

APPENDIX "A"

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1973

In re: ARTHUR F. JONES, a/k/a Arthur Palmer, a/k/a June, a/k/a Junior,
Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the District of
South Carolina, at Charleston. (2:99-cr-00362-DCN-1)

Submitted: November 21, 2023

Decided: November 27, 2023

Before WILKINSON and NIEMEYER, Circuit Judges, and TRAXLER, Senior Circuit
Judge.

Petition denied by unpublished per curiam opinion.

Arthur F. Jones, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Arthur F. Jones petitions for a writ of mandamus seeking an order directing the district judge to vacate Jones' criminal conviction for lack of subject-matter jurisdiction.

We conclude that Jones is not entitled to mandamus relief.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004); *In re Murphy-Brown, LLC*, 907 F.3d 788, 795 (4th Cir. 2018). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought and "has no other adequate means to attain the relief [he] desires." *Murphy-Brown*, 907 F.3d at 795 (alteration and internal quotation marks omitted).

The relief sought by Jones is not available by way of mandamus. Accordingly, we deny the petition for writ of mandamus. We deny Jones' motion to expedite as moot. 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.

PETITION DENIED

FILED: November 27, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1973
(2:99-cr-00362-DCN-1)

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

Petitioner

J U D G M E N T

In accordance with the decision of this court, the petition for writ of
mandamus is denied.

/s/ NWAMAKA ANOWI, CLERK

ARREST WARRANT

F- 452118

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 CLARENDON COUNTY

 THE STATE
 against

JONES, ARTHUR

Address: RT 2, Box 608

Santee, S.C. 29148

Phone: NONE

SSN: 249-80-0000

Sex: M Race: D Height: 5'07" Weight: 163

DL State: S.C. DL #: 007468356

DOB: 6-27-78 Agency ORI#:

Prosecuting Agency:

Prosecuting Officer:

 Offense: ROBBERY (ARMED)-VIOLATION CS
 16-11-330 Offense Code: 026

Code/Ordinance Sec. 16-11-0330

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, ARTHUR

on 2-11-97

 Rgt. 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

 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: ROBBERY (ARMED)-VIOLATION CS 16-11-330
 16-11-0330

 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 01-14-97 AT APPR 3 AM THE DEFENDANT DID ENTER THE N SANTEE TRUCK STOP IN
 CLARENDON COUNTY, SC AND DID ROB THIS BUSINESS OF APPR \$30. THE DEFENDANT
 AND A CO-DEFENDANT WERE ARMED WITH A .38 CALIBRE PISTOL AND USED THIS
 WEAPON TO COMMIT THIS CRIME. PROBABLE CAUSE BASED ON INVESTIGATION BY SLED
 AGENT CHESTER MCFADDEN, CLARENDON COUNTY INV. HANK RICHARDSON, STATEMENTS
 OF ANTHONY PEARSON AND STEVE PROFFIT, FORENSIC EVIDENCE FROM SLED, AND
 CUSTOMERS AT THIS TRUCK STOP WHO CORROBORATED STATEMENTS OF PEARSON AND
 PROFFIT REGARDING CLOTHING WORN BY DEFENDANT AND VEHICLE DEFENDANT USED.

 Defendant and co-defendant pointed the gun at the cashier and robbed this store,
 taking the money from the cash register.

Sworn to and subscribed before me

on FEBRUARY 11, 1997

Signature of Issuing Judge

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: ROBBERY (ARMED)-VIOLATION CS 16-11-330
 16-11-0330

 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 371

MANNING, SC 29102

Judge's Telephone 803 435-2670

 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

EXHIBIT A-1

ARREST WARRANT

F- 452117

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 CLARENDON COUNTY

 THE STATE
 against

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 CLARENDON COUNTY

 CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 2/19/97

 DATE
 2/19/97

 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 of Affiant J. M. Bradham
 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.

 Judge's Address P.O. BOX 371
MANNING, SC 29102
 Judge's Telephone 803 435-2670
 Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit
 Signature of Issuing Judge)
 Judge Code: 292
ANNELLE POWELL

ORIGINAL

 JONES, ARTHUR
 Address: RT 2, Box 608
SANTEE TRUCK STOP, SC 29148
 Phone: 9046 SSN: 000-00-0000
 Sex: M Race: B Height: 5'07" Weight: 103
 DL State: SC DL #: 007468356
 DOB: 6-27-78 Agency ORI #: _____
 Prosecuting Agency: _____
 Prosecuting Officer: _____
 Offense: MURDER-VIO CS 16-3-10 SC CODE
OF LAWS Offense Code: 116
 Code/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 (L.S.)

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
 defendant JONES, ARTHUR
 on 2-11-97

 Signature of Constable/Law Enforcement Officer
Hank Richardson

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

EXHIBIT A-2

ORIGINAL FILED

APR 14 1999

LARRY W. PROPPES, CLERK
CHARLESTON, SC

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

UNITED STATES OF AMERICA)

CR. NO.

2:99-362
18 USC § 1951

vs.)

18 USC § 924(c) (1)

18 USC § 924(j)

ARTHUR JONES)

18 USC § 2

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 fire arm 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. René 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. PROFFER, 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

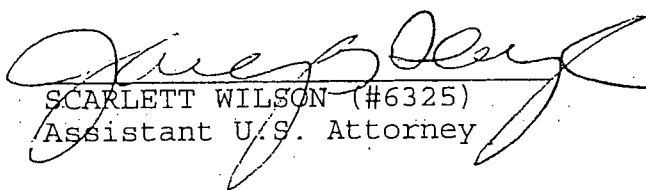
April 14, 1999.

ON MOTION OF:

J. RENÉ JOSEY

UNITED STATES ATTORNEY

BY:


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

EXHIBTT D-1

U.S. Department of Justice
United States Marshals Service

P.O. Box 1774

Columbia, SC 29222-8022



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...
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

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

FILED DATE: 2/19/1997

STATUS: Dismissed

Att Lakeyshe
(P3)

CASE PARTIES:

Defendant Jones, Arthur
Rte 2 Box 608, Summerton, SC 291480000

CASE HISTORY FOR CASE F452118

Jones, Arthur
Rte 2 Box 608Age: 34
DL#:DOB: 6/27/1978
SSN: ~~309-369-6023~~

Summerton, SC 291480000

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

SEARCHED
\$14
SC Courts.org
Clarendon County
Case Search

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

Print Date: 05/21/2013
Print Time: 9:37:34AM
Requested By: C14PJYNER

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: ~~249-99-0000~~

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
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
6/1/1999	12:00 AM-1	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. Sarah H. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

Print Date: 05/21/2013
Print Time: 9:37:44A M
Requested By: C14PJOTYNER

CaseHistory.rpt V8.1

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.