATING ALL CONVICTIONS, THE
AMISTAD SUPRA.; EX PARTE VIRGINIA, 100 U.S. 339, 348-349, 25
LED, 676 (1880); PULLIAM V. ALLEN, 466 U.S. 522, 536-543, 104
SCT 1970, 1977-1982, 80 LED 2d 565 (1984); MIRELES V. WACO,
502 U.S. 9, 112 SCT 286 (US CAL. 1991); SCHMIDT V. DEGEN, Ed Pa.
1974, 376 FSUPP 664; 18 USC §§ 241, 242, 1001.

INASMUCH, THESE VERY ISSUES WERE AT THE HEART OF THE
MATTERS THAT EXISTED, IN RELEVANT PART, DURING THE TIME OF EX PARTE
BAIN IN 1887, AND STILL VIVIDLY, WITH ALL CERTAINTY, EXIST NOW
VIA DUE PROCESS WITHIN OUR MODERN DAY COURTS AND SYSTEM OF
JURISPRUDENCE, AND BY THE CONSTITUTIONAL RIGHTS OF EVERY CITIZEN,
OF THOSE WHO ARE HELD BY US, AND THOSE WHO ENTER OUR BORDERS OR
TERRITORIES, THESE ISSUES "[C]ANNOT" BE IGNORED. THESE ISSUES OF DUE
PROCESS SECURED AND PROTECTED BY THE RULINGS MADE IN EX PARTE

BAIN IN 1887, AS WELL AS IN GAITHER, RUSSELL, STIRONE AND MANY OTHER SUCH HOLDINGS IN OTHER SIMILAR CASES, STILL APPLY TODAY AND ARE PROTECTED BY THE U.S. CONSTITUTION AND THE LAWS OF THE UNITED STATES. THESE CONCEPTS ARE DESIGNED TO OVER LAP IN THESE MATTERS TO ENSURE A MORE TRUE COURT OF JURISPRUDENCE TO ITS CITIZENS, THOSE WHO ARE HELD BY US, AND THOSE WHO ENTER OUR BORDERS OR TERRITORIES, FOR THE SAKE OF JUSTICE AND FAIRNESS.

IN REGARD TO STATE V. GENTRY SUPRA.; WE ARE DEALING WITH A "STATE LAW," IN SUCH A WAY DESIGNED, CRAFTED, DRAFTED, INITIATED, AND SET INTO PLACE, THAT IS EGREGIOUSLY CONTRARY TO THE U.S. CONSTITUTION'S INHERENT, INTRINSIC, AND EXPLICIT PRESUPPOSITIONS THAT BY ITS VERY NATURE IS INTENSE ESPIONAGE AND DIABOLICAL SABOTAGE, AND STANDS IN DEFIANCE TO THE RIGHTS OF THE COMMONWEALTH, IN VIOLATION OF DUE PROCESS LAW, ESTABLISHING FRAUD UPON THE COURT,

MODERN DAY SLAVERY BEHIND A CLASS BASED INVIDIOUSLY DISCRIMINATORY
ANIMUS IN THE FORM OF RACIAL HATRED, SURREPTITIOUSLY DONE,
BECAUSE IT DISPROPORTIONATELY AFFECTS AND HARMS AFRICAN AMERICANS,
POOR WHITES AND OTHER MINORITIES OF THIS STATE AND OR NATION. IT
CREATES THE SIMILARITIES SEEN IN TRIALS AND OR PLEA HEARINGS THAT
MANIFESTED THEMSELVES DURING THE NAZI OCCUPATION, THE ENGLISH INQUISITION
OF 1518, THE SPANISH INQUISITION OF 1478, THE SALEM WITCH TRIALS OF THE
17TH CENTURY, THE TRIALS AND OR HEARINGS PRIOR AND DURING THE CIVIL
RIGHTS ERA, AND THE LIKE; WHERE TRIALS AND OR PLEA HEARINGS BECAME AN
ARBITRARY ACTION, A MERE HOLLOW AND DECEPTIVE FORMALITY AND OR
MECHANISM, UTILIZED TO SNATCH FROM THE COMMONWEALTH THEIR INALIENABLE
RIGHTS, AND ROB THEM OF THEIR GOD GIVEN LIBERTY. THE JUDGES OF
THE GENTRY COURT AND DEFENDANTS INVOLVED IN THESE CASES ACROSS
THE NATION ENTERED THEMSELVES INTO A DELIBERATE PLOT AND SCHEME

TO DIRECTLY SUBVERT THE JUDICIAL PROCESS. THE FRAUD IN THESE CASES IS SO BROAD THAT IT INVOLVES FAR MORE THAN INJURY TO A SINGLE LITIGANT, BUT WAS RATHER A WRONG AGAINST THE INSTITUTION SET UP TO PROTECT AND SAFEGUARD THE PUBLIC, INSTITUTIONS IN WHICH FRAUD CANNOT BE COMPLACENTLY TOLERATED CONSISTENTLY WITH THE GOOD ORDER OF SOCIETY *Id.* AT 246, 64 S.Ct. 997. THIS PLOT, MACHINATION AND FRAUD NOT ONLY INVOLVED AN INTENTIONAL SCHEME TO DECEIVE THE JUDICIARY AND ANY FUTURE SUBSEQUENT HIGHER COURT, BUT ALSO TOUCHED ON THE PUBLIC INTEREST IN A WAY THAT FRAUD BETWEEN INDIVIDUAL PARTIES GENERALLY DOES NOT. THESE PARTIES HAVE ENACTED AND OR ATTEMPTED A MORE EGREGIOUS FORM OF SUBVERSION OF THE LEGAL PROCESS, ONE THAT WAS SPECIFICALLY DESIGNED TO PREVENT US FROM BEING FAIRLY AND PROPERLY HEARD ON THE ISSUES. THOSE FORMS OF SUBVERSION THAT WE CANNOT NECESSARILY EXPECT TO BE EXPOSED BY THE NORMAL ADVERSARIAL PROCESS.

NO TIMELY OBJECTION IS NECESSARY TO ADDRESS THIS ISSUE. IT CAN BE
 RAISED AT ANYTIME, CREATES EXTRAORDINARY CIRCUMSTANCES, MANIFEST
 INJUSTICE, TOLLS THE TIME OF APPEAL AND THE COURT SHALL NOT FAIL
 TO TAKE NOTICE, FOX EX REL FOX V. ELK RUN COAL CO, INC., 739 F3d 131
 CA4 (2014); MASSI V. WALGREEN CO., 2013 WL 5410810 (DSC 2013);
DEVEAUX V. UNITED STATES, F SUPP 2d, 2010 WL 8738108 (DSC 2010);
ARATA V. VILLAGE WEST OWNERS ASS'N INC., S.E. 2d, 2011 WL 11735004
 (SC APP. 2011); CHRISTIANSON V. M.B.N.A. AMERICAN BANK N.A., S.E. 2d
 2013 WL 8507850 (SC APP 2013); GE-ZHANG V. PROMONTERY
INTERFINANCIAL NETWORK LLC, -- FED APPX' -- 2015 WL 75360 CA-4
 (Va. 2015); BACCUS V. MERCHANT, 2014 WL 1330984 (DSC 2014);
McKISSICK V. WARDEN EVANS C.I., 2013 WL 4585613. (DSC 2013);
CONYERS V. VIRGINIA HOUSING DEVELOPMENT AUTHORITY, 585 Fed Appx'
 66 CA4 (Va 2014); ROGERS V. CARR, S.E. 2d, 2014 WL 2721025

(SC App. 2014); INGLESIA V. WALMART STORES EAST L.P., 542 Fed Appx' 295 CA4 (Va 2013); SIMMONS V. BAILUM, S.E. 2d, 2013 WL 8482376 (SC App 2013); DAVIS V. DAVENPORT, 2013 WL 6840473 (DSC 2013); BURRIS V. WARE, 2014 WL 4293805 (DSC 2014); UNITED STATES V. DENEDO, 556 U.S. 904, 129 SCT 2213, 173 LEd 2d 1235, 77 USLW 4466, 09 CAL. DAILY OP. SERV. 7069 (2009); M'CANN V. BRIGHTHARP, 399 SC 240, 730 S.E. 2d 916 (SC App 2012); UNITED STATES V. BOSTON, 539 Fed Appx' 209 CA4 (N.C. 2013); THE AMISTAD SUPRA.; 40 U.S. 518, 15 PET. 518, 1841 WL 5024, 2006 A.MC 2955, 10 LEd 826, U.S. CONN. JANUARY 1841; MOORE V. DEMPSEY, 43 SCT 265, 67 LEd 543; UNITED STATES V. UMANA, 750 F3d 320 CA4 (N.C. 2014).

INASMUCH, THE ISSUES HERE GO FAR BEYOND THAT OF DEALING WITH INDICTMENT DEFECTS, WHICH ARE TO BE QUASHED BY MOTION BEFORE A JURY IS SWORN, OR ACKNOWLEDGED, AND OR OBJECTED TO BEFORE A

GUILTY PLEA IS GIVEN. THE MATTERS HERE IN CRUCIAL PART, DO NOT HAVE TO NECESSARILY BE PRESERVED FOR APPELLATE REVIEW BY A TIMELY OBJECTION, BUT ONLY NEED TO BE CONSIDERED AS A MATTER BROUGHT, CONDUCTED AND OR PRESENTED BEFORE THE COURT IN SOME FASHION. THE GOVERNMENT "[M]UST [A]LWAYS" BE HELD ACCOUNTABLE TO JUDICIARY FOR A MAN'S IMPRISONMENT, AND THE RESTRAINTS ON LIBERTY IF THE IMPRISONMENT DOES NOT CONFORM TO THE BASIC REQUIREMENTS OF DUE PROCESS LAW. FOR THE SAKE OF JUSTICE AND JUDICIAL FAIRNESS, THE APPELLANT(S) SHOULD NOT BE PENALIZED AND MADE TO SUFFER AN ONEROUS CONVICTION, BECAUSE HIRED COUNSEL, AND OR COUNSEL THAT THE STATE APPOINTED TO REPRESENT HIM, WAS SO INEPT AND CONSTITUTIONALLY INEFFECTIVE, AND OR CONSPIRED UNDER COLOR OF STATE LAW WITH THE PROSECUTOR TO CAUSE IRREPARABLE HARM TO HIS PROCEEDINGS, THAT HE OR SHE COULD NOT EVEN SEE, OR REFUSE TO SEE THE OVERWHELMINGLY

OBVIOUS DEFECTS IN AN INDICTMENT PRESENTED BEFORE THE COURT.

THEREUPON, THE APPELLANT(S), WHO LATER AFTER CONVICTION, OR THE
 MACHINATION AND FRAUD PERPETRATED BY THE GENTRY COURT, PREVIOUSLY
 HAVING NO KNOWLEDGE OF LAW, AND LITTLE TO NO ACCESS TO LEGAL
 BOOKS OR MATERIALS BEFORE HIS TRIAL AND OR PLEA HEARING, LATER
 DISCOVERS THE GENTRY MACHINATION AND FRAUD AND THESE "[P] LAIN",
 "[C] LEAR", "[E] GREIGIOUS", SUBJECT MATTER JURISDICTION AND DUE PROCESS
 ISSUES AND OR ERRORS PRODUCING MANIFEST INJUSTICE, SHOULD NOT IN
 ALL FAIRNESS BE BARRED FROM CALLING THESE MATTERS TO THE
 ATTENTION OF THE COURTS IN ORDER TO SEEK RELIEF, SHELTON V. CICCONE
SUPRA.; EVITTS V. LUCY SUPRA.; GRAY SUPRA.; POWELL V. ALABAMA SUPRA.;
UNITED STATES V. PROMISE SUPRA.; THE ISSUE DISPROPORTIONATELY EFFECTS
 AND HARM AFRICAN AMERICANS, POOR WHITES AND OTHER MINORITIES WITHIN
 THIS STATE AND OR NATION IN VIOLATION OF THE HOLDINGS MADE IN EX

PARTE VIRGINIA SUARA.

CONCLUSION:

INSOMUCH, THERE WERE NO HOLDINGS MADE IN THE GENTRY,
COTTON OR PARKHURST CASES THAT WOULD JUSTIFY AND OR SERVE TO
 DETACH FROM THE INDICTMENT(S) THE 4TH, 5TH, 6TH, 8TH, 13TH, 14TH
 AND 15TH AMENDMENT ISSUES AFOREMENTIONED WITHIN THIS DOCUMENT
 MADE APPLICABLE TO THE STATES BY THEY ADOPTING SUCH VIA THEIR
 STATES CONSTITUTIONS AND OR THE SUPREMACY CLAUSE OF THE U.S.
 CONSTITUTION. LIKEWISE, THERE WERE NO HOLDINGS MADE IN THOSE CASES
 THAT WOULD JUSTIFY AND OR SERVE TO DETACH FROM THE INDICTMENT(S)
 THE DUE PROCESS ISSUES AFOREMENTIONED IN THIS DOCUMENT.

BY THE HOLDINGS MADE IN THE GENTRY CASE. THAT COURT
 ESSENTIALLY TOOK THE POSITION THAT COURTS POWERS OF SUBJECT

MATTER JURISDICTION ARE ABSOLUTE VIA STATE LEGISLATIVE STATUTES OR CONGRESSIONAL STATUTES OR ENACTMENTS OF LAW AND AT NO TIME CAN THAT POWER BE DIVESTED OR VOIDED. THE GENTRY COURT ESSENTIALLY CLAIMED THERE CAN BE NO SITUATION THAT CAN DEVELOPE DURING THE COURSE OF JUDICIAL PROCEEDINGS THAT CAN DIVEST OR VOID JURISDICTION, WE OBJECT TO THIS. THIS IS A LUDICROUS AND CRIMINAL POSITION TO TAKE WHICH WILL BE PROVEN BY JUDICIAL DETERMINATIONS MADE AFTER THE GENTRY CASE WAS ESTABLISHED.

THERE ARE ESSENTIALLY (2) PRONGS TO SUBJECT MATTER JURISDICTION. ONE (1) IS WHERE THE COURTS LACK SUBJECT MATTER JURISDICTION (e.g. WHERE A FAMILY COURT WOULD ATTEMPT TO TRY A CRIMINAL CASE, OR A PROBATE COURT WOULD ATTEMPT TO TRY A MILITARY TRIBUNAL CASE). OF COURSE IN THESE SITUATIONS THOSE COURTS WOULD "LACK SUBJECT MATTER JURISDICTION."

THIS IS ESSENTIALLY WHAT THE COTTON COURT WAS SAYING WHICH IS THE REASON WHY THE LITIGANT IN THAT CASE DID NOT PREVAIL. BY STATE AND FEDERAL STATUTES OR CONGRESSIONAL ENACTMENTS, SPECIFIC COURTS HAVE JURISDICTION TO HEAR CASES OF A GENERAL CLASS (e.g. CRIMINAL COURTS HAVE JURISDICTION TO HEAR CRIMINAL CASES). BUT (2) THERE IS A SECOND PRONG TO SUBJECT MATTER JURISDICTION WHERE JURISDICTION IS MADE VOID BECAUSE OF DUE PROCESS VIOLATION DESPITE ANY EXISTING STATE STATUTE OR FEDERAL LAW. SO THE COTTON COURT WAS ESSENTIALLY SAYING IS THAT THE LITIGANT, BY THE LANGUAGE HE PRESENTED. HE WAS ARGUING HIS CLAIMS UNDER THE WRONG PRONG. MORE SPECIFICALLY, THE LITIGANT SHOULD HAVE ASSERTED THAT JURISDICTION IS MADE VOID DUE TO A PARTICULAR DUE PROCESS VIOLATION, SEE U.S. V. #41,320 U.S. CURRENCY SUPRA.; HUNT V. UNITED STATES SUPRA.; WHITE V. MANIS SUPRA.; U.S. V. ALADEKCHA SUPRA.; BROWN V. U.S. SUPRA.

THE GENTRY COURT KNEW THE COTTON COURT WAS VAGUE ON THIS
 ISSUE AND WENT ON A "FISHING EXPEDITION" TO FIND COTTON AND
PARKHURST SO THEY COULD ADJUDICATE THE GENTRY CASE UNDER THE
 SAME INCORRECT PRONG TO DEFRAUD THE INMATES OF THIS STATE IN
 ACTS OF MACHINATION IN VIOLATION OF THE HOLDINGS MADE IN ROSS V.
BLAKE, 136 SCT 1850 (2016). LIKE THE ARTICLE V § 4 ORDERS LEADING
 TO THE CLAIMS OF DEFAULT AND COLLATERAL ESTOPPEL IN THESE CASES
 EMERGING FROM CASE 2013-CP-400-0084 IN THE RICHLAND COURT OF
 COMMON PLEAS. THE SUFFICIENCY OF AN INDICTMENT IS A "[J]URISDICTIONAL
 [P]REREQUISITE" AND DUE PROCESS CLAIM THAT VOIDS JURISDICTION AS
 OPPOSED TO THE OTHER PRONG WHERE THE FAMILY COURT WOULD ATTEMPT
 TO TRY A CRIMINAL CASE AND WOULD LACK SUBJECT MATTER JURISDICTION.
 THE DUE PROCESS PRONG IS WHAT WE ARE ARGUING THE ARTICLE V § 4
 ORDERS, THE CLAIM OF DEFAULT AND COLLATERAL ESTOPPEL, TO INCLUDE

THE STRUCTURAL ERROR OF RELIGIOUS PROPHECY PERTAINING TO THE
 INDICTMENTS PREDETERMINING IN ADVANCE THE OUTCOME OF THE
 PROCEEDINGS, TAKING AWAY OUR PRESUMPTION OF INNOCENCE, CONVICTING
 US BEFORE WE PLEA OR GO TO TRIAL DISENFRANCHISING US OF OUR
 RIGHT TO VOTE ESTABLISHING MODERN DAY SLAVERY UNDER. CONGRESS
 CONFERS UPON NO COURT THE POWER TO ESTABLISH MODERN DAY
 SLAVERY, SEE THE AMISTAD, 40 U.S. 518, 15 PET. 518, 1841 WL 5024.

WHEN THE CONSTITUTIONALITY OF A RULING IS IN DOUBT
 (c.i. THE COTTON AND GENTRY CASES). THE COURT HAS AN OBLIGATION TO
 INTERPRET THE COTTON CASE AS IT RELATES TO GENTRY, ABRAMS, GAITHER,
STIRONE, RUSSELL AND THE VOIDING OF JURISDICTION FOR DUE PROCESS
 VIOLATIONS UNDER THE DUE PROCESS PRONG, NOT THE OTHER. "STARE
 DECISIS ET NON QUIENTA MOVERE." ONCE THIS WAS DECIDED THE COURTS
 SHOULD HAVE NEVER MOVED FROM IT. CERTAIN VIOLATIONS OF DUE

PROCESS VOID JURISDICTION WHEN THEY GIVE WAY TO ARBITRARY
JUDICIAL ACTION SEE 9 F.SUPP. 3d 582.

IF A CRIMINAL CASE IS APPEALED BUT NO TRIAL TRANSCRIPT IS
PRODUCED, WHAT OCCURS? THE TRIAL TRANSCRIPT IS A JURISDICTIONAL
REQUIREMENT IN THE APPEALS COURT. THE COURT MUST REMAND FOR A NEW
TRIAL. IF A CASE IS IN THE STATE COURT AND A PETITION TO REMOVE
IS FILED, WHAT OCCURS? THE STATE COURT'S JURISDICTION IS DIVESTED
AND THAT COURT CANNOT PROCEED UNTIL REMAND ORDER IS ISSUED; STATE
V. LADSON, 373 SC 320, 644 S.E. 2d 271 (SC APP. 2007); LOVETT V.
DEUTSCHE BANK NAT' TRUST CO, F. SUPP. 2d, 2013 WL 841679 (DSC. 2013).
A CASE IS IN LOWER COURT. A MOTION IS FILED WHERE ADVERSE
RULING IS GIVEN. THE PARTY APPEALS IT, WHAT OCCURS? THE HIGHER
COURT CANNOT HEAR IT WITHOUT THE JURISDICTIONAL PREREQUISITE
FINAL ORDER SEE FORTMILL V. FITZGERALD, S.E. 2d, 2014 WL 7339453

(SC APP 2004). IN CIVIL CASES PARTIES MUST BE IN COMPLIANCE TO ALL RULES OF CONSTRUCTIVE SERVICE. COMPLIANCE IS JURISDICTIONAL PREREQUISITE. IF STEP IS OMITTED (COMPARINGLY A SUFFICIENT INDICTMENT IS OMITTED) DECREE OR RULING IS VOID SEE CALDWELL V. WINQUIST, 402 SC 565, 741 S.E.2d 583 (SC APP 2013). WHERE CASE FILED IN DISTRICT COURT BUT PARTIES FILE A SECOND CASE TO SUBVERT THE DISTRICT COURT'S JURISDICTION IN THE STATE COURT. THIS ACT WOULD VOID STATE COURT'S JURISDICTION. THUS JURISDICTION IS NOT ABSOLUTE DESPITE LEGISLATIVE STATUTE OF A STATE OR FEDERAL LAW. SEE ACKERMAN V. EXXON MOBIL CORP., 734 F3d 237 CA 4 (MD 2013). JURISDICTIONAL DEFECTS IN TAX CASES VOID JURISDICTION. SEE REEPING V. JEBB CO, LLC, 402 SC 195, 740 S.E.2d 507 (SC APP. 2013). MONEY AMOUNTS JURISDICTIONAL IN WILLS, PROBATE AND ESTATES. SEE DICKSON V. ALEXANDER HOSPITAL, 177 F2d. 876 CA 4 (VA. 1949); ALADECKCHA, 2010 WL 4054267 (2010).

WHEN A CONVICTION FAILS TO COMPORT WITH DUE PROCESS IF
 THE STATUTE UNDER WHICH IT IS OBTAINED, AND WE CAN ADD TO THIS
 AN INDICTMENT, FAILS TO COMPORT TO DUE PROCESS AND FAILS TO PROVIDE
 A PERSON OF ORDINARY INTELLIGENCE "FAIR" NOTICE OR OTHER ESSENTIAL
 REQUIREMENTS OF DUE PROCESS (e.i. DOUBLE JEOPARDY PROTECTION, PRESUMPTION
 OF INNOCENCE) JURISDICTION IS VOID. IF THE COURTS FAIL TO ACT IN A
 MANNER CONSISTENT WITH DUE PROCESS AND AUTHORIZES AND OR ENGAGES
 IN OR ENCOURAGE ARBITRARY AND DISCRIMINATORY JUDICIAL OR OTHER
 PRACTICES (e.i. DENY US EQUAL PROTECTION OF THE LAWS, CONSTRUCTIVELY
 AMENDING INDICTMENTS ON ESSENTIAL ELEMENTS, TAKING AWAY OUR
 PRESUMPTION OF INNOCENCE PREDETERMINING IN ADVANCE THE OUTCOME OF
 THE PROCEEDINGS BY INDICTMENT LANGUAGE, SPOLIATING DOCUMENTS AND
 EVIDENCE, ILLEGALLY SEIZING EVIDENCE AND OR FOREIGN SOVEREIGNS,
 ENGAGING IN ACTS OF MACHINATION, FRAUD UPON THE COURTS, ESSENTIALLY

ESTABLISHING MODERN DAY SLAVERY WHERE WE ARE NOT "DULY"
 CONVICTED, DISENFRANCHISING US OF THE RIGHT TO VOTE, DEPRIVING US
 OF PROPER NOTICE IN VIOLATION OF THE 4TH, 5TH, 6TH, 8TH, 13TH, 14TH,
 15TH AMENDMENTS, ARBITRARY JUDICIAL ACTION. JURISDICTION IS MADE VOID
 FOR DUE PROCESS VIOLATION(s), GENTRY TECHNOLOGY OF S.C. INC. V.
BAPTIST HEALTH SOUTH FLORIDA, ... 2015 WL 1219251 (DSC 2015); YATES
ESTATE OF YATES, 2014 WL 2579917 (SC APP 2014); WARE V. WARE, 404
 SC 1, 743 S.E.2d 817 (SC APP 2013); ORLANDO RESIDENCE LTD. V. HILTON
HEAD HOTEL INVESTORS, F.SUPP 2d, 2013 WL 1103027 (DSC 2013); FEDERAL
LAND BANK ASS'N OF ASHEVILLE, N.C. V. C.I.R., 573 F2d 179 CA 4 (1978);
AL SHIMANI V. C.A.C.I. INTER. INC., 679 F3d 205 CA 4 (Md. 2012).
 THE USE OF U.S. V. COTTON, PARKHURST AND GENTRY MUST BE DEEMED
 MISPLACED OR OVERRULED DUE TO VAGUENESS, JOHNSON V. UNITED
STATES -- SCT -- 2015, WL 2473450 (US 2015); U.S. V. MCKEE, 506 F3d

225, 229-232 (3RD CIR. 2007); U.S. V. RESENDEZ-PONCE, 549 U.S. 102, 127 SCT 782 (US 2007); U.S. V. HUET, 665 F3d 588 (3RD CIR. 2008); INGRAM V. PHILLIPS, 36 S.C.L. 200, 1850 WL 2857 S.C. APP. LAW 1850; LEWIS-MURRAY V. MURRAY, S.E. 2d 2005 WL 7084812 (SC APP 2005); BANKERS V. SOUTH CAROLINA, F SUPP 2d, 2010 WL 558580 (DSC 2010); LAMPMAN V. DEMOLFF BOBERG & ASSOCIATES INC., 319 FED APPX' 293 CA-4 (SC 2009); UNITED STUDENT AIDS FUNDS INC. V. ESPINDSA, 559 U.S. 260, 130 SCT 1367 (US 2010); ARATA V. VILLAGE WEST OWNERS ASS'N INC., S.E. 2d 2011 WL 11735004 (SC APP 2011); ELDERBERRY OF WEBER CITY, LLC V. LIVING CENTERS SOUTHEAST, INC. -- F3d --, 2015 WL 4430836 CA4 (Va. 2015). THE JUDGMENT IN THE APPELLANT(S) CASE AND THESE OTHER CASES (e.g., GENTRY et. al) ARE AFFECTED BY FUNDAMENTAL INFIRMITIES. THESE INFIRMITIES MAY BE RAISED AFTER ANY JUDGEMENT BECOMES FINAL.

THUS, THE APPELLANT(S) MOTION THAT THE CONVICTION AND SENTENCE
 BE VACATED, THAT AN ORDER ISSUE EXPUNGING MY AND THE OTHER
 INMATES RECORDS DUE TO SEEKING CLASS ACTION CERTIFICATION AND
 ALL MONIES PAID OUT RETURNED, UNITED STATES AIDS FUNDS, INC. V.
ESPINOZA SUPRA.; VOSE V. HANNAHAN, 10 RICH 465, 1857 WL 3239
 S.C. ERR 1857; NORBREGA V. HINKLE, 576 FED APPX' 224 CA 4 (Va. 2014);
JONES V. STERNHEIMER, 387 Fed APPX' 366, 2010 WL 271305 CA 4
 (Va. 2010); U.S. V. WATSON -- F3d --- 2015 WL 4385697 CA 4 (Va. 2015);
 HARLEY V. SOUTH CAROLINA DEPT. OF CORRECTIONS, 2013 WL 5428585
 (DSC 2013); PEOPLE V. ROGERS FSUPP 2d, 2010 WL 424201 (DSC 2010);
GENTRY TECHNOLOGY OF S.C. INC. V. BAPTIST HEALTH SOUTH, FLORIDA INC.,
 2015 WL 1219251 (DSC 2015).

THE SC ATTORNEY GENERAL AND THE UNITED STATES ARE BOTH
 PARTIES TO THE DEFAULT AND CLAIMS OF RES JUDICATA AND OR

COLLATERAL ESTOPPEL EMERGING FROM CASE 2013-CP-400-0084 IN
THE RICHLAND COUNTY COURT OF COMMON PLEAS AS THEY RELATE TO
THESE ISSUES PRESENTED. JURISDICTIONAL BAR TO CHALLENGE ATTACHES,
IN RE VARIANT ENTERPRISE INC., 81 F3d 1310 (4TH CIR. 1996);
BASNIGHT, 551 S.E.2d 274; REOT V. COUNTY OF FAIRFAX, 541 FEd APPX'
333 (4TH CIR. 2013); WELLS FARGO BANK, N.A. V. FARAG, 2016 WL
2944561 (2016).

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) COUNSEL WAS INEFFECTIVE. I DID NOT DISCOVER THE
 (b) ISSUES UNTIL NOW
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. SEE CASE 2014-001023
 " "
 ii. " "
 " "
 iii. " "
 " "

(b) the proceedings at which each such attorney represented you:

i. " "
 " "
 ii. " "
 " "
 iii. " "
 " "

19. State clearly the relief you seek in filing this application:

SENTENCE AND CONVICTION VACATED. MY NAME AND DNA

REMOVED FROM ANY DEROGATORY FILES. ORDER ISSUED

EXPUNGING MY RECORD.

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA)

VERIFICATION

County of CHARLESTON)

I, ROBERT LEE WRIGHT, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Robert Lee Wright

SWORN to and subscribed before me this 28
day of March, 2017.

William B. Brown (L.S.)
Notary Public

My Commission Expires: 5/1/2018

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, ROBERT LEE WRIGHT, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Robert Lee Wright
Applicant

SWORN or affirmed to and subscribed before me this

28 day of March, 2017.

[Signature]
Notary Public

My Commission Expires: 5/1/2018

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE 9TH JUDICIAL CIRCUIT
	)	
Robert Lee Wright	)	
	)	
Applicant	)	2017-CP-10-1648
	)	
Vs.	)	
State of South Carolina	)	Applicant's Amendments
	)	to Initial PCR Application
Respondent,	)	
_____	)	

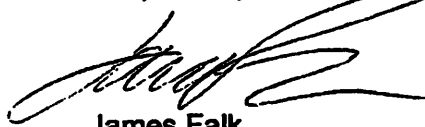
TO: Megan Jameson Esq., Office of SC Attorney General, PO Box 11549, Columbia, SC 29211-1549.

Applicant by counsel hereby amends his application to include the following additional grounds for relief. The grounds set forth below are intended to supplement those grounds for relief set forth in Applicant's initial Application for Post-Conviction Relief:

1. Failing to object to the State's improper opening statement found at Page 58 lines 4-10.
2. Failing to object when the State impermissibly "pitted the witnesses". Page 329 lines 13-19 and page 368 lines 3-6.
3. Failing to object pursuant to Crawford v Washington, to the introduction of the Toxicology results. Page 237 line 5 through page 238 line 19.
4. On information and belief, trial counsel did not seek a hearing under Neal v Biggers prior to the introduction of in-court identification testimony. Page 126 lines 17-25; and Page 88 lines 10-16.
5. Failing to object to the State's attempts to bolster its own witnesses. Page 90 lines 23-25; and Page 125 lines 2-8.

6. Failing to object to numerous hearsay utterances regarding witness Robert J's out-of court statements. E.g. Page 110 line 8.
7. Trial Counsel was ineffective for failing to properly preserve the issue of whether the trial court improperly refused to charge the jury on the defense of accident.
8. Failing to object to two portions of the Trial Judge's charge which were inaccurate and likely to have confused or mislead the jury during its deliberations. P 391 lines 21-25 and 398 lines 10-12.

Respectfully Submitted,



James Falk
PO Box 1058
Charleston, SC 29402
(843) 606 6007
jfalklaw@gmail.com

CERTIFICATE OF SERVICE

Undersigned certifies that on July 10, 2017 a copy of the above was mailed to Megan Jameson, Esq. at the address listed above.



James Falk
Counsel for Applicant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Robert Lee Wright,	)	Case No.: 2017-CP-10-1648
Applicant,	)	
	)	
v.	)	RETURN AND PARTIAL MOTION TO
	)	DISMISS
State of South Carolina,	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on March 31, 2017, would respectfully show this Court:

I. Factual Background

During the early evening hours of June 10, 2010, Robert Wright, Applicant, assaulted Christopher Jenkins, the victim, by repeatedly punching and stomping him while he lay on the ground. (T. pp. 80, pp. 81, pp. 110). Victim's two nephews and one of their friends witnessed the beating. (T. p. 77, lines 3-15; R. p. 107, lines 8-18; R. p. 121, lines 19-25). The next day, Victim died as a result of the attack. (T. p. 245, line 16). The pathologist concluded that cause of death was blunt force trauma and noted that the victim had ten broken ribs and numerous external injuries. (T. pp. 226, pp. 227).

Victim and Applicant's mother, Betty Scott, had dated each other on and off for several years.¹ (T. p. 163, lines 14-25; R. p. 278, lines 2-8). Betty ended the relationship but the two maintained contact with one another. (T. pp. 278-279). Thereafter, a series of events unfolded that ultimately led to the underlying incident. In March 2010, Applicant learned the Victim had recently attempted to strike Betty. (T. p. 319, lines 19-24). In April 2010, Applicant received a phone call

¹ Throughout the trial, Betty Scott was often referred to as "Ms. Winky".

that Victim had upset Betty and made her cry. (T. p. 323, lines 3-6). That same day, Applicant tracked down Victim and they engaged in a physical altercation. (T. p. 323, line 7-p. 324, line 20). On June 10, 2010, Applicant was told that Victim had been seen lingering around Betty's house. (T. p. 325, lines 16-20). Apparently, it was after hearing this information that Applicant decided to take action.

On June 10, 2010, Victim's two nephews, thirteen year old Robert and fourteen year old Jocqui, were playing with a friend, thirteen year old Maurice, at their home. (T. p. 72, line 10- T. p. 73, line 1). At that point in time, Victim and his two nephews lived with Mary Jenkins, Victim's mother. (T. p. 70, line 21-T. p. 71, line 25). While the children were playing, Tamika Jenkins, the mother of Robert and Jocqui and sister of Victim, asked the boys to go to the store for her. (T. p. 73, line 3). It was getting dark so Victim decided to walk with the boys. (T. p. 74, line 3). The three boys were walking a few feet in front of Victim down the sidewalk. (T. p. 76, lines 2-3). When Robert turned around to make sure Victim was still following them he saw a car pull up. (T. p. 76, lines 3-10). All three boys witnessed Applicant get out of the vehicle and walk towards Victim. (T. p. 77, lines 3-15; T. p. 107, lines 8-18; T. p. 121, lines 19-25). Before Victim could turn around completely, Applicant picked up Victim and "body slammed" him to the ground. (T. p. 79, lines 3-5). Applicant then began to punch Victim in the face, between five and ten times. (T. p. 80, lines 11-25). He then proceeded to forcefully stomp Victim's body with his feet, between five and ten times. (T. p. 81, lines 1-5). During the assault, Victim did not fight back but "was just laying there on the ground". (T. p. 110, line 5). Victim did not speak to or act violent towards Applicant leading up to or during the assault. (T. p. 83, lines 2-17; T. p. 113, line 25-T. p. 114, line 6). Robert yelled at Applicant to stop attacking his uncle. Applicant responded to Robert, "shut your retarded ass up and come do something about it". (T. p. 124, lines 5-7). Applicant then walked back to his car and drove

away. (T. p. 110, lines 11-15).

After Applicant left, Victim stood up and attempted to walk with the boys the remainder of the way to the store. (T. p. 83, line 19-p. 84, line 5). Victim was unable to continue so the boys went on to the store without him. (T. p. 84, lines 6-19). Minutes later, both Victim and the boys returned home. (T. p. 85, lines 1-4). The family watched as a bleeding and bruised Victim walked upstairs, holding his side in pain, to rest. (T. p. 85, lines 7-21; T. p. 138, lines 21-24). Sounds of moaning could be heard by everyone downstairs. (T. p. 85, line 24; T. p. 140, lines 20-24). Robert explained to Mary that Applicant had just attacked Victim and had yelled at Robert. (T. p. 155, line 15). Mary, being a concerned mother and grandmother, went to Betty's house to talk about Applicant and the incident. (T. p. 166). Betty did not know about the incident and Applicant was not there when Mary arrived. (T. p. 168, line 21).

The next day, June 11, 2010, Victim was still in excruciating pain and spent the day lying in bed. (T. p. 141, lines 2-12). Applicant and Betty came over to Victim's house to speak with Mary, not about the assault but the statement to Robert. (T. p. 141, line 16). Timeka was present and felt that Applicant was not the least bit concerned about victim. (T. p. 142, line 4). Applicant told Timeka, "he was tired of Chris disrespecting his mother and he would have did it again if he had to." (T. p. 144, lines 15-17). Applicant and Betty left soon thereafter.

A couple of hours later, Timeka decided to call EMS after her other brother went upstairs to check on Victim and witnessed Victim having two seizures. (T. p. 143, lines 9-20). At approximately 3:00 p.m., an ambulance arrived at the home and transported Victim to the hospital. (T. p. 162, line 21). Victim died at 5:54 p.m. that same day. (T. p. 245, line 16).

On June 12, 2010, Detective Barry Goldstein of the Charleston Police Department responded to Mary's home to investigate Victim's death. (T. p. 173, line 2). He spoke with Robert and Maurice

about the incident and asked if they could identify the man that had attacked their uncle. (T. p. 88, lines 4-22; T. p. 126, lines 10-25). They both positively identified Applicant out of a photo lineup. (T. p. 88, lines 4-22; T. p. 126, lines 10-25). After interviewing Robert and Maurice, the children took Detective Goldstein to the incident location. (T. p. 175, line 5). Detective Goldstein observed blood spatter and drops where Victim had been assaulted. (T. p. 175, line 20). Officer Randall Unterbrink, with the Charleston Police Department Crime Scene Unit, photographed and collected samples of the blood found on scene. (T. p. 199, lines 3-5; T. p. 201, line 10). He was able to determine that a total of forty-eight blood drops had been left at the incident location. (T. p. 208, line 21). The blood samples were positively identified as belonging to Victim. (T. p. 256, line 1). Later that day, Detective Goldstein obtained an arrest warrant for Applicant. (T. p. 176, line 23). Detective Goldstein observed Applicant did not have any bruising or injuries to his body. (T. p. 177, line 13).

On June 12, 2010, an autopsy was performed on Victim by Dr. Nicholas Batalis. (T. p. 226, line 3). Dr. Batalis observed multiple injuries when conducting an external examination of Victim's body. (T. p. 226, line 12). Victim had a laceration to his left eye, a scrape to the lower lip, two scrapes on the left knee, and a large bruise on the upper left side of his chest. (T. p. 226, lines 12-18).

During the internal examination of Victim, Dr. Batalis noted that ten of the twelve ribs on Victim's back right side were fractured in a straight line, which could only have occurred by the use of a significant amount of force. (T. p. 227, lines 8-14; T. p. 229, line 15). The pathologist conceded that forceful stomping could cause fracturing similar to Victim's injuries. (T. p. 230, lines 15-20). This fracturing caused significant bleeding into the chest cavity and bruising to the right side of his back. (T. p. 227, lines 15-18). Dr. Batalis' ultimate finding was that Victim's cause of death was blunt force trauma to the chest. (T. p. 234, line 7).

At trial, Applicant testified to his version of the facts. (T. pp. 300-331). He claimed he

followed Victim so they could talk about Betty. (T. p. 327, lines 14-24). Applicant got out of his car and called out to Victim. (T. p. 328, lines 7-10). Applicant testified that Victim turned around and put his hands up to fight. (T. p. 328, lines 10-13). According to Applicant, the two then locked shoulders and Applicant flipped Victim over onto the grounds. (T. p. 313, lines 22-24; T. p. 314, lines 2-15). Applicant admitted to intentionally punching Victim three to five times. (T. p. 330, lines 22-25). Applicant then walked to his car and left the scene. (T. p. 315, line 2).

II. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In September 2010, the Charleston County Grand Jury indicted Applicant for murder (2010-GS-10-6153). Deputy Public Defender Lorelle Procter, Esquire, and Assistant Public Defender Alicia Penn, Esquire, represented Applicant. Assistant Solicitors Benjamin Chad Simpson, Esquire, and Jessica Baldwin, Esquire, prosecuted the case. On February 24-25, 2014, Applicant proceeded to trial before the Honorable Kristi L. Harrington. The jury found Applicant guilty as indicted. Judge Harrington sentenced Applicant to imprisonment for forty years for murder.

Applicant filed a timely notice of appeal. Susan B. Hackett, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on January 11, 2017. State v. Wright, Op. No. 2017-UP-005 (S.C. Ct. App. filed January 11, 2017). The remittitur was returned to the circuit court on January 27, 2017.

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Allegations Raised

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel

- a. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights, in that when the indictment(s) possessed a structural constitutional error and or defect, by the language and or charge contained therein, took away Applicant's presumption of innocence and automatically shifted the burden of persuasion to the Defendant. Counsel said nothing, nor did counsel do anything."
- b. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights in that when the trial court went beyond the 180 day deadline mandated and prescribed by judicial order issued by the South Carolina Supreme Court pursuant to the provisions of Article V § 4 of the South Carolina Constitution, counsel said nothing, nor did counsel do anything."
- c. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights in that when the indictment for murder failed to descend to the particulars of an exact time of assault, counsel said nothing, nor did counsel do anything."
- d. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights in that where there was a 'procedural defect' in the establishing of the warrant(s) and or indictment(s) due to the prosecuting agents acting as sole witnesses on the warrant(s) and or indictment(s), counsel said nothing, nor did counsel do anything."
- e. "Counsel was ineffective when it came to cross examination regarding statements."
- f. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights in that when constructive amendment of the indictment(s) occurred before the court, counsel said nothing, nor did counsel do anything."
- g. "Counsel was inept and constitutionally ineffective because counsel failed to protect Applicant's due process rights when any competent attorney could see that the S.C. Supreme Court in State v. Gentry case abused their discretion and conspired in acts of fraud upon the court in their efforts to come up with the Gentry ruling."

2. "Subject Matter Jurisdiction"

- a. "The U.S. Constitution does not confer power or jurisdiction upon any state or federal government or court within this nation to establish or legalize modern day slavery, which is essentially what the government has done here, both State and Federal." (Referring to "debt to society")
- b. "To make use of the holdings made in State v. Gentry related to subject matter jurisdiction would be misplaced. That case dealt with indictment defects and it was adjudicated under a cloud of fraud upon the court. The precedent set by State v. Gentry is being challenged pursuant to S.C.R.A.P., Rule 217. [Applicant is] arguing

against the precedent.”

- c. “Applicant is not arguing whether or not the criminal court has subject matter jurisdiction to hear and determine cases of this general class to which the proceedings in question belong.”
 - d. “What Applicant is indisputably arguing is a question which clearly was not answered by either the Gentry, Cotton, or Parkhurst courts is this – despite the fact that the criminal court does have subject matter jurisdiction to hear cases of this general class to which the proceedings in question belong via state legislative statutes, do their egregious, blatant failure to be in compliance to said certain, essential, crucial due process ‘jurisdictional prerequisites’ and or jurisdictional requisites’ at various phases of, and or at the commencement of the subject matter jurisdictionary action and or process, which is to be adjudicated under the due process prong to subject matter jurisdiction, halt, check, constrain, restrain, limit, arrest, void, or stop the continuance of the subject matter jurisdictionary ‘power’ before the court which is to be adjudicated under the due process prong of subject matter jurisdiction, even though that court without a doubt do indeed possess such ‘power’ by state legislative statute.”
3. “Due Process Violations (5th, 6th, 13th, 14th, and 15th Amendment Violations)”
- a. “To state by use of an indictment or criminal complaint within the 50 states that an individual ‘did’ with intent, knowingly, [with] malice aforethought, and other such elements imply conclusive first-hand knowledge of the events pertaining to the accusation being brought before the court.”
 - b. “‘The State must prove,’ not the defendant, every single element that is charged, and that is crucial to the offense.”
 - c. “If the indictments and criminal complaints around the nation already predetermine in advance of any proceeding that you ‘did’ with malice aforethought, intentionally, willfully, etc., the State has been relieved of proving it...”
 - d. “In order to contribute some significant burden, a rational trial juror’s only option, and we can add, the defendant’s only option, is to conclude that the indictments or criminal complaints are true, or are to be considered true, because the language and or charge reflects such in depriving one of the presumption of innocence. It is clear from Martin v. Ohio, 480 U.S. 228 (1987) and Moore v. Dempsey, 43 SCT 265 (1923), that this is constitutionally impermissible.”
 - e. “In regards to a charge, and we can add to this, a charge in an indictment or criminal complaint, that constitutes a constitutionally impermissible charge/instruction, or contradicts the presumption of being innocent until proven guilty, even with a later instruction ‘boilerplate’ of being innocent until proven guilty by the courts or stating that the indictments or criminal complaints are not evidence by the courts, the problem is not the cured where there exists a reasonable likelihood that the jurors, and we can add to this, the charge in the indictments or criminal complaints around the nation as conveying an unconstitutional message in both State and Federal prosecutions. Francis v. Franklin, 471 U.S. 307 (1983).”
 - f. “By the structural constitutional error, defect, language, and or charge contained within the indictments and criminal complaints around the entire nation, the defendant’s most basic and most fundamental right to be viewed as innocent until

proven guilty, and to have the State bear the burden of production on the critical elements of dispute has been clearly taken away. This is a serious price to pay for the sake of obtaining a conviction."

- g. "...Applicant's due process matters should have been disposed of and concluded by December 12, 2010. Yet they were not disposed of until February 25, 2014, approximately 3½ years past the 180 days prescribed by judicial order and the provisions of the South Carolina Constitution. There is no 'written' order of continuance filed with the clerk of court before the 180 day time period expired, or that was served on Applicant."
 - h. "The practice of using a solicitor or other officer of the State, as a sole witness before the Grand Jury, to provide only a summary of evidence can be severely abused and we strongly state that it be abandoned unless no other alternative is available. This is what has occurred here."
 - i. "...[Applicant's] due process rights [were] violated by the indictment or murder's failure to properly and or sufficiently appraise Applicant of the 'time' of assault, in the body of the charging instrument, as 'time' is required by law. Applicant did not object to this defect and or error at the time of trial or before he gave his guilty plea, but the defect and or error serves to render the indictment wholly invalid."
 - i. "The language in the charging instrument of the indictment for murder in question alleges that assault occurred 'on or about' June 10, 2010."
 - j. "...[Applicant's] due process rights [were] violated by the trial and or plea court allowing constructive amendment of the indictment(s) at Applicant's trial and or plea hearing."
 - i. "The indictment for murder do not properly and or sufficiently appraise Applicant of the 'cause of nature' of the offense or of what he is called upon to meet and defend because it does not allege an exact time of assault as time is recognized by law."
 - k. "The S.C. Supreme Court in State v. Gentry, err[ed], engaging, knowingly, intentionally in acts of fraud upon the court, in their efforts to essentially establish modern day slavery in violation of the Anti-Peonage Act, and abused their discretionary 'powers,' which they even conspired to take away our right to vote and or [which they] did surreptitiously, in violation of the Voting Rights Act. And in such, the trial court did err, and that court's jurisdiction was made void for due process violation, and the court was prohibited from enacting and or involving and or continuing its subject matter jurisdictionary 'powers,' even though they do indeed possess such 'power' via state statute and or congressional intent, due to the indictment defects and or errors contained and argued within this [Application]..."
4. "Fraud upon the Court"
- a. "The actions of the conspiring agents both State and Federal produce fraud upon the court"
 - b. "The trial court, and or prosecuting body, acting arbitrarily, conspiring under color of state law, in blatant defiance to rules of court, SC Supreme Court Judicial Order, and the provisions of the South Carolina Constitution has again failed to be in compliance to their own state laws in violation of Applicant's substantial federal constitutional rights of due process under the 6th and 14th amendments."

- c. "The S.C. Attorney General compromising hired and or State appointed attorney to go along with it, has abused the indictment and or direct indictment process criminally bringing action against Applicant when he was void of jurisdiction, opening them up to both civil and criminal action being levied against them."
- 5. "There is an issue concerning testimony in the statements."

IV. Ineffective Assistance of Counsel Allegations

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant

such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Subject Matter Jurisdiction Allegations

A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003), *citing* Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001).

Respondent submits that Applicant’s claim that the circuit court lacked subject matter jurisdiction is meritless. A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003), *citing* Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001). In this case, Applicant was indicted by the Charleston County grand jury. That indictment was true-billed and signed by the foreman of the grand jury. The said indictment contains all the necessary elements of the offense, and further cites the applicable statute. A presumption of regularity attaches to all proceedings in the courts of this State, and it is incumbent upon one who challenges a proceeding to prove his claims. *See, e.g., Tate v. State*, 345 S.C. 577, 549 S.E.2d 601 (2001); Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986). Applicant here cannot show any irregularity, because the indictments in question are sufficient on their face. Therefore,

Respondent would move to dismiss this allegation pursuant to S.C. Code Ann. § 17-27-70 (2003), because there is no issue of material fact relating to this allegation and it should be dismissed as a matter of law.

VI. Denial of Due Process Allegations

Applicant alleges a denial of due process of law. Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a *prima facie* showing that his due process and other constitutional rights were violated, Respondent would submit that this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based.

VII. Other Allegations not Raising a Cognizable Claim

Respondent requests that the claims of "fraud upon the court" and "there is an issue concerning testimony in the statements" be dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;

2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). These issues are improper for post-conviction relief because they could have been raised on direct appeal and are procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant could have raised this issue at trial or on appeal. His failure to do so has waived this allegation as a ground for relief.

For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss the Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

VIII. Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

IX. Request for an Evidentiary Hearing

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

X. Response to Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

XI. Conclusion

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

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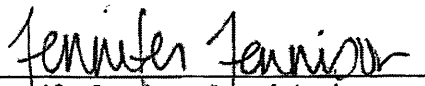
July 19, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	2017-CP-10-1648
	)	
ROBERT LEE WRIGHT	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James Kristian Falk, Esquire
 Falk Law Firm, LLC
 PO Box 1058
 Charleston, SC 29402

DATED this the 19th day of July, 2017.


 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT
2017-CP-10-1648

ROBERT WRIGHT,) TRANSCRIPT OF
) RECORD
APPLICANT,)
)
VS.)
) MARCH 1, 2018
) CHARLESTON, SC
THE STATE OF SOUTH)
CAROLINA,)
)
RESPONDENT.)

B E F O R E:

HONORABLE THOMAS RUSSO

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

MEGAN JAMESON, ESQUIRE
Attorney for the Respondent

JAMES K. FALK, ESQUIRE
Attorney for the Applicant

* * * * *

Ruth C. Weese, RDR

I N D E X

Page

POST-CONVICTION RELIEF HEARING 3

<u>WITNESS</u>	DIRECT	CROSS	REDIRECT
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ALICIA PENN	5	17	30
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CLOSING ARGUMENT:

BY MR. FALK 32

BY MS. JAMESON 37

CERTIFICATE OF REPORTER 44

NO EXHIBITS INTRODUCED

(Proceedings commenced at 10:50 a.m.)

MS. JAMESON: May it please the Court, Megan Jameson. This is the case of Robert Wright versus the State of South Carolina, docket number 2017-CP-10-1648. In September of 2012, the Charleston County grand jury indicted Mr. Wright for murder. Public defender Lorelle Proctor and assistant public defender Alicia Penn represented Mr. Wright.

On February 24th, 2012 it proceeded to a jury trial before the Honorable Kristi Harrington. The jury found Mr. Wright guilty as indicted and Judge Harrington sentenced him to 40 years imprisonment for murder. Mr. Wright filed a timely notice of appeal. Susan Hackett from the Office of Appellate Defense perfected the appeal. And following briefings the Court of Appeals affirmed his convictions on January 11th, 2017.

Remitter was returned to the circuit court on January 27th, 2017. Mr. Wright filed an application for post conviction relief on March 31st, 2017, alleging various grounds of ineffective assistance of counsel, subject matter jurisdiction and due process violations. The State filed its return on July 19th, 2017, and moved for

1 dismissal of all other grounds claimed except for
2 ineffective assistance.

3 Mr. Wright through counsel James Falk
4 filed an amended application on July 10th, 2017,
5 alleging the following grounds: Ineffective
6 assistance of counsel for failing to object to the
7 State's improper opening statement, ineffective
8 assistance of counsel for failing to object to
9 impermissible pitting of witnesses, ineffective
10 assistance of counsel for failing to object to the
11 introduction of a toxicology report in violation of
12 Crawford, ineffective assistance of counsel for
13 failing to request a Biggers hearing, ineffective
14 assistance of counsel for failing to object to
15 bolstering testimony, ineffective assistance of
16 counsel for failing to object to hearsay utterances
17 by State's witness Robert Jay, ineffective
18 assistance of counsel for failing to preserve the
19 issue of whether Mr. Wright was entitled to a jury
20 instruction on the defense of accident and
21 ineffective assistance of counsel for failing to
22 object to leading portions of the -- misleading
23 portions of the jury instructions.

24 THE COURT: All right. Mr. Falk, are
25 you ready to proceed, sir?

1 MR. FALK: We are ready to proceed. We
2 will call Ms. Penn to the stand.

3 ALICIA PENN
4 having been first duly sworn, testified as follows:

5 THE CLERK: Please state your full name
6 and spell your last name for the record.

7 THE WITNESS: Alicia Penn, last name is
8 P-E-N-N.

9 DIRECT EXAMINATION

10 BY MR. FALK:

11 Q. Good morning. Are you currently with
12 the federal public defender's office now?

13 A. I am.

14 Q. And you were obviously with the
15 Charleston County public defender at the time?

16 A. Yes.

17 Q. What role did Ms. Proctor play?

18 A. Ms. Proctor was my second chair.

19 Q. Okay. You were primarily responsible
20 for the trial strategies and the --

21 A. Yes.

22 Q. Let me take these a little bit out of
23 order. Can you tell the Court a little bit about
24 why you thought an accident instruction may have
25 been justified in this case?

1 A. I think in this case there was no
2 question that this was a case where the victim and
3 Mr. Wright had gotten into some sort of altercation
4 and the victim walked away. Mr. Wright walked
5 away. It wasn't until the next day that the victim
6 ended up dying from internal bleeding. So because
7 there was this issue of whether or not the strikes
8 were accidental or whether Mr. Wright meant to
9 cause the death, I think accident would have been
10 appropriate. That's why we asked for it.

11 Q. Okay. And you also asked for
12 self-defense?

13 A. That's correct.

14 Q. Okay. And Judge Harrington challenged
15 you on that?

16 A. She did.

17 Q. Do you have a copy of the trial
18 transcript?

19 A. I do.

20 Q. If you could sort of look at -- I think
21 we asked for the instructions on page 336, line 22.

22 A. I'm there.

23 Q. And if you look then on to 338, lines
24 10 through 15 and 19 through 23, if you could just
25 sort of -- are you familiar with those sections of

1 the transcript?

2 A. I am familiar with the sections.

3 Q. And so what was her response to your
4 request for an accident instruction?

5 A. Judge Harrington's response was that
6 she thought the two were mutually exclusive, you
7 couldn't have both an accident instruction and a
8 self-defense instruction.

9 Q. Okay. And so then what happened next?

10 A. Then she asked me to explain to her how
11 the two go together. And my response was I don't
12 know what -- exactly I'm not that good, Your Honor,
13 but if the Court is telling me it's one or the
14 other, in that case we would ask for self-defense.

15 Q. Okay. So fair to say that you didn't
16 preserve the issue of whether or not you were
17 entitled to an accident instruction?

18 A. That's correct.

19 Q. And are you familiar with the opinion
20 by the Court of Appeals in this case?

21 A. I am.

22 Q. And the Court of Appeals -- really
23 their whole decision was that the issue was not
24 preserved for review?

25 A. I am familiar with that.

1 Q. Okay. Can you look at the testimony
2 from the doctor? It's page 237.

3 A. I'm there.

4 Q. And so the doctor, that was a State's
5 witness?

6 A. Yes. That was the State's witness.

7 Q. He had done a toxicology report?

8 A. Yes, he had.

9 Q. And who was the toxicology report on?

10 A. It was on the victim, Christopher
11 Jenkins.

12 Q. Okay. And had he actually performed
13 the toxicology?

14 A. I don't believe he had, no.

15 Q. If you look at page 237, line 9, 237,
16 lines 5 through 6.

17 A. I'm there.

18 Q. So it looks as though he had sent it
19 out to a different lab?

20 A. That's correct.

21 Q. Did you consider whether or not his
22 introduction of the results of the toxicology
23 report possibly created a confrontation clause
24 issue since the actual person who performed the
25 report was not present and this doctor didn't

1 really do any of the work on that report?

2 A. I didn't consider that. But I don't
3 think I objected because I didn't think it was
4 going to be helpful for our defense or that it hurt
5 one way or the other.

6 Q. Okay. So your position is that would
7 be neutral one way or the other, toxicology?

8 A. Yes.

9 Q. So a decision whether to object or not
10 object, was that trial strategy or just you didn't
11 catch it?

12 A. I think I decided not to object because
13 I didn't think it was an issue.

14 Q. Okay. Were there pretrial proceedings
15 that weren't covered by this transcript?

16 A. Do you mean the prior trial or --

17 Q. No, just looks like this transcript
18 starts off with voir dire questions page 8.

19 A. I don't remember any pretrial.

20 Q. Was there a consideration about whether
21 or not to ask for a Neil vs. Biggers hearing with
22 the testimony from -- let's turn to page 121,
23 line 23 and 126.

24 A. Okay. I'm there.

25 Q. So this is Maurice Dietz?

1 A. Yes.

2 Q. The name was I guess redacted out. And
3 what role did Maurice play in this case?

4 A. He was one of the witnesses in this
5 case.

6 Q. Okay. And on page 121, line 23,
7 page 121, line 21 he is testifying on the stand.
8 He identifies Mr. Wright, does he not?

9 A. He does.

10 Q. Okay. So that's an in-court
11 identification?

12 A. That's correct.

13 Q. And then if we go forward on to
14 page 126, line 17, really 17 through the bottom of
15 that page, there's testimony. I guess he was given
16 a photo packet at some other time, 126 line 17?

17 A. I'm there. Thank you. Yes.

18 Q. And then so he made a photo pack
19 identification, then he identified Mr. Wright in
20 court after that; is that correct?

21 A. It is.

22 Q. Was there a decision not to have a Neil
23 v. Biggers hearing?

24 A. There was.

25 Q. Why was that?

1 A. It's because identity wasn't an issue.
2 The defense was never that Mr. Wright wasn't there.

3 Q. If you could look at the opening
4 statement of the State on page 58, lines 4
5 through 10.

6 A. (Witness complies with request.)

7 Q. Did you think that that possibly had
8 sort of crossed the lines to a motion right there?

9 A. I didn't. This was just a judgment
10 call that I made while I was there, but I didn't --
11 and that's why I didn't object. I probably should
12 have objected on the grounds of speculation.

13 Q. If we could look at page -- try and go
14 back to the order. Back at page 329, lines 13
15 through 19.

16 A. Okay.

17 Q. During the cross-examination of Mr.
18 Wright do you think the State was crossing the line
19 as far as pitting the witnesses?

20 A. I think the State was crossing the
21 line. I don't know why I didn't object. I think I
22 just missed it.

23 Q. Now, what role did Robert Jay play in
24 this case, the witness that's identified as Robert
25 Jay?

1 A. Robert Jay was one of the three boys
2 that saw -- that testified they saw Mr. Wright and
3 Mr. Jenkins.

4 Q. And who was Jaquay Jenkins?

5 A. He was another one of the boys.

6 Q. There was not some -- if you look at
7 page 110, line 8.

8 A. Okay.

9 Q. I'm not really sure I understand what
10 that sentence is. What is Robert Jay saying there?
11 Is he saying that -- the end of this sentence.

12 A. Robert Jay is saying that my brother
13 told him to stop and he threatened him. I took
14 that to mean that Jaquay Jenkins was saying that
15 Robert Wright was threatening Jaquay Jenkins's
16 brother.

17 Q. That being -- so was that a hearsay
18 statement? Is he saying what his brother told him?

19 A. Yes.

20 Q. Would you consider -- is that something
21 that should have been objected to?

22 A. Yes.

23 Q. And then if we could just look at some
24 portions of the State's -- of the charge. If you
25 look at page 391.

1 A. (Witness complies with request.)

2 Q. Lines 21 through 25.

3 A. Okay.

4 Q. Did you find those sections somewhat
5 confusing as to what Judge Harrington is trying to
6 say?

7 A. I didn't and that's why I didn't
8 object.

9 Q. And if you could look at 398, lines 10
10 through 12.

11 A. Okay.

12 Q. That's an incorrect statement of the
13 law in self-defense on the duty to retreat, is it
14 not?

15 A. At that time I didn't know that and
16 that's why I didn't object or I didn't think that.

17 Q. Were you trial counsel in the first
18 trial?

19 A. No. Michael Bosnak was trial counsel
20 in the first trial.

21 Q. And what was the results of the first
22 trial?

23 A. It was a hung jury.

24 Q. And so how much time did you spend with
25 Mr. Wright prior to this trial?

1 A. Mr. Wright was out of jail while we
2 were getting his case ready. So I would estimate
3 he came into the office maybe five times, something
4 around that.

5 Q. Okay. And did you compare the trial
6 transcripts from the first trial to look at what
7 the possible witness statements would be?

8 A. I did.

9 Q. And how much time -- you said over the
10 five visits, about how much time did you spend with
11 him?

12 A. With Mr. Wright or with the --

13 Q. You said Mr. Wright came into the
14 office five times?

15 A. That would be my best estimate.

16 Q. So about how much time total did you
17 spend with him?

18 A. I would guess we spent maybe an hour or
19 so together each time depending on what we were
20 doing that day.

21 Q. Okay. May I approach the witness?

22 THE COURT: Yes, sir.

23 BY MR. FALK:

24 Q. Is that the toxicology report?

25 A. Yes, it is.

1 Q. What's the descriptor for the person in
2 the report? How are they described up in the top
3 left corner? Is there any inaccuracies in the
4 toxicology report?

5 A. Yes, it says that his race is white and
6 that is not correct.

7 Q. How about his age?

8 A. It says his birthday was 1963. I don't
9 know what his age was.

10 Q. But your reason for not challenging the
11 toxicology report from the get-go and the
12 introduction through the doctor was that you were
13 not concerned about the results?

14 A. That's correct.

15 Q. And so what's your recollection of the
16 results from the toxicology?

17 A. Can I refer?

18 Q. Absolutely, let's go back to the page.

19 A. Thank you.

20 Q. 238 -- 237 and 238.

21 A. The result is a drug called atropine
22 which is commonly used by EMS or physicians to
23 revive the heart, there was caffeine in his system,
24 also an anti-inflammatory and those were the
25 results of his toxicology screen.

1 Q. What do you think the State was trying
2 to bring in through the toxicology screen?

3 A. I think they wanted to bring in to show
4 that he didn't have anything else in his system, no
5 drugs, no alcohol.

6 Q. So that was relevant to the State's
7 case, that the victim had no drugs in his system do
8 you believe?

9 A. Yes.

10 Q. So it would have been stronger for your
11 case had he had drugs in his system?

12 A. Yes.

13 Q. So the introduction of the toxicology
14 report, that could have been -- was important to
15 the extent that it helps support the State's case
16 to some extent?

17 A. Yes.

18 Q. Okay. Because originally before I
19 think you said you didn't object because you
20 thought it was going to be neutral?

21 A. That's correct.

22 Q. What did you mean by neutral?

23 A. I didn't think whether or not he had
24 drugs or alcohol in his system was going to be the
25 factor that decided the case.

1 Q. You think it was neutral as far as it
2 didn't help or hurt the State's case?

3 A. Yes. And I didn't think that it helped
4 or hurt us either. I think it would have been
5 better if it said what we wanted it to say, but --

6 MR. FALK: Your Honor, I have no
7 further questions.

8 THE COURT: All right. Cross.

9 CROSS-EXAMINATION

10 BY MS. JAMESON:

11 Q. Good morning, Ms. Penn. How long have
12 you been practicing law?

13 A. Since 2009.

14 Q. And your practice is exclusively
15 criminal defense, you're with the federal PD now?

16 A. That's correct.

17 Q. Let's kind of backtrack and start at
18 the beginning. Will you briefly review for the
19 Court what the allegations presented by the State
20 were here? What happened that led to the victim's
21 death?

22 A. The State alleged that Mr. Wright and
23 Mr. Jenkins got into some sort of altercation and
24 that Mr. Wright beat Mr. Jenkins to death.

25 Q. To be a little more specific, the State

1 presented through the three teenage boys who
2 witnessed it that Mr. Wright flipped the victim on
3 to the ground, correct?

4 A. Yes.

5 Q. And repeatedly kicked, stomped and
6 punched the victim?

7 A. That's what the State presented, yes.

8 Q. And the State presented evidence that
9 the victim had ten out of twelve ribs broken in a
10 clean break?

11 A. That is what the State presented, yes.

12 Q. And this --

13 A. Although I am sorry. Let me backtrack.
14 If I remember this autopsy correctly, the breaks
15 were little tears in the victim's body and those
16 tears were -- I don't think it was like a clean
17 break if I remember this right.

18 Q. Moment's indulgence, Your Honor. Do
19 you have a copy of the transcript up there?

20 A. I do.

21 Q. Will you turn to page 227.

22 A. (Witness complies with request.) Yes.

23 Q. And if you'll look at lines five
24 through the end of the page. If you would read
25 that to yourself.

1 A. Yes. The reason I had made the
2 clarification is in the transcript it describes the
3 fracture in a straight line. And I am no doctor,
4 but I thought that meant the bones were clean
5 broken or something like that. That's not what it
6 looked like in the photos.

7 Q. But there were fractured ribs that led
8 to internal bleeding that led to the victim's
9 untimely death?

10 A. Yes.

11 Q. And this altercation was witnessed by
12 three teenage boys?

13 A. Yes.

14 Q. And all of three them provided
15 statements, correct?

16 A. They did.

17 Q. And in these statements did any of
18 these three witnesses indicate that the victim was
19 the aggressor in any way?

20 A. No. That's not what they said.

21 Q. Did they indicate that the victim had
22 ever struck Mr. Wright?

23 A. I don't think so.

24 Q. All three witnesses said that the
25 victim didn't fight back and didn't say anything to

1 Mr. Wright, correct?

2 A. I think that's what they said, yes.

3 Q. And two of these witnesses identified

4 Mr. Wright, correct?

5 A. I believe that's right, yes.

6 Q. And all identified the car that he was
7 driving in when he approached the victim?

8 A. I believe so, yes.

9 Q. Was identity an issue in this case?

10 A. No.

11 Q. Why not?

12 A. Because it was never a part of the
13 defense. Mr. Wright was there.

14 Q. Mr. Wright admitted that he was engaged
15 in the altercation, correct?

16 A. Yes, he admitted that they had an
17 altercation, but the difference was what he said
18 happened versus what the other boys said happened.

19 Q. He testified at trial, correct?

20 A. He did.

21 Q. When he testified didn't he admit that
22 he struck the victim three to five times?

23 A. He did.

24 Q. Which is less than what the State's
25 witnesses said, but he never denied that he struck

1 the victim?

2 A. That's correct.

3 Q. Do you recall whether or not these
4 three witnesses knew Mr. Wright from prior
5 interactions in the neighborhood?

6 A. I don't remember. I think this
7 neighborhood -- you know, I just don't remember.

8 Q. Let's back up. Can you tell the Court
9 the relationship between Mr. Wright and the victim?

10 A. Sure. The victim at one point had
11 dated Mr. Wright's mother and they all kind of in
12 the -- everybody lived within walking distance of
13 each other.

14 Q. And the record establishes that at one
15 point the victim's mother and Mr. Wright's mother
16 were friends and the families knew each other? Mr.
17 Wright lived with two of these three teenage family
18 members at the time of his death or -- the victim?

19 A. I don't remember. If you want to point
20 me to --

21 Q. If the transcript establishes that at
22 least two of these three knew Mr. Wright from
23 around the neighborhood, would you have any reason
24 to dispute that?

25 A. No.

1 Q. During these five meetings you had with
2 Mr. Wright did you discuss his version of the
3 facts?

4 A. Yes.

5 Q. Were they essentially what he testified
6 to at trial?

7 A. Yes.

8 Q. And what was that?

9 A. That there had been an altercation and
10 Mr. Jenkins rushed Robert first and then Robert
11 somehow managed to fall on top of him and maybe got
12 like a couple of blows in and that was the end of
13 that.

14 Q. And you presented that testimony to the
15 jury?

16 A. Yes.

17 Q. Did you call any other witnesses for
18 the defense?

19 A. I did.

20 Q. Who did you call?

21 A. Danielle Manigault, Betty Scott, and
22 those were the two witnesses I called.

23 Q. Who were those witnesses?

24 A. Ms. Scott was Mr. Wright's mother and
25 Ms. Manigault was Mr. Wright's sister.

1 Q. Neither of them were present to witness
2 this altercation between the two, correct?

3 A. That's correct.

4 Q. What was your strategy or reasoning for
5 calling these two witnesses?

6 A. Ms. Manigault I called to testify about
7 the time she saw Christopher Jenkins peeping around
8 the corner at Mr. Wright's mother. And Betty Scott
9 I called to testify about the relationship between
10 her and Mr. Jenkins.

11 Q. Was there some bad blood going on
12 between Mr. Wright and the decedent before this
13 altercation?

14 A. Mr. Wright never said that.

15 Q. And he testified to that before the
16 jury, correct?

17 A. That's correct.

18 Q. There was testimony that they had
19 previously gotten into a physical altercation I
20 believe in March?

21 A. That's correct.

22 Q. There was some allegations that the
23 decedent was perhaps harassing Mr. Wright's mother
24 or stalking her kind of, stealing various items
25 from around the outside of her home?

1 A. There were.

2 Q. Okay. And I think you testified on
3 direct examination that your overall trial strategy
4 was that this was self-defense and an accident,
5 correct?

6 A. Yes.

7 Q. And why did you set forth the defense
8 of accident?

9 A. Because there's no doubt in my mind
10 that death was accidental, that Mr. Wright did not
11 mean to kill Mr. Jenkins.

12 Q. So the argument wasn't that he didn't
13 intend to make physical contact, it was that he
14 didn't intend for the resulting death?

15 A. Yes, that would have been the argument,
16 yes.

17 Q. So if the physical contact was never in
18 dispute, he testified that he had hit the decedent?

19 A. Yes.

20 Q. Did you retain any experts in this
21 case, perhaps a pathologist?

22 A. Yes.

23 Q. Who did you retain and why?

24 A. I don't remember who I retained. I
25 retained somebody else to review the pathology

1 report.

2 Q. Do you recall the results of this
3 expert reviewing the toxicology and pathology
4 reports?

5 A. Yes. The expert was -- I believe it
6 was Kim Collins was the expert. I don't think I
7 asked her to review the toxicology report. I did
8 ask her to review the pathology report and she did
9 not disagree with anything that was in the report.

10 Q. She agreed that the death was related
11 to blunt force trauma that led to internal
12 bleeding?

13 A. Yes.

14 Q. Were you initially thinking death could
15 have been caused by something else?

16 A. I think that was one avenue we explored
17 for a little bit. I know Mr. Jenkins had had some
18 health issues. We were thinking maybe that was a
19 contributing factor.

20 Q. Was one of those issues some
21 allegations of excessive drinking?

22 A. Yes.

23 Q. Did you investigate the decedent's
24 health and his prior drinking?

25 A. I think I did, but I didn't -- I don't

1 think anything came of it.

2 Q. Do you know if Mr. Wright's mother
3 testified regarding that when you called her as a
4 defense witness?

5 A. I do not see that I did and I don't
6 know why.

7 Q. If the record reflect that she did
8 testify about her concerns about the decedent's
9 drinking excessively in her presence, you don't
10 have any reason to dispute that?

11 A. No.

12 Q. I believe you testified you didn't
13 request a Neil vs. Biggers hearing as a matter of
14 strategy because Mr. Wright admitted to being
15 involved in the altercation and identity wasn't at
16 issue?

17 A. That's correct.

18 Q. And the record will reflect that at
19 least two of the three eyewitnesses previously knew
20 the applicant?

21 A. Yes.

22 Q. Turning back to his first allegation
23 regarding the State's opening statement on page 58,
24 you testified you didn't object to this because you
25 didn't think that it really hurt your case when the

1 State is testifying that if the decedent had gotten
2 medical attention he would have survived?

3 A. Yes. I didn't think it was harmful. I
4 didn't object at the time because I didn't think I
5 had grounds to. But looking at it now in hindsight
6 I should have objected on the grounds of
7 speculation.

8 Q. You actually elicited similar testimony
9 during the case in chief, correct?

10 A. I don't remember.

11 Q. Moment's indulgence, Your Honor. Do
12 you remember if there was any testimony when Dr.
13 Batalis was on the stand that if he had received
14 medical attention earlier he would have survived?

15 A. Yes.

16 Q. That actually helps your case because
17 it showed this wasn't some nasty altercation as the
18 State was presenting. It was a fight between two
19 grown men that both walked away from it, correct?

20 A. Correct.

21 Q. I believe you testified you didn't
22 object to the toxicology report because it was
23 neutral, didn't really help or hurt the State or
24 the defense?

25 A. Yes.

1 Q. And you elicited testimony regarding
2 how long it had been between the fight and when he
3 passed away, correct?

4 A. Yes.

5 Q. There would have been time for any
6 alcohol to metabolize, if you look at page 245?

7 A. Yes.

8 Q. So you were able to have this expert
9 witness testify before the jury that it really
10 didn't matter that the toxicology report showed
11 that he didn't have any alcohol in his system
12 because it would have all metabolized out at that
13 point?

14 A. Yes. Dr. Batalis did say that it was a
15 possibility that if Christopher had had alcohol
16 that would have been metabolized by the time they
17 did the autopsy.

18 Q. Regarding the allegations of the
19 hearsay statements from Robert Jay, those
20 statements all dealt with Mr. Wright assaulting the
21 victim, correct?

22 A. Yes.

23 Q. And, again, your defense was never that
24 he hadn't assaulted the victim, correct?

25 A. Yes.

1 Q. It was in self-defense or an accident?

2 A. Yes.

3 Q. Regarding the issue of failing to
4 properly preserve the accident, again you're not
5 disputing that the physical contact wasn't an
6 accident, only the result, correct?

7 A. Yes.

8 Q. And this occurred during an assault,
9 correct?

10 A. Well, our defense was that it was
11 self-defense or accident and Mr. Wright certainly
12 would not characterize his actions as an assault.

13 Q. And you were able to get the lesser
14 included offenses of voluntary and involuntary
15 manslaughter, correct?

16 A. Yes.

17 Q. Moment's indulgence, Your Honor.
18 Regarding the testimony from Robert Jay's brother,
19 Jaquay?

20 A. Jaquay.

21 Q. On page 110 you were asked about on
22 direct, and you said you thought it was
23 impermissible hearsay and you should have objected?

24 A. Yes.

25 Q. Robert Jay testified, correct?

1 A. Yes.

2 Q. And he testified that the Defendant had
3 threatened him, correct? If the record reflects
4 that he testified that he was threatened by Mr.
5 Wright, do you have any reason to dispute that?

6 A. No.

7 Q. So that had already come into evidence
8 before the jury at that point in time. Do you
9 recall whether Robert Jay testified before Jaquay?

10 A. I do not, but I am looking at the
11 transcript and it looks like Robert Jay did testify
12 before Jaquay Jenkins.

13 Q. So that had already been presented to
14 the jury at that point in time?

15 A. That's correct.

16 MS. JAMESON: No further questions,
17 Your Honor.

18 THE COURT: Any redirect?

19 REDIRECT EXAMINATION

20 BY MR. FALK:

21 Q. You said you consulted with a
22 pathologist; is that correct?

23 A. Yes.

24 Q. Because the evidence was that some of
25 the fractures to his ribs were resulting from

1 paramedics? Let me find it for you.

2 A. Thank you.

3 Q. I know there is reference to it on
4 page 230, line 21 -- I guess 22 through 23.

5 A. Lines 22 through 23 on page 230. Says
6 there were two other rib breaks.

7 Q. Yes. There is more discussion of the
8 cracked ribs. I thought I had that it was the
9 paramedics that had broken some of the ribs during
10 resuscitation. Let me just find that.

11 A. Yes, I think you are looking at 231
12 line eight where Dr. Batalis I believe Mr. Jenkins?

13 Q. Yes.

14 A. Right. There Dr. Batalis said I
15 believe Mr. Jenkins was resuscitated, did receive
16 some CPR type action so I can't rule out that the
17 fractures in the front could have been caused by
18 resuscitation, but resuscitation would not cause
19 rib fracture along the back.

20 Q. Did your pathologist agree with that
21 conclusion?

22 A. Honestly I don't remember because I
23 didn't ask her to write a report. I remember
24 talking to her about it, but not -- I didn't ask
25 her to appear.

1 MR. FALK: Okay. I have nothing
2 further.

3 THE COURT: Anything further?

4 MS. JAMESON: No, Your Honor thank you.

5 THE COURT: Thank you very much, ma'am.
6 You may step down. Call your next witness.

7 MR. FALK: Your Honor, that's all we
8 have.

9 THE COURT: All right. State?

10 MS. JAMESON: The State has no
11 witnesses to call. I would appreciate argument at
12 the end.

13 MR. FALK: I was hoping that we could
14 argue.

15 THE COURT: Absolutely. Mr. Falk,
16 happy to hear from you.

17 MR. FALK: Your Honor, probably my
18 gravest concern is the accident instruction. I
19 think under the case law that you can be entitled
20 to have an instruction on both accident and
21 self-defense and I would cite to -- I think you can
22 find that at State v. Goodson. It was 440 S.C. 2d
23 370.

24 Whether or not -- the issue here is the
25 Court of Appeals did not have the opportunity to

1 consider whether or not accident was permissible
2 under the facts in this case. Ms. Penn thought she
3 should be entitled to both accident and
4 self-defense instruction and those were the issues
5 that were argued by Ms. Packet for appellate
6 defense before the Court of Appeals and the Court
7 of Appeals just sent counsel a ruling saying that
8 the issue was not preserved.

9 I can't read their mind, but frequently
10 when a Court of Appeals gets some of these they
11 frequently say that even if it had been preserved
12 blah, blah, blah. We don't think the statement was
13 made in this case, and that's why I think maybe the
14 Court of Appeals should have an opportunity to have
15 the issue fully briefed to have considered that.
16 That's my concern about accident. Any time there
17 is an improper charge to the jury I think as we
18 have seen the jury is going to follow the law as
19 charged by the Court.

20 And that brings me to, and I can't tell
21 you whether or not that was a typo what was
22 actually said, but her charge on self-defense on --

23 THE COURT: I noticed that when you
24 pointed it out earlier. It actually would be a
25 charge on the law except for a word or two.

1 MR. FALK: And what word is it?

2 THE COURT: Yeah.

3 MR. FALK: Maybe it sounds like even if
4 you could have been --

5 THE COURT: What page was that?

6 MR. FALK: 398 lines, ten through
7 twelve.

8 THE COURT: I looked at that when you
9 mentioned it. And it talked -- says a Defendant
10 has a duty to retreat if by doing so the danger of
11 being killed or suffering serious bodily injury
12 would increase. But the law is the Defendant does
13 not have a duty to retreat.

14 MR. FALK: Right.

15 THE COURT: If --

16 MR. FALK: We can't assume what the
17 jury would infer, maybe the other word is missing,
18 the Defendant has a duty to retreat even if in
19 doing so he would suffer some injury. I don't
20 know. We would be speculating how the jury
21 interpreted that, but we have to assume that they
22 heard what was transcribed by the court reporter
23 and they certainly could have been confused by that
24 and certainly this being a self-defense case that
25 it's highly relevant.

1 And I'm not sure of if the death was
2 not caused by the wound, I am on page 391, lines 21
3 and following. If, however, the death was not
4 caused by the wound or the injury that the victim
5 had what was caused by the gross or willful
6 deliberate treatment the Defendant would not be
7 liable. I'm not sure what that's supposed to be,
8 but that's an inaccurate -- although that may have
9 helped, but certainly the jury could be confused by
10 how to interpret that.

11 And I would still take issue with Ms.
12 Penn's analysis, having been on the day of trial
13 and they were going to try and introduce this
14 toxicology report, the toxicology report does have
15 -- does help the State's case. Because certainly
16 if there was no toxicology report and maybe that
17 would have allowed the State to argue that he could
18 have been drinking, something like that during the
19 close or opening, that might have an impact. But
20 they were able to bring this toxicology report in
21 and I believe the case is State v. McCray where
22 they talk about experts bootstrapping in reports
23 that are done by other experts.

24 And, you know, although that may be
25 permissible as far as the latitude that's given

1 under -- I don't know if it's 702 or 703 as to
2 expert testimony that, you know, experts can rely
3 on hearsay, but at some point we are crossing the
4 line into a confrontation clause issue. That's
5 what the McCray case says and that was a case where
6 the State did not have -- the person who provided
7 the DNA testimony was no longer with SLED and they
8 brought in somebody who was -- who audited their
9 report. And so they brought -- tried to bring the
10 -- brought the DNA evidence in through somebody who
11 has audited the report. And the Court of Appeals
12 said that that's impermissible. There's a line of
13 United States Supreme Court cases that that follow
14 and I can give you the McCray site at the end of
15 the day. I don't have it at my fingertips.

16 THE COURT: All right.

17 MR. FALK: Some of the other issues, as
18 far as pitting the witness, I think if that was the
19 only thing I was here standing talking about it
20 would be a different argument, but it sort of adds
21 to somewhat of an accumulation of things that could
22 have been done better in the case. That's -- I am
23 talking about lines 13 through 19 on page 329. I
24 will accept the -- I'll accept the explanation I
25 probably shouldn't have raised Neil v. Biggers

1 because she is absolutely right. This wasn't an
2 identity case. That was me being a little bit
3 overzealous. I will still stand on the problems
4 with the jury charge. Thank you, Your Honor.

5 MS. JAMESON: May it please the Court,
6 as Your Honor is aware, Strickland governs post
7 conviction relief allegations of ineffective
8 assistance of counsel and pursuant to Strickland
9 the applicant must prove both deficiency and
10 prejudice to entitle him to relief for each
11 individual allegation. There was some discussion
12 about the cumulative effect by Mr. Falk, but there
13 is no cumulative effect doctrine in South Carolina
14 and so therefore Mr. Wright must prove that he
15 established deficiency and prejudice as to each of
16 the eight allegations and the State would submit he
17 hasn't done so.

18 THE COURT: Well, now hold on. Isn't
19 that a mischaracterization, because doesn't he have
20 just to show it once?

21 MS. JAMESON: Yes, certainly, but he
22 cannot show a cumulative effect of a little bit of
23 prejudice here but not enough to --

24 THE COURT: Correct. He doesn't have
25 to show --

1 MS. JAMESON: For all eight, no.

2 THE COURT: Any one of those he can
3 succeed.

4 MS. JAMESON: Certainly, but there
5 isn't a cumulative effect and I believe the
6 characterization was --

7 THE COURT: I agree with that.

8 MS. JAMESON: -- looking at the record
9 as a whole and the State submits when you look at
10 each allegation individually and compare it to the
11 record and deficiency and prejudice must be
12 established and the deficiency must be related to
13 the prejudice for each of those allegations.

14 Turning to the first allegation for the
15 failing to object to the improper opening statement
16 on page 58, the State would submit that counsel
17 actually used that to her benefit later on to show
18 that this wasn't deadly force or intentional death
19 and cross-examined State's witnesses about it later
20 on when Dr. Batalis is on the stand on page 249 to
21 250. And so Mr. Wright has not established any
22 deficiency and certainly would not be prejudiced
23 because a similar argument was used to his benefit
24 later on in the trial. Turning to the
25 second allegation about impermissibly pitting the

1 witnesses against each other, the testimony is that
2 applicant himself didn't deny being involved in
3 this fistfight and none of the three witnesses did.
4 So the State would submit he can't establish any
5 prejudice related to that allegation.

6 For failing to object to the
7 introduction of the toxicology report pursuant to
8 Crawford, first the State would show that Ms. Penn
9 used it to her benefit during the cross-examination
10 of Dr. Batalis. He was cross-examined about the
11 fact that any alcohol metabolized out of his system
12 at the time, and it didn't have any bearing on
13 whether or not the victim was under the influence
14 of alcohol at the time of the altercation.

15 Moreover, it's not relevant to the
16 issue at hand whether or not the victim was drunk
17 or high or under any sort of other drug. It has no
18 bearing on the altercation at hand. There was
19 testimony presented from four, if you include Mr.
20 Wright's witnesses, that Mr. Wright had attacked
21 the victim, according to his testimony he issued
22 three to five blows, but if you look at the
23 testimony of the three teenage boys who were there,
24 their testimony was all that Mr. Wright drove up in
25 a car while they were walking to a store with their

1 uncle, unprovoked, the decedent didn't say anything
2 to him, never issued any blows, he attacked him, he
3 flipped him on the ground. He stomped, kicked and
4 punched him and then both men walked away.

5 So the State would submit that has --
6 the allegation has no bearing on the overall
7 outcome of the trial. Also, this case is different
8 from the McCray case that was cited by applicant.
9 Because here Dr. Batalis drew the blood from the
10 decedent, performed the autopsy and then it was
11 sent to a lab, then sent back to Dr. Batalis to
12 interpret. So the State still submits there is no
13 prejudice there, but this case is distinguishable
14 from McCray and McCray should not be controlling on
15 this case.

16 Turning to the fourth allegation for
17 trial counsel failing to seek a Neil v. Biggers
18 hearing, the State would submit that pursuant to
19 case law, particularly State v. Liverman, there
20 should have been a Neil v. Biggers hearing. Even
21 if the witnesses know the Defendant there should
22 still always be a Neil v. Biggers hearing. But
23 there can't be any prejudice or deficiency because
24 the witnesses all knew the applicant. The
25 applicant never denied his involvement in the

1 fight, identity wasn't at issue and the whole
2 defense was that it was self-defense, an accident.
3 So although it would have been prudent to have a
4 Neil v. Biggers hearing, there simply can't be any
5 prejudice from the failure to do so.

6 For allegation No. 5, failing to object
7 to the State's attempt to bolster their own
8 witnesses, again the State would submit there isn't
9 any prejudice flowing from that. All the witnesses
10 testified as to what they saw individually. It
11 didn't have any impact on the outcome of the
12 verdict here.

13 Same with in failing to object to the
14 hearsay utterances by Robert Jay regarding the
15 applicant threatening him. Robert Jay had already
16 testified at this time in trial. He testified that
17 he was threatened by Mr. Wright and therefore there
18 can be no prejudice from this allegation.

19 Dealing with the issue of failing to
20 properly preserve the jury charge on the defense of
21 accident, the State would submit this issue was
22 briefed fully by both Ms. Hackett and the assistant
23 attorney general from our office and that is before
24 Your Honor. The briefs are before Your Honor. The
25 State would submit as we did on direct appeal that

1 he was not entitled to an accident jury instruction
2 because the act was not accidental. The death was
3 accidental, but Mr. Wright's own testimony is that
4 he intentionally struck the decedent three to five
5 times. But giving him the benefit of the doubt and
6 looking at the testimony and evidence in the light
7 most favorable to him, he still wouldn't have been
8 entitled to an accident instruction. So therefore
9 counsel cannot be deficient or it cannot be
10 prejudicial to counsel for sort of abandoning that
11 issue.

12 Furthermore, the State would submit
13 that Judge Harrington's comments with counsel and
14 the State during the charging conference about that
15 it really can only be self-defense or accident, not
16 both, isn't a wrong statement of the law. In those
17 cases the defense of accident and the defense of
18 self-defense are independent defenses and really
19 it's the narrow time when perhaps the decedent and
20 the Defendant are fighting over a gun when a
21 Defendant would be entitled to self-defense and
22 accident.

23 But here it's a much different
24 situation. We have Mr. Wright admitted to striking
25 the decedent three to five times and therefore he

1 would not be entitled to an accident charge.

2 And for the final allegation, failing
3 to object to the self-defense portion of the jury
4 charge, that had no impact on the jury's verdict at
5 all. There was testimony from three witnesses that
6 the victim or the decedent -- Mr. Wright brought
7 this on his own. He drove up to the victim,
8 flipped him over, stomped, kicked him repeatedly
9 and beat him and the State submits that even if
10 there was a missing word that Judge Harrington
11 should have said where that charge was deficient in
12 any sort of a way, that that had absolutely no
13 impact on the outcome of the trial and that he
14 hasn't established prejudice as to that allegation.
15 And the State would ask the Court to deny all eight
16 allegations in full.

17 THE COURT: Folks, I need to take the
18 opportunity and the time to read through the
19 transcript as well as the briefs that were
20 submitted with regards to the issue an accident.
21 So I'm going to take the opportunity to review
22 those things and the testimony here today and I'll
23 have a response for you within the next week or so.

24 MS. JAMESON: Thank you, Your Honor.

25 (Proceedings concluded at 11:50 a.m.)

1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplomate
4 Reporter, do hereby certify that the foregoing
5 transcript is a true, accurate, and complete
6 record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 3rd day of February, 2019.

12
13 *Ruth C. Weese*

14
15 _____
16 Ruth C. Weese

17 Registered Diplomate

18 Reporter
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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Robert Lee Wright, SCDC #358939

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-1648

ORDER OF DISMISSAL
RECEIVED

DEC 21 2018

S.C. SUPREME COURT.

This matter comes before this Court by way of an application for post-conviction relief filed on March 31, 2017, by Robert Lee Wright (Applicant). Respondent served its return on July 19, 2017, requesting an evidentiary hearing. An evidentiary hearing was held on March 1, 2018, before this Court at the Charleston County Courthouse. Applicant was present and was represented by counsel James K. Falk. Respondent was represented by Senior Assistant Deputy Attorney General Megan Harrigan Jameson. At the hearing, testimony was taken from trial counsel Alicia Penn.

Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations and denies this application with prejudice.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Charleston County Clerk of Court. During its September 2010 term, the Charleston County Grand Jury indicted Applicant for the murder of Christopher Jenkins (2010-GS-10-6153).

Assistant Public Defender Alicia Penn of the Charleston County Public Defender's office represented Applicant.¹ Assistant Solicitors Benjamin Chad Simpson and Jessica Baldwin of the Ninth Circuit Solicitor's Office represented the State. On February 24-25, 2014, Applicant proceeded to a jury trial before the Honorable Kristi L. Harrington, circuit court judge. The jury found Applicant guilty as indicted. Judge Harrington sentenced Applicant to imprisonment for forty years for murder.

On February 27, 2014, Applicant filed a motion for a new trial and a motion to reconsider the sentence. On March 25, 2014, Judge Harrington filed an order denying both motions. Applicant filed a notice of appeal with the Charleston County Clerk of Court on March 31, 2014. However, the appeal was not received by the South Carolina Court of Appeals until May 12, 2014. On May 20, 2014, Applicant filed a motion to allow for late filing of the notice to appeal. On June 16, 2014, the South Carolina Court of Appeals filed an order granting the motion. Appellate Defender Susan B. Hackett of the South Carolina Commission on Indigent Defense-Office of Appellate Defense filed a brief pursuant to Anders v California, 386 U.S. 738 (1967) and petitioned to be relieved as counsel. On March 3, 2016, the Honorable Paul E. Short, Jr., of the South Carolina Court of Appeals, denied counsel's motion to be relieved and directed the parties to brief the following issue: Whether the trial court erred in ruling the defenses of accident and self-defense are mutually exclusive and whether the issue is preserved for appellate review. Following briefing, the Court of Appeals affirmed Applicant's conviction on January 11, 2017. State v. Wright, Op. No. 2017-UP-005 (S.C. Ct. App. filed January 11, 2017). The remittitur was returned to the circuit court on January 27, 2017.

¹ Counsel was assisted by Deputy Public Defender Lorelle Procter at trial.

SUMMARY OF FACTS ADDUCED AT TRIAL

During the early evening hours of June 10, 2010, Applicant Robert Wright assaulted Christopher Jenkins, the victim, by repeatedly punching and stomping him while he lay on the ground. (R. pp. 80, pp. 81, pp. 110). Victim's two nephews and one of their friends witnessed the beating. (R. p. 77, lines 3-15; R. p. 107, lines 8-18; R. p. 121, lines 19-25). The next day, Victim died as a result of the attack. (R. p. 245, line 16). The pathologist concluded that cause of death was blunt force trauma and noted that the victim had ten broken ribs and numerous external injuries. (R. pp. 226, pp. 227).

Victim and Applicant's mother, Betty Scott, had dated each other on and off for several years.² (R. p. 163, lines 14-25; R. p. 278, lines 2-8). Betty ended the relationship but the two maintained contact with one another. (R. pp. 278-279). Thereafter, a series of events unfolded that ultimately led to the underlying incident. In March 2010, Applicant learned the Victim had recently attempted to strike Betty. (R. p. 319, lines 19-24). In April 2010, Applicant received a phone call that Victim had upset Betty and made her cry. (R. p. 323, lines 3-6). That same day, Applicant tracked down Victim and they engaged in a physical altercation. (R. p. 323, line 7-p. 324, line 20). On June 10, 2010, Applicant was told that Victim had been seen lingering around Betty's house. (R. p. 325, lines 16-20). Apparently, it was after hearing this information that Applicant decided to take action.

On June 10, 2010, Victim's two nephews, thirteen-year-old Robert and fourteen-year-old Jocqui, were playing with a friend, thirteen-year-old Maurice, at their home. (R. p. 72, line 10- R. p. 73, line 1). At that point in time, Victim and his two nephews lived with Mary Jenkins, Victim's mother. (R. p. 70, line 21-R. p. 71, line 25). While the children were playing, Tamika Jenkins, the mother of Robert and Jocqui and sister of Victim, asked the boys to go to the store

² Throughout the trial, Betty Scott was often referred to as "Ms. Winky".

for her. (R. p. 73, line 3). It was getting dark so Victim decided to walk with the boys. (R. p. 74, line 3). The three boys were walking a few feet in front of Victim down the sidewalk. (R. p. 76, lines 2-3). When Robert turned around to make sure Victim was still following them he saw a car pull up. (R. p. 76, lines 3-10). All three boys witnessed Applicant get out of the vehicle and walk towards Victim. (R. p. 77, lines 3-15; R. p. 107, lines 8-18; R. p. 121, lines 19-25). Before Victim could turn around completely, Applicant picked up Victim and "body slammed" him to the ground. (R. p. 79, lines 3-5). Applicant then began to punch Victim in the face, between five and ten times. (R. p. 80, lines 11-25). He then proceeded to forcefully stomp Victim's body with his feet, between five and ten times. (R. p. 81, lines 1-5). During the assault, Victim did not fight back but "was just laying there on the ground". (R. p. 110, line 5). Victim did not speak to or act violent towards Applicant leading up to or during the assault. (R. p. 83, lines 2-17; R. p. 113, line 25-R. p. 114, line 6). Robert yelled at Applicant to stop attacking his uncle. Applicant responded to Robert, "shut your retarded ass up and come do something about it". (R. p. 124, lines 5-7). Applicant then walked back to his car and drove away. (R. p. 110, lines 11-15).

After Applicant left, Victim stood up and attempted to walk with the boys the remainder of the way to the store. (R. p. 83, line 19-p. 84, line 5). Victim was unable to continue so the boys went on to the store without him. (R. p. 84, lines 6-19). Minutes later, both Victim and the boys returned home. (R. p. 85, lines 1-4). The family watched as a bleeding and bruised Victim walked upstairs, holding his side in pain, to rest. (R. p. 85, lines 7-21; R. p. 138, lines 21-24). Sounds of moaning could be heard by everyone downstairs. (R. p. 85, line 24; R. p. 140, lines 20-24). Robert explained to Mary that Applicant had just attacked Victim and had yelled at Robert. (R. p. 155, line 15). Mary, being a concerned mother and grandmother, went to Betty's house to talk about Applicant and the incident. (R. p. 166). Betty did not know about the incident and Applicant was not there when Mary arrived. (R. p. 168, line 21).

The next day, June 11, 2010, Victim was still in excruciating pain and spent the day lying in bed. (R. p. 141, lines 2-12). Applicant and Betty came over to Victim's house to speak with Mary, not about the assault but the statement to Robert. (R. p. 141, line 16). Timeka was present and felt that Applicant was not the least bit concerned about victim. (R. p. 142, line 4). Applicant told Timeka, "he was tired of Chris disrespecting his mother and he would have did it again if he had to." (R. p. 144, lines 15-17). Applicant and Betty left soon thereafter.

A couple of hours later, Timeka decided to call EMS after her other brother went upstairs to check on Victim and witnessed Victim having two seizures. (R. p. 143, lines 9-20). At approximately 3:00 p.m., an ambulance arrived at the home and transported Victim to the hospital. (R. p. 162, line 21). Victim died at 5:54 p.m. that same day. (R. p. 245, line 16).

On June 12, 2010, Detective Barry Goldstein of the Charleston Police Department responded to Mary's home to investigate Victim's death. (R. p. 173, line 2). He spoke with Robert and Maurice about the incident and asked if they could identify the man that had attacked their uncle. (R. p. 88, lines 4-22; R. p. 126, lines 10-25). They both positively identified Applicant out of a photo lineup. (R. p. 88, lines 4-22; R. p. 126, lines 10-25). After interviewing Robert and Maurice, the children took Detective Goldstein to the incident location. (R. p. 175, line 5). Detective Goldstein observed blood spatter and drops where Victim had been assaulted. (R. p. 175, line 20). Officer Randall Unterbrink, with the Charleston Police Department Crime Scene Unit, photographed and collected samples of the blood found on scene. (R. p. 199, lines 3-5; R. p. 201, line 10). He was able to determine that a total of forty-eight blood drops had been left at the incident location. (R. p. 208, line 21). The blood samples were positively identified as belonging to Victim. (R. p. 256, line 1). Later that day, Detective Goldstein obtained an arrest warrant for Applicant. (R. p. 176, line 23). Detective Goldstein observed Applicant did not have any bruising or injuries to his body. (R. p. 177, line 13).

On June 12, 2010, an autopsy was performed on Victim by Dr. Nicholas Batalis. (R. p. 226, line 3). Dr. Batalis observed multiple injuries when conducting an external examination of Victim's body. (R. p. 226, line 12). Victim had a laceration to his left eye, a scrape to the lower lip, two scrapes on the left knee, and a large bruise on the upper left side of his chest. (R. p. 226, lines 12-18). During the internal examination of Victim, Dr. Batalis noted that ten of the twelve ribs on Victim's back right side were fractured in a straight line, which could only have occurred by the use of a significant amount of force. (R. p. 227, lines 8-14; R. p. 229, line 15). The pathologist conceded that forceful stomping could cause fracturing similar to Victim's injuries. (R. p. 230, lines 15-20). This fracturing caused significant bleeding into the chest cavity and bruising to the right side of his back. (R. p. 227, lines 15-18). Dr. Batalis' ultimate finding was that Victim's cause of death was blunt force trauma to the chest. (R. p. 234, line 7).

At trial, Applicant testified to his version of the facts. (R. pp. 300-331). He claimed he followed Victim so they could talk about Betty. (R. p. 327, lines 14-24). Applicant got out of his car and called out to Victim. (R. p. 328, lines 7-10). Applicant testified that Victim turned around and put his hands up to fight. (R. p. 328, lines 10-13). According to Applicant, the two then locked shoulders and Applicant flipped Victim over onto the ground. (R. p. 313, lines 22-24; R. p. 314, lines 2-15). Applicant admitted to intentionally punching Victim three to five times. (R. p. 330, lines 22-25). Applicant then walked to his car and left the scene. (R. p. 315, line 2).

ALLEGATIONS RAISED IN THE APPLICATION AND AT THE HEARING

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on various grounds of ineffective assistance of trial counsel, subject matter jurisdiction, and due process violations. The State made its return on July 19, 2017, and moved for dismissal of all grounds other than the claims of ineffective assistance of counsel.

On July 10, 2017, Applicant, through counsel James K. Falk, served an amended application with the following additional claims for relief

1. Ineffective assistance of counsel for failing to object to the State's improper opening statement
2. Ineffective assistance of counsel for failing to object to impermissible pitting of witnesses
3. Ineffective assistance of counsel for failing to object to the introduction of toxicology report in violation of Crawford
4. Ineffective assistance of counsel for failing to request a Biggers hearing
5. Ineffective assistance of counsel for failing to object to bolstering
6. Ineffective assistance of counsel for failing to object to hearsay utterance by State's witness Robert J.
7. Ineffective assistance of counsel for failing to preserve issue of whether Applicant was entitled to a jury instruction of the defense of accident
8. Ineffective assistance of counsel for failing to object misleading portions of the jury instruction

Applicant proceeded forward on these allegations as set forth in his amended application at the evidentiary hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Applicant has alleged numerous instances of ineffective assistance of counsel against trial counsel, Alicia Penn (counsel). Each allegation is addressed fully below.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S.

668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland does not guarantee perfect representation, only a " 'reasonably competent attorney.' " 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)); Representation is constitutionally ineffective only if it "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. See generally Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this

presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Although courts may not indulge "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins, 539 U. S., at 526-527, neither may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a "strong presumption" that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011)

With respect to prejudice, an applicant must demonstrate "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Id. at 694. It is not enough "to show that the errors had some conceivable effect on the outcome of the proceeding." Id. at 693. Counsel's errors must be "so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." Id. at 687; Harrington, 562 U.S. 86.

"Surmounting Strickland's high bar is never an easy task." Padilla v. Kentucky, 559 U.S. 356, 371 (2010). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of

the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel’s representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials outside the record and interacted with the client, with opposing counsel, and with the judge. It is “all too tempting” to “second-guess counsel’s assistance after conviction or adverse sentence.” Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Strickland, 466 U.S. at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel’s performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is “reasonably likely” the result would have been different. Id. at 696. This does not require a showing that counsel’s actions “more likely than not altered the outcome,” but the difference between Strickland’s prejudice standard and a more-probable-than-not standard is slight and matters “only in the rarest case.” Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693; Harrington, 562 U.S. 86.

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to any of his various allegations. Each allegation is addressed fully below:

Allegation: Failure to Object to the State's Improper Opening Statement

Applicant alleges trial counsel was ineffective for failing to object to a portion of the State's opening argument discussing the Victim's motivations in delaying medical treatment.

The specific portion that Applicant asserts is improper is as follows:

Finally, and here is one tragedy of this, you'll hear that he knew if he went to the hospital or called the police what would happen? Mr. Wright would get arrested. And if Mr. Wright got arrested he could never get back with Ms. Winky, this person that he loved. He knew if that happened it was over. So sadly, there was some delay in seeking medical attention.

(R. p. 58, lines 4-10).

At the evidentiary hearing, counsel testified she did not object to this portion of the State's opening argument because she did not think an objection was warranted or that the argument was improper based on the evidence she anticipated would be presented at trial. She testified she could have objected based on speculation, but she did not think this line of argument hurt Applicant's case. She elaborated this argument was potentially beneficial to Applicant's case because it argued the Victim's injuries may not have been fatal if he had received medical treatment in a timely manner and helped the defense theory that Applicant did not intend to kill the Victim. She testified she elicited similar testimony that the victim's injuries were not immediately fatal during the cross-examination of Dr. Nicholas Batalis, the forensic pathologist who performed the Victim's autopsy. See R p. 244.

During a criminal trial, "the opening statement serves to inform the jury of the general nature of the action and the issues involved so they can better understand the evidence presented." State v. Kornahrens, 290 S.C. 281, 284, 350 S.E.2d 180, 183 (1986). "The solicitor is permitted in opening statement to outline the facts the [S]tate intends to prove." Id. "As long as the State introduces evidence to reasonably support the stated facts, there is no error." Id. "Improper comments do not automatically require reversal if they are not prejudicial to the

defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument.” Brown v. State, 383 S.C. 506, 516, 680 S.E.2d 909, 915 (2009) (quoting Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002)). “The relevant question is whether the solicitor’s comments so infected the trial with unfairness as to make the resulting conviction a denial of due process.” Id. (quoting Humphries, 351 S.C. at 373, 570 S.E.2d at 166).

This Court finds counsel was not constitutionally ineffective for failing to object to this portion of the State’s opening argument. Specifically, this Court finds Applicant has failed to establish deficiency of counsel or any resulting prejudice. Addressing deficiency first, this Court finds Counsel’s performance was effective and in accordance with his constitutionally required duties to his client, as this portion of the opening argument was not objectionable. This portion of the State’s opening argument was simply outlining the anticipated testimony of witnesses, like Dr. Batalis, who testified the Victim’s injuries were not immediately life threatening and he may have survived if he had sought immediate medical attention. See e.g., R. p. 244, lines 18-25 (“It would certainly depend, on how much sooner between the time of the incident and time of death. Certainly the sooner that he presented during the course his chances would have been better. So if he would have presented two hours before he died it may have been too late at that time but if it was immediately after the incident then I’d say he would have had a pretty good chance of surviving.”); p. 249, lines 7-16 (explaining the victim would have had a better chance of survival if he had immediately received medical attention). Because this portion of the State’s opening statement was proper, counsel was not deficient for failing to object. This allegation is denied and dismissed with prejudice.

Allegation: Failure to Object to Witness Pitting

Applicant alleges trial counsel was ineffective for failing to object when the State impermissibly pitted witnesses. Specifically, Applicant argues the following portion of the State's cross-examination of him improperly pitted his testimony against the young boys who witnesses the altercation and testified as State's witnesses:

Q. Okay. Can you think of some reason that three young boys would have to make up untruths about you?

APPLICANT: I can't think of a reason, sir.

Q. Having asked that question let me ask a follow-up question. You admit that a person facing what you are facing here this week might have quite a powerful reason to come up with things that are untrue?

APPLICANT: Yes, sir.

(R. p. 329, lines 13-20). Counsel did not object to this line of questioning.

"No matter how a question is worded, anytime a solicitor asks a defendant to comment on the truthfulness or explain the testimony of an adverse witness, the defendant is in effect being pitted against the adverse witness. This kind of argumentative questioning is improper." Burgess v. State, 329 S.C. 88, 91, 495 S.E.2d 445, 447 (1998) (citing State v. Bryant, 316 S.C. 216, 221, 447 S.E.2d 852, 855 (1994); State v. Sapps, 295 S.C. 484, 486, 369 S.E.2d 145, 145-46 (1988)). "However, improper pitting constitutes reversible error only if the accused is unfairly prejudiced." Id. "To establish his claim of ineffective assistance of counsel, petitioner had to show a reasonable probability that the result of his trial would have been different if counsel had objected to the solicitor's improper questions." Id. (citing Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997)). A reasonable probability is a probability sufficient to undermine confidence in the outcome of a trial. Id.

This Court finds that although the State's questioning of Applicant was improper because it asked him to "comment on the truthfulness or explain the testimony of an adverse witness," Applicant cannot establish any resulting prejudice, and thus, cannot meet his burden to show counsel was constitutionally ineffective. The uncontroverted testimony from both Applicant and the State's witnesses all confirmed that Applicant and the Victim were involved in a physical altercation and that Applicant admitted to flipping the Victim onto the ground and intentionally punching the Victim three to five times. Therefore, the State's attempt to bring up rather minor discrepancies between Applicant's version of events and that of the State's witnesses as "untruths" had no impact on the outcome of the trial. Therefore, Applicant cannot establish any constitutional ineffectiveness of counsel for failing to object. This allegation is denied and dismissed with prejudice.

Allegation: Failure to Object to the Introduction of the Toxicology Report

Applicant alleges trial counsel was ineffective for failing to object to the introduction of toxicology results from the victim's blood based on a purported Crawford³ violation. During Applicant's trial, the State presented the Victim's toxicology results through Dr. Batalis, who testified he took samples during the Victim's autopsy which were then sent to a nationally accredited lab for analysis. He elaborated the results were then sent back to his lab, where the results were interpreted, analyzed, and incorporated into his autopsy report. (R. p. 225-26; 237-38). He testified as to the following results from the Victim's toxicology report:

Q. And what were the results of that toxicology screen of Christopher Jenkins?

A. So we tested blood that- we obtained at the autopsy and it was positive for only three substances. One is a drug called atropine, which is commonly used by EMS or physicians in the emergency

³ Crawford v. Washington, 541 U.S. 36 (2001) (holding the admission of testimonial hearsay against an accused violates the Confrontation Clause if (1) the declarant is unavailable to testify at trial and (2) the accused has had no prior opportunity to cross-examine the declarant).

room to revive the heart or resuscitate somebody. He also had caffeine in his system, and then the drug called Naprosyn, which is an anti-inflammatory drug. If you've ever taken Aleve, that's what Naprosyn is. Similar to ibuprofen.

Q. So present in his system was a drug commonly used by EMS in treating somebody?

A. EMS and physicians, yes.

Q. Caffeine?

A. Yes.

Q. And something you would get from Aleve?

A. Yes.

Q. Any alcohol in his blood at the time the toxicology report was done?

A. There was no alcohol whatsoever.

Q. Any narcotics such as cocaine, marijuana?

A. No.

Q. The three we discussed were the only results from the toxicology screen?

A. Yes, and just for an idea for the jury, our screen tests for three to 400 different drugs including all the different drugs of abuse such- as cocaine, heroin, alcohol, as well as numerous, numerous medications as well.

Q. And none present other than the things you've already testified to?

A. Correct.

(R. p. 237-38).

When questioned as to why she did not object to this line of questioning, trial counsel testified it was irrelevant to the defense theory of self-defense and/or accident and therefore there was no reason to object and highlight it to the jury when it was ultimately neutral for both the State and the defense. She testified she also was able to elicit favorable testimony from Dr.

Batalis on cross-examination that any alcohol that might have been in the Victim's body approximately twenty-four hours earlier during the altercation with Applicant would have fully metabolized out of his body by the time of the autopsy. See R. p. 245-46.

"The Sixth Amendment's Confrontation Clause guarantees that, '[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.' " State v. McCray, 413 S.C. 76, 90, 773 S.E.2d 914, 921-22 (Ct. App. 2015) (quoting U.S. Const. amend. VI.) "In Crawford v. Washington, the U.S. Supreme Court held the admission of testimonial hearsay against an accused violates the Confrontation Clause if (1) the declarant is unavailable to testify at trial and (2) the accused has had no prior opportunity to cross-examine the declarant." McCray, 413 S.C. 90, 773 S.E.2d at 921-22 (citing Crawford, 541 U.S. 36, 59 (2004)). "The touchstone for determining whether an expert is giving an independent judgment or merely acting as a transmitter for testimonial hearsay is whether an expert is applying his training and expertise to the sources before him, thereby producing an original product that can be tested through cross-examination." McCray, 413 S.C. 90, 773 S.E.2d at 921-22 (internal quotations omitted). The issue hinges on whether the testifying expert merely served as a conduit for introducing the results of tests that were performed by an expert who did not testify. Id.

This Court finds counsel was not constitutionally ineffective for failing to object to this portion of questioning of Dr. Batalis. Specifically, this Court finds Applicant has failed to establish deficiency of counsel or any resulting prejudice. Addressing deficiency first, this Court finds the testimony in question from Dr. Batalis was proper because he did not act as a mere conduit for the toxicology results, but instead, took the samples and interpreted the results when they arrived back from the laboratory for inclusion into his autopsy report. Because the testimony was not objectionable, this Court finds trial counsel was not deficient for failing to object based on Crawford when no such violation existed.

Additionally, this Court finds Applicant cannot establish any resulting prejudice from this purported error. Assuming arguendo that the toxicology testimony was admitted in violation Applicant's confrontation rights, it had no impact on the jury's verdict. See McCray, 413 S.C. at 91, 773 S.E.2d at 922 (quoting State v. Pradubsri, 403 S.C. 270, 280, 743 S.E.2d 98, 104 (Ct.App.2013) (internal citations omitted) ("A violation of [a] defendant's Sixth Amendment right to confront [a] witness is not per se reversible error if the error was harmless beyond a reasonable doubt.")). This testimony was ultimately irrelevant and dispositive to the main issue at hand trial counsel was able to fully cross-examine Dr. Batalis on the toxicology results which resulted in favorable testimony for Applicant. Therefore, this Court is firmly convinced the toxicology results had no impact on the jury's verdict. Therefore, this allegation is denied and dismissed with prejudice.

Allegation: Failure to Request a Pre-Trial hearing on Identification

Applicant alleges trial counsel was ineffective for failing to request a pre-trial hearing to determine the admissibility of witness identification of Applicant pursuant to Neil v. Biggers, 409 U.S. 188 (1972). When questioned about this allegation, trial counsel testified Applicant admitted to being involved in the altercation with the victim and testified as to such at trial. She also testified the victim and witnesses all knew Applicant prior and Applicant's identity was never at issue.

In Neil v. Biggers, the United States Supreme Court set forth a two-pronged test to determine whether due process requires the suppression of an eyewitness identification. 409 U.S. 188, 198-200 (1972). "To ensure due process, Neil v. Biggers requires courts to assess, on a case-by-case basis, the following: (1) whether the identification resulted from unnecessary and unduly suggestive police procedures, and if so, (2) whether the out-of-court identification was nevertheless so reliable that no substantial likelihood of misidentification existed." State v.

Heyward, 422 S.C. 488, 494, 812 S.E.2d 432, 435 (Ct. App. 2018), reh'g denied (Apr. 26, 2018), cert. granted (Sept. 21, 2018) (citing State v. Liverman, 398 S.C. 130, 138, 727 S.E.2d 422, 426 (2012)). "Under the totality of the circumstances, the factors to be considered in assessing the reliability of an otherwise unduly suggestive identification procedure are: (1) the witness's opportunity to view the perpetrator at the time of the crime, (2) the witness's degree of attention, (3) the accuracy of the witness's prior description of the perpetrator, (4) the level of certainty demonstrated by the witness at the confrontation, and (5) the length of time between the crime and the confrontation." Liverman, 398 S.C. at 138, 727 S.E.2d at 426. A pre-trial Biggers hearing is required once the defendant asserts an identification is obtained under unnecessarily suggestive circumstances arranged by state action, regardless of the witness's prior knowledge of the accused. Id. However, the failure to fully comport with the constitutional requirements of a Biggers hearing is subject to a harmless error analysis. Id.

This Court finds Applicant cannot meet his requisite burden of establishing that trial counsel was constitutionally ineffective in her handling of Applicant's identification or failing to request a pre-trial Biggers hearing because Applicant's identity was never at issue; Applicant testified at trial that he was involved in the physical altercation with the victim, thereby confirming the identification from the State's witnesses. Additionally, there is no reasonable likelihood the identifications would have been suppressed by the trial court conducted a Biggers hearing, as the witnesses were all familiar with Applicant. Therefore, this allegation is denied and dismissed with prejudice.

Allegation: Failure to Object to the State's Attempt to Bolster

Applicant alleges trial counsel was ineffective for failing to object when the State attempted to bolster the testimony of its own witnesses. Specifically, Applicant asserts the following questioning of Robert J. was improper:

Q. Okay. Robert, you said you recognized Mr. Wright from the neighborhood?

A. Yes, sir.

Q. Any bad blood between you?

A. No, sir.

Q. Until this incident did you have any problems with him whatsoever?

A. No, sir.

Q. Any reason for you to have made up this whole story that we need to know about, any bad blood?

A. No, sir.

(R. p. 90, lines 15-25). Applicant also asserts the following questioning of Maurice D. was improper:

Q. Any reason that you could think of, motive that you would have to want to get back at [Applicant] for anything whatsoever?

A. No, sir.

Q. Are you testifying honestly here today about what you observed that night?

(R. p. 125, lines 2-8). Counsel did not object to either line of questioning.

When questioned about why she did not object, trial counsel testified she did not find either objectionable and that neither were relevant to the ultimate issue in the case.

This Court agrees with trial counsel and finds Applicant cannot establish any constitutional ineffectiveness of trial counsel, as neither instance of questioning had any impact on the jury's verdict. The uncontroverted testimony from both Applicant and the State's witnesses all confirmed that Applicant and the victim were involved in a physical altercation and that Applicant admitted to flipping the Victim onto the ground and intentionally punching the Victim three to five times. Therefore, the State's questioning from these minor children as to whether they had any grudge with Applicant—a grown man they knew from the neighborhood

and whether they were telling the truth, had no impact on the outcome of the trial. Applicant cannot establish any constitutional ineffectiveness of counsel for failing to object. This allegation is denied and dismissed with prejudice.

Allegation: Failure to Object to Hearsay Statements

Applicant alleges trial counsel was ineffective for failing to object when the State elicited out-of-court statements made by Robert J., one of the minor children who witnessed the altercation between Applicant and the Victim, regarding Applicant being the man who assaulted the Victim. When questioned about these instances, trial counsel testified she did not object to these statements because Applicant's identity was not at issue and they were irrelevant to the defense of self-defense.

This Court agrees with trial counsel and finds Applicant cannot establish any constitutional ineffectiveness of trial counsel, as any purported hearsay statements from Robert J. regarding Applicant's identity had no impact on the jury's verdict. Again, the uncontroverted testimony from both Applicant and the State's witnesses all confirmed that Applicant and the Victim were involved in a physical altercation, to which Applicant himself testified at trial. Therefore, Applicant cannot establish any constitutional ineffectiveness of counsel for failing to object to this ultimately cumulative testimony. This allegation is denied and dismissed with prejudice.

Allegation: Failure to Object to Inaccurate Jury Instructions

Applicant alleges trial counsel was ineffective for failing to object to two different portions of the jury instruction that he asserts were confusing or misleading.

The first such portion of the charge was as follows:

If, however, the death was caused not by the wound or the injury that the victim had but was caused by the gross, erroneous, willful, deliberate treatment the defendant would not be liable. In other words, negligence on the part of someone else would not relieve

the defendant from liability if the injury was the proximate cause of the victim's death.

(R. p. 391, line 25 – p. 392 line 2).

This Court recognizes this portion of the charge is an incomplete sentence and could be confusing; however, when read in context with the rest of the charge, the meaning of the charge is apparent. Therefore, since this portion, when read in conjunction with the jury charge as a whole as required, was a proper and correct statement of law, trial counsel was not ineffective for failing to object. See Battle v. State, 382 S.C. 197, 203, 675 S.E.2d 736, 739 (2009) (“In determining whether a defendant was prejudiced by improper jury instructions, the court must find that, viewing the charge in its entirety and not in isolation, there is a reasonable likelihood that the jury applied the improper instruction in [a] way that violates the Constitution.”). Therefore, this allegation is denied and dismissed.

The second such portion of the jury instruction that Applicant asserts was as follows:

The defendant has a duty to retreat if by doing so the danger of being killed or suffering serious bodily injury would increase.

(R. p. 398, lines 10-12). This Court must assume the transcript accurately reflects the charge as it was given by the trial court, and the charge as it was given was, in fact, an incorrect statement of the law. However, despite that inaccuracy, this Court finds Applicant cannot establish any constitutional ineffectiveness of counsel because it is clear from the record that Applicant could not have met all four elements of self-defense (namely, fear of imminent danger of death or serious bodily harm). See State v. Jackson, 384 S.C. 29, 35–36, 681 S.E.2d 17, 20 (Ct. App. 2009) (internal citations omitted) (“To establish self-defense in South Carolina, four elements must be present: (1) the defendant must be without fault in bringing on the difficulty; (2) the defendant must have been in actual imminent danger of losing his life or sustaining serious bodily injury, or he must have actually believed he was in imminent danger of losing his life or

sustaining serious bodily injury; (3) if his defense is based upon his belief of imminent danger, defendant must show that a reasonably prudent person of ordinary firmness and courage would have entertained the belief that he was actually in imminent danger and that the circumstances were such as would warrant a person of ordinary prudence, firmness, and courage to strike the fatal blow in order to save himself from serious bodily harm or the loss of his life; and (4) the defendant had no other probable means of avoiding the danger.”) Therefore, this allegation is denied and dismissed.

Allegation: Failure to Preserve the Request for a Jury Instruction on Accident

Applicant alleges trial counsel was ineffective for failing to properly preserve her initial request for a jury instruction on accident, thereby depriving the appellate courts from ruling on the propriety of the trial court’s ruling.

During the charge conference, Applicant requested a charge on the defense of accident. (R. p. 336, line 22). Before hearing from Applicant, Judge Harrington asked the State to assert its position. The colloquy was as follows:

The Court: Tell me what your position is to accident.

Mr. Simpson: Your Honor, we would not be conceding to a charge on accident. The doctrine of accident under the law, I think, applies to the act itself and whether an act is done intentionally or not, and I just don’t think there’s any conceivable view or any evidence even under that standard that the charge of accident is proper in the case.

The charge of accident is different than – an allegation of accident is different than an allegation that the acts were justified. In self-defense the defendant is simply saying that he is legally justified in doing an intentional act. The law of accident, it would have to be that he accidentally punched the victim, he accidentally took the victim to the ground, and I just don’t see any conceivable –

The Court: Ms. Penn, tell me from the facts that I have heard make fit this for me, because I’m having a difficult time making them fit under how I understand the theory of both the State’s and the defense cases.

Ms. Penn: Simply, your honor, that Mr. Wright did not intend to cause Mr. Jenkin's death. From my reading of State v Burress I believe that we must show the killing was unintentional and the defendant was acting lawfully, and, of course, that part about the weapon, which there were no weapons in this case. And I think jury could find that he was acting lawfully in defending himself and that the killing was unintentional.

Mr. Simpson: May I respond?

The Court: Ms. Penn, maybe I'm having difficulty understanding your analysis. Tell me the difference between accident and self-defense in this particular case. I think that's where I'm having a hard time distinguishing the two because if he's claiming self-defense he's acting lawfully under the defense, correct?

Ms. Penn: Yes, ma'am.

The Court: I mean, that's your position?

Ms. Penn: It is.

The Court: And he intended to do that act of defending himself. If you want me to charge accident in my mind even if the facts did fit those are two appositve defenses, meaning you can't act in self-defense and it be an accident.

Ms. Penn: Yes ma'am.

The Court: Maybe you could reconcile that for me or have I --

Ms. Penn: I'm probably not that good, Your Honor, but if the court is telling me that it's one or the other in that case we would ask for self-defense.

The Court: I'm saying that's how I see it. I want to charge the accurate statement of law based upon the facts as presented. I don't know in this scenario how it could be both.

Ms. Penn: Yes, ma'am. In that case we would just ask for self-defense.

The Court: Do you need a moment to talk with Ms. Proctor?

Ms. Penn: No, ma'am.

The Court: I will not be charging accident. I will charge self-defense.

(R. p. 336, line 12-R. p. 339, line 15).

On appeal, Applicant raised a challenge to the trial court's denial of his request for an accident charge. The Court of Appeals determined trial counsel had abandoned the issue below. Applicant now contends trial counsel was ineffective in waiving this issue because it precluded the appellate court from determining the propriety of the trial court's refusal to charge accident.

This Court finds Applicant cannot establish any constitutional ineffectiveness of counsel for failing to properly preserve the request an accident charge, as Applicant was not entitled to such a jury instruction. A homicide will be excusable on the ground of accident when (1) the killing was unintentional, (2) the defendant was acting lawfully, and (3) due care was exercised in the handling of the weapon. State v. Chatman, 336 S.C. 149, 153, 519 S.E.2d 100, 102 (1999). The record establishes Applicant's actions do not meet these three requirements.

The first element, an unintentional killing, is not met, as the testimony from multiple witnesses and Applicant himself shows that Applicant intended to beat the Victim. (R. pp. 79-81, pp. 107-109, pp. 122-124, p. 314). Additionally, Applicant's knowledge of the difficulties between his mother and the victim leading up to the incident further show his desire to harm the Victim. (R. p. 369-p. 371). Therefore, the evidence establishes that Applicant intentionally attacked the Victim and does not satisfy the first element for an accident defense.

Additionally, the evidence presented at trial does not satisfy the second element of acting lawfully. Under both versions of the facts, Applicant was committing an assault and battery, a criminal act, at the time of the incident, and was not acting in self-defense because he initiated the contact with the victim and was not in imminent danger when he slammed the victim to the ground. (R. p. 77, lines 3-15; R. p. 107, lines 8-18; R. p. 121, lines 19-25). Therefore, Applicant was not acting lawfully in self-defense and does not meet the second element for accident.

As to the third element, exercising due care in the handling of the weapon, which here was his hands and feet, it is apparent from the trial record that Applicant used a substantial

amount of force to inflict the deadly blows to the victim. Dr. Batalis testified a significant amount of force would have had to been used to break the victim's ten ribs. (R. p. 229, line 15; R. p. 230, lines 9-20; R. p. 232, lines 12-14; R. p. 241, lines 19-21; R. p. 242, line 3; R. p. 247, lines 11-18; R. p. 249, lines 1-6). He explained, "The type of injuries to have in this location and this number of fractures is something we more typically see in motor vehicle accident or car accident." (R. p. 230, lines 9-12). The three minors that witnessed the attack testified that Applicant body slammed the victim to the ground, then began to forcefully punch and stomp the victim while he laid there helpless. (R. pp. 79-81, pp. 107-109, pp. 122-124). Based on the severity of the victim's injuries, the only reasonable conclusion was that Applicant's hands and feet were used as deadly weapons with which he did not exercise due care.

Accordingly, Applicant does not satisfy any of the three elements for an accident defense. "No instruction should be given by the trial judge, at the request of the appellant, which tenders an issue which is not presented or supported by the evidence." State v. Weaver, 265 S.C. 130, 137, 217 S.E.2d 31, 34 (1975). Therefore, this Court finds Applicant did not meet the requirements for a jury instruction on accident, and therefore, trial counsel was not constitutionally ineffective in her request for such an instruction. This allegation is denied and dismissed with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds Applicant has not established any other constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

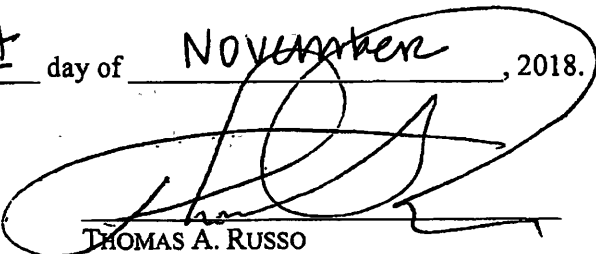
This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See

Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 21st day of November, 2018.


THOMAS A. RUSSO
Presiding Judge
Ninth Judicial Circuit

Florence, South Carolina

BCS20100603218

WITNESSES

Barry Goldstein

Charleston City Police Department

AGENCY CASE NUMBER

1009753

ARREST WARRANT NUMBER

K639859

DATE OF ARREST

June 12, 2010

ACTION OF GRAND JURY

TRUE BILL

Barry Goldstein
Foreperson of Grand Jury

Date:

SEP 07 2010

VERDICT

Guilty

[Signature]
Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1006153

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

September Term 2010

THE STATE

Vs.

10-3210 (01)

ROBERT LEE WRIGHT

DOB: [REDACTED]

B/M

Indictment for

Murder

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

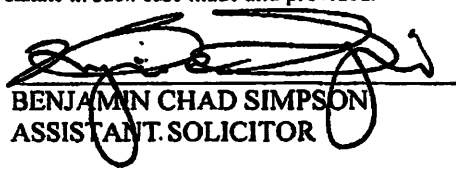
INDICTMENT

At a Court of General Sessions convened on September 7, 2010, the Grand Jurors of Charleston County present upon their oath:

Murder

That in Charleston County, South Carolina, on or about June 10, 2010, with malice aforethought, ROBERT LEE WRIGHT did kill and murder Christopher Jenkins by means of serious bodily injury to his chest cavity from a beating he had sustained and that Christopher Jenkins did die in Charleston County as a proximate result thereof on June 11, 2010; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BENJAMIN CHAD SIMPSON
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
 STATE VS.
Robert Lee Wright
 AKA: _____
 Race: BLACK Sex: M Age: 43
 DOB: [REDACTED] SS#: [REDACTED]
 Address: _____
 City, State, Zip: CHARLESTON, SC 294030000
 DL#: [REDACTED] SID#: SC01095798
 *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: MURDER

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS1006153
 A/W#: K639859
 Date of Offense: 6/12/2010
 S.C. Code § : 16-03-0010, 0020
 CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 71257 SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar# _____
Simpson, Benjamin Chad

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 40 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____, provided that upon the service of _____ days/months/years and/or payment
 of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(B) (Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

[Signature]
215
2/23/14