

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DARLINGTON	)	
	)	
	)	2012-CP-16-814
Timothy Michael Farris,	)	
	)	
Applicant,	)	SEPARATE STATEMENT OF
	)	
v.	)	UNDISPUTED FACTS IN SUPPORT OF
	)	
State of South Carolina,	)	APPLICANT'S MOTION FOR
	)	
Respondent.	)	SUMMARY JUDGMENT
	)	

“Exh.” references exhibits in the Appendix.

1. South Carolina lacked jurisdiction to arrest the Applicant in North Carolina.  
**SUPPORTING EVIDENCE:** Exh. B (Affidavit for SC arrest warrant).
2. The South Carolina arrest warrant, signed on July 31, 2008 was facially deficient.  
**SUPPORTING EVIDENCE:** Exh. B (Affidavit for SC arrest warrant).
3. In the presence of Hartsville Detective Specht and others, the Applicant was told to sign the Waiver of Extradition.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit; Exh. E (Waiver).
4. The Waiver is blank in the boxes for “crime(s) in demanding state” and “date of crime(s).”  
**SUPPORTING EVIDENCE:** Exh. E (Waiver).
5. The Waiver falsely states that Applicant was a fleeing felon.  
**SUPPORTING EVIDENCE:** Exh. E (Waiver).
6. Detective Specht knew the Applicant was not a fleeing felon.  
**SUPPORTING EVIDENCE:** Exh. G (Indictment).
7. Detective Specht took custody of the Applicant and the confiscated items in North Carolina.  
**SUPPORTING EVIDENCE:** Exh. C and D (Incident Report; List of Items).
8. Detective Specht did not have authority to transport the Applicant to South Carolina.  
**SUPPORTING EVIDENCE:** Exh. B (Affidavit for SC arrest warrant).

9. Detective Specht drove the Applicant from North Carolina to Darlington Detention Center in South Carolina.  
**SUPPORTING EVIDENCE:** Court records; Applicant's affidavit.
10. Two weeks later, on August 21, 2008, the Applicant was indicted for criminal solicitation of a minor.  
**SUPPORTING EVIDENCE:** Exh. G (Indictment).
11. Two days after the indictment, appointed attorney Robert Kilgo, Jr. sent discovery requests to the prosecutor. Several months later Kilgo left the public defender's employ without ever speaking with the Applicant.  
**SUPPORTING EVIDENCE:** Applicants's affidavit; Exh. H (Kilgo's discovery request); court records.
12. Detective Specht's affidavit in support of the Yahoo search warrant admits he relied exclusively on publicly available web sites to link the Yahoo email name "Michael24339" to the Applicant.  
**SUPPORTING EVIDENCE:** Exh. J (Specht's affidavit).
13. In the pages Detective Specht claims are records of the Instant Messages (IM) there is no evidence Specht stated he was posing as a girl of thirteen years.  
**SUPPORTING EVIDENCE:** Exh. O.
14. In the pages Detective Specht claims are records of IM exchanged with Michael24339, there is no evidence of plans to meet (i.e., no intent).  
**SUPPORTING EVIDENCE:** Exh. O.
15. There is no evidence of authentication of the IM (chat logs).  
**SUPPORTING EVIDENCE:** Exh. K (footnote #1, p.3, Yahoo search & seizure).
16. There is no evidence of tracing the IM to Applicant's computer.
17. There is no evidence of tracing the IM to Applicant's grandmother's computer.
18. Specht confiscated property that was not relevant to the alleged crime.  
**SUPPORTING EVIDENCE:** Exh. D.
19. At the time of the arrest and indictment Chief Justice Finney's 1999 Order required disposition of criminal cases within 180 days of arrest.  
**SUPPORTING EVIDENCE:** Judge Finney's Order.
20. No court determined that exceptional circumstances existed to allow a delay of fifteen months to dispose of the case against the Applicant.  
**SUPPORTING EVIDENCE:** Court docket.

21. On November 9, 2009—fifteen months after his arrest—the Applicant was ordered to a plea hearing scheduled by the prosecutor. He refused to plead guilty.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit; Exh. O (attorney Little’s letter).
22. Two and a half years after the arrest, on February 24, 2011, Matthew S. Swilley was appointed to represent the Applicant.  
**SUPPORTING EVIDENCE:** Exh. A (Appointment).
23. One week after his appointment, Swilley phoned the Applicant to notify him about a plea hearing scheduled for the following week.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit.
24. Swilley did not ask for a continuance to allow him to investigate or prepare for trial.  
**SUPPORTING EVIDENCE:** Court records; Applicant’s affidavit.
25. Swilley abandoned any semblance of representing the Applicant.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit; court records.
26. At the plea hearing on March 9, 2011 the Applicant was sentenced to probation.  
**SUPPORTING EVIDENCE:** Court records; Applicant’s affidavit.
27. Two days after the plea hearing plea defense counsel Swilley signed a forfeiture of the Applicant’s computer, webcam, digital camera, music CDs, letters, and his grandmother’s computer monitor, keyboard, and mouse.  
**SUPPORTING EVIDENCE:** Exh. U (Forfeiture form).
28. The forfeiture form has a space for the Applicant’s signature. It is blank.  
**SUPPORTING EVIDENCE:** Exh. U (Forfeiture form).
29. Swilley never notified the Applicant about the forfeiture.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit.
30. Forfeiture of Applicant’s grandmother’s monitor, mouse, and keyboard were improper and illegal.  
**SUPPORTING EVIDENCE:** S.C. Code Ann. §16-15-445.
31. Forfeiture of Applicant’s property was improper and illegal.  
**SUPPORTING EVIDENCE:** S.C. Code Ann. §16-15-445.
32. The Applicant did not know about the forfeiture until he received the entire file in June 2012.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit.
33. Applicant left messages for Swilley each day after the plea hearing but did not reach him until the fifteenth day. It was too late to withdraw the guilty plea, too late to file a direct appeal. This was a violation of Rule 62.  
**SUPPORTING EVIDENCE:** Applicant’s affidavit.

34. In June 2012, nearly four years after the arrest, the Applicant received the entire file from the public defenders' office. A.C. Michael Stevens noted on one of the pages that this was the complete file.  
**SUPPORTING EVIDENCE:** Exh. V (list of items).
35. On September 24, 2012 the Applicant filed for post-conviction relief, pro se.  
**SUPPORTING EVIDENCE:** Court records.
36. The state was required to respond within sixty days of the September 24<sup>th</sup> filing.  
**SUPPORTING EVIDENCE:** S.C. CODE §17-27-70, Rule 12(A).
37. The state did not request an extension of time for filing.  
**SUPPORTING EVIDENCE:** Court records.
38. On January 17, 2013 the state filed a motion to dismiss. It was mailed to the wrong address and not received by the Applicant.  
**SUPPORTING EVIDENCE:** Court records; Applicant's Reply to Motion to Dismiss.
39. On February 5, 2013 the court issued a Conditional Order of Dismissal, granting the Applicant 20 days to respond. Because this was mailed by the clerk's office, it was sent to the correct address.  
**SUPPORTING EVIDENCE:** Court records.
40. On February 13, 2013 the Applicant responded to the Conditional Order.  
**SUPPORTING EVIDENCE:** Court records.
41. On March 19, 2013 the Applicant again requested appointment of counsel.  
**SUPPORTING EVIDENCE:** Court records.
42. On April 22, 2013 prosecutor T. Andrew Johnson filed his appearance with the court for this case.  
**SUPPORTING EVIDENCE:** Court records.
43. No attorney has been appointed for the Applicant, who continues pro se.  
**SUPPORTING EVIDENCE:** Court records.
44. Unless the conviction is vacated, the Applicant will be a Registered Sex Offender for the remainder of his life.  
**SUPPORTING EVIDENCE:** S.C. Code Ann. §23-3-46; N.C. G.S. § 14-208.12A.

<SIGNATURE BLOCK IS ON NEXT PAGE>

I swear under penalty of perjury that every statement in this pleading is true.

DATED:

BY:

TIMOTHY MICHAEL FARRIS, APPLICANT PRO SE  
7910 Hillanby Court  
Waxhaw, NC 28173  
[REDACTED]