

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM YORK COUNTY
COURT OF COMMON PLEAS

RECEIVED

APR 23 2020

S.C. SUPREME COURT

DANIEL D. HALL
CHIEF ADMINISTRATIVE JUDGE

CASE NO 2019-CP-46-01421

STATE OF SOUTH CAROLINA

RESPONDENT

JEFFREY LYNN CHRONISTER, #189829^v

APPELLANT

NOTICE OF APPEAL

JEFFREY LYNN CHRONISTER APPEALS THE FINAL ORDER OF DISMISSAL BY THE HONORABLE DANIEL D. HALL THAT WAS SENT TO CLERK OF COURT FOR FILING PER RESPONDENT'S LETTER DATED MARCH 18, 2020. APPELLANT RECEIVED COPY OF THE LETTER ON MARCH 20, 2020.

APRIL 16, 2020

Jeffrey Lynn Chronister

JEFFREY LYNN CHRONISTER, #189829

KIRKLAND C.I., B-II #63

4344 BROAD RIVER ROAD

COLUMBIA, S.C., 29210

APPELLANT prose

OTHER COUNSEL OF RECORD

DANIEL H. GREGORY

ASSISTANT ATTORNEY GENERAL

P.O. BOX 11549

COLUMBIA, S.C., 29211

EXPLANATION

APPELLANT SERVING A "MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE" CONTAINING THE FACT OF THE APPLICATION FOR POST-CONVICTION RELIEF'S GROUNDS FILED ON APRIL 23, 2019. A TIME-LY "REPLY" WAS MADE TO "CONDITIONAL ORDER OF DISMISSAL" DATED AUGUST 7, 2019, AND SIGNED BY CHIEF ADMINISTRATIVE LAW JUDGE DANIEL D. HALL ON AUGUST 21, 2019. THE DETERMINATION(S): "STATUTE OF LIMITATIONS," "SUCCESSIVE APPLICATIONS" AND BECAUSE OF IT STATING THAT THE APPLICANT "IS TO SHOW WHY THIS ORDER SHOULD NOT BECOME FINAL" IT IS TAKEN AS SAYING THE SAME DETERMINATIONS ARE ALSO RAISED IN THE ORIGINAL "FINAL ORDER OF DISMISSAL" THAT BY RESPONDENTS LETTER, DATED MARCH 18, 2020, WAS SENT TO THE CLERK OF COURT FOR FILING (COPY AT PAGE

APPELLANT TAKES THE DETERMINATIONS AS BEING THE SAME BECAUSE OF FAILURE TO RECEIVE A NOTICE OF ENTRY OF JUDGMENT AND A COPY OF THE ORDER AS OF THE DATE OF THIS FILING. RULE 71.1(F) SCRPC. SEE COPY OF LETTER AND ITS PROOF OF SERVICE DATED APRIL 2, 2020 TO THE CLERK OF COURT.

APPELLANT RESPECTFULLY CONTENDS THE DETERMINATIONS IMPROPER BECAUSE BESIDES OF THE MOTION BEING SUBMITTED "UNDER RULE 29(b) SCR CRIM P" AND "PURSUANT TO RULE 60(b) SCRPC" GROUND A PAGE 2-16 RAISES MISREPRESENTATION, PROSECUTORIAL MISCONDUCT, AND FRAUD ON THE COURT THAT ALSO PRODUCED THE DIRECT VERDICT. M.A.T. v M.S.T. 378 S.C. 129, 135, 662 S.E2d 413 (CT. APP. 2008) "THERE IS NO (TIME) LIMITATIONS WHEN A PARTY SEEKS TO SET ASIDE A JUDGMENT DUE TO FRAUD ON THE COURT." CHEWNING 354 S.C. 80, 579 S.E2d AT 609-10; ARTA v VILLAGE WEST OWNERS' ASSN INC. NOT REPORTED IN S.E2d 2011, WL 70-500 S.C. APP. 2011; RULE 60(b): U.S. v McDONALD, 161 F3d 4 TABLE C.A. 4 (N.C.) 1998; "A DECISION PRODUCED BY FRAUD ON THE COURT IS NOT IN ESSENCE A DECISION AT ALL AND NEVER BECOMES FINAL"

THE ACTIVE MISCONDUCT INCLUDED EXTRINSIC FRAUD BY COUNSEL'S INDUCEMENT OR FALSE TESTIMONY WHICH WOULD HAVE MISLED THAT THE "AFFIANT" OF ARREST WARRANT HAD INTERVIEWED THE STATE'S "EYEWITNESS IDENTIFICATION AND LINE-UP" ON THAT MORNING OF TRAGEDY, AND THE WARRANT STATES, "PROBABLE CAUSE BASED ON WITNESS" RULE 8.4(a), (d), (e), RULE 407, SEARCH

THE EVIDENCE THAT REFUTES AFFIANT'S, OTIS WHITSTINE'S, TESTIMONY OF INTERVIEWING CHIEF WITNESS, TOMMY AUTEW, IS (1) THE RECORD SHOWS THAT THE ONLY TIME WITNESS MENTIONS THE AFFIANT'S NAME IS IN HIS TESTIMONY CONCERNING HIM PRESENTING AN PHOTO LINEUP AT WITNESS'S RESIDENCE ON THAT AFTERNOON, AND (2) HIS TESTIMONY OF AFFIANT HAVING TO INTRODUCE AND ALSO IDENTIFY HIMSELF UPON ARRIVAL AT THE RESIDENCE (3) THE ONLY COPY OF AN INCIDENT REPORT ENTERED INTO THE TRANSCRIPT OF RECORD FAILS TO SHOW THE REPORTING OFFICER'S NAME OF THE REPORT, AND THE ONLY COPY OF AN INCIDENT REPORT PROVIDED TO AFFIANT'S FAMILY MEMBER BY THE YORK COUNTY SHERIFF'S DEPARTMENT WAS OF THE SAME REPORT THAT ITS COPY WAS ENTERED INTO THE RECORD. THIS COPY NOT ONLY SUPPORTS THE LACK OF EVIDENCE THE INTERVIEW OCCURRED IT ALSO SUPPORTS THE LACK OF ANY LAWFUL EVIDENCE ANY WITNESS WAS INTERVIEWED ON THAT MORNING, BECAUSE OF SHOWING THE "REPORTING OFFICER" AS "T.B. SMITH", THE CHIEF WITNESS AS ITS "COMPLAINANT", AND THE WITNESS'S TESTIMONY ALSO THE LACK OF SHOWS THE REPORT WAS UNLAWFULLY FABRICATED.

OFFICER SMITH'S NAME WAS CALLED ON THE FIRST DAY OF THE TRIAL BUT WAS NOT PRESENT THROUGHOUT TO TESTIFY AS TO WRITING THE REPORT. THERE IS NO EVIDENCE TO SUPPORT THE OFFICER WAS INVOLVED IN THE INVESTIGATION. "RULE 606(1) "AN ACT OF PERJURY OR CONCEALMENT OF A DOCUMENT COUPLED WITH AN INTENTIONAL SCHEME TO DEFRAUD THE COURT JUSTIFYS SETTING ASIDE OF A JUDGMENT DUE TO EXTRINSIC FRAUD" RAY v BAY

(S.C. 2007) 374 S.C. 79, 647 SE2d 137

DIRECT VERDICT; THE FOLLOWING TESTIMONY BY THE CHIEF WITNESS SHOWS AT NO TIME DID HE MAKE A POSITIVE IN COURT IDENTIFICATION OF APPELLANT BEING THE HE IDENTIFIED IN THE LINE-UP OR IN THE PARKING LOT / AT THE SCENE OF TRAGEDY:

(A) "NO SIR, WHAT I'M TELLING YOU IS THE PERSON I IDENTIFIED IN THE LINE-UP WAS THE PERSON I SAW IN THE PARKING LOT" AND "IF THIS MAN IS THE MAN THAT I IDENTIFIED ON THE PHOTOGRAPH, THEN HE IS INDEED THE SAME PERSON"

THE VERDICT PRODUCED BY FRAUD IS SHOWN IN PERMITTING DETECTIVE WHITSTINE TO MAKE AN IDENTIFICATION OF APPELLANT BASED ON THE LINE UP WHICH BY HIS TESTIMONY HE HAD PREPARED "PRIOR" TO MEETING WITH WITNESS AUTEN, WHICH IS SUPPORTED BY THE RECORD FAILING TO SHOW EVER MEETING OR OBSERVING APPELLANT PRIOR TO TRIAL, RULE 801(D) (C) SCRE: ALSO TESTIFYING BEING ALONE WITH WITNESS THROUGHOUT THE VIEWING. "ABSENCE OF COUNSEL AT PRETRIAL LINE-UP RENDERS COURT ROOM IDENTIFICATION INADMISSIBLE UNLESS COURT ROOM IDENTIFICATION IS BASED ON OBSERVATION OF SUSPECT OTHER THAN LINE-UP"

US v WADE 87 S. CT. 1926 (1987). STATE v ANDERSON 422 SE2d 161 (S.C. APP. 1992) "RELIABILITY IS LINCHPIN IN DETERMINING ADMISSIBILITY OF IDENTIFICATION TESTIMONY USCA CONST. 5, 6, 14

THE OTHER TWO WITNESSES OF THAT MORNING FAILED TO GET ANY RELIABLE IDENTIFICATION AND THE COURT RULED (IN PART)

"THE TESTIMONY IN THE CASE IS THAT THE DEFENDANT WAS IDENTIFIED AS BEING THE PERSON AT THE SCENE, THAT HE WAS IN POSSESSION OF A WEAPON"

(B) PAGE 16-17. ARREST WITHOUT PROBABLE CAUSE: THE ARREST MALICIOUSLY MADE WAS DISCOVERED FROM THE LACK OF ANY EVIDENCE TO SUPPORT DETECTIVE WHITSTINE WAS INVOLVED IN THE INTERVIEWING OF ANY WITNESS ON THAT MORNING

TO HAVE OBTAINED THE ARREST WARRANT: S. C. CONST. 1976 SUPP. Vol. 21, USC AMEND. IV (10): "PROBABLE CAUSE FOR AN ARREST GENERALLY EXISTS WHERE THE FACTS AND CIRCUMSTANCES WITHIN THE ARRESTING OFFICER'S KNOWLEDGE ARE SUFFICIENT FOR A REASONABLE PERSON TO BELIEVE THAT A CRIME HAS BEEN OR IS BEING COMMITTED BY THE PERSON TO BE ARRESTED." STATE V DUNBAR (S. C. APP. 2003) 354 S. C. 479, 581 SE2d 840, 356 S. C. 138, 587 SE2d 691, 361 S. C. 240, 603 SE2d 615: THE ABUSE OF PROCESS RENDERING THE WARRANT DEFECTIVE.

(C) - PAGE 17-20 SUBJECT MATTER JURISDICTION: THE INDICTMENT FOR MURDER IS SUBJECT OF ISSUE FOR THERE IS NO EVIDENCE OF A WAIVER OF PRESENTMENT OR AN INDICTMENT FOR COUNT TWO OF THE INDICTMENT

THE INDICTMENT DEFECTIVE, AND THE COURT LACKED JURISDICTION FOR THE REASONS OF: (a) NO INDICATION OF IT BEING FORMALLY STAMPED TRUE BILLED: STATE V SCOTT (S. C. APP. 2003) UNPUBLISHED OP. NO. 2003-UP-037, "A REVIEW OF THE 1998 INDICTMENTS REVEALS NO INDICATION OF EITHER OF THEM STAMPED 'TRUE BILLED' NOR A WAIVER EXECUTED BY SCOTT." AND "BECAUSE OF ITS FUNDAMENTAL NATURE, THE DEFECT IN SUBJECT MATTER JURISDICTION MAY BE RAISED AT ANYTIME INCLUDING WHEN RAISED FOR THE FIRST TIME ON APPEAL TO THE COURT. BROWN V STATE 343 S. C. 342, 346, 540 SE2d 846, 848 (2001). (b) THE GRAND JURY FORMAN INITIALING "T. BILL" FAILS TO COMPLY WITH LEGAL FORMALITY PROCEDURE FOR INDICTMENTS THUS A FACIAL IRREGULARITY, AND INDICTMENT FAILING TO BE IN WRITING NOR INDICATION OF BEING PUBLISHED BY THE CLERK. ANDERSON V STATE 529 SE2d 398, 338 SE. 629 "A FACIAL IRREGULARITY DOES NOT RENDER AN INDICTMENT INVALID WHERE INDICTMENT IS IN WRITING AND PUBLISHED BY THE CLERK": WEST'S SCD INDICTMENT AND INFORMATION SECTION III: A TRUE BILL IS ONE OF THE FORMAL REQUISITES FOR AN INDICTMENT: A NOT GUILTY PLEAS WAS MADE, AND

THE RECORD FAILS TO SHOW ANY LEGAL TESTIMONY AS TO THE INDICIMENT BEING A TRUE BILL. STATE V PRINGLE 339 S.E.2d 127, 207 S.C. 409

COUNSEL'S VIOLATING RULE 1.1 [3] RULE 407 SCACR IN FAILING TO EVALUATE "LEGAL DRAFTING" PERMITTED THE CONVICTIONS. HAD IN ABSENCE OF INDICIMENT FOR THE FIREARMS CHARGE UNDER S.C. CODE ANN 16-93-490 (1976 AND SUPP 1997) THCV V STATE OF S.C. OP. NO. 24892 (S.C. SUP. CT.), S.C. CONST. ART. I (1), WHERE THERE IS NO EVIDENCE OF A VALID WAIVER OF PRESENTMENT OF INDICIMENT 17-19-10 (1976) AND THE INDICIMENT FOR MURDER CLEARLY DEFECTIVE. USCA CONST AMEND 6, 14

APRIL 16, 2020

RESPECTFULLY SUBMITTED:

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189829
KIRKLAND E. E. J.B.-II '63
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210



ALAN WILSON
ATTORNEY GENERAL

March 18, 2020

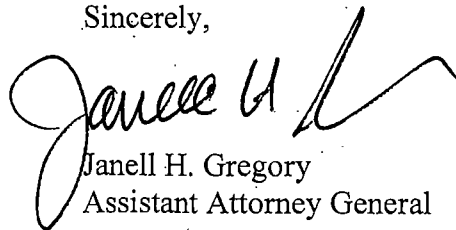
The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York, South Carolina 29745-0649

Re: Jeffrey Lynn Chronister, #189827 v. State of South Carolina
2019-CP-46-01421

Dear Mr. Hamilton:

Enclosed please find the original **Final Order of Dismissal** signed by The Honorable Daniel D. Hall in the above-captioned case for filing in your office. Please return a copy in the enclosed self-addressed envelope.

Sincerely,



Janell H. Gregory
Assistant Attorney General

JHG/jpg
Enclosure

cc: Jeffrey Lynn Chronister, #189827

(-2-OF-17)

THE HONORABLE DAVID HAMILTON
CLERK OF COURT, YORK COUNTY
POST OFFICE BOX 649
YORK, S. C., 29745-0649

RE: JEFFREY LYNN CHRONISTER^{#189827} v STATE OF SOUTH CAROLINA
CASE NO. 2019-CP-46-01421

HONORABLE CLERK,

THIS CONCERNS THE RESPONDENT'S LETTER DATED MARCH 18, 2020
AND MY COPY WAS RECEIVED ON MARCH 30, 2020.

BY THE LETTER THE "FINAL ORDER OF DISMISSAL" IN THE ABOVE
CAPTIONED CASE WAS SENT FOR FILING, AND AS OF THE DATE OF
THIS LETTER TO YOU I HAVE NOT RECEIVED AN NOTICE OF THE
ENTRY. RULE 71.1(G) + 77(G) SCRPC

THANK YOU FOR YOUR ATTENTION, AND ASSISTANCE TO RESOLVE
THIS MATTER.

SINCERELY,

APRIL 1, 2020

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER^{#189827}
KIRKLAND R+ECTR. B-II #63
4344 BROAD RIVER ROAD
COLUMBIA, S.C. 29210

CC: JAWELL H. GREGORY
ASSISTANT ATTORNEY GENERAL

(9-0111)

THE STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
YORK COUNTY

RE: JEFFREY LYNN CHRONISTER, #189827 v STATE OF SOUTH CAROLINA

CASE No. 2019-CP-46-01421

PROOF OF SERVICE

I CERTIFY THAT ON THIS 2ND DAY OF APRIL 2020 I SERVED AN
LETTER CONCERNING RECEIPT OF COPY OF THE RESPONDENT'S
"FINAL ORDER OF DISMISSAL" IN ABOVE CASE BY DEPOSITING A
COPY OF THE LETTER TO ATTORNEY GENERAL'S OFFICE, JANELLE H.
GREGORY, ASSISTANT ATTORNEY GENERAL, POST OFFICE BOX 11549,
COLUMBIA, S.C., 29211-1549 IN UNITED STATES MAIL, POSTAGE
PREPAID.

APRIL 2, 2020

KCI MAILROOM

APR 02 2020

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER #189827
KIRKLAND B+ECTR, BII #63
4344 BROAD RIVER ROAD
COLUMBIA, S.C., 29210