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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

CERTIORARI TO RICHLAND COUNTY

HONORABLE KRISTI E. CURTIS, CIRCUIT COURT JUDGE

YUSUF KARIN AOAIL

PETITIONER

V.

STATE OF SOUTH CAROLINA

RESPONDENT

APPELLATE CASE NO. 2019-002092

PETITION FOR WRIT OF CERTIORARI

YUSUF K. AOUIL #226843
LEE CORECTIONAL INST
990 Wisacky HWY
BISHOPVILLE, SC 29010

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POINT ONE

PETITIONER'S PRO SE BRIEF
[2016-CP-40-1661]

PETITIONER, YUSUF KARIM AOUIL SUBMIT THAT HIS CONVICTION IS DEPRIVED OF REAL SUPPORTING EVIDENCE, AND FURTHER SUBMIT THAT HIS APPEAL IS NOT FRIVOLOUS IN LAW TO PURSUE PETITION FOR WRIT OF CERTIORARI, AND FURTHER SUBMIT THAT HIS TRIAL ATTORNEY WAS INEFFECTIVE; AND THAT HE WAS COERCED INTO PLEA BY ATTORNEY NEAL M. LOURIE, AND SUBMIT AS FOLLOWS:

THE LOWER COURT ERRED IN FAILING TO GRANT PETITIONER'S 59(e) SCRPC, ORDER TO ALTER/AMEND THE COURT ORDER FILED MAY 22, 2019, FURTHER DENYING HIM THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, WHEREBY HIS TRIAL COUNSEL(S) FAIL TO PROPERLY INVESTIGATE AND PREPARE FOR TRIAL LEADING A COERCED PLEA; AND FAILING TO ADVISE PETITIONER OF LESSER INCLUDED OFFENSE, INSTEAD UNWILLINGLY LED HIM INTO AN INVOLUNTARY PLEA AFTER NEARLY THREE (3) YEARS IN DETENTION. COUNSEL FAIL TO EXERCISE DUE CARE UNDER THE CIRCUMSTANCES FAILING TO PERFORM SPECIFIC DUTY REQUIRED BY LAW, THEREBY COMPELLING PETITIONER TO DO WHAT HE WOULD NOT OTHERWISE DO UNDER DURESS, PLUS THE THREAT OF LIFE SENTENCE TOOL THAT PROSECUTION USED AND JIM CROW PRACTICE THAT EXISTS IN SOUTH CAROLINA. THUS IT IS UNCONSTITUTIONAL AND UNLAWFUL TO COERCE A CLIENT INCRIMINATE HIMSELF, OR COERCION OR ANY FORM OF COMPULSION, OR CONSTRAINT WHICH COMPELS, OR INDUCE PETITIONER TO ACT

OTHERWISE FREELY IS UNDUE INFLUENCE TO INCRIMINATE HIMSELF WILL VOID CONFESSION. GARRITY V. NEW JERSEY, 385 US 493, 496-500; UNITED STATES OF AMERICA V. HENRY E. WILLIAMS, 621 F.2d 123 124 (5th cir. 1980).

THE CRIMES DISTINCTLY STATED IN PETITIONER'S PROCEEDING WAS NOT SUPPORTED BY SOUND EVIDENCE ON RECORD BEFORE THE GRAND JURY (EMPHASIS) REACH THEIR DETERMINATION TO CHARGE PETITIONER WITH MURDER, KIDNAPPING, AND ARMED ROBBERY. PETITIONER ADMIT TO MERE PRESENCE AND ACCESSORY TO AID ALLEGED CO-DEFENDANT IN A SECONDARY WAY, THEREBY ASSISTING IN MOVING THE BODY, AND THAT HIS SILENCE OR MERE PRESENCE DOES NOT INCUR ACCESSORIAL LIABILITY. PETITIONER ASSERTS THAT HIS CONDUCT CONSTITUTED OBSTRUCTION OF JUSTICE FOR ASSISTING WITH MOVING THE EVIDENCE (CORPUS DELICTI) OF A CRIME, NOT MURDER, KIDNAPPING, OR ARMED ROBBERY. SEE GOVERNMENT OF VIRGIN ISLAND V. AOUINO, 378 F.2d 540, 542 (3rd cir 1967). PETITIONER ADAMENTLY ASSERTS HE DID NOT AID AND ABET IN THE ACTUAL DEATH OR ROBBERY OF MARION SPENCER, AND FURTHER SUBMITS THAT MISPRISON OF FELONY IS A MISDEMEANOR. OBSERVING A FELONY OR FAILING TO DISCLOSE IT OCCURRENCE MUST BE DISTINGUISHED FROM THE CRIME OF BEING AN ACCESSORY BEFORE OR AFTER THE FACT. 38 F.2d 515, 517. AS TO THE CHARGE OF KIDNAPPING, DEATH CANNOT EXPRESS HIS/HER FREE-WILL OR DECLARATION AS TO WHERE THE REMAINS ARE MOVED AT TIME OF DEATH, WHEREFORE KIDNAPPING COSTITUTE UNLAWFUL TAKING AND CARRYING AWAY A PERSON AGAINST THAT WILL, STATE

V. WOODY, 178 SE-2d 407, 416 (1971).

POINT TWO

THE SOUTH CAROLINA GRAND JURY
AND/OR PROSECUTOR COMMITTED
FRAUD UPON THE COURT AND PUBLIC
THUS COMMITTING REVERSIBLE ERROR.

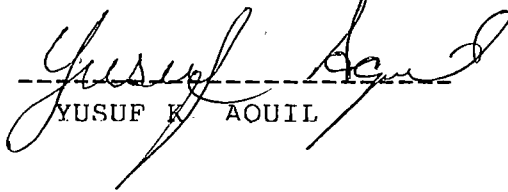
THE SOUTH CAROLINA STATE GRAND JURY AND/OR THE RICHLAND COUNTY STATE PROSECUTOR DID VIOLATE PETITIONER'S STATE AND FEDERAL CONSTITUTIONAL RIGHTS, SOUTH CAROLINA STATE CONSTITUTION ARTICLE 3, SECTION 4: AND FIFTH, EIGHTH AND FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION; LIBERTY INTEREST; AND PUBLIC INTEREST. THE [GOVERNMENT] SOUTH CAROLINA STATE GRAND JURY AND/OR THE RICHLAND COUNTY STATE PROSECUTOR'S OFFICE KNOWINGLY, UNDERSTANDINGLY WITH GUILTY KNOWLEDGE (PEOPLE V. GOULD, 211 N.W. 346, 349 (Mich 1926), THEREBY SIGNIFIES THAT A CRIME OR TORT WAS DONE UNDERSTANDINGLY BROUGHT UNDER FRAUDULENT PRETENSE TO GAIN A CONVICTION BY ANY MEANS. BEFORE A PROSECUTOR CAN PREPARE AND CONDUCT THE PROSECUTIONS OF PERSONS THE LAW MUST BE VALID, AND ACCUSED OF CRIME COMMITTED WITHIN ITS JURISDICTION AND INDICTED FOR CRIMES. IT MUST FIRST ACCORDING TO THE SOUTH CAROLINA CONSTITUTION STATES THAT NO BILL (CRIMINAL OR OTHERWISE) OR JOINT RESOLUTION SHALL HAVE THE FORCE OF LAW UNTIL IT HAS THE GREAT SEAL AFFIXED TO IT, AND HAS BEEN SIGNED BY THE PRESIDENT OF THE SENATE AND SPEAKER OF THE HOUSE OF REPRESENTATIVE. THEREFORE THE GOVERNMENT COMMITTED FRAUD, BACAUSE THEY KNEW AND/OR SHOULD HAVE KNOWN THAT THE GREAT SEAL WAS NOT AFFIXED

TO THE BILLS AND/OR LEGISLATION, MORE SPECIFICALLY [KIDNAPPING 16-03-0910; MURDER 16-03-0010, 16-03-0020, ARMED ROBBERY 16-11-0330(A); CRIMINAL CONSPIRACY 16-17-0410]. WHEREBY SINCE THESE BILLS DO NOT HAVE THE GREAT SEAL AFFIXED TO THEM ARE INVALID. THE SOUTH CAROLINA CONSTITUTION REQUIRES THE MARK FOR ACTS OFFICIALLY BY LAW. THE PROSECUTOR ROLE IS TO SEEK JUSTICE AND NOT CONVICTIONS, AND SEE THAT THE LAWS OF HIS JURISDICTION ARE FAITHFULLY EXECUTED AND ENFORCED. THE GRAND JURY DUTIES ARE TO INVESTIGATE AND INFORM ON CRIMES COMMITTED WITHIN ITS JURISDICTION AND TO ACCUSE PERSONS OF CRIMES WHEN DISCOVERED WITH SUFFICIENT EVIDENCE, AND NOT MAKE FALSE REPRESENTATION, OR DISPARITY BETWEEN THE INSTRUMENT EXECUTED. FOR SAID REASON THE BILLS CHARGING THE PETITIONER ON VARIOUS OFFENSES ARE INVALID AND ALL CHARGES DISMISSED ON CONSTITUTIONAL GROUNDS. THE ABOVE MENTIONED BILLS AND/OR LEGISLATIVE LAWS PASSED WITHOUT THE GREAT SEAL AFFIXED DOES NOT HAVE ANY SUBSTANCE. THIS HONORABLE COURT MUST HONOR, DEFEND AND PROTECT THE SOUTH CAROLINA CONSTITUTION AND INDIVIDUAL RIGHTS REGARDLESS OF THE RESULTS. THE DECISION OF THE LOWER COURT OR OTHER BODIES [PETITIONER CONVICTION] MUST BE REVERSED, VACATED OR ANNULL. THE ERROR SUBSTANTIALLY AFFECTING THE PETITIONER'S LEGAL RIGHTS AND OBLIGATION WHICH IF REMAIN UNCORRECTED WOULD RESULT IN A MISCARRIAGE OF JUSTICE WHICH JUSTIFY REVERSING A JUDGMENT IN THE LOWER COURT EVEN IF THE ERROR WAS NOT OBJECTED TO IN THE LOWER COURT. See DRED SCOTT V. SANDFORD, 60 US 393 (1856).

CONCLUSION

BASED ON THR FOREGOING THIS HONORABLE COURT SHOULD FIND AND CONCLUDE PETITIONER CASE BE REMANDED BACK TO THE LOWER COURT FOR RETRIAL, AND/OR GRAND JURY CHARGES REVERSED ON REVERSIBLE ERROR BECAUSE PETITIONER'S SUBSTANTIAL RIGHTS WAS DULY VIOLATED.

RESPECTFULLY SUBMITTED



YUSUF K. AUIL

DATED: OCTOBER 26, 2020