

STATE OF SOUTH CAROLINA
BUDGET AND CONTROL
BOARD
GOVERNORS OFFICE

VERIFIED COMPLAINT
AND
AFFIDAVIT FOR
KIDNAPPING IN VIOLATION
OF
18 USC 1201B AND
16-3-910
FOR THE SUM OF 8.5 MILLION
DOLLARS

MY NAME IS MARCUS ALBINO JOSEPH AND I AM PRESENTLY
BEING CONFINED IN SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
ON INVALID DOCUMENTS AND CONVICTION BASED UPON PERJURED
AND FALSE TESTIMONY
THE DOCUMENTS ARE INVALID BECAUSE IT DID NOT ORIGINATE
FROM THE STATE JUDICIAL BRANCH OF GOVERNMENT AND IS NOT
THE PRESENTATION OF THE CORONERS GRAND JURY OF INDIAN
AND THE CORONER

THE WARRANT WAS ISSUED BY MAGISTRATE ANNELE C POWELL WHO
DID NOT HAVE JURISDICTION IN THE CASE OF MURDER BECAUSE
OF STATE STATUTE 22-3-540 AND [REDACTED]

THE WARRANT WAS SECURED BY H.M. TURBEVILLE BY USING FALSE
STATEMENT AND PERJURY THAT I GAVE HIM A FULL WRITTEN
STATEMENT AND THE WARRANT GIVE NOTICE THAT I VIOLATED
16-3-10 OF THE 1976 CODE OF LAWS ON DEC 23 1984.

THE WARRANT WAS USED TO EXTRADITE ME TO CLARENDON
COUNTY ON FEB 21ST 1988

IN WHICH I WAS DENIED ACCESS TO COURT, ASSISTANCE OF
COUNSEL AND NO PROBABLE CAUSE WAS SHOWN FOR MY ARREST
IN AN EXTRADITION HEARING

I WAS NOT SERVED WITH AN EXTRADITION WARRANT AS
REQUIRED BY 17-9-10 AND BASED UPON INFORMATION AND
BELIEF, NO RECORD OF THE PROCEEDINGS WAS SENT TO THE
GOVERNORS OFFICE AS REQUIRED BY 17-19-20

I WROTE TO THE PREVIOUS DIRECTOR, DIRECTOR STERLING WILSON
MURKIE MY CLASSIFICATION WORKER, MISS HALL OF THE
GENERAL COUNSEL OFFICE AND A REQUEST DATED FEB
11TH 2015

FILE WITH THE GOVERNORS OFFICE AS REQUIRED BY STATE STATUTE
~~FILE~~ SCDC 19.11

I WAS NOT SERVED WITH A WARRANT FROM THE JUDICIAL BRANCE
OF STATE GOVERNMENT IN WHICH SUCH WAS TO BE RECORDED AND
FILED STATING THE REASON FOR THE ISSUANCE.

I WAS NOT SERVED WITH ANY MULTIJURISDICTIONAL AGREEMENT
BETWEEN THE COUNTIES OF PORT CHARLOTTE FLORIDA AND CLARENDON
COUNTY THAT REQUIRE THE OFFICER H.M. TURBERVILLE AND CARY MARTIN TO
EXERCISE AUTHORITY BEYOND THEIR TERRITORIAL JURISDICTION

THE PREPARATION OF AN INDICTMENT BY THE SOLICITOR WADE S KOLD
AND THE USE OF THE WARRANT IN PREPARING SUCH VIOLATED SECTION
17-7-20 ET SEQ BECAUSE IT IMPDED THE AUTHORITY OF THE CROWNER
TO FIRST ISSUE AN ORDER THAT THE BODY BE TAKEN UP BEFORE CONDUCT
HIS EXAMINATION INTO THE CAUSE AS REQUIRED BY SECTION 17-7-52

THE USE OF THE INVALID WARRANT TO PREPARE AN INDICTMENT
VIOLATED STATE STATUTES 8-15-50, 19-1-80, 19-1-90 WHICH
PROVIDES THAT A PERSON MUST BE GIVEN A COPY OF ANY WRITTEN
STATEMENT HE OR SHE MAKES AND GIVES TO ANY EMPLOYEE OF THE
STATE AND UNLESS THERE IS COMPLIANCE WITH THESE STATUTORY
PROVISIONS NO SUCH WRITTEN STATEMENT WILL BE ADMISSIBLE
IN EVIDENCE IN ANY CASE, NOR CAN REFERENCE BE MADE TO IT
IN THE TRIAL OF ANY CASE WHICH WAS ALSO BARRED BY 17-23-10
I WAS NOT GIVEN A COPY OF ANY FULL WRITTEN STATEMENT
AND DID NOT GIVE ANY BODY A FULL WRITTEN STATEMENT
THEREFORE IT WAS ERROR TO USE SUCH. SEE EXHIBIT # 3A

THERE IS A LACK OF ENTRY IN THE CLERK OF COURT RECORDS THAT
THE PROCEDURES OF 17-7-20 ET SEQ WAS COMPLIED WITH WHICH
INCLUDE NOTICE AND FILING OF RECORDS TO THE GOVERNORS OFFICE
AS REQUIRED SEE RESPONSE OF CLERK OF COURT ATTACH EX # 1
IT WAS ERROR FOR THE CLERK OF COURT JOSEPH W COLE TO PLACE CASE ON THE CALENDAR
BECAUSE THE PLEADINGS WAS NOT MADE UP VIOLATING 14-17-550
THE WARRANT AND MY CONFINEMENT IS UNLAWFULL BECAUSE
THE DOCUMENT DOES NOT CHARGE THE CURRENT AND CURRENT LAW
THAT WAS TO BE APPLIED VIOLATING THE EX POST FACTO OF 1 § 10
THE STATUTE ALLEGEDLY VIOLATED WAS DECLARED UNCONSTITUTIONAL
AND VOID AND WAS NEVER PART OF THE SOUTH CAROLINA
1976 CODE OF LAWS SEE OFFICIAL OPINION ATTACH EX # 4

I declare Under the Penalty of Perjury the foregoing is
TRUE AND CORRECT TO THE BEST OF MY ABILITY AND UNDERSTANDING

SUBSCRIBED AND SIGNED BEFORE ME
this 18th DAY OF FEBRUARY 2015

Marchesa Joseph
MARCHESA JOSEPH

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires *April 2, 2015*
Shirley Ann - Pizun (2)

EXHIBIT 2

Dear clerk

I am writing
the Request

(1) An Application for
Post - Conviction Relief

(2) And I would like
to know whether THE CORONER
Filed A warrant along with the
Grand jury indictment And the Evidence
from the Inquest with this still

Thank you
never a day!

Note:

Clerk of Court has no idea what is presented
to the Grand Jury. That is not a part of our
function. Nor do we have anything to do with
evidence filed at an inquest if there was one
label.



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

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201

December 15, 2014

Mr. Marcus A. Joseph, #147764
Kirkland Correctional Institution
Unit F2 B241
4344 Broad River Road
Columbia, SC 29210

Dear Mr. Joseph:

We received your correspondence on December 12, 2014, regarding inquest records and procedures. When an inquest is conducted, the records should be available pursuant to Title 17, Chapter 7, and procedure should be followed pursuant to Title 17, Chapter 7.

Inquests are an uncommon occurrence in South Carolina and not mandatory in a case such as yours as you stated it. (See attached: Section 17-7-20). You do not state whether an inquest was conducted in your case, so it would be advisable for you to determine whether an inquest occurred. The absence of records in your matter could indicate the absence of an inquest.

Sincerely,

Staff Attorney

EXHIBIT B/A

SECTION 17-7-20. Requirement of preliminary examination before formal inquest; issuance of burial permit, conclusion of inquiry or formal inquest.

Whenever a body is found dead **and an** investigation or **inquest is deemed advisable** the coroner or the magistrate acting as coroner, as the case may be, shall go to the body and examine the witnesses most likely to be able to explain the cause of death, take their testimony in writing and decide for himself whether there ought to be a trial or whether blame probably attaches to any living person for the death, and if so and if he shall receive the written request, if any, required by Section 17-7-50, he shall proceed to summon a jury and hold a formal inquest as required by law. But if there be, in his judgment, no apparent or probable blame against living persons as to the death he shall issue a burial permit and all further inquiry or formal inquest shall be dispensed with. Provided, however, that the coroner of Charleston County is authorized and empowered to issue a death certificate.

HISTORY: 1962 Code Section 17-91; 1952 Code Section 17-91; 1942 Code Section 1097; 1932 Code Section 1097; Cr. P. '22 Section 184; Cr. C. '12 Section 1027; Cr. C. '02 Section 729; 1894 (21) 825; 1964 (53) 2367.

pealed §25-139 by implication and thus bound Chesterfield by the procedure outlined in that chapter. The question of whether a special act can be repealed by the General Assembly, either by implication or outright, without it being a special act itself is one that can only be settled by adjudication by the courts.

OPINION NO. 4388

July 7, 1976

South Carolina's mandatory death penalty for murder in specified circumstances is unconstitutional in light of recent Supreme Court decisions.

TO: Solicitor, Fifth Judicial Circuit

BY: Joseph C. Coleman
Deputy Attorney General

You have inquired as to the validity of South Carolina's death penalty provided for the crime of murder in specified circumstances in view of the United States Supreme Court's decisions of July 2, 1976, with respect to the murder death penalty statutes of Georgia, Florida, Texas, North Carolina and Louisiana, viz., *Gregg v. Georgia*, *Proffitt v. Florida*, *Jurek v. Texas*, *Woodson v. North Carolina*, and *Roberts v. Louisiana*.

The subject cases are in accord in stating that when the *Furman* [*Furman v. Georgia*, 408 U. S. 238] case condemned as unconstitutional the unrestricted power of a jury to impose the sentence of death for murder, or, in the alternative, life imprisonment or some lesser sentence, the Court did not intend that a simple taking away of such unguided discretion would cure the defect. Louisiana and North Carolina attempted to comply with *Furman* by providing mandatory death sentences in special circumstances, leaving neither the judge nor the jury and discretion to impose a lesser sentence. Georgia, Florida and Texas, by provisions that vary in manner, provide that a jury, in arriving at a sentence for murder, where such sentence is permitted, should consider additional evidence relating to the defendant personally and to the particular circumstances of the crime involved. The death sentence is not mandatory, but may be imposed in specified cases by the judge or jury, as the case may be, only after

EXHIBIT #

consideration of pertinent characteristics of the person who committed the crime and the specific circumstances of the particular crime. These statutes were held to be valid.

On the other hand, the statutes of North Carolina and Louisiana provide the mandatory sentence of death for murder in specified circumstances. For example, 1) killing with specific intent to kill or to inflict great bodily harm [Louisiana], and 2) murder during the commission of robbery [North Carolina]. No discretion is given judge or jury to impose a lesser sentence. These statutes were declared invalid. The United States Supreme Court states in *Woodson* [North Carolina], 19 Cr. L. 3287, 3292:

"The belief no longer prevails that every offense in a like category calls for an identical punishment without regard to the past life and habits of a particular offender."

Without question, Section 16-51 [South Carolina's death penalty statute] provides a mandatory death sentence for murder in specified circumstances without permitting discretion by judge or jury to impose a lesser sentence guided by legislated standards.

The Supreme Court says in *Woodson* [North Carolina], 19 Cr. L. 3287, 3295:

"—the eighth amendment—requires consideration of the character and record of the individual offender and the circumstances of the particular offense as a Constitutionally indispensable part of the process of inflicting the death penalty."

It is the opinion of this Office that South Carolina's mandatory death penalty for murder in specified circumstances offends the Constitutional principles set forth in *Gregg* and the other subject decisions of the United States Supreme Court filed July 2, 1976.

With respect to pending death penalty murder charges, it is suggested that a change in South Carolina's death penalty statute to comply with the Court's decisions of July 2 might permit trial of persons now under indictment for death penalty murder under a new statute, and that imposition of the sentence of death under such new statute might be permitted—because the penalty will not be increased. Only the procedure in arriving at such sentence need be changed.

E X H I B I T 3 B



June 17, 2011

Mr. Marcus A. Joseph, 147764
 Kirkland Correctional Institution
 Unit F2 B250
 4344 Broad River Road
 Columbia, SC

Dear Mr. Joseph:

The modern statute that defines the punishment for murder is coded as 16-3-20 in the *South Carolina Code of Laws of 1976* dates back to 1868. Of course the General Assembly has amended it many times since 1868. In fact the General Assembly amended it twelve times since 1977. The section of code you referred to as the mandatory death penalty for murder under certain circumstances was enacted in 1974 as Act 1109 and passed over the Governor's veto. It was codified as 16-52 of the *South Carolina Code of Laws of 1962*.

In his 1975 -1976 Opinions the Attorney General issued an Opinion that the act was unconstitutional (Opinions 1975-1976 #4388). The General Assembly revised the act to make it conform to the Attorney General's opinion in 1977. The 1977 act was codified as an amendment to the 1962 Code of Laws so the mandatory death penalty for murder under certain circumstances was never part of the *South Carolina Code of Laws of 1976*.

In 2007 the General Assembly added a saving clause to act 101 that amended this section to the effect that in the event part of the section was rendered inoperative by a long list of possibilities all actions based on the section except those based on the section rendered inoperative, would be preserved.

I hope this answers your questions if does not please write me again.

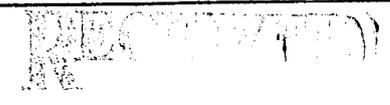
Sincerely,

A handwritten signature in cursive script that reads "Marion C. Chandler".

Marion C. Chandler
 Archivist IV

E X H I B I T 3 B

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: MRS HAILE GENERAL COUNSELS OFFICE	TITLE: GENERAL COUNSELS OFFICE	DATE: FEB 16th 2015
INMATE'S NAME: MARCUS ALBINUS JOSEPH	SCDC #: 147764	
INSTITUTION: KIRKLAND CORRECTIONAL INSTITUTION	LIVING QUARTERS: F2 B241	
<p>THE DECLIMENT WARRANT IS NOT AUTHENTIC AND CANNOT BE USED TO KEEP ME CONFINED IN SCDC. IT IS NOT AUTHENTIC FOR THE FOLLOWING REASONS PURSUANT TO SC CODE 22-3-540 MURDER IS NOT AN OFFENSE WITHIN THE MAGISTRATE'S COURT JURISDICTION, PURSUANT TO SC CODE 16-23-460 MURDER IS AN OFFENSE WITHIN THE EXCLUSIVE JURISDICTION OF THE CIRCUIT COURT, AND A MAGISTRATE'S JURISDICTION IN CRIMINAL CASES BEYOND THE MAGISTRATE'S JURISDICTION TO TRY WAS ABOLISHED PURSUANT TO SC CODE ANN 22-3-510 THE DOCUMENT IS NOT CERTIFIED, AND CONTAINS EVIDENCE OF FALSE STATEMENT OF MATERIAL FACT IE PERJURED TESTIMONY IN VIOLATION OF 16-9-10 AND 16-9-30 AND IS NOT A JUDICIAL WARRANT, DID NOT ORIGINATE FROM THE COURT OF GENERAL SESSIONS</p> <p>THE DOCUMENT TERM AN INDICTMENT IS ALSO INVALID AND NOT AUTHENTIC ALSO BECAUSE IT IS NOT PROPER IN FORM AND NOT THE PRODUCT OF A CORONER'S GRAND JURY OF INQUEST OR ITS PRESENTMENT WHICH WAS THE LAW IN EFFECT OF THE TIME WHICH REQUIRED THE CORONER TO CONDUCT THE EXAMINATION AS REQUIRED BY SC CODE 17-7-20 AND SUMMON AND IMPANEL THE GRAND JURY AS REQUIRED BY 17-7-50. THE GRAND JURY IS THEN REQUIRED AS 17-7-240 UNDER THEIR HANDS AND SEALS AFTER THE CONCLUSION AS REQUIRED BY 17-7-250 BEING ATTESTED TO BY THE CORONER AS REQUIRED BY 17-7-300 THEN THE CORONER SHALL FILE SUCH WITH THE CLERK OF COURT FOR GENERAL SESSIONS AS REQUIRED BY 17-7-310. THE INDICTMENT IN THIS CASE IS A PRODUCT OF FRAUD SEE EXHIBITS ATTACHED 3A § 6</p>		
DISPOSITION BY STAFF MEMBER: <p align="center">GP & Duplicate 15-472573</p>		
DATE:	SIGNATURE: 	

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

FEB 09 2015

TO: NAME: DIRECTOR	TITLE: SCDC	DATE: FEB 5th 2015	DIRECTOR
INMATE'S NAME: MARCUS A JOSEPH		SCDC #: 147764	
INSTITUTION: KIRKLAND CORRECTIONAL INST		LIVING QUARTERS: F2 B241	

My CONFINEMENT IS ILLEGAL IN VIOLATION OF UNITED STATES CONSTITUTION USCA8 AND SOUTH CAROLINA CONSTITUTION ARTICLE 1 CLAUSE 15.

THE DEPARTMENT OF CORRECTIONS HAS ME CONFINED FOR OVER (26)YRS ON THE BASIS OF A MAGISTRATES WARRANT.

MAGISTRATE CAN ONLY IMPOSE PUNISHMENT WITHIN THE STATUTORY GUIDELINES WHICH IS (30)DAYS

THE DOCUMENTS THAT ARE BEING USED TO CONFINE THE DEPENDANT ARE INVALID FOR THE FOLLOWING REASONS

- (1) THE DOCUMENTS ARE UNCERTIFIED,
- (2) THE DOCUMENTS ARE NOT VERIFIED
- (3) THE DOCUMENTS ARE NOT AUTHENTICATED

AND VIOLATES THE BUSINESS RECORD ACT STATUTE 19-5-10 SEE SC RULES OF EVIDENCE RULE 901 AND 902

REQUEST DISPOSITION

DISPOSITION BY STAFF MEMBER:

Inmate Joseph, SCDC only carries out the rulings of the courts. The records show that on 6/7/1988 that you were convicted of Murder in Clarendon County (Judge Morris). This office (this Agency) does not have the authority to modify your criminal conviction. Inmates must go through the court system to resolve these issues.

cc: Mr. McCall (Operations), Mr. Patterson (Operations), Warden McKie, Associate Warden Washington, Associate Warden Thompson, Mr. Tatarsky (General Counsel), Mr. Moore (ICS), classification, and file

*Also convicted of Grand Larceny

DATE: 2/25/2015	SIGNATURE: Maurice Lym	Executive Assistant Director's office
--------------------	---------------------------	--

**CLARENDON COUNTY MAGISTRATE
P. B. HARVIN, JR., CHIEF
POST OFFICE BOX 371
102 SOUTH MILL STREET
MANNING, SOUTH CAROLINA 29102**

FEBRUARY 20, 2015

MARCUS A. JOSEPH 147764
KIRKLAND CORRECTIONAL INSTITUTION
4344 BROAD RIVER RD.
COLUMBIA, SOUTH CAROLINA 29210
UNIT F2B241

RE: WARRANT #B883573

Dear Mr. Joseph:

Your letter requesting information regarding the above warrant was received by this office today.

This office does not handle Indictments, Coroner Inquiries, Death Certificates or matters relating to the Grand Jury. You were correct in your final statement in your letter that “..Magistrates do not have jurisdiction in cases of murder.”

Sincerely,

A handwritten signature in black ink, appearing to read 'P.B. Harvin, Jr.', with a large, stylized flourish extending from the end of the signature.

P. B. Harvin, Jr.,
Chief Magistrate