

25-5593

NO.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
SEP 04 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In re. JEFFREY LYNN CHRONISTER - PETITIONER

vs.

TERRI WALLACE, WARDEN - RESPONDENT

ON PETITION FOR A WRIT OF HABEAS CORPUS

COURT OF COMMON PLEAS FOR THE SIXTEENTH JUDICIAL CIR.

NAME OF COURT THAT LAST RULED ON MERITS OF CASE

PETITION FOR A WRIT OF HABEAS CORPUS

prose JEFFREY LYNN CHRONISTER, #189827
KIRKLAND CORRECTIONAL INSTITUTION
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QUESTIONS PRESENTED

(I) WAS FRAUD ON THE COURT COMMITTED BY COUNSEL MR. SMITH AND DETECTIVE WHITSTINE, AND WAS THE ARREST MALICIOUSLY MADE FOR WANT OF PROBABLE CAUSE BROUGHT FORTH BY THE FRAUD?

(II) WAS FRAUD ON THE COURT MAINTAINED BY COUNSEL MR. SMITH, SOLICITOR MR. GRANT, DETECTIVE WHITSTINE, AND WAS THE DIRECTED VERDICT PRODUCED BY THE FRAUD?

-1-

LIST OF PARTIES

ALL PARTIES DO NOT APPEAR IN THE CAPTION OF THE CASE ON COVER PAGE
A LIST OF ALL PARTIES TO THE PROCEEDING IN THE COURT WHOSE JUDGMENT
IS THE SUBJECT OF THIS PETITION IS AS FOLLOWS:

APPENDIX-E- P.107-108- ORDER, DECEMBER 13, 2022, THE SUPREME
COURT OF SOUTH CAROLINA, DISMISSING NOTICE OF APPEAL

APPENDIX-H- P.111,112,113- REPOSES) CLERK OF COURT, THE SUPREME
COURT OF SOUTH CAROLINA, ON DENIAL OF NOTICE OF APPEAL

STATEMENT OF THE CASE P.4-9

RELATED CASES

MOSE v STATE 420, S.C. 500 (2017), AND

HOUSTON v LACK 482 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988) (CITE PAGE 8)

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

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix I-P.114 to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix J-P.117 to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C-P.100 to the petition and is

- ☐ reported at STATEMENT OF THE CASE - P.5-6; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the SOUTH CAROLINA SUPREME COURT (CLERK OF COURT) court appears at Appendix H-P.111-13 to the petition and is

- ☐ reported at STATEMENT OF THE CASE - P.6-9; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was FEBRUARY 7, 2015, APPX. K, P.119.

[✓] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was SEPTEMBER 9, 2012. A copy of that decision appears at Appendix C P.99-105.

[] A timely petition for rehearing was thereafter denied on the following date: SEE STATEMENT OF CASE P.5-9, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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STATEMENT OF THE CASE

PETITIONER'S ARREST OCCURRED ON SAME MORNING OF TRAGEDY, FEBRUARY 14, 1992, AND INDICTED ON APRIL 6, 1992 FOR MURDER AND UNLAWFUL POSSESSION OF KNIFE OR FIREARM DURING THE COMMISSION OF A VIOLENT CRIME. A TRIAL BY JURY HELD BEFORE THE HONORABLE DOUG. RUSHING ON SEPTEMBER 21-22, 1992 RESULTED IN GUILTY ON BOTH CHARGES. THE SOLICITOR WAS LARRY E. GRANT, DEFENSE COUNSEL DURING TRIAL AND INVESTIGATION WAS GERALD W. SMITH OF THE YORK COUNTY PUBLIC DEFENDERS OFFICE, AND THE SENTENCE OF LIFE FOR MURDER PLUS FIVE YEARS CONSECUTIVE FOR FIREARM'S POSSESSION IMPOSED (CS. NO 92-GS-46-1224)

PETITIONER IS CURRENTLY CONFINED AT KIRKLAND CORRECTIONAL INSTITUTION OF SOUTH CAROLINA DEPARTMENT OF CORRECTIONS.

TARA D. SHURLING, ASSISTANT APPELLATE DEFENDER OF OFFICE OF APPELLATE DEFENSE FILING A DIRECT APPEAL THAT WAS DENIED BY THE STATE SUPREME COURT ON SEPTEMBER 1, 1994, (OP. NO. 94-MO-226)

ISSUES RAISED: THE LOWER COURT ERRED IN:

- (1) OVERRULING DEFENSE COUNSEL'S MOTION TO SUPPRESS STATEMENTS ALLEGEDLY MADE BY APPELLANT WHILE IN CUSTODY WHERE RECORD FAILS TO DEMONSTRATE APPELLANT WAS PROPERLY ADVISED OF HIS RIGHTS
- (2) FAILING TO ISSUE JURY INSTRUCTION ON PROPER STANDARD FOR THE USE OF STATEMENTS ATTRIBUTED TO APPELLANT.
- (3) DENYING APPELLANT'S REQUEST FOR A JURY CHARGE ON THE LESSER INCLUDED OFFENSE OF VOLUNTARY MANSLAUGHTER WHEREON FACTS OF THIS CASE THE JURY MIGHT HAVE FOUND APPELLANT GUILTY OF LESSER OFFENSE [TR.P. 303.24]

NOTE: ARRESTING DETECTIVE, JOHN D. SHILLINGSLAW, TESTIFIED "YES" TO PETITIONER ASKING "QUESTIONS" NOT MAKING "STATEMENTS" [TR.P. 151, L. 19-20]

THIS MATTER AROSE FROM AN ^{pro se} MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE PURSUANT TO RULE 60(b) OF SOUTH CAROLINA RULES CIVIL PROCEDURE (SCRCP) AND ITS RELATED POST-CONVICTION RELIEF APPLICATION FILED IN THE YORK COUNTY COURT OF COMMON PLEAS ON APRIL 23, 2019 (CS No 2019-CP-46-01421). AN TIMELY REPLY WAS FILED ON THE RESPONDENTS' CONDITIONAL ORDER OF DISMISSAL OF AUGUST 29, 2019 PROVISIONALLY DENYING AND DISMISSING THE APPLICATION AS "UNTIMELY AND SUCCESSIVE"

(a) APPENDIX-A-P.97, JANEL H. GREGORY, ASSISTANT ATTORNEY GENERAL'S LETTER OF MARCH 18, 2020, TO THE HONORABLE DAVID HAMILTON, YORK COUNTY CLERK OF COURT, REQUESTING FILING OF THE ENCLOSED "JUDGE SIGNED" FINAL ORDER OF DISMISSAL OF THE ACTION. PER RULE 77(d) SOUTH CAROLINA RULE CIVIL PROCEDURE (SCRCP) "THE POST-CONVICTION RELIEF JUDGE SHALL SUBMIT THE SIGNED ORDER TO THE CLERK OF COURT FOR FILING AND THE CLERK SHALL PROMPTLY PROVIDE NOTICE OF THE ENTRY OF JUDGMENT AND SERVE A COPY OF THE SIGNED ORDER TO PARTIES"

(b) APPENDIX-B-P.98, THE "CLERK OF COURT'S OFFICE" RESPONSE OF 4/13/2020 TO PETITIONER'S LETTER OF INQUIRY ABOUT A COPY OF THE FINAL ORDER SO TO INCLUDE A COPY WITH A NOTICE OF APPEAL TO THE STATE SUPREME COURT PURSUANT TO RULE 243(c) SOUTH CAROLINA APPELLATE COURT RULES (SCACR). PETITIONER CONTENTS INCLUDED WITH THE LETTER OF INQUIRY WAS A COPY OF THE ASSISTANT ATTORNEY GENERAL'S MARCH 18TH LETTER COPY THAT WAS RECEIVED; THE RESPONSE;

"OUR OFFICE CANNOT SEND SOMETHING WE HAVE NOT YET RECEIVED. PLEASE BE ASSURED WHEN WE RECEIVE THE ORDER WE WILL SEND YOU A COPY. SINCE THE COURTS ARE OPERATING UNDER THE COVID 19 GUIDELINES WE MAY NOT RECEIVE YOUR ORDER FOR FEW WEEKS OR MONTHS"

OR MONTHS"

PROCEDURAL DUE PROCESS OF RULE 201 "RIGHT TO APPEAL" SCACR WAS DENIED BY THE CLERK OR CLERK'S OFFICE BY FAILURE TO INVESTIGATE WHY THE ORDER HAD NOT YET BEEN RECEIVED SINCE AN COPY OF THE MARCH 18TH LETTER WAS PROVIDED, AND ONLY AFTER PETITIONER CONTACTED THE ATTORNEY GENERAL'S OFFICE ABOUT THE MATTER IN AUGUST 2022 WAS AN COPY OF THE ORDER RECEIVED. APPENDIX-C: P. 99-105 ZACHARY W. JONES, ASSISTANT ATTORNEY GENERAL'S LETTER OF SEPTEMBER 15, 2022 WITH ALSO COPY OF THE FINAL ORDER. RECEIVED APPROXIMATELY 2 1/2 YEARS AFTER THE RESPONSE.

- II STATE SUPREME COURT

APPENDIX-D-P.106, PETITIONER'S LETTER OF "OCTOBER 19, 2022" THAT WAS ENCLOSED WITH THE "NOTICE OF APPEAL" REQUESTING CLERK OF THE SUPREME COURT TO FILE THE NOTICE, AND ALSO TO FILE AS DOCUMENT NO 3 (THREE) IS "THE ORIGINAL RULE 243(C) SCACR EXPLANATION," AND AT APPENDIX-E: P. 107-108 "COURT'S ORDER OF DECEMBER 13, 2022" "DISMISSING THE NOTICE OF APPEAL" AS "PETITIONER HAS FAILED TO PROVIDE AN EXPLANATION AS REQUIRED BY RULE 243(C) SCACR"

APPENDIX-F: P. 109, SCDC "RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION" SHOWING RECEIVED ON "12/16/2022" BY THE INSTITUTION'S MAIL ROOM, BUT THE DECEMBER 13TH ORDER WAS NOT DELIVERED TO PETITIONER UNTIL 12/22/22 BY THE MAIL ROOM STAFF. THE 22ND WAS ON A THURSDAY THEN FROM THE FOLLOWING DAY OF FRIDAY TO WEDNESDAY THE 28TH OF DECEMBER THE INSTITUTION'S LAW LIBRARY, MAIL ROOM AND OTHER OFFICES CLOSED FOR CHRISTMAS HOLIDAYS. THUS THE DELAY IN DELIVERY OF THE ORDER PREVENTED PREPARING OF PETITION FOR REHEARING AND MEETING THE REQUIRED (15) FIFTEEN DAYS THAT AN PETITION FOR REHEARING MUST BE ACTUALLY RECEIVED BY THE

APPELLATE COURT "PURSUANT TO RULE 221(b) SCACR. THE DELAY ALSO ALLOWING THE REMITTUR TO BE SENT AFTER 15 DAYS OF AN PETITION FAILED TO BE RECEIVED. 221(b) SCACR

(1) WHERE AN PETITION FOR REHEARING "WOULD HAVE BEEN UNTIMELY, PETITIONER SERVED AN RULE 60(b) MOTION FOR RELIEF FROM ORDER THAT WAS REFERRED TO AS CORRESPONDENCE "AND A LETTER" BY THE HONORABLE PATRICIA A HOWARD, CLERK OF COURT IN HER RESPONSE OF "JANUARY 9, 2023" APPENDIX-H-P.111-P.113

"THIS RESPONDS TO YOUR CORRESPONDENCE RECEIVED JANUARY 9, 2023. PLEASE BE ADVISED THAT THE REMITTUR WAS SENT IN THIS CASE ON DECEMBER 29, 2022. SINCE THE SENDING OF THE REMITTUR ENDED APPELLATE JURISDICTION OVER THIS CASE NO ACTION WILL BE TAKEN ON YOUR LETTER BY THIS COURT"

GIVEN THE MOTION MAY HAVE BEEN MISCONSTRUED AS AN "LETTER", PETITIONER RESUBMITTED AN RULE 60(b) MOTION REQUESTING "THE COURT'S DETERMINATION" ON THE DECEMBER 13TH ORDER, ITS DELAY TO DELIVER, AND THE OCTOBER 19TH LETTER SHOWING THE EXPLANATION WAS ENCLOSED. RULE 60(b) PROVIDES (IN PART)

"ON MOTION AND UPON SUCH TERM AS ARE JUST THE COURT MAY RELIEVE A PARTY FROM AN ORDER FOR REASONS OF; (1) MISTAKE, INADVERTENCE, SURPRISE OR EXCUSABLE NEGLECT" ALSO FED. R. CIVIL P. RULE 60(c); OR THE MATTER MAY BE DETERMINED AS AN "CLERICAL MISTAKE" THAT THE RULE 60(c) PROVIDES MAY BE CORRECTED BY THE COURT AT ANYTIME OF ITS OWN INITIATIVE OR ON THE MOTION OF ANY PARTY, AND OF SUCH NOTICE: FED. R. CIV. P. RULE 60(c): SOUTH CAROLINA CODE ANN. 14-3-310 (IN PART) THE SUPREME COURT SHALL HAVE POWER TO ISSUE OTHER REMEDIAL.

AMONG THE DOCUMENTS INCLUDED WITH THE MOTION TO SUPPORT WAS (1) TRUE COPY OF THE 243(c) EXPLANATION AND (2) AN SWORN AFFIDAVIT THAT THE

ORIGINAL EXPLANATION WAS SERVED AS PRESENTED IN THE OCTOBER 19TH LETTER APPENDIX-G-P.110,⁽³⁾ COPY OF THE OCTOBER 19TH LETTER;⁽⁴⁾ PETITIONERS COPY OF THE AGREEMENT TO DEBIT E.H. COOPER ACCOUNT, DATED 10/20/22 "EXPLAINING THE ADDITIONAL POSTAGE" OF "2X135" (\$2.70) WAS DEDUCTED FOR MAILING TO THE COURT AND SERVING COPIES TO RESPONDENTS ATTORNEY. THE DEDUCTION WAS NEEDED FOR THE EXPLANATION CONSISTING OF EIGHT PAGES AND WITHOUT IT THE MATTER WOULD HAVE BEEN PROPER /SENT BY REGULAR PRESTAMPED WHITE ENVELOPES FOR THE NOTICE OF APPEAL CONSISTED OF TWO PAGES AND ITS PROOF OF SERVICE ONE PAGE.⁽⁵⁾ COPY OF RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION"

(2) RESPONSE, FEBRUARY 14, 2023, PET. P. 112, THE ONLY CHANGE OF WORDING IN THIS RESPONSE IS IT STATING "FILING RECEIVED FEBRUARY 13, 2023" AND PETITIONER CONTENTS PROCEDURAL DUE PROCESS WAS DENIED BY THE CLERK IN BARRING AND FAILING TO SUBMIT THE RULE 60 MOTION TO THE COURT PURSUANT TO THE PROVISIONS OF THE RULE, AND RULE 262(a)(2) SCACR: USEA CONST. AMEND 14: MOSE v STATE 428 S.C. 500 (2017) "RULE 262(a)(2) SCACR FOR REASONS ARTICULATED IN HOUSTON PROMOTES THE INTEREST OF FAIRNESS IN THE PURSUANT OF JUSTICE AND NO LONGER PUNISHES APPELLANTS FOR DELAYS BEYOND THEIR CONTROL HOUSTON v LACK 487 US 266, 108 S. CT. 2379, 101 L ED 2d 245 (1988)

(3) RESPONSE, APRIL 12, 2023, PET. P. 113: PETITIONER ATTEMPTING TO APPEAL THE CLERK'S DECISION, REINSTATE THE COURT'S APPELLATE JURISDICTION, AND WAS DENIED PROCEDURAL DUE PROCESS OF RIGHT TO APPEAL, BY THE CLERK'S RESPONSE THAT BARRED AND THE CLERK'S FAILURE TO SUBMIT THE NOTICE OF APPEAL TO THE COURT PURSUANT TO RULE 205 SCACR THAT HOLDS; "UPON THE SERVICE OF THE NOTICE OF APPEAL THE APPELLATE COURT SHALL HAVE EXCLUSIVE JURISDICTION OVER THE APPEAL": RULE 201 SCACR "RIGHT TO

APPEAL: "APPEAL MAY BE TAKEN AS PRESCRIBED BY LAW FROM ANY FINAL JUDGMENT, APPEALABLE ORDER, OR DECISION"

THE ONLY CHANGE IN WORDING OF RESPONSE FROM THE PRIOR TWO RESPONSE IS THE FILING RECEIVED APRIL 12, 2013"

GRAY v NETHERLAND 518 U.S. 152, 116 S. Ct. 2074, 135 L.Ed.2d 457 (1996) PETITIONER IS BARRED FROM PURSUING AN OTHERWISE AVAILABLE STATE REMEDY THEREFORE HIS CLAIM MUST BE DEEMED EXHAUSTED 2254(b)(1), A, (B)(1)

APPENDIX-I-P. 114-116: ORDER, JULY 18, 2014 UNITED STATES DISTRICT COURT DISMISSING 28 USC 2254 PETITION FOR A WRIT OF HABEAS CORPUS

APPENDIX-J-P. 117-118: ORDER, OCTOBER 2014 UNITED STATES DISTRICT COURT DENYING RULE 60 MOTION FOR RELIEF FROM ORDER

APPENDIX-K-P. 119: ORDER, FEBRUARY 7, 2015, UNITED STATES COURT OF APPEALS DENYING 28 USC 2244 MOTION FOR AUTHORIZATION

REASONS FOR GRANTING THE PETITION

PETITIONER COMES BEFORE THIS HONORABLE COURT PURSUANT TO 28 USC 2254 (a), AND AS LAST RESORT FOR DETERMINATION ON EQUITABLE RELIEF FOR THE REASONS UNDER "STATEMENT OF THE CASE."

PETITIONER RESPECTFULLY CONTENTS THE PETITION IS PREDICATED ON FACTUAL NEW GROUNDS OF EXCEPTIONAL CIRCUMSTANCES OF FRAUD THATS NOT NOT RAISED IN THE EARLIER APPLICATION FOR THE WRIT, PETITION AS UNDER

28 USC 2254 (2)(B) "THE FACTS UNDERLYING THE CLAIM IF PROVEN AND VIEWED IN LIGHT OF THE EVIDENCE AS A WHOLE WOULD BE SUFFICIENT TO ESTABLISH BY CLEAR AND CONVINCING EVIDENCE BUT FOR CONSTITUTIONAL ERROR NO REASONABLE FACTFINDER WOULD HAVE FOUND APPELLANT GUILTY OF THE UNDERLYING OFFENSE". U.S. v McDONALD 161 F.3d 4 TABLE CA.4 (N.C. 1998) "A DECISION PRODUCED BY FRAUD ON THE COURT IS NOT IN ESSENCE A DECISION AT ALL AND NEVER BECOMES FINAL". SEE WRIGHT AND MILLER II, FED. PROC. AND PROCEDURE 2870 AT 409 (3d Ed.), QUOTING KEENER v COMMISSION OF INTERNAL REVENUE, 387 F.2d 689, 691 (7TH CIR. 1968); GRAHAM v WHITE U.S. DISTRICT COURT N.D OKLA, 678 F. SUPP. 3d 1332 (2023), "HABEAS CORPUS PETITIONER WAS IN CUSTODY IN VIOLATION OF HER 14TH AMENDMENT RIGHT TO DUE PROCESS AND WAS ENTITLED TO FEDERAL HABEAS RELIEF" 2254

TRIAL

UNDER THE INITIAL DIRECT EXAMINING OF OTIS WHITSTINE HIS TESTIMONY SHOWS WITH "THE YORK COUNTY SHERIFFS DEPARTMENT" AND INVOLVED IN AN INVESTIGATION OF THE TRAGEDY ON THE DATE IT OCCURRED "FEBRUARY 14, 1992," (PETITION P. 44, L. 11-22) HE WAS ADDRESSED AS "OFFICER" OR "DETECTIVE," THE "AFFIANT" OF ARREST WARRANT, SOLE WITNESS ON THE INDICTMENT FOR MURDER (APPX. L. 126-127) AND THE ONLY LAW OFFICIAL TO TESTIFY INTERVIEW OR TALKING WITH WITNESS TOMMY AUTEN ON MORNING OF OCCURRENCE.

SOLICITOR ADDRESSING WITNESS AUTEN AS "THE EYEWITNESS IDENTIFICATION AND LINE-UP" (PET. P. 30, L. 19-20) AND THE WARRANT STATES THAT: "PROBABLE CAUSE BASED ON WITNESS'S" (APPX. EP. 120)

(I) WAS FRAUD ON THE COURT COMMITTED BY COUNSEL MR. SMITH, AND DETECTIVE WHITSTINE, AND WAS THE ARREST MALICIOUSLY MADE FOR THE WANT OF PROBABLE CAUSE BROUGHT FORTH BY THE FRAUD?

FACTS-INTERVIEW

THE RECORD FAILS TO SHOW ANY INITIAL DIRECT BY MR. GRANT OF DETECTIVE WHITSTINE AS TO TALKING WITH OR INTERVIEWING WITNESS AUTEN ON THAT MORNING OF OCCURRENCE (PET. P. 30 - P. 41), AND PETITIONER RESPECTFULLY CONTENDS FRAUD ON THE COURT BY COUNSEL, MR. SMITH, BY THE FOLLOWING INDUCEMENT OF FALSE TESTIMONY BY THE DETECTIVE. WOULD HAVE APPEARED AN INTERVIEW OF THE WITNESS HAD OCCURRED. WHERE THE ONLY EVIDENCE IS DETECTIVE PRESENTING AN PHOTO LINE UP TO WITNESS AT THE WITNESS'S "RESIDENCE" ON THAT AFTERNOON. THE INSTANCE SHOWING MISREPRESENTATION BY COUNSEL, AND THE CREDIBILITY OF THE DETECTIVE IN WILLINGNESS TO PERJUDICE BY VIOLATING HIS OATH AS AN "AFFIANT" TO OBTAIN THE WARRANT WITHOUT PROBABLE CAUSE. SEE U.S. v HARRIS 311 US 292, 61 S. CT. 219, 18 USCA 231; ZIMBLEMAN v SAVAGE 745 F. SUPP. 664 (2010) "MALICE IS DEFINED AS THE INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE OR EXCUSE, AND MAYBE INFERRED FROM WANT OF PROBABLE CAUSE". U.S. v THROCKMORTON 98 US 61 (1878) "WHILE PERJURY IS FRAUD UPON THE COURT THE CREDIBILITY OF WITNESSES IS AN ISSUE FOR IT IS ONE OF THE MATTERS ON WHICH THE TIER OF FACT MUST PASS IN ORDER TO REACH A FINAL JUDGMENT" USCA CONST AMEND 4 & 14 THE ISSUES OF MATTER IN PETITIONER'S CASE WAS MISUNDERSTOOD BY THE

COUNSEL, SOLICITOR, AND DETECTIVE WHITSTINE'S CREDIBILITY

INITIAL CROSS: (Q) "NOW WHEN YOU TALKED WITH HIM-- DID YOU TALK WITH HIM EARLIER IN THE MORNING THAT DAY?", (A) "I DON'T RECALL, BUT IT'S POSSIBLE THAT I DID" (PET. P. 48, L. 19-21)

SECOND DAY DIRECT BEFORE THE JURY: (Q) "AND WHERE DID YOU TALK TO HIM PLEASE?", (A) "THE FIRST TIME I BELIEVE WAS AT DUKE POWER CATAWBA PLANT, AND THE SECOND TIME WAS AT HIS RESIDENCE" (PET. P. 70, L. 10-12): NOW COMES COUNSEL'S CROSS:

(Q) "DETECTIVE, YOU SAY THAT YOU HAD TALKED WITH MR. AUTEU OUT AT THE CATAWBA STATION EARLY IN THE MORNING, CORRECT SIR?"

(A) "YES SIR, DOING INTERVIEWS", (Q) "AND THAT THAT WOULD HAVE BEEN ABOUT 8:00-- 7:30, 8:00 O'CLOCK, CORRECT, SIR?"

(A) "I ASSUME, IT WAS EARLY IN THE MORNING" (PET. P. 72, L. 11-17)

THE EVIDENCE THAT REFUTES THE INTERVIEW OCCURRED, AND THEIR INITIAL MEETING EACH OTHER WAS AT THE RESIDENCE IS WITNESS AUTEU'S TESTIMONY OF DETECTIVE WHITSTINE HAVING TO INTRODUCE AND IDENTIFY HIMSELF UPON HIS ARRIVAL AT THE RESIDENCE. FOR THE WITNESS TESTIFIED "HE TOLD ME WHO HE WAS, IDENTIFIED HIMSELF" (PET. P. 66, L. 14-16) ALSO UNDER INITIAL DIRECT DETECTIVE OPENED WITH MEETING WITH WITNESS AT THE "RESIDENCE" (PET. P. 45, L. 54) NO POSITIVE TESTIMONY OF INTERVIEW UNTIL THE INDUCEMENT. Id. THROCKMORTON: BRECHT: 18 USC 1622: USCA CONST 6, 14 FRAUD ON THE COURT MAINTAINED BY COUNSEL'S ATTEMPT TO ESTABLISH AN INTERVIEW HAD OCCURRED IN HIS EXAMINING OF WITNESS AUTEU. BY QUESTIONING "AND YOU TOLD THE SOLICITOR--", WHERE THE RECORD FAILS TO SHOW ANY DIRECT EXAMINING AS TO BEING INTERVIEWED OR TALKING WITH LAW OFFICIAL ON THAT MORNING (P. 30-41 & P. 59-68), AND COUNSEL FAILING TO EXAMINE

THE NAME OF WHO HE "GAVE A DESCRIPTION" TO, AND WAS A REPORT TAKEN?

CROSS-(Q) "AND YOU TOLD THE SOLICITOR THAT YOU TALKED WITH THE ORIGINAL-- GAVE A DESCRIPTION-- ORIGINALLY GIVEN AT APPROXIMATELY 8:30 OR SO IN THE MORNING, VERY EARLY IN THE MORNING RIGHT AFTER THIS HAPPENED?", (A) "YES, SIR."; (Q) "AND YOU VIEWED THE PHOTOGRAPHS APPROXIMATELY 3:00 IN THE AFTERNOON?"

(A) "YES SIR. THAT'S CORRECT" (PET. P.42, L.25- P.43, L.7)

INCIDENT REPORT

THE ONLY COPY OF AN INCIDENT REPORT THAT'S BEEN ENTERED INTO THE TRANSCRIPT OF RECORD SHOWS FROM "THE YORK COUNTY SHERIFF'S DEPARTMENT," AND WITNESS "THOMAS AUTEN" AS THE REPORT'S "COMPLAINANT." THOUGH THE COPY WAS ENTERED WITHOUT SHOWING OF THE REPORT'S REPORTING OFFICER(S) NAME(S) (APPENDIX-N, P.124, WITH TR. P.452). PETITIONER ASKED FAMILY MEMBER TO REQUEST COPIES OF ALL REPORTS WRITTEN OF TRAGEDY THE DEPARTMENT HAD ON FILE. THE ONLY COPY OF AN INCIDENT REPORT PROVIDED WAS OF THE SAME REPORT ITS COPY ENTERED INTO THE RECORD (APPENDIX-O, P.125) WHICH NOT ONLY SUPPORTS THE LACK OF ~~LAWFUL~~ PHYSICAL EVIDENCE THAT DETECTIVE WHITSTINE HAD IN FACT INTERVIEWED WITNESS AUTEN ON THAT MORNING IT ALSO SUPPORTS LACK OF EVIDENCE ANY OF THE OTHER THREE WITNESSES OF THAT MORNING HAD BEEN INTERVIEWED FOR PROBABLE CAUSE FOR OUTSIDE OF ITS SHOWING "SMITH T.B." AS THE "REPORTING OFFICER(S)" THE RECORD SHOWS THAT THE ONLY TIME HIS NAME IS MENTIONED IS BEING CALLED ON FIRST DAY AND HE WASN'T PRESENT / TESTIFIED DURING THE TRIAL (PET P. 28-29). OTHER THREE WITNESSES: JOEL SMITH - SAW NOTHING HEARD NOTHING "RELEASED FIRST DAY (PET. P.70, L.11): DANNY WILSON - TALKED TO OFFICER JIM WILLIAMS WHO^(ALSO) WAS NOT PRESENT DURING TRIAL (PET. P.80, L.3) WITNESS "EXCUSED" ON FIRST DAY (PET. P.28-29): SIDNEY BALLANGER - NO DIRECT OR

CROSS AS TO WHEN OR NAMES OF THE AUTHORITIES HE REPORTED AN PARTIAL TAG NUMBER TO (PET. P. 85, L. 73 P. 86, L. 100)

OUTSIDE OF LACK OF EVIDENCE OFFICER SMITH HAD INTERVIEWED ANY WITNESS, THE FOLLOWING PRESENTMENT OF THE REPORT AS TO TESTIMONY BY WITNESS AUTEN, AND LACK OF TESTIMONY SHOWS THE REPORT WAS FABRICATED WITH FALSE MISLEADING STATEMENTS, AND MALICIOUS. 18 USC 1621(a): ZIMBLEMAN

REPORT: R/P STATED AS HE WAS EXITING THE VEHICLE HE DROVE TO WORK THAT HE HEARD APPROXIMATELY 5 RAPID GUN SHOTS, WITNESS: "AS I WAS TURNING OFF THE IGNITION (VEHICLES) I HEARD WHAT I THOUGHT WAS A SMALL PACK OF FIRECRACKERS BEING DISCHARGED OVER IN SMALLER ADMIN LOT. (PET. P. 31, L. 24-P. 32, AND P. 55, L. 23-P. 56, L. 5)

REPORT: "R/P SAW A W/M SUBJECT FITTING THE ABOVE DESCRIPTION CARRYING A RIFLE WALKING AWAY FROM THE SCENE": THE SUBJECT'S / SUSPECT'S DESCRIPTION OF REPORT - "AGE - 38/42": "HEIGHT - 5'09": "WEIGHT - 160" "HAIR - Brn": "EYES - Brn": "BEARD": WITNESS: SUBJECT'S "HEIGHT - 5'10 TO 6 FOOT": "WEIGHT - 170, 180": "DARK HAIR AND RED BEARD" (PET. P. 35, L. 21-P. 36, L. 4 AND P. 65, L. 4) THE RECORD FAILS TO SHOW ANY WITNESS TESTIMONY AS TO THE SUBJECT'S APPROXIMATE AGE NOR COLOR OF EYES AND PETITIONER WAS 42 OF AGE, HAD BROWN HAIR, AND BROWN EYES. SHOWING USE OF INDEPENDENT SOURCES.

REPORT: "A WHITE DODGE VAN NC PARTIAL REGISTRATION DRL". THE REGISTRATION GIVEN TO AUTHORITIES BY WITNESS BALLANGER WHERE WITNESS AUTEN MADE NO TESTIMONY OF THE / AN PARTIAL REGISTRATION IN HIS TESTIMONY OF A WHITE DODGE VAN" (PET. P. 60, L. 1 P. 69; P. 36, L. 14-P. 44) THAT PETITIONER CONTENTS IS INSUFFICIENT TO OVERCOME THE MAJOR DISCREPANCIES OF THE REPORT.

MAINTAINING FRAUD ON THE COURT IS SHOWN BY MISREPRESENTATION OF

COUNSEL IN ATTEMPTING TO INDUCE WITNESS AUTEN INTO CORROBORATING THE REPORT'S SUSPECT'S "HEIGHT" OF "5'09" AND HIS "WEIGHT" OF "160" WHERE UNDER PRIOR DIRECT WITNESS HAD TESTIFIED THE "HEIGHT" WAS "5'10" TO 6 FOOT" AND "WEIGHT" "170, 180 POUNDS" (PET. P. 35, L. 25 - P. 36, L. 4)

CROSS: (Q) "DID YOU GIVE A DESCRIPTION TO ANY OFFICER AT THE SCENE?"

(A) "YES, SIR. I DID" : (Q) "AND THAT DESCRIPTION WAS APPROXIMATELY 5'9", 160, 170 POUNDS"? (A) "YES SIR. THAT SOUNDS ABOUT RIGHT I THINK" (PET. P. 42, L. 20-24)

PETITIONER RESPECTFULLY CONTENTS COUNSEL'S ATTEMPT TO CORROBORATE SHOWS KNOWLEDGE OF THE REPORT AND IT BEING FALSE WHICH IS SUPPORTED BY HIS CONCEALMENT OF IT DURING EXAMINING OF WITNESS AUTEN WHICH WAS CONTRARY TO HIS EXAMINING OF WITNESS WILSON. WHERE COUNSEL PRESENTED AN ALLEGED "SUMMARY OF THE INTERVIEW" TO THE WITNESS AND STATED "LET'S GO OVER THAT" (PET. P. 80, L. 95 - P. 81). THE RECORD FAILS TO SHOW ANY MENTION OF THE SUMMARY UNDER INITIAL DIRECT OF WITNESS WILSON [TR. P. 100 - P. 111] NOR HAS PETITIONER SEEN THE SAID SUMMARY, COPY NOT ENTERED IN THE RECORD, OR OBTAINED BY DISCOVERY ROZIER v FORD MOTOR CO. (1978) 573 F.2d 1332, 250 ALR FED 91, 425 FED. R. SERV. 2d, 11333 PED. R. EVL SERV. 119: "GENERALLY SPEAKING ONLY THE MOST EGREGIOUS MISCONDUCT SUCH AS BRIBERY OF A JUDGE OR OF A JURY OR THE FABRICATION OF EVIDENCE BY A PARTY IN WHICH AN ATTORNEY IS IMPLICATED WILL CONSTITUTE A FRAUD ON THE COURT" SEE HAZEL ATLAS GLASS CO v HARTFORD EMPIRE CO. 332 U.S. 238, 64 S. CT. 997, 88 L. ED. 1230 (1944): USCA CONST. AMEND 6, 14

THE SUMMARY PROVED TO BE INVALID FOR WITNESS TESTIFIED "NO I DON'T REMEMBER SAYING THAT THAT'S HOW HE INTERPRETED WHAT I SAID" (PET. P. 80, 24-25) OFFICER WILLIAM'S NAME WAS CALLED BUT NOT PRESENT (PET. P. 28-29)

PHOTOGRAPHIC LINEUP

INITIAL DIRECT OF DETECTIVE WHITSTINE BY MR. GRANT:

(Q) "DID YOU HAVE OCCASION TO MEET WITH MR. THOMAS AUTEN?" (A) YES, SIR. (Q) "WHEN DID YOU MEET WITH HIM, PLEASE, SIR?" (A) "IT WAS ON FEBRUARY 14TH OF THIS YEAR." (Q) "WHERE DID YOU SEE HIM?" (A) "HE WAS AT HIS RESIDENCE". (Q) "AND PRIOR TO GOING TO SEE HIM HAD YOU PREPARED A PHOTOGRAPHIC LINEUP FOR HIM TO VIEW?" (A) "YES SIR."

(PET. P. 44, L. 24 - P. 45, L. 7): FURTHER DIRECT: (Q) "WHO MADE THAT RECORD?" (A) "THE LIVE-UP WAS MADE BY DETECTIVE JETER IN GASTON COUNTY"

(Q) "THESE ARE THE NAMES THAT YOU HAD?" (A) "YES, SIR." (P. 46, L. 15-17)

PETITIONER RESPECTFULLY CONTENTS DETECTIVE WHITSTINE'S PREPARING OF THE INDIVIDUALS NAMES TO THE NUMBERS BESIDE OF THEIR PICTURES IN THE LIVE-UP WOULD HAVE RENDERED IT UNDULY SUGGESTIVE. FOR THE ONLY EVIDENCE OF DETECTIVE JETER'S INVOLVEMENT IS PREPARING THE LIVE UP WITH PHOTOGRAPHS" (PET. P. 75-77). HE TESTIFIED HE "PLACED HIM (PETITIONER) IN PHOTOGRAPH NO. 3" (P. 76, L. 9) TO TAKE THE PHOTOGRAPH AND PUT IT IN THE FOLDER ALONG WITH OTHER PHOTOGRAPHS THAT YOU (HE) PICKED OUT RANDOMLY" (P. 76, L. 24-25), AND TO HE "GAVE THAT FOLDER TO SOMEONE WITH THE YORK COUNTY SHERIFF'S DEPARTMENT" (P. 77, L. 5-7) NO TESTIMONY OF LIST OF NAMES INCLUDED IN THE FOLDER.

FRAUD ON THE COURT MAINTAINED BY COUNSEL, MR. SMITH'S, CROSS EXAMINING OF DETECTIVE WHITSTINE IN FAILURE TO QUESTION THE INCRIMINATING TESTIMONY OF HAVING HAD THE LIST OF NAMES AND HIS ROLE IN PREPARING OF THE LIVE-UP ALSO INDUCEMENT WHICH WOULD HAVE FALSELY APPEARED THE DETECTIVE HAD NO KNOWLEDGE OR ROLE IN PREPARING OF THE LIVE-UP.

CROSS: (Q) "NOW YOU DID NOT PREPARE THE LIVE-UP CORRECT OFFICER?"

(A) "NO SIR". (Q) "AND YOU DON'T KNOW WHERE THE PHOTOGRAPHS CAME FROM OR WHO OBTAINED THEM OR ANYTHING OF THAT NATURE?"

(A) "THEY CAME FROM DETECTIVE JETER WITH GASTON COUNTY POLICE DEPARTMENT" (Q) "BUT THEY PUT IT TOGETHER?" (A) "YES, SIR"

... (Q) AND THE PHOTOGRAPHS WERE IN THE FOLDER AS THEY ARE TODAY? (A) YES SIR. THE FOLDER IS COMPLETE AS NOW (P. 49, L. 9-19)

THE RECORD FAILS TO SHOW ANY LAW OFFICIAL OR COUNSEL PRESENT WITH DETECTIVE WHITSTINE AT VIEWING OF THE LINE UP, AND SUPPORTED BY THE DETECTIVE'S TESTIMONY UNDER INITIAL AND SECOND DAY DIRECT VIOLATING USCA AMEND V (10) "AN OUT OF COURT IDENTIFICATION OF AN ACCUSED HAS A CONSTITUTIONAL RIGHT TO ASSISTANCE OF COUNSEL" STATE V LYONS 381 SC 541 163 SE 2d 445 (1968): INITIAL DIRECT: (Q) "WAS ANY OFFICER WITH YOU WHEN YOU SHOWED MR. AUTEN THE LINE UP? (A) "NO. SIR" (PET. P. 48 L. 4-6): SECOND DAY: (Q) "WAS ANYBODY THERE BESIDES YOU AND HIM? (A) "NO. SIR" (P. 71, L. 22-23)

AFTER THE INITIAL CROSS EXAMINATION OF DETECTIVE WHITSTINE THE SOLICITOR STATED, "YOUR HONOR. THAT WOULD BE OUR DEFER OF THE IDENTIFICATION AND LINE-UP PROCEEDING" (PET. P. 50, L. 11-13), AND PETITIONER RESPECTFULLY CONTENTS THE CASE FURTHER PREJUDICED, AND THE PROSECUTION WAS MAINTAINED BY COUNSEL, MR SMITH, IN FAILING TO REQUEST DETECTIVE WHITSTINE'S IDENTIFICATION AND LINE UP PROCEEDING AS INADMISSIBLE AND ALSO UNCONSTITUTIONAL. BECAUSE OF THE INCRIMINATING TESTIMONY OF HAVING THE LIST OF NAMES, AND PREPARING THE LINE UP, AND PRESENTING THE LINE-UP ALONE. WHICH PETITIONER ALSO CONTENTS COUNSEL'S FAILURE WAS STRAGEDY. BECAUSE OF HIS KNOWLEDGE OF THE DETECTIVE'S PRIOR WILLINGNESS TO FALSELY TESTIFY. APPEARING TO BE RELIABLE WHERE COUNSEL REQUESTED THE IDENTIFICATION BY WITNESS AUTEN BE SUPPRESSED AS NOT "HAVING INDICIA OF RELIABILITY"

STRIKLAND v WASHINGTON 104 S. Ct. 2052 At 2067 (1984) "PREJUDICE IS PRESUMED ONLY IF THE DEFENDANT DEMONSTRATES THAT COUNSEL" ACTIVELY REPRESENTED CONFLICT OF INTEREST" AND THAT "AN ACTUAL CONFLICT OF INTEREST AFFECTED HIS LAWYERS PERFORMANCE" CUYLER v SULLIVAN SUPRA 446 US At 350, 100 S. Ct. At 1718, 1719: USCA CONST AMEND. 6, 14

THE MALICIOUS PROSECUTION WAS MAINTAINED BY COUNSEL'S MISREPRESENTATION.

IN PARTICIPATING IN THE FOLLOWING IDENTIFICATION MADE BY DETECTIVE WHITSTINE ON THE SECOND DAY IN PRESENCE OF THE JURY. ALSO PROSECUTORIAL MISCONDUCT BY THE SOLICITOR, MR. GRANT. FOR THE IDENTIFICATION CAME UNDER UNDER DIRECT EXAMINING WITH HIS AND COUNSEL'S KNOWLEDGE OF THE IDENTIFICATION WAS INADMISSIBLE AND UNCONSTITUTIONAL BECAUSE OF THE DETECTIVE'S INCRIMINATING TESTIMONY THAT WOULD HAVE RENDERED THE LINE-UP UNDULY SUGGESTIVE AIDING IN MAKING THE IDENTIFICATION WHICH THE EXAMINING BEING ON PICTURE IN LINE-UP THAT THE IDENTIFICATION WAS BASED ON. FOR PETITIONER CONTENDS NEVER MEETING OR SEEING THE DETECTIVE PRIOR TO TRIAL, AND THE RECORD FAILS TO SHOW ANY EVIDENCE THE DETECTIVE HAD MET OR OBSERVED PETITIONER PRIOR TO TRIAL FOR KNOWLEDGE TO HAVE MADE THE IDENTIFICATION WHICH IS SUPPORTED BY HIS TESTIMONY UNDER RECROSS: RULE 801(D)(C) SCREEN. "ONE OF IDENTIFICATION OF A PERSON AFTER PERCEIVING THE PERSON" AND RULE 801(D)(C) FED. RULES EVID.: U.S. CONST. AMEND. 6, 14, 5 RECROSS: (Q) "AND YOU DIDN'T KNOW NO. 3 FROM ADAM'S HOUSE CAT OF YOUR OWN KNOWLEDGE DID YOU SIR?" (A) "NO SIR." (PET. P. 74, L. 17) RELATING IS THE TESTIMONY SHOWING ALONE WITH WITNESS ACUED AT THE VIEWING U.S. v. WADE 87 S. CT. 1926 (1987) "ABSENCE OF COUNSEL AT A PRETRIAL LINE-UP RENDER'S COURTROOM IDENTIFICATION INADMISSIBLE UNLESS COURTROOM IDENTIFICATION IS BASED ON OBSERVATION OF SUSPECT OTHER THAN LINE-UP": MASON v. BATHWAITE 437 US 98 (1977) "RELIABILITY IS UNCHPIN IN DETERMINING ADMISSIBILITY OF IDENTIFICATION TESTIMONY" U.S. CONST. AMEND. 5, 14.

THE DIRECT:

(Q) "WAS ANYBODY THERE BESIDES YOU AND HIM?" (A) "NO SIR"; AND WHO WAS THE PICTURE THAT HE PICKED OUT? (A) JEFFREY LYNN CHRONISTER NO. 3 IN THE LINE-UP". (Q) "AND DOES MR. CHRONISTER APPEAR DIFFERENT TODAY IN COURT?" COUNSEL: "OBJECT TO LEADING YOUR HONOR"

SOLICITOR: (Q) IS THERE ANY DIFFERENCE IN MR. CHRONISTER'S APPEARANCE TO DAY IN COURT AS IN THE PICTURE LINE-UP? : COUNSEL: YOUR HONOR, THE SAME OBJECTION" : THE COURT: "NO SIR, I OVERRULE YOU GO AHEAD", DETECTIVE, "HE HAS NO BEARD AT THIS TIME"

(PET. P. 71, L. 12 - P. 72)

BERGER V US 295 US. 78 (1935) "AS STATED BY THE SUPREME COURT [W]HILE HE (PROSECUTOR) MAY STRIKE HARD BLOWS HE IS NOT AT LIBERTY TO STRIKE FOUL ONES. IT IS AS MUCH HIS DUTY TO REFRAIN FROM IMPROPER METHODS CALCULATED TO PRODUCE A WRONGFUL CONVICTION AS IT IS TO USE EVERY LEGITIMATE MEANS TO BRING ABOUT A JUST ONE."

COUNSEL, MR. SMITH, FURTHER PREJUDICED THE CASE BY AGAIN FAILING TO QUESTION DETECTIVE WHISTINE HIS TESTIMONY OF HAVING THE LIST OF NAMES AND HIS ROLE IN PREPARING OF THE LINE-UP. ALSO GATHERING FACTS SUCH AS THE NAMES OF WHO DID PREPARE THE LIST OF NAMES, WHO PREPARED THE NAMES TO THE INDIVIDUAL'S PICTURES, AND WHO DID PREPARE THE LINE-UP? WHERE SHOWING DETECTIVE HAD TESTIFIED TO DETECTIVE JETER PREPARED THE LINE UP'S RECORD. AGAIN USE OF INDUCEMENT THAT WOULD HAVE FALSELY IMPRESSED THE DETECTIVE HAD NO KNOWLEDGE OR ANYTHING TO DO WITH THE LINE-UP'S PREPARATION THAT WOULD HAVE FALSELY APPEAR IDENTIFICATION RELIABLE ID. STRICKLAND:

GRAHAM : THROCKMORTON : USCA CONST AMEND 6, 14 : THE CROSS EXAMINING:

(Q) "NOW I BELIEVE YOU YOURSELF DID NOT PREPARE THE PHOTO LINE UP?"

(A) "NO SIR." (PET. P. 73, L. 7-9): RE CROSS: (Q) DETECTIVE, YOU DID NOT PRE-

PREPARE THE PHOTO LINE UP? (A) "NO SIR." (Q) "NOR DID YOU PREPARE THE LIST OF NAMES ASSOCIATED WITH THE NUMBERS, DID YOU SIR? (A) "NO SIR"

(Q) "ALL YOU KNOW IS THAT NO. 3 WAS THE PERSON THAT WAS PICKED OUT BY MR. AUTEN? (A) ON THAT SHEET IT HAS LIST OF NAMES OF THE PEOPLE IN THE PICTURES AND MR. CHRONISTER WAS LISTED AS NO. 3"

(Q) "BUT YOU DIDN'T PREPARE THAT LIST, YOU DIDN'T PREPARE THE PHOTOGRAPHS? (A) "NO SIR." (P 74, L. 5-16)

THE MISCONDUCT(S) CONTINUED BY COUNSEL AND THE SOLICITOR BY ONLY QUESTIONING DETECTIVE WHITSTINE AS TO WHICH ONE OF THE SIX NUMBERS THAT WITNESS AUTEU ALLEGEDLY PICKED OUT, AND FAILING TO CORROBORATE THE DETECTIVE'S TESTIMONY BY QUESTIONING THE WITNESS. WHICH THE DETECTIVE'S TESTIMONY OF THE NUMBER AMOUNTS TO INADMISSIBLE HEARSAY GIVEN WAS AT TRIAL, COUNSEL, MR. SMITH, OR ANY COUNSEL TO PROTECT PETITIONER'S CONSTITUTIONAL RIGHT WAS NOT PRESENT AT VIEWING, AND DETECTIVES WILLINGNESS TO FALSELY TESTIFY. RULE 804(a) (5) S.C.R. EVID. AND FED RULE EVID. 801(c)(1): Id. STRICKLAND; BERGER; USCA CONST AMEND. 6, 14

INITIAL DIRECT OF WITNESS AUTEU:

(A) "AND SO I GAVE HIM THE NUMBER THAT WAS BESIDE OF THE INDIVIDUAL'S PICTURE" (PET. P. 38, L. 12-14). THE RECORD FAILS TO SHOW ANY FOLLOW-UP QUESTION AS TO WHICH ONE OF THE SIX NUMBERS HE GAVE (P. 38, L. 15- P. 41) NOR ANY QUESTIONING OF NUMBER UNDER INITIAL CROSS (P. 41-44). WHERE QUESTION OF THE DETECTIVE UNDER INITIAL DIRECT (P. 47, L. 17- P. 48, L. 7)

SECOND DAY: NO DIRECT QUESTIONING OF WITNESS THROUGH CROSS:

(PET. P. 54, L. 12- P. 67): THE NUMBER BROUGHT FORTH UNDER DIRECT, REDIRECT, CROSS, AND RECROSS OF DETECTIVE WHITSTINE (P. 71, L. 5- P. 73)

(II) WAS FRAUD ON THE COURT MAINTAINED BY COUNSEL MR. SMITH, SOLICITOR MR. GRANT, DETECTIVE WHITSTINE, AND WAS THE DIRECTED VERDICT PRODUCED BY THE FRAUD?

COUNSEL, MR. SMITH MOVED FOR A DIRECTED VERDICT ON THE GROUNDS OF "THE IDENTIFICATION ISSUE DID NOT SHOW PETITIONER DID THAT BECAUSE OF THE NATURE OF THE TESTIMONY BY THE PEOPLE AS TO IDENTITY": NO WEAPON OR PROJECTILES PRODUCED, AND NO EVIDENCE TO MAKE OUT THE NECESSARY CASE FOR MALICE. EVEN THOUGH MALICE MAY BE INFERRED FROM THE USE OF A WEAPON. THERE BEED NO WEAPON CONNECTED TO MY CLIENT" (PET. P. 88, L. 19- P. 89)

THE WITNESSES OF THAT MORNING AS TO THE SUBJECT'S IDENTITY:

JOEL SMITH TESTIFIED TO HE SAW NOTHING (P. 78, L. 11): DANNY WILSON NO MY ATTENTION

WAS RIVITED ON HIS WEAPON, AND I DIDNT LOOK AT HIS FACE ALL THAT WELL" (PET. P. 82, L. 14- P. 83): SIDNEY BALLANGER, "I GOT A GENERAL FEAT-
TURES LOOK AT THE INDIVIDUAL", (P. 84, L. 8): WITNESS AUTEN TESTIFIED,
 (A) "NO, SIR. WHAT I'M TELLING YOU IS THE PERSON I IDENTIFIED ON THE
LIVE-UP WAS THE PERSON I SAW IN THE PARKING LOT." (P. 41, L. 16-17) AND
"IF THIS MAN IS THE MAN THAT I IDENTIFIED ON THE PHOTOGRAPH,
THEN HE IS INDEED THE SAME PERSON" (P. 69, L. 1-3)

THE VERDICT

"THE TESTIMONY IN THE CASE IS THAT THE DEFENDANT WAS IDENTIFIED
 AS BEING THE PERSON AT THE SCENE. THAT HE WAS IN POSSESSION OF A WEAP-
 PON THAT GUNSHOTS WERE HEARD AND SHORTLY IN SECONDS THEREAFTER.
 THE VICTIM'S BODY WAS FOUND SHE WAS DEAD, OF COURSE. THE STATEMENTS
 MADE BY THE OFFICER-- ALL OF THOSE, AND THE USE OF A DEADLY WEAPON YOU
 DONT HAVE TO FIND THE WEAPON IF THERE'S TESTIMONY OF USE OF A WEAPON"
"USE OF A DEADLY WEAPON IS SUFFICIENT FOR INFERENCE OF MALICE TO
SUPPORT A CONVICTION FOR MURDER, MALICE AFORETHOUGHT"
"FOR THOSE REASONS THE MOTION FOR DIRECTED VERDICT AT THIS STAGE IS DENIED"
 ('PET. P. 82, L. 16- P. 83)

COUNSEL'S RENEWAL OF THE MOTION ON THE SAME GROUNDS GIVEN BY COUNSEL
 WAS DENIED BY THE JUDGE ON THE SAME REASONS HE GAVE FOR DENYING THE
 INITIAL MOTION [TR P. 240, L. 8-12]

PETITIONER RESPECTFULLY CONTENTS HE WAS ENTITLED TO THE VERDICT GIVEN LACK
 OF COMPETENT WITNESS IDENTIFICATION, AND THE PROSECUTION WAS MAINTAINED
 BY THE VERDICT BASED ON UNREASONABLE DETERMINATION OF THE FACTS BEING
 DETECTIVE WHITSEW'S IDENTIFICATION TESTIMONY AND SUPPORT BY

JUDGE STATING "THE DEFENDANT WAS IDENTIFIED--" AND "STATEMENTS MADE BY THE OFFICER 28 USC 2254 (d)(2) WITHOUT COMPETENT WITNESS IDENTIFICATION TESTIMONY THE JUDGE WAS MANDATED TO DIRECT THE VERDICT IN PETITIONER'S FAVOR PURSUANT TO RULE 19(a) SOUTH CAROLINA RULE CRIM. P. THAT STATES ITS LANGUAGE IS TAKEN FROM RULE 19(a) FED. R. CRIM. P. AND COMMON LAW." RULE 19(a) HOLDS;

"ON MOTION OF THE DEFENDANT THE COURT SHALL DIRECT VERDICT IN THE DEFENDANT'S FAVOR ON ANY OFFENSE CHARGED IN THE INDICTMENT AFTER THE EVIDENCE ON EITHER SIDE IS CLOSED IF THERE IS A FAILURE OF COMPETENT EVIDENCE TENDING TO PROVE THE CHARGE IN THE INDICTMENT IN RULING ON THE MOTION, THE TRIAL JUDGE SHALL CONSIDER ONLY THE EVIDENCE OR NON-EXISTENCE OF THE EVIDENCE, AND NOT THE WEIGHT."

PETITIONER RESPECTFULLY CONTENTS DUE PROCESS WAS DENIED BY THE JUDGE'S VIOLATION OF THE STATUTORY DUTY TO DIRECT VERDICT IN PETITIONER'S FAVOR GIVEN THE LACK OF COMPETENT WITNESS IDENTIFICATION TESTIMONY WHICH WAS SIGNIFICANT. FOR THE STATE FAILED TO PROVE BEYOND A REASONABLE DOUBT THE ELEMENT PETITIONER WAS IN POSSESSION OF A WEAPON AND "MALICE AFORETHOUGHT" WHICH APPLIES TO "COUNT-ONE" OF THE INDICTMENT FOR MURDER THAT PETITIONER "DID" FELONIOUSLY, WILLFULLY, AND WITH MALICE AFORETHOUGHT KILL BY MEANS OF SHOOTING, AND "COUNT-TWO" PETITIONER DID WHILE IN POSSESSION OF A FIREARM COMMITTED THE CRIME IN COUNT-ONE OF THIS INDICTMENT. (APPX-M P/23) CRIMINAL OFFENSE IN STATE'S CHAPTER 14C10 DUE PROCESS DENIED

STATE v BROWN, 360 S.C. 581, 602 SE2d 392 (2004) IT IS FUNDAMENTAL CONCEPT OF CRIMINAL LAW THAT THE STATE MUST PROVE

BEYOND A REASONABLE DOUBT ALL THE ELEMENTS OF THE OFFENSE CHARGED AGAINST DEFENDANT WHEN THE STATE FAILS TO PRESENT SUFFICIENT PROOF OF ALL THE ELEMENTS. A CONVICTION MUST BE REVERSED AND A JUDGMENT FOR THE DEFENDANT MUST BE RENDERED UNDER THE PRINCIPLES OF *BURK* 0 US 437 US 1, 98 S. CT. 2141, 57 LEd 3d 11 (1978); *U.S. v McDONALD* 161 F3d 4 TABLE CA4, U.C. 1998:

"A DECISION PRODUCED BY FRAUD ON THE COURT IS NOT IN ESSENCE A DECISION AT ALL AND NEVER BECOMES FINAL." SEE *WRIGHT v MILLER* FEDERAL PRACTICE AND PROCEDURE 2870 AT 409 (1995); QUOTING *KENNES v I.R.S.* 387 F2d 689, 91 (7TH CIR. 1968); *WESTS* SCd 2d, 26 A, CA4 (S.C. 2001)

"PROOF OF DEFENDANTS GUILT OF PREDICATE OFFENSE IS ESSENTIAL ELEMENT OF USING OR CARRYING FIREARM IN RELATION TO CRIME OF VIOLENCE" 18 USCA 924(c), *U.S. v KEARNEY* 8 FED. APPX. 247

DIRECT APPEAL

CONTINUATION OF THE MISREPRESENTATION BY COUNSEL AND OR INEFFECTIVE ASSISTANCE OF APPELLATE COURT ATTORNEY ON BRIEF OF THE DENIAL OF THE DIRECTED VERDICT ON APPEAL. USCA CONST AMEND 6, 14

PETITIONER HAD NO PRIOR CRIMINAL RECORD / ARREST FOR KNOWLEDGE OF THE PROCEDURES TAKEN FOR TRIAL AND APPEAL RIGHTS. SOLICITOR STATED TO CAMERA

"YOUR HONOR, MY UNDERSTANDING HE HAS NO RECORD OF CRIMES OF MORAL TURPITUDE" [TR. P. 58, L. 24-25]

THE JUDGE STATED TO PETITIONER, "YOU HAVE A RIGHT TO APPEAL YOUR CONVICTION IN THIS CASE ON BOTH COUNTS YOU MUST FILE THE NOTICE OF INTENT TO APPEAL I'M SURE YOUR MR. SMITH WILL ADVISE YOU OF THAT AS WELL" [TR. P. 296, L. 12-15], AND COUNSEL STATED "YOUR HONOR I WILL FILE THE APPEAL FOR HIM AUTOMATICALLY" (PET. P. 92, L. 1-2). PETITIONER CONTENDS AT NO TIME PRIOR TO, DURING OR AFTER TRIAL

DID COUNSEL CONFER WITH PETITIONER ABOUT PROCEDURES AND APPEAL RIGHTS. GREEN v STEVENSON 2015 NOT REPORTED IN FED. SUPP. WL-1373971 4 DSC, "TRIAL COUNSEL MUST ENSURE THAT A CRIMINAL DEFENDANT IS MADE FULLY AWARE OF HIS APPEAL RIGHTS." SEE WHITE v STATE 263 SC. 110, 108 SE2d 35 (1979); USCA CONST. AMEND. 6, 14.

PETITIONER RESPECTFULLY COUNTERS DUE PROCESS WAS DENIED BY COUNSEL'S VIOLATION OF THE STATUTORY DUTY AS AN ADVOCATE TO ACT ON THE FULLEST BENEFIT OF PETITIONER'S CAUSE BY FAILING TO BRIEF THE MERITORIOUS ISSUE OF DENIAL OF THE DIRECTED VERDICT ON THE APPEAL THUS INEFFECTIVE ASSISTANCE OF APPELLATE COURT ATTORNEY. THOUGH ON THE OTHER HAND QUESTION OF INEFFECTIVE ASSISTANCE OF APPELLATE COURT ATTORNEY IN FAILURE TO BRIEF THE ISSUE? GIVEN THAT ITS MOTION WAS CLEARLY RENEWED? USCA CONST. AMEND 6, 14; FED. RULES CIV. P. RULE 50(e):

STEPHEUS EX REL LILLIAN C. v CSX TRANS. INC. (S.C. APP. 2012) WL30250-99

"WHEN A PARTY MOVES UNSUCCESSFULLY FOR DIRECTED VERDICT AT ANY POINT DURING A TRIAL HE MUST RENEW THE MOTION AT CLOSE OF ALL EVIDENCE IN ORDER TO PRESENT DENIAL OF THE MOTION FOR APPEAL OTHERWISE APPELLATE COURT IS PRECLUDED FROM DENIAL OF MOTION". WRIGHT v CRAFT 372 SC. 1, 19, 640 SE2d 486 (CT. APP. 2006) "COURT OF APPEALS WILL REVERSE THE TRIAL COURT'S RULING ON DIRECT VERDICT MOTIONS ONLY IF SO EVIDENCE EXISTS TO SUPPORT THE RULING OR IF DECISION WAS CONTROLLED BY ERROR OF LAW": ADVOCATE RULE 3.1 SCACR: MERITORIOUS CLAIMS.

[1] THE ADVOCATE HAS A DUTY TO USE THE LEGAL PROCEDURE FOR THE FULLEST BENEFIT OF THE CLIENT'S CAUSE": SHAW v WILSON (2013) 721 F3d 908, "APPELLATE LAWYERS ARE NOT REQUIRED TO PRESENT EVERY

NONFRIVOLOUS CLAIM ON BEHALF OF THEIR CLIENT BUT THEY ARE EXPECTED TO SELECT THE MOST PROMISING ISSUE FOR REVIEW"

USCA CONST. AMEND 6, 19 AND ID. SHAW "PETITIONER HAD A REASONABLE CHANCE OF SUCCESS ON APPEAL BUT FOR COUNSEL'S DEFICIENT PERFORMANCE": STRICKLAND v WASHINGTON 466 US 668 (1984)

"THE SIXTH AMENDMENT PROVIDES A CRIMINAL DEFENDANT THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL TRIAL AND FIRST APPEAL AS OF RIGHT": EVITT v LUCEY 469 U.S. 387, 105 S.Ct. 830, 831 LED 2d, "FIRST APPEAL AS OF RIGHT IS NOT ADJUDICATED IN ACCORD WITH DUE PROCESS OF LAW IF APPELLANT DOES NOT HAVE EFFECTIVE ASSISTANCE OF ATTORNEY"

IN CLOSING OF THE TRIAL PETITIONER STATED TO THE JUDGE, "I LOVED MY WIFE, THAT WAS NOT ME DOWN THERE, AND I WANT TO FILE AN APPEAL. ALSO THAT I DON'T FEEL LIKE I WAS PROPERLY REPRESENTED, AT LEAST CERTAIN THINGS WERE MISSING THAT SHOULD HAVE BEEN BROUGHT UP" (PET. P. 81, L. 5-14) ID. THROCKMORTON, "THE CASES WHERE SUCH RELIEF HAS BEEN GRANTED ARE THOSE IN WHICH BY FRAUD OR DECEPTION PRACTISED UPON THE PARTY SEEKING RELIEF AGAINST THE JUDGMENT OR DECREE HAS BEEN PREVENTED FROM PRESENTING ALL OF HIS CASE BY REASON OF WHICH THERE HAS NEVER BEEN A REAL CONTEST BEFORE THE COURT OF THE SUBJECT MATTER OF SUIT"

EXPLANATION OF PETITIONER'S STATEMENTS...

PETITIONER WAS MEDICATED AT THE DETENTION CENTER ON EVENING OF THE TRAGEDY DUE TO EMOTIONAL CONDITION, AND ON THE FOLLOWING MORNING ADMITTED TO STATE'S PSYCHIATRIC INSTITUTE, WILLIAM S. HALL, WHERE UPON ADMITTANCE WAS DIAGNOSED WITH "MAJOR DEPRESSION" PER "PATIENT

ADMISSION'S INFORMATION FORM DATED 2-15-91 (DOCTOR'S SIGNATURE UN-READABLE) APPARENTLY THE STATE BECAME AWARE OF THE CIRCUMSTANCES BY ITS "REQUEST FOR NOTICE OF INSANITY DEFENSE OR GUILTY BUT MENTALLY ILL" FORM DATED 31ST OF AUGUST, 1992 AND SIGNED BY THE SOLICITOR LARRY F. GRANT ALSO COUNSEL GERALD W. SMITH. NO COPIES OF THE FORMS ENTERED INTO TRIAL TRANSCRIPT, AND PETITIONER ONLY BECAME AWARE OF EXISTENCE OF THE DIAGNOSIS AND DEFENSE WHEN RECEIVING COPIES OF THEIR FORM IN PREPARING TO FILE FIRST APPLICATION FOR POST CONVICTION RELIEF.

WHILE PETITIONER WAS CONFINED IN THE INSTITUTION THE HONORABLE JUDGE JOHN C. HAYES III WAS NOTIFIED BY LETTER OF THE CONFINEMENT, CHARGES FACING, AND REQUESTING COUNSEL APPOINTED. THE JUDGE'S RESPONSE OF 27TH OF FEBRUARY, 1992 "WAS PUBLIC DEFENDER ATTORNEY AT-LAW APPOINTED AS COUNSEL [TR. P. 447-449] PETITIONER'S RELEASEMENT FROM INSTITUTE BACK TO DETENTION CENTER WAS ON APRIL 16, 1992, AND THERE WAS NO CONTACT BY MR. SMITH UNTIL JULY OR AUGUST OF 1992. PETITIONER TESTIFIED TO THIS AT THE POST-CONVICTION HEARING [TR. P. 400, L 23] AND ALSO THAT;

"I EXPLAINED EVERYTHING TO MR. SMITH JUST LIKE I EXPLAINED IT TO THE DOCTORS. IT WAS LIKE A BLACK HOLE IN MY LIFE," AND "ALL THE EVIDENCE WAS OUT THERE THAT THERE WAS A MENTAL ILLNESS IT WASN'T ME, AND I TRIED TO EXPRESS THAT TO MR. SMITH BUT I NEVER DID UNDERSTAND THE DEFENSE MR. SMITH PUT UP" [TR. P. 410 - 417]

THE INSTITUTE'S FORENSIC UNIT STAFFING REPORT DATED "4/10/92" BY DOCTOR THOMAS W. BIEHRMAN PATIENT DIAGNOSIS "ADJUSTMENT DISORDER WITH MIXED EMOTIONAL FEATURES AND ALCOHOL ABUSE". PATIENT "SOME DIFFICULTY IN REMEMBERING THE EXACT EVENTS AROUND THE TIME OF ALLEGED OFFENSE" [TR. P. 445]. PETITIONER SUBSEQUENT OBTAINING "NATURE OF

DEPRESSION" BY WILLIAM F. ZUNG M.D. PROFESSOR OF PSYCHIATRY AT DUKE UNIVERSITY MEDICAL SCHOOL. MAJOR DEPRESSION (IN PART) "HE OR SHE, SOMETIMES SUFFERING DISTINCT MEMORY LAPSES."

PETITIONER ~~NOT~~ HAVING CRIMINAL RECORD TO HAVE KNOWLEDGE OF REQUESTING OR PROCEDURES FOR THE TRIAL WAS DENIED TO PERSONALLY ENTER AN PLEA FOR THERE WAS NO BOND OR PRELIMINARY / ARRAIGNMENT HEARING HELD (BACK OF ARREST WARRANT APPENDIX-L-P.121)

COUNSEL FAILING TO REQUEST AN HEARING ON CRIMINAL RESPONSIBILITY AND DOCTOR BEHRMAN'S TESTIMONY TOOK PLACE IN-CAMERA AT TRIAL'S COMPETENCY TO STAND TRIAL BLAIR HEARING WHERE HE TESTIFIED TO THE ADJUSTMENT DISORDER WAS CONNECTED TO THE ALCOHOL ABUSE [TR.P. 68, L.24-29] AND UNDER QUESTIONING OF THE STRESSOR OF GOING THROUGH AN DIVORCE HE TESTIFIED; (PLEASE SEE PET. P. 91, L.1-92, L.25)

(A) "ITS NOT ONLY THAT BUT HIS EMOTIONAL RESPONSE TO THE SITUATION WAS MAL-ADAPTIVE IN THAT IT WAS MORE SEVER AND MORE DYSFUNCTIONAL THAN WHAT WE WOULD EXPECT FOR THE AVERAGE PERSON"

(Q) "HIS EMOTIONAL RESPONSE TO THE STRESS OF THE DIVORCE SITUATION?"

(A) "WELL, YES"

(Q) DOCTOR, WHAT YOU HAVE JUST TOLD THE SOLICITOR IN TERMS OF HIS REACTION AND CONDITION, THAT WOULD HAVE BEEN THE CONDITION ON THE 14TH OF FEBRUARY THE ADJUSTMENT DISORDER WITH MIXED EMOTIONAL FEATURES?, (A) "TO THE BEST OF MY KNOWLEDGE AND GIVEN THE INFORMATION THAT WE HAVE AVAILABLE THAT WOULD HAVE BEEN MY DIAGNOSIS OF HIM ON THAT DATE"

THE COURT; "LET'S STICK TO THE ISSUE THAT WE'RE HERE ON. I'M NOT GOING TO TRY 40 ISSUES EACH DAY. WE'RE GOING TO TRY THE ISSUES WE'RE SUPPOSE

TO TRY COMPETENCY, LET'S DO IT" [TR. P. 74, L. 5-7]

COUNSEL: "YOUR HONOR. I HAVE THE DOCTOR UNDER SUBPOENA, AND TOLD HIM HE CAN GO TODAY, AND I WOULD NOTIFY HIM IF I NEED HIM BACK"

THE COURT: "VERY GOOD. DEPENDING ON HIS SCHEDULE IF HE CALLS YOU YOU NEED TO BE BACK HERE TOMORROW". DOCTOR: "WE'LL WORK IT OUT" [TR. 76, L. 11-16]
THE DOCTOR'S EVIDENCE FAILED TO GO TO THE JURY FOR APPARENTLY HE WAS NOT NOTIFIED BY COUNSEL (PET. P. 28-29), AND WHEN COUNSEL REQUESTED, "AN CHARGE OF MANSLAUGHTER BASED UPON THE TESTIMONY AS TO THE STATEMENT THAT WAS MADE TO THE OFFICER, THE "EMOTIONALITY" OF THE -- OF MY CLIENT WHEN -- BY THE POLICE I THINK THAT WOULD SHOW HEAT AND PASSION" [TR. P. 241, L. 23- P. 242] THE COURT FAILED TO CONSIDER DOCTOR'S EVIDENCE, AND RULED IN PART DENYING THE REQUEST THAT:

"THE ONLY TESTIMONY IS THAT HE WAS EMOTIONAL AFTERWARDS" [TR. P. 242, L. 14]
MISSING WAS THE FOREGOING MITIGATING EMOTIONAL EVIDENCE THAT WOULD HAVE STRENGTHENED AND SUPPORTED THE APPEAL ISSUE OF MANSLAUGHTER (PET. P. 95-96) ALSO REFUTED COUNSEL'S AND THE JUDGE'S STATEMENTS / RULING OF MALICE MAYBE INFERRED FROM USE OF A WEAPON" THAT WAS ALSO CHARGED TO THE JURY [TR. P. 293, L. 1-6] (THE ACCUSATION WAS SO FALSE, AND HURTFUL)

AFTER THE TRIAL PETITIONER WAS ADMITTED INTO THE INTERMEDIATE CARE PROGRAM WHERE SPENT OVER TEN YEARS UNDER COUNSELING, MEDICATION(S) FOR DEPRESSION, AND ATTENDING CLASSES. SUCH AS A.A.

CONCLUSION

I, JEFFREY LYNN CHRONISTER, DECLARE I HAVE SUBSCRIBED TO THE PETITION, AND THE REASONS FOR GRANTING ARE TRUE. THAT NO NEW CLAIMS HAVE BEEN RAISED THAN THOSE RAISED IN THE "RULE 60(b) SCRPC MOTION FOR AFTER NEWLY DISCOVERED EVIDENCE". THOUGH REPHRASING FOR CLARITY, "STRENGTHENED AND SUPPORTED WITH LATE DISCOVERED EVIDENCE" MCCLESKY V ZANT (1991) 499 U.S. 467, 111 S.Ct 1454

FOR THE FOREGOING REASONS THE PETITION SHOULD BE GRANTED AND PETITIONER'S IMMEDIATE UNCONDITIONAL RELEASE FROM CONVICTION AND SENTENCE.

THIS 26 DAY OF AUGUST, 2025

RESPECTFULLY SUBMITTED,

Jeffrey Lynn Chronister

JEFFREY LYNN CHRONISTER, 189827

CERTIFICATE OF COMPLIANCE

No _____

JEFFREY LYNN CHRONISTER

PETITIONER

v

TERRI WALLACE, WARDEN

RESPONDENT

AS REQUIRED BY SUPREME COURT RULE 33.1 (h), I CERTIFY THAT PETITION FOR A WRIT OF HABEAS CORPUS CONTAINS 3637 WORDS, EXCLUDING THE PARTS OF THE PETITION THAT WAS EXEMPTED BY SUPREME COURT RULE 33.1(d). I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING IS TRUE AND CORRECT

EXECUTED ON AUGUST 26TH, 2025

Jeffrey Lynn Chronister
JEFFREY LYNN CHRONISTER, 189827

CC ATTORNEY FOR RESPONDENT

ZACHARY W. JONES, A.A.G.