

21-5945 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUN - 1 2021
OFFICE OF THE CLERK

BOBBY JOE BARTON - PETITIONER

SCOTT B. LEWIS, WARDEN - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS, THE FOURTH (4TH) CIRCUIT

PETITION FOR WRIT OF CERTIORARI

BOBBY JOE BARTON
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PRO SE REPRESENTATION

STATEMENT OF ISSUES ON APPEAL

- I. WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO ADEQUATELY CONVEY A FORMAL PLEA OFFER AND ITS TERMS AND CONDITIONS?
- II. WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO INADMISSIBLE TESTIMONY?
- III. WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO PERJURED TESTIMONY USED BY THE PROSECUTION?
- IV. WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO THE PROSECUTION'S USE OF IDENTIFICATION BY WAY OF MUG SHOT MAGAZINE?

NOTES TO THE PROCEEDING

PETITIONER IS BOBBY JOE BARTON, PETITIONER WERE THE PLAINTIFF IN THE DISTRICT COURT PLAINTIFF WERE APPELLANT IN THE COURT OF APPEALS, FOURTH (4TH) CIRCUIT.

RESPONDENT(S) ARE SCOTT B. LEWIS, WARDEN AT PERRY CORRECTIONAL INST. AND HIS ATTORNEYS, ASSISTANT TO ATTORNEY GENERAL OFFICE OF S.C., SHANNAH R. COLE, AND MELDY JANE BROWN AND WERE DEFENDANTS-APPELLEES IN THE COURT OF APPEALS (4TH) CIRCUIT INCLUDING #1.) SC Ct. APPS, #2.) S. Ct. SC, #3.) Ct. OF COM'N PLEAS (P.C.R.) (KAREN RATGAN FOR SC), #4.) S. Ct. SC, #5.) D. Ct. SC BEAUFORD, & #6.) THE UNITED STATES Ct. APP. (4TH) CIRCUIT, ALSO L. MARK MOYER, FOR PROSECUTION AT TRIAL.

RELATED CASES

ALCORTA V. TEXAS, 355 U.S. 28, 78 S.Ct. 103 (1957)
BELL V. STATE, 410 SC 436, 765 S.E.2d 4 (Ct. APP. 2014)
DAVIE V. STATE, 381 SC 601, 675 S.E.2d 416 (SC, 2009)
HILL V. LOCKHART, 474 U.S. 52, 106 S.Ct. 366 (1985)
LAFLER V. COOPER, 566 U.S. 156, 132 S.Ct. 1376 (2012)
MISSOURI V. FRYE, 566 U.S. 134, 132 S.Ct. 1399 (2012)
MOONEY V. HOLLOMAN, 294 U.S. 103, 55 S.Ct. 340 (1935)
STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052 (1984)
U.S. V. HALL, 989 F.2d 711 (U.S. Ct. APP, 4TH CIR., 1993)
U.S. V. HILLARD, 569 F.2d 143, 186 U.S. APP. DC 3121 (1977)
WILLIAMS V. UNITED STATE, 572 U.S. 574, 114 S.Ct. 243 (1994)

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APPENDIX-F	DECISION OF UNITED STATE COURT OF APPEALS (4th CIR.)

EXHIBITS

- 1) EXHIBITS, #1, #2, #3, #4, #9, #10, #11, & #12, INCLUDED, P.C.R. EXHIBITS;
- 2) EXHIBITS, A, B, C, D, E, F, G, H, & I. INCLUDED, SUPPLEMENTAL;
- 3) P.C.R. TRANSCRIPT, (ORIGINAL COPY) INCLUDED.

TABLE OF AUTHORITIES CITED

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATUTORY AUTHORITY

1.) CONSTITUTIONS

a.) U.S. CONST. AMEND. VI.

U.S. CONST. AMEND. XIV.

FEDERAL CONST. AMEND. V.

b) SC CONST. ART. 1 § 3 & 14

STATUTES AND RULES

1) FEDERAL RULES OF EVIDENCE, "RULE 802," THE RULE AGAINST HEARSAY

SC RULE EVIDENCE, "RULE 802," THE RULE AGAINST HEARSAY

FEDERAL RULES OF EVIDENCE, RULE 404

SC RULE EVIDENCE, RULE 404

OPINIONS BELOW

THE FOURTH CIRCUIT OF THE UNITED STATES COURT OF APPEALS DISMISSAL OF THIS CASE IS UNPUBLISHED BUT IS AVAILABLE AT 819 Fed. Appx. 183. THE COURT'S ORDER DENYING REHEARING EN BANC AND DISSENTS IS ATTACHED IN THE APPENDIX F. THE DISTRICT COURT'S MEMORANDUM OPINION AND ORDER IS UNPUBLISHED, BUT IS AVAILABLE AT 2017-WL-1416887 AND DISMISSED ON MARCH 29, 2019. ATTACHED APPENDIX E.

STATE COURTS:

THE HIGHEST STATE COURT TO REVIEW THE MERITS APPEARS AT APPENDIX D AND DECIDED ON FEBRUARY 15, 2018 (SC SUP. CT.) APPELLATE CASE NO. 2016-000995

OPINIONS BELOW

STATE COURTS:

THE COURT OF COMMON PLEAS' POST CONVICTION RELIEF PETITION WAS ACCEPTED. CASE NO. # 2014-CP-23-5047 AND WAS DISMISSED ON MARCH 14, 2016 AND APPEARS AT APPENDIX C.

THE OPINION OF THE SOUTH CAROLINA COURT OF APPEALS APPEARS AT APPENDIX B TO THE PETITION AND; REPORTED AT NO. 2013-UP-058; AND IS UNPUBLISHED

THE TRIAL COURT 13th JUDICIAL CIRCUIT, "GENERAL SESSIONS CASE NO. 2009-GS-23-10018, #1) ARMED ROBBERY, & #2) POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME APPEARS AT APPENDIX A, INDICTMENT(S), RETURNED VERDICTS, & SENTENCE FORM, AND ARREST WARRANT(S).

JURISDICTION

THE FOURTH CIRCUIT ISSUED ITS JUDGMENT ON SEPTEMBER 4, 2020 A EXTENSION OF TIME TO FILE A REHEARING EN BANC AND WAS GRANTED AN APPEARS AT APPENDIX F (FOURTH CIR. Ct. OF APPEALS FOR THE UNITED STATES) HOWEVER THE REHEARING WAS DENIED ON JANUARY 7, 2021 AND A COPY OF THE ORDER DENYING REHEARING APPEARS AT APPENDIX F. THE PETITION OF WRIT OF CERTIORARI WAS FILED ON JUNE 1, 2021 AND THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 1254(1). HOWEVER DUE INCOMPLETENESS OF AFFIDAVIT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS IT WAS REFILED ON AUGUST 23, 2021.

JURISDICTION

THE FOURTH CIRCUIT ISSUED ITS JUDGMENT ON SEPTEMBER 4, 2020, PETITION FOR REHEARING DENIED ON JANUARY 7, 2021. THE PETITION FOR WRIT OF CERTIORARI WAS FILED ON JUNE 1, 2021, AND IS WHERE THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 1254(1) HOWEVER THIS APPLICATION HAD TO BE REFILED ON AUGUST 23, 2021.

RELEVANT CONSTITUTIONAL PROVISION

AMENDMENT VI TO THE CONSTITUTION, IN PERTINENT PART:

"IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT... TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE... WHICH ENCOMPASSES THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL

AMENDMENT XIV TO THE CONSTITUTION, IN PERTINENT PART:

"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.

STATEMENT OF THE CASE

ON FEBRUARY 16, 2010, THE GREENVILLE COUNTY GRAND JURY INDICTED BOBBY JOE BARTON AND PATRICIA RICE ON THE CHARGES OF ARMED ROBBERY AND POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME. THE PROSECUTION DISMISSED CHARGES AGAINST PATRICIA RICE ON JULY 13, 2010 AND BY PASSED THE JULY 12, 2010 JURY TRIAL AGAINST APPELLANT, THE APPELLANT (BOBBY BARTON) WAS REPRESENTED AGAINST HIS WILL BY SUSANNAH ROSS, AND MARK MOYER REPRESENTED THE STATE. THE JURY FOUND BOBBY BARTON "NOT GUILTY" OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, "FOUND GUILTY" OF ARMED ROBBERY. THE HONORABLE JUDGE MILLER SENTENCED BARTON TO TWENTY (25) FIVE YEARS. BARTON FILED A NOTICE OF APPEAL ON JANUARY 17, 2012 (CT. APP. 2010-169826). THE COURT OF APPEALS AFFIRMED BARTON'S CONVICTION AND SENTENCE ON JANUARY 30, 2013, "STATE V. BARTON," APP. NO. 2013-UP-058. THE COURT OF APPEALS ISSUED AN ORDER DENYING THE PETITION ON MARCH 20, 2013. A PETITION FOR WRIT OF CERTIORARI WAS FILED AND ON JULY 11, 2014, IT WAS DENIED. THE REMITTAR WAS SENT ON JULY 25, 2014 TO THE LOWER COURT.

ON SEPTEMBER 12, 2014 THE PETITIONER FILED AN APPLICATION FOR POST-RELIEF (P.C.R.) APPLICATION, THE STATE FILED ITS RETURN ON DECEMBER 14, 2014. ATTORNEY CAROLINE M. HORLBECK, WAS APPOINTED TO REPRESENT THE APPLICANT AND ATTORNEY KAREN C. RATIGAN WAS ASSIGNED TO REPRESENT THE STATE. A EVIDENTIARY HEARING WAS HELD ON FEBRUARY 18, 2016 BEFORE THE HONORABLE DANIEL DEWITT HALL. PRIOR TO THE ACTUAL HEARING IT WAS BROUGHT TO THE ATTENTION OF THE P.C.R. COURT THAT THE TRIAL JUDGE EDWARD MILLER RECEIVED AN EX PARTE MOTION FOR FUNDING CONCERNING TRANSCRIBING

TWO (2) PRELIMINARY HEARING TAPES AND AN INVESTIGATOR TO LOCATE (2) OR (3) LOCAL WITNESSES IN THE GREENVILLE AREA AND HE DENIED BOTH MOTIONS EVEN THOUGH HE WAS NOT AN ADMINISTRATIVE JUDGE WHEN HE RECEIVED THEM. JUDGE HALL DENIED THE PETITIONERS POST-CONVICTION RELIEF MOTION AND ISSUED AN "ORDER OF DISMISSAL" ON 14TH DAY OF MARCH, 2016. (C/A. 2014-CP-23-5047) AND FILED ON MARCH 30, 2016. PETITIONER WAS GRANTED PERMISSION TO PROCEED PRO SE COUNSEL ON THE 2ND DAY OF NOVEMBER, 2016 DUE TO MISREPRESENTATION OF COUNSELOR APPOINTED HOWEVER NO STANDBY COUNSEL WAS APPOINTED. WRIT-TO-CERTIORARI WAS FILED ON THE 18TH DAY OF JANUARY, 2017. THE RESPONDENT (STATE) NEVER FILED A RETURN AS REQUIRE BY LAW HOWEVER THE SUPREME COURT OF SOUTH CAROLINA DID NEGLIGENCELY DENY PETITIONERS SECOND APPEAL ON THE ACCURACY OF THE TRANSCRIPTS OF THE EVIDENTIARY HEARING BASING ITS REASONS ON NOTE (2) OF THE DENIAL ORDER STATING THAT THE PRISON STAMP WAS JANUARY 4, 2016. PETITIONER DISPUTE THIS AS BEING ERRORED THROUGH DOCUMENTATION. THE APPELLANT DID FILE A HABEAS CORPUS TO THE DIST. COURT OF SOUTH CAROLINA ON 21ST DAY OF MARCH, 2018. (C.A.#9:18-CV-00-748-RBH) AND IT WAS DISMISSED ON THE 11TH DAY OF DECEMBER, 2018 AND DENIED MOTION FOR C.O.A. ALSO ON 21ST DAY OF JUNE, 2019. APPELLANT FILED AN APPEAL TO THE COURT OF APPEALS FOURTH (4TH CIR) IN RICHMOND, VIRGINIA. ON 4TH DAY OF SEPTEMBER, 2020, IT WAS DENIED. APPELLANT FILED FOR AN REHEARING AND AFTER SEVERAL REQUEST FOR EXTENSIONS OF TIME, THE COURT OF APPEALS, U.S. DENIED THE REHEARING ON THE 1ST DAY OF JANUARY, 2021. AND THIS BRINGS APPELLANT TO THE SUPREME COURT OF THE UNITED STATES, WITH THIS WRIT-TO-CERTIORARI'D BEFORE THIS HONORABLE COURT;

ARGUMENT - #1

1. TRIAL COUNSEL WAS INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO ADEQUATELY CONVEY THE PLEA OFFER AND ITS TERMS AND CONDITIONS,

A. HOW THIS ISSUE AROSE

ATTORNEY SUSANNAH ROSS WAS APPOINTED TO REPRESENT DEFENDANT BY THE PUBLIC DEFENDERS OFFICE ON AUGUST 6, 2009. DEFENDANT INTERACTED WITH COUNSEL AND SHARE WITH HER WHAT REALLY HAPPENED IN THIS CASE BUT CLEAR STATED THAT THIS CASE INVOLVED THE VICTIM ATTEMPTING TO PUR-
SE NARCOTICS (CRACK) AND AT THE SAME TIMES SOLICITED SEX (PROSTITU-
TION) FROM CO-DEFENDANT AND AT NO POINT IN THIS TRANSACTION WAS THE
VICTIM PHYSICALLY TOUCHED OR FORCED TO GIVE HIS MONEY AWAY. COUN-
SEL KNEW THE STORY AND HAD ALL THE EVIDENCE IN DISCOVERY TO GET THE
WEAPON CHARGE DISMISSED BUT WOULD NOT ARGUE THE MOTION TO SUPPRESS
THE WEAPON CHARGE IN THE PRELIMINARY STAGE OR BEFORE TRIAL. THERE
WERE NO EVIDENCE TO SUPPORT A WEAPON CHARGE, NO STATEMENTS FROM
THE VICTIM OR CO-DEFENDANT (PATRICIA RICE). IN THE POLICE SUPPLEMENT
REPORT (MS. RICE) STATES "I NEVER SAW A KNIFE" See (SUP. REPORT - #
0900018309, EXHIBIT - A, 3rd PAR. LINE, 687). SUSANNAH ROSS CAME TO
VISIT SIX (6) TIMES FREELY AND VOLUNTARILY WITHOUT DEFENDANT REQUESTING
THAT SHE COME, See (P.C.R. EXHIBIT - #3) THE SIXTH (6th) VISIT WHEN
DEFENDANT ENTERED THE CONFERENCE ROOM "COUNSEL SAID THEY ARE OFFER-
ING YOU FIFTEEN (15) YEARS." "I SAID WHAT? COUNSEL THEN SAID "THEY
OFFERING YOU FIFTEEN (15) YEARS AND SAID THAT'S THE BEST THAT I
CAN DO. COUNSEL THEN STARTED YELLING AND SAYING "YOU KNOW YOU
ROBBED THAT MAN, AND WENT ON TO SAY "THAT'S ALL YOU PEOPLE DO, IS
ROB THOSE HARD WORKING PEOPLE." WHEN COUNSEL ACCUSED ME

OF COMMITTING THE ROBBERY. WE HAD WORDS BECAUSE I NEVER ADMITTED TO COMMITTING AN ARMED ROBBERY THROUGH ACTIONS OR WORDS, I KNEW THAT COMMUNICATIONS HAD BROKEN DOWN BECAUSE THIS WAS THE SECOND (2ND) SUCH ACT AGAINST ME BY COUNSEL. THE FIRST ONE WAS AT THE SECOND (2ND) PRELIMINARY HEARING WHERE COUNSEL INTERRUPTED LEAD INVESTIGATOR MICHAEL JARVIS WHERE HE WAS DESCRIBING THE ALLEGED KNIFE AND COUNSEL INTERRUPTED HIS SPEECH AND SAID THERE IS NO DESCRIPTION OF A WEAPON! THIS STATEMENT STOPPED HIM IN MID SENTENCE. HE THEN RECALLED THE DESCRIPTION AND SAID THERE WAS NO DESCRIPTION HOWEVER COUNSEL DID NOT MAKE A MOTION FOR THIS CHARGE (POSS. WEAPON) BE DISMISSED, NOR DID SHE MAKE A MOTION TO SUPPRESS THE WEAPON! COUNSEL THEN REVEALED TO THE PROSECUTION ON RECORD THAT "MS. RICE" WAS THE DEFENDANT'S COMMON-LAW WIFE! COUNSEL ASK THE INVESTIGATOR DID HE KNOW THAT? INV. JARVIS REPLIED NO! HE DID NOT KNOW THAT. See; (PATRICIA R. RICE STATEMENT # 09-118309 EXHIBIT # B & TRIAL TRANSCRIPT (TR. 96, II, 25 - TR. 97, II, -6) MS. RICE LEAD THE PROSECUTION BELIEVE THAT SHE DID NOT LIKE OR KNOW THE DEFENDANT. See; TRIAL TRANSCRIPT. TR. 6, II, 6 - THRU TR. 11, II, -14). THE PROBLEMS HAPPENED ON NOVEMBER 12, 2009 BEFORE JUDGE DAVIS. JUDGE LATOYASIMMONS ORDERED A SECOND PRELIMINARY HEARINGS ON THE SAME CHARGES DUE TO THE FACT THAT INVESTIGATOR JARVIS WROTE A FALSE STATEMENT AND SWORE UNDER OATH TO GET AN ARREST WARRANT FOR "POSSESSION OF A DEADLY WEAPON" [WARRANT # I-478798] See; (APPENDIX # A) INV. JARVIS MADE THIS STATEMENT FOR A WARRANT AND TO THE GRAND JURY BUT DENIED HAVING A WITNESS TO SEEING A KNIFE DURING TRIAL. NOW WHEN COUNSEL ACCUSED DEFENDANT OF COMMITTING AN ROBBERY, THE DEFENDANT RETURNED TO HIS CELL IN THE DETENTION CENTER, THIS WAS ON JANUARY 29, 2010. ON THIS DATE AT THIS CONFERENCE MEETING TRIAL COUNSEL SUSANNAH RICE NEVER AT ANY POINT OR TIME SAY

THAT THIS IS A FORMAL PLEA OFFER IN WRITING FROM THE STATE. COUNSEL DID NOT SAY I HAVE A COPY FOR YOU TO READ FOR YOURSELF. THE DEFENDANT HAS A G.E.D. AND ONE (1) YEAR COMMUNITY COLLEGE EXPERIENCE, COUNSEL DID NOT STATE THE FIFTEEN (15) YEARS OFFER IS FOR STRONG ARM ROBBERY, THE LESSER OFFENSE OF ARMED ROBBERY. COUNSEL NEVER EVEN SAID THEY ARE WILLING TO DISMISS THE WEAPONS CHARGE, THIS CHARGE WAS FABRICATED UNDER OATH BY INVESTIGATOR MICHAEL JARVIS. THE DEFENDANT FILED A FORMAL COMPLAINT AGAINST THIS DETECTIVE CONCERNING THIS CHARGE OF "POSS. OF DEADLY WEAPON" WITH INTERNAL AFFAIRS ON 1TH DAY, FEBRUARY, 2010 AND PLACED A COPY WITH THE CLERK OF COURTS OFFICE AND IT WAS FILED ON 2ND DAY OF MARCH, 2010. TRIAL COUNSEL NEVER STATED THERE WERE TERMS AND CONDITIONS OF THE ACTUAL PLEA OFFER, SUCH AS THE FIFTEEN (15) YRS. COULD BE EITHER SUSPENDED TO AN EIGHT (8) YEAR SENTENCE WITH PROBATION OR A STRAIGHT UP FIFTEEN (15) YEAR SENTENCE AND COOPERATE WITH THE STATE IN PROSECUTING ALL THOSE INVOLVED IN THE ROBBERY, ALSO POSSIBLE PROBATION WITH THE SUSPENDED SENTENCE. COUNSEL NEVER STATED THE PLEA OFFER HAD A EXPIRATION DATE OF APRIL 30, 2010 NEITHER DID COUNSEL EVER MAIL A COPY OF THE PLEA OFFER TO THE DEFENDANT. JANUARY 29, 2010 WAS THE ONLY TIME (LAST TIME) THE DEFENDANT SAW TRIAL COUNSEL WHERE THE WINDOW WAS STILL OPEN CONCERNING THIS UNCONVEYED PLEA OFFER. COUNSEL RETURNED ON JULY 7, 2010 AND JULY 8, 2010 AND COUNSEL NEVER ASK OR STATED ANYTHING ABOUT A PLEA OFFER. DEFENDANT PROCEEDED TO TRIAL WAS CONVICTED FOR ARMED ROBBERY AND NOT GUILTY FOR POSSESSION OF A DEADLY WEAPON DURING THE COMMISSION OF A VIOLENT CRIME. THE DEFENDANT BECAME AWARE OF THE STATES FORMAL PLEA OFFER AFTER REQUEST THE CLIENTS' FILE FROM THE PUBLIC DEFENDERS OFFICE ON 7TH DAY OF JANUARY, FROM PERRY CORRECTION INST. THE YEAR OF 2011 AND IT WAS RETURN TO THE DEFENDANT IN THE MONTH

OF FEBRUARY, 2011, THE COMPLETE CLIENTS FILE WITH A WRITTEN FORMAL PLEA OFFER FROM THE STATE TO THE DEFENDANT. THIS WAS THE FIRST TIME THE DEFENDANT EVER BECAME AWARE THE STATE WAS OFFERING HIM A PLEA OFFER FOR "STRONG ARM ROBBERY" IN WHICH HAD HE KNOWN, HE WOULD HAVE ACCEPTED AND NOT GONE TO TRIAL BECAUSE OF THE EIGHT (8) YEAR SENTENCE AND THE DISMISSAL OF THE WEAPONS CHARGE.

B. STANDARD OF REVIEW

"THE COURT OF APPEALS MISAPPLIED THE "STICKLAND" STANDARD FOR INEFFECTIVE ASSISTANCE OF COUNSEL WHICH VIOLATED THE APPELLANTS' SIXTH AND FOURTEENTH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL." McMANN V. RICHARDSON, 397 U.S. 759, 771, n. 14 (1970). THE COURT OF APPEALS ERRORED IN DENYING RELIEF BASED ON AN UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED AT THE HEARING. DEFENDANT IS ENTITLED TO EFFECTIVE REPRESENTATION IN THE PRELIMINARY STAGE IN WHICH COUNSEL'S DEFICIENT PERFORMANCE PREJUDICED THE APPELLANT IN THE LOSS OF THE PLEA OFFER. "HILL V. LOCKHART", 474 U.S. 52, 106 S. Ct. 366 (1985) "DISTINGUISHED!"

APPELLANT ASK THE COURT TO TAKE NOTE THAT THIS CLAIM WERE HEARD IN THE COURT OF COMMON PLEAS IN "POST CONVICTION RELIEF (P.C.R.) HEARINGS" AND "C/A NO. 2014-CP-23-5047". THE TRANSCRIPT AND EXHIBITS ARE THE OFFICIAL RECORD OF THE TESTIMONY GIVEN, THIS HEARING WAS HELD ON FEBRUARY 18, 2016.

THE APPELLANT TESTIFIED THAT COUNSEL FAILED TO CONVEY THE FORMAL PLEA OFFER AND ITS TERMS AND CONDITIONS ALSO THAT COUNSEL DID

NOT INFORM APPELLANT WITH INFORMATION INCLUDED WHEREAS HE COULD MAKE AN INFORMED DECISION. ON JANUARY 29, 2010 AT THAT MEETING WITH COUNSEL AS REFERRED TO AS "HOW THIS AROSE" WHEREAS COUNSEL SAID THEY ARE OFFERING YOU FIFTEEN (15) YEARS BUT DID NOT CLARIFY OR EXPLAIN THE THE OFFER WAS FOR STRONG ARM ROBBERY. THE APPELLANT WAS OFFICIALLY INDICTED FOR ARMED ROBBERY WHICH UNDER SC LAW §16-11-330(A) IS PUNISHABLE NOT LESS THAN (10) YEARS AND NO MORE THAN (30) YRS, HOWEVER STRONG ARM/COMMON LAW ROBBERY §16-11-325 IS PUNISHABLE NOT MORE THAN (15) YEARS, THEREFORE BY COUNSEL ONLY SAYING THEY ARE OFFERING YOU (15) YRS, WITHOUT DISTINGUISHING THESE TWO, THERE WAS NO WAY FOR APPELLANT TO HAVE THE PROPER INFORMATION TO MAKE AN INFORMED DECISION, COUNSEL DID NOT GIVE A COMPLETE TESTIMONY OF THE TERMS AND CONDITION OF THE PLEA OFFER AS THE APPELLANT ALLEDGE AGAINST COUNSEL.

APPELLANT TESTIFIED AGAINST COUNSEL ALLEDGING IN-EFFECTIVE ASSISTANCE OF COUNSEL. See (P.C.R. TR. 16, II. - 10-THRU-TR. 24, II. - 4.). APPELLANT TOOK THE STAND AND TESTIFIED IN HIS BEHALF PRESENTING TO THE COURT A TRUE COPY OF THE FORMAL PLEA OFFER AND PLACE IT INTO EVIDENCE AS EXHIBIT #1. (ATTACHED TO BRIEF!) [2] APPELLANT TESTIFIED BEFORE THE COURT HAD HE KNOWN THE PLEA OFFER WAS FOR STRONG ARM ROBBERY AND THE CHARGES WOULD BE DISMISSED FOR POSSESSION OF A DEADLY WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, HE WOULD HAVE ACCEPTED THE THE PLEA OFFER FOR THE LESSER OFFENSE AND MUCH LESSER OF TIME AND WOULD NOT HAVE GONE TO TRIAL [3] APPELLANT ALSO STATES THAT THERE IS NO INDICATIONS ONE WAY OR THE OTHER THAT THE JUDGE WOULD NOT HAVE ACCEPTED THE PLEA DUE TO THE EVIDENCE REVEALS THE

VICTIM WAS NOT HURT, NOR DID NOT HAVE ANY BRUISES ON HIM. See (TRIAL TRANSCRIPT TR 155, II, 6 - THRU TR 156, II, - 4.) APPELLANT ALSO ENTERED INTO EVIDENCE OF HIS SWORN "AFFIDAVIT" "EXHIBIT-#2" AS TO THE TRUTH ABOUT COUNSEL FAILING TO CONVEY THE PLEA OFFER AND DETAILS HOW APPELLANT CAME ABOUT THIS INFORMATION, WHEN AND WHERE AND THIS BEING THE FIRST TIME EVER KNOWING OF A PLEA OFFER, EVER EXISTED. See (P.C.R. TR. 23, II, 4 - THRU TR. 24, II, - 13.). APPELLANT TESTIFIES CONCERNING COUNSEL'S VISITATIONS TO HIM IN THE COUNTY JAIL IN WHICH THEY ALL WAS VOLUNTARY BY COUNSEL. THIS "PROFESSIONAL VISITATION SHEET" WAS ENTERED INTO EVIDENCE AS "EXHIBIT-#3" SUPPORTS APPELLANT'S TESTIMONY THAT COUNSEL VISITED HIM ON JANUARY 29, 2010 ON THE DATE THAT SHE FAILED TO CONVEY THE PLEA OFFER AND DID NOT STATE THE TERMS AND THE CONDITIONS OF THE OFFER. See (P.C.R. TR. 25, II, 12 - THRU TR. 27, II, - 21). APPELLANT ASK THIS COURT TO PLEASE TAKE NOTE TO OTHER EVIDENCE SOME FORMERLY INTRODUCED INTO EVIDENCE AND SOME HAVE NOT BEING INTRODUCED INTO EVIDENCE, ALL IS RELEVANT. HOWEVER NONE IS INTRODUCED TO CHANGE THE SCOPE OF THE CLAIM. See, MISSOURI V. FITE, "566 U.S. 134, 132 S.Ct. 1399 (2012)"

COUNSEL TESTIFIED THAT SHE INFORMED THE DEFENDANT OF THE PLEA OFFER AND ITS TERMS AND CONDITION. See (P.C.R. TR. 82, II, 2 - THRU TR. 87, II, - 23). APPELLANT TESTIFIED THAT COUNSEL NEVER GAVE ANY EXPLANATION OR CLARIFICATION TO WHAT THE (15) YEARS WAS BEING OFFERED FOR, SINCE ARMED ROBBERY CONVICTION CAN BE SENTENCE TO (10 - 30 "YRS.). COUNSEL NEVER MENTION THE WEAPONS CHARGE WOULD BE DISMISSED, IF THE PLEA OFFER WAS ACCEPTED! APPELLANT ASK THE COURT TO PLEASE TAKE NOTE OF "EXHIBIT-#10" FROM "THE OFFICE OF THE CLERK OF COURT, PAUL B. WICKENBARGER, ESQUIRE", WHICH DISPLAYS MANY DOCUMENTS THE DEFENDANT FILED IN THE COURT WHILE BEING INCARCERATED DUE TO THE FACT THAT COUNSEL WOULD NOT ASSIST HIM IN

GETTING THE CHARGE OF POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME, See; PAGE 2, OF EXHIBIT-#9, 2ND LINE A FORMAL COMPLAINT TO "INTERNAL AFFAIRS OF THE GREENVILLE COUNTY SHERIFF DEPT." THIS LETTER SUPPORTS APPELLANT'S CLAIM THAT INVESTIGATOR MICHAEL JARVIS #484-622 MANUFACTURED AND FALSIFIED HIS SWORN OATH TO GET A WARRANT AGAINST THE DEFENDANT TO "THE MAGISTRATE LOTUYA SIMMONS" TO SUPPORT A CHARGE OF ARMED ROBBERY. THIS LETTER WAS ENTERED INTO SHOW AND PROVE THAT THE DEFENDANT MAIN OBJECTIVE WAS TO GET THIS "WEAPON CHARGE" DISMISSED AND THE PROPER CHARGE OF STRONG ARM ROBBERY BE LEVIED AGAINST HIM AFTER DROPPING THE MANUFACTURED CHARGE OF ARMED ROBBERY, See; P.C.R. TR. 61, II. 13-THRU-TR. 63, II. -14.) See; "EXHIBIT-#9" THE COURT MISINTERPRETED THIS DOCUMENT AS A MOTION, HOWEVER IT IS A COMPLAINT TO "INTERNAL AFFAIRS OF GREENVILLE COUNTY SHERIFF DEPT." AND IT IS RELEVANT JUST AS MUCH "AS I LIVE, I BREATHE" THE EVIDENCE THATS ENCLOSED WILL SHOW AN INFERENCE THAT THE DEFENDANT WAS WILLING TO ACCEPT HIS PENALTY FOR HIS PARTICIPATION IN A CRIMINAL ACT BUT NOT FOR POSSESSING A WEAPON AND ARMED ROBBERY, PLEASE PAY CLOSE ATTENTION TO PAGE 4, LINE 4(6)-THRU-7, OF PARAGRAPH 1, See; "EXHIBIT-#9" 8TH OF THIS COMPLAINT, ALSO TRIAL TRANSCRIPT (TR. 200, II. 4-14.) "INV. MICHAEL JARVIS" TESTIMONY DURING APPELLANT TRIAL HOWEVER HE SWORE UNDER OATH TO "THE MAGISTRATE" AND "THE GRAND JURY" THAT HE HAD A STATEMENT FROM THE CO-DEFENDANT "PATRICIA RICE" THE APPELLANT PUT A KNIFE TO THE VICTIMS THROAT. THE COMPLAINT WAS FILED ON FEBRUARY 16TH 2010. APPELLANT REMINDS THE COURT THAT THE LAST TIME THE APPELLANT MET WITH COUNSELER SUSANNAH ROSS WAS ON JANUARY 29, 2010 AND SHE CLAIMS TO HAVE EXPLAINED THE PLEA OFFER AND THE TERMS AND CONDITIONS ALSO THAT THEY WERE DISMISSING THE WEAPONS CHARGE. IF THIS HAD ANY TRUTH TO IT, THERE WOULD NOT BE ANY REASON FOR THE APPELLANT TO FILE THIS COMPLAINT (18) DAYS LATER TRYING TO GET THE WEAPON CHARGE DISMISSED AND THE ARMED ROBBERY CHARGE RE-

DUCED TO COMMON LAW/STRONG ARM ROBBERY. (S.C. CODE 1976 § 16-11-325). APPELLANT INCORPORATE ANOTHER EXHIBIT-# 10, LABELED AS A "MOTION TO SUPPRESS THE KNIFE" WHICH WAS FILED IN THE GREENVILLE COUNTY COUNTY HOUSE WHICH WAS PROPERLY FILED AND DATE STAMPED BY THE CLERK OF COURT, GENERAL SESSIONS COURT ON JULY 9, 2010. ALSO EXHIBIT-# 11, LABELED AS A "MOTION FOR A EVIDENTIARY HEARING ON THE SUPPRESSION MOTION", WHICH WAS FILED IN THE GREENVILLE COUNTY COUNTY HOUSE AND WAS PROPERLY FILED AND DATE STAMPED BY THE CLERK OF COURT, GENERAL SESSIONS COURT ON JULY 9, 2010. AS STATED EARLIER THESE TWO DOCUMENTS HAVE NEVER BEEN ENTERED INTO EVIDENCE HOWEVER THEY ARE RELEVANT AND SUPPORT A STRONG INFERENCE THAT COUNSEL NEVER ADEQUATELY INFORMED THE DEFENDANT OF FORMAL PLEA OFFER FOR STRONG ARM ROBBERY TO DEFENDANT WITH THE STATE DISMISSING THE WEAPONS CHARGE, THERE IS NO REASONABLE EXPLANATION FOR THE DEFENDANT TO GO AS FAR AS TO FILE A COMPLAINT, SUPPRESSION MOTION AND A HEARING ALL THREE TO THROW OUT AN FALSIFIED AND MANUFACTURED WEAPON, WHICH WOULD LEAVE THE STATE TO PROCEED WITH A STRONG ARM ROBBERY CHARGE AND THE APPELLANT WOULD HAVE ACCEPTED IT. THESE THREE EXHIBITS DOES NOT CHANGE THE SCOPE OF THE CLAIM BUT DEMONSTRATE TO THE COURT THAT THE APPELLANT PERSISTANT IN ATTEMPTING TO GET THE PROPER CHARGE OF STRONG ARM ROBBERY PLACED BEFORE HIM. APPELLANT ARGUES THAT HAD COUNSELER INFORMED HIM OF THIS BEING ONE OF THE CONDITIONS, APPELLANT WOULD NOT HAVE TO FILE THE COMPLAINT TO INTERNAL AFFAIRS NOR FILE A MOTION TO SUPPRESS THE WEAPON CHARGE. ALL THIS WOULD FILED AFTER THE JANUARY 29, 2010 MEETING.

APPELLANT TESTIFIES THAT COUNSEL NEVER SPOKE SPECIFIC'S ABOUT WHAT EXACTLY THE (15) YEARS WERE FOR, NOR THE TERMS

OR CONDITIONS OF THE OFFER. COUNSEL NEVER STATED ON THE RECORD OR TO THE DEFENDANT THERE WAS AN EXPIRATION DATE ON THE OFFER OF APRIL 30, 2010, THIS DATE IS CLEARLY ON THE SECOND PAGE OF THE FIRST PARAGRAPH, (2ND) SENTENCE ABOVE THE ASSISTANT SOLICITOR'S NAME, APPELLANT'S AFFIDAVIT (EXHIBIT-#2) CLEARLY ESTABLISHES THAT COUNSEL NEVER STATED THIS TO THE APPELLANT AND THAT HE ONLY LEARNED OF THIS ON FEBRUARY 2, 2011 AT PERRY CORRECTIONAL INST. See: (P.C.R. EXHIBIT-#4) "CLIENT'S FILE FROM COUNSEL, AS PROVIDED BY 'MATTER OF HADDICK', 283 S.C.W. 321 S.E.2d 601 (S.C., 1984) See: (P.C.R. Tr. 27, II. 21-THRU-TR 31, II. -19.) /

COUNSEL TESTIFIED THAT SHE MAKE HER CLIENTS AWARE OF THE CHARGES AND THEIR PLEA OFFERS AND THAT SHE IS VERY THOROUGH ABOUT THAT AND SHE UNDERSTANDS THAT IT'S MISCONDUCT NOT TO DO THAT. See: (P.C.R. Tr. 85, II. 23-25.) THE DAY OF APPELLANT TRIAL THERE WAS AN DISPUTE BETWEEN APPELLANT AND COUNSEL IN OPEN COURT BEFORE THE JUDGE AND APPELLANT WAS REQUESTING THAT COUNSEL BE RELIEVED FROM REPRESENTING HIM DUE TO BREACH OF CONFIDENTIALITY, TRIAL COUNSEL STATED ON THE RECORD THAT THE DEFENDANT WAS APPARENTLY SETTING UP A P.C.R. CLAIM! See: (TRIAL TRANSCRIPT, Tr. 6, II. 1-THRU-TR. 12, II. -6.). APPELLANT STATES THAT THE COURT KNOWS A P.C.R. IS NOT TRIGGERED BY A DEFENDANT BUT BY COUNSEL OR THE PROSECUTION WHICH IS NEGLECTED BY INCOMPETENT COUNSEL FAILING TO GIVE EFFECTIVE ASSISTANCE OF COUNSEL, HOWEVER COUNSEL MAKING THESE CLAIMS AND AT THIS JUNCTION OF STARTING TRIAL, COUNSEL FAILED TO PLACE ANYTHING ON THE RECORD TO SUPPORT #1.) THE DEFENDANT WAS MADE AN PLEA OFFER, #2.) OR THE DEFENDANT WAS ADVISED OF THE OFFER AND ITS "PRECISE" TERMS AND CONDITIONS, ... AND #3.) THE

DEFENDANT'S RESPONSE TO THE PLEA OFFER.

APPELLANT ARGUES THAT HAD COUNSEL ACTUALLY INFORMED APPELLANT OF THE FORMAL PLEA OFFER WAS FOR COMMON LAW ROB. OR STRONG ARMED ROBBERY AND ALSO THE PROSECUTION WAS WILLING TO DISMISS THE WEAPON CHARGE. COUNSEL WOULD HAVE MEMORIALIZED IT BEFORE TRIAL AND PLACED IT ON THE RECORD THAT THE DEFENDANT REFUSE IT. See, "MISSOURI V. FRYE", 132 S. Ct. 61409 STATES FORMAL PLEA OFFERS CAN OR SHOULD BE MADE PART OF THE RECORD AT ANY SUBSEQUENT PLEA PROCEEDINGS OR BEFORE TRIAL ON THE MERITS, ALL TO ENSURE THAT A DEFENDANT HAS BEEN FULLY ADVISED BEFORE THOSE FURTHER PROCEEDINGS COMMENCE, "IN RE ALVERNAZ", 2 CAL. 4TH 924, 938, N. 7, 8 CAL. RPT. 2d 713, 830 P.2d 747, 756, N. 7. (1992) (ENCOURAGING PARTIES TO MEMORIALIZE IN SOME FASHION PRIOR TO TRIAL.) WHICH COUNSEL DID NOT DO BECAUSE COUNSEL NEVER TOLD THE DEFENDANT ABOUT STRONG ARM ROBBERY BEING THE PLEA OFFER. FIFTEEN YEARS CAN BE GIVEN FOR ARMED ROBBERY AS WAS THE CASE THE DEFENDANT WAS CURRENTLY CHARGED WITH.

APPELLANT ARGUES THAT JUST AS COUNSEL DID NOT PLACE ANYTHING ON THE RECORD OF THERE WAS A PLEA OFFER EXTENDED TO THE DEFENDANT, COUNSEL ALSO FAILED TO DEMONSTRATE TO THE COURT ANY DOCUMENTATION THAT SHE HAD WHERE THE DEFENDANT REFUSED TO ACCEPT THE PLEA OFFER TO COVER HERSELF IN CASE IT BECOMES AN ISSUE? COUNSEL TESTIFIED ON CROSS-EXAMINATION! "No!" See, (P.C.R. TR. 104, II, 10, II. 10-14) ON CROSS-EXAMINATION COUNSEL MADE ANOTHER STATEMENT THAT SHE WERE TRYING TO TAKE HIM (DEFENDANT) TO COURT TO PLEA OR FOR HER TO SAY, "THIS IS THE LAST CHANCE," SOMETIMES SHE WOULD GET

CLIENTS TO SIGN SOMETHING (REFUSING A PLEA OFFER) BUT SHE HATES DOING THAT TO THEM. HOWEVER I DON'T HAVE ANYTHING IN THE FILE THAT I DID THAT DAY. See (P.C.R. TR 102, II:7-18). APPELLANT BRINGS TO THE COURT'S ATTENTION THAT THIS IS ANOTHER SELF-SERVING ANSWER BY COUNSEL THAT SHE CANNOT DOCUMENT TO BE THE TRUTH.

APPELLANT ARGUES AND TESTIFIED THAT THE REASON THERE COUNSEL CANNOT SHOW ANY DOCUMENTATION THE DEFENDANT REFUSED THIS PLEA OFFER IS BECAUSE COUNSELOR NEVER INFORMED HIM THERE WAS A STRONG ARM PLEA OFFER AND SHE NEVER ASKED HIM TO SIGN A REFUSAL DOCUMENT.

THE STATE REPRESENTATIVE MRS. KAREN RATIGAN QUESTION COUNSELOR WAS WHETHER SHE GAVE THE PLEA OFFER TO THE DEFENDANT ENCLOSED IN THE DISCOVERY PACKET OR NOT? AND STATED YOU DON'T KNOW IF IT WAS IN THAT PACKET OR NOT? See (P.C.R. TR, 87, II, 13-22). COUNSEL ANSWERS, "NO!" See (P.C.R. TR, 87, II, 13.)

APPELLANT ARGUES THAT THIS IS IMPOSSIBLE DUE TO THE FACT THAT THE DISCOVERY WAS GIVEN TO ME BETWEEN SEPTEMBER 10, 2009 AND THE BEGINNING OF OCTOBER, 2009. See (P.C.R. TR 27, II, 21-THRU TR 27, II, -7.) APPELLANT ASK THE COURT TO PLEASE TAKE NOTE OF P.C.R. EXHIBIT-#1 THE PLEA OFFER UPPER RIGHT HAND CORNER PLAINLY REVEALS THIS PLEA OFFER WAS RECEIVED ON JANUARY 14, 2010. THE STATES' REPRESENTATIVE MRS. KAREN RATIGAN'S QUESTION AND COUNSELOR ANSWER IS TOTALLY UNFOUNDED AND HAS NO MERIT TO IT. See (P.C.R. "EXHIBIT-#1" RECEIVING DATE TO DEFENSE COUNSEL.)

APPELLANT TESTIFIED THAT COUNSEL NEVER SHOWED HIM ANY PLEA

OFFER OR NEVER MAILED HIM ANY PLEA OFFER. See (P.C.R. EXHIBIT #2, AFFIDAVIT) WHICH WILL SUBSTANTIATE ON LINE #5 THAT APPELLANT BECAME AWARE OF THIS PLEA OFFER ON FEBRUARY 2, 2011. See (P.C.R. TRANSCRIPT, TR. 19, II, 14-THRU TR. 24, II, - 23). COUNSEL WAS ASK DO YOU REMEMBER WHETHER YOU PROVIDED A COPY OF THE PLEA OFFER TO MR. BARTON? COUNSEL TESTIFIED "I DON'T KNOW," "I'M NOT SURE THAT I DID," THEN COUNSEL WENT ON TO SAY, "IT WOULDN'T SURPRISE ME IF I DIDN'T." See (P.C.R. TR. 10, II, 9-15). APPELLANT STATES THIS IS ANOTHER CUMULATIVE EFFECT OF IN-EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE COUNSEL IS USING SELECTIVE MEMORY AS A DEFENSE. HOWEVER APPELLANT STATES COUNSEL FAILED TO GIVE HIM ANY COPY OF THIS PLEA OFFER. COUNSEL ADMITS TO GIVING DEFENDANT A COPY OF THE DISCOVERY BUT CAN'T REMEMBER TO NOT GIVING DEFENDANT A COPY TO READ HIMSELF. See (P.C.R. TR. 87, II, 14-17).

APPELLANT REALLEDGE THAT FAILED TO CONVEY THE FORMAL PLEA OFFER AND ITS TERMS AND CONDITIONS, THE APPELLANT BRINGS TO THE ATTENTION OF THE COURT JUST AS IN "MISSOURI V. FRYE," 566 U.S. 134, 132 S. CT. 1399 (2012) COUNSEL NEVER STATED "THE TERMS" WHICH WAS THE STATE WOULD REDUCE "ARMED ROBBERY" TO "COMMON LAW ROBBERY" AND WOULD DISMISS THE "POSSESSION OF A WEAPON DURING VIOLENT CRIME." COUNSEL NEVER STATED "THE CONDITIONS" NOR DID SHE TESTIFY OF INFORMING THE DEFENDANT OF BOTH THEM, THE CONDITIONS BEING "IF HE PLEADS GUILTY BY APRIL 30, 2010 AND COOPERATE WITH THE STATE RECOMMEND "15 YR." SENTENCE, SUSPENDED TO "8 YRS" FOLLOWED BY PROBATION, OR IN THE ALTERNATIVE, MAY PLEAD WITHOUT A RECOMMENDATION. PLUS \$500.00 RESTITUTION, APPELLANT ARGUES THAT COUNSEL DID NOT PLACE THESE TERMS AND CONDITIONS ON RECORD WHICH SHE HAD A DUTY AND OBLIGATION TO DO SO AS BEING

EFFECTIVE ASSISTANCE OF COUNSEL, AS "A.B.A. STANDARDS FOR CRIMINAL JUSTICE," PLEAS OF GUILTY 14-3.2(d) (3d, 1999). See (P.C.R. TR 82, II, 2 - THRU - TR 104, II, - 25)

APPELLANT ARGUED THAT COUNSEL FAILED TO KEEP HIM REASONABLY INFORMED AND STOPPED COMMUNICATING AFTER JANUARY 29, 2010 AND ALWAYS CAME VOLUNTARILY AS SHE DID ALL THE SIX PRIOR VISITS. APPELLANT HAS NEVER IN ANY VISIT REQUESTED COUNSELOR PRESENCE. SHE ALWAYS CAME VOLUNTARILY. HOWEVER COUNSEL NEVER INFORMED THE DEFENDANT THAT THE UNCONVEYED PLEA OFFER HAD AN EXPIRATION DATE OF APRIL 30, 2010. "THE P.C.R. EXHIBIT - #1 - PLEA OFFER" CLEARLY STATES THAT, "IF YOUR CLIENT DOES NOT PLEAD GUILTY BY THIS DATE 4/30/2010, THE CASE WILL BE PLACED ON THE TRIAL CALENDAR FOR DISPOSITION WITHOUT FURTHER NEGOTIATION!" THEREFORE THE DEFENDANT WOULD HAVE HAD (91) DAYS TO ACCEPT THIS OFFER HAD HE KNOWN THERE WAS AN OFFER FOR STRUNG ARM ROBBERY HOWEVER COUNSEL ALLOWED THIS PLEA OFFER TO EXPIRE AND CAUSED HIM TO LOSE OPPORTUNITY TO ACCEPT THE OFFER. See, HILL V. LOCKHART, "474 U.S. 52, 106 S. 4. 366 (1985) (DISTINGUISHED), THERE IS NO RECORD WHICH WOULD SUPPORT ANY CLAIM THE PROSECUTION RESCENDED THE OFFER. APPELLANT'S TRIAL WAS HELD ON AUGUST 9, 2010, (100) DAYS AFTER THE EXPIRATION DATE APRIL 30, 2010 OF THE OFFER. See, (P.C.R. TR, 16, II, 10 - THRU - TR, 31, II, - 19.) & See, (P.C.R. EXHIBITS - #1, #2, #3 & #4) APPELLANT STATED ON THE RECORD THAT COUNSEL PERFORMANCE AND REPRESENTATION EFFECT THE OUTCOME OF HIS CASE. THE RECORD WILL SHOW THAT DEFENDANT DID STATE HAD HE KNOWN THE PLEA OFFER WAS FOR "COMMON LAW ROBBERY" THAT HE WOULD HAVE ACCEPTED THE OFFER AND WOULD NOT HAVE GONE TO TRIAL, APPELLANT ALSO ARGUES THAT HE WAS PREJUDICED BY RECEIVING A GREATER SENTENCE THAN THE PLEA OFFER. See, "CLOVER V. UNITED STATES", "531 U.S. 198, 203, 121 S. 4. 696

(2001). (THE SUPREME COURT HELD: THAT ANY AMOUNT OF ADDITIONAL JAIL TIME HAS A SIXTH (6TH) AMENDMENT SIGNIFICANCE IMPLICATION.)

COUNSEL TESTIFIED THAT SHE INFORMED THE DEFENDANT OF THE PLEA OFFER AND THAT HE REFUSED THE OFFER ON JANUARY 29, 2010. COUNSEL ALSO STOOD ON THE WITNESS STAND THAT "THE DEFENDANT REFUSED TO BE TRANSPORTED TO THE COURT HOUSE ON MARCH 25, 2010 TO TALK WITH HER ABOUT THE PLEA OFFER." THE PROSECUTION AGENT "KAREN RATTIGAN" AND COUNSEL USED THIS TESTIMONY AS JUSTIFICATION AS TO SAY SINCE "MR. BARTON" WAS REFUSING TO BE TRANSPORTED TO SEE HER THAT HE WAS THE CAUSE OF THE BREAKDOWN IN THE COMMUNICATION HE ALSO WAS EQUALLY GUILTY IN CAUSING THE PLEA OFFER TO EXPIRE, SEE: (P.C.R. TR. 84, II. 12-THRU-TR. 89, II-6.)

COUNSEL ON CROSS-EXAMINATION THAT THE DEFENDANT "REFUSED TO BE TRANSPORTED TO COME TO THE COURT HOUSE ON MARCH 25, 2010 TO TALK ABOUT THE PLEA OFFER AND THIS IS HIS LAST CHANCE TO ACCEPT IT." SEE (P.C.R. TR. 102, II. 9-21.), COUNSEL WAS QUESTIONED FURTHER ABOUT THE DEFENDANT "REFUSING TO BE TRANSPORTED", COUNSEL GAVE THIS TESTIMONY OFFERED INTO EVIDENCE TO PROVE THE TRUTH OF THE MATTER, SEE: RULE 801, SCRE, 801(C) HEARSAY,

COUNSEL WAS CROSSED AND ASKED "DO YOU HAVE ANYTHING IN WRITING FROM THE JAIL THAT HE REFUSED TO BE TRANSPORTED TO THE COURT?" ALSO HOW DID YOU OBTAIN THAT INFORMATION THAT THE DEFENDANT "MR. BARTON" "REFUSED TRANSPORT?" COUNSEL ANSWERED BY SAYING "I DON'T KNOW!" COUNSEL THEN CONTINUED TESTIFYING SAYING "SOMEONE TOLD ME HE'D REFUSED TRANSPORT." SEE: RULE 802, HEARSAY RULE, WHICH PROVIDES THAT HEARSAY IS

NOT ADMISSIBLE EXCEPT AS PROVIDED BY THESE RULES OR BY OTHER RULES PRESCRIBED BY THE SUPREME COURT OF THIS STATE OR BY STATUTE. IT IS CONSISTENT WITH THE GENERAL RULE THAT IS NOT ADMISSIBLE UNLESS IT FITS WITHIN AN EXCEPTION TO THE HEARSAY RULE. See JOLLY V. STATE, 314 SC 17, 443 S.E.2d 566 (SC, 1994)

COUNSEL STILL ON CROSS EXAMINATION WAS ASK "WAS THERE ANYTHING IN WRITING?" REFERRING TO DEFENDANT ALLEGED REFUSAL TO BE TRANSPORTED FROM THE JAIL TO THE COURTS. COUNSEL'S RESPONSE TO THE QUESTION WAS "HU-uh!" AS IN DISBELIEF THAT THIS QUESTION WAS DIRECTED TO HER BY A KNOWN COLLEAGUE? COUNSEL THEN WAS ASK "DO YOU HAVE ANYTHING WITH MR. BARTON'S NAME ON IT SHOWING THAT HE REFUSED THE PLEA OFFER, TO ACCEPT THE STATE'S PLEA OFFER?" COUNSEL RESPONSE WAS TO THE QUESTION WAS, "NO!" See (P.C.R. TR. 103, II, 18-THRU-TR. 104, II, -18.)

APPELLANT ARGUES AND SUBSTANTIATE HIS CLAIM THAT COUNSEL FAILED TO CONVEY THE PLEA OFFER FROM THE STATE AND ITS TERMS AND CONDITIONS. COUNSEL CORRUPTERATES THE STATES EXPLANATION OF THE ELEMENTS OF ARMED ROBBERY, ITS SENTENCE RANGE AND WEAPONS CHARGE? See (P.C.R. TR. 83, II, 10-20.). ALSO COUNSEL TESTIFIES ABOUT THE STATE OFFERING STRONG ARM AND (15) Yrs, SUSPENDED OR STRAIGHT UP, See (P.C.R. TR. 84, II, 24-THRU-TR. -9.) APPELLANT ASK THE COURT TO NOTE THE COUNSEL TESTIMONY IS SELF-SERVING TO SUPPORT DEFENSIVE STANCE HOWEVER THE TESTIMONY STILL DOES NOT FULFILL THE DUTY OR OBLIGATION TO INFORM THE DEFENDANT OF THE TERMS AND THE CONDITIONS OF THE PLEA OFFER WHICH IS PLAINLY WRITTEN ON THE OFFER. COUNSEL NEVER TESTIFIED OR "NEVER PLACED ON THE RECORD THE CONDITIONS" WHICH ENCOMPASS THE TERMS. See (P.C.R. EXHIBIT-#1, THE

LAST PARAGRAPH WHICH STATES "THE STATE WILL MAKE THE FOLLOWING SENTENCE RECOMMENDATIONS/NEGOTIATIONS" IF DEFENDANT PLEADS GUILTY BY THE DUE DATE AND AGREES TO COOPERATE WITH THE PROSECUTION OF THE CO-DEFENDANT. IF NECESSARY, I WILL REDUCE THE CHARGE AS INDICATED AND RECOMMEND A SENTENCE OF (15) YEARS SUSPENDED ON THE SERVICE OF (8) YRS. "FOLLOWED BY PROBATION." IN THE ALTERNATIVE, THE DEFENDANT MAY PLEAD WITHOUT A RECOMMENDATION, "THERE WILL BE \$500.00 RESTITUTION." "OTHER CONDITIONS/COMMENTS", I HAVE ENCLOSED A COPY OF THE SENTENCING SHEET AND RESTITUTION ORDER. ATTACHED WITH PLEA OFFER. . . , PLEA OFFER EXPIRES IF GUILTY PLEA NOT ENTERED BEFORE 4/30/2010. THESE CONDITIONS WERE NEVER CONVEYED OR PLACED ON RECORD BEFORE THE COURT. APPELLANT ARGUES THAT HE COULD NOT HAVE MADE AN INFORMED DECISION WITHOUT KNOWING BOTH THE TERMS AND CONDITIONS OF THE OFFER, SEE: "LAFLER V. COOPER," 566 U.S. 156, 132 S. Ct. 1376 (2012) & "MISSOURI V. FRYE," 566 U.S. 134, 132 S. Ct. 1399 (2012)

APPELLANT ARGUES THAT THE HONORABLE DANIEL D. HALL ERRORED IN HIS DECISION BASED ON THE FACTS AND FINDINGS OF THE EVIDENCE ENTERED IN THE HEARING BY ALLOWING "HEARSAY" TESTIMONY FROM COUNSEL TO PROVE THE TRUTH OF THE MATTER, VIOLATING FEDERAL AND STATE RULE OF EVIDENCE, RULE 802 HEARSAY (FED. R. EVID. 802 & SCRE, RULE 802) WHICH IS INADMISSIBLE (NOT ADMISSIBLE) UNLESS IT FALLS WITHIN AN EXCEPTION TO THE HEARSAY RULE. "RULE 803, SCRE HEARSAY EXCEPTIONS," THREE (3) ELEMENTS MUST BE MET FOR A STATEMENT TO BE AN EXCITED UTTERANCE; #1.) THE STATEMENT MUST BE RELATED TO A STARTLING EVENT OR CONDITION; #2.) THE STATEMENT MUST HAVE BEEN MADE WHILE THE DEFENDANT WAS UNDER THE STRESS OF EXCITEMENT; AND #3.) THE STRESS OF EXCITEMENT MUST BE CAUSED BY THE STARTLING EVENT OR CONDITION. SEE: "STATE V. -

Sims, 348 S.C. 16, 21, 558 S.E.2d 518, 521 (S.C., 2002).

APPELLANT ARGUES THAT COUNSEL'S TESTIMONY THAT THE DEFENDANT REFUSED TRANSPORT TO THE COURT HOUSE ON MARCH 25, 2010 AND BY THIS HE WAS REFUSING TO TALK TO HER TO TAKE ADVANTAGE OF THE PLEA OFFER THE STATE WAS EXTENDING TO HIM AND THIS BEING THE CAUSE OF THE COMMUNICATION BREAKDOWN.

APPELLANT ARGUES THAT THIS TESTIMONY IS HEARSAY AND DOES NOT MEET THE REQUIREMENTS OF HEARSAY EXCEPTION OF RULES OF EVIDENCE, RULE 804 & 803, FEDERAL OR STATE RULES OF EVIDENCE.

COUNSEL CLEARLY STATED ON THE RECORD THAT "I DON'T KNOW," "SOMEONE TOLD ME HE REFUSED TRANSPORT!" (See: P.C.R. TR. 103; II, 18-THRU-TR. 104; II, -13.)

APPELLANT CITES "STRICKLAND V. WASHINGTON," 466 U.S. 668, 104 S.Ct. 2052 (1984) WHICH THE COURT HELD, THE DEFENDANT HAS A RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE UNITED STATES CONSTITUTION, U.S.C.A. CONST. AMEND. 6TH.

APPELLANT ARGUES THAT THE HEARING JUDGE VIOLATED AN ERROR OF LAW WHEREAS HE ALLOWED "HEARSAY" EVIDENCE TO BE ENTERED INTO EVIDENCE WHEN TRIAL COUNSEL TESTIFIED THAT "SOMEONE TOLD HER" THAT THE DEFENDANT REFUSED TO BE TRANSPORTED TO THE COURT HOUSE AND WOULD NOT TALK TO HER AND REFUSED THE PLEA OFFER BY NOT BEING TRANSPORTED TO DISCUSS IT. THE HEARING JUDGE RULED IN ITS DECISION THAT "COUNSEL'S TESTIMONY IS MORE CREDIBLE" THAN THE APPLICANT ON

THIS ISSUE, See (APPENDIX, EXHIBIT C; "ORDER OF DISMISSAL" PAGE 687, 18) THEREFORE APPELLANT'S P.C.R. FOR RELIEF WAS DENIED THROUGH AN ERROR OF LAW AND THIS SAME COURT DENIED THE APPLICANT "MOTION TO SUPPLEMENT THE RECORD AND TO TAKE JUDICIAL NOTICE TO CONFORM TO THE EVIDENCE OF THIS CASE." THIS SAME COURT PASSED ON ENTERTAINING THIS PROPERLY FILED MOTION ON DECEMBER 15, 2016 AND DENIED REVIEWING IT ON RECONSIDERING ITS RULING IN THIS CASE, See, "EXHIBIT-#12" MOTION ATTACHED.!!

APPELLANT BRINGS TO THE ATTENTION OF THE COURT THAT P.C.R. COURT NEVER REVIEWED THE CERTIFIED DOCUMENTS WHICH WOULD DEMONSTRATE AN SUPPORT HIS CLAIM THAT COUNSEL NEVER CONVEYED THE STATES PLEA OFFER AND HER TESTIMONY THAT THE DEFENDANT REFUSED TO BE TRANSPORTED FROM THE GREENVILLE DETENTION CENTER TO GREENVILLE COUNTY COURTHOUSE ON MARCH 25, 2010 TO TALK WITH COUNSEL AND TO TAKE ADVANTAGE "LAST CHANCE" FOR THE PLEA OFFER, HOWEVER "THE SUPREME COURT OF SOUTH CAROLINA" "GRANTED" THIS MOTION. See, "APPENDIX - D"

APPELLANT ONCE AGAIN WOULD LIKE TO ENTER INTO EVIDENCE SOME OF THE DOCUMENTS FROM THE FORMER MOTION TO SUPPLEMENT THE RECORD AND TO TAKE JUDICIAL NOTICE AND RECOGNIZING THESE DOCUMENTS ARE AUTHENTIC AND CERTIFIED FROM A REPUTABLE SOURCE WHICH CAN NOT BE DISPUTED, THEY FACTUAL AND ARE RELEVANT TO DISPUTE COUNSEL'S TESTIMONY THAT THE APPELLANT/DEFENDANT "REFUSED TRANSPORT ON MARCH 25, 2010 FROM THE GREENVILLE DETENTION CENTER TO THE COURT HOUSE TO ACCEPT A PLEA OFFER."

LOVED THE "APRIL 30, 2010" EXPIRATION DATE TO EXPIRE.

WOULD SUPPORT HIS CLAIM THAT IT WAS CONSIDERED TAKEN PRESENTLY THAT ALL

THE RECORDS LAST CHANCE TO FILE, THE APPELLANT STATES THAT THIS DATE

WILL PASS THE "MARCH 25, 2010" DATE WHERE CONSIDERED TESTIFIED IT BEING

BRINGS TO THE ATTENTION OF THE COURT THAT THE "APRIL 6, 2010" HAS GONE

LIST FOR PER COURT ON 2/9/2010, 3/9/2010, 3/16/2010, APPELLANT ALSO

THE SOLICITOR OFFICE AND THEY HAD "BOBBY BORTON" WAS PLACED ON THE TRANSFER

CAPT. J. MORAN, CERTIFICATES AND STATES IN THE DOCUMENT THAT SHE CHECKED WITH

TRANSFER TO THE COURT HOUSE, PLEASE LOOK BACK TO THE 2ND EXHIBIT #D

MOVEMENT RETURNING TO HIS CELL AS COUNSELOR CLAIMS HE REFUSED

ACTIVITY ON MARCH 25, 2010, THERE IS NO INDICATION OF THE DEFENDANT

PLEASE OBSERVE THE CELL MOVEMENT HISTORY IT DOES NOT REVEAL ANY MOVEMENT

#D FROM J. MORAN, CAPT. INMATE CELL MOVEMENT HISTORY EXHIBIT #E

POINT, APPELLANT ASK THE COURT TO PLEASE SEE AND COMPARE EXHIBIT

INMATE WAS REMOVED TO HONOLULU, APPELLANT STATES THIS IS A VERY CRUCIAL

HOWEVER IT GOES ON TO STATE, "THE RECORDS WOULD ONLY REFLECT THE

PULLED FROM HONOLULU FOR COURT BUT THEN DID NOT ACTUALLY GO TO COURT,

WAS ADVISED THERE ARE NOT ANY RECORDS THAT REFLECT IF AN INMATE WAS

WHICH STATES "I CHECKED WITH THE DETENTION CENTER OPERATIONS STAFF AND

J. MORAN, RE: TRANSFER RECORDS, PLEASE SEE FIRST TRANSCRIPT 3RD LINE

APPELLANT ASK THIS COURT TO PLEASE TAKE NOTE OF EXHIBIT #D FROM CAPTAIN

OUT AND REMOVED TO THE GREENWICH COUNTY DETENTION CENTER,

MOVEMENT FOR "BOBBY BORTON", THE RECORD REFLECTS WHEN AN INMATE IS SIGNED

SERVICES DIVISION, RE: J. MORAN, DETENTION RECORDS (1/2010 - 8/2010) CELL

MORAN OF GREENWICH COUNTY DEPARTMENT OF PUBLIC SAFETY RECORDS MANAGEMENT

APPELLANT ASK THIS COURT TO PLEASE SEE EXHIBIT #C FROM CAPTAIN J. MORAN

APPELLANT BRINGS TO THE ATTENTION OF THE COURT, See EXHIBIT # F, FROM THE STATE OF SC, SOLICITOR, 13TH JUDICIAL CIRCUIT, SOLICITOR W. WALTER WILKINS AND SIGNED BY KATIE TUCKER, CP ASSISTANT TO THE SOLICITOR, THIS DOCUMENT CORROBORATES EXHIBIT # D THAT THE (3) DATES FOR THE PLEA COURT, WHICH ARE, #1) 2/9/2010, #2.) - 3/9/2010, & #3.) 4/6/2010. IT ALSO STATES "THERE ARE NO ORDERS TRANSPORT ASSOCIATED WITH THE EVENTS OUTLINED HEREIN AND OUR RESEARCH [DOES NOT] INDICATE ANY ADDITIONAL TRANSPORTS DURING THAT TIME PERIOD FOR BOBBY JOE BARTON."

APPELLANT ARGUES THAT THESE (4) DOCUMENTS CLEARLY DISPROVE THE TESTIMONY AT TRIAL WHERE COUNSELOR TESTIFIED "THE DEFENDANT REFUSED TO BE TRANSPORTED FROM THE DETENTION CENTER TO THE COURTHOUSE ON MARCH 25, 2010 TO DISCUSS AND "LAST CHANCE" TO ACCEPT THE PLEA OFFER FROM THE STATE, THESE (4) DOCUMENTS CLEARLY AND CONVINCINGLY DISPROVE COUNSEL TESTIMONY BEYOND A REASONABLE DOUBT THAT COUNSELOR'S TESTIMONY IS UNFOUNDED BY THE DOCUMENTS. APPELLANT STATE THAT "EXHIBIT # D" CAPT. MORAN STATES ON THE [1ST] PARAGRAPH [Line 3(6) thru 6] THAT SHE CHECKED & WAS ADVISED "THERE ARE NOT ANY RECORDS THAT REFLECT IF AN INMATE WAS PULLED FROM HOUSING FOR COURT [BUT] THEN DID NOT ACTUALLY GO TO COURT." HOWEVER "THE RECORDS WOULD [ONLY] REFLECT THE INMATE WAS RETURNED TO HOUSING!"

APPELLANT RESPECTFULLY ASK THE HONORABLE COURT TO NOTE "EXHIBIT # E", "INMATE CELL MOVEMENT", WHICH SHOW THERE WAS NO MOVEMENT OF THE DEFENDANT ON MARCH 25, 2010, AND DISPROVE ANY ALLEGATIONS OF DEFENDANT REFUSING TRANSPORT TO THE COURTHOUSE ON THE DAY MENTIONED ABOVE.

APPELLANT ARGUES THAT COURT DECISION DENYING HIS CASE IS BASED ON AN ERROR OF LAW BY ALLOWING "HEARSAY" IN EVIDENCE AND IN LIGHT OF

THE EVIDENCE OF THE CASE.

APPELLANT ARGUES THAT COUNSEL REPEATEDLY TESTIFIED THE DEFENDANT REFUSED TO BE TRANSPORT FOR THE PLEA OFFER, HOWEVER THIS TESTIMONY WAS HEARSAY AND INADMISSIBLE UNDER "STATE AND FEDERAL RULE EVIDENCE 802, 'THE HEARSAY RULE'" IS PREMISED ON THE THEORY THAT OUT-OF-COURT STATEMENTS ARE SUBJECT TO PARTICULAR HAZARDS, INCLUDING DANGERS OF INSINCERITY, AMBIGUITY, ERRONEOUS PERCEPTION, AND FAULTY MEMORY. SEE, "WILLIAMS V. U.S.", 512 U.S. 594, 598, 114 S.Ct. 2431, 129 L.Ed. 2d 476 (1994) ALSO SEE, "U.S. V. HALL", 989 F.2d 697 (4th Cir. 1992) (OUT-OF-COURT STATEMENT OF AN UNKNOWN WITNESS ALLOWED AS TRUTH TO PROVE THE MATTER.) "UNITED STATES V. HILLARD", 569 F.2d 143, 186 U.S. App. D.C. 312 (1977)

APPELLANT CITES "BELL V. STATE", 410 SC 436, 765 S.E.2d 4 (CH. APP. 2014) THE COURT APPLIED APPELLANT'S CASE CONTRARY TO "BELL'S" CASE. ALSO CITES "DAVIE V. STATE", 381 SC 601, 675 S.E.2d 416 (SC, 2009) IN COMPARISON 2607 S.E.2d 419.

APPELLANT CITES "LaPLER V. COOPER", 566 U.S. 156, 132 S.Ct. 1376 (2012) AND "MISSOURI V. FRYE", 566 U.S. 134, 132 S.Ct. 1399 (2012) (THE SUPREME CT. JUSTICE KENNEDY, HELD THAT, 1) DEFENSE COUNSEL HAS A DUTY TO COMMUNICATE FORMAL PLEA OFFER FROM PROSECUTION TO DEFENDANT TO ACCEPT A PLEA OFFER ON THE TERMS AND CONDITIONS THAT MAY BE FAVORABLE TO THE ACCUSED, AND 2) COUNSEL WAS DEFICIENT IN FAILING TO COMMUNICATE TO DEFENDANT PROSECUTOR'S WRITTEN PLEA OFFER BEFORE IT EXPIRED.)

APPELLANT ARGUES THAT HE HAS DEMONSTRATED WITH DOCUMENTS, AND RECORDS WHICH ARE CERTIFIED OF THEIR AUTHENTICITY OF THE TRUTH

AND ORIGIN WHICH CAN NOT BE DISPUTED.

APPELLANT ARGUES THAT THE COMPLAINT "EXHIBIT #9", THE MOTION TO SUPPRESS THE WEAPON AND THE MOTION FOR AN EVIDENTIARY HEARING SHOWS THAT THE APPLICANT WAS CERTAIN THERE WAS NO EVIDENCE TO SUPPORT A WEAPONS CHARGE AND THAT HIS MAIN POINT WAS TO DISMISS THIS CHARGE WOULD HAVE BASICALLY LEFT THE STATE WITH COMMON-LAW ROBBERY CHARGES AGAINST THE DEFENDANT. ALL THESE MOTIONS AND COMPLAINT WERE FILED AFTER JANUARY 29, 2010 COUNSEL MEETING. THE JAIL RECORDS SHOWS THERE WERE NO MOVEMENT OF DEFENDANT FROM HIS CELL OR BACK TO HIS CELL. THESE RECORDS SPECIFICALLY STATE, "IT WOULD ONLY SHOW THE INMATE RETURNED TO HIS CELL." (EXHIBIT # D) ONE OF THESE RECORDS REVEAL (3) DATES FOR A GUILTY PLEA, #1) 2/9/2010, #2) 3/9/2010, & #3) 4/6/2010 (PLEA COURT). AN LETTER FROM THE SOLICITORS OFFICE (EXHIBIT # F) CORROBORATES THE EXACT DATES FOR PLEA COURT FOR DEFENDANT, #1) 2/9/2010; #2) 3/9/2010, & #3) 4/6/2010. COUNSELS "HEARSAY" TESTIMONY WAS ALLOWED INTO EVIDENCE AND DEEMED CREDIBLE EVEN THOUGH THE RULES OF EVIDENCE, STATE AND FEDERAL STATES IT IS NOT ADMISSIBLE DUE TO THE FACT IT DOES NOT MEET THE EXCEPTION OF "HEARSAY" "R. OF EVID. 803, OR FED 804.

APPELLANT DEMONSTRATE BEFORE THE COURT THAT THERE WAS AN FORMAL PLEA OFFER AND TESTIFIED THAT HAD HE KNOWN OF THIS PLEA OFFER WAS FOR A LESSER OFFENSE OF COMMON LAW ROBBERY AND DISMISSAL OF A WEAPONS CHARGE THAT HE WOULD HAVE ACCEPTED THE PLEA OFFER AND WOULD NOT HAVE GONE TO TRIAL. APPELLANT ALSO STATE THAT THERE IS NO REASON TO BELIEVE THAT A JUDGE WOULD NOT HAVE AGREED TO GRANTING THE APPELLANT THE STATES PLEA OFFER AND NOTHING IN THE RECORD TO SUPPORT THE POSSIBILITY THAT

THE SOLICITOR WITHDREW THE PLEA OFFER, THE OFFER CLEARLY STATES THAT THE GUILTY PLEA MUST BE ENTERED BEFORE APRIL 30, 2010 OR IT WOULD BE AUTOMATICALLY WITHDRAWN. APPELLANT'S JURY TRIAL WAS NOT HELD UNTIL AUGUST 9-10, 2010, NINETY (90) DAYS AFTER THE EXPIRATION DATE HAD PASSED.

APPELLANT ASK THE COURT TO PLEASE TAKE NOTE OF THE CASE "STATE V. GERALD-AKEEM GADSDEN", APP. CA# 2016-001286. COUNSEL SUSANNAH C. ROSS AND THE PROSECUTOR PLACED ON THE RECORD THAT THE STATE OFFERED "MR. GADSDEN" A PLEA OFFER ON (3) SEPARATE OCCASSIONS AND HE REFUSED THE OFFER, FOUND GUILTY AND RECEIVED A LIFE (LWOP) SENTENCE. THIS IS TOTALLY CONTRARY TO THE APPELLANT'S CASE. See (CASE# 2014-GS-23-03815) (2019-WL-3216582) (TRIAL TR. 33, II. 5-THRU-TR. 35, II. -24.)

APPELLANT STATES IN NAME OF JUSTICE AND SOCIETY BOTH THE PROSECUTION HAS AND IS ALLOWED TO USE THE RECORD TO DISPROVE THAT A GUILTY PLEA WAS NOT MADE INVOLUNTARILY, UNKNOWNINGLY, AND UNINTELLIGENTLY, AND AFTER A COLLOQUY WITH THE PLEA JUDGE, THAT THE DEFENDANT HAS RELINQUISHED VARIOUS CONSTITUTIONAL RIGHTS, INCLUDING A RIGHT TO A JURY TRIAL,

APPELLANT STATES WITH "THE GOLDEN RULE", WHERE THERE IS NO RECORD PRIOR TO A TRIAL BY COUNSEL OR THE PROSECUTION IN THE TRANSCRIPT OR NOT A SIGNED REFUSAL PLEA FORM PLACING THE COURT ON NOTICE THAT A PLEA OFFER WAS MADE TO THE DEFENDANT AND HE REFUSED IT, THE APPELLANT SHOULD BE EXTENDED THE SAME COURTESY AS THE STATE AND THE COURT'S RULING BE FAVORABLE TO HIM JUST AS IT IS TO THE STATE DUE TO THE RECORD SUPPORTING HIS CLAIM THE COUNSEL FAILED TO CONVEY A PLEA OFFER.

APPELLANT AGREES THAT HE DOES NOT HAVE A RIGHT TO A PLEA OFFER. See, "ARIZONA - V. DOWD," 10 P. 31, 1193 (Chap, 2000), HOWEVER ONCE THE STATE ENGAGES IN PLEA BARGAINING, THE DEFENDANT HAS A CONSTITUTIONAL SIXTH (6TH) AMENDMENT RIGHT TO BE ADEQUATELY INFORMED OF IT AND THE CONSEQUENCES BEFORE DECIDING WHETHER TO ACCEPT OR REJECT THE OFFER. ALSO SEE, "BRADY V. UNITED STATES," 397 U.S. 742, 756, 90 S. CT. 1463 (1970)

APPELLANT BELIEVES THAT HE HAS SHOWN JUST CAUSE FOR THIS HONORABLE COURT TO REVERSE AND REMAND HIS CASE TO THE LOWER COURT. DUE TO THE P.C.R. COURT ALLOWING "HEARSAY" TESTIMONY INTO EVIDENCE WHICH IS AN ERROR OF LAW AND IN LIGHT OF THE FACTS IN THIS CASE, EXHIBIT #9, #10, & #11 PURPOSES IS NOT TO CHANGE THE SCOPE OF THE CLAIM BUT TO SHOW THAT WITHOUT THE MANUFACTURED WEAPONS CHARGE, THE TRUE CHARGE WOULD HAVE BEEN STRONG ARM ROBBERY AND APPELLANT WOULD HAVE PLEADED OUT TO IT AND THERE WOULD HAVE BEEN NO NEED TO FILE THIS COMPLAINT OR MOTIONS.

APPELLANT STATES IN ALL FUNDAMENTAL FAIRNESS TO THE APPELLANT AND IN THE NAME OF JUSTICE BASED UPON EVIDENCE PRESENTED THIS HONORABLE COURT SHOULD ORDER THE APPROPRIATE REMEDY FOR THE CONSTITUTIONAL VIOLATION OCCURRED IN THE PRELIMINARY STAGE AND REMAND TO THE LOWER COURT AND THE COURT TO EITHER EXTEND TO THE APPELLANT THE UNCONVEYED PLEA OFFER OR A NEW TRIAL, THE APPELLANT HAS STATED ON THE RECORD THAT HE WOULD ACCEPT THE FORMAL PLEA OFFER FOR COMMON LAW ROBBERY.

ARGUMENT #2

II. TRIAL COUNSEL WAS IN-EFFECTIVE FOR FAILING TO OBJECT TO INADMISSIBLE TESTIMONY.

THE PROSECUTION'S KEY WITNESS/CO-DEFENDANT WAS ON THE WITNESS STAND (PATRICIA RICE) TESTIFYING ON BEHALF OF THE STATE, THE PROSECUTION'S CASE RESTED UPON THIS WITNESS TESTIMONY DUE TO THE FACT THE ORIGINAL FIRST RESPONDERS POLICE REPORT AND TESTIMONY WAS THE VICTIM (EDWARD PEREZ) WAS EXTREMELY INTOXICATED AND COULD NOT PARTICIPATE IN GIVING A STATEMENT. See; TRIAL TRANSCRIPT, TR. 153, II, 25-THRU-TR. 154, II, -5) AND THE VICTIM DID GIVE A DESCRIPTION OF THE ROBBER AS BEING A "25-TO-30" YR. OLD BLACK MALE. See; (TR. 153, II, 1-9.) THE RECORD WILL SHOW THE APPELLANT BEING "52" YRS. OLD AT THE TIME OF THE ROBBERY! See; (TR. 1, II, 10-THRU-TR. 62, II, -11.). THE APPELLANT ASK THIS HONORABLE COURT TO NOTE THAT THE VICTIM (EDWARD PEREZ) WOULD NOT MAKE A CREDIBLE WITNESS ALONE GIVEN THE CIRCUMSTANCES, HIS CONDITION AT THE TIME OF THE ALLEGED ROBBERY AND THE INCONSISTANT DESCRIPTIONS OF THE ROBBER, PATRICIA RICE WAS THE KEY WITNESS, BEING ARRESTED, INDICTED, AND CHARGED FOR THIS EXACTLY ROBBERY UNTIL (3) DAYS BEFORE APPELLANT JURY TRIAL. See; EXHIBIT, - # G, # H, & # I. CONVICTION NOT POSSIBLE WITHOUT MS. RICE.

MS. RICE TESTIFIED THAT SHE SURE THE DEFENDANT COMMITTED A CDV. AGAINST HER. SHE WAS ASK DID YOU SIGN SOMETHING SO THEY WOULDNT PROSECUTE IT? MS. RICE ANSWER WAS NON-RESPONSIVE AND SHE SAYS "I HAD BEEN SOME TIME AGO. HE HAD BEEN ALREADY INCARCERATED FOR SOMETHING ELSE!" "HE MADE TIME FOR THAT!" "THAT WAS IN THE PAST!" "I LET IT GO!" See; (TRIAL TRANSCRIPT, TR. 175, II, 7-18.)

APPELLANT ARGUES THAT COUNSEL'S FAILURE TO OBJECT TO THIS TESTIMONY AMOUNTS TO INEFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES WHICH PROVIDES EFFECTIVE ASSISTANCE OF COUNSEL THROUGH EVERY PHASE OF A CRIMINAL PROCESS AND VIOLATES "THE STRICKLAND STANDARD OF 'STRICKLAND V. WASHINGTON,' 466 U.S. 668, 104 S.Ct. 2052 (1984)

APPELLANT ARGUES THAT COUNSEL NOT ONLY FAILED TO OBJECT AND PRESERVE THIS ERROR FOR APPELLATE REVIEW BUT SHE ALSO "FAILED TO MOTION FOR A MISTRIAL" DUE TO THE TESTIMONY BEING INADMISSIBLE AND INHERENTLY PREJUDICIAL. THIS TESTIMONY VIOLATES FEDERAL AND STATE RULES OF EVIDENCE, FEDERAL & STATE, RULE 404(b) OTHER CRIMES, WRONGS, OR ACTS: PROVIDES: EVIDENCE OF OTHER CRIMES, WRONGS, OR ACTS IS NOT ADMISSIBLE TO PROVE THE CHARACTER OF A PERSON IN ORDER TO ACTION IN CONFORMITY THEREWITH. See, 'STATE V. LYLES' 125 S.C. 406, 118 S.E. 803 (1923) (S. Ct. OF SC PROVIDES THAT EVIDENCE OF OTHER CRIMES OR PRIOR BAD ACTS ARE INADMISSIBLE TO SHOW CRIMINAL PROPENSITY TO COMMIT A CRIME OR TO DEMONSTRATE THE ACCUSED IS A BAD INDIVIDUAL.)

APPELLANT ARGUES "THE CHARACTER OF THE ACCUSED" CAN NOT BE ATTACKED UNLESS THE DEFENDANT, FIRST PLACE HIS CHARACTER IS IN ISSUE. See, "STATE V. NELSON," 331 S.C. 1, 501 S.E.2d 716 (S.Ct., 1998) APPELLANT STATES THAT HE DID NOT TAKE THE STAND NOR DID HE PLACE HIS CHARACTER IN ISSUE. APPELLANT DID NOT PLACE ANY EVIDENCE UP FOR HIS DEFENSE AND DID NOT TESTIFY. See, TRIAL TRANSCRIPT, TR. 209, II, 14 - TR. 210, II, 13) AND See, (P.G.R. TR. 50, II, 2-8.)

THE REVIEWING COURTS IN SOUTH CAROLINA ARBITRARILY IGNORED ITS OWN RULES WHERE IT PROVIDES THAT UNSPECIFIED CHARGES SUCH

CHARGES ARE NOT ADMISSIBLE UNDER ANY EXCEPTION, NEITHER IS IT ADMISSIBLE FOR IMPEACHMENT EVIDENCE, See: "GETER V. STATE", 305 SC 365, 409 S.E. 2d, 344 (SC, 1991) (DISTINGUISHED FROM APPELLANT'S FACTS OF FINDINGS OF NO OVERWHELMING EVIDENCE.)

APPELLANT ARGUES THAT THE WITNESS FOR THE STATE PATRICIA RICES' ANSWER WAS ACTUALLY "NON-RESPONSIVE" BECAUSE IT HAD NOTHING TO DO WITH THE QUESTION! See: "TALLO V. UNITED STATES" (PERSUASIVE AUTHORITY) 344 F. 2d, 467 (1st CIR. Ct. App., 1965) (IN THIS CASE THE WITNESS ANSWERED IN A NON-RESPONSIVE ANSWER, TESTIFYING THAT THE DEFENDANT WAS IN JAIL! "THIS CASE IS DISTINGUISHED TO THE APPELLANT WHEREAS THAT COUNSELOR IMMEDIATELY MOVED FOR THIS TESTIMONY BE STRICKEN FROM THE RECORD AND MOVED FOR A MISTRIAL BUT COUNSEL FOR THE APPELLANT NEVER OBJECTED AND PRESERVE THE COMMENT FOR APPELLATE REVIEW, NOR DID COUNSEL REQUEST THAT THIS TESTIMONY BE STRICKEN FROM THE RECORD AND A JURY INSTRUCTION TO DISREGARD THE TESTIMONY. See: (P.C.R. TRANS. TR. 49, II. 18-THRU-TR. 51, II. 1)

APPELLANT ARGUES THAT IN CASE ABOVE "TALLO" AND IN HIS CASE THE WITNESS ANSWER WAS NON-RESPONSIVE BECAUSE THE WITNESS WAS NEVER ASK WHERE THE DEFENDANT WAS, NOR WAS THE DEFENDANT IN JAIL OR INCARCERATED AT ANY TIME. THE QUESTION ASKED OF BY THE PROSECUTION OF THEIR OWN WITNESS CONSTITUTED SERIOUS PREJUDICE AND DEPRIVED THE APPELLANT OF A FAIR TRIAL AS GUARANTEED BY THE CONSTITUTION OF THE UNITED STATES. (6th AMEND. U.S. CONST.)

APPELLANT RESPECTFULLY ASK THE COURT TO PLEASE TAKE NOTE OF UNITED-

STATES V. STROMBERG, "PERSUASIVE AUTHORITY" 268 F.2d, 256 (U.S. Ct. App., 2d Cir., 1959) (IN WHICH A WITNESS BLURTED OUT THAT THE DEFENDANT HAD BEEN IN JAIL & THE TRIAL JUDGE IMMEDIATELY STRUCK OUT THE TESTIMONY AND INSTRUCTED THE JURY TO PAY NO ATTENTION TO THAT REMARK IN ANY WAY AND DISREGARD IT COMPLETELY. "THE CT. APPS. 2ND CIR.; HELD THAT THE PROMPT INSTRUCTIONS TO DISREGARD CURRED THE ERROR, HOWEVER THE APPELLANT WAS NOT AFFORDED THE SAME COMPETENT ASSISTANCE BY TRIAL COUNSEL NOR THE TRIAL JUDGE AND WAS PREJUDICED BY INADMISSIBLE TESTIMONY THAT PREJUDICE HIM AND VIOLATED APPELLANTS' SUBSTANTIAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE CONSTITUTION OF THE UNITED STATES AS DETERMINED BY THE SUPREME COURT OF THE UNITED STATES AND FEDERAL LAW,

APPELLANT CITES COMMENTS MADE BY APPEAL JUDGE IN "TALLO V. UNITED STATES" "id." AND STATED: "WHILE WE ARE NOT PREPARED TO RULE THAT DEFENDANT'S MOTION FOR MISTRIAL SHOULD HAVE BEEN GRANTED, NOR THAT A CORRECTIVE INSTRUCTION ON THE SPOT WOULD HAVE INADEQUATE TO CURE ANY HARM CAUSED BY THE NON-RESPONSIVE ANSWER, THE CONVICTION HEREIN "TALLO" MUST BE SET ASIDE AND A NEW TRIAL GRANTED,

APPELLANT STATES THAT THE TRIAL TRANSCRIPT AND THE PCR TRANSCRIPT WILL SUPPORT APPELLANT CLAIM THAT HE DID NOT TAKE THE STAND IN HIS DEFENSE NOR DID HE PLACE HIS CHARACTER IN ISSUE AND THESE RECORDS WILL SUPPORT THAT ALSO, JUST AS "TALLO" "id." DID NOT TAKE THE STAND NEITHER DID APPELLANT AND SHOULD BE HELD TO THE SAME RULING,

APPELLANT STATES THAT TRIAL COUNSEL CLAIMED HER REASON FOR NOT

OBJECTING TO THIS TESTIMONY WAS "SHE DID NOT WANT TO DRAW ATTENTION TO THE TESTIMONY BECAUSE IT LOOKS BAD AND BRINGS MORE ATTENTION TO THE JURY" See (P.C.R. TRANS. TR. 89, II, 18-THRU-90) & (P.C.R. TR. 103, II, 5-17.) APPELLANT BRINGS TO THE ATTENTION OF THE COURT THAT ON (P.C.R. TR. 90, II-14) COUNSEL CLAIMS THE STATEMENT OF APPELLANT BEING INCARCERATED AND IN JAIL WAS A "QUICK PASSING COMMENT!" AND SOMETIMES IT OUTLINES IT TO THE JURY AND MAKES IT A BIG DEAL! ON CROSS EXAMINATION COUNSEL TESTIFIES THAT SHE'S NOT SURE WHERE SHE (PATRICIA RICE) SAID SAID SOMETHING ABOUT HE (APPELLANT) WAS IN JAIL AT THAT TIME. COUNSELOR EVEN CONTINUES WITH HER TESTIMONY SAYING "I DID NOT OBJECT TO THAT AND I DID NOT REQUEST A MISTRIAL!" See (P.C.R. TR. 103, II, 4-11) ALSO SEE STATE WITNESS (PATRICIA RICE) TESTIMONY IN JURY TRIAL (TRIAL TRANS. TR. 175, II, 7-18)

APPELLANT ARGUES HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WAS VIOLATED AND DEPRIVED HIM OF A FAIR TRIAL DUE TO COUNSEL'S FAILURE TO OBJECT TO THIS TESTIMONY WHICH PREJUDICE THE APPELLANT, SIXTH (6TH) AMEND. U.S. C.A. CONST. ALSO THE STATE CANNOT CREATE A TRIAL COURT STRATEGY WHEREAS THE ERROR IS SO EGGREIVIOUS THAT IT AFFECTS APPELLANT'S TRIAL.

APPELLANT CITES "HYMAN V. AIKEN," 824 F.2d, 1405 (Ct. App., 4TH CIR, 1987) WHERE TRIAL COURT STRATEGY IS CLAIMED, THIS PRESUMPTION IS DEFEATED WHEN COUNSEL FAILS TO DO BASIC LEGAL RESEARCH, BECAUSE LACK OF PREPARATION AND RESEARCH CANNOT BE CONSIDERED THE RESULT OF DELIBERATE INFORMED STRATEGY, *id.*, 824 F.2d. @ 1416, ALSO IN "ESTELLE V. WILLIAMS," THIS COURT HELD: THE FAILURE TO MAKE AN OBJECTION TO THE STATE ATTACKING DEFENDANT'S CHARACTER, "FOR WHATEVER REASON" IS SUFFICIENT TO *id.* "ESTELLE V. WILLIAMS" 425 U.S. 501 (1976).

NEGATE THE PRESENCE OF COMPELSION NECESSARY TO ESTABLISH A CONSTITUTIONAL VIOLATION.

APPELLANT ARGUES THAT TRIAL WAS NOT PREPARED WITH A DEFENSE GOING INTO A JURY TRIAL DUE TO THE FACT SHE FAILED TO DO BASIC LEGAL RESEARCH, DID NOT INTERVIEW A POTENTIAL WITNESS AND DID NOT INVESTIGATE THE APPELLANT'S ALIBI! See: P.C.R. TR. 87, II 2-12) WHERE AS COUNSELOR TESTIFIED THAT PRIOR TO TRIAL THE APPELLANT INFORMED HER THAT HE DID NOT WANT TO TESTIFY, PREFERRED NO DEFENSE AND WANTED CLOSING! APPELLANT STATES UNDER THE PENALTY OF PERJURY THAT PRIOR TO TRIAL THAT HE NEVER HAD TOLD COUNSEL THIS! ALSO See: P.C.R. TR. 101, II 15 - TR. 102, II - 6). COUNSEL ADMITS ON THE RECORD THAT SHE DID NOT INTERVIEW THIS WITNESS (JOHN HENRY). COUNSEL TESTIFIED THAT IF SHE THOUGHT THERE WAS A WITNESS TO SAY APPELLANT WAS NOT GUILTY SHE WOULD HAVE TRIED TO GET HIM. HOWEVER COUNSEL ADMITS TO NOT QUESTION- IN JOHN HENRY!

APPELLANT ALSO ARGUES THAT COUNSELOR DID NOT INVESTIGATE THE INFORMATION THAT HE AND THE STATES WITNESS "PATRICIA RICE" DID LIVE TOGETHER, YET THOUGH INSTEAD OF COUNSELOR INVESTIGATE THIS AND BRING IT OUT DURING TRIAL, SHE ASK THE PRIMARY INVESTIGATOR TO LOOK INTO THIS RATHER THAN HER OWNSELF. See: TRIAL TRANS. TR. 11; II, 2-13) "I DID ASKED HIM THAT QUESTION OF JARVIS. IF, IN FACT, I DID ASK IT IN THE PRELIM, I DON'T HAVE INDEPENDENT RECOLLECTION, IF I DID, I WOULD SIMPLY ASK THAT QUESTION TO SEE IF HE COULD INVESTIGATE THAT ROUTE." THIS TESTIMONY ALONE PROVES THAT COUNSELOR RELIED ON THE PROSECUTION TO INVESTIGATE ON BEHALF

OF THE DEFENSE, See: Vinson v. True, "436 F.3d, 412, 419 (4th Cir. 2006) Citing "A DECISION CANNOT BE CONSIDERED "TACTICAL" WHERE IT MADE NO SENSE OR WAS UNREASONABLE.

See: UNITED STATES V. CARTHURNE, "878 F.3d 458, 466 (4th Cir. 2017) WHICH STATES COUNSEL HAS A DUTY TO INVESTIGATE AND TO RESEARCH A CLIENT'S CASE IN A MANNER SUFFICIENT TO SUPPORT INFORMED LEGAL JUDGMENTS, i.e., COUNSEL IS (QUINTESENTIALLY) DEFICIENT WHEN HE DOES NOT KNOW THE LAW THAT IS FUNDAMENTAL TO HIS CASE AND FAILS TO CONDUCT RESEARCH ON HIGHLY RELEVANT POINTS. ALSO See: Marcrum v. Luebers, "509 F.3d, 489 (U.S. Ct. App. 8th Cir. 2007) HELD THAT THE COURT IS NOT TO INVENT STRATEGIC REASONS OR ACCEPT ANY STRATEGY COULD HAVE FOLLOWED, WITHOUT REGARD TO WHAT ACTUALLY HAPPENED. WHEN A PETITIONER SHOWS THAT COUNSEL'S ACTIONS RESULTED FROM, "INATTENTION OR NEGLIGENCE" RATHER THAN REASONED JUDGMENT JUST AS IN APPELLANT'S CASE, COUNSELOR TESTIFIED AT THE P.C.R. HEARING "I'M NOT SURE WHERE WHERE SHE SAID SOMETHING ABOUT HE WAS IN JAIL AT THE TIME!" See: P.C.R. TR. 103, II, 5-THRU-TR. 104, II, 1-16.) THE APPELLANT HAS REBUTTED THE PRESUMPTION OF STRATEGY EVEN IF THE GOVERNMENT OFFERS A POSSIBLE STRATEGIC REASON THAT COULD HAVE, BUT DID NOT, PROMPT COUNSEL'S COURSE OF ACTION. See: Rompilla v. Beard, "545 U.S., 374, 395-96, 125 S.Ct. 2456 (2005)

APPELLANT ARGUES TRIAL COUNSEL DID NOT HAVE A STRATEGIC REASON FOR NOT OBJECTING. See: INGLE V. STATE, "348 SC. 467, 560 S.E.2d, 401 (2002) AND FREIBURGER V. STATE, "413 SC 243, 775 S.E.2d, 391 (Ct. App. 2015) (REASONABLE JURORS WOULD VIEW THE APPELLANT AS LESS CREDIBLE WITNESS

BECAUSE OF HIS PRIOR CRIMINAL RECORD AND UNSPECIFIED INCARCERATION.

IF THE STATE CONTENDS THE ALLEGED DEFICIENCY RESULTED FROM A STRATEGIC DECISION MADE AT TRIAL, COUNSEL MUST ARTICULATE A VALID REASON FOR EMPLOYING A CERTAIN STRATEGY. See: "FRIEBURGER" & "INGLE" "DECISIONS MADE IN IGNORANCE OF RELEVANT, AVAILABLE INFORMATION CANNOT BE CHARACTERIZED AS STRATEGIC. See: "WEIK V. STATE", 409 SC 214, 236, 761 S.E.2d 757, 768 (2014)

APPELLANT ASK WHETHER THE TRIAL STRATEGY COUNSEL CHOOSE WAS OBJECTIVELY WAS REASONABLE IN LIGHT OF THE FACTS IN THIS CASE WHERE THERE WERE NO OVERWHELMING EVIDENCE, TESTIMONY GIVEN WAS INADMISSIBLE AND CONCERNING AND UNSPECIFIC INCARCERATION LEFT UNEXPLAINED COULD ONLY PREJUDICE THE APPELLANT. THE PROSECUTION OPENLY ADMITS THERE WAS NO OVERWHELMING EVIDENCE TO SUPPORT AN ARMED ROBBERY CONVICTION. APPELLANT ASSERTS THIS IS THE VERY REASON WHY TRIAL COUNSEL INVENTING STRATEGY IS "NOT OBJECTIVELY REASONABLE" IN LIGHT OF THE FACTS IN THIS CASE.

APPELLANT STATES THAT COUNSEL DID VIOLATE HIS SIXTH (6TH) AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE CONSTITUTION OF THE UNITED STATES (6TH AMEND, U.S.C.A. CONST.) BY FAILING TO CONTEMPORANEOUSLY OBJECTING TO INADMISSIBLE TESTIMONY OF PRIOR INCARCERATIONS AND FAILING TO PRESERVE THE RECORD FOR APPELLATE REVIEW WHICH PREJUDICE APPELLANT AND DEPRIVED HIM OF A FAIR TRIAL AND DUE PROCESS OF LAW. (14TH AMEND, U.S.C.A. CONST.) See: "STRICKLAND V. WASHINGTON", 466 U.S. 668, 104 S.Ct. 2052 (1984)

APPELLANT CITES "UNITED STATES V. FREEMAN" 992 F.3d, 268 (4th Cir. 2021)
Holding; Chief Judge held that, #1.) COUNSEL'S FAILURE TO ARGUE
MERITORIOUS OBJECTIONS PRESENTENCE INVESTIGATIONS REPORT AMOUNTED TO DE-
FICIENT PERFORMANCE; #2.) COUNSEL DEFICIENT PERFORMANCE PREJUDICED
DEFENDANT AND THUS AMOUNTED TO IN-EFFECTIVE ASSISTANCE OF COUNSEL
AND #3.) SENTENCE WAS SUBSTANTIVELY UNREASONABLE, VACATED AND REMANDED.

APPELLANT BELIEVES THAT HE HAS DEMONSTRATED TO THIS HONORABLE
COURT THAT THE COURT OF APPEALS ERRORED DENYING HIS CASE BASED
UPON THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED. AND IT IS
WITH MANY PRAYERS AND MUCH HOPE THIS COURT WILL GRANT HIS
APPEAL AND REVERSE & REMAND TO THE LOWER COURTS FOR A NEW
TRIAL.

ARGUMENT #3

III. TRIAL COUNSEL WAS IN-EFFECTIVE FOR FAILING TO OBJECT TO PERJURED TESTIMONY USED BY THE PROSECUTION,

APPELLANT ARGUES THAT THE PROSECUTION DID COMMIT MISCONDUCT BY KNOWINGLY USE OF PERJURED TESTIMONY AND OR BY NOT CORRECTING IT. THE STATES KEY WITNESS/CO-DEFENDANT "PATRICIA RICE" COMMITTED PERJURY CONCERNING HER WHEREABOUT PRIOR TO THE ROBBERY, DURING THE ROBBERY, AND AFTER THE ALLEGED ROBBERY, "MS. RICE" TESTIFIED THAT SHE WAS RELUCTANT PARTICIPANT IN THE ALLEGED ROBBERY AND WHEN IT HAPPENED THAT "SHE WALKED HOME!" SEE (TRIAL TRANSCRIPT, TR. 157, 16-THRU-TR. 177, II, -16) ESP. (TR. 167, II, 1-THRU-TR. 168, II, -16.)

APPELLANT ASK THE COURT TO TAKE NOTE THAT THE PROSECUTION NEVER AT ANY TIME OR POINT ATTEMPT TO CORRECT THIS TESTIMONY KNOWING THAT "MS. RICE" WAS THE MAIN PERPETRATOR AND HER TESTIMONY WAS PERJURED. THE PROSECUTOR (MARK MOYER) WAS THE SAME PROSECUTOR THAT FORMALLY CHARGED MS. RICE, FORMAL INDICTMENT AGAINST BOTH DEFENDANTS AND HELD HER IN JAIL FOR (11) MONTHS UNTIL THE (3) BEFORE APPELLANTS TRIAL BUT HE STILL CLAIMS TO NOT MAKING ANY DEAL WITH HER. SEE (EXHIBITS #G, #H, & #I.) "TRUE BILL OF INDICTMENT"

APPELLANT CITES THAT ONCE A "TRUE BILL INDICTMENT" IS RETURNED, THE STATES POSITION IS THERE IS ENOUGH EVIDENCE TO PROCEED WITH A PUBLIC TRIAL AND JURY OF PEERS AGAINST "PATRICIA RICE".

APPELLANT ONCE AGAIN ASK THE COURT TO TAKE NOTE THAT THIS CASE

WAS BASED UPON IDENTIFICATION ONLY! See; TRIAL TR 203, II, 3-THRU-TR 204, II, -6.). THE APPELLANT ASK THIS COURT TO TAKE NOTE THAT "PATRICIA RICE" WAS HELD IN THE GREENVILLE COUNTY DETENTION CENTER FROM AUGUST 3, 2009 UNTIL JULY 3, 2010. ON JULY 8, 2010 "MARK MOYER" CHIEF PROSECUTOR IN CASE AT HAND AND HIS LEAD INVESTIGATOR WAS OBSERVED INTERROGATING THE SAME INDICTED CO-DEFENDANT "PATRICIA RICE" WHILE SHE WAS FULLY UNDER INDICTMENT OUTSIDE THE PROTECTION OF HER ATTORNEY. THE PROSECUTION CLAIMS THAT THIS PRACTICE IS ACCEPTABLE IN "THE GOOD OLE SOUTH," WERE THERE IS NO PROOF OR AUTHORIZATION FROM THE WHO REPRESENTED MS. RICE. THE PROSECUTION VIOLATED THE 14TH AMENDMENT, U.S.C.A. CONST AND CIRCUMVENTED DUE PROCESS CLAUSE OF LAW. See: "MASSIAH V. UNITED STATES," 377 U.S. 201, 84 S.Ct. 1179, 12 L.Ed. 246 (1964) & "SPANO V. NEW YORK," 360 U.S. 315, 79 S.Ct. 1202, 3 L.Ed. 1265 (1959). See; P.C.R. TR 38, II, 5-THRU-TR 40, II, -8.). THE APPELLANT TRIAL WAS ORIGINALLY SCHEDULE FOR JULY 12, 2010 BUT DUE TO THE FACT THE VICTIM BEING EXTREMELY INTOXICATED AND DESCRIBED THE PERSON AS ROBBING HIM WAS A BLACK MALE 25 TO 30 YRS OLD, THE VICTIM WOULD NOT BE A CREDIBLE WITNESS, See; TRIAL TRANSCRIPT, (TR 152, II, 9-THRU-TR 154, II, -25.) THEREFORE THE PROSECUTION HAD NO REAL CASE WITHOUT PATRICIA RICE AND THE PROSECUTION EVEN TRIED THE APPELLANT WITH POSSESSION OF A DEADLY WEAPON IN THE COMMISSION OF A VIOLENT CRIME KNOWING HE COULD NOT GET A CONVICTION ON THIS DUE TO THE FACT ONE ELEMENT IS "A FIRE ARM OR VISIBLY DISPLAYED A KNIFE DURING THE COMMISSION OF A VIOLENT CRIME!" See; TRIAL TRANSCRIPT, (TR 253, II, 5-14.) A.B.A. STANDARDS STATES A PROSECUTOR SHALL NOT TRY A CASE HE CAN NOT WIN. IN THIS CASE AT HAND THE PROSECUTOR KNEW HE DID NOT HAVE ANY

CHANCE OF RETURNING A GUILTY VERDICT FOR THE POSSESSION OF A DEADLY WEAPON DUE TO THE FACT HE (PROSECUTOR) DID NOT HAVE A WITNESS WHO GAVE A STATEMENT OF VISUALLY SAW A WEAPON OR GAVE ANY DESCRIPTION.

APPELLANT ARGUES THAT THE PROSECUTION COERCED PATRICIA RICE TO CHANGE HER STATEMENT IN WHICH SHE ORIGINALLY GAVE WHERE AS SHE STATED THAT SHE NEVER SAW THE APPELLANT WITH A KNIFE OR ANYTHING IN HIS HAND. ON JULY 9, 2010 PROSECUTOR MARK MOYER RELEASED "PAT RICE" FROM ELEVEN (11) MONTHS OF BEING LOCKED UP IN THE COUNTY JAIL WITH AN UNDERSTANDING THAT SHE COOPERATE IN THE PROSECUTION OF THE APPELLANT IN EXCHANGE FOR ALL CHARGES TO BE DISMISSED HOWEVER THIS ILLEGAL MEETINGS VIOLATES THE DUE PROCESS OF THE FOURTEENTH (14TH) AMEND. U.S.C.A. CONST. AND CIRCUMVENTED IT.

THE APPELLANT ARGUES AND DISAGREE WITH THE DISTRICT ATTORNEY'S OFFICE AND THE COURTS THAT THERE IS NO RULES REGARDING THE PROSECUTION VISITING AND INTERROGATING AN INDICTED DEFENDANT IN CUSTODIAL DETENTION OUTSIDE THE PRESENCE OF HER ATTORNEY THEN GIVES ANOTHER VERSION OF THE STORY THAT THE APPELLANT WAS THE ROBBER AND THAT HE HAD AN OBJECT IN HIS HAND! MS. RICE TESTIFIED THAT SHE DID NOT HAVE ANY INVOLVEMENT WITH IT AND THAT SHE WALKED HOME!

APPELLANT ARGUE THAT THE COURT (THE P.C.R. COURT OF COMMON PLEAS, SC SUPREME CT., DIST. CT. SC, & COURT OF APPEALS, 14TH CIR.) HAS MIS-APPREHENDED THAT THIS IS NOT AN APPEAL ISSUE DUE TO THE FACT IT WAS NEVER PLACED ON THE RECORD AND WAS NOT OBJECTED TO AND BROUGHT

TO THE ATTENTION OF THE COURT NEVERTHELESS COUNSELOR WAS IN-EFFECTIVE ASSISTANCE OF COUNSEL FOR NOT BRINGING OUT THE FACT THAT THE PROSECUTION DID SECRETLY VISIT THIS INDICTED WITNESS AND WITHOUT THE PRESENCE OF HER ATTORNEY BEFORE THE JURORS AND LETTING THEM KNOW THAT THIS VIOLATES THE ABA RULES OF PROFESSIONAL CONDUCT AND DUE PROCESS OF THE FOURTEENTH (14TH) AMEND, U.S.C.A. CONST. See: "STRICKLAND V. WASHINGTON", 466 U.S. 668, 104 S.Ct. 2052.) AND THIS TESTIMONY WOULD ALSO BE INADMISSABLE.

THE APPELLANT GAVE TESTIMONY AT THE P.C.R. EVIDENTIARY HEARING THAT "PATRICIA RICE" WAS IN HIS COMPANY FROM APPROXIMATELY 10:45, ON THE 24TH OF JULY, 2009 THRU THE 25TH OF JULY, 2009 UNTIL ABOUT 8:00 A.M. AT SANDRA BOWEN TRAILOR ON MAGGIE ST., GREENVILLE, SC., See: P.C.R. TR. (TR. 40, II. 26) - THRU - TR. 41, II. - 6.). DEFENSE WITNESS "ARON JONES" TESTIFIED THAT HE SAW THE APPELLANT (BOBBY BARTON) WITH PATRICIA RICE ON THE 25TH OF JULY, 2009 APPROXIMATELY 1:00 P.M. - 1:30 A.M. TOGETHER AT THE HANG OUT SPOT, See: (P.C.R. TR. 73, II. 6 - THRU - TR. 74, II. - 15.)

THE APPELLANT ARGUES THAT THE COURT ABUSED ITS DISCRETION AND DISAVOWED THE EVIDENCE PLACED ON THE RECORD BECAUSE THE RESPONDENT DID NOT PLACE ANY EVIDENCE OF MATERIAL FACT ON THE RECORD, TO SUPPORT ANY OPPOSITION THAT "PATRICIA RICE" DID NOT COMMIT PERJURY ON THE WITNESS STAND AND SEPARATING HERSELF FROM THE ALLEGED ARMED ROBBERY. APPELLANT ASK THE COURT TO PLEASE TAKE NOTE THAT THE PROSECUTOR MARK MOYER IS THE SAME SOLICITOR THAT FORMALLY INDICTED MS. RICE AND HELD HER IN DETENTION FOR ELEVEN (11) MONTHS HOLDING HER IN CUSTODY UNTIL THREE (3) DAYS BEFORE

THE APPELLANT'S JURY TRIAL AND DELIDING TO DISMISS CHARGES WITH THE UNDERSTANDING THAT SHE TESTIFY FOR THE STATE. See, (TRIAL TRANSCRIPT, TR. 158, II, 13A), (OFFICIAL INDICTMENT NO. 2009-65-23-9564, EXHIBIT #H, #I, & #G, ATTACHED) See, (TRIAL TRANSCRIPT, TR. 168, II, 17-THRU-TR. 170, II, 1-4). THE PROSECUTOR IN THIS CASE "MARK MOYER" WHEN PLACED ON THE WITNESS STAND AT THE P.C.R. EVIDENTIARY HEARING TESTIFIED "THAT HE DID NOT HAVE ANY DOUBTS THAT "PATRICIA RICE" WAS TELLING THE TRUTH ABOUT THAT NIGHT." See, (P.C.R. TR. 72, II, 1-17), APPELLANT ARGUES THAT THIS TESTIMONY IS NOT MATERIAL EVIDENCE AND IS NOT BASED UPON CIRCUMSTANTIAL EVIDENCE OR ANY INVESTIGATIVE FACTS BUT OF MARK MOYER'S BELIEF AND OPINION. MR. MOYER IS A PROSECUTOR AND NOT AN EXPERT WITNESS NEITHER HAS HE BEEN QUALIFIED AND ACCEPTED AS AN EXPERT WITNESS, LEAVE THIS TESTIMONY TO BE ONLY AN OPINION AND NOT A FACT OR BASED UPON SCIENCE.

APPELLANT ARGUES THE THE STATES KEY WITNESS PATRICIA R. RICE COMMITTED PERJURY ON THE WITNESS IN HER TESTIMONY ABOUT THE EVENTS THAT HAPPENED IN THE A.M. HOURS ON THE 25TH OF JULY, 2009 WHERE SHE CLAIMS THE APPELLANT COMMITTED A ROBBERY IN HER PRESENCE AND THAT AFTERWARDS "SHE WALKED HOME," THE APPELLANT TESTIFIED THAT PATRICIA RICE AND HE WAS TOGETHER FROM 10:45 p.m. OF THE 24TH OF JULY UNTIL ABOUT 8:00 a.m. THE 25TH OF JULY, 2009. HARRON JONES TESTIFIED THAT HE SAW THE APPELLANT AND "PATRICIA RICE" TOGETHER ON 25TH OF JULY, 2009 AT ABOUT 1:00 a.m. UNTIL 1:30 a.m. FOR ABOUT (30) MINUTES, AND HE ALSO TESTIFIED THAT HE SAW HER AGAIN APPROXIMATELY 7:30 - 8:00 a.m. ON 25TH OF JULY, 2009 AT SANDRA BOWEN'S TRAILER, See, (P.C.R. TR. 77, II, 1-THRU-TR. 78, II, -7.) (TR. 77, II, 1-THRU-TR. 78, II, -7.) See, ALSO (P.C.R. TR. 80, II, 8-24.)

APPELLANT ARGUES THAT THE EVIDENCE PRESENTED ON HIS BEHALF OUTWEIGHS THE OPINION OF THE PROSECUTOR PRESENTED AT THE HEARING. THE EVIDENCE PROVED BEYOND A SHADOW OF DOUBT THAT "MS. RICE," DID NOT GO HOME AS SHE TESTIFIED AS SHE TESTIFIED TOO BECAUSE SHE WAS SEEN AT LEAST TWICE THAT MORNING WITH THE APPELLANT AT TWO (2) DIFFERENT LOCATIONS. THIS EVIDENCE DISPROVES THAT IT IS IMPOSSIBLE FOR "MS. RICE" TO BE AT TWO PLACES AT ONCE AT THE SAME TIME ON THE SAME DATE.

APPELLANT ARGUES THAT THE PROSECUTION KNEW OR SHOULD HAVE KNOWN THAT "PATRICIA RICE" COMMITTED PERJURY ON THE STAND. THE PROSECUTOR "MARK MOYER" TESTIFIED AT THE P.C.R. EVIDENTIARY HEARING THAT "HE DID NOT HAVE ANY DOUBTS THAT 'MS. RICE' WAS TELLING THE TRUTH ABOUT THAT NIGHT." See, (P.C.R. Tr. 72, II, 10-17). THIS IS NOT EVIDENCE FROM AN INVESTIGATION BUT AN OPINION AND SHOULD NOT BE ALLOWED TO OUTWEIGH FACTS,

APPELLANT ARGUES THIS IS THE ONLY THING PLACED ON THE RECORD ABOUT THIS ISSUE THE PROSECUTOR'S OPINION. THE COURT OF APPEALS MISAPPREHENDED THE PROSECUTOR "MARK MOYER" OPINION AS EVIDENCE AND IS ERRONEOUS BASED UPON TWO REASONS: #1.) MARK MOYER WAS NOT CERTIFIED OR QUALIFIED AS AN EXPERT WITNESS IN PSYCHOLOGY, AND #2.) MARK MOYER NEVER DID ANY INVESTIGATION TO CORROBORATE "MS. RICE" TESTIMONY AND HIS TESTIMONY WAS A SELF-SERVING OPINION, THEREFORE UNDER NORMAL COURT PROCEEDING FOR A WITNESS TO STATE THEIR OPINION AND THE COURT TO ACCEPT IT AS EVIDENCE, THE WITNESS MUST BE CERTIFIED OR QUALIFIED AS AN EXPERT IN A PARTICULAR FIELD, THIS WITNESS WAS NEVER CERTIFIED OR QUALIFIED AS AN EXPERT WITNESS,

APPELLANT ARGUES THAT "MARK MOYER" TESTIMONY IS WITHOUT FACTS OR MERIT AND THE RESPONDENT REPRESENTATIVE "KAREN RATTIGAN" PASSED UPON CROSS EXAMINING THE APPELLANT ABOUT THIS ISSUE. See: (P.C.R. Tr. 72, II 18-23)

APPELLANT ARGUES THAT "AARON JONES, JR." TESTIFIED TO SEEING "PATRICIA RICE," ON THE 25TH OF JULY, 2009 APPROXIMATELY 1:15^{am} - 1:45^{am}, AT A LATE NIGHT HANG OUT SPOT AND HE SAW "PATRICIA RICE" AGAIN HOURS LATER AROUND 7:30^{am} - 8:00^{am} OF THE SAME DAY, THE 25TH OF JULY, 2009 AT THE TRAILOR OF A DECEASED FEMALE (SANDRA BOWENS), See: (P.C.R. Tr. 73, II. 2-24) AND (P.C.R. Tr. 77, II. 1-THRU-TR. 78, II. - 7). THIS EVIDENCE CANNOT BE DISPUTED BUT WAS CORROBORATED BY "MR. JONES" AFTER THE APPELLANT TESTIFIED BEFORE HAND. "MR. JONES" WAS NOT IN THE HEARING TO HEAR THE APPELLANT'S TESTIMONY, THIS IS TWO WITNESSES THAT TESTIFIED THAT "MS. RICE" COMMITTED PERJURY AND LIED ABOUT HER WHEREABOUTS AND WHAT ACTUALLY HAPPENED THAT NIGHT AND HER INVOLVEMENT. "MR. RICE" ALSO TESTIFIED THAT SHE HAD NO UNDERSTANDING WITH THE PROSECUTION EVEN THOUGH SHE WAS ARRESTED, CHARGED, AND INDICTED WITH THE EXACT CHARGES UNTIL (3) DAYS PRIOR TO APPELLANT'S JURY TRIAL. "MR. AARON JONES" TESTIFIED UNDER OATH THAT EVEN THOUGH EVERYONE WAS GETTING HIGH ON DRUGS, THAT HE REMEMBER THE DATE AND TIME, PRETTY WELL. "MR. JONES" ANSWERED "YES MAM!!" See: (P.C.R. Tr. 80, II. 22-24). THE RESPONDENT FAILED TO OBJECT OR TO STRIKE HIS TESTIMONY. "IT IS KNOWN THAT AN UNREBUTTED PRESUMPTION IS A MATERIAL FACT!!"

APPELLANT ASK THE COURT TO PLEASE TAKE NOTE THAT "MR. JONES" NOT ONLY TESTIFIED TO SEEING "PATRICIA RICE" ONCE THAT MORNING BUT

TWICE WITH THE APPELLANT PARTING ON TWO SEPARATE OCCASSIONS AND AT TWO DIFFERENT LOCATIONS AND NOT AS THE PROSECUTION WITNESS TESTIFIED TOO,

APPELLANT CITES "MOONEY V. HOLLOMAN," 294 U.S. 103, 55 S. Ct. 340 (1935) THE S. Ct. held: (THE EVIDENCE DEVELOPED AND WHICH PROVED THE TESTIMONY AGAINST HIM TO HAVE BEEN PERJURED AND THAT AN CONVICTION OBTAINED UNDER PERJURY CAN NOT STAND AND MUST BE SET ASIDE, ALSO SEE: "ALCORTA V. TEXAS," 355 U.S. 28, 78 S. Ct. 103 (1957) (THE S. Ct. held: "A CONVICTION OBTAINED UNDER PERJURY CAN NOT STAND AND MUST BE SET ASIDE.") ALSO SEE: "HASKELL V. GREENE," 866 F.3d. 139 (U.S. Ct. App. 3d, 2017) (PERSUASIVE AUTHORITY) (Ct. App. - HELD THAT: #1) THERE WAS A REASONABLE LIKELIHOOD THAT WITNESS'S PERJURED TESTIMONY COULD HAVE AFFECTED JUDGMENT OF THE JURY, AND #2) AS A MATTER OF FIRST IMPRESSION, THE ACTUAL-PREJUDICE STANDARD DOES NOT APPLY TO HADERS CLAIMS THAT THE STATE KNOWINGLY PRESENTED, OR KNOWINGLY FAILED TO CORRECT PERJURED TESTIMONY IN VIOLATION OF DUE PROCESS, ~~PERJURED~~, PETITION GRANTED; CASE REMANDED,

APPELLANT ARGUES THAT THE REVIEWING COURTS THAT HE APPEALED TO AFTER P.C.R. MISAPPREHENDED HIS ARGUMENT AND ERRORED DENYING RELIEF WHEREAS THE PROSECUTION COMMITTED MISCONDUCT BY USING PERJURED TESTIMONY VIOLATING SIXTH AND FOURTEENTH RIGHTS TO THE U.S. CONST. AMEND. WHICH GUARANTEES "EFFECTIVE ASSISTANCE OF COUNSEL, DUE PROCESS OF LAW AND A FAIR TRIAL,

APPELLANT STATE FOR THESE REASONS CERTIORARI SHOULD BE GRANTED FOR FURTHER PROCEEDING AND REMANDED TO THE LOWER COURTS,

"REASONS FOR GRANTING THE WRIT"

APPELLANT RESPECTFULLY ASK THIS COURT TO PLEASE REVIEW THE WHOLE RECORD OF THE ENTIRE COURTS AND THE ERRONEOUS DECISION OF THE COURT OF APPEALS ALSO THE DECISION OF THE COURT OF COMMON PLEAS (P.C.R.). THE CONFLICTING DECISION OF SUPREME COURT OF SOUTH CAROLINA AND THE DISTRICT COURT, WHEREAS THEIR DECISION CONFLICTS WITH "BELL V. STATE," 417 SC 436 (CH APP. 2014), "DENVE V. STATE," 381 SC 601 (SC, 2009) ALSO THE UNITED STATES SUPREME COURT IN THE CASE "MISSOURI V. FRIE," 566 U.S. 134 (2012) AND "LAFLER V. COOPER," 566 U.S. 156 (2012). IN THESE CASES THE PETITIONER TESTIFIED AT THE EVIDENTIARY HEARING AND PLACED PHYSICAL DOCUMENTS INTO EVIDENCE AND THE COURTS RETURNED A FAVORABLE RULING. HOWEVER IN THE APPELLANT'S CASE HE TESTIFIED ESTABLISHING A FOUNDATION TO LAY HIS EVIDENCE (DOCUMENTS & EXHIBITS) UPON AND CLOSED THE CLAIM IN THE WAY OF "STRICKLAND V. WASHINGTON" DEFICIENT PERFORMANCE AND PREJUDICE PRONGS HOWEVER TRIAL COUNSEL'S ONLY EVIDENCE WAS BASED SOLELY UPON HEARSAY OF AN UNKNOWN WITNESS AND NO DOCUMENTATION PLACED INTO EVIDENCE AND NOTHING TO SUBSTANTIATE HER TESTIMONY, THE P.C.R. COURT DEEMED THIS TESTIMONY CREDIBLE EVEN THOUGH COUNSEL TESTIFIED THAT SHE DID NOT KNOW WHO SHE GOT THE INFORMATION FROM, THIS TESTIMONY VIOLATED RULE OF EVIDENCE, RULE 802, FEDERAL AND STATE AND IS INADMISSIBLE IN A COURT OF LAW AND DOES NOT MEET THE ADMISSIBILITY STANDARD OF RULE 801 OR 803!

"CONCLUSION"

FOR THESE REASONS STATED AND ANY OTHER THIS HONORABLE COURT DEEM APPROPRIATE AND JUST, THE APPELLANT RESPECTFULLY REQUEST THIS COURT TO PLEASE REVIEW THE ENTIRE

"UNCLUSION"

RECORD OF ALL THE COURTS AND APPELLATE COURT THAT HIS CASE HAS PROCEEDED THROUGH WHEREAS HIS CLAIMED WAS PRESERVED FOR THE RECORD. APPELLANT REQUEST THAT HE BE GRANTED C. D. A, AND BE GRANTED WRIT TO CERTIORARI AND COUNSEL BE APPOINTED TO ALLOW FULL BRIEFING ON THESE CLAIMS WITH HOPES OF REMANDING TO THE LOWER COURTS FOR AN OPPORTUNITY TO ACCEPT THE UNCONVEYED PLEA OFFER OR A NEW TRIAL.

* P.C.R. TRANSCRIPT ENCLOSED AS PART OF THE RECORD

ALSO,

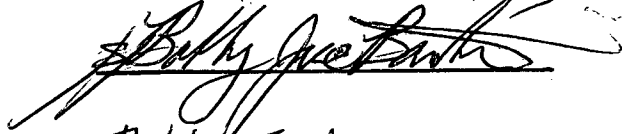
(18 U.S.C. 3006A) PETITIONER MOTION FOR COUNSEL!

&

AND,

(RULE 22.5) APPLICATION FOR BAIL

RESPECTFULLY SUBMITTED



Bobby Joe Barton, #163629

B.R.C.I.

4460 BROAD RIVER RD.

COLUMBIA, SC 29210

MAILED ON THE 23, DAY, OF SEPT., 2021
SEPTEMBER, 2021 PRO Se REPRESENTATION
SEPTEMBER, 2021