To: Ms. Hill/Shearhouse 3-23-2022
Clerk of Court

C/A No. 2011-CP-15-9402

My name is Christopher Love Williams on February 22, 2022 I recieved The Final Order of Deadra L. Jefferson. It Was filed July 13, 2020. I recieved it 2 yrs later. The mailroom here at Broad River Institution recieved it on 2/15/2022, and held it for 7 days.

Thankyou for your time and energy.

Chris L. Williams

Chris L. Williams 281434
4460 Broadriver
Columbia SC 29210

3-23-2022

Included is my original work.

The State of South Carolina

In the Supreme Court

Appeal from Colleton County
Court of Common Pleas
For The Fourteenth Judicial Circuit

Honorable Carmen T. Mullen, Chief administrative Judge
Fourteenth Judicial circuit

Case No. 2011-CP-15-0402

Christopher L. Williams #281434, Appellant

v.

State of South Carolina, Respondent.

NOTICE OF APPEAL

Christopher L. Williams Appeals The Orders Filed October 27, 2017 and July 13, 2020 in colleton County clerk of court. Appellant recieved final Order Febrhary 22, 2022. Appellant Appeals as Directed in Rule 243, SCACR.

Chris L. Williams
Christopher Love Williams 281434
MLT 1060 BRCI
4460 Broad River RD
Columbia, SC 29210

March 22, 2022

State of South Carolina
In The Supreme Court

Certiorari to Colleton County
Carmen T. Mullen, chief Judge For Administrative phrposes.

Christopher L. Williams 281434,

Petitioner,

v.

State of South Carolina,

Respondent,

Pro-Se Petition for Writ of Certiorari

Christopher L. Williams
Petitioner
MLT A 1060 Brc I
4460 Broad River
Columbia, SC 29210

3-22-2022

Cover Page

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ISSUES PRESENTED

1.

Did PCR Courts Order filed October 29, 2009 in C/A 2004-CP-15-0208, comply With; U.S Constitution Amend. 14, SC Code Ann § 17-27-80 and S.C.R.C.P. 52 (a), 52 (e). ??

2.

Did PCR Counsel Pamela J. Polzin fail to comply With; U.S. Const. Amend. 14, SC Code Ann. §17-27-80; S.C.R.Civ. Pro. 52(a), 59(e) ??

3.

Did Appellant file His [2] Second PCR Within 365 days Statute of Limitations, tolled time ??

STATEMENT

This matter Comes before The Court by Way of A second Application for Post-Conviction Relief (PCR), filed by Applicant on May, 4, 2011. The State (Respondent) recieved that Application On January 31, 2014 and made its Return; Requesting the Application Dismissed. This matter before this Court, challenges Constitutional Violations having taken place in The September 4, 2009 (PCR) hearing. As Well, Applicant Claims Constitutional Violations Within the Final Order of Honorable Judge Alexander S. Macaulay, filed, October 29, 2009. Applicant Recieved that Final Order on or about July 16, 2010. Applicants PCR Counsel, Pamela J. Polzin filed Notice of Appeal On. July 16, 2010,

Applicant is presently Confined in the South Carolina Department of Corrections Pursuant to orders of Commitment of the Colleton County Clerk of Court. He Was indicted on March 5, 2001 in Colleton County for Murder (2001-GS-15-0164) and armed robbery (2001-GS-15-0163). Sean Thornton, represented Applicant on January 29, 2002. Applicant pled guilty as indicted. The Honorable Perry M. Buchner sentenced Him to concurrent Sentences of thirty-five years' imprisonment for murder and twenty years imprisonment for armed robbery. Applicant filed a notice of Appeal, and Wanda H. Haile, Esquire, perfected the Appeal in The Form of an Anders brief. Applicant filed a pro-se brief. The South Carolina Court of Appeals dismissed the Appeal on April 17, 2003. State V. Williams, OP. No. 2003-UP-280 (S.C. CT. App. filed Apr. 17, 2003).

The Remittitur Was issued On May, 20, 2003.

2004-CP-15-0208

Applicant filed His first PCR Application on February 20, 2004, alleging the following grounds for reliefs:

I: Ineffective assistance of counsel in that, Counsel:

I. Failed to investigate; Arrest, indictment, Voluntariness of Confession.

II. Gave Applicant inaccurate information,
III. Did NOT review evidence of case.
IV. Did NOT consult with the Applicant about any defense.
V. Should NOT have Waived Applicant's right to cross examine psychologist/psychiatrist.
VI. Failed to quash indictment.

2: Involuntary guilty plea/Fatally Flawed Colloquoy.
3: Subject matter Jurisdiction in that solicitor changed the time of the indictment during His recitation of the facts.

Respondent filed its Return on March 8, 2005. An evidentiary hearing was held at the Beaufort County Court house on September 4, 2009. Pamela J. Polzin, Esquire, represented Applicant. The Honorable Alexander S. Macaulay denied and dismissed the application by order filed October 29, 2009.

ARGUMENT
DETERMINATION IS IMPROPER

Inaccordance With Rule 243(c), SCACR Petitioner Will Now prove With Sufficient facts, Argument, and Citation Why His Notice of Appeal and grounds for relief requested, should be granted.

1.

The PCR Courts order filed October 29, 2009 in C/A 2004-CP-15-0208, ~~Compl~~ Failed to Comply With US Constitution Amend. 14, SC Code Ann §17-27-80 and S.C.R.C.P 52(a), 52(e) !!
A Post Conviction relief courts general denial of all claims NOT Specifically addressed in the courts order does NOT constitute a Sufficient ruling on any issues since it does NOT set forth Specific findings of facts and conclusions of law SC Code Ann §17-27-80.
Macaulay's October 29, 2009 order did NOT address TWO[2] of Applicants issues. ~~Applic~~ [SEE: EX-A]. Applicant Petitioned for counsel in a motion filed With His "Writ of Certiorari" filed on 4-13-2011... In Which He states: "to properly Appeal PCR held on September 4, 2009, in Order to be ABLE to raise ALL of His Cases issues at the Higher Levels of Court." [SEE: EX-B "Writ of certiorari"].

Macaulay's October 29, 2009 order [EX-A] does NOT address Applicants second ground for Relief under: Ineffective Assistance of Counsel. -misinformation/inaccurate information. The order also does NOT address Applicants fifth ground for Relief under: Involuntary guilty plea/Fatally Flawed Colloquoy. [SEE: EX-E "AMENDED Petition"]

2.

PCR Counsel Pamela J. Polzin failed to comply With; US const. Amend. 14, SC code Ann. §17-27-80; S.C.R.CIV. Pro. 52(a), 59(e). To preserve issues for Appellate review, after an Order is filed, Counsel has an obligation to review the order and file a Rule 59(e) SCRCP. Motion to Alter or Amend, if the Order fails to set Forth The Findings and the reasons For Those Findings, as required by [section] §17-27-80 [OF The South Carolina Code] and Rule 52(a) SCRCP, Pruitt, 310 SC at 256, 423 SE2d at 128.

PCR Counsel Polzin failed to file a timely NOTice of Appeal, in Violation of SCRCP 50, 52, [SEE: EX-C]. Filed a year Late. SCRCP Form 4 is Neither Signed by The clerk of court Nor NOTORIZED. Yet claimed by

Clerk to have been mailed to PCR Counsel on October 29, 2009. PCR Counsel failed to file a SCRCP 59(e) motion, Which has a [10] ten day statute of Limitations. [SEE: EX-C].
Additionally, PCR Counsel Polzin failed to Notify Applicant of His Appeal Rights. [SEE: EX-D]. To Appeal, a Notice of Appeal must be served Within Thirty days after Written notice is recieved of an order granting or denying Post-hearing motions under RUles 50, 52, and 59 of The south Carolina Rules of civil Procedure, Which had tolled to available time.

3.

Applicant filed His Federal Habeas Corpus [C/A No. 6:12-1590-MGL-KFM], on April 24, 2012 and Respondent stated its calculated days of tolling at 320. Well Within 365 day Limitation. [SEE: EX-F-FOOTNOTE]. Applicant Filed His Second PCR [10] days after Writ of Certiorari remittitur Was issued.
This PCR Was Filed at day 286...

Conclusion

Appellant is Therefore entitled to for full Bite at the Apple and asks this court to grant Him a Second PCR.

Sincerely,

C-L Williams

Christopher Love Williams 281434
MLT A 1060 BRCI
4460 Broad River Road
Columbia, SC 29210

3-22-2022

CERTIFICATE OF SERVICE

I, Christopher Love Williams 281434 MCI 1060, 4460 Broad River, SC 29210 do hereby swear that I've included herein a copy of my Notice of Appeal.

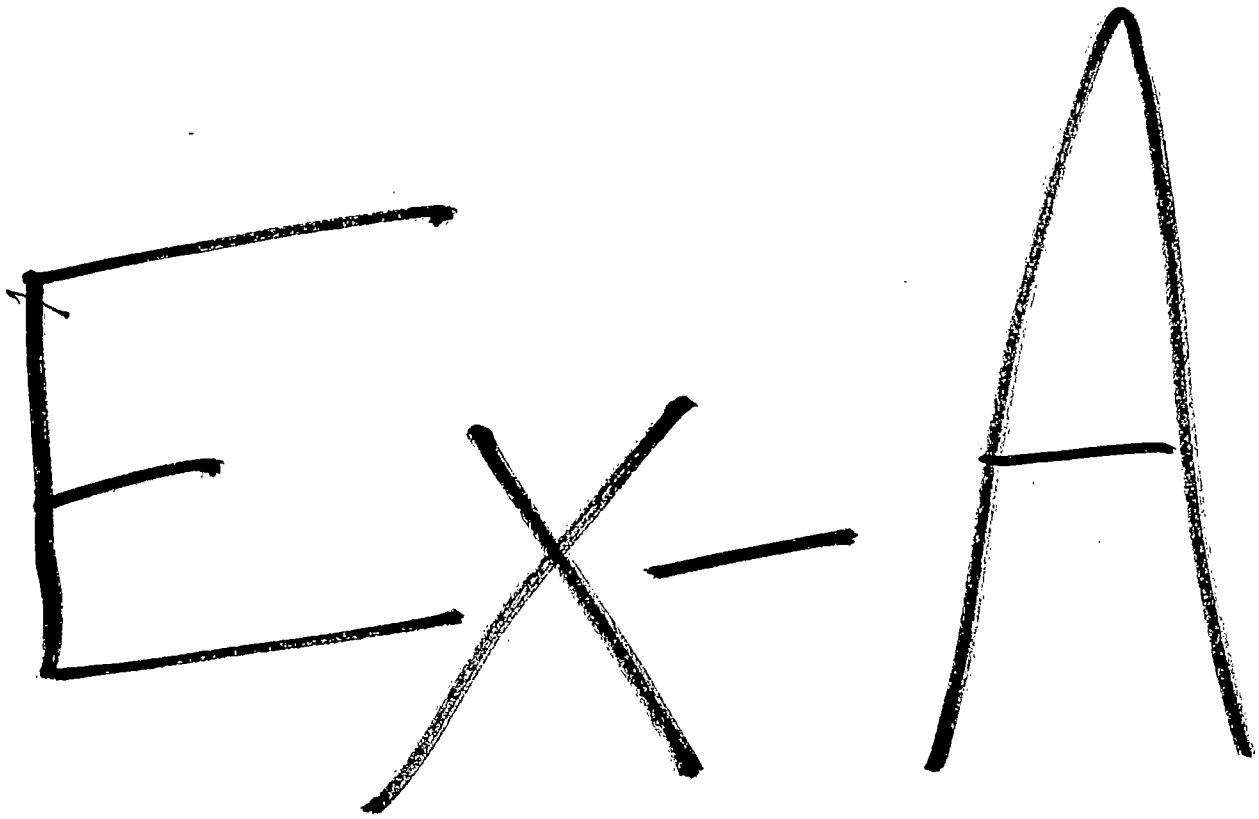
Kimberly Hill
Clerk of Court
PO BOX 620
Walterboro, SC 29488

OFFICE of The Attorney General
Elizabeth H. Neyle,
PCR Division
PO BOX 11549
Columbia, SC 29211

Sworn and subscribed before me This: 22 day
This: March Month OF: 2022 Year.
Notary public For The state of SC: [illegible]
My commission Expires: 8/30/2026

3-22-2022 C. L. Williams

RECEIVED
MAR 28 2022
S.C. SUPREME COURT



LEGAL MAIL

State of South Carolina
Tenth Judicial Circuit Court

ALEXANDER S. MACAULAY
JUDGE

MICHAEL D. WRIGHT
LAW CLERK

OCONEE COUNTY COURTHOUSE

POST OFFICE DRAWER 428
WALHALLA, SOUTH CAROLINA 29691-0428

TELEPHONE: (864) 638-4266
FASCIMILE: (864) 638-4267
E-MAIL: amacaulaylc@sccourts.org

October 27, 2009

The Honorable Patricia C. Grant
Colleton County Clerk of Court
P.O. Box 620
Walterboro, SC 29488

2009 OCT 29 PM 12:08

RE: Mixon v. State of South Carolina
2008-CP-15-0849

Christopher Williams v. State of South Carolina
2008-CP-15-0208

Dear Mrs. Grant:

Enclosed please find the attached final orders and accompanying Form 4s in the above referenced cases for filing in your office.

If you have any questions, or if I may be of any further assistance in this matter, please do not hesitate to contact me.

With kindest regards I remain,

Very truly yours,

Michael D. Wright

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON	)	2004-CP-15-208
Christopher L. Williams, #281434,	)	
Applicant,	)	
v.	)	**ORDER OF DISMISSAL**
State of South Carolina,	)	
Respondent.	)	

2009 OCT 29 PM 12:08

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 20, 2004. The Respondent made its Return on March 8, 2005. An evidentiary hearing into the matter was convened on September 4, 2009 at the Beaufort County Courthouse. The Applicant was present at the hearing and was represented by Pamela Polzin, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel, Sean Thornton, Esquire, also testified at the hearing. This Court had before it the guilty plea transcript, the records of the Colleton County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the direct appeal records, the PCR application and Applicant pro se amended petition, and Respondent's Return thereto.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Colleton County Clerk of Court. The Applicant was indicted at the March 2001 term of the Colleton County Grand Jury for armed robbery (2001-GS-15-163) and murder (2001-GS-15-164). Sean Thornton, Esquire, represented the Applicant.

On January 29, 2002, the Applicant pled guilty as indicted. The Honorable Perry M. Buckner sentenced him to confinement for thirty-five (35) years for murder and twenty (20) years for armed robbery. The sentences were to run concurrently.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. Wanda H. Haile of the South Carolina Office of Indigent Defense filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal. State v. Williams, Op. No. 2003-UP-280 (S.C. Ct. App. filed April 17, 2003). The Remittitur was issued on May 20, 2003.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel
   a. Failed to investigate.
   b. Gave Applicant inaccurate information.
   c. Did not review evidence with Applicant.
   d. Did not consult with Applicant about the defense.
   e. Should not have waived Applicant's right to cross-examine psychologist/psychiatrist.
   f. Failed to quash indictment.
2. Involuntary guilty plea.
3. Subject matter jurisdiction in that solicitor changed the time from the indictment during his recitation of the facts.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

2 | 7

The Applicant testified that counsel failed to investigate Applicant's detention, statement, or interrogation. He asserts that counsel did not request a Jackson v. Denno hearing. Applicant testified that counsel told him he would receive no more than thirty (30) years, and he did not know he could get life in prison. He asserted that counsel never explained his competency report to him, and counsel waived his right to cross-examine the psychologists/psychiatrists. Applicant testified that counsel failed to move to quash the indictments based on the Grand Jury only hearing testimony from one person. He also asserted that the solicitor constructively amended the indictment during his recitation of the facts because the solicitor said the incident occurred on January 30 whereas the indictment read "on or about" January 30.

Plea counsel testified that he told Applicant that the minimum sentence for murder was thirty (30) years and the maximum sentence was life. At the hearing, he asked the plea judge to consider the minimum. Counsel testified that he looked into the Applicant's statements and confession, and he did not believe there was any coercion or intimidation by law enforcement. Counsel asserted that he had no defense because there were eyewitnesses that put Applicant there and Applicant confessed verbally and on videotape. Counsel asserted that he had no problems communicating with Applicant. He testified that he reviewed the evidence with Applicant and discussed the videotape with him. Counsel asserted that there were no plea offers and that the State had a strong case. He contended that it was Applicant's decision to plead guilty.

Ineffective Assistance of Counsel / Involuntary Guilty Plea

The Applicant alleges that he received ineffective assistance of counsel and that his plea was not entered voluntarily. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief,

the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry, 386 S.E.2d 624.

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Id. at 625 (citing Strickland, 466 U.S. 668). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea

may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

This Court finds that Applicant's testimony was not credible while also finding that counsel's testimony was credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof. The record reflects that the Applicant understood the sentencing range for murder and armed robbery. He told the court that no threatened him or promised him anything to get him to plead guilty. The Applicant told the court he was satisfied with his attorney. He also admitted his guilty at the plea hearing. This Court finds that it was Applicant's decision to plead guilty, and he entered the plea freely, voluntarily, knowingly, and intelligently.

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with Applicant, reviewed the evidence with Applicant, conducted a proper investigation, and was thoroughly competent in his representation. This Court finds that counsel properly advised Applicant of the sentencing range for murder and armed robbery. Counsel also asked the court to consider the minimum sentence. This Court finds that counsel's representation did not fall below an

objective standard of reasonableness.

This Court finds that counsel was not ineffective for failing to move to quash the indictment. The Grand Jury just needs some testimony on which to base its finding. Here, a detective testified before the Grand Jury. This Court finds that the detective's testimony met the requirement for a Grand Jury proceeding. This Court also finds that the solicitor did not amend the indictment when he said on January 30 rather than on or about January 30.

This Court finds that counsel was not ineffective for failing to cross-examine the psychologists/psychiatrists. Applicant elected to go to trial and waived his right to cross-examine any witnesses. Moreover, counsel testified that he had no problems communicating with Applicant and had no question about his competency.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant

waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

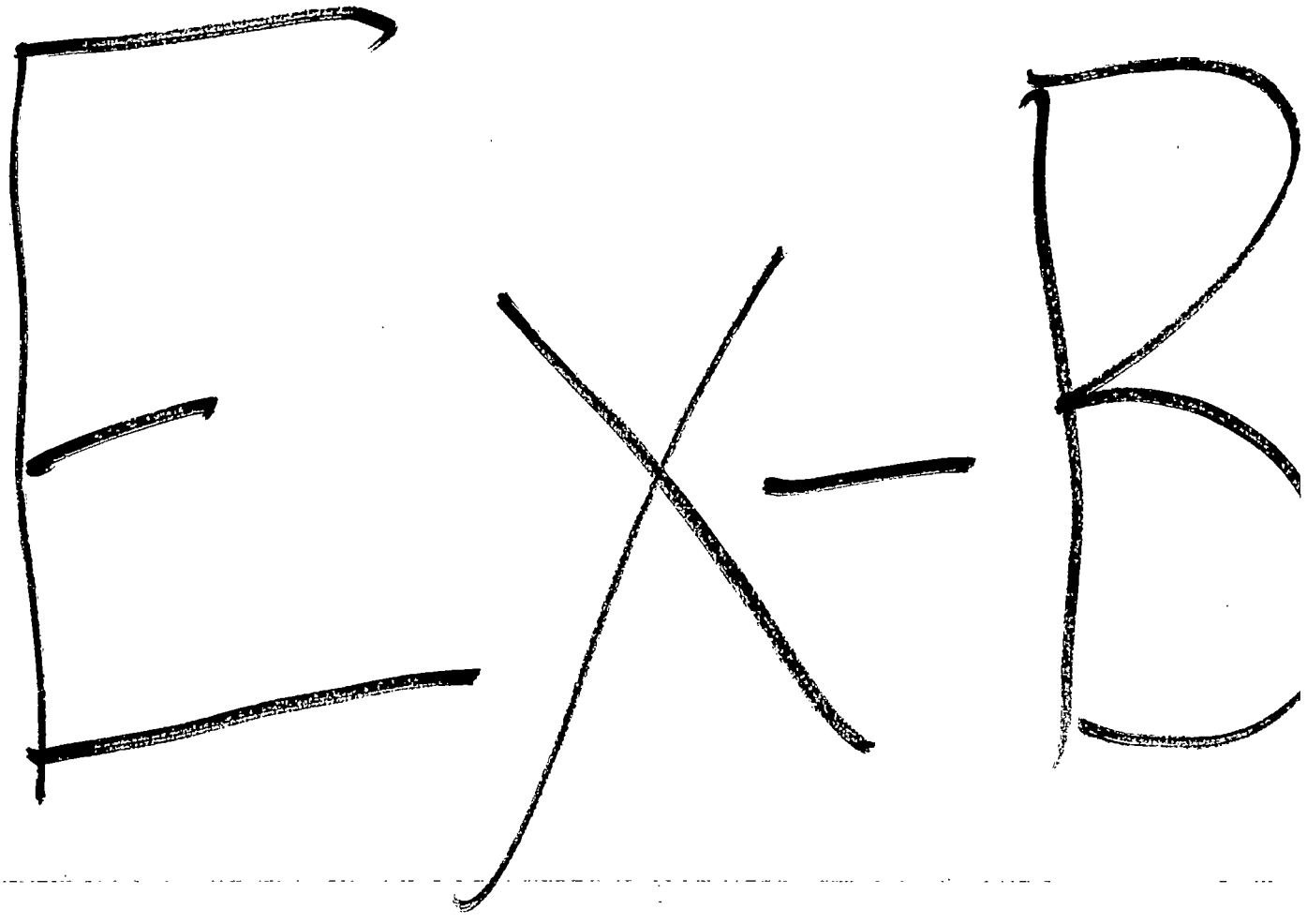
IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 2nd day of October, 2009.

Alexander S. Macaulay
Presiding Judge
14th Judicial Circuit

Walterboro, South Carolina.



LEGAL MAIL

State of South Carolina
In the Supreme Court

certiorari to Colleton County
Alexander S. Macaulay, Circuit Judge

Christopher L. Williams 281434,

Petitioner,

v.

State of South Carolina,

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Pro-Se Petition for Writ of Certiorari.

Christopher L. Williams
Petitioner
A-7 MSU
4344 Broadriver
Columbia, SC 29210

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Issues Presented

1. Was Petitioner granted 24 hour bifurcated Period between plea of guilt and Sentencing, required by § 16-3-20?

2. Whether the lone testimony of a representative of the State was too potent to allow during the grand jury hearing? Was failing to quash indictment prosecutorial misconduct or ineffective counsel in reguards to above question?

3. Does Petitioners "yes, sir" or "no, sir" responses suffice as an expressed; intelligent, Knowing and Voluntary waiver of any right?
   A) Does the record reflect Petitioners Expressed Waiver of his statutory right to; testify and make closeing agruments at trial? (Had he gone).
   B) Does the record reflect Petitioners Expressed Waiver of his Statutory right to; testify and make closeing arguments at Plea hearing?
   C) Does the record reflect Petitioners Expressed Waiver of his statutory right to; testify and make closeing arguments at sentencing hearing?

4.

Did totality of circumstances of Petitioners Warrantless arrest call into question legality of Seizure? And reasonable Attorney to investigate probable Cause, Consent, suspects confession? Whether Defense Counsel was ineffective, for not completing an "Independant Examination of the; facts, circumstances, pleadings and laws involved".

5.

Whether defense Counsel was ineffective in giving petitioner incorrect advice?

6.

Whether record reflects Petitioners express intelligent Consent in Waiving his rights to cross-examin psychologist/psychiatrist? Whether Counsel Was ineffective for Waiving Petitioners rights to cross-examin psychologists/psychiatrist?

7.

Does Subject matter Jurisdiction lost by prosecutor verbally Amending indictment from, "on or About" January 30th, to "on" January 30th ??

Statement

On January 29th, 2002, Petitioner appeared before the Honorable Perry M. Buckner in Colleton County and pled guilty to murder and armed robbery. He was sentenced to respective terms of thirty-five years and twenty years. Sean Thornton, Esquire was plea Counsel.

Petitioner appealed his guilty plea and the appeal was dismissed by the Court of Appeals on April 17, 2003, after a review pursuant to Anders V. California, 386 U.S. 738 (1967).

Petitioner filed an application for post-conviction relief on February 20, 2004. An evidentiary hearing was held on September 4, 2009, before the Honorable Alexander S. Macaulay. Petitioner was present and was represented by Pamela Polzin, Esquire. Respondent was represented by Matthew J. Friedman, Assistant Attorney General. Both Petitioner and plea counsel testified at the hearing.

On October 22, 2009, Judge Macaulay issued an order denying and dismissing the application for post-conviction relief.

This Petition follows.

Argument

24 hour Bifurcated Sentencing Period.

In construing statute, words must be given their ordinary meaning without resort to subtle or forced construction to limit or expand the statute. There must be a distinct bifurcated proceeding in murder cases upon conviction or adjudication of guilt of a defendant and, unless waived by defendant, lapse of at least 24 hours is required after the guilt phase before the beginning of the sentencing phase, regardless of whether conviction was by a jury or adjudicated under a guilty plea. Code 1976, §16-3-20(B). On January 29, 2002 Petitioner Appeared before Honorable Perry M. Buckner and the court proceeded directly from guilty plea to charge of murder to sentencing without waiting at least 24 hours. Nor was a waiver from defendant had.

Lone testimony of a representative of the State.

Doctrine of "plain Error" encompasses those errors which are obvious, which affect the substantial rights of the accused, and if uncorrected would be an affront to the integrity and reputation of judicial proceedings. On March 5, 2001 A Grand Jury convened with investigator/detective Lesley Bryant as Sole Witness. The S.C. Supreme court in State V. Anderson 312 sc 185, 439 SE2d 835(1993), held: Prosecutors can not appear as sole witness before grand jury. Chief Justice Lewis reasoned, "Considering the Authoritative nature of the relationship between a solicitor and the grand jury, the Lone testimony of the solicitor as a representative of the State would be too potent to allow as the General."

"Yes, sir" or "No, sir" responses/does record reflect.

Boykin v. Alabama 395 US 238, 89 Sct 1709, 23 LEd 2d 274. Established what a valid plea is, saying, "The test for a valid guilty plea established is whether the record establishes that guilty plea was voluntarily and understandingly made. Generally, "the [court] must be certain that plea and that the record indicates a factual basis for the plea". Lon 263 SC 594, 211 SE 2d 889 "Courts warning should include an explanation of the Defendants waiver of constitutional rights and a realistic picture of All sentencing possibilities to ensure that the Defendant understands, the trial judge usually questions the Defendant about The facts Sorrounding the Crime and the Punishment which could be imposed." Thus, without Adequate notice of the charge against him or proof that he in fact understands the charge, the plea can not be voluntary in this latter sense. Smith v. O'Grady 312 US 329, 61 Sct. 572. District courts recorded factual bases, for accepting Petitioners Plea, does not rest on his Expressed Understanding of essential elements Charged in indictments, or required understanding of law in Relation to the facts presented by Solicitor. Petitioners conclusory Affirmation that He was pleading guilty voluntarily does not establish definitively that his plea was infact valid. SEE: Von Moltke, 332 US @ 724, 68 Sct. 316. The court did not make a penetrating and Comprehensive colloquy or have Petitioner Articulate his reasoning process. "Yes, sir" and "No, sir" are Claims to; Know, understand, ect., But are not substantiated Expressions, to base a plea on. SEE: North Carolina v. Alford 400 US 25, 91 Sct. 160, 27 LEd 2d 162 (1970) "The Defendant must possess an Under-

Standing of the Law in relation to the facts". Also SEE: McCarthy V. United States, 394 US. 459, 89 S.Ct 1166, 20 LEd.2d 418 (1969). for Rule 11 of, fed. Rules crim. Proc. rule 11, 18 U.S.C.A. Essential Elements of murder are not self explanatory and are incomprehensible to a layman, Particularly one of a limited mental capacity, (18 at Arrest, 19 at trial) and only getting to 10th grade, inexperienced with Legal process, complexity of charges, and substantial sentence to be imposed. SEE: Alessi V. US. 593 F-2d 476, 880 (2d cir. 1979). Petitioners 4 words claiming understanding, do not show an Expressed understanding of how actions, facts, coincide with mens Rae.

A) At no point during plea hearing held on 1-29-02 did court Adequately notify or question this Petitioner about his Statutory Right to, testify, and personally address the Jury, and make closing arguments at trial. In fact, on page 16 of transcript court only addresses 3 trial rights; Reasonable Doubt, Confront witnesses or evidence, Put up any Witnesses or evidence. Defendants Waivers of his rights to testify and to personally address the Jury were not knowing and Voluntary; in light of lacking, trial courts inquiry being insufficient. These Waivers ARE required to be satisfied by full record; U.S.C.A. Const. Amend. 14; code 1976, §§ 16-3-20(B), 16-3-28. SEE: State V. orr 403 SE.2d 623 (S.C 1991)

B) The District court accepted Petitioners Guilty plea at transcript page 30. Without even allowing him to testify or personally address Judge before the close of plea hearing/acceptance of plea hearing portion, of hearing. In-fact the Solicitor was given closing arguments and personal

addressments to the Judge, While up to that point the Petitioner had not. A defendant's right to make final argument, personally and/or by counsel, at both phases of a capital trial is statutory. In State V. Reed, SC Supreme court held that denial of this right, absent a showing on the record of a knowing and voluntary waiver, constitutes reversible error.

C) The District Courts acceptence of Petitioners guilty plea ended one portion of plea and Judge Buckner then and there began another portion; the sentencing. At the close of sentencing the court again denied Petitioner his right to closing arguments and gave them to the Solicitor, as seen at page 45. In State V. Norris, 285 SC 86, 328 SE2d 339 (1985), this court specifically held that a capital defendant has the right to testify and make a closing statement in the sentencing phase. The denial of the right to testify at either phase of a capital trial, absent a showing on the record of a knowing and Voluntary Waiver, constitutes reversible error.

Totality of Circumstances of Arrest.

According to the crimes management system "Incident report" Colleton County Sheriffs Office; 1) dispatched over 10 officers, to 2) Detain citizen Williams, 3) from his home, 4) at night time 8pm App. 5) handcuffing him, 6) not permitting him to drive himself, placing him in a cruser, 7) brandishing of firing arms, 8) and sequestered in incognito interrogation for over 8 and a half hours, 9) being 9 days into 18th birthday. Where the factors which sorround the circumstances of the Warrantless

arrest. Petitioner claims these factors/circumstances lead him believe he could not leave. His consent to be taken was not voluntary and thus illegal. That Probable cause has Laws it make follow. Such as being identical to the probable cause used to secure The warrant. M : Gerstein, 420 U.S. 113 and 389 us 347 and also 392 US 1. SEE: (C.C.S.O) report; pg 12 detective Waston states the reason for bringing Williams down to station was, "conducting a murder investigation and We received information that he had been a passenger in the cab Just before MR. Burns Stopped answering the radio. Because of that We needed to speak with him". But yet that probable cause was changed to "Williams confession on Warrant. Reasonable attorneys Would investigate such a seizure and challenge resulting confession. No confession may be considered by Jury unless found beyond reasonable doubt to have been given freely and Voluntarily under totality of circumstances, and if defendant was in custody at time of alleged confession, Jury must be convinced that he received and understood his fifth and sixth Amendment rights. Pleading guilty was the only option ever presented by thorton to Petitioner. Lon opper V. us 348 us 84, the Supreme court held that a conviction can not Rest on a Defendants out-of-court statements unless the Government provide independant Evidence that tends to establish the trustworthiness of the statements. At PCR Petitioner Submitted coroners report which helped show untrustworthiness of confession. Becauses no blood was in lungs of victim, thus disproving confessions claims of order in which

Victim was shot. Any reasonable Attorney would have seen this if having done an investigation, or independant Examination of facts, circumstances, of Warrantless arrest.

Incorrect advice

In Lockhart, 474 US 52, 106 S.Ct. 366 (1985). Incorrect advice as to sentencing has been held to constitute ineffective Assistance of counsel. Hinson V. State, 297 SC. 456, 377 SE.2d, 338 (1989); Ray V. State, 303 SC 374, 401 SE2d 151 (1991). Petitioner testified at the evidentiary hearing that plea counsel led him to believe that he would only get 30 yrs. if he pled guilty to murder. If he had known that there was no 30 yr. deal with prosecutor, he would have pled guilty. & Attorney also told Petitioner if he went to trial he would get a Natural life sentence, because of the gun, and confession. The shots proved intent and that's what a Jury would have to be required to go with. But Henderson V. Morgan 96 sct. 2253 (1976) @ 2258 Note 17.

Intelligent Consent in waiving cross examination

Petitioner was at no time consulted with by Attorney to give up his rights to cross examine psychiatrists or report. Attorney waived constitutional rights/statutory rights without Petitioner doing so knowingly and voluntarily. SEE: Paton V. US 281 US 276, 50 sct. 253 we stated, "before a Waiver can become effective, the consent of government counsel and the sanction of the Defendant"... Also SEE: State V. Arthur, 296 SC. 495, 374 SE2d 291 (1988). Nor did court inquire into Petitioners understanding of psych. report.

Subject matter Jurisdiction

The 5th Amend. guarantys the rights to be tried by offenses only presented in an indictment, returned by grand jury. Indictments may not be substantively amended. S.C. Code 1976 § 17-19-30 States, "Every indictment for murder shall be deemed and adJudged sufficient and good in Law which in addition to setting for the time and place"... And State V. Rector 158 SC 212, 155 SE 385. "The crime of murder is a composite one and the state must prove, not ONLY the assault and Death occuring from it, but the time of the Assault and time of death, as well as the place of assault and the place of death, these necessary elements of the crime of murder must not only be proved before the accused may be convicted, but they must be Alleged in the indictment returned against Accused by the grand jury". SC code 1976 § 17-19-100 States, "If (a) there be any defect in form, in any indictments or the trial of any case there shall appear to be any variance between the allegations of the indictments and EVIDENCE OFFERED in proof thereof a variance if such Amendment does not change the nature of the offense charged..." [At page 6 Ln 6, 7, 8, and 13, 14, SEE: transcript] the Solicitor first inAccurately claims, "the time of the Alleged offense", took place ["on" January the 30th of 2001]. When the alleged offense according to the indictment took place [on or "About" January 30th 2001]. This

means the Solicitor requested proof of Competency as Evidence for a time NOT Alleged in indictment. [Transcript pg 21 Ln 20 and pg 24 Ln 2] The court called upon Solicitor to give the "factual Basis of the Plea". Solicitor at page 24 Ln 5. offered Evidence of "TIMES" Not Alleged in the murder indictment. [MR. Alexander: "Thank You, Your Honor, Your Honor, "A Little After two O'clock "ON" January 30th of 2001". IS NOT the Same, time as the indictment [on or "about" January 30th, 2001.] TIME is an Essential element of murder [17-19-30] And by Putting forth such a Variance between the allegations of the indictment and Evidence offered in proof, the Solicitor created An oral/Verbal Amendment which the court accepted and Convicted Petitioner On. Thus Petitioner is illegally incarcerated by not being convicted for offenses present in the indictment. SEE: Weinhauer V. State, 334 SC 327, 513 SE2d 840 (1999) [where Solicitor "orally Amended" indictments as to essential Element of time in Burglary charges at plea hearing:] Even though the 2 offenses were punishable in the Same Way. SEE: Sowell, 85 SC 278, 67 SE 316 (1910). Also SEE the Discussion in State V. Lynch 344 SC 635, 545 SE2d 511 (SC 2001). Here Petitioner argues that Solicitor's times is a required Element of murder which His plea was based on and accepted by trial court, yet never past by Grand Jury. SEE: State V. Guthrie 352 SC 103, 572 SE2d 309. And also, State V. Johnson, 549 SE2d 574 (2001) "TIME IS ESSENTIAL."

CONCLUSION

Petitioner's Writ Should granted and guilty plea Vacated.

State of South Carolina
In the Supreme Court

Certiorari to Colleton County
Alexander S. Macaulay, circuit
Court Judge

Christopher L. Williams 281434, petitioner,

v.

State of South Carolina, Respondent,

Petition for Counsel

Williams (from here on 'Petitioner) states:

1.

Petitioner is housed in SCDC's most restrictive unit, in which; obtaining cases, other legal materials, and legal assistance outside of the legally deficient law library, is nearly impossible. Petitioner needs an Attorney.

2.

With all due respect to SC's criminal Justice system, no Attorney appointed thus far has taken a true look at this case's issues/given it a true investigation (with Petitioner). Bumping the case to next levels of system, further bungling process.

3.

3.

Petitioner is in need of A Court appointed Counsels assistance to properly appeal/PCR held on September 4, 2009, In order to be ABLE to Raise ALL of this cases issues at the higher Levels of Court. One Such issue being: Not given a 24 hour bifurcated period between plea of guilt and Sentencing, required by §16-3-20 in a murder case.

Therefore, Petitioner requests that the Court appoint him cousel, to Appeal for a Second PCR and Certiorari.

Respectfully Submitted,

Sworn to and subscribed before me this 13th day of Dec

Certificate of Service

I Chris L. Williams 281434 A-7 Msg 4344 Broadriver columbia SC 29210 due swer under penalty of perJury and my oath. That all included is true and accurate and was mailed via US postal; Service. to the below

Daniel E. Shearouse

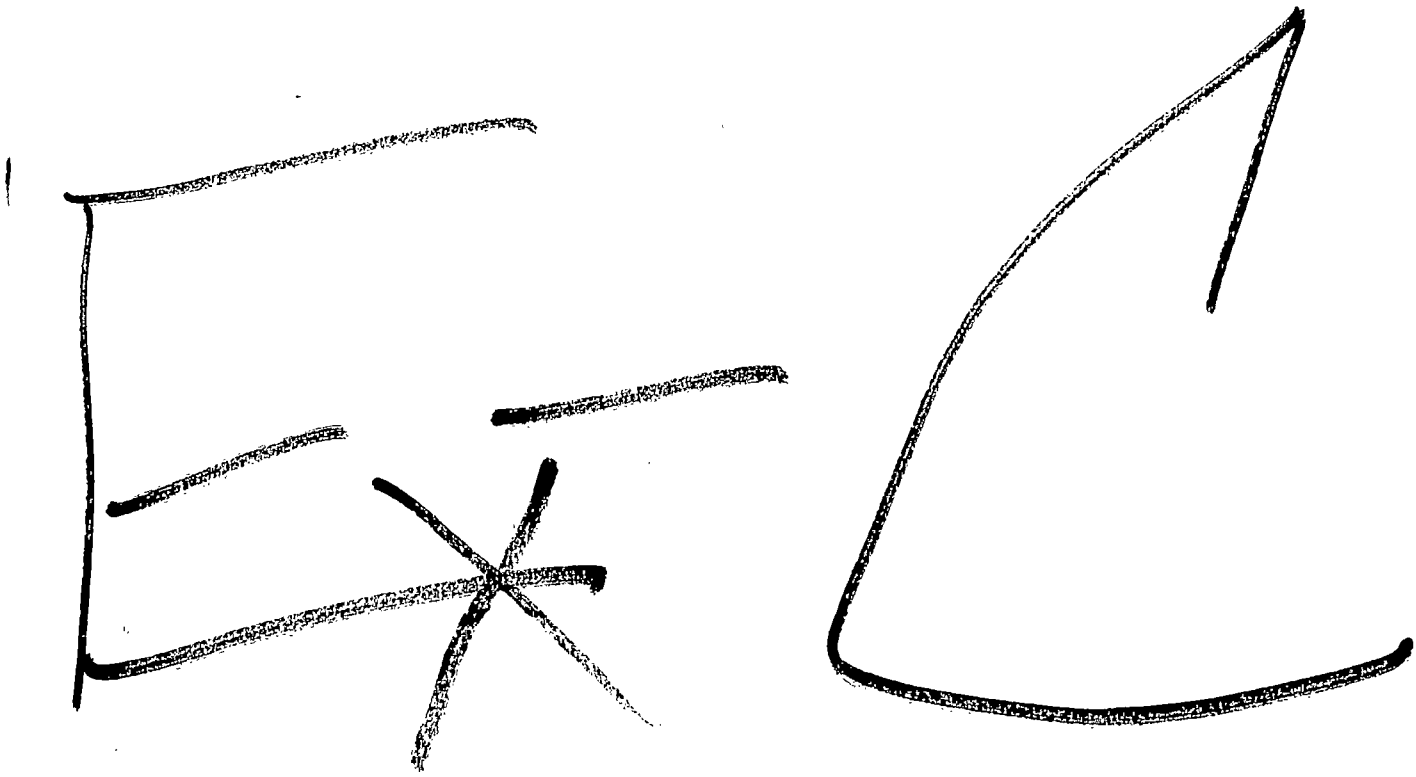
To: Supreme Court
PO 11330
Columbia, SC 29211

4/13/11 Ch L. Will-

Sworn and Subscribed before me This 13th day of: April, 2011 Notary:

: [signature] Notary Public for South Carolina

my commission Expires: 10/8 beiy



LEGAL MAIL

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM COLLETON COUNTY

Court of Common Pleas
Post Conviction Relief

Honorable Alexander S. Macaulay, Circuit Court Judge

Case No. 2004-CP-15-208

CHRISTOPHER L. WILLIAMS, # 281434, APPELLANT

v.

STATE OF SOUTH CAROLINA, RESPONDENT

NOTICE OF APPEAL

Christopher L. Williams appeals the decision and order of the Honorable Alexander S. Macaulay dated October 22, 2009 and filed October 29, 2009 in the Colleton County Clerk of Court's Office. Appellant, through his attorney, received and was served by ordinary mail with a copy of the formal final order on July 16, 2010.

July 16, 2010

Pamela J. Polzin
SC Bar No. 4126
P.O. Box 62255
Charleston, SC 29419-2255
(843) 744-0043
Attorney for Appellant

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM COLLETON COUNTY

Court of Common Pleas
Post Conviction Relief

Honorable Alexander S. Macaulay, Circuit Court Judge

Case No. 2004-CP-15-208

CHRISTOPHER L. WILLIAMS, # 281434, APPELLANT

v.

STATE OF SOUTH CAROLINA, RESPONDENT

PROOF OF SERVICE

I Certify that I have served the Notice of Appeal on Matthew Friedman, Assistant Attorney General, by depositing a copy of it in the United States Mail, postage prepaid and addressed to Matthew Friedman, Assistant Attorney General, South Carolina Attorney General's Office, Post office Box 11549, Columbia, South Carolina 29211, on this 16th day of July, 2010.

July 16, 2010

Pamela J. Polzin
SC Bar No. 4126
P.O. Box 62255
Charleston, SC 29419-2255
(843) 744-0043
Attorney for Appellant

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

JUDGMENT IN A CIVIL CASE

CASE NO.: 2004-CP-15-0208

Christopher Williams
PLAINTIFF(S)

State of South Carolina
DEFENDANT(S)

2009 OCT 29 PM 12:08

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding Arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See Attached Order.
☐ Statement of Judgment by the Court:

Dated at Walhalla, South Carolina this 22nd day of October, 2009.

Alexander S. Macaulay
PRESIDING JUDGE

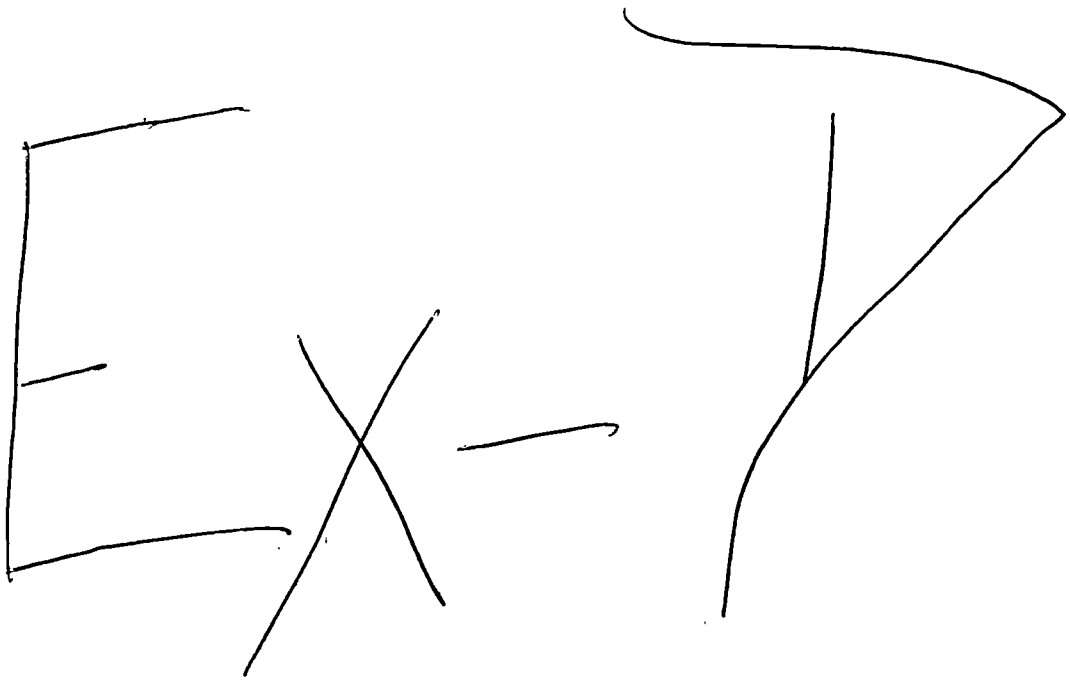
This judgment was entered on the day of , 20 , and a copy mailed first class this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

Pamela Polzin
PO Box 62255
N. Charleston, SC 29419
ATTORNEY(S) FOR PLAINTIFF

Matthew Friedman, Asst. Attorney General,
South Carolina Attorney General's Office – PO Box 11549, Columbia, SC 29211
ATTORNEY(S) FOR DEFENDANT

CLERK OF COURT

SCCA SCRCP Form 4 Revised 06/2008


EX-P

EX-F

PAMELA J. POLZIN
ATTORNEY AT LAW
Post Office Box 62255
North Charleston, South Carolina 29419-2255

1495 Remount Road
North Charleston, SC 29406

Telephone: (843) 744-0043
Facsimile: (843) 744-4163
E Mail: pjpolzin@hotmail.com

July 16, 2010

M. Williams -
Enclosed is page 2 of the order that was missing
Pam Polzin

Mr. Christopher Williams Inmate # 281434
Kirkland Correctional Institution
A-5 MSU
4344 Broad River Road
Columbia, SC 29210

RE: Christopher Williams PCR Colleton County
Hearing Date: September 4, 2009 10:00 AM
Beaufort County Courthouse

Dear Mr. Williams:

I have just received the final order in your case, and per your letter have filed your notice of appeal as you requested . I have enclosed a copy for you as well.

I have also requested that Appellate Defense be appointed to handle your appeal, as I do not handle those.

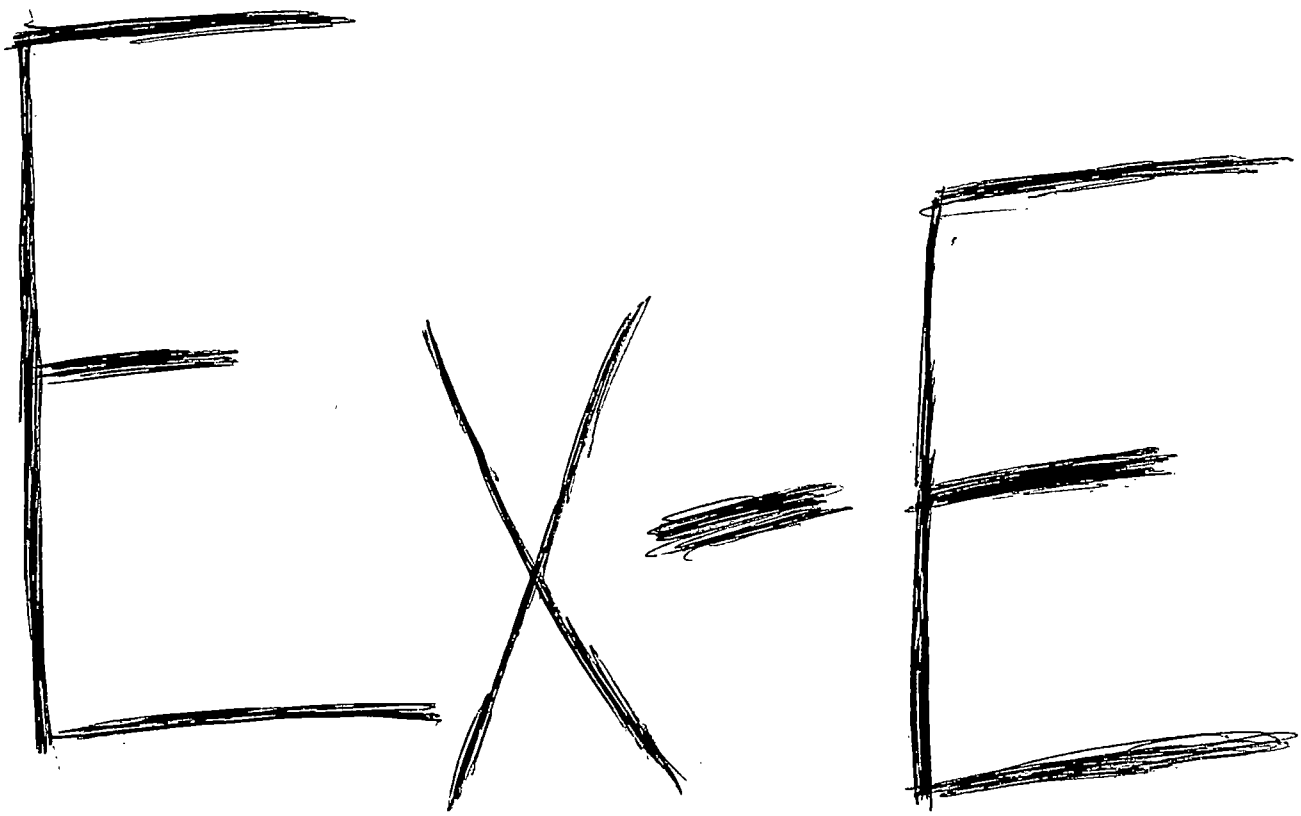
With kind regards, I am

Sincerely yours,

Pamela J. Polzin

PJP/pp

enclosures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County of Colleton

In The Court of Common Pleas

Christopher Love Williams 281434

Applicant

V.

State of South Carolina

C/A No: 04-CP-15-208

Amended Petition

Now comes Applicant/Petitioner to present His issues before This Court, and requesting a New Trial based on Ineffective Assistance of counsel (IAC), subject Matter Jurisdiction/Constructive Amended indictment, Involuntar Guilty Plea, 4th, 5th, 6th, 14th Amendment Violations.

INEFFECTIVE ASSISTANCE OF COUNSEL (IAC) - FAILURE TO INSTIGATE:

1: The Benchmark for Judging any claim of (IAC) must be whether counsel's conduct so underminded the proper Functioning of the Adversarial process That the trial can NOT be relied on as having produced a Just Result. Requires That the Defendant show, First, that counsel's performance was Deficient and, second, that the Deficient performance prejudice The Defense so as to deprive the Defendant of a Fair trial. Thus Williams seeks to show a Reasonable probability that but for counsel's unprofessional Errors, The results of the proceeding Would have been differant. Strikland V. Washington 466 us 668, 686 (1984). And When Counsel entirely Fails to subject the prosecution's case to meaningful Adversarial testing, courts will presume prejudice. Cronic, 466 us @ 659 and n. 25.

Petitioner submitts That at NO Point in The proceedings of his original trial process did His Attorney investigate Any possible Defense, Dissipite Clear reasons to do so. Attorney Thornton Failed to investigate the Totality of circumstances sorrounding Williams Warrantless seizure. An illegal seizu Which ultimately Lead to 3 statements the Last being a Confession duri

Alleged NOT to have been the result of reasonable protessional Judgment based on The Following facts of this case; According to The crimes management system "Encident Report" Colleton County sheriffs Office (C.C.S.O) 1) Dispatched over 10 officers to 2) Detain citizen Williams, 3) From His home, 4) Handcuffing him, 5) NOT permitting him to drive Himself, 6) Placing Him in crusier, 7) Brandishing of at least 2 guns, 8) and sequestered in incognito interrogation at headquarters [see: EXA pg's 4-5] seeing only 3 of any of these Facts in The Absense of a Warrant, and probable cause, any Reasonable Attorney's Judgment Would be alerted to The grea possibility of Coersed consent. Especially When considering Williams Was 9 days into His 18th Birthday/year and had NO prior dealings/Interactions With Law enforcement and only got to The 10th grade in high school. These are The circumstances Thornton Would have been aware of had He done any investigating of officers Files. Furthermore multiple statements Followed by a confession Alone, Raises Reasonable doubt to Them being given Freely and voluntarily, also Knowingly and Intelligently made. Under The totality of The circumstances sorrounding Petitioners seizure Any reasonable Professional Would question The 2 Factors of the 4th Amend. Right which are Consent and Probable Cause: CONSENT "When a Prosecut seeks to rely upon consent to Justify The Lawfulness of a search, he has The burden of proving That the consent was infact Freely and Voluntarily given". see: Ka V. us 389 us. 347, and 403 us 443. Then see 391 us. 543 and 333 us 10 "voluntariness as applied to a confession or a consent to search cannot be taken to mean simply a Knowing choice, Nor, on the Other hand, can it be limited to a choice made in The Absence of official action of any Kind". In 446 us 544, 100 sct 1870, it say's "In order to eliminate any taint from an involuntary seizure or arrest, There must be Proof both the consent was voluntary and that it was NOT The product of The illegal detention. Proof of a voluntary consent alone is NOT sufficient. The Relevant Factors include The Temporal proximity of an illegal seizure and consent, intervening circumstances, (such as NO's 1-8 above), and The purpos

Petitioner, Nor any Person, could reasonably believe He or she is Free To leave such an encounter. Probable Cause After making a Warrantless arrest, an officer must promptly secure a Judicial determination of Probable Cause. SEE: Gerstein 420 US. 113 and 389 US 347 and also 392 US 1. The Probable Cause required to make a Lawfully Warrantless arrest is identical to the probable cause required to secure an arrest Warrant. Only Fear of imminent destruction of Evidence, hot Pursuit, immediate Threats to The safety of the public or The officers, or other emergencies can Justify a Warrantless entry into an individuals home to make an arrest. Petitioner points to (CCSO) Report [SEE: EXB pg12] under suspect Confession by Watson Jack A. stated; "When Chris Williams First Arrived at The office, I explained to Him that We Were conducting a murder investigation and We had received information that He had been a passenger in The cab Just before M.R. Burns stopped Answering The Radi Because of that We needed to speak With him". This is The quoted Reason for Petitioners Warrantless arrest and is NOT IDENTICAL to The Probable caus used in Warrants. [See: EXB "Warrants" attached]. Thus Petitioner Was seized Without, consen probable cause, or Warrant and after 8½ hours of incognito interrigation, Multiple statements, Petitioner confessed. These are circumstances Which any Reasonable Professional Would immediately investigate upon receiving Brad Files or police reports of any kind. And This was NOT only a deficient performance but it deprived Petitioner a fair trial Process because The issue: can NOT NOW be Properly raised/Litigated/objected to. And because Thornto Never investigated Any line of Defense or The 4th Amend. seizure circumstances, confessions' Admissability, A Fair trial could NOT have been had because "NO Confession may be considered by Jury unless found beyond reasonable doubt to have been given Freely and Voluntarily under totality of circumstance and, if Defendant Was in custody at time of alleged confession, Jury must be convinced that He received and understood His Fifth and sixth Amendment Rights". But for These Un

of a Plea. Pleading Guilty was the only option ever presented by Thornton To Petitioner. Trial was never a plan or idea considerd by Thornton and presented to Petitioner, Nor was any Actions taken or Delving steps for any Defense. In Opper V. U.S, 348 us 84, The supreme court held that a conviction can NOT Rest on a Defendants out-of-court statements [unless] The Government provide Independant Evidence That tends to establish the trustworthiness of the statements. Petitioners conviction does rest solely on out-of-court statements and situations which produced Them. Thornton Never pressed prosecutors to provide Independant sources Valid ating Those statements. This is of up most importance because had Thornton investigated Audio tapes or reports of pysch. Doctors [crawford ECT.] He would have Noticed the Variance in order of shots fired claimed by Petitioner was different then order claimed as evidence by prosecutor Alexander at plea. And Thus His Delving could've produced Independant Facts Proving UN trustworthiness of the out-of-court statements. Thornton Thus was an (IAC) which did NOT do an "independant examination of the Facts, circumstances, pleadings and Laws involved." quoting Rummel V. Estelle, 590 F.2d 103, 104.

2: INEFFECTIVE ASSISTANCE OF COUNSEL-Misinformation/Inaccurate Information.

Petitioner Was misinformed to the essential elements of the charge murder to Which He Would Answer for. Petitioner only met With his Attorney 3 times prior to pleading Guilty; The Arraignment, once in either July or August 2001 and a day or two before trial/pleading Guilty. In The July August 2001 meeting Petitioner Was told by Thornton 1: That the elements "Intent and malice" could be shown and Proven by Prosecution and Jury's get intent from The weapon & that victim Was shot 2 times, 2: That Thornton could get Petitioner a deal With prosecutor of 30 yrs. but IF taken to trial He Would get a Natural Life sentence, because of the confession. This Was essential to Petitioners Pleading guilty and neither of These reasons are absolute truths. "... It is Nevertheless also True that a

morgan 10 SCI, 225347 1615 pg 2258 NOTE 11. There was Never a deal of 30 years between Defense and prosecution preventing Petitioner from Receiving a Natural Life sentence at the Plea hearing on 1-29-02. Prosecutor never even recommended 30 years, Thus Petitioners misunderstanding of potential penalties Lead Him to plea Thinking that 30yrs. Was The only time he Would/could get. But the Truth was He faced the same penalty at that plea hearing that he Would have Faced at trial. This means There Was NO reason to plea. Defendant claiming ineffective assistance of counsel by recommending guilty plea on The basis of inaccurate information Was NOT required to show; Why Further action by trial counsel Would have benefitted Defendant, OR how There Was a Reasonable probability that the result would have been better, [The Focus should have Concerned Whether The Defendant Would have pled guilty had trial counsel accurately informed him of the situation]. [Turner V. state 335SC282, 517SE2d 442]. 5 to 10 minutes Before pleading Petitioner told Thornton that he could not plea to 30 yrs., to try and get 20 or 25yrs. and Thornton responded by saying They can NOT do that because They Would have to drop The charges and Reindict Him, Thornton told Petitioner That He had to either go to trail and get a Natural Life sentence or plea and get the 30yrs. That day.

3. INEFFECTIVE ASSISTANCE OF COUNSEL—WAiving Petitioners Rights. Petitioner Was at No time consulted With by Thornton to decide IF He Would Forego cross examinating psychologists/psychiatrist Who Evaluated Him. Judge Buckner Consulted With solicitor and Thornton on Whether or not Petitioner Was competence to stand trial, as if They Where qualified in The Field of mental illness and disability to do so. Petitioners Counsel (Thornton) Waived A constitutional/statutory Right without allowing Him to do so. Knowingly and Intelligently. SEE: Paton V. US 281 US 276, 50 S.Ct. 253 We stated, before a Waiver can become effective, The consent of

To express and intelligent consent of the Defendant. ... [SEE: Transcript pg. 5 Ln 5-20, and pg 3 Ln. 25, pg 7 Ln 21]. Petitioners express and intelligent consent was not even inquired into, Thus a 14th amendment violation. SEE: Pate V. Robinson 86 S.Ct. 836 (1966) Where Robinson Was Forced to File a Habeus Corpus to be heard on this very same issue, The Appeals court There Remanded The case saying; 1: "on The ground that Robinson Was convicted in an Unduly hurried trial Without Fair opportunity to obtain expert psychiatric Testimony, and Without sufficient developement of facts on The issues of Robinson's insanity When He committed the homicide and His present incompetence". And 2: "should also determine upon The hearing Whether Robinson Was denied due process by The state courts' failure to conduct a hearing upon his competence to stand trial; and if it were found that his rights had been Violated in This respect", That Robinson, "should be ordered released; but such release may be delayed For Reasonable time to permit The state A New trial". Thornton Failed to investigate/gather the Childhood pychological psychiatric reports Which would have shown mental illness, disability, or encompetence going back to early childhood. The courts failure to make such inquiry/ Colloque With Petitioners Thus depriving Him of His constitutional Right to a Fair trial.

4: PROSECUTORIAL/GOVERNMENTAL misconduct-Ineffective Assistance of Counsel-FAILURE To Quash Indictment-14th Amend. Violation.

Doctrine of "Plain Error" encompasses Those errors Which are obvious, Which affect the substantial Rights of the accused, and Which, if uncorrected, Would be an affront to the integrity and reputation of Judicial proceedings. Defendants Are not entitled to take advantage of any error Which prejudices Their case but they are not entitled to take advantage of any errors Which prejudices Their case but They are not entitled to reward For

redounded to their prejudice.

Petitioner claims here that prosecutorial/Governmental misconduct took place during the Grand Jury proceedings which this state (s.c.) has previously ruled to Explicitly Prohibit. SEE: State V. Anderson 312 sc185, 439 SE2d 835 [1993], Where the supreme court held that prosecutors can not appear as sole Witness before grand Jury. Chief Justice Lewis reasoned that "considering the Authoritative nature of the relationship between a solicitor and the grand Jury, the LONE Testimony of the solicitor as a representative of the STATE would be too Potent to allow as the General". In the case before you now lesley Bryant an investigator of the Colleton County Sheriffs office Appeared as sole Witness before the Grand Jury. [SEE: EX-C pg 4 "Incident Report" under narrative #1] and [SEE: EX-C Face of indictment, under witnesses].

The (IAC) claim is raised here also because but for counsels Failure to investigate Ground Jury proceedings, motion Was NOT Filed to quash indictment on this Obvious ground of "Plain Error", Which had direct impact on Petitioner Answering For charges based on the LONE Testimony of a Representative of the state, And any Competent Lawyer since 1993 Would know is "too petent" given the Authoritative Nature at issue here. Especially When considering solicitors office had other alternatives available as witnesses, "observance of DUE Process has to do NOT With questions of guilt or innocence but the mode by Which guilt is ascertained" - Justice Frankfurter in IRVine V. California.

5. INVOLUNTARY GUILTY PLEA/ FATALLY FLAWED COLLOQUY

Boykin V. Alabama 395 US 238, 89 sct 1709, 23 LEd2d 274 Established What a Valid plea is saying, "The Test For a valid guilty plea established is Whether the record establishes That guilty plea Was voluntarily and Understanding made. Generally, "The [court] must be certain that plea and that the record indicates a Factual basis for the Plea". In 263 SC 594, 211 SE2d 889 This court also Acknowledged that the, "courts warning should include an explanation of the Defendants Waiver of constitution

that the Defendant understands, the Trial Judge usually questions the Defendant about the Facts surrounding the Crime and the Punishment which could be imposed." Thus, Without Adequate notice of the charge against him or Proof that He in Fact understand the Charge, the plea cannot be voluntary in this Latter sense. Smith V. O'Grady 312 US 329, 61 sct 572. Courts Recorded Factual bases for accepting Petitioners Plea does NOT Rest on His Express Understanding of Essential elements Charged in indictment, or in Relation to the Facts presented by Solicitor, Petitioner Williams conclusory Affirmation that He Was pleading guilty voluntarily does NOT establish definitively that His plea Was infact valid. SEE: Von Moltke, 332 US@ 724, 68 sct 316. Petitioner's contention is that the District court errerd in concluding That He Was adequately informed of the elements of malice murder. He maintains that the courts rote reading of the indictment did not suffice. He contends that the terms "intends, malice, aforethought," as it appeared in the indictment, is NOT self explanatory and is incomprehensible to a LAYMAN, Particularly one of a limited mental Capacity, being nineteen and only having gotten to the 10th grade, inexperienced With Legal process, complexity of charges, and substantial sentence to be imposed. SEE: Alessi V. US 593 F.2d 476, 880 (2d cir. 1979) The Supreme court quoting from Henderson V. Morgan and in Gaddy V. Linahan Rejected The Assumption That counsel previously explained the nature of the offense, in similar circumstances as He raises Here. District court rests its acceptance of Petitioners Plea upon Unsubstantiated Facts/Assumptions, and therefore can not be Trusted. Boykin V. Alabama Did NOT mention The [method] of establishing The Defendants FACTUAL Guilt. The only case Which arguably addresses The issue in Petition is Brady V. US 397 us 742, 749 N. 6, 90 S.Ct. 1463. Which Observed in dictum: "The importance of assuring that a Defendant does NOT

Him..... Justice White, Blackman, Powell, ended With... I believe to be true, This case rests on The long accepted principle that a guilty plea must provide a Trustworthy basis for believing that a defendant is In Fact guilty. Nearly every single response of Petitioner Was Less Than 4 words, "YES SIR, NO Sir", Throughout entire Plea. This doesn't show an EXPress understanding of how Actions coincide With mens Rae. The reason hearing Williams Express understandingect. is so important is because He could be, [AND ACTUALLY WAS] under The wrong understanding. And When He would have expressed That misunderstanding He could have been corrected or gone to trial. For example, at page 14 Ln 8-11 of transcript Trial Judge asks Defendant if he understood he could receive up to LIFE imprisonment, But in Williams understanding there was a difference between [LIFE] and [Natural LIFE]. That difference being, any amount of time for murder was a LIFE sentence to Him. But A Natural LIFE sentence ment, 'TIL Death! In His misunderstanding, prior to 30yrs the minimum for murder was 25yrs. [A 25yr. Life sentence], The amount of time for a Life sentence Then Went up to 30yrs. This was His false understanding. Thus violating 14th Amend.

6. SUBJECT MATTER JurisDiction/constructive Amended indictment - 5th Amend. violation.

5th Amendment guarantees a Defendant the Right to be tried for only Those offenses presented in an indictment returned by a grand Jury, indictments may not be substantively amended. ~~A constructive amendment occurs when The Evidence presented in an indictment returned by a grand Jury, indictments may not be substantively amended.~~ A constructive amendment occurs When The Evidence presented at trial proves a crime different from That charged in The indictment. S.C.CODE 1976 § 17-19-30 states in-part, "Every indictment for murder shall be deemed and adJudged sufficien

And State V. Rector(sc1930/158SC212,155SE385. The crime of murder is a composite one and the state must prove NOT ONLY The Assault and Death occuring from it, but The TIME of The Assault and TIME of Death, as Well as The place of Assault and The place of Death, These NECESSARY ELEMENTS OF The crime of murder must NOT ONLY Be Proved Before The accused may be convicted, but They must be Alleged in the indictment returned against Accused by The Grand Jury." SC CODE 1976 § 17-19-100 states, "IF (a) There be any Defect in form, in any indictments or The trial of any case there shall appear to be any variance between The allegations of the indictments and EVIDENCE OFFERED in Proof Thereof a Variance IF such Amendment does not change The nature of the offense charged..."

[At page 6 Ln 6, 7, 8, and 13, 14, see transcript] The Solictor First inaccurately claims "The time of The Alleged offense", took Place ["ON" January The 30th of 2001] When The alleged offense according to The indictment took place [on or "About" January 30th 2001]. This means The solicitor requested proof of competency as evidence for a TIME NOT Alleged in indictment. [Transcript pg 21 Ln 20 and pg. 24 Ln. 2] The court called upon solictor to give The "Factual Basis of The Plea". Solicitor at page 24 Ln 5. offered/Evidence OF "TIMES" NOT Alleged in The murder indictment. [MR. Alexander: Thank You, Your Honor. Your Honor, "A Little After two O'clock 'ON' January 30th of 2001]. IS NOT The same time as The indictment [on or "about" January 30th 2001]. TIME is an Essential element of murder [17-19-30] And by Puting Forth such a variance between The allegations of the indictment and evidence offered in Proof, The solicitor created A constructive Amendment Which The Court accepted and convicted Petitioner On. Thus Petitioner is illegally incarcerated by NOT being convicted for offenses present in The indictment. SEE: Weinhauar V. state, 334 SC 327, 513 SE 2d 840 (1999) [Where

glarly charges at Plea hearing. Even though the 4 offenses were punishable in the same way. SEE: Sowell, 85 SC 278, 67 SE 316 (1910). Also see the Discussion in State V. Lynch 344 SC 635, 545 SE 2d 511 (SC 2001). Here Petitioner argues that solicitors time is a REQUIRED ELEMENT OF Murder which His plea was based on and accepted by trial court, yet never past by Grand Jury. SEE: State V Guthrie 352 SC 103, 572 SE 2d 309. And also, State V. Johnson, 549 SE 2d 574 (2001) "TIME IS Essential". Amendments to indictments are permissible IF; 1: They Do NOT change the nature of the offense; 2: The charge is a lesser included offense, 3; The Defendant Waives presentment to the grand Jury and Pleads guilty, State V. Myers, 313 SC. 391, 438 SE 2d 236.

For These Reasons Petitioner-Williams should be granted a New Trial.

CERTIFICATE OF SERVICE

I chris L. Williams 281434 msu A-5 4344 BroadRiver columbia sc 29210 Do Declare under Penalty of Perjury 28usc 1746 That I have served The following a copy of Petitioner Amended version to The Following;

Pamela J. Polzin
PoBOX 62255
North charleston, sc 29411

Patricia C. Grant
clerk of court
Colleton County
PO BOX 620
Walterboro sc 29488

sworn and subscribed before me This: 2
Day of: ~~September~~ 2009 Notary Public for The state of S.C.: ~~Hem~~ my Commission Expires;

Nov 8, 2017

105 F.3d 907, 911 (4th Cir. 1997) (recognizing that, although not jurisdictional, the exhaustion requirement is strictly enforced; and that failure to exhaust remedies will be excused only where exhaustion requirement is expressly waived by the state or petitioner has technically complied therewith). The exhaustion requirement is met only if the federal claim has been "fairly presented" to the state courts, *Picard v. Connor*, 404 U.S. 270, 275 (1971), or no state remedy remains available. *Matthews*, 105 F.3d at 911. To fairly present a claim, a petitioner must "include reference to a specific federal constitutional guarantee, as well as a statement of facts that entitle the petitioner to relief." *Gray v. Netherland*, 518 U.S. 152, 162-63 (1996) (citing *Picard*, 404 U.S. at 271).

It appears that the grounds alleged were addressed at the state PCR hearing and order of Judge Macaulay, as set forth more fully below. In addition, it appears that the assertions were raised within his *pro se* response to the Johnson petition in the PCR appeal. Respondent therefore would submit that the allegations are technically exhausted. [2]

B.

Nevertheless, he is not entitled to relief. The United States Supreme Court has explained that:

> The writ of habeas corpus stands as a safeguard against imprisonment of those held in violation of the law. Judges must be vigilant and independent in reviewing petitions for the writ, a commitment that entails substantial judicial resources.

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[2]Respondent has calculated the timeliness of the petition under 28 U.S.C. Section 2244(d). It appears that he has expended 320 statutory day. The conviction became final when the Court of Appeals issued its remittitur on May 20, 2003 after Petitioner failed to either seek rehearing or certiorari to the South Carolina Supreme Court. The statutory time ran for 276 days until the PCR application was filed on February 20, 2004. The matter was tolled during the PCR and appeal until April 24, 2012 when the remittitur was issued. The habeas petition was delivered 44 days later on June 7, 2012. [276+44=320]. The petition appears to be timely.

Columbia, SC 29210

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