

## APPENDIX A

FILED: July 23, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 21-6289  
(2:99-cr-00362-DCN-1)

---

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ARTHUR F. JONES, a/k/a Arthur Palmer, a/k/a June, a/k/a Junior

Defendant - Appellant

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J U D G M E N T

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In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

7/29/2021

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 21-6289

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTHUR F. JONES, a/k/a Arthur Palmer, a/k/a June, a/k/a Junior,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at  
Charleston. David C. Norton, District Judge. (2:99-cr-00362-DCN-1)

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Submitted: July 20, 2021

Decided: July 23, 2021

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Before WILKINSON, AGEE, and DIAZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Arthur F. Jones, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

7/29/2021

PER CURIAM:

Arthur F. Jones seeks to appeal the district court's order construing his petition for a writ of audita quereia as a 28 U.S.C. § 2255 motion and dismissing it as successive and unauthorized. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When, as here, the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the motion states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Jones has not made the requisite showing. Accordingly, we deny Jones' motion for a certificate of appealability and dismiss the appeal. We further deny Jones' motions to dismiss the indictment, to expedite, and for judicial notice. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED*

## APPENDIX B

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

ARTHUR JONES, JR.,	)	
	)	
Petitioner,	)	No. 2:99-cv-0362-DCN
	)	
vs.	)	<b>ORDER</b>
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	
	)	

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This matter is before the court on petitioner Arthur Jones, Jr.'s ("Jones") petition for writ of audita querela, ECF No. 145, and motion to expedite proceedings, ECF No. 150. For the reasons set forth below, the court dismisses the petition for writ and finds the motion to expedite moot.

**I. BACKGROUND**

On April 14, 1999, Jones was indicted by the federal grand jury for Hobbs Act Robbery, during which he shot and killed a man, and use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C §§ 1951, 924(c) and 924(j). ECF No. 1. Jones was arrested and ordered detained on April 29, 1999. ECF No. 5. On November 3, 1999, after a three-day trial, a jury returned a guilty verdict on both charged counts. ECF No. 75. On March 8, 2000, the court sentenced Jones to a 20-year term of incarceration as to Count One and life as to Count Two. ECF No. 83. Jones filed a notice of appeal on March 13, 2000. ECF No. 84. On November 17, 2000, the Fourth Circuit affirmed Jones's conviction and sentence. United States v. Jones, 238 F.3d 416 (4th Cir. 2000).

Jones has filed a number of post-convictions motions seeking relief prior to his filing of the instant motions. Currently pending are Jones's petition for "writ of audita querla," ECF No. 149, and motion to expedite proceedings, ECF No. 150. On September 13, 2017, Jones filed a petition for writ of audita querla. ECF No. 149. When the government failed to respond to the petition, Jones filed a motion to expedite proceedings on November 24, 2020. ECF No. 150. On January 26, 2021, the government responded to both motions. ECF No. 153.

## II. STANDARD

Federal district courts are charged with liberally construing petitions filed by pro se litigants to allow the development of a potentially meritorious case. See Hughes v. Rowe, 449 U.S. 5, 9-10 (1980). Pro se petitions are therefore held to a less stringent standard than those drafted by attorneys. See Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978). Liberal construction, however, does not mean that a court may ignore a clear failure in the pleading to allege facts that set forth a cognizable claim. See Weller v. Dep't of Soc. Servs., 901 F.3d 387, 390-91 (4th Cir. 1990).

## III. DISCUSSION

As an initial matter, the court must determine the nature of Jones's request. The government argues that although Jones has styled his petition as a "Writ of Audita Querla," ECF No. 150 at 1, and alternatively as a "Motion Under Federal Rule of Civil Procedure 60(d)(3) To Set Aside Judgment," ECF No. 146 at 1, it is substantively a petition for relief under 28 U.S.C. § 2255. Indeed, the law is clear that "[r]egardless of the label assigned by the litigant, the subject matter of the motion determines its status."

Calderon v. Thompson, 523 U.S. 538, 553 (1998); see also Melton v. United States, 359 F.3d 855, 857 (7th Cir. 2004) (“Call it a motion for a new trial, arrest of judgment, coram nobis, audita querela certiorari, capias, habeas corpus, ejectment, quare impedit . . . or an application for a Get-Out-of-Jail-Card; the name makes no difference. It is substance that controls.”).

Pursuant to 28 U.S.C. § 2255(a):

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

Like the petition in Melton, Jones’s request that “this Court [ ] set aside its judgment,” ECF No. 145 at 20, “fits comfortably within [§ 2255’s] coverage.” Melton, 359 F.3d at 857. Jones’s petition asks the court to vacate its judgment based on various fraudulent acts by the prosecutors of his case. Because his motion “attacks the legitimacy” of his conviction, it is a petition for relief under § 2255, not a Rule 60 motion or a petition for writ of audita querela. Cooper v. United States, 2020 WL 4194649, at \*3 (D.S.C. July 21, 2020); see also United States v. McRae, 793 F.3d 392, 397 (4th Cir. 2015) (distinguishing a § 2255 petition from a motion under Fed. R. Civ. P. 60(b)).

Moreover, a writ of audita querela is not a remedy available to Jones. Where a defendant’s challenge to his conviction or sentence could have been challenged pursuant to a § 2255 petition, “a writ of audita querela is not an available remedy[.]” United States v. Padilla, 478 F. Supp. 2d 865, 868 (E.D. Va. 2007). That is the case even where a “particular prisoner was or would be unable to obtain relief under § 2255 because of a



procedural bar.” Id. (quoting Sloan v. United States, 2006 U.S. Dist. LEXIS 90006 at \*3 (W.D. Va. Dec. 13, 2006)). Where a prisoner files a petition for writ of audita querela requesting a remedy contemplated by § 2255, “it is appropriate to construe the petitioner’s motion as a motion under § 2255.” Id. at 868. As such, the court construes Jones petition as a motion for relief pursuant to § 2255.

The government argues that because Jones’s request is, in character, a § 2255 petition, and because Jones has unsuccessfully petitioned this court under § 2255 in the past, the court must dismiss the instant petition as a successive § 2255 petition. In the absence of pre-filing authorization from a court of appeals, the district court lacks jurisdiction to consider a successive § 2255 motion. Winestock, 340 F.3d at 208 (4th Cir. 2003). A motion is successive if it was preceded by a § 2255 motion that was dismissed on the merits. Slack v. McDaniel, 529 U.S. 473, 489 (2000). Here, Jones has already filed at least one § 2255 petition, ECF No. 110, which this court dismissed on the merits, ECF No. 118. Jones has not received authorization from the Fourth Circuit to file a successive petition. Therefore, the court is without jurisdiction to consider Jones’s petition and must dismiss it. Accordingly, Jones’s motion to expedite the court’s resolution of his petition is moot.

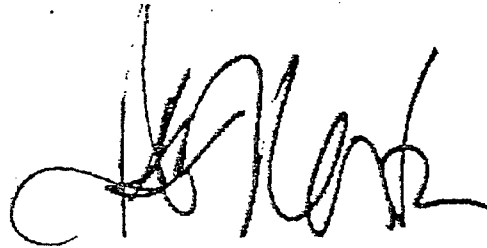
Rule 11(a) of the Rules Governing § 2255 Proceedings provides that the district court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). An applicant satisfies this standard by establishing that reasonable jurists would find that the district court’s assessment of the constitutional claims is debatable or wrong and that any

dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003). Here, Jones does not meet this standard because there is nothing debatable about the court's resolution of his § 2255 petition.

#### IV. CONCLUSION

For the foregoing reasons the court **DENIES** Jones's petition and **FINDS AS MOOT** Jones's motion to expedite. A certificate of appealability is **DENIED**.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

DAVID C. NORTON  
UNITED STATES DISTRICT JUDGE

January 29, 2021  
Charleston, South Carolina

# UNITED STATES DISTRICT COURT

for the

District of South Carolina

Arthur Jones, Jr.

*Petitioner*

v.

United States of America

*Respondent*

Civil Action No. 2:99-cr-362-DCN

## JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one)*:

☐ the petitioner *(name)* \_\_\_\_\_ recover from the respondent *(name)* \_\_\_\_\_ the amount of \_\_\_\_\_ dollars (\$\_\_\_), which includes prejudgment interest at the rate of \_\_\_ %, plus postjudgment interest at the rate of \_\_\_ %, along with costs.

☐ the petitioner recover nothing, the action be dismissed on the merits, and the respondent *(name)* \_\_\_\_\_ recover costs from the petitioner *(name)* \_\_\_\_\_.

☒ other: the Court DENIES Jones's petition and finds as MOOT Jones's motion to expedite. A certificate of appealability is DENIED.

This action was *(check one)*:

☐ tried by a jury, the Honorable \_\_\_\_\_ presiding, and the jury has rendered a verdict.

☐ tried by the Honorable \_\_\_\_\_ presiding, without a jury and the above decision was reached.

☒ decided by the Honorable David C. Norton.

Date: February 1, 2021

CLERK OF COURT

s/C. Murray

*Signature of Clerk or Deputy Clerk*

2/5/2021

## APPENDIX C

FILED: September 27, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 21-6289  
(2:99-cr-00362-DCN-1)

---

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ARTHUR F. JONES, a/k/a Arthur Palmer, a/k/a June, a/k/a Junior

Defendant - Appellant

---

ORDER

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Agee, and Judge Diaz.

For the Court

/s/ Patricia S. Connor, Clerk

10/5/2021

FILED: October 5, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

No. 21-6289  
(2:99-cr-00362-DCN-1)

---

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ARTHUR F. JONES, a/k/a Arthur Palmer, a/k/a June, a/k/a Junior

Defendant - Appellant

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M A N D A T E

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The judgment of this court, entered July 23, 2021, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule  
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

10/8/2021

## ARREST WARRANT

F- 452117

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CLARENDON COUNTY

 THE STATE  
against

JONES, ARTHUR

Address: AT 21 Box 608SUMMER SC. 29148Phone: none SSN: 000-00-0000Sex: M Race: B Height: 5'07" Weight: 163DL State: SC DL #: 007468356DOB: 6-27-78 Agency ORI #: \_\_\_\_\_

Prosecuting Agency: \_\_\_\_\_

Prosecuting Officer: \_\_\_\_\_

Offense: MURDER-VIO CS 16-3-10 SC CODE  
OF LAWS Offense Code: 116Code/Ordinance Sec. 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 The accused  
is to be arrested and brought before me to be  
dealt with according to law.

Signature of Judge

Date: \_\_\_\_\_

## RETURN

A copy of this arrest warrant was delivered to  
defendant JONES, ARTHURon 2-11-97
Sgt. Hank Richardson  
Signature of Constable/Law Enforcement Officer

 RETURN WARRANT TO:  
CLARENDON COUNTY SHERIFF'S OFFICE  
FEDERAL BLD  
P.O. BOX 371  
MANNING, SC 29102

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CLARENDON COUNTY

 CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE  
DATE 2/19/97 BY [Signature]

 I personally appeared before me the affiant BRADHAM, JM CHIEF DEPUTY who  
being duly sworn deposes and says that defendant JONES, ARTHUR  
did within this county and state on 01/14/97 violate the criminal laws of the  
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CLARENDON)  
in the following particulars:

 DESCRIPTION OF OFFENSE: MURDER-VIO CS 16-3-10 SC CODE OF LAWS  
16-03-0010

 I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:

 ON 1-14-97 AT APPROX 3 AM THE DEFENDANT DID, WITH MALICE AFORETHOUGHT, SHOOT  
AND KILL ONE LEROY ROBINSON, A CLERK AT THE N SANTEE TRUCK STOP IN CLARENDON  
CO, SC. THIS OFFENSE OCCURRED WHEN THE DEFENDANT AND A CO-DEFENDANT WENT TO  
THIS PLACE OF BUSINESS ARMED WITH A 38 CALIBRE PISTOL. PROBABLE CAUSE BASED  
ON INVESTIGATION OF SLED AGENT CHESTER MCFADDEN, INV. HANK RICHARDSON AND  
STATEMENTS OF ANTHONY PEARSON AND STEVE PROFFIT AND FORENSIC EVIDENCE FROM  
SLED. CUSTOMERS AT THIS TRUCK STOP CORROBORATED STATEMENT OF PEARSON &  
PROFFIT REGARDING CLOTHING WORN BY DEFENDANT AND VEHICLE DEFENDANT USED.

 Sworn to and subscribed before me  
on FEBRUARY 11, 1997

Signature of Issuing Judge

[Signature]

Signature of Affiant

 Affiant's Address CLARENDON CO SHERIFF DEPT  
MANNING, SC 29102
Affiant's Telephone 803 435-4414

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
CLARENDON

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that  
on 01/14/97 defendant JONES, ARTHUR  
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CLARENDON ) as set forth below:

 DESCRIPTION OF OFFENSE: MURDER-VIO CS 16-3-10 SC CODE OF LAWS  
16-03-0010

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge

Judge Code: 292

ANNELLE POWELL

Judge's Address P.O. BOX 371MANNING, SC 29102Judge's Telephone 803 435-2670
 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

EXHIBIT A-2

## ARREST WARRANT

F- 452117

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
 CLARENDON COUNTY

 THE STATE  
 against

JONES, ARTHUR

Address: RT 2 Box 608SUMMITTOWN SC. 29148Phone: 7046 SSN: 000-00-0000Sex: M Race: B Height: 5'07" Weight: 163DL State: SC DL #: 007468356DOB: 6-27-78 Agency ORI #: \_\_\_\_\_

Prosecuting Agency: \_\_\_\_\_

Prosecuting Officer: \_\_\_\_\_

Offense: MURDER-VIO CS 16-3-10 SC CODE  
OF LAWS Offense Code: 116Code/Ordinance Sec. 16-03-0010
 This warrant is **CERTIFIED FOR SERVICE** in the  
☐ County/ ☐ Municipality of \_\_\_\_\_

 The accused  
 is to be arrested and brought before me to be  
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Signature of Judge

Date: \_\_\_\_\_

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on 2-11-97
Sgt. Hank Richardson  
 Signature of Constable/Law Enforcement Officer

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 CLARENDON COUNTY SHERIFF'S OFFICE  
 FEDERAL BLD  
 P.O. BOX 371  
 MANNING, SC 29102

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
 CLARENDON COUNTY

 CERTIFIED TRUE  
 OF ORIGINAL FILED IN THIS OFFICE

DATE

2/19/97

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 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CLARENDON)  
 in the following particulars:

 DESCRIPTION OF OFFENSE: MURDER-VIO CS 16-3-10 SC CODE OF LAWS  
16-03-0010

 I further state that there is probable cause to believe that the defendant named above did commit  
 the crime set forth and that probable cause is based on the following facts:

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 AND KILL ONE LEROY ROBINSON, A CLERK AT THE N SANTEE TRUCK STOP IN CLARENDON  
 CO, SC. THIS OFFENSE OCCURRED WHEN THE DEFENDANT AND A CO-DEFENDANT WENT TO  
 THIS PLACE OF BUSINESS ARMED WITH A 38 CALIBRE PISTOL. PROBABLE CAUSE BASED  
 ON INVESTIGATION OF SLED AGENT CHESTER MCFADDEN, INV. HANK RICHARDSON AND  
 STATEMENTS OF ANTHONY PEARSON AND STEVE PROFFIT AND FORENSIC EVIDENCE FROM  
 SLED. CUSTOMERS AT THIS TRUCK STOP CORROBORATED STATEMENT OF PEARSON &  
 PROFFIT REGARDING CLOTHING WORN BY DEFENDANT AND VEHICLE DEFENDANT USED.

 Sworn to and subscribed before me  
 on FEBRUARY 11, 1997

Signature of Issuing Judge

J. M. Bradham

Signature of Affiant

 Affiant's Address CLARENDON CO SHERIFF DEPT  
MANNING, SC 29102
Affiant's Telephone 803 435-4414

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of  
 CLARENDON

## ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that  
 on 01/14/97 defendant JONES, ARTHUR  
 did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CLARENDON ) as set forth below:

 DESCRIPTION OF OFFENSE: MURDER-VIO CS 16-3-10 SC CODE OF LAWS  
16-03-0010

 Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before  
 me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the  
 defendant at the time of its execution or as soon thereafter as is practicable.

Signature of Issuing Judge

Judge Code: 292

ANNELLE POWELL

Judge's Address P.O. BOX 371MANNING, SC 29102Judge's Telephone 803 435-2670
 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

EXHIBIT A-2



ORIGINAL FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

APR 14 1999

LARRY W. PROPPES, CLERK  
CHARLESTON, SC

UNITED STATES OF AMERICA )

CR. NO.

2:99-362  
18 USC § 1951  
18 USC § 924(c)(1)  
18 USC § 924(j)  
18 USC § 2

vs. )

ARTHUR JONES )

a/k/a Arthur Palmer )

a/k/a Junior )

a/k/a June )

KEVIN JOHNSON )

INDICTMENT

COUNT 1

THE GRAND JURY CHARGES:

1. ~~At all times material to this Indictment the Lake Marion~~  
Truck Stop, Route Two, Exit 102-East Interstate 95, Summerton,  
South Carolina, was engaged in the sale of various goods and  
services in interstate commerce and was an industry which affected  
interstate commerce.

2. On or about January 14, 1997, in the District of South  
Carolina, the defendants, ARTHUR JONES, a/k/a Arthur Palmer, a/k/a  
Junior, a/k/a June, and KEVIN JOHNSON, did unlawfully, knowingly  
and willfully obstruct, delay and affect commerce and did attempt  
to obstruct, delay and affect commerce by robbery, to-wit: the  
defendants did take and obtain personal property, namely, United  
States Currency and other property from the person and presence of  
employees of the Lake Marion Truck Stop, Route Two, Exit 102-East  
at Interstate 95, Summerton, South Carolina, against their will, by

EXHIBIT C-1

means of actual and threatened violence, force, and fear of injury to their persons.

All in violation of Title 18, United States Code, Sections 1951 and 2.

COUNT 2

THE GRAND JURY FURTHER CHARGES:

That on or about January 14, 1997, in the District of South Carolina, the defendants, ARTHUR JONES, a/k/a Arthur Palmer, a/k/a Junior, a/k/a June, and KEVIN JOHNSON, did knowingly use and carry a firearm during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, to-wit: the robbery of the Lake Marion Truck Stop, Route Two, Exit 102-East at Interstate 95, Summerton, South Carolina, (as set forth in Count One of this Indictment which is realleged and incorporated by reference herein), in violation of Title 18, United States Code, Section 924(c)(1), and in the course of this violation caused the death of a person through the use of a firearm, which killing is a murder (as defined in Title 18, United States Code Section 1111), in that the defendants, ARTHUR JONES, a/k/a Arthur Palmer, a/k/a Junior, a/k/a June, and KEVIN JOHNSON, with malice aforethought, did unlawfully kill Leroy Robinson by shooting him with the firearm willfully, deliberately, maliciously, with premeditation, and in

the perpetration of and attempted perpetration of the robbery, and did aid and abet each other in so doing.

All in violation of Title 18, United States Code Sections 924(c), 924(j) and 2.

A \_\_\_\_\_ True \_\_\_\_\_ Bill

\_\_\_\_\_  
FOREMAN

b7c  
b7c

/s/ J. Rene' Josey  
J. RENÉ JOSEY (saw)  
United States Attorney

IN THE DISTRICT COURT OF THE UNITED STATES  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

APR 14 1999

LARRY W. PROPPS, CLERK  
CHARLESTON, SC

UNITED STATES OF AMERICA

CRIMINAL NO.: 2:99-362

vs.

WRIT OF HABEAS CORPUS

ARTHUR JONES

AD PROSEQUENDUM

a/k/a "Arthur Palmer"

a/k/a "Junior"

a/k/a "June"

It appears that criminal charges have been filed against the defendant in the above entitled case. It further appears that the defendant, ARTHUR JONES, date of birth 6/27/78, is presently in the custody of the Clarendon County Sheriff's Department. It is therefore

ORDERED that Warden, or his authorized representative, deliver ARTHUR JONES to the United States Marshals Service from time to time as the defendant may be needed until the within action is concluded in its entirety. It is further

ORDERED that the United States Marshals Service shall produce the defendant at such time and place as may be designated by the Court for proceedings in this case and upon the conclusion of this case, the said Marshal shall return the defendant to his aforesaid place of confinement.

  
UNITED STATES MAGISTRATE JUDGE

Charleston, SC

April 14, 1999.

ON MOTION OF:

J. RENÉ JOSEY  
UNITED STATES ATTORNEY

BY:

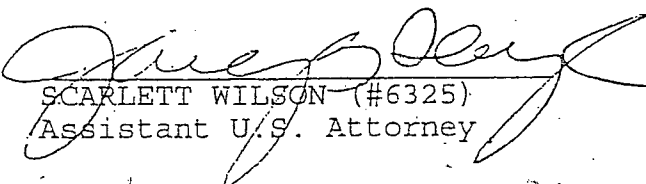
  
SCARLETT WILSON (#6325)  
Assistant U.S. Attorney

EXHIBIT D-1

U.S. Department of Justice  
United States Marshals Service

P.O. Box 1774

Columbia, SC 29202-0002-252-2266



## DETAINER AGAINST UNSENTENCED PRISONER

UNITED STATES MARSHAL  
DISTRICT OF SC

Please type or print neatly:

TO: Clarendon County Jail  
320 East Boyce Street  
Manning, SC 29102

DATE: 4/21/99  
SUBJECT: Jones, Arthur...B/M  
AKA: Jones, Arthur Jr.  
DOB/SSN: 6/27/78..249-39-4814  
USMS #:  
CR #: 2:99-362

Please accept this Detainer against the above-named subject who is an unsentenced prisoner currently in your custody. The United States District Court for the District of SC has issued an arrest warrant(s) charging the subject with the commission of the following offense(s):

Murder  
Robbery  
Firearms Violation

Prior to the subject's release from your custody, please notify this office at once so that we may assume custody if necessary. If the subject is transferred from your custody to another detention facility, we request that you forward our Detainer to said facility at the time of transfer and advise this office as soon as possible.

The notice and speedy trial requirements of the Interstate Agreement on Detainers Act do NOT apply to this Detainer because the subject is not currently serving a sentence of imprisonment at the time the Detainer is lodged. IF THE SUBJECT IS SENTENCED WHILE THIS DETAINER IS IN EFFECT, PLEASE NOTIFY THIS OFFICE AT ONCE.

Please acknowledge receipt of this Detainer. In addition, please provide one copy of the Detainer to the subject and return one copy of the Detainer to this office in the enclosed self-addressed envelope.

Very truly yours,

RECEIPT	
Date:	April 22, 1999
Signed:	Shelton L. Hughes Jr.
By:	Shelton L. Hughes Jr.
Title:	Director

CC: Clerk  
USA  
PD  
USMS Charleston

By: T.G. Mayo  
Israel Brooks Jr.

EXHIBIT E-1

## General Sessions

## CASE HISTORY FOR CASE F452118

The State of South Carolina VS Arthur Jones

CASE TYPE: GS

JUDGE: Solicitor / Master In Equity G S And C P

STATUS: Dismissed

FILED DATE: 2/19/1997

Attorney Lakaysha

(P3)

## CASE PARTIES:

Defendant Jones, Arthur

Rte 2 Box 608, Summerton, SC 291480000

## CASE HISTORY FOR CASE F452118

Jones, Arthur  
Rte 2 Box 608

Summerton, SC 291480000

Age: 34  
DL#:DOB: 8/27/1978  
SSN: ~~299-49-6000~~

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0139 Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon	2/11/1997	Dismissed Not Indicted	6/1/1999

SENTENCING CASE REMANDED TO FEDERAL COURT

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY

Total:

DATE	TIME	EVENT DESCRIPTION
6/1/1999	12:00 AM	recorded the following C

*Search*

*#4*

SCCourts.org  
Clarendon County  
Case Search

TRUE COPY  
THIS OFFICE  
*12/1/13*  
*H. Roberts*  
CLERK OF COURT  
CLARENDON COUNTY, SC

Print Date: 05/21/2013  
Print Time: 9:37:34AM  
Requested By: C14PJOYNER

CaseHistory.rpt V6.1

Page 1 of 1

EXHIBIT F-1

## General Sessions

## CASE HISTORY FOR CASE F452117

The State of South Carolina VS Arthur Jones

FILED DATE: 2/19/1997

CASE TYPE: GS

STATUS: Dismissed

JUDGE: Solicitor / Master In Equity G S And C P

## CASE PARTIES:

Defendant Jones, Arthur

Rte 2 Box 608, Summerton, SC 291480000

## CASE HISTORY FOR CASE F452117

Jones, Arthur  
Rte 2 Box 608Age: 34  
DL#:DOB: 6/27/1978  
SSN: ~~240-39-8449~~

Summerton, SC 291480000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0116 Murder / Murder	2/11/1997	Dismissed Not Indicted	6/1/1999

## SENTENCING

REMANDED TO FEDERAL COURT

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
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Total:

DATE	TIME	EVENT DESCRIPTION
6/1/1999	12:00 AM	recorded the following Case Note: Date Dispositio

Entered 1999-06-01

CERTIFIED TRUE COPY  
OF ORIGINAL FILED IN THIS OFFICE  
DATE 5/21/13  
*B. Bob H. Roberts*  
CLERK OF COURT  
CLARENDON COUNTY, SC

Print Date: 05/21/2013  
Print Time: 9:37:44AM  
Requested By: C14PJOYNER

CaseHistory.rpt V6.1

Page 1 of 1

EXHIBIT F-2

1 THE DEATH PENALTY IS JUST IRRELEVANT TO THIS CASE.

2 MR. COBB: IN FEDERAL COURT, IN THIS COURT.

3 THE COURT: RIGHT.

4 MR. COBB: YES, SIR.

5 THE COURT: I AM NOT SO SURE YOU CAN GO BACK IN  
6 STATE COURT AFTER BEING TRIED IN FEDERAL COURT.

7 MR. COBB: TWO SOVEREIGNS.

8 THE COURT: I KNOW. BUT IT WORKS ONE WAY. I DON'T  
9 KNOW IF IT WORKS THE OTHER WAY.

10 MR. KITTRELL: MY UNDERSTANDING IS THEY CANNOT GO  
11 BACK.

12 THE COURT: I DON'T THINK THEY CAN EITHER.

13 MR. KITTRELL: WE HAVE COME THIS FAR AND THEY CAN'T  
14 GO BACK.

15 THE COURT: I THINK THEY CAN -- IF HE IS FOUND NOT  
16 GUILTY IN STATE COURT, THE FEDERAL COURT CAN PROSECUTE HIM BUT  
17 I DON'T THINK IT WORKS THE OTHER WAY. YOU ALL MIGHT WANT TO  
18 TAKE A LOOK AT THAT.

19 MR. HALEY: BEFORE YOU CHARGE THE JURY THAT WOULD  
20 INCLUDE STATE COURT, CAN WE HAVE SOME TIME TO LOOK AT THAT?

21 THE COURT: I WON'T TELL THEM ANYTHING.

22 MR. COBB: MY UNDERSTANDING IS THERE IS A STATUTORY  
23 DOUBLE JEOPARDY BUT THAT ONLY APPLIES TO DRUG COUNTS.

24 THE COURT: YOU ALL TAKE A LOOK AT IT. I WILL TELL  
25 THEM THAT TOMORROW. I DON'T NEED TO TELL THEM THAT TODAY.

EXHIBIT H-1



UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Arthur Jones, Jr.,  
Petitioner,

v.

United States of America,  
Respondent.

Civil Action No.: 6:16-cv-1059-MBS

**ORDER**

On April 5, 2016, Petitioner Arthur Jones, Jr., filed a petition for writ of mandamus in the United States Court of Appeals for the Fourth Circuit. ECF No. 1. The petition was simultaneously filed in the United States District Court and assigned to Magistrate Judge Kevin McDonald for pretrial handling pursuant to 28 U.S.C. § 636(b) (2012) and Local Civil Rule 73.02, D.S.C. ECF No. 2. This matter is before the court on the Magistrate Judge's Report and Recommendation, filed April 21, 2016.

**I. RELEVANT FACTUAL AND PROCEDURAL HISTORY**

Petitioner alleges that in February of 1997, he was taken into state custody and held on state criminal charges before being transferred to federal custody pursuant to a writ of habeas corpus *ad prosequendum* on or about April 29, 1999. ECF No. 1 at 6, 16. Petitioner was indicted on one charge of interference with commerce by threat or violence, in violation of 18 U.S.C. § 1951 (Count 1); and use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c), (j), and 18 U.S.C. § 2 (Count 2). These were the same charges for which Petitioner had been arrested and detained in state court. Petitioner's state charges were dismissed on June 1, 1999. Petitioner remained in federal custody until he was convicted on his federal

charges on November 3, 1999. ECF No. 1 at 6. Petitioner was sentenced on his federal charges on March 3, 2000, judgment was entered on March 8, 2000, and Petitioner's conviction was affirmed by the Fourth Circuit Court of Appeals on November 27, 2000.

On February 29, 2016, Petitioner filed a motion to remand the matter to state court. Petitioner claimed the federal court lacked subject matter jurisdiction because the Government had not filed a notice of removal as required by 28 U.S.C. § 1446. Petitioner asserted he was entitled to a due process hearing and an opportunity to file a motion to remand. ECF No. 1 at 9, 12. Petitioner's motion was denied on March 4, 2016. *See Jones*, No. 99-00362. Petitioner filed a writ of mandamus on March 30, 2016 seeking an order directing the remand of his criminal charges to state court. ECF No. 1 at 5.

## II. DISCUSSION

In his Report and Recommendation, the Magistrate Judge asserts that Petitioner's request for mandamus relief was filed in the wrong court, and that Petitioner may only seek such relief from the Fourth Circuit Court of Appeals. ECF No. 7 at 4. The Magistrate Judge further found that the court was "without authority to order the State of South Carolina to prosecute the petitioner on charges that it dismissed almost seventeen years ago." *Id.* As a result, the Magistrate Judge recommended that the court dismiss the action without prejudice and without issuance and service of process. *Id.* at 5.

Petitioner filed objections to the Magistrate Judge's Report and Recommendation, contending that he correctly submitted his petition for mandamus to the United States Court of Appeals for the Fourth Circuit and any filing to the United States District Court was meant to be a courtesy copy of the petition. ECF No. 10 at 1. To support this contention, Petitioner references the petition's Fourth Circuit docket number. *Id.*

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court reviews *de novo* only those portions of a Magistrate Judge's Report and Recommendation to which specific objections are filed, and reviews those portions which are not objected to—including those portions to which only "general and conclusory" objections have been made—for clear error. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005); *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Opriano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). The court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Here, it appears Petitioner's petition for writ of mandamus was docketed as a post-trial motion in error. Petitioner correctly filed his petition in the United States Court of Appeals for the Fourth Circuit. *Jones*, No. 16-1374, Doc. 7 at 1. The Fourth Circuit denied the petition because the relief sought is not available by way of mandamus. *Id.* at 2. Accordingly, the court declines to adopt the Magistrate Judge's Report and Recommendation. The Petition for writ of mandamus (ECF No. 1) is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Margaret B. Seymour  
Senior United States District Judge

Charleston, South Carolina  
February 23, 2017

THP56 540\*23 \*  
PAGE 001 \*

SENTENCE MONITORING  
COMPUTATION DATA  
AS OF 12-04-2015

\* 12-04-2015  
\* 09:26:33

REGNO...: 95635-071 NAME: JONES, ARTHUR JR

FBI NO.....: 646917AB6  
ARS1.....: THP/A-DES  
UNIT.....: LCP  
DETAINERS.....: NO

DATE OF BIRTH: 06-27-1978 AGE: 37  
QUARTERS.....: C01-231L  
NOTIFICATIONS: NO

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.  
THE INMATE IS PROJECTED FOR RELEASE: LIFE

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: SOUTH CAROLINA  
DOCKET NUMBER.....: 2:99-362-1  
JUDGE.....: NORTON  
DATE SENTENCED/PROBATION IMPOSED: 03-03-2000  
DATE COMMITTED.....: 04-06-2000  
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT  
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$200.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$90.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 540  
OFF/CHG: 18:1951 OBSTRUCTION OF INTERSTATE COMMERCE BY ARMED ROBBERY;  
18:2 A&A

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE  
SENTENCE IMPOSED/TIME TO SERVE.: 20 YEARS  
TERM OF SUPERVISION.....: 3 YEARS  
CLASS OF OFFENSE.....: CLASS C FELONY  
DATE OF OFFENSE.....: 01-14-1997

G0002 MORE PAGES TO FOLLOW . . .

EXHIBIT K-1

THP56 540\*23 \*  
PAGE 002 \*

SENTENCE MONITORING  
COMPUTATION DATA  
AS OF 12-04-2015

\* 12-04-2015  
\* 09:26:33

REGNO...: 95635-071 NAME: JONES, ARTHUR JR

-----CURRENT OBLIGATION NO: 020 -----  
OFFENSE CODE....: 899  
OFF/CHG: 18:924 (C) (J) & 2 MURDER; A&A

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE  
SENTENCE IMPOSED/TIME TO SERVE.: LIFE  
TERM OF SUPERVISION.....: 5 YEARS  
CLASS OF OFFENSE.....: CLASS A FELONY  
RELATIONSHIP OF THIS OBLIGATION  
TO OTHERS FOR THE OFFENDER....: CC OBLG 010  
DATE OF OFFENSE.....: 01-14-1997

-----CURRENT COMPUTATION NO: 010 -----  
COMPUTATION 010 WAS LAST UPDATED ON 11-02-2010 AT DSC AUTOMATICALLY  
COMPUTATION CERTIFIED ON 11-02-2010 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN  
CURRENT COMPUTATION 010: 010 010, 010 020

DATE COMPUTATION BEGAN.....: 03-03-2000  
AGGREGATED SENTENCE PROCEDURE...: AGGREGATE GROUP 800 PLRA  
TOTAL TERM IN EFFECT.....: LIFE  
TOTAL TERM IN EFFECT CONVERTED...: LIFE  
AGGREGATED TERM OF SUPERVISION...: 5 YEARS  
EARLIEST DATE OF OFFENSE.....: 01-14-1997

JAIL CREDIT.....:	FROM DATE	THRU DATE
	02-11-1997	10-25-1997
	10-30-1997	03-02-2000

G0002 MORE PAGES TO FOLLOW . . .

THP56 540\*23 \*  
PAGE 003 OF 003 \*

SENTENCE MONITORING  
COMPUTATION DATA  
AS OF 12-04-2015

\* 12-04-2015  
\* 09:26:33

REGNO...: 95635-071 NAME: JONES, ARTHUR JR

TOTAL PRIOR CREDIT TIME.....: 1112  
TOTAL INOPERATIVE TIME.....: 0  
TOTAL GCT EARNED AND PROJECTED...: 0  
TOTAL GCT EARNED.....: 0  
STATUTORY RELEASE DATE PROJECTED: N/A  
EXPIRATION FULL TERM DATE.....: LIFE  
TIME SERVED.....: 18 YEARS 9 MONTHS 18 DAYS

PROJECTED SATISFACTION DATE.....: N/A  
PROJECTED SATISFACTION METHOD....: LIFE

REMARKS.....: 11-02-2010 FILE ASSUMPTION PROJECT

G0000 TRANSACTION SUCCESSFULLY COMPLETED

## SUPPORTING PAPERS

1 A. YES.

2 Q. ALONG WITH YOUR ATTORNEY'S SIGNATURES?

3 A. YES.

4 Q. MY SIGNATURE AND THE SOLICITOR'S SIGNATURE?

5 A. YES.

6 Q. IS THIS YOUR PLEA AGREEMENT?

7 A. YES.

8 Q. MR. JOHNSON, YOU PLED GUILTY, AS YOU STATED, TO THE ARMED  
9 ROBBERY AT THE LAKE MARION TRUCK STOP ON JANUARY 14, 1997; IS  
10 THAT RIGHT?

11 A. YES.

12 Q. AND ALSO TO USING A GUN DURING THAT ROBBERY; RIGHT?

13 A. YES.

14 Q. AND DO YOU UNDERSTAND THAT YOUR SENTENCE AS IT STANDS NOW  
15 IS 25 YEARS IN JAIL?

16 A. YES.

17 Q. AND THAT WAS A REDUCTION IN SENTENCE, WAS IT NOT?

18 A. YES.

19 Q. YOU WERE FACING LIFE IMPRISONMENT; WEREN'T YOU?

20 A. YES.

21 Q. AND IF THESE CHARGES WERE TO SOMEHOW GO BACK TO THE STATE  
22 YOU COULD ACTUALLY FACE THE DEATH PENALTY; COULD YOU NOT?

23 A. YES.

24 Q. DO YOU WANT THAT TO HAPPEN?

25 A. NO, MA'AM.



TRIAL TRANSCRIPT, VOII. pg. 182

1 MR. KITTRELL: WE RELEASE HIM FROM HIS WARRANT.

2 SPECIAL AGENT CHESTER MCFADDEN.

3 CHESTER MCFADDEN, SWORN:

4 MR. COBB: YOUR HONOR, MAY IT PLEASE THE COURT, THIS  
5 IS SUBJECT TO THE MOTIONS MADE EARLIER.

6 THE COURT: SURE.

7 MR. KITTRELL: I'M SORRY, JUDGE, A LEGAL MATTER  
8 ARISES.

9 (BRIEF PAUSE).

10 MR. KITTRELL: JUDGE, MAY WE APPROACH?

11 THE COURT: YOU ALREADY ARE.

12 (OFF THE RECORD AT THE BENCH).

13 CHESTER MCFADDEN, SWORN:

14 DIRECT EXAMINATION

15 BY MR. KITTRELL:

16 Q. GOOD AFTERNOON. YOU ARE SPECIAL AGENT CHESTER MCFADDEN?

17 A. YES.

18 Q. YOU ARE WITH THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION?

19 A. YES.

20 Q. YOU HAVE BEEN INVOLVED IN THIS CASE?

21 A. YES.

22 Q. SPECIFICALLY, AND I AM REFERRING YOU TO FEBRUARY OF 1997,  
23 FEBRUARY 10TH AND THE 11TH?

24 A. ALL RIGHT, SIR.

25 Q. YOU WERE INVOLVED IN THE CASE AND YOU WENT UP TO NORTH