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January 28, 2022

South Carolina Supreme Court
ATTN: Patricia A. Howard
Post Office Box 11330
Columbia, South Carolina 29211

RE: John E. Wilson, Jr., vs. The State of South Carolina
Appellate Case No.: 2022-000062

Dear Sir or Madam:

Please accept this communication today as written explanation of sufficient facts, argument and citation to legal authority showing that there is an arguable basis for asserting that the determination by the lower court in the above matter was improper, per *Dennison v State*, 371 S. C. 221, 639 S. E. 2d 35 (2006).

Mr. Wilson's arguments relate to a *Faretta* issue and transcripts absent at the time of his previous PCR case. *Faretta v. California*, 422 US 802 (1975) held "that a Defendant can proceed to represent himself without counsel when he voluntarily and intelligently elects to do so". At the time of Mr. Wilson's pre-trial hearing with the reference to his conviction in the General Sessions Court, there exists no inquiry into Mr. Wilson's actual ability to represent himself in the criminal proceedings. Additionally, the judge handling the pre-trial hearing was not the same judge assigned to Mr. Wilson's General Sessions trial. The trial judge operated on an assumption that Mr. Wilson had been provided proper and sufficient warnings consistent with *Faretta*. The pre-trial judge did not inquire of Mr. Wilson's educational background or mental health history in order to ascertain whether he could sufficiently represent himself in his criminal trial.

As indicated in the application submitted in this matter Mr. Wilson was denied access to the requested transcripts from the hearing in which the State alleges that he was provided the sufficient *Faretta* warnings. The requests of Mr. Wilson, or counsel appointed to or retained by him both in previous Post Conviction Relief hearings as well as Appellate matters was not fulfilled timely by the court reporter. The absence of the transcripts has prevented Mr. Wilson from a fair determination and of effective and adequate review of these matters since his conviction.

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Mr. Wilson asserts that neither the trial judge nor the judge assigned to hear his Post-Conviction Relief had access to the pre-trial transcripts. Mr. Wilson asserts that these transcripts show that he did not indicate that he was fully aware and in understanding of the gravity of self-representation. Mr. Wilson further asserts that these now provided transcripts show a lack of proper and full *Faretta* warnings being administered at the pre-trial level. Additionally, the Mr. Wilson submitted a written Motion to Appoint Counsel and Objecting to Self-Representation the day following the pre-trial hearing and the Court denied this Motion. Mr. Wilson believes that his submitted Motion following the pre-trial hearing indicates that he did not choose to waive his right to counsel in his criminal proceedings and that he failed to understand and comprehend the pre-trial hearing at which he was appointed as his own counsel and as a result was not granted proper representation in his criminal proceedings despite his requests and objections.

The absence of these transcripts has compounded the hindrance Mr. Wilson has consistently met with since 2006 and these transcripts were not produced to him until 2019. Mr. Wilson asserts that he was prejudiced from receiving equal and fair treatment under the law as evidenced by the denial of his requests for trial counsel as well as the failure for a period of years of the court reporter to provide the transcripts as requested by himself and/or his various counsel repeatedly over the course of those years.

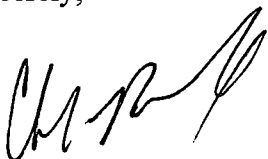
At the time of the Post-Conviction Relief hearing previously held for Mr. Wilson, he attempted to address these issues regarding *Faretta* but was not permitted to do so by the Court as the Court would not permit the issues to be addressed because transcripts of the pre-trial hearings although requested numerous times had not been made available to Mr. Wilson or his appointed Post Conviction Relief Counsel (Charles T. Brooks, III) prior to the hearing, and these transcripts from his pre-trial hearing lack the *Faretta* warnings at the same.

The transcripts production to Mr. Wilson is a newly discovered material fact and should not be overlooked. Mr. Wilson played no part in the delay of these transcripts from the State's court reporter and upon their production and he made an appropriate filing of his current PCR Application.

Your attention to this matter is appreciated. Please inform my offices if you require any additional information or if I can be of further assistance to you in any way.

With kind regards, I am

Sincerely,



Charles T. Brooks, III
CTB/jlm

cc: Mr. William H. Ray, Esq., Office of Attorney's General
South Carolina Office of Appellate Defense
Mr. John E. Wilson, Jr., SCDC#: 2595493

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