

LEROY GLOVER, 314746
LEE C.I./F6A-2118
990 WISACKY HWY.
BISHOPVILLE, SC 29010

RECEIVED

FEB 12 2020

S.C. SUPREME COURT

✓ TO: ~~HON. DANIEL E. SHEAROUSE~~
CLERK OF SUPREME COURT
PO BOX 11330
COLUMBIA, SC 29211

TO: KATHRINE HUDGINS, Esq.
APPELLATE DEFENDER
PO BOX 11589
COLUMBIA, SC 29211

TO: SARA GUNTON, Esq.
ATTY. GENERAL
PO BOX 11549
COLUMBIA, SC 29211-1549

RE: LEROY GLOVER V. STATE OF SOUTH CAROLINA, 2019-000812,
ENCLOSURES, MOTION AND PROOF OF SERVICE FOR FILING AND
RETURNS, etc.

FEBRUARY 10, 2020


DEAR MADAM AND SIR:

PLEASE FIND ENCLOSED THE TITLED DOCUMENTS AND ENCLOSURES FOR FILING AND REVIEWINGS, I HAVE PROVIDED TO THE COURT ALL NECESSARY DOCUMENTS THAT AID THE COURT TO GRANT THE MOTION REQUESTED, AND FOR GOOD CAUSE SHOWN BY THE EVIDENTIARY PROFFERED I EXPECT FOR THE RESPECTFUL CONSENT AND AGREEING WITH MY DESIRES TO HAVE THIS MATTER CORRECTED APPROPRIATELY.

PLEASE RETURN A COPY TO ME AS SOON AS POSSIBLE AND TO VERIFY THAT YOUR OFFICE RECEIVED IT ACCORDINGLY TO THE RULES, etc.

THANKING YOU IN THE ADVANCE FOR YOUR TIME AND ASSISTANCE GIVEN TO THIS CRUX MATTERS AND I LOOK FORWARD IN HEARING FROM YOU IN THIS VERY NEAR FUTURE.

RESPECTFULLY SUBMITTED,


LERROY GLOVER
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPELLANT

cc: FILES/lg

STATE OF SOUTH CAROLINA

RECEIVED

IN THE SUPREME COURT

FEB 12 2020

APPEAL FROM ORANGEBURG COUNTY

HON: ROBERT E. HOOD, CIR. CT. JUDGE **S.C. SUPREME COURT**

CASE NO.: 2013-GS-38-1624

LEROY GLOVER, Jr.,....., APPELLANT,

v.

STATE OF SOUTH CAROLINA,....., RESPONDENT.

APPELLANT'S pro se BRIEF
per se 45 DAY NOTICE
AND PURSUANT TO THE MARLAR PROCEDURES
PROCESSES PURSUANT TO RULE 59(b), SCRCP

LEROY GLOVER, Jr.
LEE C.I.
990 WISACKY HWY.
BISHOPVILLE, SC 29010
(APPELLANT)

KATHRINE H. HUGGINS
APPELLATE DEFENDER
PO BOX 11589
COLUMBIA, SC 29211-1589
(COUNSEL OF RECORD)

SARA GUNTON, Esq.
ASST. ATTY. GENERAL
PO BOX 11549
COLUMBIA, SC 29211-1549
(RESPONDENT'S COUNSEL)

TABLE OF CONTENTS

TABLE OF CONTENTS.....i
TABLE OF AUTHORITIES.....ii
STATEMENT OF CASE.....1
DESCRIBED ISSUES.....2
FACTUAL STATEMENTS OF RECORD.....4
POSTURE OF PCR CASE RECORD.....4
CONCLUSION.....5
PROOF OF SERVICE.....iii

TABLE OF AUTHORITIES

MARLAR V. STATE, 375 S.C.407, 653 S.E.2d 266 (200).....2
FRUITT V. STATE, 310 S.C. 254, 255, 423 S.E2d 127, 128 (1992)2

U.S. CONSTITUTIONS

SIXTH AMENDMENT

FOURTEENTH AMENDMENT

FIFTH AMENDMENT

S.C. LAW CODES

§17-27-20, 30, 80, 90

STATEMENT OF CASE

APPELLANT LEROY GLOVER PRESENTLY CONFINED IN THE SC DEPT. OF CORRECTIONS, CURRENTLY INCARCERATED AT THE LEE CORRECIONAL INSTITUTION, SERVING A LIFE TERM FOR MURDER, SENTENCE WAS IMPOSED BY THE HON: MAITE MURPHY, CIR. CT. JUDGE ON SEPTEMBER 18, 2015, IN THE ORANGEBURG CO. GEN. SESSIONS COURT. APPELLANT WAS REPRESENTED BY THE COUNSEL: EDUARDO CURRY, Esq., AND THE STATE WAS REPRESENTED BY DONALD SORENSON. FOR THE SAKE OF THIS SUPPLEMENTED RECORD, THE CO-DEFENDANT JASON GLOVER, APPELLANT'S BROTHER, HE WAS REPRESENTED BY MICHAEL CULLER AND GLEN WALTERS, Esq., APPELLANT GLOVER FILED PCR ON JAN. 25, 2016, ON MAY 23, 2017, AN EVIDENTIARY HEARING WAS HELD BEFORE THE HON: JUDGE HOOD, JUDGE HOOD DENIED THIS PCR. THE APPELLANT WAS INEFFECTIVELY REPRESENTED BY THE COUNSEL JONATHAN D. WALLER, Esq., THE APPELLANT WAS DENIED TO HAVE CRUX ISSUES EVALUATED BY THE COURT TO GIVE A RULING OF LAW AND HAVE A FINDING OF FACTS DONE TO THEM BY THE PCR COURT DUE TO THE RECORD COUNSEL NOT COMPLYING TO THE PCR RULE AND PROCEDURES ACCORDINGLY TO THE S.C. CODE OF LAWS: §17-27-10 TO 160. THE APPELLANT CASE COUNSEL FAILED TO FILE A RULE 59(e), SCRPC., MOTION TO THE COURTS PURSUANT TO THE MARLAR COURT. HOWEVER, THIS IS A SUBSTANCE TO HAVE THE APPELLANT TO LOSE THE ABILITY TO HAVE ISSUES REVIEWED BY THE COURTS AND FOREVER ABANDON THEM AND IN TURN THE APPELLANT HAVE THE POTENTIAL ISSUES TO HAVE THE COURT GRANT HIM RELIEF ON. HERE IN THE CASE THE APPELLATE COUNSEL HAVE RESTRAINED FROM FORWARDING THE BLIND EYE TO THE BEDROCK PROCEDURALS AND TO BE THE ADVOCATE TO HAVE APPELLANT'S APPEAL REVIEWED BY THE POINT OF FAIR JUSTICE TO BE SERVED IN THE APPELLANT CASE. THE APPELLANT'S FIFTH AMENDMENT RIGHT IS VIOLATED AND THE FIFTH AMENDMENT HERE (DUE PROCESS RIGHTS (CLAUSE)), IS EFFECTUAL TO THE STATE JUST AS WELL AS LIKE THE APPELLANT'S FOURTH AMENDMENT RIGHT BY THE U.S. CONSTITUTION.

MATTERS OF CASE EXPLAINED

APPELLANT LEROY GLOVER, #314746, HAD A TRIAL WITH HIS CO-DEFENDANT AND THE TRIAL HELD ON SEPT. 14, 2015, SHOULD HAVE BEEN SEPARATED FROM HIS (BROTHER) CO-DEFENDANT'S AS MEANING TRIAL SEVERANCE TRIAL DUE TO THE CIRCUMSTANCES EXISTED PRIOR TO TRIAL AND THE FACTUAL ELEMENTS AND THE CLEAR EVIDENCE PROVIDED TO THE STATE THAT EXONERATES THE APPELLANT. WHEREAS, THE APPELLANT FILED FOR FAST AND SPEEDY TRIAL AND THE TRIAL COURT ACCEPTED AS FILED AND THE NEVER AT ONCE ADJUDICATED UOPON THE MOTION, SEE APPELLANT'S DOCUMENTS AS (1-7) TITLED DEFENDANT'S MOTION FOR SPEEDY TRIAL. THE ISSUES REGARDING THE MOTION FOR FAST AND SPEEDY TRIAL IS AUTOMATICALLY RESERVED FOR EVIDENTIARY EVALUATION BY THE TRIAL COURT BUT IN THIS CASE MATTER BEFORE THE APPELLATE COURT THE CASE COUNSELS ARE ATTEMPTING TO LEAVE THE APPELLANT TO BE CAUGHT UP IN THE CATCH 22 METHODS, HIS ISSUE HAVE BEEN MADE MOOT BY THE DEPRAVATIONS BY THE COUNSEL WHO HAVE THE AUTHORITY TO RAISE THE ISSUES FOR RULING OF LAW TO GIVEN TO THEM IN THE LOWER COURT, AND IN THIS CASE MATTER THE TRIAL COURT. NOW AS THE APPELLATE COUNSEL HAVE TAKEN THE CASE FROM THE PCR COURT WITHOUT THE FOLLOWING ISSUES TO BE REVIEWED BY THE APPELLATE COURT, THE MOTION FOR A FAST AND SPEEDY TRIAL AND THE MOTION FOR A SEVERANCE TO HIS TRIAL, THE APPELLANT PROFFERED TO THE COURT A CONFESSION SUBMITTED TO THE STATE BY THE CO-DEFENDANT, THIS MATTER FIRST STAGE TO BE REVIEWED IN IS THE PCR COURT SINCE IT WAS NOT RULED UPON BY THE TRIAL COURT, SEE AT U.S. V. ROMANELLO, 726 F.2d 173, 177 (5th Cir. 1984) (THE DEFENDANT MUST SHOW THAT HE "SUFFERED COMPELLING PREJUDICE AGAINST WHICH THE TRIAL COURT WAS UNABLE TO AFFORD PROTECTION".), APPELLANT PCR ISSUE WERE TO BE (1) APPLICANT WAS INEFFECTIVE WHEN THE TRIAL COUNSEL FAILED TO RAISED THE MATTER THAT APPLICANT WAS PREJUDICE SUBSTANTIALLY WHEN HIS TRIAL WAS JOINED WITH HIS CO-DEFENDANT, CO-DEFENDANT MADE

CONFESSION AND MADE THE FACTUAL STATING THAT THE APPLICANT HAD NOTHING TO DO WITH THE CRIME AND ONLY THE CO-DEFENDANT HAD COMMITTED THE CRIME.

THE APPELLATE COUNSEL IS OBLIGATED TO THE APPELLATE TO SECURE HIS REVIEW TO THE UNREVIEWED ISSUES, THIS IS A RIGHT PURSUANT TO THE U.S. CONSTITUTION, AND THE APPELLANT WILL TAKE THE STANCES BY THE GILCHRIST COURT, GREEN COURT, AND THE SOUTHERLAND COURT, QUOTED AS 337 SC 610, 524 SE2d 833 (1994), EITHER WAY THE APPELLANT HAVE THE RIGHT TO HAVE HIS CASE JUDICIALLY REVIEWED ACCORDINGLY TO THE COURT RULES AND LAWS SETFORTH TO THEM, AND THIS MATTER OF THE APPELLANT CANNOT BE MADE TO GO STALE JUST BECAUSE THE ATTORNEYS DID NOT DO THEIR JOBS AT THE PARTICULAR STAGES THAT THEY SHOULD HAVE DONE THEM AT, THIS IS THE RESULTS OF MAJORITY OF THE CASES ON THE COURT DOCUMENTS, AND THE COURT HAVE THE ESSENTIAL PRACTICES TO RULED AGAINST THE PETITIONERS WHO SEEK THE ENDS OF FAIR JUSTICE SERVED TO THEIR CASES, AND UNDER THE PRESENT CIRCUMSTANCES IF THE APPELLANT DOES NOT PIVOTALLY MOVE IN THE COURTS TO HAVE HIS ISSUES THAT HAVE THE POTENTIAL WEIGH TO HAVE HIS CONVICTION VACATED AND REMAND FOR A NEW TRIAL AND OR TO HAVE THE CHARGES DISMISSED AGAINST HIM DUE TO AND BASED ON THE CONFESSION SUBMITTED TO THE COURT BY THE CON-DEFENDANT, AND IT IN ITSELF EXONERATES THE APPELLANT FROM ALL WRONG DOINGS HE IS ACCUSED OF BY THE STATE.

THE APPELLANT'S APPEAL COUNSEL IS COMPELLED TO SEEK AN ABEYANCE TO HIS APPEAL FOR IT TO BE AUTHORIZED HAVE THE LOWER COURT TO EVALUATE THE ISSUES THAT IT SHOULD HAVE DONE AND SEE THAT THE PCR COUNSEL SHOULD HAVE FILED THE RULE 59(b), SCRCP MOTION TO THE POST CONVICTION RELIEF COURT PURSUANT TO THE MARLAR COURT, supra.

WHEREAS, THE APPELLANT IS NOT GIVING NO UNFORESEEN SUBJECT MATTERS TO THE COURT TO CAUSE ANY DELAYS AND TO BE USED AS A DELAY, BUT THE APPELLANT IS ONLY GIVING CLARITY TO THE COURTS TO SEE BY THE RECORDS THAT THE STRATEGY OF CONFUSION HAVE UTILIZED BY THE ATTORNEYS AND THE RESULTS OF THIS METHOD IS THAT THE PRIMARY ISSUES OF THE APPELLANT'S CASE IS NOT HEARD IN THE COURT THAT IT SHOULD HAVE BEEN HEARD IN, THE COLLATERAL ATTACKS OF THE CASE MATTERS WERE TO BE HEARD IN THE POST CONVICTION RELIEF COURT, AND THEM ISSUES ARE AS THE FOLLOWING, THE TRIAL ATTORNEY FAILED TO SEEK A RULING OF LAW TO THE APPELLANT'S MOTION FOR FAST AND A SPEEDY TRIAL, HOWEVER, THE PCR ATTORNEY SHOULD HAVE RAISED THIS ISSUE, THE SECOND ISSUE TO THIS SPECIFIC MATTER IS THE EVIDENCE THAT SHOULD HAVE EXONERATED APPELLANT (CO-DEFENDANT'S CONFESSION STATEMENT), WERE REVIEWABLE BY THE RULE 29(b), SCRIM.P., BASED UPON THE FACTS THAT WAS PRESENTED DURING THE TRIAL, AND BY FACT THE APPELLANT TRIAL ATTORNEY NEVER AT ONCE PLACED THE TRIAL STRATEGY BY THIS EXISTING FACTUALS FROM THE TRIAL TESTIMONIES FROM THE WITNESSES, APPELLANT EXPLICITLY STATES THAT THE PCR ATTORNEY NEVER AT ONCE FILED THE RULE 59(e), SCRCP. MOTION TO HAVE HE PRIMARY ISSUE RULED UPON AND THIS IN ITSELF WARRANTS A APPEAL ABEYANCE BECAUSE THE S.C. SUPREME COURT HAVE REPEATALLY STATED THAT THE APPELLANT IS ENTITLED TO HAVE A FULL REVIEW OF HIS PCR ON APPEAL, AND TO HAVE EVERY ISSUE EXISTING TO BE GIVEN A FACT FINDING PROCESS AND A RULING OF LAW GIVEN TO THEM, AND HERE THE APPELLANT DID NOT RECEIVED THIS PROCESS BEING DONE TO HIS CASE AND NOW THE APPELLANT MOVES TO HAVE THE APPEAL PLACE IN ABEYANCE AND SEEK LEAVE TO RETURN TO THE LOWER COURT TO HAVE THE PENDING ISSUES REVIEWED ON A COLLATERAL ATTACK REVIEW IN THE PCR COURT.

COUNSELS OF THE RECORDS HAVE THE OBLIGATIONS TO ASSISTANCE TO HAVE THESE CORRECTIONS DONE BASED UPON THE ONE BITE AT THE APPEE METHOD ESTABLISHED BY THE S.C. SUPREME COURT, SEE **GAMBLE V. STATE**, supra.

CONCLUSION

APPELLANT LEROY GLOVER SUBMITS THAT THE APPEAL MUST BE PLACED IN ABEYANCE AND BE PERMITTED TO RETURN TO THE LOWER COURT FOR A COMPLETE AND PROPER ADJUDICATION UPON THE VALID ISSUES THAT THE PCR COURT HAD JURISDICTION OVER TO RULE UPON AS IN ANALYZING AND REVIEWING THEM THE FACT FINDING RULING OF LAW PROCESSES AS IS (A RIGHT ESTABLISHED BY LAW) REQUIRED BY THE PCR STATUTES OF LAW, §17-27-10 TO 150, ie al., THE APPELLANT KNOWS THAT THE APPELLATE COUNSEL HAVE FILED THE APPEAL AND THE RESPONDENT HAVE FILED THE RETURN TO THE APPEAL BUT THE RULES SUITED TO THE REVIEWING OF THE ISSUES HAVE BEEN VIOLATED AND THIS IS THE PROPER WAY TO HAVE THE PRESENT MATTER RECTIFIED BY THE COURT BY FILING THE PROPER MOTION TO HAVE APPEAL PLACED IN ABEYANCE TO HAVE THE CASE RETURNED BACK TO THE PCR COURT AND HAVE THE PENDING ISSUES CORRECTLY REVIEWED IMMEDIATELY."

IT IS FOREVER PRAYED FOR THE COURT TO GRANT THIS MOTION AND SEE IT IS NOT FOR ANY DELAYS AND OR INTERFERENCE TO THE APPEAL BEING PERFECTED IN THE HONORABLE COURT.

FEBRUARY ____, 2020

ATTACHMENTS:

RESPECTFULLY SUBMITTED,

S/

LERoy GLOVER
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPELLANT

CC: SARA GUNTON, Esq.
KATHRINE H. HUDGINS, Esq.
HON: DANIEL E. SHEAROUSE, CLERK
FILES/1g

ORANGEBURG COUNTY SHERIFF'S OFFICE
CENTRAL INVESTIGATIVE DIVISION
DEFENDANT AFFIDAVIT

Date: Dec 2 2013 Time: 9:11 Place: 1032 Chestnut
Defendant Name: Jason Glover
Age: 23 Date of Birth: [REDACTED] Phone Number: [REDACTED]
Address: [REDACTED]

My rights are as follow:

- JG 1. I have the right to remain silent: anything I say can be used against me in Court.
- JG 2. I have the right to talk to a lawyer for advice before I am asked any question. If I cannot afford a lawyer, one will be appointed for me before any questions if I wish.
- JG 3. If I decide to answer questions now without a lawyer present, I will still have the right to stop answering at any time.
- JG 4. I also have the right to stop answering at any time until I talk with a lawyer.

I understand the rights above and initialed each. I have been advised of the rights above by Lt. Shimper of the Orangeburg County Sheriff's Office and wish to make the following statement.

In the day of Monday Sept 23 sometime that afternoon
I was at my brother Leroy Glover house. My brother
and his girlfriend had left. And I was at the house
alone waiting on my home girl Jacqui to come pick me
up. It was taking a while so I started making a
roll cheese and smoking a blunt. About 5 minutes later
I realize that a Jeep was out in the yard. A white
man got out and was placing a note on the door. At
that time I open the door he must have mistaken
me for my brother cause he came walking straight in the
house. While in the kitchen he said something
wide out his mouth bout me smoking in the house. I

his truck to Santee. As I was driving to
santee I toss his gun out the window
on four holes road. When I got in Santee
I took him on Antioch Road and drive the truck
in the woods and caught it on fire. Then I ran from
the scene and went to my homeboy house.

Q. Describe the man you shot?

A. White older Man

Q. Did you know he was coming to
the house?

A. No

Q. Describe the gun.

A. it was a revolver

Q. Did you tell anybody what happen?

A. No

Q. How many times did you shoot?

A. One

Q. Why you told me this today?

A. I felt bad that my brother is locked up for
something he had n^o to do with

Q. You contacted me, and you understood
that you could have spoken to your
attorney rights, but you still opted
to speak to me without your lawyer?

A. yes

Man Glover End of Statement?

~~_____

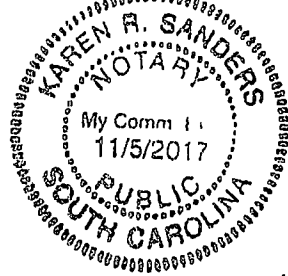
_____~~

I HAVE READ THE ABOVE THOROUGHLY. I HAVE MADE THE NECESSARY CORRECTIONS AND INITIALED EACH TO MAKE THIS FACTUAL AND A COMPLETE REPRESENTATION.

Jason Glover
SIGNATURE OF DEFENDANT

WITNESSES: *[Signature]*
[Signature]

[Signature]
NOTARY PUBLIC
SWORN TO BEFORE ME THIS *2nd*
DAY OF *December*, 20*19*
MY COMMISSION EXPIRES *11/5/17*



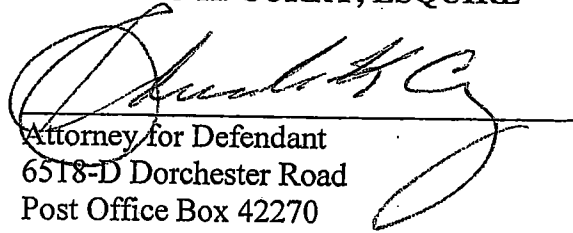
STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) FIRST JUDICIAL CIRCUIT
 COUNTY OF ORANGEBURG) CASE NUMBER: 2013A3810701057,
) 2013A3810701058,
 STATE OF SOUTH CAROLINA) 2013A3810701061
 PLAINTIFF,)
)
 v.) **DEFENDANT'S MOTION FOR**
) **SPEEDY TRIAL**
 LEROY GLOVER,)
)
DEFENDANT.)

FILED
 2014 SEP 26 10:03
 CLERK OF COURT
 ORANGEBURG COUNTY

NOW COMES the Defendant, Leroy Glover, by and through his attorney of record, Eduardo Curry of Curry Law Firm, LLCL, and moves the Court for a speedy trial, pursuant to the Sixth Amendment of the United States Constitution and Article I, Section 14 of the South Carolina Constitution.

RESPECTFULLY SUBMITTED,

**CURRY LAW FIRM, LLC
 EDUARDO K. CURRY, ESQUIRE**


 Attorney for Defendant
 6518-D Dorchester Road
 Post Office Box 42270
 North Charleston, SC 29423
 (843) 767-5284
 (843) 767-5286 (Fax)

Dated: 9-18-14

[Faint stamp]
 CLERK OF COURT
 ORANGEBURG COUNTY

5001

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FIRST JUDICIAL CIRCUIT
COUNTY OF ORANGEBURG)	CASE NUMBER: 2013A3810701057,
)	2013A3810701058,
STATE OF SOUTH CAROLINA)	2013A3810701061
)	
PLAINTIFF,)	
)	
v.)	MEMORANDUM IN SUPPORT
)	OF DEFENDANT'S MOTION FOR
LEROY GLOVER,)	SPEEDY TRIAL
)	
DEFENDANT.)	

NOW COMES the Defendant, Leroy Glover, by and through his attorney of record, Eduardo Curry of Curry Law Firm, LLC, and moves the Court for a speedy trial, pursuant to the Sixth Amendment of the United States Constitution and Article I, Section 14 of the South Carolina Constitution. In support of said Motion, the Defendant shows unto the Court the following:

1. THAT on September 27, 2013, the Defendant, Leroy Glover, was charged with Murder, Possession of a Weapon during a Violent Crime and Third Degree Arson.
2. THAT Defendant was denied reasonable bond and has remained confined in jail since his arrest. The Defendant has now been confined for over Three Hundred Fifty Six (356) days, and at all times Defendant has been ready for trial.
3. THAT on December 2, 2013, Jason Glover signed an Affidavit confessing to the murder.
4. THAT on September 27, 2013, law enforcement agents took Jason Glover into their custody and control.
5. THAT despite a confession to the charges by Jason Glover, Defendant Leroy Glover remains in the custody of Orangeburg County Detention Center.

6. THAT Plaintiff has failed to provide any evidence that Defendant committed the alleged crimes.
7. THAT Defendant Leroy Glover is anxious to be granted his right to a Speedy Trial as Mr. Glover will remain imprisoned and suffer substantial personal and financial hardship until this case is finally resolved.

STATEMENT OF LAW

The Sixth Amendment of the United States Constitution provides that "in all criminal prosecutions, the accused shall enjoy the right to a ...speedy trial." Pursuant to the Fourteenth Amendment, this right extends to the states as well. Klopfer v. North Carolina, 386 U.S. 213 (1967); Wheeler v. State, 147 S.E. 2d 627 (S.C. 1966). In addition to the United States Constitution, Article I, Section 14 of the South Carolina Constitution states "[a]ny person charged with an offense shall enjoy the right to a **speedy** and public trial...." S.C. Const. Art. I, §14. The right to a speedy trial protects one from unnecessary and unreasonable delays. State v. Chapman, 344 S.E. 2d 611 (S.C. 1986); State v. Waites, 240 S.E. 2d 651 (S.C. 1978). This right attempts to minimize the substantial impairment of liberty imposed on the accused and to shorten the disruption to the accused's life caused by the continued presence of unresolved criminal charges. Chapman. Additionally, the South Carolina Courts have refused to force a defendant to defend himself against a stale prosecution. State v. Foster, 197 S.E. 2d 280 (1973).

In Barker v. Wingo, 407 U.S. 514 (1972), the United States Supreme Court established a balancing test, weighing the conduct of both the prosecution and defense, to determine whether a defendant has been denied his right to a speedy trial. South Carolina has adopted the Barker test. The Barker balancing test requires an assessment of (1) the

length of the delay, (2) the reason for the delay, (3) the defendant's assertion of his right, and (4) prejudice to the defendant.

A. Length of the Delay

In general, a slight delay warrants no consideration; while a delay of significant duration is presumptively prejudicial. However, in some instances, the length of the delay is irrelevant. Terry v. Duckworth, 715 F. 2d 1217 (7th Cir. 1983). Although the delay in the Defendant's case is not a *per se* violation of his right to a speedy trial, despite various attempts by the Defendant to obtain them, the Solicitor and law enforcement agents have seen to it to prevent the Defendant from any documents or evidence, which he requires not only for trial, but for his livelihood as well. The sooner trial proceedings begin, the sooner the Defendant will have access to the documents and evidence, which are necessary to his defense and livelihood.

B. Reason for the Delay

The various reasons that would cause a trial's delay require different weights. If the delay resulted from the state's "deliberate attempt to delay the trial in order to hamper the defense[,...]" then such will be weighted heavily against the government. Barker, 407 U.S. at 531. If the delay resulted from an overcrowded court, then it "...should be weighted less heavily, but nevertheless, should be considered since the ultimate responsibility for such circumstances must rest with the government rather than the defendant." Id. The United States Constitution and the South Carolina Constitution require the state to deal with and prepare for administrative difficulties. Court congestion, alone, is not sufficient to justify denying a defendant's right to a speedy trial, especially once the defendant has asserted this right. A defendant's right to a speedy trial must not

be denied merely because he is one of many other similarly situated defendants who are being denied their right to a speedy trial. An appropriate delay, a delay that would not be weighed against the state, would be a missing witness and the like. Id. However, if the event causing delay was procured by the state, then it would be weighted heavily against the state.

C. Assertion of the Right

By this motion, the Defendant is promptly and unequivocally asserting his right to a speedy trial. Neither the Defendant nor his counsel has caused delay of any sort, by requesting a continuance and the like. The Defendant and his counsel have done what they could to promptly resolve this case. Due to this case, the Defendant has been substantially prejudiced, experiencing financial, emotional, professional, and social harm. Therefore, the Defendant demands a speedy trial; and forever prevents the State from arguing that any delay resulted from the Defendant's conduct.

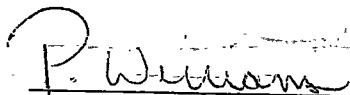
D. Prejudice

The Barker Court identified three interests that a right to a speedy trial protects: (1) to prevent oppressive pre-trial incarceration; (2) to minimize anxiety and concern of the accused caused by the charge and/or arrest; and (3) to limit the possibility that the defendant's defense would be impaired. Barker, 407 U.S. 532. A defendant has been prejudiced if any one of these interests have been hampered. By dragging its feet, the State is impairing the Defendant's defense and preventing him from earning a livelihood. As of the day the search and arrest warrants were executed and the Defendant was officially charged, the State has yet to commence pre-trial proceedings and discovery in a meaningful way, in spite of the Defendant's attempts to promptly resolve this case.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the DEFENDANT'S MOTION FOR A SPEEDY TRIAL has been served upon opposing counsel by hand delivery, email, or by mailing a copy properly addressed with sufficient postage affixed thereto this 19th day of September, 2014, to the following:

David M. Pascoe, Solicitor
First Judicial Circuit
PO Box 1525
Orangeburg, SC 29116



Paralegal

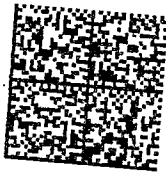
PROOF OF SERVICE

I CERTIFY THAT I SERVED A TRUE COPY OF THE ENCLOSED CONTENTS TO THE RESPONDENT SARA GUNTON, Esq., AT HER OFFICE ADDRESS AS: ATTORNEY GENERAL OFFICE, PO BOX 11549, COLUMBIA, SC 29211-1549, BY WAY OF UNITED STATES MAIL, POSTAGE PREPAID, ON THIS ~~10~~ 10 DAY OF FEBRUARY 2020, BY PERSONALLY DELIVERING IT TO THE PRISON MAIL CLERK AS FOR THE BENEFIT OF THE MAIL BOX RULE PURSUANT TO HUSTON V. LACK, SUPRA., AS BY THE UNDERSIGNED:

FEBRUARY 10, 2020



LERROY GLOVER, JR.
990 WISACKY HWY.
BISHOPVILLE, SC 29010
APPELLANT



UNITED STATES POSTAGE



PITNEY BOWES

02 1P

\$ 001.60⁰

0000880020

FEB 10 2020

MAILED FROM ZIP CODE 29010