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Questions Presented For Review

- 1) Why are alleged time limits excuses being erroneously misused to dismiss abundant matters of reversible error, and promote extraordinary usurpation?
- 2) What precisely constitutes Unalienable Rights?

Proceedings List

- State v. McElain^o, (Docket UNKNOWN), Caddo - Parish, La.. Extradition Judgement entered (19 - Mar, 1999).
- State v. McElain^o, (Warrant No.'s F898527-28), Richland County, South Carolina Arraignment Judgement entered (5 Apr, 1999).
- State v. McElain^o (Indictment No.'s 99-65-40-40158-159, and 00-65-40-48940), in Columbia, South Carolina Trial Judgement entered (29 Aug, 2000).
- McElain^o v. State (UNpublished Opinion-113), Columbia, South Carolina Direct Appeal Judgement entered (14 Feb, 2002).
- McElain^o v. State (Case # 2002-23423), Columbia, South Carolina Writ of Certiorari Judgement entered (29 May, 2002); Default, etc., Order entered (12 June, 2002); Rehearing Order entered (27 June, 2002).
- McElain^o v. State (Case # CP-03-40-0884), Columbia, South Carolina Court of Common Pleas; Post-Conviction Relief Hearing (#1). Judgement entered (14 Jan, 2005). (2nd) Hearing Judgement entered on (2 June, 2005).
- McElain^o v State (Case # 2005-033371), South Carolina Supreme Court; Mandamus Petition Judgement date (UNKNOWN).
- McElain^o v. State (Case # 2013-001752), South Carolina Supreme Court; Mandamus Petition Judgement entered (5 Sept, 2013).

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Proceedings List (continued)

- McCLain v. State (Case # 2016-000587), South Carolina Supreme Court; Mandamus, etc., Judgement entered (13 Apr, 2016); Re-hearing not honored.
- McCLain v. State (Case # 2016-001699), South Carolina Supreme Court; Objections, etc., Judgement entered (22 Sept., 2016).
- McCLain v. State (Case # 2017-002341), South Carolina Supreme Court; Relief Motion Judgement entered (1 Feb, 2018).
- McCLain v. State (Cases 2016-00587, and 001699), South Carolina Supreme Court; (1st) Revised Appeal destroyed (20 June, 2018), by Clerk of Court; (2nd) Revised Appeal destroyed by Court Order (23 July, 2018).
- McCLain v. Warden (Case # 2018-CV-03081-MBS/PJG), Federal District Court (S) of S.C.; Habeas Petition Judgement entered (6 Aug., 2019), Rehearing for ADE, Order entered (5 Nov., 2019).
- McCLain v. Warden (Case # 19-7215), U.S. - Court of Appeals; Habeas Petition Judgement entered (23 Dec., 2019); Rehearing Denied.
- McCLain v. Warden (Case # 19-7729), U.S. - Court of Appeals; Habeas Corpus Petition Judgement (Pending).

END LDMR

Forward

Due to the fact that the Turbeville Correctional Institution (T.C.I.), of the South Carolina Dept. of Corrections (SCDC), removed over (500) law-books from the facility in (Mar., 2015);

there has been a consistent deprivation of adequate access to the courts, and the evidence submitted is conclusive to that affect.

Similarly, there has never been anyone formally assigned to the TCI/SCDC facility who is properly trained in the law to provide comprehensive counseling;

assistance in research, and/or guidance in development of work product for filings, much less advocacy from numerous continuous injuries caused by SCDC's "broken system".

This is clearly in violation of:

Bounds v. Smith, 430 US 817, 828, 97 S.Ct. 1491, 1498, 52 L.Ed. 2d 72, 83 (1977).

This matter is also currently before the S.C. Administrative Law Court. See: Docket No. 20-ALJ-04-0034, etc., etc.

As a result, there is prejudice shown that this particular filing is being obstructed to the proximate point that a full and fair hearing is unobtainable;

even though liberal construction is duly warranted and obligated by law.

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Forward (continued)

The irony to the obstruction issue has been vividly multiplied in merely being able to present this Writ formally as the Act of Congress, 28 U.S.C. § 2403 (a);

is a prime case in point that facilitates this Court to create bulwarks of obstacle requirements (Rule 33.1, etc.);

while arrogantly professing that honoring the Writ of Certiorari is "sparingly exercised".

What stands in contrast to this is the (1st) - Amendment, U.S. Const. RIGHT TO REDRESS GRIEVANCES of a wrongful conviction and illegal incarceration;

Noting that constitutional issues can be raised AT ANY TIME. It is clear that no other court I have addressed respects the gravity of circumstances either. See:

Armstrong v. Mongo, 380 US 545, 552, 85 S.Ct. 1187, 1191 (1965), etc..

Furthermore, I find it to be very obscure that the Rules Governing 28 U.S.C. § 2254 would shift the burden of a wrongful conviction from the State to an Institutional Warden, who had no involvement in the prosecution of the case.

Therefore, Rumsfeld v. Padilla, 542 US 426, 434-35 (2004), is unconstitutionally misguided to the "core challenges of reversible errors", but a Cross-Claim(s) of illegal incarceration would be more suitable to the SCDC Director, and Warden, due to conditions issues.

Case History

ON (3/14/1999), two Affidavits were alleged by Lt. James T. Stewart, RCSD for two counts of ABWIK, which Mag. Judge H.A. Cuff wrote warrants for.

No weapon warrant was issued at that time.

App. A) An Extradition Hearing was held in Caddo Parish, La. ON (19 Mar., 1999), however, the ABWIK warrants were not served until (3 Apr., 1999), after the transfer to Richland County, in Columbia, South Carolina, by Order of Judge Jenlin (sic).

App. B) An Arraignment Hearing was held, without an appointed counsel, ON (5 Apr., 1999). See: Powell v. Alabama, 252, 287 US 45, 57 (1932), etc..

Two separate Grand Jury Hearings were held. The first ON (11 Aug., 1999), for the two counts of ABWIK, and then, the second was held ON (Apr. 12, 2000), for the weapon charge. See:

Goldburg v. Kelly, 397 US 254 (1970).

App. C) Trial was held by jury ON (28 - 29 Aug., 2000), before Circuit Court Judge, James C. Williams, Jr., who imposed a sentence of (25) years at (85%);

for one count of ABWIK, one count of ABHAN, and a weapon charge. Ind. #'s:

99-65-40-40158-159; and

00-65-40-48940. See! Attachments.

App. D) A Direct Appeal, Ander's Brief was filed in the S.S. Court of Appeals ON (26 Feb., 2001), and a Final Ander's Brief ON (3 July, 2001).

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Case History, App. D (continued)

However, a Pro Se Amended Reply Brief was filed on (18 May, 2001), by the Appellant, and re-submitted on (18 June, 2001).

On (14 Aug., 2001), a Motion For Default was (again) filed. The case was dismissed by Justices Huff, Stillwell and Howard, Jr. Justice (only 3 of 6), see (2002-UP-113), on (14 Feb., 2002);

which was submitted on (19 Dec., 2001). No acknowledgements to the Pro Se Amended Reply Brief and Motion(s) were conveyed. See:

Murray v. Carrier, 106 S.Ct. 2639 (1986).

App. E) On (9 May, 2002), a Petition For Original Jurisdiction was filed Pro Se as (Case # 2002-23423), in the State Supreme Court. A "Waiver To Respond" was filed by the State's Attorney General's Office on (23 May, 2002). See: Attachment.

A Court Order dismissing the Petition was issued on (29 May, 2002), without comment to the waiver, by CJ. Tol, and Justices Moore, Walker, Blume, and Pleicones, citing:

Key v. Currie, 305 SC 115, 406 SE 2d 356 (1991).

A Motion For Default, etc., was then filed on (30 May, 2002), however, on (6 June, 2002), a Return To Motion For Default; Motion For Relief From Judgement; Request For Relief Order and;

Notice of Relief, was filed by the State's Attorney General's Office, in error.

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Case History; App. E (continued)

ON (12 June, 2002), an Order signed by C.J. Toal, and Justices Moore, Walker, Blume, and Pleicones, was issued dismissing the Default, etc., claims.

ON (14 June, 2002), Petitioner filed a Motion For Reconsideration, and on (27 June, 2002), an Order was issued dismissing that Motion, by C.J. Toal, and Justices Moore, Walker, Blume, and Pleicones, citing key v. Currie.

App. F) A Post-Conviction Relief (P.C.R.), Application was filed on (13 Feb., 2003), followed by two late hearings.

The first hearing was held on (14 Jan., 2005), resulting in a new hearing ordered by Judge - A.R. Lee, due to counsel being relieved as being ineffective. See:

Case # CP-03-40-0884. See also:

Harris v. Champion, 15 F3d 1538 (10th Cir., 1994).

The second P.C.R. Hearing was held before Judge - G. Thomas Cooper, Jr., on (2 June, 2005). The case was heinously dismissed, date unknown, suggesting failure to prosecute.

App. G) ON (26 Sept., 2005), an Extraordinary Writ of Mandamus was filed in the State Supreme Ct., and re-filed on (31 Oct., 2005).

A case number was issued (2005-033371), but not litigated. See:

Sandvik v. U.S., 177 F3d 1269 (11th Cir., 1999).

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Case History; App. 6 (continued)

The Mandamus Writ was (again) re-submitted on (25 Aug., 2013). A new case number was assigned, (2013-001752).

The claim was dismissed on (5 Sept., 2013), misstated as August, decided by C.J. Toal, and Justices Beatty, Kittridge, Hearn, with Pleicanes not participating, citing Key v. Currie. See:

Tattav. Mitchell, 962 FS 21, 22 (E.D. N.Y. 1997).

The Mandamus Writ, etc., was re-filed on (10 Mar., 2016), in (Case # 2016-000587). It was dismissed on (13 Apr., 2016).

However, a Copyright Notice and Material Evidence were omitted by the court in the Order signed by C.J. Pleicanes, and Justices Beatty, Kittridge, Hearn, and Few, citing Key v. Currie.

The exclusions, etc., were objected to on (27 Apr., and 1 June, 2016), but undermined by the Clerk of Court on (6 June, 2016).

An "Emergency" Motion For Reconsideration, Mandamus, etc., was filed on (17 June, 2016), however obscurely, the court issued another dismissal;

signed by C.J. Pleicanes, and Justices Beatty, Kittridge, and Few, with Hearn not participating; on (3 Aug., 2016), for the (10 Mar., 2016) filing only, citing Key v. Currie.

On (29 July, 2016), the Clerk of Court also refused to acknowledge the (17 June) filing following a "Request For Documents" letter Clerk/Dated, proving the filing.

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Case History; App. G (continued)

A new filing was made on (12 Aug., 2016), for Motion of Objections; Summary Judgement; and Motion For More Definite Statements; Copyright Notice and other documents, including more material evidence.

Again, the Copyright Notice and Material Evidence were not acknowledged from this filing, (Case - #2016-001699), dismissed on (22 Sept., 2016), by CJ. Pleicanes, and Justices Beatty, Kitchridge, Hearn, and Few, citing Key v. Currie. See:

Burkett v. Cunningham, 826 F2d 1208 (3rd Cir., 1987)

* See Pg. 25 of 25 (Paragraph)
App. H) A (130)-page Notice of Revised Appeal was filed on (20 Apr., 2018), but destroyed by the Clerk of the S.C. Supreme Court due to the previous "out of time" allegation conflicts from;

(Cases 2016-000587, and 001699), and also the unacknowledged other filings noted above.

However, the same Notice of Revised Appeal containing reversible errors in issues of Warrants; Probable Cause; Double Jeopardy; and Jurisdiction; Procedural Error; 180-Day Rule; Speedy Trial; IAC / IAAC; and (16) pages of Material Evidence;

were filed once again on (20 June, 2018), as a (140)-page package, also filed as part of the (2016-000587) claim due to lack of detailed answers to the constitutional violations persisting.

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Case History ; App. H (continued)

The (140)-page package was belligerantly destroyed by Order of the Chief Justice (only), of the South Carolina State Supreme Court on (23 July, 2018), citing:

In re Maxton, 325 S.C. 3, 478 SE 2d 679 (2003), threatening restrictions. See!

Pou v. Keane, 977 F.S. 577, 582 (N.D. N.Y. 1997).

Notice: This same Notice of Revised Appeal was eventually preserved in public records in Case-# 2015-CV-04516 MBS / PTG IN (ECF's #267, and #269). See! PACER.com.

App. I) A 28 USC § 2254 Habeas Corpus Petition; Writ of Mandamus, Two S.C. Supreme Court Orders dated (Mar. 5, 1999, found in the S.C. Rules of the Court; and 29 July, 2018);

and other documents were filed in the Florence, S.C. Precinct of the Federal District Court.

Even amid my objections with just cause of Judicial misconduct by MBS / PTG stated in the Cover Letter of the (7 Nov., 2018), filing, the case was erroneously forwarded to the Columbia, S.C. Precinct anyway;

and ended up being decided in the Rock Hill, S.C. Precinct (also), on (6 Aug., 2019), by MBS / PTG under Case # 2018-CV-03081 MBS / PTG.

Jurisdiction had again been manipulated, under repeated objections.

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Case History; App. I (continued)

The case was erroneously represented by the State Attorney General's Office for the State of South Carolina initially (twice) in error. (see: ECF's *8, and *10).

See also: Attachment of Certificate of Service by Susannah R. Cole dated (14 Dec, 2018). Reference "Forward" issue of 28 U.S.C. § 2254.

Note also: that a Recusal Motion was filed in (ECF #9), which was eventually overruled by (one of the accused), Mag. Judge PJG, in (ECF #56), followed by contempt also of (MBS, in ECF #66).

The Recusal(s) were re-asserted in (ECF #74), followed by a Motion For Default in (ECF #77), which were again denied by (MBS, in (ECF #78). Case dismissed on (6 Aug, 2019).

App. J) (a)(1) An Affidavit of Notice of Appeal, etc., to the U.S. Court of Appeals was filed in Case # 19-7215 on or about (3 Sept, 2019), along with an Initial Brief, Motion For Default, and other related documents.

Other filings were made on (17 Oct, 2019), in Case # 2018-CV-03081 MBS/PJG, including another Motion For Default that was also not addressed in detail previously, which was again ignored.

App. J) (b)(1) ON (16 Sept, 2019), a Motion To Re-visit based upon after-discovered evidence was also evidenced, in addition to other related

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Case History; App. J)(b)(1) (continued)

Matters concerning (ECF #21). However, on (5-Nov., 2019), an Opinion and Order was issued dismissing the (17 Oct. and 16 Sept., 2019) filings, which included another Recusal Motion against District Judge MBS.

An Affidavit of Notice of Appeal was again filed, on (18 Nov., 2019), with the District Court, and then the U.S. Court of Appeals, et al., on (22 Nov., 2019), filed on (2 Dec., 2019), in Case # 19-7215.

However, the Clerk of Court did not honor the request to have this filing made as a Supplement to Case # 19-7215, so a secondary claim was created as Case # 19-7729, by the Court, (bond fraud).

An dejoinder was again attempted in a (16 Dec., 2019), filing of Case # 19-7729 with the Brief, Matters To Be Included (never acknowledged), and Default Motion.

Upon the Court's (23 Dec., 2019), Order; Dismissed In Part, Affirmed In Part, in an Unpublished Opinion; by Justices Niemeyer, Agee, and Quattlebaum.

The court vaguely referenced the recusal, default, and constitutional issues absent specificity.

App. J)(a)(2) On (7 Jan., 2020), a Rehearing Petition, En Banc was filed For More Definitive Statements, and in the interim, the Clerk of Court withheld filing the (16 Dec., 2019), Brief.

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Case History (Continued)

App. J) (b) (2) ON (27 JAN., 2020), an Order signed generically by the Clerk, denying the Rehearing Petition in Case # 19-7215, as Case-
19-7729 remains independent.

Argument

Probable Cause

During Pre-trial incarceration, (5) Motions To Dismiss (attached), were raised to the General Sessions Court, but were generally ignored until trial when they were wholly dismissed, months later.

Those Motions contained many constitutional issues of reversible error, avoided by ALL jurisdictional officials informed. See:

Dorsey v. Solomon, (D.C. Md.), 435 F.S. 725, 733.

The underlying issues of corruption by conspiracy, fraud, collusion, extortions and more, directly challenged as a "Syndicated Racketeering Scheme", has been completely ignored by every court officer and agency official presented with supporting facts, and independent sources such as news agencies and other tort actions.

However, fundamentally, the ineffective assistance of Counsel of state-appointed attorney's began prior to extradition, for failure to provide warrant(s), counseling, and advocacy to access a law library.

Following extradition, late appointment of Counsel for (4) months did cause a series of other

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Argument; Probable Cause (continued)

reversible error violations, such as no representation at arraignment. See:

Parkus v. Delo, 33 F3d 933, 367 (10th Cir., 1995); then: no preliminary/evidentiary hearing (5), or bond reduction hearing; no investigation for (known) exculpable material; very late reciprication of Discovery material of (16 1/2) months;

nor advocacy for conditions of confinement issues. See: Glock v. Singletary, 84 F3d 385-86 (11th Cir., 1996); and Overcrowding (Act); see also: S.C. Code ANN. § 24-3-1100;

Medical deficiencies by deliberate indifference, See: Estelle v. Gamble, 429 US 97, 104, 97 S.Ct. 285 (1976);

see also: Wilson v. Sester, 501 US 294, 304, 111 S.Ct. 2321, 2326, 115 L.Ed 2d 271 (1991); along with:

serious understaffing creating security issues, resulting in extraordinary injury and fatality incidents related to excessive lockdowns, substantial food rationing, etc.;

and the unenforced State Supreme Court Order for inordinate delay of trial of nearly (17) months, as opposed to the (6) month time limitation; absent a Circuit Court Order;

showing "Exceptional Circumstances" to extend by (90)-day intervals, proved prejudice.

All the above with much more evidenced of contributing factors prevented a fair trial. See:

Robinson v. Norris, 60 F3d 457, 460 (8th Cir., 1995), cert. denied 116 S.Ct. 1344 (1996).

This host of issues expanded to no invitation to either Grand Jury Hearing. See:

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Argument; Probable Cause (continued)

Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984); and also:

U.S. v. Powell, 823 F.2d 996 (6th Cir., 1987)

However, the defective ABWIK warrants were expedited by all court officers (with false veracity of the Sheriff's Supervisor, Lt. James T. Stewart); see attachments of his Investigative Report, Affidavits / Warrants; and lack of trial testimony; who never had direct involvement in the case, and never spoke to either victim, contrary to his Affidavit as hearsay and fraud, for (2) counts of ABWIK.

It is unknown who alleged the weapon Affidavit (or when), utilized for a (3rd) indictment as the basis for the ABWIK charges indicted FIRST.

The weapon indictment was not presented to the defense until the first day of trial, separate from the discovery package produced only two weeks before trial to me;

by Defense Attorney Strickler, with hundreds of pages to sift through to find errors. See:

Williams v. Turpin, 87 F.3d 1204, 1211 (11th Cir., 1996).

An unconsented psychiatric evaluation was also coerced to defame, by the defense counselor (C.-Durham); Dr. Frierson; and Trial Judge, J. Williams, under objection. See:

Miranda v. Arizona, 384 U.S. 436 (1968); and
Motions To Dismiss. See also:

Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L. Ed 2d 821 (1985).

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Argument (continued)

Beyond A Reasonable Doubt.

During the Pre-trial issues phase of General Sessions Court, the trial judge erred by refusing dual-representation which is entitled specifically in the S.C. Constitution, Article 1 § 14, as a state created right.

See: Peters v. GUNN, 33 F3d 1190, 1192-93 (9th Cir., 1994).

All court officers were obligated to move for mistrial based upon the defective warrants, etc., which was transparent from Pre-Trial to Trial by Discovery;

hearings, and lack of testimony by the Affiant(s). The weapon warrant was never questioned except by me, at Direct Appeal, as ADE.

The ABWIK warrants were deceptive by everyone, except when testimonials proved them to be engineered.

But again, I am the only one who has objected to the false veracity of the Affidavits to the warrants.

See: Alabama v. Smith, 490 U.S. 794 (1989).

More reversible errors were made by numerous items of inadmissible evidence presented to the jury, found by a hostile witness months after the investigation was complete;

while exculpatory evidence remained elusive, not investigated or presented circumstantially by Defense Counselor (Stricklar), which clearly undermined a fair defense and denied a full hearing, adversarily.

A detailed list of (arguably) obtainable items were presented on Appeal with the Notice of Revised Appeal, which ~~was transparent from Pre-~~
ADE.

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Argument; Beyond A Reasonable Doubt (continued)

was destroyed (twice), with (16) pages of incul-
pable documents presented, verifying defined
merits.

The exculpatory evidence sought, such as a dest-
royed (911) Tape, an altered Hopkins, S.C. Magist-
rate Report, etc., were available early follow-
ing arrest, as requested in the (5) Motions To
Dismiss, pretrial.

The highly prejudicial closing statement by Def.
Counsel Strickler "He Fired The Shots, He Fired
The Shots", was not only reversible error, but
grounds for disciplinary misconduct, which was
ignored by Appellate Defense Counsel (J. Savitz),
et alia.

My previous complaints in the Motions To Dismiss
requesting new counsel(s) from state appointed
attorneys (C.B. Durham, and D. Strickler), who had
in excess of (50) cases at any given time,

were not reliable, diligent, or loyal which under-
mined trial, and coerced by the trial judge, eg-
regiously.

The (16 1/2) + month pretrial inordinate delay
caused by Solicitors prioritizing guilty pleas
was a blatant diversion, resulting in the State
Supreme Court Chief Justice revoking their auth-
ority following my trial; archived by the State
Newspaper, etc.. See:

U.S. v. Martinez, 77 F3d 332, 335 (9th Cir, 1996).

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Argument (continued)

Preponderance Of The Evidence

Contempt for the law by the S.C. Court of Appeals regarding prisoner rights has been shown in all of the following appellate courts, which has been explicitly exposed in this and other cited cases;

including Case # 2005-CP-40-02925, which is a Cruel and Unusual Punishment claim under Settlement Decree, I am currently appealing. See:

Case # 2015-CV-04516 MBS / PJG; See also:

South Carolina Constitution, Article 12 § 2; and

Farmer v. Brennan, 114 S.Ct. 1970, 1979-81, 128 L.Ed 2d 811 (1994).

This has been at issue for (21) years, and at each critical stage stringently provided, erroneously, but as I noted, I was fraudulently denied a Preliminary / Evidentiary hearing due to ineffective assistance of counsel and judicial misconduct.

No bond reduction hearing or access to Grand Jury hearings deformed the process due, denying equal protections to ensure fairness to redress to the judiciary / government;

the mounting grievances that have never been adequately addressed, causing unlawful imprisonment, loss of liberties, and slander to my person. See:

S.C. Constitution, Article 1 §§ 2, 3, 4, 10, 11, 12, 14-15, and 23.

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Argument; Preponderance of the Evidence

The defective warrants stood as sentries at each gate of review waiting to be noticed; while the constitutionally-backed, State Supreme Court Order dated (5 Mar., 1999);

by Chief Justice Ernest A. Finney, Jr., was ignored along with all the other numerous procedural errors, etc., etc.. See:

Hauck v. Mills, 941 F.S. 683, 687 (M.D. Tenn., 1996).

While the warrants issues are preserved under the Federal Constitution (e.g. 4th and 5th Amendments), the South Carolina Supreme Court Order was enforceable under S.C. Constitution, Art. 5-§ 4, as a state created right. See:

Romero v. Furlong, 25 F.S. 2d 1154, 1158 (D. Colo., 1998).

The state chose not to correct the defective warrants and issue the weapon warrant at the same time as the others, as procedural default.

At each step of the appellate process the truly irrational, consistent "Denied" judgement did not speak of justice, but misused to cover old errors;

and deny warranted relief for Motions and Constitutional Claims that were not even discussed in detail to suggest there was conscientious consideration made in the decisions.

See: Williams v. Taylor, 120 S.Ct. 1495 (2000).

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Argument, Preponderance of The Evidence

Equally contemptful was the State Supreme Court's blatant misuse of the burden shifting civil citation (related to prison work credits), of:

Key v. Currie, 305 SC115, 406 SE 2d 356 (1991); but relied on it exclusively, repeatedly, as an "exceptional circumstances" scapegoat for each of the (6) claims filed, again; absent comments to Motions and/or Constitutional, reversible errors.

Furthermore, this evasive misuse of the erroneous citation excused the General Sessions obligation to provide a series of (4) required (90)-day extensions to explain the delay. See;

U.S. v. Lovasco, 431 US 783, 790, 97 S.Ct. 2044, 2048-49, 52 L.Ed 2d 752 (1977).

Similarly with the Court of Common Pleas for Post-Conviction Relief (PCR), the absolute contempt of state appointed attorney's by not obtaining case files, investigating actionable issues, or even advocating for proven cruel and unusual punishment matters;

proved this to be another meaningless ritual so commonly well known in the appellate process, which multiplied the injuries.

Even the hearing tapes/transcripts from PCR were refused (because none were made), to prove the lack of "one bite at the apple"; and "Emergency" medical intervention was also heinously denied;

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Argument; Preponderance of The Evidence

No witnesses were summoned as requested; and no written order was provided regarding an in-transit injury caused by Sgt. A. Edwards, S.C.D.C. See: Griffin v. Illinois, 351 US 18, 76 S.C. 590, 100 L. Ed. 891 (1956).

There was no directive by Judge Cooper to demand effective assistance by Attorney Johnson, and there remains the threshold question of the very nearly two year wait for the first hearing; considering the lack of preparation(s) by both counselors, and previous inordinate delay misconduct. See:

Donnelly v. De Christoforo, 416 US 637, 645, 94 S.Ct. 1868, 1872, 40 L. Ed 2d 431 (1974).

Arguably, the appeal resumed again in the state supreme court, re-asserting reversible errors not fully adjudicated, and the "crime in progress" warranting injunctive relief by Mandamus, etc., against S.C.D.C.

The issue at bench is whether the merits were fully considered and properly ruled upon, which were not. See:

Sanders v. Ratelle, 21 F3d 1446, 1455 (9th Cir., 1994).

Upon federal review of the Petition for Habeas Corpus relief, the Respondent and Court both consistently erred by falsely suggesting there was a "time limitation" infraction(s) caused by the Petitioner, ignoring the reversible errors.

Habeas Corpus would not have been necessary

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Argument; Preponderance Of The Evidence

had the State Supreme Court relied on their own Court Order for guidance, much less, given respect to the extensive issues made before the S.C. Court of Appeals;

and particularly with a Waiver from the State Attorney General's Office, all before the District Ct./ Respondent's time-limit issues.

The law was in my favor, but due to being a prisoner, relief was not provided. See: Magouirk v. Phillips, 144 F3d 348, 358-60 (5th Cir., 1998).

However, by finally perfecting a Notice of Revised Appeal, while bedridden and grossly undermined by lack of assistance in doing so, obstructions for supplies and mailing services;

no current reference material for legal precedents; continuous injuries inflicted by inadequate healthcare, and alleged abuses... the delay is moot;

as the right to address the state prosecution errors for exhaustion requirements were predominated by tyranny. See:

Jones v. Jernison, 20 F3d 849, 853 (8th Cir., 1994)

The twice-destroyed Notice of Revised Appeal, with original material evidence, was beyond a reckless act(s), but a deliberate attempt to sabotage warranted relief, and entitled rights. See:

Lane v. Brown, 372 US 477, 485, 83 S.Ct. 768, 773, 9 L.Ed. 2d 892 (1963).

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Argument; Preponderance of The Evidence

Similarly, as also presented in the lower courts, the retribution intended by SCDC with court collusions, is by usurping S.C. Code ANN. § 24-13-150 to extend my illegal sentence;

through agency hegemony by (2 years and 8 months), as an extrajudicial "corporal" punishment for bogus charges (while bedridden), and no work credits, see:

U.S. v. Smith (D.C. Ia.), F.S. 515-16;

Cooper v. Taylor, 70 F.3d 1454 (4th Cir., 1995); and

Williams v. Taylor, 163 F.3d 860 (4th Cir., 1998).

Conclusion

As shown, as the legal violations progressed, the lack of procedural compliance was continuous, along with a consistently deliberately indifferent judiciary who misused vague, simplistic "denials and dismissals" to allege justice was performed.

It is clear by the evidence I hereby present to this Court, that the warrants were fundamentally flawed by Lt. James T. Stewart, RCSD, who self-professed he had no involvement in the case after the incident date.

Therefore, he could not have spoken to one of the victims who was comatose (3/14/99), and thus fraudulented his own knowledge assertion and lied about "others" witnessing the same.

Because the State Supreme Court Order time limit was egregiously violated, but constitutionally protected, and it preceded all other alleged time limitations, enacted by Federal Rules of the

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Conclusion (Continued)

court, statutorily imposed, due process was blatantly manipulated by all who knew those facts.

Exoneration from conviction and emancipation from incarceration are clearly warranted in this case.

I attest that all the above facts and statements are true and accurate to the best of my knowledge.

Daniel R. McClain

Pro Se Petitioner's Signature

Pro Se Petitioner's Address below

Daniel R. McClain, # 268976
Turbeville C.I., Infirmary
P.O. Box 252; Room #112
Turbeville, SC. 29162

Notice: * From page 10 of 25 (paragraph)

A Motion For Relief was also filed in the State Supreme Court on (13 Nov., 2019), which was dismissed as (Case # 2017-002341), on (1 Feb., 2018), citing Key v. Currie. DMS.

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Citations of Authorities

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Act of Congress, 28 U.S.C. § 2403 (a)

Alabama v. Smith, 490 US 794 (1989)

Armstrong v. Mango, 380 US 545, 552, 85 S.Ct. 1187, 1191 (1965)

Bounds v. Smith, 430 US 817, 828, 97 S.Ct. 1491, 1498, 52 L.Ed 2d 72, 83 (1977)

Burkett v. Cunningham, 826 F.2d 1208 (3rd Cir., 1987)

Case # 2605-CP-40-02925

Case # 2015-CV-04516 MBS / PJG

Cooper v. Taylor, 70 F.3d 1454 (4th Cir., 1995)

Docket No. 20-ALJ-04-0034 (Law Library)

Donnelly v. De Christoforo, 416 U.S. 637, 645, 94 S.Ct. 1868, 1872, 40 L.Ed 2d 431 (1974)

Dorsey v. Solomon, (D.C. Md.) 435 F.S 725, 733

Estelle v. Gamble, 429 US 97, 104, 97 S.Ct. 285 (1976)

Evitts v. Lucey, 469 US 387, 105 S.Ct. 830, 83 L.Ed 2d 821 (1985)

Farmerv. Brennan, 114 S.Ct. 1970, 1979-81, 128 L.Ed 2d 811 (1994)

Glock v. Singletary, 84 F.3d 385-86 (11th Cir., 1996)

Goldburg v. Kelly, 397 US 254 (1970)

Griffin v. Illinois, 351 US 18, 76 S.Ct. 590, 100 L.Ed. 891 (1956)

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Citations of Authorities (continued)

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Harris v. Champion, 15 F3d 1538
(10th Cir., 1994)

Hauck v. Mills, 941 F.S. 683, 687
(M.D. Tenn., 1996)

In re Maxton, 325 S.C. 3, 470 S.E.
2d 679 (2003)

Jones v. Terrison, 20 F3d 849, 853
(8th Cir., 1994)

Key v. Currie, 305 S.C. 115, 406 S.E. 2d
356 (1991)

Lave v. Brown, 372 U.S. 477, 485, 83
S.Ct. 768, 773, 9 L.Ed. 2d 892 (1963)

Magouirk v. Phillips, 144 F3d 348,
358-60 (5th Cir., 1998)

Miranda v. Arizona, 384 US 436 (1966)

Murray v. Carrier, 106 S.Ct. 2639
(1986)

Overcrowding Act

Parkus v. Delo, 33 F3d. 933, 1367
(10th Cir., 1995)

Peters v. Gunn, 33 F3d, 1190, 1192-
93 (9th Cir., 1994)

Pou v. Keane, 977 F.S. 577, 582 (N.D.
N.Y., 1997)

Powell v. Alabama, 252, 287 US 45,
57 (1932)

Robinson v. Norris, 60 F3d 457, 460.
(8th Cir., 1995), cert. denied 116 S.
Ct. 1344 (1996)

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Citations of Authorities (Continued)

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Romero v. Furlong, 25 F.S. 2d 1154,
1158 (D. Colo., 1998)

Rumsfeld v. Padilla, 542 U.S. 426,
434-35 (2004)

Sanders v. Ratelle, 21 F.3d. 1446, 1455
(9th Cir., 1994)

Sandvik v. U.S., 177 F.3d 1269 (11th
Cir., 1999)

S.C. Code Ann. § 24-3-1100

S.C. Code Ann. § 24-13-150

S.C. Constitution, Article(s) 1 § 2, 3,
4, 10-12, 14, 15, and 23;

Article 5 § 4

Article 12 § 2

S.C. Rules of the Court

Strickland v. Washington, 466 US 668,
104 S.Ct. 2052 (1984)

Tattav. Mitchell, 962 F.S. 21, 22 (E.D.N.Y.,
(1977)

U.S. Constitution, 1st Amendment;
4th and 5th Amendments

U.S. v. Lovasco, 431 U.S. 783, 790, 97
S. Ct. 2044, 2048-49, 52 L. Ed 2d
752 (1977)

U.S. v. Martinez, 77 F.3d 332, 335
(9th Cir., 1996)

U.S. v. Powell, 823 F.2d 996 (6th Cir,
1987)

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Citations of Authorities (continued) Pg. No. (5)

U.S. v. Smith, (D.C., Ia.), FS 515-16

Williams v. Taylor, 120 S. Ct. 1495
(2000)

Williams v. Taylor, 163 F3d 860
(4th Cir., 1998)

Williams v. Turpin, 87 F.3d 1204, 1211
(11th Cir., 1996)

Wilson v. Seiter, 501 U.S. 294, 304,
111 S.Ct. 2321, 2326, 115 L. Ed. 2d
271 (1991)

End D.M.S.^a

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In The United States Supreme Court
Appeal From Fourth Circuit Court of Appeals

Case # 19-7215, From
2018-CV-03081 MBS / PJG

In re Mr. Daniel R. McClain^o,
Pro Se Petitioner,

vs.

Turbeville Correctional Institution Warden,
Respondent,

Matters To Be Included In Petition For Writ of
Certiorari

- 1) One page Investigative Report Submitted By:
Lt. James T. Stewart;
- 2) Two Arrest Warrants / Affidavits No.'s F-898-
527-28;
- 3) Two Sentencing Sheets of Indictments # 99-
63-40-40158-159;
- 4) Two pages, (1) Indictment (True-Billed), and (2)
Sentencing Sheet of Indictment # 00-GS-40-
48940 (A/w # DP 00042);
- 5) One page State Waiver From S.C. Attorney
General's Office dated (May 23, 2002);
- 6) One page Certificate of Service By Attorney For
Respondent (Susannah R. Cole), dated (14 Dec-
ember, 2018);
- 7) One page Certificate of Service By (Appellant)
dated (Aug. 15, 2001), To S.C. Court of Appeals;

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Matters To Be Included In Petition For Writ of
Certiorari (Continued)

- 8) (5) Motions To Dismiss dated (3 Dec., 1999; 15-Mar., 23 Mar., 16 Apr., and 4 May, 2000).
- 9) One page Correspondence By T.D. Shurling dated (June 28, 2004);
- 10) One page S.S. Supreme Ct. Order dated (Mar.-5, 1999);
- 11) Three pages, Discovery Checklists dated (7/23, 7/30/1999; and 1/27/2000); and
- 12) One page Preliminary Hearing Notice dated (4/5/99).

D. R. McClain

Pro Se Petitioner's Signature

Pro Se Petitioner's Address Below

Mr. Daniel R. McClain^o, # 268976
Turbeville C.I., Infirmary
P.O. Box 252; Room #112
Turbeville, S.C. 29162

Pg. (vi), Pg. 1 of 3

IN The United States Supreme Court
Appeal From Fourth Circuit Court of Appeals, S.C.

Case # ~~19~~ 7215, From
2018-CV-03081 MBS/PJG

IN re Mr. Daniel R. McClain^o,
Pro Se Petitioner,

vs.

Turbeville Correctional Institution Warden,
Respondent.

Affidavit of Motion For Leave To File Motion For Re-
lief By Cross-Claims

Pursuant to Rules (17.3, and 21 (2)(2)), U.S. Sup. Ct.,
the following relief is sought by the Petitioner for the
following just cause.

As facts assert in the attached Affidavit of Petition
For Writ of Certiorari, they describe substantial
violations that encroach(ed) upon my civil liberties
that are/were clearly obvious by illegal custody,
then, conviction caused by vindictive prosecution;
in extraordinary procedural errors and denials of
required hearings for the warrants as the record
shows.

Preventable measures should have been taken to pre-
vent an erroneous sentence and illegal incarceration,
such as enforcement of the S.C. Supreme Court Order
in question.

Therefore, each judge noted from extradition (Judge
Jenlin (sic); to arraignment (Judge Cuff); trial
(Judge Williams); direct appeal (Justices Huff, Still-
well, and Howard); S.C. Supreme Court (Justices Tol,
Plecanes, Beatty, Moore, Walker, Blume, Kitttridge,

Pg. (v)

In The United States Supreme Court
Appeal From Fourth Circuit Court of Appeals, S.C.

Case # 19-7215, From
2018-CV-03081 MBS / PJG

In re Mr. Daniel R. McClain^o, Pro Se Petitioner,

v.s.

Turbeville Correctional Institution Warden,
Respondent.

CERTIFICATE OF COMPLIANCE

As required by Supreme Court (Rule 33.1 (h)), I certify that the Petition for Writ of Certiorari, etc., attached contains LESS THAN 9000 Words;

excluding the parts of the petition that are exempted by Supreme Court Rule (33.1 (d)).

I further object to the restriction(s) listed in said Rule(s), as being repugnant to the United States Constitution in light of Amendment (5) (1, 5, and 14). It is unlawful. DMC^o

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

Executed on this 11th day of March, 2020.

Daniel R. McClain^o

Pro Se Petitioner's Signature

Pro Se Petitioner's Address Below

Mr. Daniel R. McClain^o, # 268976
Turbeville C.I., Infirmary
P.O. Box 252; Room # 112
Turbeville, S.C. 29162

Pg. (vi), Pg. 2 of 3

Affidavit of Motion For Leave To File Motion For
Relief By Cross-Claims

Hearn, and Few);

in addition to the S.C. Attorney General's and Staff
Assistants (Condon, Richardson, Wilson, Brown,
and Cole);

and including Federal Mag. Judge (Gossett), Fed.
Dist. Judge (Seymour); and U.S. Court of Appeals
Justices (Niemeyer, Agee, and Quattlebaum);

were fully informed by the record, but heinously
colluded consent to advance the fraud, extend
the injuries and slander; and extend illegal
bonds by Racketeering.

The "broken system" has been well-exposed since
the (2014) judgement against the South Carolina
Department of Corrections, followed by riots, and
an extraordinary volume of injuries and fatalities
highlighted.

Whether it be:

Estelle v. Gamble, 429 U.S. 97, 104, 97 S.Ct. 285
(1976); or

Strickland v. Washington, 466 U.S. 668, 104 S.Ct.
2084;

from either standpoint, the Court's officers were
required to end prosecution and defend civil lib-
erties, but did not, in error.

As a result, tangible sanctions and punitive
compensatories are hereby sought against the
above listed individuals charged to enforce

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Affidavit of Motion For Leave To File Motion For
Relief By Cross-Claims.

state and federal laws.

D. R. McCLain

Pro Se Petitioner's Signature

Pro Se Petitioner's Address Below

Mr. Daniel R. McCLain, # 268976
Turbeville C.I., Infirmary
P.O. Box 252; Room #112
Turbeville, S.C. 29162