THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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On Appeal from the SC. Court of Appeals

Summary Dismissal, Habeas Corpus

Docket # 2012-CP-27-0691

****

Case # 2018-002271

****

Joseph Hugo Gibbs,#185709 - - - Appellate

Vs

The State of South Carolina - - - - Respondents

****

APPENDIX
RECORD ON APPEAL

****

Respectfully
Joseph H. Gibbs
Appellant Pro Se
BRCI, F6A-1093
4460 Broad River Rd
Columbia SC. 29210

Mr. Christian Saville
Office of: SC. Attorney General
PO. Box 11549
Columbia SC. 29211-1549
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Counsel for Respondents

Table of Contents

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The South Carolina Court of Appeals

Joseph Hugo Gibbs, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-002271

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

_____ J.

_____ J.

_____ J.

Columbia, South Carolina

cc:
Christian Saville, Esquire
Joseph Hugo Gibbs, 185709

FILED
September 27, 2019

The South Carolina Court of Appeals

Joseph Hugo Gibbs, Appellant,

v.

State of South Carolina, Respondent.

Appellate Case No. 2018-002271

ORDER

Appellant has filed a notice of appeal from a habeas corpus proceeding in which the circuit court determined that habeas corpus relief was improper because the issues could have been raised in a timely application under the Post-Conviction Relief Act. Pursuant to Rule 203(d)(1)(B)(vi), SCACR, Appellant was required to provide a written explanation to this Court as to why the circuit court's determination was improper. Appellant's notice of appeal contained an explanation, but the explanation does not "contain sufficient facts, argument and citation to legal authority to show that there is an arguable basis for asserting that the determination by the lower court was improper." Rule 203(d)(1)(B)(vi), SCACR. Accordingly, the appeal is dismissed. The remittitur will be sent as provided in Rule 221, SCACR.

FOR THE COURT

Columbia, South Carolina

FILED
February 6, 2019

cc:
Joseph Hugo Gibbs, 185709
Christian Saville, Esquire

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

2018 SEP 10 PM 12:39

Joseph H. Gibbs, #185709,
Applicant,

v.

State of South Carolina,
Respondent.

2012-CP-27-0691

ORDER DENYING APPLICANT'S MOTION TO ALTER OR AMEND JUDGMENT AND REHEARING

This matter comes before the Court by way of Applicant's "Motion to Amend/Alter Judgment and Rehearing," filed July 27, 2018, in Jasper County. On November 7, 2012, Applicant filed a document entitled "nunc pro tunc Writ of Habeas Corpus ad subjiciendum" seeking writ of habeas corpus in the circuit court. By an order filed July 6, 2018, Applicant's motion was dismissed by this Court without prejudice to the filing of an action in the original jurisdiction of the South Carolina Supreme Court. Subsequently, Applicant filed a motion for extension of time to file his response on July 19, 2018. This Court now addresses Applicant's current filing, the motion to amend or alter judgment and for rehearing.

In Applicant's current filing, Applicant notes additional details regarding his prior post-conviction relief actions, erroneously alleges this Court did not in fact review prior filings, and again argues his petition for habeas corpus should not be dismissed for lack of subject matter jurisdiction. Applicant therefore requests this court to alter or amend its judgment and grant a hearing on issues not adjudicated. This Court notes again the Circuit Court shall make no findings or conclusions as to the merits of the claims raised as it lacks authority to do so. The allegations and arguments raised in Applicant's current filing do not excuse him from the procedural bar enumerated by this Court's original order of dismissal. This Court notes, as the order of dismissal enumerated, since 1998, it has been consistently held that "[a] person is

procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in a PCR application." Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998). "Furthermore, if a person is procedurally barred, his only means of obtaining state habeas corpus relief is to file a petition in the original jurisdiction of the Supreme Court." Id. The soundness of this conclusion should be clear. The Uniform Post-conviction Relief Act provided the statutory remedy for the circuit courts to address issues related to South Carolina convictions. As the Supreme Court stated:

> Section 17-27-20(b) states that the Act "comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence," and provides the Act "shall be used exclusively in place of them." We acknowledge we have stated that habeas corpus is available once the petitioner has exhausted all post-conviction remedies. Hunter v. State, 316 S.C. 105, 447 S.E.2d 203 (1994); Pennington v. State, 312 S.C. 436, 441 S.E.2d 315 (1994); Slack v. State, 311 S.C. 415, 429 S.E.2d 801 (1993). In Tyler v. State, 247 S.C. 34, 145 S.E.2d 434 (1965), however, this Court stated that habeas corpus cannot be used as a substitute for appeal or other remedial procedure for the correction of errors for which a criminal defendant had an opportunity to avail himself. Because we believe the rule in Tyler is the appropriate rule, we now hold that a matter which is cognizable under the Act may not be raised by a petition for a writ of habeas corpus before the circuit or other lower courts.4 See Gibson v. State, 329 S.C. 37, 495 S.E.2d 426 (1998).

Simpson v. State, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998).

As the original order of dismissal set forth, and evidence has not contradicted, Applicant still cannot file such a petition in the circuit court, but rather must do so in the original jurisdiction of the South Carolina Supreme Court.

This Court has reviewed the records before it and closely reviewed Applicant's motion to amend or alter judgment and for rehearing. Based upon careful consideration, this Court is not persuaded to alter or amend the judgment. Therefore, this Court finds the order of dismissal filed July 6, 2018, shall stand as it was written. This Court also finds no grounds on which to grant a

rehearing. Accordingly, Applicant's motion to alter amend the judgment and for a rehearing is respectfully denied.

AND IT IS SO ORDERED this 27 day of August, 2018.

Carmen T. Mullen
Chief Administrative Judge
Fourteenth Judicial Circuit

Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
	)	
Joseph H. Gibbs,	)	Case No.: 2012-CP-27-0691
	)	
Petitioner,	)	
	)	**ORDER DISMISSING**
v.	)	**"PETITION FOR HABEAS CORPUS"**
	)	
State of South Carolina	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court pursuant to the filing of a document entitled "nunc pro tunc Writ of Habeas Corpus ad subjiciendum" on November 7, 2012, by Joseph H. Gibbs ("Petitioner"). Respondent made its Return on June 22, 2018, moving to deny and dismiss the petition without prejudice to the filing of an action in the original jurisdiction of the South Carolina Supreme Court. This Petition must be denied because it is filed as a petition for writ of habeas corpus in the Circuit Court which does not have jurisdiction of the subject matter in this setting pursuant Simpson v. State, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998) and Section 17-27-20. The Petitioner must file this matter in the original jurisdiction of the South Carolina Supreme Court, not a circuit court since the Petitioner had prior PCR actions which were dismissed.

Current Petition for Writ of Habeas Corpus

In his pro se petition, Petitioner alleges he is being held unlawfully for the following reasons:

1. "The Grand Jury of Jasper County never returned a true bill indictment on the warrants and charges, nor was a timely presentment made; nor waiver had through arraignment, preliminary hearing, bond hearing, or psychological evaluation/competence hearing, rendering the court without

subject matter jurisdiction, and jury without personal matter jurisdiction; and the State without authority to prosecute; denying me due process and equal protection of the law under the 5th and 14th [amendments] and Article 1, Sections 3 and 11 of the S.C. Constitution. Neither prosecutor, defense counsel, or judge informed me or objected."

I.

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Jasper County Clerk of Court. In 1992, Petitioner was indicted for murder (1992-GS-27-002) and first-degree burglary (1992-GS-27-003). Marva Hardee-Thomas, Esquire, represented him. Stephen T. Plexico, Esquire, represented Petitioner at trial. On March 10, 1992, Petitioner proceeded to trial before the Honorable William Howard and was found guilty of both charges. Judge Howard sentenced Petitioner to imprisonment for life without parole for each offense.

Petitioner filed a timely notice of appeal. Appellate Defender Robert M. Dudek, Esquire, filed a brief on Petitioner's behalf pursuant to Anders v. California, 386 U.S. 738 (1967). The Supreme Court of South Carolina dismissed the appeal by a memorandum opinion filed May 14, 1993. State v. Gibbs, Case No. 93-MO-111 (1993).

3:93-cv-02921

Petitioner filed his first petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in federal district court on November 3, 1993. The petition was dismissed on September 14, 1994.

First PCR Action: 1994-CP-27-309

Petitioner subsequently filed an application for post-conviction relief (PCR) on November 4, 1994, in which he alleged the following grounds for relief:

1. Trial Court Errors
2. Denial of Due Process Rights
3. Ineffective Assistance of Trial Counsel

4. Ineffective Assistance of Appellate Counsel

The State made its Return on January 25, 1995. An evidentiary hearing was convened on March 20, 1995 before the Honorable Larry R. Patterson. Petitioner was present and represented by Albert L. Kleckley, Esquire, and Charles Stephen Bennett, Esquire. Judge Patterson denied and dismissed the application with prejudice by written order dated April 30, 1995. Petitioner filed a petition for writ of certiorari, which was denied by the South Carolina Supreme Court on November 8, 1996.

1998-CP-27-0267

Petitioner filed a document captioned "Petition for Writ of Habeas Corpus" on October 8, 1998, in the Jasper County Court of Common Pleas. The State made its Return and Motion to Dismiss on March 4, 1999. Petitioner subsequently submitted a reply. After reviewing all pleadings in the matter, the Honorable Donald W. Beatty denied and dismissed the petition by an order of dismissal signed April 21, 1999, because it failed to allege sufficient facts to show why other remedies such as PCR were unavailable or inadequate. Petitioner's appeal from this dismissal was also dismissed on June 28, 2000. Petitioner subsequently filed a petition for writ of certiorari. The Supreme Court of South Carolina denied the petition on July 3, 2001.

2003-CP-27-0184

Petitioner filed documents captioned "Notice & Intent to Seek Court Action: Under the 'Administrative Procedures Act'" and "Petition for Declaratory Judgment" in May 2003. In an order filed January 5, 2004, the action was dismissed pursuant to Rule 41(b), SCRCP, for failure to show any right to relief and no defendant was named in the lawsuit.

November 2010 Petition – 2010-OR-00455

On or around November 4, 2010, Petitioner filed a petition seeking original jurisdiction in the United States Supreme Court. The petition was denied on March 28, 2011.

II.

Petitioner has filed a petition for writ of habeas corpus in the Court of Common Pleas in Jasper County in the Circuit Court and not in the original jurisdiction of the South Carolina Supreme Court. The South Carolina Supreme Court has not entered an order accepting jurisdiction of the case in its original jurisdiction nor referred the matter to any circuit judge pursuant to its original jurisdiction for fact finding or legal conclusions. The Circuit Court of Jasper County has no jurisdiction in this subject matter in this setting.

The availability of habeas corpus has been severely limited by the Uniform Post Conviction Procedure Act. *See* S.C.Code Ann. §§ 17-27-10 to 17-27-120. First, "The Act 'takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.'" Gibson v. State, 329 S.C. 37, 40–41, 495 S.E.2d 426, 428 (1998) (quoting S.C.Code Ann. § 17-27-20(b)). The Act therefore supersedes and encompasses the prior habeas corpus procedure provided by statute before the PCR Act was enacted. *See* S.C. Code Ann. §§ 17-17-10 to 17-17-200.

This Court finds all of the Petitioner's factual or legal assertions were presented or could have been presented in prior PCR actions and therefore could not be raised in the circuit court, but must be presented before the South Carolina Supreme Court in an petition for writ of habeas corpus in its original jurisdiction and seek to determine whether each is able to show "a violation, which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice." Butler v. State, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990)

(emphasis in original) (internal citation omitted). See McWee v. State, 357 S.C. 403, 404, 593 S.E.2d 456, 456 (2004) (seeking a petition in the original jurisdiction of the Supreme Court unsuccessful).

This Circuit Court shall make no findings or conclusions as to the merits of the claims raised as it lacks authority to do so. Rather, the Court's review of the procedural history should reveal the strength of the State's argument that the Court cannot address the grounds. Since 1998, it has been consistently held that "[a] person is procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in a PCR application." Keeler v. Mauney, 330 S.C. 568, 571, 500 S.E.2d 123, 124 (Ct. App. 1998). "Furthermore, if a person is procedurally barred, his only means of obtaining state habeas corpus relief is to file a petition in the original jurisdiction of the Supreme Court." Id. The soundness of this conclusion should be clear. The Uniform Post-conviction Relief Act provided the statutory remedy for the circuit courts to address issues related to South Carolina convictions. As the Supreme Court stated:

> Section 17-27-20(b) states that the Act "comprehends and takes the place of all other common law, statutory or other remedies heretofore available for challenging the validity of the conviction or sentence," and provides the Act "shall be used exclusively in place of them." We acknowledge we have stated that habeas corpus is available once the petitioner has exhausted all post-conviction remedies. Hunter v. State, 316 S.C. 105, 447 S.E.2d 203 (1994); Pennington v. State, 312 S.C. 436, 441 S.E.2d 315 (1994); Slack v. State, 311 S.C. 415, 429 S.E.2d 801 (1993). In Tyler v. State, 247 S.C. 34, 145 S.E.2d 434 (1965), however, this Court stated that habeas corpus cannot be used as a substitute for appeal or other remedial procedure for the correction of errors for which a criminal defendant had an opportunity to avail himself. Because we believe the rule in Tyler is the appropriate rule, we now hold that a matter which is cognizable under the Act may not be raised by a petition for a writ of habeas corpus before the circuit or other lower courts.4 See Gibson v. State, 329 S.C. 37, 495 S.E.2d 426 (1998).

Simpson v. State, 329 S.C. 43, 46, 495 S.E.2d 429, 431 (1998).

The Circuit Court does not have the discretion to ignore the precedent of the South Carolina Supreme Court and its proper interpretation of the exclusive effect of the Uniform Post-Conviction Relief Act. To accept the Petitioner's potential argument on the merits in his petition would make meaningless the PCR Act's provisions concerning statute of limitations or successiveness. The Supreme Court's precedent in this area is clear and unequivocal. Merely changing the title of a pleading from a "post-conviction relief application" to a "petition for a writ of habeas corpus" in the South Carolina circuit does not create a new remedy that was expressly foreclosed by the PCR Act. The Circuit Court does not have the requested discretion to do otherwise where it is conceded that the particular grounds are those which could have been raised in the prior post-conviction relief applications.[1]

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[1] The following general rules are interwoven with the PCR Act and its procedural concepts of successiveness and the statute of limitations. "Collateral estoppel occurs when a party in a second action seeks to preclude a party from relitigating an issue which was decided in a previous action." S.C. Prop. & Cas. Ins. Guaranty Ass'n v. Wal–Mart Stores, Inc., 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991). In Wal–Mart Stores, Inc., the Supreme Court adopted the general rule set forth in the Restatement (Second) of Judgments § 27 (1982). Id. "Section 27 provides that when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." Id. (emphasis added).Stated another way, "[t]he party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." Carolina Renewal, Inc. v. S.C. Dep't of Transp., 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct.App.2009).

The doctrine of collateral estoppel is also known as "issue preclusion." In re Crews, 389 S.C. 322, 698 S.E.2d 785 (2010); Zurcher v. Bilton, 379 S.C. 132, 666 S.E.2d 224 (2008); Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 481 S.E.2d 706 (1997). Issue preclusion bars the relitigation of only the particular issues that were actually litigated and decided in the prior suit. Crestwood Golf Club, Inc. v. Potter, 328 S.C. 201, 493 S.E.2d 826 (1997). As a result, the doctrine of collateral estoppel is inapplicable when the argument turns on an assertion that the other party should have litigated a particular issue in the prior action. See id. at 216, 493 S.E.2d at 835.

The doctrine of res judicata is a distinguishable concept. Beall v. Doe, 281 S.C. 363, 369 n. 1, 315 S.E.2d 186, 190 n. 1 (Ct.App.1984). Res judicata encompasses both issue preclusion

and claim preclusion. Crestwood Golf Club, Inc., 328 S.C. at 216, 493 S.E.2d at 834. However, res judicata is more commonly referred to simply as claim preclusion. Garris v. Governing Bd. of S.C. Reinsurance Facility, 333 S.C. 432, 449, 511 S.E.2d 48, 57 (1998). Claim preclusion bars plaintiffs from pursuing a later suit where the claim (1) was litigated or (2) could have been litigated. Crestwood Golf Club, Inc., 328 S.C. at 216, 493 S.E.2d at 835.

The Court has reaffirmed the following statement of the doctrine:

> Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit."

Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) (alteration in original) (citations omitted), cited with approval in Judy v. Judy, 393 S.C. 160, 172, 712 S.E.2d 408, 414 (2011).

Res judicata may be applied if (1) the identities of the parties are the same as in the prior litigation, (2) the subject matter is the same as in the prior litigation, and (3) there was a prior adjudication of the issue by a court of competent jurisdiction. Johnson v. Greenwood Mills, Inc., 317 S.C. 248, 250–51, 452 S.E.2d 832, 833 (1994). The doctrine of res judicata is not an "ironclad bar," however, to a later lawsuit. Judy, 393 S.C. at 167, 712 S.E.2d at 412; Garris, 333 S.C. at 449, 511 S.E.2d at 57; Clark v. Aiken Cnty. Gov't, 366 S.C. 102, 109, 620 S.E.2d 99, 102 (Ct.App.2005). Catawba Indian Nation v. State, 407 S.C. 526, 536–38, 756 S.E.2d 900, 906–07 (2014).

"Under the law-of-the-case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court." Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) (citing 5 C.J.S. Appeal & Error § 991 (2007)). In other words, "[t]he doctrine of the law of the case prohibits issues [that] have been decided in a prior appeal from being relitigated in the trial court in the same case." Ross v. Med. Univ. of S.C., 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997); see In re Grossinger's Assocs., 184 B.R. 429, 434 (Bankr.S.D.N.Y.1995) ("Closely related to the doctrines of claim and issue preclusion is the doctrine of law of the case, which holds that a decision on an issue of law made at one stage of a case becomes binding precedent to be followed in subsequent stages of the same litigation." (quotation marks omitted)). While the doctrine has been referenced as discretionary, it is recognized that principles "of authority ... do inhere in the 'mandate rule' that binds a lower court on remand to the law of the case established on appeal." 18B Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice & Procedure § 4478 (2d ed.2002).

"The rule of the law of the case is a rule of practice, based upon sound policy that when an issue is once litigated and decided, that should be the end of the matter." United States v. U.S. Smelting Ref. & Mining Co., 339 U.S. 186, 198, 70 S.Ct. 537, 94 L.Ed. 750 (1950). "Law of the case rules have developed to maintain consistency and avoid reconsideration of matters once

This Court agrees with Respondent that the claims made in the present Petition for Writ of Habeas Corpus could have been previously raised in their earlier post-conviction relief applications. As the procedural history reflects, if these same claims had been brought in 2016 or 2017 under the Uniform Post-conviction Relief Act, each would have been barred as untimely under the §17-27-45 one-year statute of limitations or the successive petition bar under the Court's mandates in Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991) ("Any new ground raised in a subsequent application is limited to those grounds that "could not have been raised . . . in the previous application." [Emphasis in original]. Id., 305 S.C. at 450, 409 S.E.2d at 394. If the Petitioner could have raised these allegations in a previous application, then the Petitioner may not raise those grounds in successive applications. Id.

Petitioner cannot file a petition in the circuit court, but must instead file in the original jurisdiction of the Supreme Court should he choose to do so. Therefore, these particular claims cannot be raised in a Petition of Habeas Corpus in the Circuit Courts of South Carolina in this setting. Accordingly, the Petition shall be dismissed.

Under Art. 5, § 5 of the South Carolina Constitution, the South Carolina Supreme Court retains the ability to entertain writs of habeas corpus in their original jurisdiction and grant relief in those unusual instances where "there has been a violation which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice." Butler v. State, 302

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decided during the course of a single continuing lawsuit. These rules do not involve preclusion by final judgment; instead, they regulate judicial affairs before final judgment." In re Grossinger's Assocs., 184 B.R. at 434. See Flexon v. PHC-Jasper, Inc., 413 S.C. 561, 573, 776 S.E.2d 397, 404 (Ct. App. 2015). It thus serves the same objective as the 'newly discovered' requirement in Rule 60(b)(2)." (citation and quotation marks omitted)); id. ("In this case, [the appellant] is seeking to reopen factual issues finally laid to rest by the Ninth Circuit in 1982 on the basis of evidence it could have discovered with due diligence at least by the time of trial of this case in 1977. The district court was fully justified in rejecting this attempt." (emphasis added)).

S.C. 466, 397 S.E.2d 87 (1990); see also Simmons v. State, 322 S.C. 49, 471 S.E.2d 455 (1993); Key v. Currie, 305 S.C. 115, 406 S.E.2d 356 (1991) (Supreme Court will exercise its original jurisdiction where there is an extraordinary reason such as a question of significant public interest or an emergency).[2]

IT IS THEREFORE ORDERED that the Petition for Writ of Habeas Corpus is hereby denied and dismissed without prejudice to the filing of an action in the original jurisdiction of the South Carolina Supreme Court. It is for that Court, not the Circuit Court, to determine whether Petitioner has made or ultimately proven "there has been a violation which, *in the setting*, constitutes a denial of a fundamental fairness shocking to the universal sense of justice."

AND IT IS SO ORDERED this 27 day of June 2018.

CARMEN T. MULLEN
Chief Administrative Judge
Fourteenth Judicial Circuit

Beaufort, South Carolina

[2] This Court would note that its decision to dismiss the petitions in this manner is not a matter of first impression in South Carolina. Courts which have consistently found that no remedy exists in the circuit courts for similar challenges under a "habeas corpus" petition. See Ellerbe v. State, No. 2004-UP-644, 2004 WL 6339721, at *1 (S.C. Ct. App. Dec. 21, 2004); Barron v. State, No. 2010-UP-239, 2010 WL 11506693, at *1 (S.C. Ct. App. Apr. 14, 2010); Ford v. State, No. 2010-UP-276, 2010 WL 10079934, at *1 (S.C. Ct. App. May 19, 2010); Fishburne v. State, No. 2009-UP-549, 2009 WL 9530299, at *1 (S.C. Ct. App. Nov. 23, 2009); Harrell v. State, No. 2009-UP-101, 2009 WL 9527551, at *1 (S.C. Ct. App. Feb. 26, 2009); Johnson v. State, No. 2008-UP-547, 2008 WL 9846485, at *1 (S.C. Ct. App. Oct. 9, 2008).

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

****

Joseph H. Gibbs, 185709
Appellant

vs

State of South Carolina
Respondent

AP. Case #2018-002271
Docket #2012-CP-27-0691

MOTION

For Rehearing

****

I respectfully move this court, pursuant to Rules 221 & 240 SCACR, to reconsider the points of law, and fact of record, raised in the pleadings explained and records filed with the NOA. The order dismissing the appeal was filed Feb/6/2019, and received by me on 2/11/19.

This motion is filed in good faith; and I believe it has merits on vested statutory and constitutional rights. A suggestion for en banc is made.

FACTS:

I filed a letter of explanation, to show fundamental errors in the lower courts orders, summary dismissing the petition for habeas, and motion to alter & amend judgment & for rehearing. I also filed a Notice of appeal (NOA) with orders, and revelant pleadings of counsel and myself, and proof of service.

Argument: Overlooked Points of Law

1 The lower court formost held that it did not have **jurisdiction** to hear habeas corpus. As I pointed out in the Motion to alter & amend in lower court (Mtn.A/A) & In this court (Leter), By Law and SC Constitution the circuit court has subject and personal jurisdiction. (leter @ 13).

2 That the lower courts order, as pointed out in the (Mtn.A/A) and (Leter @ 2,9,12) show that Counsels return and order to summary dismiss, was copied word for word by the court, and was full of factual errors that would have been corrected and apparent if the petition and records had been reviewed by the circuit court. This made the orders **ghost written** which has been ruled against by other

courts, and denies due process by the judicial branch, and denies due process. The state waited since 2012, to once again abuse the summary judgement process, and the court turned an arbitrary eye.

3 Overlooked was a fact of record and law, that the lower court did not address the pleaded **inadequacy** of the **PCR** process outlined in the Habeas Petition, (Mtn.A/A) & (Leter @4, 5, 2, 6) the States order signed by the court, did not answer the issues or pleading on procedure. By case law, and shown in the PCR transcripts, Not even due process on its own, or trial errors, or prosecutorial misconduct ect can be raised on SC. PCR. "But they can on Habeas.!.

4 The state did not produce any records or evidence to support the legal theories and facts it claimed as defences and laches, to include judicial estoppel.

5 As the pleadings show, The general sessions court lacked subject matter jurisdiction in the first case, and this has never been adjudicated, even at PCR.

6 This court errored erred in its order, that the appeal was dismissed because the issues could have been raised on PCR, when PCR was inadequate to address them, and they were summary dismissed then, and PCR was unavailable; and resjudica ect dose not apply.

7 I filed the Habeas, **Nunc Pro Tunc** and in objections to Lower courts orders, that this doctrine would allow the merits to be heard in addition to statutory law, and constitutional right; but this has been overlooked.

8 That the lower courts legal applications in this case has the effect of suspending habeas corpus, and violates seperation of powers.

9 On Direct appeal **92-728**, the whole record was not filed per Anders, and was dismissed, "not affirmed"; yet appellate counsel was not at PCR, and the issue was raised, so this should not barr habeas, but in legal record, shows the inadequate process for remedie post trial.

10 As pointed out in the (Leter), (Mtn A/A) and pleadings, I have raised that constitutional and statutory issues that warrant the

relief sought, and are not precluded.

CONCLUSION;

I pray that this court will rehear, the points of law and fact; and recind or reverse its order to dismiss the appeal; and remand same or by its own authority grant what ever remedie it deems just.

February/ 14'th / 2019

Respectfully,

Joseph H. Gibbs
ECI, F4-A-282
610 hwy 9 West
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Ph 843-479-4181

CC:

Mr. Christian Saville, esq
C/o Mr. Benjamin limbaugh
Office of: SC. Attorney General
PO. 11549
Columbia SC. 29211-1549
Ph 803-734-3737

eci/jhg

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

****

Joseph H. Gibbs,#185709 vs Mr. Donnie Stonebreaker; Warden

Appellant & State of South Carolina

Respondent

Case # 2012-CP-27-0691 (Habeas Corpus)

LETTER ON APPEAL:

I, the appellant respectfully files this appeal with (NOA) pursuant to Rule 203(1)(B)(vi) SCRAP; From the Orders of Summary Dismissal on Procedure, received by me on December/7/2018 & July/17/2018; By the Honorable, Carmen T. Mullen, Cheif Administrative Judge, 14'th Cir, "attached".

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1. By certificate of Service dated 12/3/18, (attached) the order denying Rule 52 & 59 motion, signed 8/27/18, filed 9/10/18, was served on me 12/7/18, from order dated 6/27/18, filed 7/6/18, received by me on 7/17/18: denying Habeas Corpus filed 11/7/2012, after a letter of inquiry was sent on futher delay or response. Numerous letters, complaints, and proposed order was filed by me on the inordinate delay to petition for habeas corpus (HC.691) (attached).

ISSUES / Argument

2. WHETHER THE ORDERS ON APPEAL VIOLATE THE AUTHORITY OF CIRCUIT JUDGES TO RESTORE LIBERTY ON HABEAS CORPUS BY STATUTE AND CONSTITUTION; WHEN PCR WAS SHOWN TO BE UNAVAILABLE AND INADEQUATE; AND THE MERITS OF THE ISSUES WARRANT IMMEDIATE VACATION OF THE CONVICTION; AND RENDERS THE JUDICIAL BRANCE IN VIOLATION OF THE SEPERATION OF POWERS SC.CONST. ART 1 §8, AND PROMOTES AN INADEQUATE STATE REMEDIE, CONTRARY AND CAPRICIOUS TO §17-25-10, §§17-17-10--200, AS DETERMINED BY THE LEGISLATIVE BRANCH; AND VIOLATES MY DUE PROCESS AND EQUAL PROTECTION OF SC & US CONST, AND THE ORDERS WERE ARBITRARY AND GHOST WRITTEN ?

3. I submit and argue that the orders denying (HC.691) and motion to alter & amend judgment is in error of law and fact, and the issues are preserved for this courts jurisdiction; and futher

causes a miscarriage of justice by any american sense of justice; And as shown in the pleadings and record, the merits were proper before the court; as the prior cases and orders were not a full and fair finding of fact and law for the purpose of res judica or estoppal, or other procedural default; and since the pleadings showed PCR inadequate, and Counsel for state did not produce any contray order or record; the releif sought was within jurisdiction of the circuit court, by law of §§17-17-10,30. Id Motion Rule 52,59 SCRCP (attached) and Proposed order.

4. PCR and Direct appeal, was not, nor now is an issue for appeal, although counsels proposed orders signed by the judge inferred such; by law and rule only a showing of unavailability or inadequate is necessary. Unlike PCR which is an independent cause of action, Rule 71 SCRCP, and preponderance of evidence is the standard by statute, In Simmons v State 215 SE 2d 883(1975) the court decreed that only eneffective counsel can be had on PCR, contrary to §17-27-20(1-6) **id** dissent of justice Ness. Ineffective counsel is judicated under Strickland, and §17-27-20 did not suspend state habeas; but was emphatic to 28-USC-2254, and the fed courts have held that barred PCR is not proper on Fed/Habeas. As I pointed out in (HC.691) P.2 **6.**>--P.5 "exaustion of PCR Remedies" and as determined by this court at P.5 **7.**> PCR was unavailable (however the order on appeal then was not even filed until 6/28/99, and was signed by judge Beaty as administrative judge 14'th cir, when Judge Smoke was same, and then (ROA # 9032) did not contain order clocked and file stamped by clerk of court.) That order did not address state law or merits of legal and constitutional issues, and although this court ststed in the order 2000-UP-503 that appeal from PCR was not had; It was but no order was received until one year after.

5. The PCR order 94-cp-27-309, did not address all issues raised in the pleading, and was contrary to fact and law. Unlike Simpson, Gibson, or Keeler and other cases relied on in the order, the issues here were raised, but either were not adjudicated, or an incomplete and biased finding of fact was made, and did not support the conclusion of law. Certiorari is only discrectionary and the

Supreme court did not grant same too review the lower court order, and this dose not forclose Habeas in state court. In keeler 500 SE 2d 123, the S.Ct held that the issue presented was held unconstitutional, but was not presented on PCR, and in Yates 484 US 211 @ 218, and Justice Toal at 108 S.Ct 534 held that SC must abide by fed law. The issues raised were of such violations, yet the judicial branch has chosen to ignore the pleading on issues raised, and allow the Excutive branch to maintain an unlawfull and unconstitutional conviction, as these orders continue.

6. As shown in (HC.691) at P.2, **4.>** a **direct appeal** was filed under Anders not even raising preserved issues, [of insufficient evidence], and even though I filed a petition to perfect the appeal, and Required [letter to Anders] pro se, see PCR transcripts, this was never ruled on, and the whole record was not filed before the court, to exclude any indictments or warrants, or motions; and instead of sending same back to counsel for completion pursuant to Anders, they just "DISMISSED" the appeal on counsels motion. I raised this in the PCR, yet no White V State ruling was had, and counsel did not appear at court for witness. On the Certiorari on PCR, counsels (ROA) contained no indictments or warrants, and excluded P.5A of the trial transcripts on jury selection, or jury poll, and left out preserved issues argued, contrary to Johnson & Anders. I filed a pro se brief and addendum with pro se appendix.

7. In 98-cp-27-198 **id** at (HC.691) p.7, **10.>** as shown, the order dismissing same did not even address the habeas corpus petition, [only] the Rule 65(f) SCRCP civil suite construed into a personal capacity Tort claim, that they removed to US District court, and same was remanded. I filed an appeal, but the resspondents would not allow sufficient copies,[Rules 210,211,267 SCRCP] or ability to comply with this court filing requirments for lawyers, so the Clerk of Court dismissed the case; as the ROA would have been several thousand copies. [since the habeas and other motions were not adjudicated, rule 56(d) I filed a rule 7 motion to hear the entire case. answered but no orders or hearing]. The merits were not adjudicated, and res judica or estoppal not

preserved for state.

8. I have filed petition for original jurisdiction id p.6, 8.> yet the S.Ct did not grant the motion for original jurisdiction, and thus did not give cause for the states arguments or the courts holding on default or any preclusion or estoppel.

9. I argued in the motion to alter and amend that the Order denying (HC.691) was ghost written, as it made factual errors, that would not have been made if the judge had actually reviewed the Pleadings or Record; and in doing so made an error of law, and miss applied case law it relied on, and the court did not make a fair and unbiased **prima facie** review, Anderson 470 US @ 572, Colony Square 819 F.2d 272 (11't Cir), Jefferson V Zant 263 Ga. 316, 317. If the evidence and record is reviewed by the lower court, then the court would have jurisdiction.

10. Even though the (HC.691) was filed under **nunc pro tunc** id Blacks law dict 10 ed, and 9-ALR-3d 462, Ex Parte Strom 343 SC 257 (2000); the court did not adjudicate this in either order.

11. I pointed out factual errors in my Rule 52,59 motion, yet these were not corrected.

12. The courts have allowed the Excutive branch to write orders for the court, to include present orders and PCR order, and the courts have signed them contrary to fact and law, and have thus violated the purpose and intent of habeas corpus. On PCR even if the conviction is vacated, it is remanded to prosecutor for excutive branch. But on habeas, when it is shown that liberty was taken contrary to constitution and law, it is immediately restored. The excutive branch, supported by the judicial branch practices the effect that a mans liberty can be taken under infraction of law, but it cannot be restore, even when the language of law, and case law demand otherwise.

13. As shown in the above, and pleadings, as well as record to include trial and pcr transcripts the courts orders is in serious error, and the court has jurisdiction under §§17-17-10,30 and SC Const Art 5 §11, §20 (1895 revised 2009), and by **Title 14** Sc Statute

the circuit court dose have jurisdiction, and §Rule 41(b) SCRCP should not have been applied.

14. As shown in the pleadings, and lack of support by orders, the state waived summary dismissal, as they waited from 2012 until 2018 to move for summary judgment, and then did not answer the issues or argument, but merely filed a proposed order, and thus violated Rule 12, 56 SCRCP, which was arbitrary and capricious expectation that the court would grant any proposed order in which they did.

15. At trial I Was not indicted and the court lacked jurisdiction, as the record shows, and I attached **App.1 & 2** too the Rule 52 & 59 SCRCP motion, and I was denied witnesses to rebut states claim, I was denied a fair and impartial trial or pre trial procedure to include Arraingment, bond Hearing, Evaluation, or any hearing before any judge, and I plead justification,[2] yet my plea of constitutional rights was turned into a evidence of guilt and the jury was only allowed to consider whether I killed Mr. Brown on unconstitutional charges of law by court and prosecutor; Yet a collusion by judicial and excutive branches have sought to cover the conviction up, on abuse of summary judgments. This renders the prior court actions inadequate and arbitrary.

16. Even though I raised the issue of no, or untimely indictments at PCR, [presentment dated 3/9/92, trial 3/10/92, i never seen same until 1994, and had no notice], the states attorney stated "they did not know when I was indicted", and the court did lack jurisdiction, yet none of this was in the order, and the state stated that Trial Errors, Denial of Due Process, Prosecutorial Misconduct, Unconstitutional Suppression of Evidence, raised in the petition with specific fact and allegation was not allowed on PCR, and the judge agreed overuling my objection on the stand. Ineffective appellant counsel was raised, but counsel was not presented, and order ruled in favor of state. PCR dose not preclude Habeas in this case.

CONCLUSION:

17. I pray that this court, based on the above, and record of pleading, will reverse the lower court orders and remand for a hearing or adjudication on the merits of the legal and constitutional issues; and will find that the PCR process was inadequate and is unavailable, as with prior court actions in this case; or other as this court deems just.

December/17'th/2018.

Respectfully

Rule 11 SCRC®

/s/ Joseph H. Gibbs

Joseph Hugo Gibbs
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Appellant Pro Se

CC:
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Ph # 803-734-3970
Counsel for Respondent

2 Even at parole hearings, I am denied on political popularity, and retried without due process, contrary to the evidence, which is arbitrary and capricious.

eci/jhg

STATE OF SOUTH CAROLINA)
County of: JASPER)

(COURT OF COMMON PLEAS
(
(Case # 2012-CP-27-0691

Joseph H. Gibbs, #185709
Petitioner
Vs

Mr. Donnie E. Stonebreaker; Warden
Respondent

MOTION: To amend / alter judgment and rehearing.

Honorable; Carmen T. Mullen

****

I respectfully moves this court in a timely and proper manner to to amend or alter its summary judgment order, filed July/6/2018, and received by me on July/17/2018, pursuant to Rules 52(b), 59(d) SCRCP. Improper venue and lack of jurisdiction was ordered, Rule 41(b) SCRCP, "merits not adjudicated" : for the following reasons:

Facts

1. The habeas corpus[½] was filed under nunc pro tunc, on 11/7/2012, which contained a procedural history, @ p.2-11, to include **exaustion of pcr remedies @(6.>)**, and statement **(c)**, that other remedies were **inadequate** and/or **unavailable**, on issues raised. After receiving 1'st time copy of indictments, I made a formal request for investigation into fabrication of same after trial, based on visible evidence and court record. Appendix 1 & 2, "Attached". No response from SC.AG or party.

2. After years of no response or hearing, or answer to letters of inquiry by court, counsel or party, I filed a complaint, ie **17-DE-J-0132** dated 7/3/17, dismissed 9/25/17. I then sent a request to justice Pleicones dated 10/30/17, response made 11/2/17. When no response was made by court, I filed a proposed order dated 3/21/18. This court sent a letter to Counsel C. Saville AAG, dated 5/1/18, in notice that no answer or motion had been filed.

3. Respondent made a return by motion to dismiss, on lack of jurisdiction and improper venue, based on incomplete, and misstated facts, without answering issues raised. Attached was the order signed by the court.

4. The return and order was dated 6/22/18, and sent to the

½(HC/691)

wrong prison, and received by me on 7/13/18. I prepared a motion for extension of time to respond for 30 days, dated 7/14/18, and served same on 7/16/18.

5. On July/17/2018, I received the proposed order signed by this court, dated 6/27/18, and filed in the court on July/6/2018 1:03 pm, and postmarked on 7/13/18.

Correction of fact

6. At p.2, there was no representation by any "Marva Hardee-Thomas" or any knowledge of same, and none exist in court records.

7. Petitioner was not sentenced to "life without parole" on either offence, and same was concurrant.

8. The indictments were presentments only not being true billed before trial, id. appendix 1 & 2.

9. The 1'st **only** PCR, in incomplete and there were 7 general grounds with specific allegations of error raised; that was not allowed on PCR. Counsel filed a Johnson ie Anders supra petition, and a pro se brief and addendum was filed. I was not served notice of judgment until Nov/14/1997.

10. On direct **92-728** appeal, a petition to perfect appeal, and pro se letter was also filed.

11. In **3:93-cv-02921** the petition was dismissed as mixed, without prejudice, pending appeal on 60(b) SCRCP motion filed 8/11/93, or PCR.

12. In 1'st Habeas, **98cp27267**, the petition was dismissed after matter was before Judge Goodstein on 3/2/99, and continued to 6/1/99, and order was signed as the "administrative law judge" 14'th cir, and **not** filed in the court until **6/28/1999**, and mandamus was filed to enforce the law, id 17-17-10--200 as a ministerial duty. The order of the SC.Ct of App. **2000-UP-503** found that PCR was unavailable, and articulated habeas procedure in the circuit courts, and somehow held that I did not appeal the PCR. The supreme court did not grant certiorari to review the order.

13. In **2003-cp-27-0184**; this was a declatory judgment action

as ex parte, and was **not** a notice & intent.

14. In **2010-OR-00455**, this docket # is unknown, as the only original jurisdiction to the US S.Ct is **(11.>)** case **#10-8461.**

15. In add to allegations raised in their return; there is other grounds raised in the petition, which is shown in my proposed order not allowed on PCR; **id** pp 16--35

Trial errors structural and infernal, "abuse of discretion by judge" is not allowed on PCR.

Prosecutorial misconduct is not allowed,

Insufficient evidence, is not allowed.

Denial of Due process is not allowed.

The court did not adjudicate the indictment issues and jurisdiction at all.

UnConstitutional suppression of evidence was summary dismissed on motion as with other issues, and not allowed.

All of the unconstitutional issues on jury charge was not adjudicated, or allowed.

Being denied right to put up witnesses and defence was not allowed, or not fully adjudicated.

Judges remarks to counsel in front of jury was not allowed.

All of the specific allegations of legal and constitutional error that warranted the relief was not allowed, or not fully and fairly adjudicated; nor was an adequate fact finding process had.

Only ineffective assistance of trial counsel was allowed; in part.

Argument

16. Here the order appears to be another **ghost written**, and a sufficient review of the pleadings and evidence was not done, Anderson 470 US @572 [judge relied on order prepared by prevailing party, in error without sufficient review. Ghost written orders were admonished in Colony Square 819 F.2d 272 (11'th Cir 1987) when a court deffers to a lower court finding unless erroneous, it relies on an order that was not a **full** and **fair** product of fact and law by the court itself] Jefferson V Zant 263 GA. 316,317.

17. The order dose not make a **prima facie** finding on the face

of the petition itself, nor dose it adjudicate the releif sought, and habeas is to remedie the unlawful and unconstitutional restraint of liberty.

18. The order denies subject matter jurisdiction, when jurisdiction of this court to issue the writ is conferred by **Title 14** and authority by **17-17-10,30** statutory code of SC. And Constitutional jurisdiction by **artical V §11, §20** SC (1895 revised 2009), **id** p.1(**HC/691**).

19. The order violates **Artical 1 §8** SC Constitution, as it denies the mandatory language of the statutory laws **§17-17-10 etq** and **§17-25-10**, to remedie unlawful and unconstitutional convictions and restraint on liberty, and by **Emphasis** usurps the Legislative Branch of Goverment, by expanding the Judicial Branch interpretations as suspension of the writ, contrary to Gibson supra and Simpson supra, as well as other citations.

20. Habeas Corpus is a remedie procedure, and **PCR** is an independent cause of action, and the record, as shown in the (**HC/691**) and was inadequate and unavailable, see dissent of justice Ness in Simmons V State 215 SE.2d 883 (1975) ~~and §17-17-20 did not~~ susspend state habeas, but did make any issue procedurally bard at pcr, not cognizable on fed habeas §28-USC-2254.

21. The order dose not make a finding of fact and law on subject matter jurisdiction, and the lack of any indictments in the courts records, even at PCR, and I did argue that I had not been indicted or afforded any due process procedure prior to trial.

22. I submit that the order did not allow for the untimely filing of summary dismissal motion, or the defence of **res judica** [res judica waived if not timely waived, **2017-WL 4781380, id** Arzonia V Cali 530 US 392 @ 410 (2000).

23. That the affirmative defences of **preclusion, collateral estoppel, res judica, or successive petition**, since these require proof by the respondent that the prior courts had in fact and law adjudicated the issues raised. They did not, and in fact the other pleadings filed, raised issues supported by the record, but through **abuse** of the summary judgment process, were not fully and fairly adjudicated by the court in an **unbiased** hearing or order.

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23. That the affirmative defences of **preclusion, collateral estoppel, res judica, or successive petition**, since these require proof by the respondent that the prior courts had in fact and law adjudicated the issues raised. They did not, and in fact the other pleadings filed, raised issues supported by the record, but through **abuse** of the summary judgment process, were not fully and fairly adjudicated by the court in an **unbiased** hearing or order.

24. That the prior courts have not complied remedied the constitutional and legal violations shown, and even in Keeler 500 SE.2d 123 (1998) the SC. S.Ct found that the jury charge raised was unconstitutionalby the US S.Ct, but he did not raise it at all on PCR. SC Must grant relief that Fed Law requires, Yates 484 US 211 @ 218, and justice Toal recognized that **Yates** ruling 108 S.Ct 534 was mandatory on state court in her dissent with Justice Finney.

25. The order dose not address the doctrine on **nunc pro tunc** id Blacks Law Dict 10'th Ed. **9 ALR 3d 462** [prerequisite for **npt** order is some previous action by the court, that is not adequate in the record, Ex Parte Strom 343 SC 257 (2000)].

26. The order dose not make a finding on the Plain Error declarations, that although cannot be raised in the court of appeals or SC Supreme Court; can be raised in the circuit court, of first resorts.

Conclusion

Wherefor having responded and pleaded to this court to alter or amend its judgment, and to grant hearing on issues not adjudicated, that this court will recind and make an unbiased, and full and fair finding of fact and law on the merits of the petition.

July/ 23 /2018 Respectfully Submitted

Rule 11 SCRCP /s/ Joseph H. Gibbs

Joseph H. Gibbs, 185709

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7-23-18|eci/jhg

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

****

In Re: Joseph Hugo Gibbs,#185709 Affiant Vs The State of South Carolina Respondent	Case # 2018-002271 **AFFIDAVIT**

October/18'th/2019

****

I the below signed affiant, upon oath declares that the matters stated are true and correct, and is stated in good faith and has substancial merit.

1. I have exercised Due Diligence in having my case fully and fairly heard, by and through every remedie available; and have at no time been arbitrary and capricious, in my pleadings to include the present case.
2. I do believe that the issues, allegations, and questions have merit, and do not amount to frivolous writings; but are supported by the established records.
3. I futher believe that the relief sought is relevant to the pleadings, even if pro se, and is not intended to evade or diminish justice, or the profession of the branches of goverment questioned.
4. I believe that I was denied a fair and impartial trial and conviction, and post remedie process, and liberty should be restored.

Respectfully & Sincerely
/s/ Joseph H. Gibbs
Joseph Hugo Gibbs
Affiant
BRCI, F6A-1093
4460 Broad River rd
Columbia SC. 29210

Notary Public: In the State of South Carolina
This 18th Day of October 2019
Kenora Robinson
MY COMMISSION EXPIRES 8/5/2024

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

****

On Certiorari to the SC. Court of Appeals

Summary Dismissal / Habeas Corpus

2012-CP-27-0691

****

Case # 2018-002271

****

Joseph H. Gibbs - - - - Appellant

vs

The State of South Carolina

****

CERTIFICATE OF SERVICE

****

I the undersigned appellant pro se, certifies that I have on this, 21st /day of /October/2019; Served one true copy of my petition for certiorari on Counsel, Mr. Christian Saville, with Appenix, Filing Letter, Affidavit, certificate of service; and one copy of petition to Clerk of Court, with certificate of service, as addressed below, postage prepaid and proper, by depositing same in mail at BRCI.

Respectfully
/s/ Joseph H. Gibbs
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