

FOREST HILLS ORTHOPEDIC GROUP P.C.
69-67 108TH STREET
FOREST HILLS NY 11375
TEL: (718) 268-4938
FAX: (718) 268-2963

Patient Name: James Padgett
Date: July 23, 2014

718-508-3513

To Whom It May Concern:

The above named patient is treated under the doctor's professional care. He is being treated at the office for a large left sided L5-S1 disc herniation with left leg radiculopathy. At this time I recommend an L5-S1 decompressive left sided laminectomy and discectomy.

Since I last saw him, he remains about the same symptomatically with pain across his lower back, greater on the left side and radiating down his left leg from his buttock, down the posterior leg to the calf and lateral foot with numbness and paresthesias. He stands erect and has a left antalgic gait. His back continues with tightness and tenderness in the lumbar paraspinal muscles with decreased range of motion with increased pain.

At this time I strongly recommend surgical intervention. His symptoms have been present over a year and they are not improving. Again, he stands erect but has a left antalgic gait which makes ambulating slightly difficult for Mr. Padgett. I fear that if surgical intervention is not done imminently Mr. Padgett's condition will only get worse.

If you have any questions or concerns please feel free to contact the office.

Thank you,

Robert Donadt MD

Robert Donadt, M.D.
RD:snm

I am proposing a deal which would benefit both parties and it would resolve all issues pending in Colleton county. I am proposing you speak with Lisa Bolton agent in charge at the probation office and ask if i would be allowed to plead in absentia again and I am willing to pay \$400.00 to probation in fees and that i be terminated fully and to recieve time served and that the detainer be removed from the NCIC so that i can be sentenced to a inpatient drug treatment program. I will sign a full release of liability form and I will not pursue any civil action against the county or probation office. Futher I am disabled from an accident from work where I was hit by a car and I am waiting to have back surgery performed. I have forwarded you a copy of my medical records for your review. I have served almost 6 months here. Based on the following it would save the county in costs for extradition and medical costs if I am brought back. Futher it would eliminate the costs to defend against a Tort Claim I intend to file if I am brought back to South Carolina.

In alternative if your office and probation does not want to try to resolve this issue this letter will serve as my notice of intent to sue under the South Carolina Tort Claims Act & 15-78-10 for abuse of the legal process, fraud, conspiracy, violation of my due process rights to a proper restitution hearing. unjust enrichment, Breach of Duty, negligence, gross negligence for refusing to properly hold a reparation hearing to correct the false restitution statements which have caused me to remain on probation excessively for crimes that I did not commit. Futher, I will send copies to the mayors office and the county council and the office of disciplinary counsel to conduct an investigation into this matter. I fully intend to hold someone liable for submitting the false restitution claims and your office and probation failing to take action to correct this when it has been brought to your attention. The court administration is investigating why my motion has been disregarded for so long and they have been sent copies of the order. They will be in contact with your office soon. If you and the probation office are willing to agree to this proposal please inform my attorney Stacey Kennard at 718-508-3427 or 1-800-597-7980, 360 East 161st. Bronx N.Y. 10451. Your immediate attention in this matter will be appreciated.

CC: Lisa Bolton-agent in charge
colleton county probation office
115 Benson St. Walterboro S.C.

CC: Probation, Parole office
Agent in charge extradition
2221 Devine St. Suite 600
P.O. Box 5066
Columbia =S.C. 29250

Very Sincerly,
James Padgett, Jr. AMKC-18-upper
booking/case: 825-14-01309
18-18 Hazen St.
East Elmhurst N.Y. 11370

Assistant Solicitor Colleton
County Steve Knight
101 Hampton St. P.O. box 620
Walterboro S.C. 29488

RE: Restitution/Motion
To Alter and Amend
Reparation Hearing

Mr. Knight,

This letter is to address a restitution issue that has been ongoing since Jan. 23rd, 2008 in which I was sentenced to a 5 year sentence suspended to 2 years and 3 years probation and 1 year p-tup if restitution was paid. Upon my admission to SCDC I recieved a copy of my sentencing sheet and the restitution order which itemized the restitution in which I discovered that Solicitor T.K. Alexander submitted false restitution statements to the court stating I had to pay restitution on 4 wheelers, generators, etc. totaling \$3,578.56 in which you can obtain a copy from the clerks office. I have filed numerous complaints with the probation office requesting a hearing on this issue in which Dawn Farris said she could do nothing about. I violated the probation based on the fact that the restitution was not correct and that i would not pay restitution for items that I did not take and if you look at the warrant nothing was taken period at that residence. I was reinstated by Jay Lemacks on dec 7th, 2009 in which I pled in my absense and i was reinstated and that when i got out of SCDC I would be taken in front of a judge to clarify my restitution in which it was never done. I then filed a motion to alter or amend judgement and modification hearing pro-se on Feb. 2nd, 2010 within the required time limits. I then requested this hearing to modify my restitution to what I actually owe to comply with state law that the court must make a finding as to the dollar amount of the fruits of the offense and the actual out-of-pocket loss to the victim. See State v. Fussell, 383 S.E.2d.1 (1989). No hearing was held. The Clerk of Court Patricia Grant notified your office and the probation office by a letter dated April 26, 2011 in which someone from each office was to schedule the hearing to address this issue. As of this date I have a violation of this same probation again. The restitution issue is the main reason I am refusing to pay since i cannot get a hearing to address it so I can if i'm taken in front of a judge. I want full explanations why I was ordered to pay restitution for crimes i did not commit. I fully expect your office and the probation office to explain how I was ordered to pay this illegal restitution and how T.K. Alexander was allowed to submit false restitution statements. Now I am currently incarcerated in New York City Rikers Island and probation has a warrant filed against me but no governors warrant has been filed to date.

12-12-14

SOUTH CAROLINA COURT
ADMINISTRATIVE
C/O: ADRIAN ADOXEY
1615 SUMTER ST. 2ND FL.
COLUMBIA S.C. 29201

PURSUANT TO OUR CORRESPONDENCE ON 12-11-14, I HAVE
FORWARDED YOU THE FOLLOWING DOCUMENTS INCLUDED IN
THIS LETTER. ON JUDGMENT 07-65-15-912 AND 911
I WAS CONVICTED ON PROBATION ON DEC 7TH 2009, I
DID NOT RECEIVE THE FINAL ORDER UNTIL FEB 1, 2010.
I FILED A SENECAVILLE TO AMEND OR MODIFY
CAPTION HEARINGS OR REPARATION HEARINGS TO ADDRESS
THE AMOUNT OF RESTITUTION THAT WAS PLACED AGAINST
ME. A SHAW IN THE WHEREAS NOTHING WAS TAKEN
FROM THE RESIDENCE. I WAS CHARGED 83,578.56 FOR
UNKNOWN DAMAGES FOR CRIMES AND MERECHANDISE THAT
SOMEONE ELSE HAD TAKEN. THE CLERK OF COLLETON COUNTY
HAS A COPY OF THIS ITENED STATEMENT I AM WAITING
ON A COPY. THE CLERK OF COURT SENT LETTERS TO THE
SOLICITORS OFFICE AND THE PROBATION AND PAROLE
OFFICE ON APRIL 21TH, 2011. THEY HAVE NOT RESPONDED.
THE CLERK STATES THEY DO NOT HAVE THE AUTHORITY
TO SET THIS MOTION BEFORE THE COURT. THE RESIST-
TION IS RAISE AND I HAVE NO OTHER WAY TO ADDRESS
THIS ISSUE. I AM YOU CONTACT THE SOLICITOR T.R.
ALEXANDER 803-548-5791 AND THE PROBATION OFFICE
LISA BAYLON AGENTS IN CHARGE TO ADDRES THIS ISSUE
AND TO FIND OUT WHAT CAN BE DONE, I AM CURRENTLY
WAITING TO BE EXPROPRIATED BACK TO SOUTH CAROLINA

(1)

1-16-15

South Carolina Probation-Parole
and pardon service
Colleton County C/O: Lisa Bolton
agent in charge
115 Benson St.
Walterboro S.C. 29488

RE: Probation Violation

MS. Bolton,

Enclosed is the motion for my 59 (e) Alter or Amend Judgement/or modification hearing and also enclosed is the restitution sheet that was submitted at my guilty plea in which T. K. Alexander submitted this sheet signed by Barbara Meetze stating I stole a Bombadier 4 wheeler, Honda 4 wheeler, Generator, Chainsaw, Table saw, 2 gas cans, gas, and Air Compressor. I don't know how this was alleged and allowed and I have been trying to correct this since 2007. If you replaced Jay then it was your responsibility to request a hearing to correct this so I could have been released off of probation for 1 year P-Tup. So this is why I left South Carolina in the first place. And concerning those other checks I intend to pay them with my lawsuit settlement after my back surgery. As shown I did not take anything and I shouldn't be made to pay it. What the Solicitor did was illegal and I am willing to drop everything concerning this matter if you will terminate my probation and give me time served I will be out of South Carolina and you will not have to take time to litigate this matter in Civil court and the disciplinary counsel. The South Carolina Court Administration should be contacting you concerning the hearing that was no scheduled. My attorney is supposed to contact you concerning this matter. I ask you be reasonable concerning this because I would have been off probation had it not been for the solicitor submitting the false restitution order to begin with. Dawn Farris knew about this and also Jay. there is no reason why this cannot be corrected. I ask you bring me there so I can take care of this now. I will waive extradition now if you schedule a hearing. You can either terminate me or continue my probation and transfer it and clarify the restitution I don't owe. Contact the solicitors office and ask them how they are going to handle this matter.

Sincerely,

cc: Solicitor Colleton County
101 Hampton ST. P.O. Box 620
Walterboro S.C. 29488

James Padgett B/C: 82514-01309
A.M.K.C. 18-upper West
18-18 Hazen St.
E. Elmhurst N.Y. 11370

other words I would get time served if brought to Colleton County. I ask that you speak with them concerning this matter to see if a compromise can be agreed upon that will not effect the county and the budget if I was to pursue a lawsuit and complaint with disciplinary counsel and to start an investigation with the attorney general. So I ask that you fully investigate this and try to resolve this issue immediately so that I can be sentenced in new york. Futher, I am disabled and currently waiting on back surgery to correct my herniated disks. This would also cost the county and state on treatment and rehab. I ask that you contact me by letter on the disposition of this matter either way. Your help in resolving this matter will be greatly appreciated.

Sincerly,
James Padgett, Jr. A.H.K.C
18-upper-West
18-18 Hazen St.
E. Elmhurst N.y. 11370

Mayor of Walterboro
 Colleton County
 William T. (Bill) Young, Jr.
 242 Hampton St.
 Walterboro S.C. 29488

RE: Pending Tort Claim against
 Colleton County Solicitors
 office and Probation and Parole

Mr. Young,

I am writing you this letter for you to investigate a matter currently pending in a case here in Colleton County. In 2007 I was convicted of a Burglary 2nd in which I pleaded guilty and agreed to pay restitution. Upon my admittance to SCDC I discovered that the \$3,578.56 that I was ordered to pay was for items that I did not take. I filed a PCR to challenge it. I dismissed the petition until I was released from SCDC. I then caught another charge and I had a 5 year sentence to serve. While I was incarcerated at Allendale The Probation office reinstated me in my absence and I agreed to continue my probation and to request a reparation hearing to correct the restitution. See enclosed documents. Once I was out I filed and requested the clerk to place my motion on the motion calendar in order to correct the restitution. I spoke to Dawn Farris concerning this and she claimed she could not do anything about it. I then just received a letter from the clerk stating that she could not place my motion on the docket and I would have to contact the solicitors office and probation and parole in which I have and I have not received a response. Basically I have tried to resolve this issue numerous times and have not had any response. I have submitted you a copy of my restitution order and the hand written sheet that was submitted to the court stating I stole 24 wheelers, a generator, gas cans, gas, etc. which totaled over three thousand dollars. I have also sent you a copy of the warrant showing nothing was taken at the residence so I don't understand why T.K. Alexander submitted this restitution order to the court to begin with because it is fraudulent and false on my behalf. I am currently in New York in which I am a resident and at this time Colleton County has a pending warrant for my arrest and possible extradition concerning the violation of my probation. I am currently waiting to be sentenced in New York and I am trying to resolve this issue by having them either terminate my probation by giving me time served since I have been in custody for 6 months and I can pay a fine after I settle my case in New York. As stated I have withheld filing a complaint with the Disciplinary Counsel until I get an answer to discover who is liable for not correcting this in the beginning. I have served both the probation office and solicitors office with a notice of claim on the issues of abuse of process, fraud, conspiracy, and unjust enrichment by the County by the solicitors actions and the continued actions of the probation office and solicitor. I am proposing to plead in my absence through my attorney to run concurrent with any sentence in New York to terminate my probation as such and leave me in New York. This will save the county in extradition costs. If I serve about 12 more months I will have satisfied the 3 year sentence if I was to be given the max of 3 year which would give me time served if they wait to extradite me. In

ARREST WARRANT

J770527

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

COLLETON

THE STATE

against

PADGETT, JAMES LEE JR.

Address: 4178 BEULAH RD.

SMOAKS, SC 29481

Phone: SSN: 248-63-2915

M Race: W Height: 5' 10" Weight: 158

DL State: DL #:

DOB: 10/28/1971 Agency ORI#:

Prosecuting Agency:

Prosecuting Officer: ANY LAWFUL OFFICER

Offense: BURGLARY IN THE FIRST DEGR

Offense Code: G0079

Code/Ordinance Sec. 16-11-311

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe 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 PADGETT, JAMES LEE JR.

on 10/5/07

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

J. REAVES MCLEOD
8464 ACE BASIN PARKWAY
GREENPOND, SC 29446

STATE OF SOUTH CAROLINA)

☒ County/ ☐ Municipality of)

COLLETON)

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCA 1-15.8Personally appeared before me the affiant INV. RUBEN CARTER
being duly sworn deposes and says that defendant PADGETT, JAMES LEE JR.
did within this county and state on SEP 27, 2007 violate the criminal laws of
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of COLLETON
in the following particulars:

DESCRIPTION OF OFFENSE:

BURGLARY IN THE FIRST DEGR
16-11-311I further state that there is probable cause to believe that the defendant named above did commit
crime set forth and that probable cause is based on the following facts:THAT ON OR ABOUT SEPTEMBER 27, 2007 AROUND 0130 HRS. AT 9995 LODGE HWY. IN COLLETON COUNTY
THE DEFENDANT, JAMES PADGETT AND CO-DEFENDANTS DID UNLAWFULLY ENTER THE DWELLING
HOUSE OF ROBERT MEETZE WITHOUT THE CONSENT OF THE OWNER AND WITH THE INTENT TO COMMIT
A CRIME. THE CRIME OCCURED DURING NIGHT TIME HOURS. PROBABLE CAUSE BASED ON A SELF
INCRIMINATING STATEMENT GIVEN BY A CO-DEFENDANT. OCA#07-5452

Signature of Affiant

STATE OF SOUTH CAROLINA)

☒ County/ ☐ Municipality of)

COLLETON)

Affiant's Address 119 BENSON ST. /C.C.S.O.

WALTERBORO, SC 29488

Affiant's Telephone (843) 549-2211

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 SEP 27, 2007 defendant PADGETT, JAMES LEE JR.

did violate the criminal laws of the State of South Carolina (or ordinance of

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

DESCRIPTION OF OFFENSE:

BURGLARY IN THE FIRST DEGR
16-11-311Having found probable cause and the above affiant having sworn before me, 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
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

on OCTOBER 04, 2007)

 (L.S.)
Signature of Issuing Judge

Judge Code: 108

J. REAVES MCLEOD

Judge's Address 8464 ACE BASIN PARKWAY

GREENPOND, SC 29446

Judge's Telephone (843) 844-2594

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Colleton
 STATE JAMES Lee Padgett, Jr.
 VS.
 AKA:
 Race: W Sex: M Age: 36
 DOB: 10-28-71 SS#: 248-63-2915
 Address: 4178 Beulah Rd.
 City, State, Zip: SMOAKS, S.C. 29481
 DL# _____ SID# 009765306

INDICTMENT/CASE#: 07-GS-15-0912
 A/W#: J 770527
 Date of Offense: 9-17-07
 S.C. Code §: 16-11-311
 CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: BURGLARY 2^o (non-violent)

in violation of § 16-11-312 A of the S.C. Code of Laws, bearing CDR Code # 0080

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)

The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
 Solicitor

[Signature]
 Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of 2 days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for 3

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which
 are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

SPECIAL CONDITIONS:

PTUP

After 1 year
 days/hours Public Service Employment

Total: \$3578.56 plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:	\$ _____
\$14-1-206 (Assessments 107.5%)	\$ _____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
\$56-5-2995 (DUI Assessment)	\$12 \$ _____
\$35.13 (Public Def/Prob)	\$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
\$33.7, 1B TP (Drug Court Surcharge)	\$100 \$ _____
\$50-21-114(BUI Breath Test Fee)	\$50 \$ _____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ <u>3.75</u>
TOTAL	\$ <u>128.75</u>

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation

Patricia C. Grant
 Clerk of Court/Deputy Clerk

Court Reporter: Ronda T. Cummings

PRESIDING JUDGE

Judge Code: _____

Sentence Date: JANUARY 23, 2008

Damage to house - Repair Cost
Front door - Rear Window

Current
Value
\$1 ~~4~~ 38 ⁴⁶

Ins pd
438 ⁴⁶

Bombardier 4 wheeler

2550⁰⁰

}

500

Honda 4 wheeler

1200⁰⁰

Generator

399

399

Chainsaw

187

187

Table Saw

249⁵⁰

249⁵⁰

2 Gas cans + gas

25⁴⁸

25⁴⁸

Band saw

250

0

Air Compressor

80

0

5378⁰⁰

1799⁴⁴

Insurance paid 1799⁴⁴ -

They are supposed to pay for Band saw
& air compressor but we haven't
received anything for them as of this
date.

Barbara Putzo 10/29/07

RESTITUTION ORDER FORM

DEFENDANT James Lee Padgett Jr INDICTMENT # 07 GS15 0912

CO-DEFENDANT(S): JOINT AND SEVERAL WITH:

INDICTMENT # GS15

INDICTMENT # GS15

INDICTMENT # GS15

VICTIM Robert & Barbara Mectze

ADDRESS: 218 Woodlawn St - Walterboro - SC - 29488

PHONE # 843-549-1271


RESTITUTION: ~~\$5378.00~~ \$3578.56 [Insp Pd - \$1799.44
Out - 3578.56]


Solicitor's Office
Fourteenth Judicial Circuit


1-23-08
Date


Defendant's Attorney

1-23-08
Date


Defendant

1-23-08
Date


Presiding Judge: Fourteenth Judicial Circuit

1/23/08
Date

{962 N.Y.S.2d 277} {103 A.D.3d 925} Appeal by the defendant from a judgment of the County Court, Suffolk County (Hinrichs, J.), rendered February 19, 2010, convicting him of attempt to evade or defeat taxes on cigarettes and tobacco products, ten thousand cigarettes or more, upon his plea of guilty, and imposing sentence, including a direction that the defendant pay restitution in the sum of \$9,042,437.50.

Ordered that the judgment is modified, on the law, by vacating the provision thereof directing the defendant to pay restitution in the sum of \$9,042,437.50; as so modified, the judgment is affirmed, and the matter is remitted to the County Court, Suffolk County, for a hearing and a new determination as to the proper amount of restitution and the manner of payment thereof.

The defendant was a participant in a scheme to sell cigarettes without payment of the required taxes. He pleaded guilty to a class E felony under the Tax Law (see former Tax Law § 1814 [a] [2] [ii]) in exchange, inter alia, for the promise of a specific prison term and a payment of restitution in the sum of \$9,042,437.50. At sentencing, however, the defendant objected to the amount of restitution. The County Court, nevertheless, sentenced the defendant as promised, including the entry of a judgment directing the payment of restitution in the amount provided for in the defendant's plea agreement. On appeal, the defendant claims that the court should have held a hearing as to the proper amount of restitution.

Penal Law § 60.27 (2), which provides for restitution, is clear as to when a hearing must be held in setting the amount of restitution: "Whenever the court requires restitution or reparation to be made, the court must make a finding as to the dollar{103 A.D.3d 926} amount of the fruits of the offense and the actual out-of-pocket loss to the victim caused by the offense . . . *If the record does not contain sufficient evidence to support such finding or upon request by the defendant, the court must conduct a hearing upon the issue* in accordance with the procedure set forth in section 400.30 of the criminal procedure law" (emphasis added). Thus, a hearing must be held if the record does not contain sufficient facts or if the defendant requests a hearing (see *People v Charles*, 309 A.D.2d 873, 874, 766 N.Y.S.2d 42 [2003]; *People v Stubbs*, 281 A.D.2d 498, 498, 721 N.Y.S.2d 562 [2001]; *People v Lambert*, 221 A.D.2d 1015, 1015, 633 N.Y.S.2d 897 [1995]). Here, the defendant preserved his claim for appellate review by contesting the amount of restitution at sentencing (cf. *People v Isaacs*, 71 AD3d 1161, 1161, 898 N.Y.S.2d 226 [2010]). Although he did not specifically request a hearing, the record contains no evidence from which the proper amount of restitution may be determined. The fact that the . . . specific amount of restitution does not relieve the People . . .

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COLLETON COUNTY

JAMES L. PADGETT, JR. #228630
PETITIONER,

VS.

STATE OF SOUTH CAROLINA
RESPONDENT.

CA/NO: 07-65-15-912

07-65-15-911

MOTION TO ALTER/OR AMEND

JUDGEMENT/OR MODIFICATION

HEARING 59(E) MOTION

NOW COMES THE ABOVE NAMED PETITIONER WHO MOVES THIS COURT FOR A MOTION TO ALTER OR AMEND JUDGEMENT ^{2009 FEB 22 AM 11:30} ~~OR A~~ MODIFICATION HEARING FROM A FINAL JUDGEMENT ~~ON DEC. 7,~~ 2009 CONTINUING PETITIONER'S PROBATION. PETITIONER RECEIVED A FINAL COPY OF THE FINAL JUDGEMENT ON FEB. 1, 2010. PETITIONER REQUESTS A REPARATION HEARING IN ACCORD WITH STATE V. FUSSELL, 383 S.E.2d 1 (1989) PETITIONER CLAIMS THE RESTITUTION AMOUNT IS IN DISPUTE. (WHEN RESTITUTION IS IN DISPUTE A COURT "MUST DETERMINE THE SPECIFIED AMOUNT. MOREOVER, BEFORE A COURT MAY ORDER RESTITUTION TO A VICTIM IT MUST HOLD A HEARING AND DETERMINE THE ACTUAL DAMAGES OR LOSS. PETITIONER CONTENDS THAT THE EVIDENCE SUBMITTED DOES NOT SUPPORT THE AMOUNT OF RESTITUTION ORDERED. NOW, PETITIONER MOVES THIS COURT FOR AN EVIDENTIARY HEARING TO DETERMINE THE ACTUAL AMOUNT DAMAGES. AS SHOWN ON TRAIL TRANSCRIPT PG. 3. THE RESTITUTION ORDER ON MEEDS IS MISSING PURSUANT TO DOCUMENTATION STATED BY THE CLERK OF COURT PATRICIA GRANT.

PATRICIA C. GRANT
CLERK OF COURT

VICKI H. SYFRETT
DEPUTY CLERK

Colleton County

April 26, 2011

Mr. James M. Padgett, Jr
No. 229630
McCormick CI F-I-B-234
386 Redemption Way
McCormick, S.C. 29899

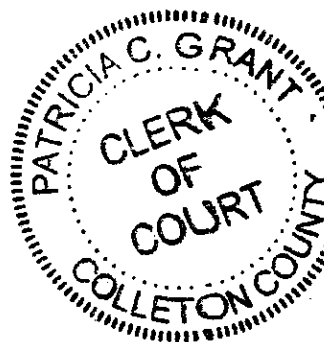
Dear Mr. Padgett:

With reference to your letter dated March 28, 2011 we have forwarded your Motion to Alter/or Amend Judgment/or modification hearing 59E to the Solicitor's office and the Probation and Parole office. We do not have the authority to set this motion before the Court. If you need further information with reference to this matter please contact the Solicitor's Office at Post Office Box 620, Walterboro, South Carolina 29488, or the Probation and Parole Office at 115 Benson Street, Walterboro, South Carolina 29488 .

With kind regards, I am

Sincerely,
Colleton County
General Sessions Court

cc: S. C. Court Administration
S C Probation and Parole
Solicitor's Office



CERTIFIED TRUE COPIES OF RECORDS
Patricia C. Grant
CLERK OF COURT, CP & GS
COLLETON COUNTY, SOUTH CAROLINA
DATE: 12-1-2014

1-16-15

South Carolina Probation-Parole
and pardon service
Colleton County C/O: Lisa Bolton
agent in charge
115 Benson St.
Walterboro S.C. 29488

RE: Probation Violation

MS. Bolton,

Enclosed is the motion for my 59 (e) Alter or Amend Judgement/or modification hearing and also enclosed is the restitution sheet that was submitted at my guilty plea in which T. K. Alexander submitted this sheet signed by Barbara Meetze stating I stole a Bombadier 4 wheeler, Honda 4 wheeler, Generator, Chainsaw, Table saw, 2 gas cans, gas, and Air Compressor. I don't know how this was alleged and allowed and I have been trying to correct this since 2007. If you replaced Jay then it was your responsibility to request a hearing to correct this so I could have been released off of probation for 1 year P-Tup. So this is why I left South Carolina in the first place. And concerning those other checks I intend to pay them with my lawsuit settlement after my back surgery. As shown I did not take anything and I shouldn't be made to pay it. What the Solicitor did was illegal and I am willing to drop everything concerning this matter if you will terminate my probation and give me time served I will be out of South Carolina and you will not have to take time to litigate this matter in Civil court and the disciplinary counsel. The South Carolina Court Administration should be contacting you concerning the hearing that was not scheduled. My attorney is supposed to contact you concerning this matter. I ask you be reasonable concerning this because I would have been off probation had it not been for the solicitor submitting the false restitution order to begin with. Dawn Farris knew about this and also Jay. There is no reason why this cannot be corrected. I ask you bring me there so I can take care of this now. I will waive extradition now if you schedule a hearing. You can either terminate me or continue my probation and transfer it and clarify the restitution I don't owe. Contact the solicitors office and ask them how they are going to handle this matter.

cc: Solicitor Colleton County
101 Hampton ST. P.O. Box 620
Walterboro S.C. 29488

Sincerely,

James Padgett B/C: 82514-01309
A.M.K.C. 18-upper West
18-18 Hazen St.
E. Elmhurst Ny 11370

12-18-2014

Probation, Parole, and Pardon Services
C/O: Agent in charge of other counties
2221 Devine St. Suite 600
P.o. Box 5066
Columbia S.C. 29250

RE: Failure of supervising agent
to properly request restitution
hearing after reinstatement

To whom it may concern,

This letter is to ask your office to conduct an investigation concerning the Colleton County Probation and Parole office failure to properly request a hearing to correct false restitution on my charges that have been present since my original sentence from Jan. 23rd, 2008. I was sentenced to a 5 year sentence suspended upon 2 years and 3 years probation with 1 year p-tup if I paid restitution. As I stated in my letter I discovered that the solicitor placed false claims for restitution on my charge for crimes that I did not commit. I then was released and was on probation where I discussed this with Dawn Farris and Jay Lemacks and they claimed nothing could be done. I was later violated in which I was reinstated and I plead in my absence on Dec. 7th, 2009. When I was released I again discussed this issue with Dawn Farris to request a hearing to correct this restitution. As shown I filed a proper motion to alter or amend judgement to fix the restitution again and nothing was done. As shown in my exhibits the clerk notified both the solicitors office and the probation office on April 26th, 2011 to set this motion before the court. This was not done. As of now I have violated again because I am refusing to pay this restitution that is false. I am currently incarcerated in New York at Rikers Island waiting to be sentenced in another case in which I am trying to be sent to an in patient drug program but I cannot go because of the detainer from your office. I am trying to resolve this issue without being extradited back. As shown in my letter I am asking to plead in my absence pay \$400.00 and be terminated so I can remain in New York because I am a resident now. If this would have been corrected when I brought it to their attention years ago this would be resolved by now. I am trying to resolve this immediately so I can go to a In-patient drug treatment program. It would save the cost of extradition and the state from a lawsuit if I am brought back. Because someone in the solicitors office intentionally done this and the probation office seen the paperwork and would not address the issue to help me correct it. I ask you contact them both to find out the reasons they never scheduled my hearing which is still valid. enclosed is copies of the orders. please contact my attorney in New York Stacey Kennard at 718-508-3427 or 1-800-597-7980, 360 East 161st. Bronx N.Y. 10451 if that agreement can be arranged.

Sincerly, James Padgett-AMKC
B/C: No: 825-14-01309, 18-upper-West
18-18 Hazen St.
East Elmhurst, N.Y. 11370

SINCERELY,

JAMES L. PADGETT, JR. G.R.U.C.

B/C: 825-14-01309 10-A

09-09 HAZEN ST-

E. ELMHURST N.Y. 11370

THEY HAVE REFUSED TO RESPOND TO ANY OF MY LETTERS AND UNTIL
NOW HAVEN'T RESPONDED. I CONTACTED ADRIAN RADEKER AT
THE S.C. COURT ADMINISTRATION TO CONTACT THEM AND FIND
OUT WHY THEY REFUSE TO SCHEDULE A HEARING. SHE TOLD ME
TO WRITE YOUR OFFICE. I HAVE ENCLOSED THE DOCUMENTS SO YOU
CAN SEE FOR YOURSELF I'M ENTITLED TO A HEARING. AS I
HAVE INFORMED THEM I AM GOING TO REPORT THE ENTIRE CIRCUIT
OF SOLICITORS TO THE DISCIPLINARY BOARD TO INCLUDE THE PROBATION
OFFICE LISA BOLTON AGENT IN CHARGE, I HAVE NOTIFIED
THE SOLICITOR'S OFFICE ON 12-18-14 TO STEVE KNIGHT. I
HAVE SENT ALL COPIES TO THE COURT ADMINISTRATION. I HAVE
NOTIFIED THEM I FULLY INTEND TO SUE THE STATE AND COUNTY
FOR FRAUD, CONSPIRACY, NEGLIGENCE, UNJUST ENRICHMENT, AND
VIOLATING MY RIGHTS TO ONLY PAY RESTITUTION WITH THE CRIME.
NOTHING WAS TAKEN AND THIS WAS KNOWN BEFORE I PLED. I DID
NOT KNOW UNTIL AFTERWARDS. I NEVER WOULD HAVE EXCEPTED THE
PLEA. THE SOLICITOR DOES NOT HAVE IMMUNITY FOR ADMINISTRATIVE
MATTERS. THIS IS AFTER MY CONVICTION. THEY CAN BE FULLY SUED
UNDER THE TORT CLAIMS ACT. I ASK YOU INVESTIGATE AND HAVE
THEM SCHEDULE A HEARING TO CORRECT THIS IMMEDIATELY. I
AM CURRENTLY IN NEW YORK. I DO NOT KNOW IF THEY ARE GOING
TO EXTRADITE FOR A PROBATION VIOLATION CONCERNING THIS. I
AM WILLING TO PLEAD IN ABSENCE TO TERMINATE EVERYTHING TO
NOT BE EXTRADITED. PLEASE ADVISE ME OF THE DISPOSITION.

→ JONES

COMMISSION ON PROBATION

1-30-15

COORDINATION

P.O. BOX 11561

COLUMBIA S.C. 29211

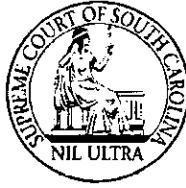
RE: FAILURE OF 14TH CIRCUIT

SOLICITOR ISAAC STONE TO

PLACE MOTION ON CALENDAR

TO: WHOM IT MAY CONCERN,

THIS LETTER IS TO ADDRESS A RESTITUTION ISSUE THAT HAS BEEN GOING ON SINCE JAN 23, 2008. I WAS SENTENCED TO A 5 YEAR SENTENCE SUSPENDED TO 2 YEARS AND 3 YEARS OF PROBATION AND 1 YEAR P-TOP IF RESTITUTION WAS PAID. SEE ATTACHED SENTENCE. I DISCOVERED THAT T.H. ALEXANDER SUBMITTED FALSE RESTITUTION STATEMENTS TO THE COURT, AS SHOWN IN THIS PAPERWORK THEY ALLEGED I TOOK A BOMBARDIER 4, WHEELER, HONDA 4 WHEELER, GENERATOR, CHAIN SAW, TABLE SAW, 2 GUN CAN, BAND SAW, AIR COMPRESSOR. TOTAL \$5,378.00. I THEN REFUSED TO PAY IT BECAUSE IT WAS FAUSELY ASSESSED ON ME. I SUBSEQUENTLY VIOLATED PROBATION. I SERVED 2 1/2 YEARS AND I WAS REINSTATED AGAIN. ONCE I WAS RELEASED I SPOKE TO DAWN FARRIS PROBATION AND TOLD HER ABOUT THIS AND I ASKED HER TO SCHEDULE A HEARING TO CORRECT THIS. I TOLD HER I FILED A 59(F) MOTION TO AMEND / MODIFICATION REPARATION HEARING COPY ENCLOSED. THIS MOTION HAS BEEN PENDING SINCE FEB 2ND 2010. THE COURT JUST RESENTLY INFORMED ME BY LETTER THE SOLICITOR HAS TO SCHEDULE A HEARING.



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

January 22, 2015

Solicitor Isaac McDuffie Stone III
P O Box 1880
Bluffton, SC 29910

RE: James M. Padgett, Jr.

Dear Solicitor Stone:

Enclosed is a copy of a letter this office received from the above-referenced person. It would be appreciated if you would review this matter to assist him.

Sincerely,
Court Services Section

CCS/ar

cc: James M. Padgett, Jr.
B/C: 825-14-01309-AMRC
18 Upper West
18-18 Hazen Street
E. Elmhurst, NY 11370

South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201-3739

COLUMBIA
SC 290
22 JAN '15
PM 1 L

Haster

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\$00.482



ZIP 290
0110126023

J. 4B

GRK

IDA

James M. Padgett, Jr.
B/C: 825-14-01309-AMRC
18 Upper West
18-18 Hazen Street
E. Elmhurst, NY 11370

11370138318



2-13-2015

Solicitor Isaac McDuffie Stone III
P.O. BOX 1880
Bluffton, S.C. 29910

RE: Motion for Reparation
Hearing filed on Feb.2
2010

Mr. Stone,

This letter is an attempt to resolve this outstanding issue that concerns T.K. Alexander submitted a restitution order amount in my case that was not related to me. I did not know what was done until after I pled and was in SCDC. Now the issue I now have is I refused to pay the restitution until I had my hearing to correct it and until now it has not been scheduled for some unknown reason. As shown I wrote the court administration and the commission on prosecution coordination concerning this matter. This issue should have been resolved years ago and I should have been off of probation. Now I have moved to New York and they have filed warrants for the vop in which I plan on fully contesting extradition for the above reasons and the fraud involved. I have not wrote the disciplinary counsel concerning this matter as of yet so we could try to resolve the issue informally. I ask only to allow me to plead in my absense through fax or mail to my probation violation for time served I've been in custody for seven months and to terminate my probation. I have tried to contact the probation office on numerous occasions to see if Lisa Bolton would agree to the terms and I have recieved no response. As I explained to her the probation office was notified April 26th, 2011 and so was your office that the docket is made by you concerning motions. I spoke to Adrian Radeker at the court administration and she advised me to contact the commission. Now as of now I cannot get into a drug inpatient program because of these warrants and it is unconstitutional in refusing to take care of this matter. I am willing to resolve this immediately without extradition. If I have to and noone responds I will forward all paperwork including the motions and letters with the restitution papers directly to Nikki Haley at the Governor's office and disciplinary counsel and to the attorney generals office for an investigation to include fraud unjust enrichment, abuse of process, conspiracy to violate my rights for alledging restitution that was put on someone else to pay who actually committed the crime then ordering me to pay also. Since this is a new violation it all starts over that you are fully aware of this and have failed to correct it as of now. I am prepared to file a tort claim against the county and the state of South Croline for the above actions in the amount of \$1,000,000 (1 Million dollars). if the county is willing to defend this suit over a probation issue that could have been resolved as I requested then I will wait 30 days for a response from your office and probation. I hope we can resolve this issue immediately.

Sincerely,
James L. Padgett, Jr.

GMDC-12-A-35
15-15-HAZEN ST.
E. ELMHURST, N.Y. 11370

100 LED 6, 350 US 5 MISSISSIPPI v LOUISIANA

STATE OF MISSISSIPPI, Plaintiff,

vs.

STATE OF LOUISIANA

(350 US 5, 100 L Ed 6, 76 S Ct 29)

[No. 11, Original.]

Argued October 11, 1955. Decided October 17, 1955. Rehearing denied November 21, 1955.

APPEARANCES OF COUNSEL ARGUING CASE

D. K. McKamy served as Special Master by appointment of the Court, 346 US 862.

Gerard H. Brandon, Special Assistant Attorney General, of Natchez, Mississippi, and *James D. Thomas*, Special Assistant Attorney General, of Vicksburg, Mississippi, argued the cause, and, with *Clarence Clifton*, of Memphis, Tennessee, *J. P. Coleman*, Attorney General of Mississippi, of Jackson, Mississippi, and *Charles Kohlmeyer*, of New Orleans, Louisiana, filed a brief for plaintiff.

Ashton L. Stewart, Special Assistant Attorney General, of Baton Rouge, Louisiana, argued the cause, and, with *Fred S. LeBlanc*, Attorney General of Louisiana, and *John L. Madden*, Assistant Attorney General, also of Baton Rouge, Louisiana, *Edgar H. Lancaster, Jr.*, Special Assistant Attorney General, of Tallulah, Louisiana, and *Lane Fuller*, Special Assistant Attorney General, of Ruston, Louisiana, filed a brief for defendant.

This cause having been submitted upon the pleadings, evidence and exhibits after arguments by counsel upon the exceptions of the State of Louisiana to the Report of the Special Master, the Court, having duly considered the same and being fully advised in the premises, now enters the following order:<*pg. 7>

The exceptions to the Report of the Special Master are overruled. The Report of the Special Master is adopted and his proposed decree is approved and

It is Ordered, Adjudged and Decreed that the true boundaries between the States of Mississippi and Louisiana at the places involved in this case be and they hereby are found and concluded to be as follows:

[350 US 6]

Description by geodetic positions (North American Datum) of the line that forms the Mississippi-Louisiana state boundary between Latitude 32° 15' and 32° 09' and Longitude 90° 58' to 91° 07', that is, in the area commonly known as Reed-Bedford, Oak Bend, Diamond Island and Diamond Point.

Beginning at a point where the live thalweg of the Mississippi River crosses the line 32° 15' North Latitude;

Thence Southward along the live thalweg of the Mississippi River to a point where the live thalweg crosses the line that runs South 60° East from the point that is at Lat. 32° 11' 34"-Long. 90° 59' 47".

Thence leaving the thalweg of the Mississippi River and running North 60° West to the point being at Lat. 32° 11' 34"-Long. 90° 59' 47";

Thence running Westward along the dead thalweg of the abandoned channel of the Mississippi River (lower Oak Bend) to a point that is at Lat. 32° 11' 29"-Long. 91° 00' (S-5 Smith Exhibit 5).

Thence leaving the dead thalweg of the abandoned channel of lower Oak Bend and running Northward (along the Suter line, Smith Exhibit 5) to a point that is at Lat. 32° 11' 46"-Long. 91° 00' 09" (S-4, Smith Exhibit 5);

Thence Northward to a point that is at Lat. 32° 11' 51"-Long. 91° 00' 11" (S-3, Smith Exhibit 5);

Thence Northward to a point that is at Lat. 32° 12' 44"-Long. 91° 00' 20" (S-2, Smith Exhibit 5);

Thence Northward to a point that is at Lat. 32° 13' 09"-Long. 91° 00' 14" (S-1, Smith Exhibit 5);

Thence Northward to a point that is at Lat. 32° 13' 21"-Long. 91° 00' 10" (S, Smith Exhibit 5);

federal stature are present for hearing and determination.

The Ninth Circuit Court was bound as a matter of law to accept as true all of the allegations of the petition for habeas corpus. *Thomas v Teets* (CA9th Cal) 205 F.2d 236; *Lynch v Johnston* (CA9th Cal) 160 F.2d 950.

The courts below erred in summarily denying the petition for habeas corpus without acting on the application in either (1) issuing an order to show cause, or (2) ordering a hearing on the factual matters presented by the allegations of the petition. *Walker v Johnston*, 312 US 275, 85 L ed 830, 61 S Ct 574; 28 USC § 2243.

The petition presents issues of grave importance in that constitutional rights to due process and the equal protection of the laws affecting this petitioner and the public are herein involved in this, that there can be no legal distinction between the knowing presentation by the prosecution of perjured testimony in a criminal case on the one hand and the knowing submission of a spurious record on appeal procured by extrinsic fraud and perjury on the other hand. *Mooney v Holohan*, 294 US 103, 79 L ed 791, 55 S Ct 340, 98 ALR 406; *Cole v Arkansas*, 333 US 196, 92 L ed 644, 68 S Ct 514; *Frank v Mangum*, 237 US 309, 59 L ed 969, 35 S Ct 582.

The California Constitution and statutes make it mandatory that the California Supreme Court review the entire record in every case in which the death penalty is imposed and to render a decision based upon such a record. This contemplates a genuine record and a complete record, and to determine whether the record in the instant proceeding is genuine and accurate depends upon facts dehors the record, the truth or falsity of which may only be determined as the result of a full and fair adversary hearing. Cal Const art 6, § 4 1/2; Cal Penal Code § 1239 (b).

The decision of the Ninth Circuit Court is in direct conflict with applicable decision of this Court pertaining to the right to effective representation of counsel, the right to employ and consult with counsel and the right to prepare his defense and the right to defend himself at every stage of the proceedings which includes the appeal itself and matters thereto appertaining. *Ex parte Hoge*, 48 Cal 3; *Powell v Alabama*, 287 US 45, 77 L ed 158, 53 S Ct 55, 84 ALR 527; *Avery v Alabama*, 308 US 444, 84 L ed 377, 60 S Ct 321; *House v Mayo*, 324 US 42, 89 L ed 739, 65 S Ct 517; *White v Ragen*, 324 US 760, 89 L ed 1348, 65 S Ct 978; *Chandler v Fretag*, 348 US 3, 99 L ed 4, 75 S Ct 1.

An appeal in a criminal case under California law is a matter of right and due process must be accorded in the course of appellate procedure. *Cole v Arkansas*, 333 US 196, 92 L ed 644, 68 S Ct 514; *Frank v Mangum*, 237 US 309, 59 L ed 969, 35 S Ct 582; *Ex parte Hoge*, 48 Cal 3.

OPINION

Per Curiam

[1][2]Petitioner applied to the United States District Court, Northern District of California, Southern Division, for a writ of habeas corpus, <pg. 6> claiming that his automatic appeal to the California Supreme Court from a conviction for a capital offense had been heard upon a fraudulently prepared transcript of the trial proceedings. The official court reporter had died before completing the transcription of his stenographic notes of the trial, and petitioner alleges that the prosecuting attorney and the substitute reporter selected by him had, by corrupt arrangement, prepared the fraudulent transcript. On the record before us, there is no denial of petitioner's allegations. The District Court, without issuing the writ or an order to show cause, dismissed the application as not stating a cause of action. 128 F Supp 600. The Court of Appeals affirmed the order of the District Court. 221 F.2d 276. The charges of fraud as such set forth a denial of due process of law in violation of the

[350 US 4]

Fourteenth Amendment. See *Mooney v Holohan*, 294 US 103, 79 L ed 791, 55 S Ct 340, 98 ALR 406. Without intimating any opinion regarding the validity of the claim, we hold that in the circumstances disclosed by the record before us the application should not have been summarily dismissed. Accordingly, the petition for a writ of certiorari is granted, the judgment of the Court of Appeals is reversed and the case is remanded to the District Court for a hearing.

Mr. Justice *Reed*, Mr. Justice *Burton*, and Mr. Justice *Clark* dissent.

The Chief Justice took no part in the consideration or decision of this case.

respondent and others designated from denying these petitioners, Autherine Lucy and Polly Anne Myers, the right to enroll in the University of Alabama and pursue courses of study there. *Sipuel v University of Oklahoma*, 332 US 631, 92 L ed 247, 68 S Ct 299; *Sweatt v Painter*, 339 US 629, 94 L ed 1114, 70 S Ct 848; *McLaurin v Oklahoma State Regents for Higher Education*, 339 US 637, 94 L ed 1149, 70 S Ct 851. In other respects, the motion is denied.

100 LED 4, 350 US 3 CHESSMAN v TEETS

CARYL CHESSMAN, Petitioner,
 vs.
HARLEY O. TEETS, Warden, California State Prison, San Quentin, California

(350 US 3, 100 L Ed 4, 76 S Ct 34)

[No. 196.]

October 17, 1955.

SUMMARY

Petitioner, convicted of crime in a state court, applied for habeas corpus, alleging that the highest state court, in hearing his appeal, had before it a transcript of the trial proceedings which had been fraudulently prepared by the prosecuting attorney and the court reporter. The District Court summarily dismissed the application, and the Court of Appeals affirmed.

Five members of the Supreme Court, in a per curiam opinion, granted the writ of certiorari sought by the petitioner, reversed the judgment of the Court of Appeals, and remanded the case to the District Court for a hearing. The charges of fraud stated in the application for habeas corpus were said to set forth a denial of due process in violation of the Fourteenth Amendment.

Reed, Burton, and Clark, JJ., dissented without opinion.

Warren, Ch. J., did not participate.

HEADNOTES

Classified to U.S. Supreme Court Digest, Lawyers' Edition

Constitutional Law §§ 520, 850 - due process - appeals - fraud in preparing transcript.

1. The conduct of a state prosecuting attorney and a court reporter in preparing a fraudulent transcript of trial proceedings in a criminal case, which transcript is used in the hearing before the highest state court to which the accused has an automatic right of appeal, amounts to a denial of due process of law in violation of the Fourteenth Amendment.

Habeas Corpus § 114 - summary dismissal of petition.

2. On a petition for habeas corpus by one convicted of crime in a state court, it is <*pg. 5> error for a District Court, which neither issues the writ nor issues an order to show cause, to dismiss the petition as not stating a cause of action, where the petition, on its face, states facts which show that the petitioner has been denied due process of law in violation of the Fourteenth Amendment.

PETITION for writ of certiorari to review a judgment of the United States Court of Appeals for the Ninth Circuit affirming a judgment of the United States District Court for the Northern District of California, Southern Division, dismissing an application for writ of habeas corpus.

Held:

Certiorari granted; judgment of Court of Appeals reversed and case remanded to District Court.

See same case below, 221 F.2d 276, affg 128 F Supp 600.

APPEARANCES OF COUNSEL ARGUING CASE

Jerome A. Duffy and Berwyn A. Rice, both of San Rafael, California, filed a brief for petitioner:

The petition shows that the petitioner has exhausted his state remedies, and that justiciable questions of

100 LED

100 LED 3, 350 US 1 LUCY v ADAMS

AUTHERINE J. LUCY and Polly Anne Myers, Petitioners,
 vs.
 WILLIAM F. ADAMS, Dean of Admissions, University of Alabama, Respondent

(350 US 1, 100 L Ed 3, 76 S Ct 33)

[No. 294, Misc.]

October 10, 1955.

SUMMARY

The facts of the case, and the holding of a unanimous court, in a per curiam opinion, are adequately summarized in the headnote, infra.

HEADNOTES

Classified to U.S. Supreme Court Digest, Lawyers' Edition

Civil Rights § 12.5 - injunctions - university.

1. Officials of a state university will be enjoined from denying to citizens of the state the right to enroll in the university where the denial is based solely on the citizen's race or color.

MOTION to vacate suspension of, and to reinstate, order of the United States District Court for the Northern District of Alabama enjoining state university officials from denying petitioners' admission solely on account of their race or color.

Held:

Granted.

APPEARANCES OF COUNSEL ARGUING CASE

Arthur D. Shores, of Birmingham, Alabama, and *Constance Baker Motley*, *Robert L. Carter*, and *Thurgood Marshall*, all of New York City, for petitioners.

Frontis H. Moore, of Birmingham, Alabama, for respondent.

OPINION

Per Curiam

Petitioners, *Autherine J. Lucy* and *Polly Anne Myers*, citizens of Alabama, have been seeking admission to the University of Alabama since September 1952. Respondent *William F. Adams* is Dean of Admissions of the University. After hearings, United States District Judge *Grooms* of the Northern District of Alabama found that petitioners had been denied admission to the University "solely on account of their race and color." Holding this

[350 US 2]

denied petitioners equal protection of state laws, the court permanently enjoined respondent *Adams*, his agents, employees and others acting in concert with respondent "from denying the plaintiffs and others similarly situated the right to enroll in the University of Alabama and pursue courses of study thereat, solely on account of their race or color." 134 F Supp 235. Respondent's motion to suspend the injunction pending appeal to the United States Court of Appeals for the Fifth Circuit was granted by the District Judge. A judge of that court denied a motion to vacate the suspension and reinstate the injunction. A similar motion is now before us.<"pg. 4>

"... motion is granted and the injunction is reinstated to the extent that it enjoins and restrains the