

The State of South Carolina

In the Court of Appeals

The State, Respondent

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JUL 05 2022

SC Court of Appeals

v

Terron Dizzley, Gwendolyn B. Frasier, LaQueshia Felder, Appellants

Appellate Case No. 2022-000671

**OBJECTIONS TO ATTORNEY GENERAL'S REQUEST TO HOLD PETITIONER'S MOTION IN
ABEYANCE AND MOTION FOR ISSUANCE OF SHOW CAUSE ORDER**

Petitioners respectfully object to The Attorney General's request to hold all motions filed by Petitioner in abeyance expect for the motion to reinstate in the above matter until a decision is issued on the motion to reinstate, and if the motion to reinstate is not granted that the remaining motions need not be addressed as the Court is without jurisdiction to do so. The motions that the Attorney General requested to be held in abeyance are: (1) Emergency Petition for Exparte and Proposed Motion for Immediate Release, Double Jeopardy, False Imprisonment, Lack of Trial Court Jurisdiction to Impose Sentence; (2) Motion to Reinstate Direct Appeal, (3) Notice of Appeal of Judge Culbertson's order alleging that the Court of General Sessions lacks jurisdiction to rule on Petitioners' Motion for Reconsideration.

Petitioners object to the Attorney General's request on the grounds that:

- (1) The Attorney General's request to hold Petitioner's Motions in abeyance is not only contrary to South Carolina Supreme Court law and United States Supreme Court law, but such request further violates Petitioner's right to procedural due process under the Fourteenth Amendment of the United States Constitution where life and liberty is at

stake, such request is arbitrary and only for the purpose of delay and the intent to further harm Petitioner's. Petitioner contends that such request from the Attorney General's also amounts to criminal actions committed against Petitioner and is also requesting that The South Carolina Court of Appeals participate in these criminal actions of deprivation of Petitioner's civil rights.

(2) Petitioner contends that the motion that the Attorney General is requesting to be held in abeyance are supported with facts, evidence and clearly established South Carolina and United States Supreme Court law which proves that The Georgetown County Sheriff's Department had no legal nor jurisdictional authority to arrest him for the crime of which he was charged; The Georgetown County Solicitor's Office had no legal nor jurisdictional authority to try his case nor to try it twice for the same offense, nor to sentence him for the crimes for which he is unlawfully imprisoned; therefore, The South Carolina Department of Corrections has no legal nor jurisdictional authority to hold Petitioner in prison, and he must be discharged. The evidence supported in these motions proves that he has been kidnapped, falsely imprisoned for eight years and counting, which also amounts to the hate crimes of slavery.

(3) These Motions were filed Exparte under the emergency statute pursuant to S. C. Code § 20-4-50 (A) which requires a hearing within 24 hours of receiving the motion. Because Petitioner's motion involved the fact that his life and liberty are at stake, to hold such motion in abeyance would further violate Petitioners' right to due process and right to First and Fourteenth Amendment Right to Familial Association. See: State v Biannarr, 400 S. C. 156 (2012), "Due process requirement in a particular case depends on the

importance of the interest involved and circumstances under which the deprivation of liberty or property may occur. A claim of denial of due process must be analyzed with a two-part inquiry; (1) whether the interest involved can be defined as “liberty or property” within the meaning of the Due Process Clause and, if so, (2) what process is due in the circumstances. Freedom from bodily restraints has always been at the core of the liberty protected by The Due Process Clause from arbitrary government action.”

Blanton v Stathos, 361 S. C. 534 (2002), “The fundamental requirement of due process is the opportunity to be heard at a meaning time and in a meaningful manner. Procedural due process contemplates notice, a reasonable opportunity to be heard, and a fair hearing before a legally constituted impartial tribunal .” Moore v Moore, 376 S. C. 467 (2008), “Emergency hearing within twenty-four hours of Petition for protection from abuse order did not violate procedural due process. Denial of husband's motion for continuance of emergency hearing and petition for protection against abuse order after trial court offered wife continuance did not violate equal protection. Equal protection requires all persons to be treated alike under like circumstances and conditions, both in privileges conferred and liabilities imposed.” Board of Regents of State Colleges v Roth, 408 U. S. 564 (1972), “Requirements of procedural due process apply only to deprivation of interests encompassed by Fourteenth Amendment’s Protection of liberty and property, and when protected interests are indicated, the right to some kind of prior hearing is paramount.” Goldberg v Kelly, 397 U. S. 254 (1970); Fuentes v Shaeven, 407 U. S. 67 (1972).

(4) These motions were filed Exparte requesting that the motions are granted without notice or waiting for response from the Attorney General or any adverse party, because any further delay in granting these motions will result in further irreparable harm and injury of Petitioner being held falsely imprisoned without any legal nor jurisdictional authority. Therefore, The South Carolina Court of Appeals must not consider or grant The Attorney General's request to hold Petitioner's Exparte Motion in abeyance. See: Exparte Lexington, 314 S. C. 220 (1994), "Exparte is judicial proceedings taken for benefit of "one party only" and without to or contestation by any person adversely affected."

(5) Petitioners has met all the requirements to be granted an emergency hearing, in which they have a right to, under the Fourteenth Amendment of the U. S. Constitution, yet the Courts have deprived them of their right to procedural due process, and equal protection of laws, and have not provided Petitioners with a hearing. Petitioners have also provided this Court with information that The Clerk of Court of Georgetown County, Alma White, has been depriving Petitioners from accessing the courts for eight years and counting pursuant to countless of motions filed to appeal Petitioner, Terron Dizzley's, unlawful conviction and obtain relief. Such unlawful actions of Clerk of Court of Georgetown County, Alma White, amounts to the criminal actions of "obstruction of justice" which is a felony, in violation of S. C. Code § 16-9-340.

(6) The Attorney General's request to the South Carolina Court of Appeals to hold Petitioner's motions in abeyance, under such circumstance, where the record shows that Petitioner is being held in The South Carolina Department of Corrections without

any legal nor jurisdictional authority, which a felony crime of kidnapping. See: S. C. Code § 16-3-910 "Kidnapping"; See also: 16-3-920, (conspiracy to kidnap, which is also defined as "false imprisonment"; See: State v Berntsen, 295 S. C. 251 (1988). The Attorney General's actions in requesting that The South Carolina Court of Appeals hold such motion in abeyance is asking the South Carolina Court of Appeals to continue to hold Petitioner kidnapped without due process of law.

Petitioner contends that the record is clear that The Attorney General is "willfully turning a blind eye" to Petitioner's false imprisonment and grave deprivations of his civil rights and is also requesting that The South Carolina Court of Appeals do the same. See: Global-Tech Appliances, Inc. v. SEB S. A. 563 U.S. 754 (2011), " A willfully blind defendant is one who take deliberate actions to avoid confirming a high probability of wrongdoing who can almost be said to have actually known the critical facts." McMurry v. Sheahan, 927 F. Supp. 1082 (1996). See also: Amend. 13 U. S. Const., "Right to Be Free from Slavery"; 18 U.S.C.A. § 1201, "Kidnapping"; 18 U.S.C.A. § 241, (Conspiracy Against Rights); 242, (Deprivation of Rights Under Color of Law); 42 U.S.C.A. § 1985, "Conspiracy to Interfere with Civil Rights"; § 1986, "Action for Neglect to Prevent; § 1988, 'Proceeds and Vindication of Civil Rights. See: U.S. v Price, 383 U.S. 787 (1966); U. S. v Guest, 383 U.S. 745 (1966); U. S. v Lanier, 520 U.S. 259 (1997); U. S. v Moore, 708 F. 3d 639 (2013).

Therefore, the record is clear that The Attorney General's request to hold Petitioner's hold motions in abeyance without any justifiable reasons as to why nor supported by law, is only for the purpose of arbitrary reasons to delay and the intent to further harm Petitioners.

(7) Petitioner contends that The Attorney General's request stating that the remaining motions need not be addressed if The Court of Appeals decides not to reinstate the above matter because The Court would be without jurisdiction to do so, is contrary to clearly established law. Petitioners contend that the records show that all of his motions filed, including the above matter, challenges the Trial Court's jurisdiction to try, and sentence him, and challenges the South Carolina Department of Corrections' jurisdiction and legal authority to hold him in prison, and also challenges the South Carolina Court of Appeals jurisdictional authority to withdraw his direct appeal, as of right, without an Anders Brief, nor a competency hearing. See: Motion to Reinstate Direct Appeal. Therefore, under clearly established laws of this own State of South Carolina, subject matter jurisdiction may be raised at any time, even for the first time on appeal. See: State v Guthrie, 352 S. C. 103 (2002); State v Gentry, 363 S. C. 93 (2005). Therefore, this Court will never be without jurisdiction to hear Petitioner's motions which challenges subject matter jurisdiction despite the outcome of any rulings pursuant to reinstatement of the above matter as The Attorney General erroneously alleges which is contrary to the law.

REQUEST OF ISSUANCE OF SHOW CAUSE ORDER

Petitioners contend that they have demonstrated that:

(8) From the beginning of Petitioner, Terron Dizzley's, unlawful conviction, which lead to his false imprisonment, the record shows that The Georgetown County Sheriff's Department had no legal nor jurisdictional authority to arrest Petitioner for the crime of murder, whereas, his arrest warrant does not establish any probable cause. Therefore, according to the Fourth Amendment of The United States Constitution, such an arrest warrant is invalid, constitutionally deficient and held no legal authority to arrest Petitioner, which is "kidnapping". Through post-trial investigations, by a private

investigator, it was also found that Investigator Melvin Garrett, of the Georgetown County Sheriff's Department, made "false declarations "to the magistrate to obtain Petitioner's arrest warrant. See also: Exparte Motion for Immediate Release.

- (9) Petitioner was never indicted by a grand jury for the two trials of which he was held to answer for the infamous crime of murder of which he was unlawfully convicted. According to the United States Supreme Court in Exparte Wilson, 114 U. S. 317 (1885), under such circumstances, the trial court lacked jurisdiction to try Petitioner for these crimes of which he was unlawfully convicted and also lacked jurisdiction to impose a sentence on Petitioner. See also: Exparte Motion for Immediate Release.
- (10) Despite trial court's lack of jurisdiction to try Petitioner for these charges, without presentment or indictment by a grand jury, he was acquitted of these charges in his first trial of 2012 by receiving a judgment of "acquittal" from "The Honorable Judge Baxley, who discharged his jury on the grounds that "the prosecution they are unable to meet "the burden of proof" to extent that they could bring back a unanimous verdict". According to clearly established United State Supreme Court law, such a ruling was a "judgment of acquittal" which established Petitioner's lack of criminal culpability and his innocence. See Evans v Michigan, 568 U. S. 313 (2013); Burks v United States, 437 U. S. 1 (1978), U. S. v Scott, 437 U. S. 82 (1978); United States v Martin Linen Supply Co., 430 U.S. 564 (1977); Smallis v Pennsylvania, 476 U. S. 140, 1986; and Exparte Lange, 85 U.S. 163 (1873). According to these cases, the moment Petitioner received a ruling in his favor of "acquittal ", the jurisdiction of his case terminated, and Double Jeopardy barred re-trial. Therefore, his second trial of 2014, two years later, was barred by The Fifth Amendment Double Jeopardy Clause. The sentence, therefore, imposed on him pursuant to his second trial holds no legal nor jurisdictional authority to hold him in prison, which is false imprisonment, and he must be immediately discharged.

In The Charge on the Law, by The Honorable Judge Baxley, to jury before closing arguments and deliberations, (See: Trial Transcript of 2012, Court Reporter, Crystal Smith, Tr. P. 74, L. 8 – 25, citing from 20 – 25). Judge Baxley specifically stated the following: "In this state, according to the Constitution, the prosecution must prove their case to the standard of proof we call beyond a reasonable doubt, which is – that is before a finding of guilt may occur, and if the state failed to meet this high burden and it is a high burden, the defendant is entitled to an acquittal.

Therefore, according to Judge Baxley's own words in his initial Charge on the Law to the jury, and clearly established United States Supreme Court law, his ruling, discharging Petitioner's jury, on the grounds that the state failed to meet their "burden of proof" was a "judgment of acquittal". See also: Motion for Immediate Release.

- (11) Petitioner contends that he has demonstrated that The Georgetown County Sheriff's Department and the Georgetown County Solicitor's Office has committed grave crimes

against him which resulted in Petitioner being falsely imprisoned without any legal nor jurisdictional authority for eight years and counting. Petitioner contends that such false imprisonment also results in the crime of slavery in violation of the Thirteenth Amendment.

- (12) Petitioners', Gwendolyn B. Frasier and Laquesha Felder, who are also parties pursuant to Petitioner's Emergency Petition for Exparte and Proposed Motions of Terron Dizzley for Immediate Release, Double Jeopardy, False Imprisonment, Lack of Trial Court's Jurisdiction to Impose Sentence, has demonstrated that Terron Dizzley's false imprisonment does not only violate his constitutional rights which has deprived him of his liberty for eight years and counting without any legal nor jurisdictional authority, but such unlawful restraint of Terron's liberty also violates Petitioners', Gwendolyn B. Frasier, LaQuesha Felder, their children and families' First and Fourteenth Amendment Rights to Familial Association with Petitioner, Terron Dizzley.
- (13) Petitioners respectfully request, incorporating Paragraphs 1 – 12, that this Court issues and order to show cause why this Court, and the Trial Court of General Sessions, Administrative Judge, Benjamin H. Culbertson, The Attorney General, all, are turning a "blind eye" to Petitioner's false imprisonment/kidnapping for eight years and counting, why this Court is turning a "blind eye" to the criminal acts committed against Petitioner by Clerk of Court of Georgetown County, Alma Y. White, who for eight years, has refused to file and place countless motions by Petitioner, which contains exculpatory evidence of his innocence and also proves that he is falsely imprisoned, on the court docket to be heard and adjudicated.
- (14). This court cannot continue to condone, authorize, and turn a "blind eye" to Petitioner's false imprisonment and the crimes that government officials have committed against him to cover up these crimes. See: SCACR 501, Judicial Conduct, Cannon 3d;

(1), A judge who receives information indicating a substantial likelihood of that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge that a lawyer has committed a violation of The Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority."

(15) Petitioner respectfully requests that this Court takes judicial notice of the recent amendment of August 11, 2021, to Special Responsibilities of a Prosecutor Rule 407, SCACR, Rule 3.8.

The prosecutor in a criminal case shall:

(a) Refrain from prosecuting a charge that the prosecutor knows that is not supported by probable cause.

(h) When a prosecutor knows of clear and convincing evidence or information establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit the prosecutor shall make reasonable efforts to seek to remedy the conviction.

The Attorney General of South Carolina is the States' chief prosecutor, and as an elected official, accountable to the people of the state. See: S. C. Const. Art. 5, § 24; S. C. Const. Art. 6, § 7. State v Harrison, 432 S.C. 488, (2021). See: Berger v U. S., 285 U. S. 78 (1935), "Prosecution's duty is not only to use every legitimate means to bring about a just conviction, but to refrain from improper methods calculated to produce a wrong conviction."

This Court has the authority and must exercise this authority to remedy Petitioner's unlawful conviction.

For the foregoing reasons, Petitioners request that this Court must not consider and must deny The Attorney General's request to hold Petitioners' motions in abeyance, whereas, Petitioner's life and liberty is at stake, as well as the rights of Gwendolyn B. Frasier, LaQuesha Felder, their children and family's right to familial association.

Petitioners also respectfully request that this Court conducts an emergency hearing on their petition for protection from Petitioner, Terron Dizzley, being held falsely imprisoned/kidnapped, and that their case is adjudicated pursuant to facts and findings of the evidence presented and separately conclusions of law. Petitioners contend that Equal Protection of Laws under the Fourteenth Amendment of the United States Constitution's Due Process

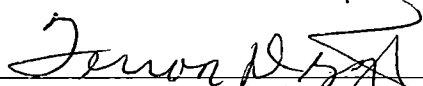
Petitioners contend that if this Court refuses to conduct an emergency hearing pursuant to Petitioner, Terron Dizzley's, false imprisonment that this Court issues an order to show cause why they are being denied equal protection of laws. Is it because Petitioner is black, because of his gender, religion or because Petitioner are pro se? Petitioners also request that if an emergency hearing is not granted within 24 hours, whereas, the law pursuant to the Thirteenth Amendment has determined that such false imprisonment is unlawful subjection to slavery, that this Court issues an order to show cause why Petitioner must be subjected to the "hate crimes" of slavery of which the Thirteenth Amendment protects him. See: "Hate Crimes Act, Badges and incidents of Slavery"; 18 U.S.C. A. § 249.

For the foregoing reasons, Petitioner, Terron Dizzley, respectfully request that his motion is granted and that Petitioner's is granted an emergency hearing within 24 hours of this motion being filed and that Petitioner, Terron Dizzley, is immediately released from the South Carolina Department of Corrections, whereas, the evidence is undisputed that Petitioner is being held for eight years and counting falsely imprisoned without any legal nor jurisdictional authority.

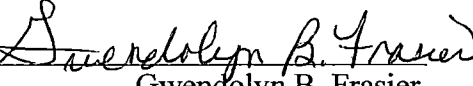
Date: July 1, 2022

Respectfully submitted,

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

S. 
Terron Dizzley, 359480
4460 Broad River Road
Columbia, SC 29210

Attorney General Office
Alan Wilson
P. O. Box 11549
Columbia, SC 29211

S. 
Gwendolyn B. Frasier
7996 Pennyroyal Road
Georgetown, SC 29440

S. _____
LaQuesha Felder
1440 Baxley Street
Orangeburg, South Carolina 29115

The State of South Carolina

In the Court of Appeals

The State, Respondent

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SC Court of Appeals

v

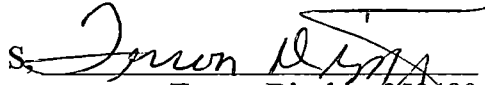
Terron Dizzley, Gwendolyn B. Frasier, LaQuesha Felder, Appellants

Appellate Case No. 2022-000671

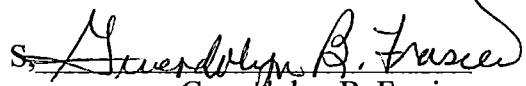
Certificate of Service

I, Terron Dizzley, Gwendolyn B. Frasier, LaQuesha Felder, certify that on this 1 day of July, 2022, have served Objections to Attorney General's Request to Hold Petitioner's Motion in Abeyance and Motion for Issuance of Show Cause Order to the Courts by placing in the U. S. Mail, Postage Pre-paid, sent to the addresses below:

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

S. 
Terron Dizzley, 359480
4460 Broad River Road
Columbia, SC 29210

Attorney General Office
Alan Wilson
P. O. Box 11549
Columbia, SC 29 29211

S. 
Gwendolyn B. Frasier
7996 Pennyroyal Road
Georgetown, SC 29440

S. _____
LaQuesha Felder
1440 Baxley Street
Orangeburg, SC 29115

The State of South Carolina

In the Court of Appeals

The State, Respondent

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SC Court of Appeals

v

Terron Dizzley, Gwendolyn B. Frasier, LaQueshia Felder, Appellants

Appellate Case No. 2022-000671

Notice

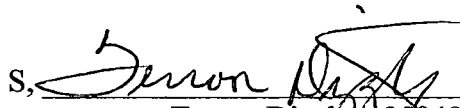
Dear Ms. Kitchings:

Enclosed, please find one original and three copies of Objections to Attorney General's Request to Hold Petitioner's Motion in Abeyance and Motion for Issuance of Show Cause Order, Stamp Filed. Please send copy to all Petitioners.

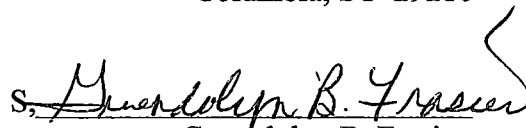
Date: July 1, 2022

Respectfully submitted,

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

S, 
Terron Dizzley, 379480
4460 Broad River Road
Columbia, SC 29210

Attorney General Office
Alan Wilson
P. O. Box 11549
Columbia, SC 29211

S, 
Gwendolyn B. Frasier
7996 Pennyroyal Road
Georgetown, SC 29440

S, _____
LaQueshia Felder
1440 Baxley Street
Orangeburg, South Carolina 29115

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Columbia, South Carolina 29210

RETURN RECEIPT
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The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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JUL 05 2022

SC Court of Appeals

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