

10-7597

NO. 19A421

ORIGINAL

Supreme Court, U.S.  
FILED

JAN 31 2020

OFFICE OF THE CLERK

IN THE SUPREME COURT  
OF THE UNITED STATES

ROBERT WILLIAM WAZNEY, Petitioner,

v.

Kenneth Nelson, Warden, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO  
U.S. COURT OF APPEALS 4th Circuit

PETITION FOR WRIT OF CERTIORARI

JANUARY 31  
JANUARY 31 2020  
2019.

/s/

ROBERT WILLIAM WAZNEY  
990 Wisacky Highway  
Bishopville, SC 29010  
Captive Petitioner  
Pro se (forced)  
803-428-2800

i.

RECEIVED

FEB - 7 2020

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTIONS PRESENTED

Petitioner, ROBERT WILLIAM WAZNEY, life or death in prison relies on the disposition of this petition.

PREFACE: This case is about where I was convicted under false truths and was forced to use defective-trial-counsel, which was retained for me, and where I could not pay or replace defective-trial-counsel because the government Court ordered pre-trial restraint against my legitimate, untainted assets, property that is unrelated by the crime, solely because of the charges against me. And where State corrective process is ineffective to protect my rights, and where those contentions were renewed at United States, and United States failed to give them due recognition.

Q1: IS PETITIONER, ROBERT WILLIAM WAZNEY, IMPRISONED IN VIOLATION OF THE CONSTITUTION OF THE UNITED STATES?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

LIST OF PROCEEDINGS  
Pursuant Rule 14.1(b)(iii)  
(Not All-inclusive)

Court of Common Pleas

2015GS430333

2015GS430334

2015GS430317

S.C. Court of Appeals  
2015-000884

S.C. Supreme Court  
2017-002098

U.S. District Court  
3:18-cv-2825-HMH-KFM

U.S. Court of Appeals 4th Cir.  
( "4CCOA")  
19-6203

U.S. Supreme Court  
19A421

S.C. Sup. Ct.  
2018-001373  
2018-001376  
2018-001730

Court of Common Pleas

2016-CP-43-0733

S.C. Court of Appeals ("SCCOA")  
2017-001490

SC.Su. Ct.  
2018-000148

U.S. Dist.Ct.  
3:18-cv-00921-HMH  
4CCOA  
18-6693

U.S. Sup. Ct.  
18A716 / 18-9623

SCCOA  
2018-001505

SC.Su. Ct.  
2019-00304

U.S. Sup. Ct.  
19A270 / 19-6400

U.S.Dist. Ct.  
3:17-cv-2900-HMH-KFM

U.S. Bankruptcy Court  
17-90009-dd

U.S. District Court  
3:19-cv-03216-HMH  
4CCOA  
18-1476  
U.S. Sup. Ct  
18A713 / 18-9624

U.S. Bankruptcy Court  
18-06148-dd / 19-80009-DD

U.S. Dist. Ct.  
3:19-cv-01012-HMH-KFM  
4CCOA  
19-1592  
U.S. Dist. Ct.  
3:19-cv-01012-HMH-KFM  
4CCOA  
20-1004

Sumter County Family Court  
2014-DR-43-0038

2015-DR-43-0046

S.C. Court of Appeals  
2015-002193  
2016-000221  
2016-001674  
2017-00081 / 2018-000322  
S.C. Supreme Court  
2018-002032  
U.S. District Court  
3:19-cv-01256-HMH  
4CCOA  
19-1737

S.C. Court of Appeal  
2108-000918 / 2018-000919

S.C. Supreme court  
2019-00056  
S.C. Court of Appeal  
2017-001342  
S.C. Sup.Ct.  
2019-001666

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v.

S.C. Court of Appeal  
2017-000916

S.C. Sup. Ct.  
2017-001728

U.S. District Court  
3:17-cv-2873-HMH-KFM  
4CCOA  
18-6466

U.S. Supreme Court  
18A715/18-9814

SCCOA

"Default"

S.C. Sup. Ct.  
2017-001776

SC. Sup. Ct.  
2019-000585

Court of Common Pleas  
2017-CP-43-569

SCCOA  
2017-001112

U.S. District Court  
6:15-cv-1116-HMH-KFM

U.S. District Court  
6:18-cv-02610-HMH-KFM

4CCOA  
19-6084  
U.S. Sup. Ct.  
19A420 / (?? 19-6563 ??) J.C. CAMPBELL CLERK OF  
COURT

19A421  
vi.

PROCEDURAL HISTORY  
Not All-inclusive

For the purposes of this paper, the following abbreviations apply:

Clerk County clerk (JAMES C CAMPBELL CLERK OF COURT)  
Ct.Com.P1. Court of Common Pleas  
PCR Application For Post-Conviction Relief  
PFR Petition for rehearing  
SCCID South Carolina Commission on Indigent Defense  
SCCOA South Carolina Court of Appeals  
SCFC Sumter County Family Court  
SC.Sup.Ct. South Carolina Supreme Court or State High Court  
US.Dist.Ct. United States District Court for S.C.  
US.Sup.Ct. United States Supreme Court  
40COA United States Court of Appeals 4th Circuit

<u>Appx.</u>	<u>Date</u>	<u>Court</u>	<u>Case</u>	<u>Action</u>
X	1/20/15	SFC	2015DR430046	EX PARTE ORDER freezing assets due to charges
W	11/4/15			Complaint to the Commission SCCID
	11/4/15			Complaint to Executive Director SCCID
Y	9/25/16	SCCOA	2015-000884	SUPPLEMENTAL BRIEF OF APPELLANT filed
YY	9/25/16	SCCOA	2015-000884	RECORD ON APPEAL SUPPLEMENTAL filed
V	8/4/17	SC.Sup.Ct	2015-000884	MOTION FOR REHEARING
AB	8/29/17	SCCOA	2015-000884	Letter to Court
	10/06/17	SC.Sup.Ct.	2015-000884	ENLARGEMENT Motion
B	10/16/17	SC.Sup.Ct.	2017-002098 (2015-000884)	Time denied
	10/17/17	SC.Sup.Ct.	2017-002098	REMITTITUR to SCCOA
U	10/30/17	SC.Sup.Ct.	2017-002098	59(e)

	1/8/18	SC.Sup.Ct.	2017-002098	Letter to Court
C	1/24/18	SC.Sup.Ct.	2017-002098	ORDER PFR denied
	3/6/17			Letter to defective trial-counsel
	3/20/17			Letter to SCCID counsel (supplemental findings)
R	5/9/18	Ct.Com.Pl.		PCR filed with Clerk
K	5/22/18	Ct.Com.Pl.		59(e)
	5/29/18			Letter from Clerk
	6/1/18			Letter to Clerk
D	6/14/18	SC.Sup.Ct.		PCR filed
	6/18/18			Letter to Judge Cotheran (59(e) status)
E	6/21/18			Paper from SC.Sup.Ct., "No action on PCR filed with this Court"
	6/26/18			Letter from US.Dist.Ct. returning copied PCR action
P	6/29/18	Ct.Com.Pl.		APPLICATION FOR PCR SUPPLEMENT filed
AF	7/17/18	SC.Sup.Ct.	2018-001376	ORIGINAL JURISDICTION Motion filed (PCR)
G	7/18/18	SC.Sup.Ct.	2018-001373	COMPLAINT Motion filed (challenging transcripts and sentence)
	7/28/18			Letter to Presiding Judge regarding PCR
	8/2/18	see Appx.	H @ p.5	letter from SC Attorney General regarding PCR

H 8/20/18 SC.Sup.Ct. (2019-001730) Record of action to Court informing of Clerk malfeasance, evidence

J 8/28/18 SC.Sup.Ct. 2018-001376; 2018-001373; "Affidavit"; "Letter to Clerk" (8/20/18) ORDER all dismissed

9/7/18 Letter to Judge Cotheran (3rd notice)

I 9/10/18 SC.Sup.Ct. 2019-001730 COMPLAINT REGARDING INDIFFERENCE BY CLERK filed

9/22/18 Letter to District Court

10/1/18 Letter to many Judges and Clerk regarding Clerk-non-filing of in forma pauperis Motions with Court (see WRIT OF SUPERVISORY CONTROL Motion pg.5-8)

10/14/18 Letter to US.Dist.Ct. informing of no ability of PCR and need federal forms

10/19/18 US.Dist.Ct. 6:18-2825-HMH-KFM MOTION TO APPOINT COUNSEL

10/15/18 Habeas Corpus filed 28 USC 2254

11/9/18 US.Dist.Ct. 6:18-2825 ORDER denying counsel

AH 11/14/18 US.Dist.Ct. 6:18-2825 Report of Magistrate Judge [ECF16]

11/21/18 Letter to US.Dist.Ct. Judge about PCR issue \*copies to U.S.Sup.Ct. Justice Roberts

11/29/18 Letter to US.Dist.Ct.

T 12/1/18 US.Dist.Ct. 6:18-2825 OBJECTIONS filed

12/5/18 Letter to S.C. Attorney General about PCR issue

S	12/13/18	US.Dist.Ct.	6:18-2825	JUDGMENT dismissing
	12/21/18	US.Dist.Ct.	6:18-2825	59(e) Motion
M	1/7/19	US.Dist.Ct.	6:18-2825	ORDER denied
	1/23/19	4CCOA		NOTICE OF APPEAL
AD	1/23/19	US.Dist.Ct.	6:18-2825	60(b) Motion
AE	1/29/19	US.Dist.Ct.	6:18-2825	ORDER 60(b) denied
	2/19/19	4CCOA	19-6203	Request for time, counsel, and IFP
	2/21/19			Letter to S.C. Attorney General regarding PCR issue
AI	3/15/19	4CCOA	19-6203	INFROMAL BRIEF
AA	3/28/19	SC.Su <sup>p</sup> .Ct.	2018-001730	ORDER dismissing
Q	4/1/19	SC.Su <sup>p</sup> .Ct.	2019-000585	PFR
	4/7/19			Letter to S.C. Attorney General regarding PCR issue
AJ	4/8/19	SC.Su <sup>p</sup> .Ct.	2018-001730	Motion to Reconsider
AC	4/22/19	SC.Su <sup>p</sup> .Ct.	2019-000585	ORDER dismissing
L	4/30/19			Letter from S.C. Attorney General
AK	5/30/19	SC.Su <sup>p</sup> .Ct.	2019-000585	ORDER denied
A	7/24/19	4CCOA	19-6203	JUDGMENT appealability denied
AL	7/29/19	SC.Su <sup>p</sup> .Ct.	2019-001730	and appeal dismissed ORDER of Return (Clerk ANSWER)
	8/6/19	SC.Su <sup>p</sup> .Ct.	2018-001730	Clerk answer
N	8/7/19	4CCOA	19-6203	PFR
	8/9/19	4CCOA	19-6203	ORDER time extension denied
Z	9/2/19	SC.Su <sup>p</sup> .Ct	2018-001730	OBJECTIONS
F	9/4/19	4CCOA	19-6203	ORDER PFR denied

O	10/8/19	SC.SuP.Ct.	2018-001730	ORDER
	10/16/19	SC.SuP.Ct.	2018-001730	MOTION TO RECONSIDER
	12/17/19	SC.SuP.Ct.	2019-001730	Paper

TABLE OF AUTHORITIES CITED

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Federal Land Bank of Columbia v. Sumner, 168 SC 510, 167 S.E. 830 (1933)	16
Fine v. City of N.Y., 529 F.2d 70, 74 (2d Cir.1975)	18
Herb v. Pitcairn, 324 US 117, 125-26 (1945)	3
Luis v. United States, 136 S.Ct. 1083 (2016)	12, 18, 19
Michigan v. Long, 463 US 1032, 1040-41 (1983)	3
Nurnery v. Freeman, E.D.N.C.1996, 927 F.Supp. 906, appeal dismissed 141 F.3d 1159	19
Olson v. United States, 82 A.F.T.R.2d 98-6174, 1998 WL 681471, (2008)	19
State v. Lyles, 381 SC 442, 673 S.E.2d 811 (2009)	18
Staub v. City of Baxley, 355 US 313, 318 (1958)	2
Ward v. Board of Com'rs of Love County, 253 US 17, 22, 40 S.Ct. 419, 421	4
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S.C. Code §17-27-10 et seq.	16
S.C. Code §17-27-40	16
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U.S. Const. Amend 6	12, 18, 19
U.S. Const. Amend 14	17, 18
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28 USCA §2254	11
28 USC §2403(b)	4
45 CFR §1637.2(a)	9
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## INDEX TO APPENDICES

For the purposes of this paper, the following abbreviations apply:

Clerk	County clerk (JAMES C CAMPBELL CLERK OF COURT)
Ct.Com.Pl.	Court of Common Pleas
PCR	Application For Post-Conviction Relief
PFR	Petition for rehearing
SOCID	South Carolina Commission on Indigent Defense
SCCOA	South Carolina Court of Appeals
SCFC	Sumter County Family Court
SC.Sup.Ct.	South Carolina Supreme Court or State High Court
US.Dist.Ct.	United States District Court for S.C.
US.Sup.Ct.	United States Supreme Court
4COA	United States Court of Appeals 4th Circuit

<u>Appx.</u>	<u>Date</u>	<u>Court</u>	<u>Case</u>	<u>Action</u>
A	7/24/19	4COA	19-6203	JUDGMENT appealability denied and appeal dismissed

B	10/16/17	SC.Sup.Ct.	2017-002098 (2015-000884)	Time denied
C	1/24/18	SC.Sup.Ct.	2017-002098	ORDER PFR denied
D	6/14/18	SC.Sup.Ct.		PCR filed
E	6/21/18			Paper from SC.Sup.Ct., "No action on PCR filed with this Court"
F	9/4/19	4CCOA	19-6203	ORDER PFR denied
G	7/18/18	SC.Sup.Ct.	2018-001373	COMPLAINT Motion filed (challenging transcripts and sentence)
	8/2/18	see Appx.	H @ p.5	letter from SC Attorney General regarding PCR
H	8/20/18	SC.Sup.Ct.	(2019-001730)	Record of action to Court informing of Clerk malfeasance, evidence
I	9/10/18	SC.Sup.Ct.	2019-001730	COMPLAINT REGARDING INDIFFERENCE BY CLERK filed
J	8/28/18	SC.Sup.Ct.	2018-001376; 2018-001373; "Affidavit"; "Letter to Clerk" (8/20/18)	ORDER all dismissed
K	5/22/18	Ct.Com.Pl.		59(e)
L	4/30/19			Letter from S.C. Attorney General
M	1/7/19	US.Dist.Ct.	6:18-2825	ORDER denied
N	8/7/19	4CCOA	19-6203	PFR
O	10/8/19	SC.Sup.Ct.	2018-001730	ORDER

P	6/29/18	Ct.Com.Pl.	APPLICATION FOR PCR SUPPLEMENT filed
Q	4/1/19	SC.Sup.Ct. 2019-000585	PCR
R	5/9/18	Ct.Com.Pl.	PCR filed with Clerk
S	12/13/18	US.Dist.Ct. 6:18-2825	JUDGMENT dismissing
T	12/1/18	US.Dist.Ct. 6:18-2825	OBJECTIONS filed
U	10/30/17	SC.Sup.Ct. 2017-002098	59(e)
V	8/4/17	SC.Sup.Ct 2015-000884	MOTION FOR REHEARING
W	11/4/15		Complaint to the Commission SCCID
X	1/20/15	SFC 2015DR430046	EX PARTE ORDER freezing assets due to charges
Y	9/25/16	SCCOA 2015-000884	SUPPLEMENTAL BRIEF OF APPELLANT filed
YY	9/25/16	SCCOA 2015-000884	RECORD ON APPEAL SUPPLEMENTAL filed
Z	9/2/19	SC.Sup.Ct 2018-001730	OBJECTIONS
AA	3/28/19	SC.Sup.Ct. 2018-001730	ORDER dismissing
AB	8/29/17	SCCOA 2015-000884	Letter to Court
AC	4/22/19	SC.Sup.Ct. 2019-000585	ORDER dismissing
AD	1/23/19	US.Dist.Ct. 6:18-2825	60(b) Motion
AE	1/29/19	US.Dist.Ct. 6:18-2825	ORDER 60(b) denied
AF	7/17/18	SC.Sup.Ct. 2018-001376	ORIGINAL JURISDICTION Motion filed (PCR)
AH	11/14/18	US.Dist.Ct. 6:18-2825	Report of Magistrate Judge [ECF16]

AI	3/15/19	4CCOA	19-6203	INFROMAL BRIEF
AJ	4/8/19	SC.Sup.Ct.	2018-001730	Motion to Reconsider
AK	5/30/19	SC.Sup.Ct.	2019-000585	ORDER denied
AL	7/29/19	SC.Sup.Ct.	2018-001730	ORDER of return (Clerk answer)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgements below.

OPINIONS BELOW

For cases from state courts:

The opinions of the highest state court to review the merits appears at Appendices B, E, J, O, AA, AC, to the petition and is unpublished.

The opinions of the United States court appears at Appendices S, AD, AE, to the petition and is unpublished.

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**JURISDICTION**  
(Pursuant Rule 14.1(e)(i)-(v))

For case from state courts:

The date on which the highest court decided my case was 7/24/19. A copy of that decision appears at Appendix A.

- A timely petition for rehearing was thereafter denied on the following date: 09/04/19, and a copy of the order denying rehearing appears at Appendix F.
- An extension of time to file the petition for a writ of certiorari was granted to and including 02/01/2020 on 10/21/19 in Application No. 19A421.

**Adequate And Independent State Law Grounds**

I brought question of federal law to South Carolina Supreme Court ("SC.Su. Ct.") and SC.Su. Ct.'s state-law ground of decision--to dismiss--citing no federal court decisions in support of its judgment, and relying exclusively on state decisions interpreting and applying the Sixth Amendment to the U.S. Constitution, was not independent and adequate to support state court's decision. State-law ground of decision must be both "independent" and "adequate" Staub v. City of Baxley, 355 U.S. 313, 318 (1958), Ake v. Oklahoma, 470 U.S. 68, 74-75 (1985). Because state court decision has not indicated clearly and expressly that it is alternatively based on bona fide separate,

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adequate, and independent grounds, such lack of clarity yields the presumption that state decision is grounded in federal law. Hence, state's decision of my question of federal law in circumstance is, in effect, to render an advisory opinion, since it would make no difference to the outcome. Herb v. Pitcairn, 324 U.S. 117, 125-26 (1945). In view of that lack of clarity, the U.S. Supreme Court should assert jurisdiction. Michigan v. Long, 463 U.S. 1032, 1040-41 (1983).

Moreover, where those contentions were renewed at federal Court which failed to give them due recognition, as Mr. Justice Holmes said in Davis v. Wechsler, 263 U.S. 22, 24, 44 S.Ct 13, 14. 'Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of Federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice.' and whether the constitutional rights asserted by the appellant were ' ... given due recognition, by the [appellate Court] is a question as to which the [appellant is] entitled to invoke our judgment. ... It thereofre is within our province to inquire not only whether the right was denied in express terms, but also whether it was denied in substance and effect, as by putting forward non-federal grounds of decision that were without any fair or substantial support ... [for] if

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non-federal ground, plainly untenable, may be thus put forward successfully, our power to review easily may be avoided.' Ward v. Board of Com'rs of Love County, 253 U.S. 17, 22, 40 S.Ct 419, 421, and cases cited.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

The constitutionality of a statute of South Carolina is drawn into question in this proceeding, 28 U.S.C. §2403(b) may apply and Attorney General of South Carolina shall be served this initial document.

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

SC Code §8-21-320: NO ACCESS

S.C. Code §17/27/40: NO ACCESS

S.C. Rules of Civil Procedure Rule 59(g): "(g) Judge to be Provided with Copy. A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion."

U.S. Constitution Amendment I: "Congress shall make no law ... prohibiting the free exercise thereof; or abridging the freedom of speech, ... and to petition the Government for a redress of grievances."

U.S. Constitution Amendment IV: "In all criminal prosecutions, the accused shall enjoy the right ... to have Assistance of Counsel for his defence."

U.S. Constitution Amendment XIV: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

28 USC §1257(a): NO ACCESS

28 USCA §2254: NO ACCESS

28 USC §2403(b): NO ACCESS

45 CFR §1637.2(a): NO ACCESS

45 CFR §1637.2(b): NO ACCESS

45 CFR §1637.3: NO ACCESS

Background, Facts, and  
How My Case Entered the Court

1. I am jailed under false report.
2. I am denied right to have counsel present at my detention hearing. [Case No.: 2015-000884 Supplemental Brief of Appellant [Appx. Y, pp. 11, 16, ~~174-178~~<sup>APPX Y</sup>] [Appx. YY pp. 174-178].
3. The government Court orders pre-trail restraint against my legitimate untainted assets, property that is unrelated by the crime, solely because of the criminal charges against me [Appx. X ].
4. After being held fourteen months without bond, I am brought to trial where I get into an argument with my trial-counsel about him not fighting for me, there was a mis-trial. Then at subsequent trial, and where my trial-counsel told me "this time you're going to keep your mouth shut", I discover my trial-counsel is friends with the victim of the alleged crimes. [Appx. Y ].
5. With my assets frozen, I am unable to replace my defective-trial-counsel.
6. I told the Judge at trial there was a conflict of interest with my trial-counsel but Judge said "I think he did a great job" and "these things happen in a small town". [Appx. Y ].

7. State mis-convicts me so I file appeal and State assigns appellate-attorney who sends me the transcript from the subsequent trial and which transcript is erroneous, specifically where transcript does not reflect where I said "the jury did not see all the evidence" and transcript reads that I said trial-counsel "did a great job", I never said that he did a great job, the Judge said that, I did not say that. [Appx. YY, pp. 183-190, 222-223] [Appx. G].

8. I report the transcript errors to South Carolina Court of Appeals, Appellate-counsel, and to S.C. Court Administration and I demand from Appellate-attorney to see the mis-trial transcript. [Appx. V, p.2 @ 5-6], [Appx. YY pp. 222-223, et al.], [Appx. W ], ['prison phone' conversation(s) <with attorney>].

9. I receive the mis-trial transcript and its erroneous too. I reported the erroneous transcripts to Appellate-attorney, and I reported the erroneous trial transcripts told S.C. Court administration, but Appellate-attorney made excuses for the errors in the transcripts and said that he thought I was "grasping for straws". ['prison phone' conversation].

10. I find out Appellate-Attorney is taking counsel from defective-trial-counsel [Appx. W , 10/5/15 paper p.1 ¶3].

11. and I discover evidence [video of 'victim' testifying I committed no wrong {emphasis added}] that proves my innocence which ~~defective-trial-counsel concealed from me~~, and I discovered that the reason I was escorted out of the courtroom during trial was so that concealed-evidence could be discussed out of my presence [Appx. Y, pp. 235-240], [Appx. V, p. 3 ¶1 ¶ (c)], which means the Judge and the Solicitor knew that I was not shown that attorney-concealed-evidence.

12. Appellate-attorney files "anders" brief--no merits brief--which forecloses my State Writ of Certiorari [Appx. V, p. 5]. Appellate-counsel fails to provide a complete record, is taking counsel from ~~defective-trial-counsel~~, and fails to represent me.

13. I try to obtain my frozen assets so I can procure counsel [Sumter Family Court Case # 2015-DR-43-0046 et. seq.], but county clerk, JAMES C. CAMPBELL CLERK OF COURT ("Clerk"), fails to file my in forma pauperis papers with the Court on at least seven (7) different occasions in violation of State Law, S.C. Code §8-21-320, Clerk thwarting vindication of my claims [U.S.District.Ct. Case No.# 6:18-cv-02610-HMH-KFM et. seq.], securing my indigency, and securing my mis-conviction. I further tried to obtain my assets here; U.S.Bkr.Ct Case# 17-90009-dd et. seq., U.S.Bkr.Ct. Case #18-06148-dd / 19-80009-DD et. seq., Sumter Court of Common Pleas Case # 2017-CP-43-569 et. seq., S.C.Sup.Ct. Case # 2019-000585 et. seq., et. al.

14. I also tried to obtain counsel through Legal Services Corporation but federal law prohibits Legal Services from participating in any civil litigation on behalf of convicts, 45 CFR §§ 1637.~~345~~, 1637.2(a), 1637.2(b).

15. I am forced to be indigent and forced to be pro se, and as such, I can not obtain transcripts for appeals as South Carolina provides no provision for free transcripts [Appx. \_\_\_\_], I could not pursue claims on appeal of the errors of law made by the Courts from my complaints: e.g. [Appx. Q (case "closing the Court" from my assets)], [misc. appeals of case# 2015-DR-43-0046 <in pursuit of my assets> dismissed due to inability to pay filing fees], [Sumter Common Pleas 2017-CP-43-569 et seq. (denied IFP)], [et al.].

16. So after I sued Clerk and filed complaints to the Court and filed complaints with the many, I never receive any relief.

17. May 9, 2018 I asserted federal claims in the form of an Application For Post-Conviction Relief ("PCR") and filed it with Clerk [Appx. R ]--Clerk signed for PCR May 10, 2018 [Appx. Z ], [Appx. T pp. 14-16], [et al.]—but Clerk never filed my PCR with the county Court, and returned my PCR to me with a blank application. [Appx. Z ], [Appx. AF ], [Appx. \_\_\_\_], HABEAS CORPUS PETITION pp. xvi. - xxix.

18. So 5/23/18 I filed PCR and 59(e) directly with Court (with Judge pursuant Rule 59(g) SCRCP) and with Clerk, there was no reply notwithstanding my reminder notices 6/18/18, 7/28/18/ and 9/7/18.

19. 6/14/18 I reasserted federal claims in the form of a PCR with State Highest Court, but State Highest Court said it is "not acting on (PCR)" and for me to send my federal claims to Clerk with docket numbers. [Appx. T pp. 10-12][Appx. E][Appx. Z p.3].

20. 6/29/18 I sent the docket numbers to Clerk [Appx. P], and Clerk never replied. [Appx. Z p.3][Appx. P].

21. I further complained to State Highest Court with Motions: ORIGINAL JURISDICTION [Appx. AF], COMPLAINT [Appx. G], and paper dated 8/20/18 [Appx. H], but State High Court dismissed them all 8/28/18 [Appx. J].

22. 9/10/18 I complained more to State High Court with Motion COMPLAINT REGARDING INDIFFERENCE BY CLERK as an original action, State High Court dismissed 3/28/19 but then reinstated the case pursuant my 4/18/19 reconsideration Motion, and on 7/29/19 State High Court ordered Clerk to file a return (answer) to my Complaint, and which State High Court notice to Clerk included a copy of my PCR. Clerk answered 8/6/19 and I filed Motion OBJECTIONS [Appx. Z] 9/2/19 which upset State High Court and they dismissed 10/8/19 [Appx. O].

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23. 10/15/18 I filed Habeas Corpus pursuant 28 USCA § 2254 with United States District Court, who recommended dismissal of the case "because it is clear that [I] ha[ve] not fully exhausted [my] state-court remedies." (Appx. AH p.3 ¶ 1). United States then goes on with how I responded to question whether I raised habeas ground in PCR motion and how I checked YES and NO in the Habeas petition and how I explained that Clerk will not file my PCR. United States further reported that I produced no "documentation suggesting [I] complied with the directive to complete and return the PCR or to ... resubmit ...PCR" [Id. p.5 ¶ 1] which is false [see Habeas Petition pp. ii.-xi.(same as Appx.G), xv.(same as Appx.H p.5 & Appx.I p.3), xvi.-xxix.(same as Appx.AF)].

24. 12/1/18 I filed OBJECTIONS with United States [Appx. T] which were dismissed [Appx. S].

25. I filed 59(e) and a Rule 60(b) Motion [Appx. AD] but were denied [Appx. AE].

26. I appealed and filed INFORMAL BRIEF [Appx. AI], which was dismissed and it's appealability denied [Appx. A].

27. I asked United States to reconsider [Appx. N], but it was denied [Appx. F].

28. Giving rise to the instant Petition.

REASONS  
FOR  
GRANTING THE WRIT

I believe it is wrongful that I must die because State government Court Order pre-trial restraint against my legitimate untainted assets, property that is unrelated by the crime, solely because of the charges against me [Appx. X], where I need those assets to pay or replace counsel for defense of the criminal prosecution against me, it violates my United States Constitution Sixth Amendment right to have Assistance Of Counsel for my defense. Luis v. United States 136 S.Ct. 1083 (2016). Moreover, after State mis-convicts me, I file appeal and State assignes an appellate-attorney who fails to represent me: opposes and disobeys my orders, takes counsel from my defective-trial-counsel [Appx. W 10/15/15 paper @ ¶3, & 11/4/15 reply p.2 @ ¶1], fails to produce a complete record [Appx. W][Appx. YY pp.183-190, 222-223], and meanwhile, while I am in prison, I discover evidence that proves my innocence [Appx. Y][Appx. YY pp.235-240] and which evidence defective-trial-counsel concealed from me until after my mis-conviction and imprisonment [Appx. Y], which I show appellate-attorney who fails to investigate my claims. Appellate-attorney performance is deficient and bar my State Supreme Court certiorari [Appx. B][Appx. C], obligating me to file Application for Post-Conviction Relief ("PCR") with county clerk, JAMES C. CAMPBELL CLERK OF COURT ("Clerk"). I file PCR with Clerk [Appx. R], and the Clerk signed for it [Appx. R][Appx. T p.15], but Clerk repeatedly (at least

five times) does not file my PCR with Court [Appx. Z], so I file PCR with Chief Administrative Circuit Judge Cotheran [Appx. K] and others [Appx. T pp.10-12][Appx. D][Appx. Z], ultimately, S.C. Attorney General says Clerk never filed my PCR [Appx. H p.5]<sup>APPX I p.3</sup> [Appx. L][Habeas Petition @ p.xv]--likely because of Clerk retaliation because I sued Clerk for similar behavior where Clerk failed to file my *In forma pauperis* papers with Court on at least seven (7) different occasions [Appx. Z][see, also, SC.Dist.Ct. 6:18-2610-HMH-KFM, WRIT OF SUPERVISORY CONTROL, and, COMPLAINT FOR VIOLATION OF CIVIL RIGHTS <300+ page complaint> (dismissed based upon unpublished, non-binding Court decisions (U.S.Ct.App. No. 19-6084, INFORMAL BRIEF filed 2/1/19; also APPLICATION FOR RELIEF filed 1/23/19))] where I am still trying to obtain my money and property so I can retain counsel for defense--and that S.C. Attorney General's office cannot open a case until Clerk files my PCR [Appx. H p.5][Appx. Z [emphasis added]], I caught Clerk in a lie, where Clerk committed deceit, and where Clerk is trying conceal it's misrepresentations [Appx. Z] and I showed that proof to S.C. Supreme Court. [Appx. Z [emphasis added]]. S.C. Supreme Court did not like that I showed them those ultimate facts, S.C. Supreme Court dismisses those claims calling them frivolous [Appx. O]. State corrective process ineffective and unable to protect my rights (this is where United States inappropriately dismisses my Habeas Petition). Therefore I involve United States and, before the time tolls out, I file Habeas Corpus, and I tell the United States what happened [see Habeas Corpus filed 10/15/18] but United States omits certain evidence and facts [Appx. T pp.1-7 @ 1-5] and dismisses [Appx. S] my habeas petition premised upon United States' own

perverse testimony [Appx. S p.3 ¶ 1]:

United States: "However Wazney did not follow these instructions [to file PCR ]." And;

[Id. @ p.3 ¶ 2]:

United States: "Thus, Wazney plainly received the letter [instructing to file the PCR with Clerk]. Wazney did not follow these instructions and did not resubmit his PCR application to the [Clerk]."

However: [Appx. D, E, K, P, AF, H, I](see also Appx. Z) Indicating I DID follow instructions.

which prevaricates the proof of and thwarts my constitutional claims, making them uncolorable by United States dissembling the filing of my PCR and claiming I failed to exhaust State Court remedies by not filing it, where in fact I did file PCR with Clerk [Appx. R], The Court--Judge--of the Circuit [Appx. K], The State High Court [Appx. D, AF], thereby federal Circuit Court dismisses the case [Appx. A]. Untied States testified in this case assuming the facts as untrue and asserting my inaction, and where the United States is not a witness, and United States draws conclusion [Appx. S p.3 ¶2]:

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United States: "despite Wazney's assertion that South Carolina's PCR procedure is ineffective, the United States Court of Appeals for the Fourth Circuit has held that South Carolina's 'state post-conviction procedure provides an effective remedy to [] petitioners and is one which should be exhausted before federal relief can be considered.'"

relying on an unrelated story from some unrelated case to reason and determine my claims are somehow meritless, without any fact cosideration. Then United States 'closes the door' for me to amend or add any facts in regards to my life (denying appealability); all which violate my United States Constitution Fourteenth Amendment right to due process of law.

The order of my civil death is unlawful and I want my life, liberty, and property back.

Challenge to South Carolina State Law

County clerk, JAMES C. CAMPBELL CLERK OF COURT ("Clerk"), has many times interfered with my papers I sent to Court; particularly Clerk failed to file my in forma pauperis papers with the Court on seven (7) different occasions and Clerk violated State law. *Supra*. But now, Clerk is not filing my PCR with Court, and there is no law requiring Clerk to file a petitioner's application for PCR with the Court. Clerk may simply claim it never received any PCR avoiding any due care required of county clerk. However, "A party is presumed to know the contents of a paper signed or accepted by him." Federal Land Bank of Columbia v. Summer, 168 S.C. 510, 167 S.E. 830 (1933). (see Case no.: 2018-001730 OBJECTIONS p.6 @ ¶2)[Appx. Z]. This is where I challenge the legality and constitutionality of the "uniform post-conviction act" (S.C.Code § 17-27-10 et seq.) a/k/a "PCR Act"; specifically, at SC.Code §17-27-40 reads "A proceeding is commenced by filing an application verified by the applicant with the clerk of the court in which the conviction took place." In this case I have done just that, I filed my PCR with the clerk of the court in which the conviction took place (signed by S.Dickerson) [Appx. T p.15, R],<sup>2</sup> but the SC Attorney General says it cannot proceed with PCR until Clerk files it with the Court

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1 p.5 p.3

(august 2, 2018 paper) [Appx. 1]. This is a procedural loophole which gives county clerk the unbridled power to not file an applicants PCR and delay proceedings for as long as it wishes. Clerk has financial interest and plays role in financial procurement of prisoners convictions, therefore any delay in proceedings of a criminal case--such as delay or avoidance of PCR filing with Court--is financially beneficial to the Clerk and the County, but more importantly delay--whether intentional or "not"--is highly prejudicial to an applicant, such as myself, having to "wait" on justice in a hostile environment, exposed to diseases and inhumane living conditions, because of where there is a personal problem with some second rate, inferior, deficient, malicious, malfeasance--or not--'county clerk'. In this case, as of the date of this paper, Clerk has had my PCR for over 20 months and Clerk is not filing PCR for Clerk's own reasons. Clerk signed for my PCR May 10, 2018 [Appx. 1 p.15], received my PCR on other occasions [Appx. 2], and Clerk is not filing my PCR with Court. State Attorney General cannot move forward until county clerk files PCR with the Court: a 'stalemate', or for the States' County, a 'checkmate' because it secures profitable unchallenged convictions of persons. Either way, it infringes upon the rights of prisoners and of anyone who files a PCR in the State of South Carolina, is prejudicial and unconstitutional. U.S.Const.Amend. 1.

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Why The Decision Below

Is Wrong

1. The government should not have frozen my legitimate untainted assets as a criminal defendant [Appx. X], Luis v. United States, 136 S.Ct. 1083 (2016);  
*U.S. C.R.N.-T. Admewd. 11*
2. The county clerk (Clerk) should have performed it's ministerial duty of filing my In Forma Pauperis Motions with Court, S.C.Code §8-21-320 (Shearouse Adv. Sh. No. 30).
3. The State High Court should hear petitioners claims [Appx. Y, YY] after appeal whether or not Anders brief is filed [Appx. B], State v. Lyles, 381 SC 442, 673 S.E.2d 811 (2009).
4. Clerk should have filed my PCR with Court [Appx. H, I, Z, AF], and there should be a law that ensures it supra.
5. After I alleged facts in my Habeas Corpus setting forth a claim that is cognizable under federal law, United States should have evaluated my complaint and assumed my allegations as true, Fine v. City of N.Y., 529 F.2d 70, 74 (2d Cir.1975), and United States should not have asserted its own version of the facts [Appx. AH, S].

If any of the above actions would have been different, this gross-fundamental-miscarriage-of-justice would not have occurred.

Hereof fail not at your peril, and have then there this writ.

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CONCLUSION

The government Ordered pre-trial restraint against my legitimate untainted assets, property that is unrelated by the crime, and which belongs to me. That Order made me unable to pay or replace defective-counsel retained for me for the criminal trial held against me, and it violates my United States Constitution Sixth Amendment right to have Assistance of Counsel for my defense. Luis v. United States 136 S.Ct. 1083 (2016).

Additionally, thereof I applied for relief, by motion, to the Court which sentenced me, and remedy by motion is inadequate or ineffective to test the legality of my detention. Olson v. United States, 82 A.F.T.R.2d 98-6174, 1998 WL 681471, (2008). I asserted federal claim in the form of Habeas Corpus with United States, but United States omission of certian parts of my testimony and evidence made my federal claim uncolorable, and thereby dismissed on its appeal. It is demonstrated that failure to consider my claims have resulted in fundamental miscarriage of justice. Nunnery v. Freeman, E.D.N.C.1996, 927 F.Supp. 906, appeal dismissed 141 F.3d 1159. All my claims are federal, remand to the trial court would be useless.

Premises consiered, the petition for a writ of certiorari should be granted.

I declare under penalty of perjury the foregoing is true and correct.

Respectfully submitted,

ROBERT WILLIAM WAZNEY

JANUARY 31, 2020

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