

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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CERTIORARI TO CHARLESTON COUNTY  
HONORABLE G. THOMAS COOPER JR., CIRCUIT COURT JUDGE

THE CHARLESTON COURT OF COMMON PLEAS

---

APPELLATE CASE NO. 2019-000398

---

**RECEIVED**

JUL 07 2020

S.C. SUPREME COURT

SEQUOIA MCKINNON,

PETITIONER

vs.

STATE OF SOUTH CAROLINA,

RESPONDENT

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AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION  
TO STAY AND OR HOLD IN ABEYANCE CASE 2019-000398;  
MOTION TO CHALLENGE THE S.C. SUPREME COURT'S  
JURISDICTION AND MOTION TO MOTION THEREFOR

---

ALSO IN RE: TO PCR CASE NO. 2020-CP-10-2523 ET. AL.,

TO: THE S.C. SUPREME COURT,  
THE S.C. ATTORNEY GENERAL,  
THE APPELLATE WANDA H. CARTER,  
THE CHARLESTON COUNTY COURT OF COMMON PLEAS ET. AL.,

HERE THE COURT AND PARTIES WILL FIND:

(A) A COPY OF EXHIBIT, "2020-CP-10-2523"

THE PETITIONER GIVES THE S.C. SUPREME COURT AND ALL PARTIES JUDICIAL NOTICE. A SUBSEQUENT PCR HAS NOW BEEN FILED IN THE CHARLESTON COUNTY COURT OF COMMON PLEAS ESTABLISHING CASE 2020-CP-10-2523. DUE TO THIS RECENT FILING I AM RESPECTFULLY PETITIONING AND OR MOTIONING BEFORE THE S.C. SUPREME COURT TO STAY AND OR HOLD IN ABEYANCE CASE 2019-000398. THE PETITIONER SEEKS THIS FOR THE FOLLOWING REASONS:

(1) IN REGARD TO THE FINAL ORDER ISSUED IN CASE 2017-CP-10-2656, THERE IS NOW CONSTITUTIONAL CHALLENGE TO THE ORDER'S VALIDITY WHICH IS JURISDICTIONAL IN NATURE AS WILL BE ELABORATED ON FURTHER IN THE AMENDED PCR FORTHCOMING UNDER CASE 2020-CP-10-2656 SINCE THE FINAL ORDER ISSUED IN CASE 2017-CP-10-2656 BY THE LITIGATION INTENDED TO BE PRESENTED WOULD BE DEEMED UNCONSTITUTIONAL AND VOID AND WILL BE AS IF THERE WERE NO FINAL ORDER ISSUED AT ALL. THIS WOULD AUTOMATICALLY CONSTITUTE A CHALLENGE TO THE S.C. SUPREME COURT'S JURISDICTION UNDER CASE 2019-000398. THE FINAL ORDER ISSUED IN CASE 2017-CP-10-2656 IS A JURISDICTIONAL PREREQUISITE TO THE S.C. SUPREME COURT ENTERTAINING JURISDICTION UNDER CASE 2019-000398. THUS, ANY RULING COMING OUT OF CASE 2020-CP-10-2523 WOULD HAVE A DIRECT IMPACT ON ANY DECISION THAT WOULD POTENTIALLY COME OUT OF CASE 2019-000398 WHERE THE CONSTITUTIONAL ACTION INTENDED TO BE ARGUED WOULD VOID THE S.C. SUPREME COURT'S JURISDICTION AB INITIO, FORTMILL v. FITZGERALD, S.E.2d., 2014 WL 7339453(S.C.App.2014); CALDWELL v. WINQUIST, 402 S.C. 565, 741 S.E.2d.

583(S.C.App.2013); MARTIN-EVANS v. CHESAPEAKE APPALACHIA, LLC, F.Supp.3d., 2015 WL 6681185(N.D.Va.2015); BARTELS BY AND THROUGH BARTELS v. SABER HEALTH CARE GROUP, LLC., 880 F3d. 668(4th.Cir.2018).

(2)THE PETITIONER IS AWARE THAT IN ADDRESSING THE ISSUE OF SUBJECT MATTER JURISDICTION. IT CAN BE BROUGHT UP FOR THE FIRST TIME ON APPEAL. BUT THERE ARE MORE CRUCIAL ELEMENTS AND OR FACTS THAT EXIST IN THIS CASE, THAT SUCH CIRCUMSTANCES AS THEY PRESENT THEMSELVES, ALSO IN FUNDAMENTAL FAIRNESS TO THE STATE, AND TO GIVE THEM A FULL, FAIR AND PROPER OPPORTUNITY TO RESPOND. IT WOULD BE MORE APPROPRIATE TO RAISE THE CLAIM IN THE PCR COURT FIRST. THIS IS ALSO DUE TO THE FACT THAT ONE OF THE CLAIMS BEING ASSERTED IS FRAUD UPON THE COURT. UNDER THE INDEPENDENT ACTION RULE. IT IS MORE APPROPRIATE TO BRING THE ACTION IN THE COURT WHERE THE FRAUD UPON THE COURT IS ALLEGED TO HAVE OCCURRED AND IN THIS CASE, IT IS THE PCR COURT. IN SUCH, IT WOULD BE MORE PROPER TO FILE IN THE PCR COURT AND STAY THE S.C. SUPREME COURT CASE UNTIL THE MATTERS ARE ADDRESSED IN THE LOWER COURT WHERE ANY SUCH RULING WOULD OF COURSE HAVE A DIRECT IMPACT ON ANY RULING THAT MAY POTENTIALLY EMERGE FROM CASE 2019-000398 DUE TO THE VIOLATIONS OF DUE PROCESS THAT HAS OCCURRED BEFORE THAT COURT, ASTERBADI v. LEITESS, 176 Fed. Appx' 426 CA4 (Va.2006); ALADEKA, 2010 WL 4054267 (2010); SOUTH CAROLINA DEPT. OF SOCIAL SERVICES v. TRAN, 418 S.C. 308, 792 S.E.2d. 254(S.C.App.2016); Mr.T v. MRS.T, 378 S.C. 127, 662 S.E.2d. 413(S.C.App.2008); S & E CONTRACTORS, INC. v. U.S., 406 U.S. 1, 92 S.Ct. 1411(U.S.1972); COX v. FLEETWOOD HOMES OF GEORGIA, INC., 334 S.C. 55, 512 S.E.2d. 498(S.C.1999); ROBINSON v. ESTATE OF HARRIS, 388 S.C. 630, 698 S.E.2d. 222(S.C.2010); WELLS FARGO BANK N.A. v. FARAG, 2016 WL 2944561(N.C.2016); ELDERBERRY OF WEBER CITY, LLC. v. LIVING CENTERS-SOUTHEAST, INC.,--F3d.--, 2015 WL 4430836 CA4 (Va.2015); WELLS FARGO BANK N.A. v. H.M.H. ROMAN TWO N.C., LLC., 859 F3d. 295(4th.Cir.2017); MOSLEY v. UNITED STATES, 2018 WL 1187778 (W.D.N.C.2018); MILFORD v. MIDDLETON, 2018 WL 348059 (DSC.2018).

INSOMUCH, SUBJECT MATTER JURISDICTION CAN BE RAISED AT ANY

TIME, AT ANY STAGE, EVEN AFTER A FINAL ORDER HAS BEEN ISSUED, EVEN FOR THE FIRST TIME ON APPEAL AND THE S.C. SUPREME COURT SHALL NOT FAIL TO TAKE NOTICE WHERE THIS JURISDICTIONAL CHALLENGE, DUE TO THE CONSTITUTIONALITY OF THE ORDER EMERGING FROM CASE 2017-CP-10-2656 BEING CALLED INTO QUESTION, MUST BE ADJUDICATED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION. IN SUCH, THE COURT BEING GIVEN JURISDICTION BY STATUTORY PROVISIONS DOES NOT PREVENT REVIEW WHERE THESE MATTERS ARE BEING ARGUED UNDER THE DUE PROCESS PRONG TO SUBJECT MATTER JURISDICTION, HILL v. S.C. DEPT. OF HEALTH AND ENVIRONMENTAL CONTROL, 389 S.C. 1, 698 S.E.2d. 602(S.C.2010); GURNEY v. CONAN, LIEBOWITZ & LATMAN P.C., F.Supp.3d., 2015 WL 4460868 (S.D.N.Y.2015); STEEL CO. v. CITIZENS FOR A BETTER ENVIRONMENT, 523 U.S. 83, 118 S.Ct. 1003 (U.S.1998); TAMM v. CINCINNATI INSURANCE COMPANY, 2020 WL 60932(S.D.N.Y.2020); CHASE v. ANDEAVOR LOGISTICS L.P., 2019 WL 5847879 \* 2 W.D.Tex.; UNITED STATES v. VALLADARES, 2019 WL 4888629 \* 1, W.D.Tex.; ARBAUGH v. Y & H CORP., 546 U.S. 500, 126 S.Ct. 1235(U.S.2006); STEVENS E. HECKER, PLAINTIFF v. THE STATE OF WASHINGTON, DEFENDANT, 2020 WL 134168 (Fed.Cl.2020); HICKS v. HEART OF HOSPICE, LLC., 2019 WL 6255496 (N.D.Miss.2019); KRIKORIAN v. FORD MOTOR COMPANY, 2019 WL 7042939(S.D.Ala.2019); HENDERSON v. SHINSEL, 131 S.Ct. 1197, 1198+ U.S.; BURGESS v. UNITED STATES, 2019 WL 7293400 \* 1 D.Md.; BARNES v. GIVENS, 2019 WL 5579543, \*3, W.D.Tex.; WALLS v. BOEING COMPANY, 2019 WL 4931365, \* 2 DSC.; JEFFERS v. J.P. MORGAN CHASE & CO., 2019 WL 6255311, \* 1, S.D.Tex.; ANTHONY W. HALL, PLAINTIFF v. FRENKEL, LAMBERT,..., 2020 WL 136658, \* 2, E.D.N.Y.; DAVIS v. PALUMBO, 2019 WL 6915949, \* 1 W.D.MO.; SORRINGWIND ENERGY, LLC. v. CATIC U.S.A. INCORPORATED,--F3d.--, 5TH. Cir.(Tex.); 460 S. LAKE AVENUE, LTD. v. APPLETON, 2019 WL 7184737, \* 1 C.D.Cal.; SLAYTON v. JOHNSON AND JOHNSON, 2019 WL 7208414, \* 1 C.D.Cal.

(3) INASMUCH, THE UNITED STATES SUPREME COURT RECENTLY ADDRESSED THE PETITIONER'S CONSTITUTIONAL RIGHTS IN PART WHERE IT DETERMINED THAT A DEFENDANT IS CONSTITUTIONALLY GUARANTEED PERSONALLY THE RIGHT TO MAKE HIS DEFENSE, SPEAKS TO THE

"ASSISTANCE" OF COUNSEL, AND AN ASSISTANT, HOWEVER EXPERT, IS STILL AN ASSISTANT AND THE DEFENDANT'S CONSTITUTIONAL RIGHT OF AUTONOMY CANNOT BE DISTURBED OR IT WOULD CREATE A CONSTITUTIONAL STRUCTURAL ERROR WHICH WOULD VOID THE COURT'S JURISDICTION FOR SUCH UNCONSTITUTIONAL ACTION. SINCE BY THE INDEPENDENT ACTION RULE FOR FRAUD UPON THE COURT IT WOULD BE APPROPRIATE TO FILE THE CASE IN THE COURT WHERE THE FRAUD ALLEGEDLY OCCURRED, COUPLED BY THE PETITIONER'S CONSTITUTIONAL RIGHT OF AUTONOMY WHERE HE CHOOSES BY THAT RIGHT TO EXERCISE THAT INDEPENDENT ACTION IN THE PCR COURT. THAT CONSTITUTIONAL RIGHT OF AUTONOMY CANNOT BE DISTURBED OR DENIED OR IT WOULD VOID THE S.C. SUPREME COURT'S JURISDICTION FOR SUCH UNCONSTITUTIONAL ACTION, BROADNAX v. STATE, 2019 WL 1450399 (Tenn.2019); DAWN v. UNITED STATES, 411 F.Supp.3d. 90, 98 D.Mass.; McCOY v. LOUISIANA, 138 S.Ct. 1500, 200 L.Ed.2d. 821(U.S.2018).

IN CONCLUSION, BY THE AFOREMENTIONED, THE PETITIONER RESPECTFULLY CHALLENGES THE S.C. SUPREME COURT'S JURISDICTION AND RESPECTFULLY SEEK THAT CASE 2019-000389 BE STAYED AND OR IN THE ALTERNATIVE, IT BE HELD IN ABEYANCE UNTIL THE MATTERS IN THE PROCESS OF BEING AMENDED IN CASE 2020-CP-10-2523 COME TO THEIR CONCLUSION AND THAT ORDER, IF NECESSARY, IS THEN APPEALED AND BROUGHT BEFORE THIS COURT. THE PETITIONER PRAYS FOR THIS RELIEF, TO INCLUDE ANY AND ALL OTHER RELIEF THE COURT WOULD DEEM JUST, FAIR AND PROPER, 24 SENATORIAL DIST. REPUBLICAN COMMITTEE v. ALCORN, 820 F3d. 624 (4th.Cir.2016); CALSON v. SOUTH CAROLINA STATE PLASTERING, LLC., 404 S.C. 250, 743 S.E.2d. 868(S.C.App.2013); LIBERTY BUILDERS, INC. v. HORLERT, 336 S.C. 658, 521 S.E.2d. 749(S.C.1999); COX v. WOODMEN OF WORLD INSURANCE CO., 347 S.C. 460, 556 S.E.2d. 397(S.C.App.2001); DOE v. DUNCAN, S.E.2d., 2008 WL 9846820 (S.C.App.2008); THOMPSON v. WATTS, 278 S.C. 230, 294 S.E.2d. 245 (S.C.App.1982); PACE v. DiGUGLIELMA, 544 U.S. 408, 416 (2005); JACKSON v. ROE, 425 F3d. 654 (9th.Cir.2005); BLAKE v. BAKER, 745 F3d. 977 (9th.Cir.2014); MARTINEZ v. RYAN, 132 S.Ct. 1309 (2012); RUNER v. CRAWFORD, 415

F.Supp.2d. 1207 (D.Nev.2006); MDC INNOVATIONS, LLC. v. NORTHERN,--Fed. Appx'--, 2018 WL 1129607 (4th.Cir.2018); HAMER v. NEIGHBORHOOD HOUSING SERVICES OF CHICAGO, 138 S.Ct. 13, 199 L.Ed.2d. 249(U.S.2017); MYLES v. DOMINOS PIZZA, LLC., 2017 WL 238436 (D.C.Miss.2017).

SEQUOIA DONTEL MCKINNON  
#368688 F3B RM. 2216  
LEE C.I. 990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010

*Sequita McKinnon*

JUNE 25, 2020

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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CERTIORARI TO CHARLESTON COUNTY  
HONORABLE G. THOMAS COOPER JR., CIRCUIT COURT JUDGE

THE CHARLESTON COURT OF COMMON PLEAS

---

APPELLATE CASE NO. 2019-000398

---

**RECEIVED**

JUL 07 2020

S.C. SUPREME COURT

SEQUOIA MCKINNON,

PETITIONER

Vs.

**RECEIVED**  
JUL 10 2020  
SC Court of Appeals

STATE OF SOUTH CAROLINA,

RESPONDENT

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**AFFIDAVIT OF SERVICE**

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I, SEQUOIA D. MCKINNON, DO HEREBY CERTIFY, THAT I HAVE MAILED AND OR SERVED A COPY OF AN AFFIDAVIT OF FACTS GIVING JUDICIAL NOTICE; MOTION TO STAY AND OR HOLD IN ABEYANCE CASE 2019-000398; MOTION TO CHALLENGE THE S.C. SUPREME COURT'S JURISDICTION AND MOTION TO MOTION THEREFOR, ON THE S.C. SUPREME COURT P.O. BOX 11330 COLUMBIA, S.C. 29211, THE S.C. ATTORNEY

GENERAL P.O. BOX 11549 COLUMBIA, S.C. 29211, ATTORNEY WANDA H.  
CARTER P.O. BOX 11589 COLUMBIA, S.C. 29211-1589 AND THE  
CHARLESTON COUNTY CLERK OF COURT 100 BROAD STREET SUITE 106  
CHARLESTON, S.C. 29401-2258, BY U.S. MAIL POSTAGE PREPAID, BY  
DEPOSITING IT IN THE INSTITUTION MAILBOX ON JUNE 26, 2020.

SEQUOIA DONTEL MCKINNON  
#368688 F3B RM. 2216  
LEE C.I. 990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010

*Sequoia McKinnon*

JUNE 25, 2020

EXHIBIT, "2020-CP-10-2523"

3

SEQUOIA DONTRAE MCKINNON

#368688 RB-AM 2216

LEE CZ 990 WISNEY HWY

BISHOPVILLE SC 29010

IN RE to filing a PCR

DEAR CLERK OF COURT,

The attached document is  
being filed pursuant to filing  
a PCR application. Please file  
it, assign it a case number,  
return to me a checked stamped

Loft

copy of it, to allow me to  
ARGUE it before the involved  
courts. For this I would be  
grateful. Thank you.

Respectfully  
Sequoia D. McKinnon

May 29, 2020

2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Sequoia McKinnon  
Plaintiff(s)

vs.  
State of South Carolina  
Defendant(s)

Submitted By: Sequoia D. McKinnon  
Address: 33 Blk 2216  
W. C. 990 Wilshire Hwy  
Bishopville, SC 29010

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2020 -CP-10-2523

SC Bar #: \_\_\_\_\_  
Telephone #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Other: \_\_\_\_\_  
E-mail: \_\_\_\_\_

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

**DOCKETING INFORMATION (Check all that apply)**

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

**NATURE OF ACTION (Check One Box Below)**

- |  |  |   |  |
|--|--|---|--|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Fraud/Bad Faith (150)</li> <li><input type="checkbox"/> Failure to Deliver/Warranty (160)</li> <li><input type="checkbox"/> Employment Discrim (170)</li> <li><input type="checkbox"/> Employment (180)</li> <li><input type="checkbox"/> Other (199)</li> </ul>  | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20 <u>-NI-</u></li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>   | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Assault/Battery (370)</li> <li><input type="checkbox"/> Slander/Libel (380)</li> <li><input type="checkbox"/> Other (399)</li> </ul>   | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>  |
| <p><b>Other Actions</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> PCR</li> <li><input type="checkbox"/> Mandamus (500)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>   | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Drv. License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture-Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul> | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Confession of Judgment (770)</li> <li><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Comm. (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> <li><input type="checkbox"/> Permanent Restraining Order (680)</li> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Pre-Suit Discovery (670)</li> </ul> |  |   |  |

Submitting Party Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA

County of CHARLESTON

IN THE COURT OF COMMON PLEAS

SEQUOIA DONALD MCKILLEN  
Full name and prison number (if any) of Applicant

2020-CP 10-2523

#368688

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

Affidavit of Facts Giving  
Judicial Notice

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention LEE CJ E3B-RM 2216  
990 WISBECKY HWY Bishopville, SC 29010
2. Name and location of Court which imposed sentence CHARLESTON COUNTY  
COURT of GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) SEE CASE NUMBER  
2017-CP-10-2656
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) SEE CASE 2017-CP-10-2656
  - (b) \_\_\_\_\_

(c) SEE CASE 2007-CP-10-2656

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) U
- (b) U
- (c) U

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty U
- (b) after a plea of not guilty U
- (c) after a plea of nolo contendere U

7. Did you appeal from the judgment of conviction or the imposition of sentence?

U

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. U
- ii. U
- iii. U

(b) the result in each such Court to which you appealed:

- i. U
- ii. U
- iii. U

(c) the date of each such result:

- i. U
- ii. U
- iii. U

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. U
- ii. U
- iii. U

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) U

(b) SEE CASE 2017-CP-10-2656  
(c) U

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) 4th, 5th, 6th, 13th, 14th, 15th Amendment  
(b) Violations, Subject Matter Jurisdiction, Due  
(c) Process Violation, Fraud upon the Court, Prosecu-

11. State concisely and in the same order the facts which support each of the grounds set out in (10):  
Howal misconduct, Ineffective Assistance of Counsel

(a) SEVERAL PAGES ARE ATTACHED BUT THE  
(b) Full litigation is forthcoming, I  
(c) intend to immediately amend

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? YES  
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO  
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO  
(d) any other petitions, motions or applications in this or any other Court? YES

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:  
i. SEE CASE 2017-CP-10-2656  
ii. U  
iii. U  
iv. U  
(b) the name and location of the Court in which each was filed:  
i. U  
ii. U  
iii. U  
iv. U

(c) the disposition thereof:

- i. SEE CASE 2017-CP-10-2656
- ii. U
- iii. U
- iv. U

(d) the date of each such disposition:

- i. U
- ii. U
- iii. U
- iv. U

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. U
- ii. U
- iii. U
- iv. U

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. U
- ii. U
- iii. U
- iv. U

(b) the proceedings in which each ground was raised:

- i. U
- ii. U
- iii. U

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 AND
- (b) DID NOT DISCOVER ISSUES UNTIL NOW.
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? SEE CASE 2017-CA-10-2656
- (b) your trial, if any? U
- (c) your sentencing? U
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? U
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? U

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. U
  - U
  - ii. U
  - U
  - iii. U
  - U
- (b) the proceedings at which each such attorney represented you:
  - i. U
  - U
  - ii. U
  - U
  - iii. U
  - U

I give the court and parties judicial notice. I intend to immediately amend this PCR to fully place forth the issues that are to be presented to this court once a case number is assigned and forwarded to me, to address the claims listed in the grounds under (C) of this document.

Inasmuch, it is beyond dispute that the "sentencing sheets" are this state's equivalent to a commitment order. I give the court and all parties judicial notice. This PCR is not filed merely attacking the indictments and other constitutional

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STRUCTURAL AND DUE PROCESS ERRORS  
that exist in this case. This is a  
collateral attack upon the sentencing  
sheets which are legally designated  
as commitment orders, as well as  
a collateral attack upon the final  
order issued in the PCR case 2017-  
CA-10-2656 for fraud upon the court  
and challenge to that court's juris-  
diction as is for the criminal courts  
jurisdiction. This would automatically  
establish a challenge to the SC  
SUPREME COURT'S JURISDICTION UNDER  
CASE 2019-000398 since the order  
from the PCR COURT IS A JURISDICTIONAL  
PREREQUISITE to the SC SUPREME COURT'S

JURISDICTION UNDER CASE 2019-000398.  
IF THE FINAL ORDER EMERGING FROM  
CASE 2017-CP-10-2656 IS TO BE DEEMED  
VOID FOR UNCONSTITUTIONAL ACTIONS, SO  
WOULD THE SC SUPREME COURT'S JURIS-  
DICTION BE VOID SINCE THE UNCONSTITU-  
TIONAL ORDER FROM THE PCR COURT IS  
THE VEHICLE IN WHICH JURISDICTION  
BY TRUE PROCESS LAW IS CONFERRED ON  
THE SC SUPREME COURT. IT WOULD BE  
AN ABUSE OF DISCRETION, OBSTRUCTION OF  
JUSTICE AND AN ACT OF FRAUD UPON THE  
COURT FOR THE PCR COURT AND STATE  
TO DETERMINE THAT THE APPLICANT IS  
PROCEDURALLY BARRIED WHEN MANY OF

the issues involved in this case  
are jurisdictional in nature where I  
am arguing against the precedent  
established by STATE V GENTRY 2005  
pursuant to Rules of Appellate Proce-  
dure, Rule 27 involving issues which  
cannot be waived, which can be raised  
at any stage, at any time, even after  
a final judgment has been entered,  
Steel Co. v. Citizens for a Better En-

vironment, 523 US 83, 118 Sct 1003 (US  
1998); Jamm v Cincinnati Fils. Company,  
2020 WL 60932 (5th Cir 2020); CHASE v.  
Andeavor Logistics L.P., 2019 WL 5847879  
#2 WtA Tex.; United States v. Valladares,  
2019 WL 4888629 #1, WtA Tex.; Arbaugh

V. Y & H CORP., 546 US 500, 126 Sct. 1235  
(US 2006) | STEVENS E. HECKER, Plaintiff  
v. The State of Washington, Defendant,  
2020 WL 134168 (Fed Ct. 2020) | HENDERSON  
By Real HENDERSON v. SHINSEL, 131 Sct 1197,  
1198+ U.S. | BURGESS v. United States,  
2019 WL 7293400 \*1 D. Md.

The ~~sentencing~~ sheets, as commit-  
ment orders, establish the order  
or decree from the GENERAL SESSIONS  
COURT pertaining to my conviction.  
The final order related to my  
prior per UNDER CASE 2017-CP-10-2656  
is a JURISDICTIONAL REQUISITE to con-  
cluding the matters before that court  
and a JURISDICTIONAL PREREQUISITE to

10 of 23

THE SC SUPREME COURT ENTERING  
JURISDICTION UNDER CASE NUMBER 2019-  
000398 AND DUE TO THE UP CONSTITU-  
TIONAL ACTION THAT SHALL BE ASSERTED  
IN THE AMENDED PCR AND DUE TO THE  
CIRCUMVENTING AND FAILURE TO HEAR  
JURISDICTIONAL ISSUES WHICH CANNOT BE  
WAIVED BY ME WHERE THE STATE APPOINTED  
ATTORNEY CONSPIRED UNDER COLOR OF STATE  
LAW WITH THE PROSECUTOR VIOLATING MY  
CONSTITUTIONAL RIGHT OF AUTONOMY TO PRE-  
SENT THE ISSUES FROM BEING HEARD,  
VIOLATING US SUPREME COURT HOLDINGS  
UNDER MCCOY v LOUISIANA - SET - , 2018  
WL 2186174 (US 2018). SUCH UP CONSTITU-  
TIONAL ACTION AND FRAUD UPON THE COURT  
RENDERS THE FINAL ORDER ISSUED UP

CASE 2017 CP-10-2656 which is  
the REQUISITE to the SC SUPREME  
COURT ENTERTAINING JURISDICTION UNDER  
CASE 2019-000398 UNCONSTITUTIONAL AND  
VOID ESTABLISHING CHALLENGE TO THE SC  
SUPREME COURT'S JURISDICTION UNDER THE  
PENDING STATE CASE. Thus, due to THESE  
JURISDICTIONAL CHALLENGES AND FRAUD  
UPON THE COURT INTENDED TO BE ARGUED  
IN THE AMENDMENT TO COME. ANY  
CLAIM OF A STATUTE OF LIMITATION CLAIM,  
OR SUCCESSIVE PCR CLAIM OR ANY CLAIM  
THAT ACTION IS PENDING UNDER CASE  
2019-000398 WOULD NOT PREVENT RE-  
VIEW UNDER THIS PRESENTLY SUBMITTED  
PCR DUE TO SUCH CLAIMS BEING PROCEDU-  
RAL LIMITATIONS FOR WHICH A COLLATERAL

Attack for fraud upon the court is  
FREE of such procedural limitations  
which the aforementioned clearly  
ARE. FRAUD vitiates everything that  
it enters and a judgment procured  
by fraud may be collaterally attacked  
for that fraud upon the court. This  
applies to all acts, orders, judgments  
or decrees of all courts on record,  
which the stipulating sheets, as  
commitment orders also represent.  
SEE citings of law that will be listed  
in the Amended PCR. Also SEE  
Myles v Dominos Pizza, LLC, 2017 WL  
238436 (DC Miss. 2017); United States v.  
Conrad, 675 Fed Appx 263, 265 CA4  
(DC 2017); Loumiel v United States, 65

FSUPP 3d 19 (2014).

Inasmuch, this filing is filed  
Under the independent Action Rule  
for fraud upon the courts involved.  
Due to attacking the "stepping  
stones", which are the legal designat-  
ed "commitment orders" and the  
prior order under case 2017-CA-10-  
2656 which automatically establishes  
a jurisdictional challenge to case 2019-  
000398, all establishing jurisdictional  
challenge at multi levels. Therefore,  
the Court of Common Pleas, the SC  
Supreme Court, nor the SC Attorney  
General can fairly or legally assert  
that I am "time barred", or that

THE PCR IS SUCCESSIVE, OR THAT I  
HAVE PENDING ACTIONS AND CANNOT  
FILE IN TWO COURTS SINCE THE FINAL  
ORDERS IN QUESTION WOULD BE DEEMED  
UNCONSTITUTIONAL AND A VIOLATION OF  
DUE PROCESS designating that they  
be deemed void which is this PCR's  
AIM. IT IS THE APPLICANT'S CLAIM  
THAT IT IS AN ACT OF FRAUD UPON THE  
COURT FOR THE GENERAL SESSIONS  
COURT TO SIGN THE COMMITMENT  
ORDER(S), OR THE PCR COURT TO SIGN  
THE FINAL ORDER IN CASE 2017-CP-  
10-2656 ABUSING THEIR DISCRETION  
WHEN THESE JURISDICTIONAL CHALLENGES  
EXISTED WHICH CANNOT BE WAIVED

WHERE the court and prosecutor  
knew good and well, conspiring  
under color of state law, that  
these due process and unconstitution-  
tional structural errors argued  
in this document and the interposed  
subsequent amended PCR existed  
in this case.

Therefore, the prior orders  
signed under case 2017-CP-10-2656  
and the signing of the commitment  
orders in the GENERAL SESSIONS  
COURT as well as the proceedings  
under 2019-000398 ARE UNCONSTITU-  
TIONAL, and the GENERAL SESSIONS  
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COURT, THE PCR COURT AS WELL AS  
THE SC SUPREME COURTS, JURISDICTION  
IS VOID FOR SIGHTING THEM CORRUPTLY  
ANY PROCESS BEFORE THE SC SUPREME  
COURT, AS WELL THE CONVICTIONS  
ATTACHED TO THEM BEING A nullity  
AND IS AS IF THERE WERE NO  
COMMITMENT ORDERS SIGHTED, OR  
TRIAL ATTACHED TO IT, OR PCR PRO-  
CEEDING OR JUDICIAL DETERMINATION  
MADE AT ALL. IT IS WELL SETTLED  
IN LAW ALSO UNDER THE INDEPEN-  
DENT ACTION RULE, THAT A COLLATERAL  
ATTACK FOR FRAUD UPON THE COURT  
IS FREE OF ALL PROCEDURAL LIMITATIONS

such as apply claim of statute of limitation restriction, successive or that another action is pending due to the fraud upon the court that is now argued and which will appear in the amended DCR complaint, where all the afore-mentioned are all forms of procedural limitations, IN RE GENESYS DATA TECHNOLOGIES INC., 204 F3d 124 (4th Cir 2000); MONTGOMERY V LOUISIANA, 136 Sct 718, 193 LEd2d 599 (Us 2016); UNITED STATES V LIBOVS, 858 F3d 64 (2nd Cir 2017). Also see exhibit (5)

"commitment order Attack" and  
"CASE HISTORY".

I REITERATE, THE APPLICANT  
IS CHALLENGING THE GENERAL SESSIONS  
COURTS JURISDICTION TO SIGN THE  
COMMITMENT ORDER(S). THE COURT  
OF COMMON PLEAS JURISDICTION TO  
SIGN THE FINAL ORDER IN CASE  
2017 CP 10-2656, THE SC SUPREME  
COURTS JURISDICTION, AS WELL AS I  
AM CHALLENGING THEIR JURISDICTION  
TO ESTABLISH AND OR KEEP IN PLACE  
THE CONVICTION ITSELF. SUBJECT MATTER  
JURISDICTION CAN BE RAISED AT ANY  
TIME, AT ANY STAGE OF THE PROCEEDINGS,  
19 of 23

EVEN FOR THE FIRST TIME ON APPEAL  
AND CANNOT BE WAIVED BY ME AND  
THE COURT SHALL NOT FAIL TO TAKE  
NOTICE, ESPECIALLY IN LIGHT OF THE  
FACT THAT THERE IS CLAIM OF FRAUD  
UPON THE COURT(S) INVOLVED ATTACHED  
TO THE JURISDICTIONAL CLAIMS MADE,  
Stehlius v Auburn Regional Medical  
Center, 133 S Ct 817, 184 L Ed 2d 627,  
81 USLW 4053 (US 2013); Sizward  
v Riddle, F Supp 2d, 2013 WL 707018  
(DSC 2013); Grupo Dataflux v Atlas  
Global LP, 541 US 567, 124 S Ct 192,  
158 L Ed 2d 866 (US 2004); 24 Senatorial  
Dist. Republican Committee v Alcorn,  
820 F3d 624 (4th Cir 2016). THE

A amended per with the legal issues  
in question is forthcoming. By  
the issues intended to be pre-  
sented equitable tolling attaches  
in this case due to the state  
prosecutors involvement in the  
issues of contempt.

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

~~SENTENCE AND CONVICTIONS VACATED,~~  
~~NAME AND DNA REMOVED FROM ALL~~  
~~ALIBRARY FILES, ORDER ISSUED EXPUNGE~~  
~~RECORD~~

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

No

STATE OF SOUTH CAROLINA

County of CHARLESTON }

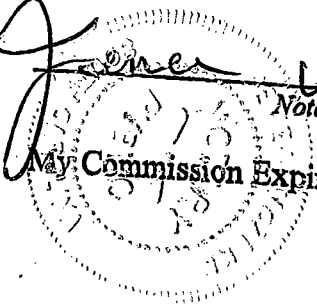
VERIFICATION

I, SEQUOIA D. Mc KILPATRICK, 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 at this time for vacating, setting aside or correcting the convictions and sentence attacked in this application; and that the matters and allegations therein set forth are true and correct.

S. Sequoia McKelrick

SWORN to and subscribed before me this 28<sup>th</sup> day of May 2020

Jane M. Heke (L.S.)  
Notary Public.



My Commission Expires: 09/04/2021

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

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

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

x Sequoia McKinney  
Applicant

SWORN or affirmed to and subscribed before me this

20<sup>th</sup> day of May 2020

Jane M. [Signature]  
Notary Public

My Commission Expires: 09/04/20

Lee Corr., Inst.,  
990 Wisacky Highway  
Bishopville, SC 29010-1775

SEQUOIA DONTEL McKINNON  
#368688 F3B RM. 2216  
LEE C.I. 990 WISACKY HWY.  
BISHOPVILLE, S.C. 29010

**RECEIVED**

**JUL 07 2020**

**S.C. SUPREME COURT**

IN RE: CASE 2019-000398

TO: THE S.C. SUPREME COURT CLERK,

PLEASE BE ADVISED. THE ATTACHED DOCUMENTS ARE BEING FILED FOR THE PURPOSE OF SEEKING TO STAY AND OR HOLD IN ABEYANCE THE ABOVE CAPTIONED CASE. YOU WILL ALSO FIND TWO ADDITIONAL SHEETS FOR WHICH I AM SEEKING THAT THEY BE CLOCKED STAMPED AND RETURNED TO ME IN THE SELF ADDRESSED STAMPED ENVELOPE. CAN YOU PLEASE SEE THAT THIS IS DONE AND THEREUPON FORWARD THE DOCUMENT TO THE COURT FOR PROPER ADJUDICATION. FOR THIS I WOULD BE VERY GRATEFUL. THANK YOU IN ADVANCE

**RECEIVED**

**JUL 10 2020**

**SC Court of Appeals**

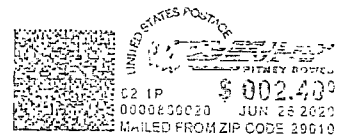
RESPECTFULLY,

SEQUOIA DONTREL McKINNON

*Sequoia McKinnon*

JUNE 26, 2020

Sequoia D. McKinnon  
# 360688 F3B Rm 2216  
Lee C. Z. 990 Wisacky Hwy  
Bishopville, SC 29010

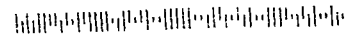


S.C. Supreme Court  
P.O. Box 11330  
Columbia, SC 29211

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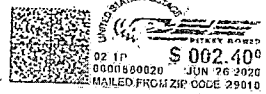
JUL 07 2020

S.C. SUPREME COURT



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THE DEPARTMENT DOES NOT  
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OF THIS ITEM. ASSUME RESPONSIBILITY FOR THE WRITTEN CONTENTS  
LEE CORRECTIONAL INSTITUTE  
SC DEPARTMENT OF CORRECTIONS



Sequoia D. McKinnon  
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