

4/26/13  
RECEIVED

APR 30 2013

Dear Clerk,

S.C. Supreme Court

Enclosed is my Petition  
for re-hearing please clock  
stamp and file and return  
A clocked stamped copy to  
me with the envelope I have  
provided.

Thank You!

Patricia [Signature]

IN THE SOUTH CAROLINA SUPREME COURT  
THE COURT OF COMMON PLEAS

RECEIVED

APR 30 2013

2012-CP-23-3623

S.C. Supreme Court

PATRICK B. WALKER, # 296176 )

APPELLATE: )

)

)

[PETITION FOR REHEARING]

v. )

)

THE STATE OF SOUTH CAROLINA, )

RESPONDENT: )

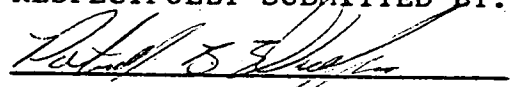
)

)

PETITION FOR REHEARING

THE PETITIONER HEREIN WILL SET OUT POINTS THE COURT MAY HAVE OVERLOOKED  
OR MISAPPREHEND THAT WILL RESULT IN A "GROSS MISCARRIAGE OF JUSTICE!"

RESPECTFULLY SUBMITTED BY:



PATRICK B. WALKER, # 296176

B.R.C.I. / MURRAY-RM-215

4460 BROAD RIVER ROAD

COLUMBIA, SOUTH CAROLINA

THE petitioner now brings this petition before this Honorable Court for a Rehearing Pursuit to [S.C.A.C.R] 221. To an order by the court dated April 15,2013 to dismiss Petitioner Explanation Required by Rule 243(c) of South Carolina Appellate Court Rules [S.C.A.C.R]. The court asserts petitioner fail to show that there is an arguable basis for asserting that the determination by the lower court was improper. However petitioner will set out points the court may have overlooked or misapprehended.

Petitioner claims are supported by competent evidence of probative value in the record. Petitioner relies upon his prior case law & all exhibits in his objection to the lower Court's proposed & Conditional Order of Dismissal as well as his Appeal in this Court.

\*\*\* "A FAILURE TO ADDRESS THE MERITS OF THIS APPLICATION WILL  
CONSTITUTE A "GROSS MISCARRIAGE OF JUSTICE!" \*\*\*

The petitioner now points the court's attention to (4)four Documents Attached to his appeal that "INVARIABLY ESTABLISHED SUFFICIENT REASONS" for permitting a second or successive PCR by presenting genuine issues of material facts: (see): DR.Robert M. Bennett, Forensic Analysis Report dated March 25, 2010, Mailed on 03/21/11 & Clocked filed March 23,2011. (see): Also Affidavit of states witness, Clemeticia Thomason AKA "Mesh" dated August 24,2010; Clocked filed March 23,2011.

Marked Appendix (B), Exhibit(A)(B), PG.1-5 & Appendix (A), Exhibit(A), PG(1-20.

Petitioner asserts there are two exception to the general one year statute of limitations. First, S.C. Code Ann. 17-27-45(B) when the S.C Supreme Court or. A Court higher announces a new substantive standard or right that is intended to be applied Retroactively," Second when/if a PCR applicant has newly after discovered evidence... Specifically S.C. Code Ann. 17-27-45(C); Reads as follows: If the applicant has contended that there is evidence of material fact not previously presented and heard that Requires vacation of the conviction or the sentence; the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the evidence or facts by the exercise of reasonable diligence 17-27-45(C) 2003. This exception is commonly known as "The Discovery Rule" (see): Coats v. State; 575 S.E.2d 557 (S.C. 2003); Odom v. State; 523 S.E.2d 753,755(S.C.1999); C.F.Franklin v. Maynard; 588 S.E.2d 604,606 N.F(S.C.2003) per curiam.

"Petitioner exercised reasonable diligence"

to present the Newly After Discovered Evidence within one year of DR.Robert M. Bennett, Forensic Scientist's Report, by filing a motion under Rule (60) of the South Carolina Rules of Civil Procedure (SCRCP). Failure of the lower Court to address the Rule (60) motion prompt the filing of this PCR Application.

\*\* Further the South Carolina Supreme Court in Hendricks remanded a rule (60) motion back to the Circuit Court with instruction to consider motion as an Application for PCR relief (see): Hendricks v. State (2010-03-17-01); Aice v. State; 409 S.E.2d 392,394 (S.C.1991); U.S V. Weaver 282 F.3d 302 (4th Cir 2002); S.C. Code Ann. 17-27-90 (2003); Gonzalez v. Crosby; 545 U.S. 524 (2005).

\*\* "A Pro-Se litigant cannot be held to the same Stringent Standard as an Attorney."

\*\* Finally, a second or successive application may be permitted where some other Circumstances beyond Applicant's control occurred. McCleskey v. Zant; ~~499~~ U.S. 467,468 (1991).

Petitioner now would further direct the Court's Attention to Appendix (F), letter by Court Reporter, April P. Heron "Invariably Established" circumstances beyond applicant's control. (see): Also Appendix (E) Affidavit of PCR counsel, Kurt Tavernier (S.C. Bar No.12991). Which further establish reasonable unavailability of the factual basis of the claims. As a matter of law, counsel was ineffective. This Court should grant applicant's P.C.R. to address the merits. Martinez v. Ryan; 132 S.Ct 1309,182 L.Ed 2d 272.

\*\* Petitioner now directs the court's attention to the state's Unethical conduct. In direct violation of Rule 407 [S.C.A.C.R.] First, the state elicited testimony before the Jury about the existence of a letter of confession. (see): Appendix (D) Exhibit (B), testimony of Inv.Paul Silvaggio, which led to the violation of "Brady" and State v. Fuller. (see): Arizona v. Fulminante; 499 U.S. 279,296.111 S.Ct 1246 (1991); Johnson v. Catoe; 345 S.C. 389,401,548 S.E.2d 587,593 (2001), Daniels v. Lee; 316 F.3d 477 (4th Cir 2003). Second, The State's presentation of false evidence, directly impacted the lower Court's Ruling in applicant's motion for severance at trial, causing an abuse of discretion. as well as directly impacting the S.C.Ct. of App. Reversal in the co-defendants case. Clearly "Fraud Upon The Court" Hazel Atlas Glass Co v. Hartford Empire Co.; 322 U.S. 238,88 L.E.D. 1250,64 S.Ct. 997 (1944); Workmen v. Belli; 227,F.3d 331 (6th 2000). "The failure to correct false evidence is as Reprehensible as Its presentation, REVERSAL IS Required." Riddle v. Ozmint;631 S.E.2d 70 SC.2006).

Deliberate deception of a Court and jurors by the presentation of known false evidence is incompatible with Rudimentary demands of Justice; the same results obtain when the state, although not soliciting false evidence, allows it to go uncorrected when it appears. Under the present facts, the state allowed to go uncorrected false information. Giglio v. U.S.; 405 U.S. 413, 92 S.Ct 763, 31 L.E.2d 104 (1972).

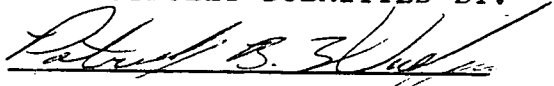
Coupled with the use of contaminated evidence in direct violation of the 4th Amendment "Exclusionary Rule" Michigan v. Tucker; 417 U.S. 433, 94 S.Ct 2357 (1974). Given the unique combination of facts in this case, entitle petitioner to relief. Case v. State; 277 S.C. 474, 289 S.E.2d 413 (1982). The states failure address the merits of the application will constitute A "Gross Miscarriage of Justice" Murray v. Carrier; 477 U.S. 478, 106 S.Ct 2639 U.S. Va (1986).

CONCLUSION:

For the Facts, Reasons, Principles of law and case law precedents cited in this case should be vacated, set aside, a New trial granted or any other relief the Courts deems Appropriate...

Wherefore, the Petitioner forever Prays...

RESPECTFULLY SUBMITTED BY:



PATRICK B. WALKER # 296176

B.R.C.I. / MURRAY-RM-215

4460 BROAD RIVER ROAD

COLUMBIA, SOUTH CAROLINA.

29120.

PROOF OF SERVICE

I, the undersigned, do hereby certify that on this 26 Day of April 2013. I served the foregoing notice of "PETITION FOR REHEARING" as well as PROOF OF SERVICE in this matter by depositing a True copy of it in the UNITED STATES MAIL, postage paid on April 26, 2013. To be addressed to the following as indicated below.

OFFICE OF THE ATTORNEY GENERAL

KAREN C. RATIGAN  
P.O. BOX 11549  
COLUMBIA, S.C. 29211.

SOUTH CAROLINA SUPREME COURT

HON. DANIEL E. SHEAROUSE  
CLERK OF COURT  
P.O. BOX 11330  
COLUMBIA, SOUTH CAROLINA  
29211.

SWORN BEFORE ME THIS 26<sup>th</sup> DAY OF APRIL, 2013

Susan H. Frye

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: \_\_\_\_\_ My Commission Expires  
March 5, 2018

PATRICK B. WALKER # 296176

Patrick B. Walker

4460 BROAD RIVER ROAD

B.R.C.L. / MURRAY - 29215

COLUMBIA, SOUTH CAROLINA

29211.