

In The Supreme Court of South Carolina

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S.C. SUPREME COURT

Michael Alonzo Rukas

v

Case no.: _____

State of South Carolina

County Court
of Common Pleas Case no.: 2017-CP-21-0311

Request For Disqualification of All Judges - Justices
of The State of South Carolina

COMES NOW, Michael Alonzo Rukas, an individual and non-athor person as defined SC Code § 2-7-30, herein "Appellant," acting pro se in requesting for the disqualification of all the Judges and Justices of the State of South Carolina from the assignment and adjudication of this matter due to the following:

AUTHORITY

The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. *Marshall v Ferrico*, 446 US 238, 242 (1980)

"An accused has a right to an impartial judge [] and may halt the trial by objections seasonably because of the disqualification of the judge." *Turney v Ohio*, 273 US 510

Applicable Facts

Appellant's instant appeal involves his seeking relief from his previously being fraudulently and unconstitutionally infused and prosecuted in a criminal prosecution in what he has learned is recognized in our National Government's jurisprudence of law, as his suspected and presumed "corporate not personal character." (*cf. Louisville et. al. v Letson*, 2 Howard 497, 552 and 554)

Said corporate character, Michael Alonzo Rufus SS no: XXX-XX-XXXX, is a legal fiction and artificial person created under presumptions and laws of contracts associated Social Security Administration, 42 USC § 901 et seq, and this State's, as well as other States and Territories, obligation to SSA in enforcing it's programs as mandated 42 USC § 302(a)(1) and 42 USC § 1981 et seq but not limited to.

In enforcing this State's obligations to SSA, which provides financial benefits under 42 USC § 302(a)(1-3), this State must be presumed to recognized and classify the individuals whom make up the "specialized society," "association of persons," or other named aggregate of persons as having distinct characteristics and personal rights than those recognized and retaining their originally obtained statuses from natural birth. See Civil Rights Act of 1866; Paul v Virginia, 75 US 168, 169-170 but not limited to.

This science of law in relation to there being a permissible and recognized basis for classification of persons ultimately establishes and proves that persons are a subject that can make do the "subject matter" of a statutory provision. As such the classification of persons found within SC Code § 2-7-30 must be construed and applied as requiring to include persons in their individual capacities i.e. Michael Alonzo Rufus an individual; and persons in their presumed-presumed corporate capacities i.e. Michael Alonzo Rufus SS no: XXX-XX-XXXX

Under these circumstances, applicable to every court of South Carolina, including this Court, the lower court this appeal involves, and the original trial court that prosecuted and convicted Appellant, the precedents of those courts, purporting to be courts of original jurisdiction, would in fact be courts operating through the "special jurisdictional limitations and delegations of SC Code § 2-7-30" courts of special and limited jurisdiction. If not in the technical sense then by the precedent of *Celphin v Page* 85 US 350, 371 on the subject.

This pleadings create a conflict in the Judges-Justices of this Court adjudicating the instant appeal on two (2) basis.

The initiation, prosecution, adjudication, concluding by conviction, and affirming the aforementioned by the Judges-Justices of the courts of South Carolina establish that said Judges-Justices have committed acts of fraud and breach of their fiduciary duties in the use or permitting the use of the "generic term person" in criminal cases that is jurisdictional in nature.

Precedent on the prohibitions of the use of generic terms i.e. "persons" subject of this suit holds "The vice to be avoided in criminal statutes is the hazy concept they conceal either in determining what persons are included." *United States v Carroll*, 344 US 174, 176. Consistently, precedent holds "It is an elementary principle of criminal pleadings, that where the definition of an offense, whether it be of common law or by statute, include generic terms, it is not sufficient that the indictment shall charge the offense in the same generic terms in the definition; but it must state the species, it must descend to particulars." *United States v Cruikshank*, 92 US 542, 558
See also *Garpin v Page*, 1d

These pleadings, which are the foundation of Appellant's Application for Post Conviction Relief and Appellate review, prove that there exists an unscrupulous and fraudulently custom employed by public officers acting as officers of the court in acquiring and exercising jurisdiction in criminal proceedings by "non-disclosure" or concealment of material facts. *United States v Carroll* 1d, *United States v Cruikshank* 1d, and *Garpin v Page* 1d.

Judges-Justices of this Court are obvious participants of the aforementioned custom and have a liability duty to bearing of their fiduciary duties in relation to the jurisdictional defectiveness of criminal proceedings under the generic term "person" used in criminal statutes. "A confidential or fiduciary relationship exists when one imposes a special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith with due regard to the interests of the one imposing the confidence." *Pitts v Jackson, National Life Ins. Co.*, 352 SC 319, 579 SE 2d 503, 507. See also *Regions Bank v Schmeichel*, 354 SC 648, 582 SE 2d 432, 445 "A duty to disclose arises in three situations: (1) where it arises from a preexisting definite fiduciary relationship between the parties; (2) where one party expressly reposes trust and confidence in the other with reference to the particular transaction in question, or else from the circumstances of the case, the nature of their dealings, or their position towards

each other, such a trust and confidence in the particular case is necessarily implied; and (3) where the very [] transaction itself, in its essential nature, is intrinsically fiduciary and necessarily calls for perfect good faith and disclosure without regards to any particular intention of the parties." 16 at 445-446

Clearly the Judges-Justices of this Court are fiduciaries of Appellant and the "persons" accused, prosecuted, convicted, and whom's Oath of Office obligates them to act in good faith with due regard to the interests "of persons accused of and convicted of crimes. Said obligations must be construed "strictly" with reference to the authorities pleaded herein.

The abovementioned claims are applicable to the Judges-Justices of this Court in their present offices/positions and any other previous capacity/office they acted as an officer of the court under the fraudulent and unconstitutional custom herein pleaded and subject of this suit. These claims identify grounds for civil suits that neither judicial immunity, see *Casper v. Pope*, 10; statute of limitations, see *Helmberg v. Ambrecht*, 327 US 392, 397 (fraudulent concealment recedes into every statute of limitations); and similarly.

Appellant pleads that a SECOND conflict of interest exists in this matter revolves around Appellant's position and into to prove his position that the abovementioned custom is funded and facted in part by finances from the Federal government or agency in behalf of SSA or by the State as a special authority against Congress's specialized society able to advise revenues from said society through special laws.

Appellant's Applications in the lower courts were immediately dismissed pursuant to a proposed Final Order of Dismissal which failed to acknowledge or address Appellant's claims of the adjudicating judge having a pecuniary interest in the outcome of the case as herein pleaded or address Appellant's request for subpoenas for production of documents associated said Judges financial records and recommendations for employment for her career (see County Case no.: 2017-CP-31-0031) and deprived Appellant of the right to reply to a proposed Final Order of Dismissal after she received the abovementioned request for subpoenas in Appellant's PRR Application in Sumter County (Case no.: 2018-CP-43-0002). These matters must be advised and adjudicated "fairly and impartially" in this Appeal.

As such under the equitable nature of this case Appellant intends to seek equitable relief in the form of preliminary injunction of subpoena duces tecum for the financial reports and recommendations for employment for present and previous offices/employment of the Judges-Justices of this Court and the offices of the lower courts (Judge Keith Curtis and Sr Deputy AG Megan Jameson).

Appellant's being deprived of the right to access of legal research material and authorities of South Carolina by the lower courts refusal to recognize or grant his request to be produced to a South Carolina locality to affect said right (When a State makes available means for review, it is held to a constitutional requirement of substantial equality and fair process. *Anders v California*, 386 US 738, 744... Though these rules were primarily developed with reference to appellate review, we have held them applicable with equal force to state post conviction proceedings. *Smith v Bennett*, 365 US 708. *Whitney v Florida*, 387 US 138-139.) is a blow within the custom which is imperative to the prosecution of this appeal and must be adjudicated.

Without having access to said authorities Appellant is forced to rely on authorities from other jurisdictions associated the supplemental-incentive payment scheme that supports the fraudulent and unconstitutional system as it relates to SSA and the specialized society created thereunder.

No argument has been or can be argued that South Carolina has accepted finances from SSA, See 42 USC § 301, and is thereby obligated the executive branch. 42 USC § 302(a)(1) and 1981 et seq.

These circumstances are the foundation for a concerted double-excessive payment scheme in the systems of Georgia and the United States. They too use the generic term "person" to conceal their participation in the custom.

In Georgia O.C.G.A. § 1-2-1 recognizes the classes of "persons" as natural and artificial. The State goes further with describing the classes of persons that its laws and jurisdiction applies to "citizens, denizens, or temporary sojourners." § 50-2-21(e). These provisions of classification must be read and understood with reference to Georgia's constitutionally obligating itself to SSA under Ga Const

Art. III, Sec. VI, Par. 11 (3) which grants the State authority to make special laws in relation participation and compliance with laws relating to Federal programs that include "to tax, to expend public property." See D.C.A. § 98-5-220

The irrefutable fact that the "uniformity" of Georgia laws, § 50-2-21(e), is not disclosed AS REQUIRED BY LAW is paid for by supplemental payments to officers of the court responsible for the custom. Statutory authority for the officers of the court ~~and~~ supplemental payments are D.C.A. §§ 15-6-27 (g-i) and 15-6-29(c) for superior court judges and personnel they hire; 15-18-19(c)(6-7) for prosecutors and personnel they hire; 15-10-23(d) for magistrates; and 17-12-25(b) and 17-12-30(c)(6-7) for public defenders and personnel they hire including private attorneys contracting as conflict attorneys.

The judges of Georgia's superior courts; court of appeals; and supreme court, though are considered elected officials, predominantly all enter their offices initially via an filling the vacancy scheme. The scheme permits the Governor to fill the vacancy temporarily but said officers cannot be said to be randomly because it is done by recommendations of other constitutional officers. See Ga Const. Art. V, Sec. 11, Par. X. This scheme assures the continuity and life of the custom with appointments of proven lawyers of the custom.

Under Federal law Congress has defined the term "person" to include corporations, companies, associations, firms, partners, societies, and joint stock companies as well as individuals. "See Dictionary Act 1 USC § 1. Without to these classifications Appellant and deceased persons prosecuted for, purported, offenses against the laws of United States, that he is fraudulently and unconstitutionally restrained of liberty, being even a non-judge, such as 18 USC §§ 922(g), 924(c), 21 USC §§ 841 and 846 is accomplished under the established generic term "person." By making a distinct with regards the terms person and individual, the Dictionary Act suggests that the two words are not synonymous. "United States v. Hiltner, 701 F. 2d 959, 967 (4th Cir 2012); See also *Loach v. Bd and Creditors Bank* 1d

In evaluating Congress's clearly and deliberately enacting the 28 USC § 2255 proceeding, purporting, universally applied to persons challenging proceedings of a court established by Act of Congress, of 28 USC § 951 courts of the US

it supports the position that the Federal courts universal application of laws and jurisdiction under the generic term "person" is for, purported, corporate capacities of accused persons. *Louisville et al v Leason*, 2 How @ 552, 554. Precedent establishes that courts established by Act of Congress can only be employed for "public rights" matters. See *Northern Pipeline Co v Northern Pipeline Co*. 468 US 33, 83

This science of law require USA, 42 USC § 901 et seq, to be a special society that Congress has special power to protect and preserve. See *McCulloch v Maryland* supra ¶ 426. *Pittman v Home Owners' Loan Corp*, 308 US 21, 33. This would include the association of persons incorporators under SC law. See 42 USC § 302 (a)(1-3). *United States v Keady*, 317 US 100, 118-119.

For conducting these transactions the officers of the court conducting said proceedings behind the facade of the district court, see *Northern Pipeline* pg 2879 would technically be civil employees requiring civil recognition and payment i.e. employees of the judicial and executive branch, under provisions such as 5 USC § 5533 et seq but not limited to.

A well established legal position, associated these circumstances is, "in the general course of human nature, a power over a man's subsistence amounts to a power over his will." *The Federalist No. 79* p 49 (H. Lodge Ed 1888)

AGAIN Appellant being without access to legal research materials or capabilities of South Carolina has learned that evidence of the unethical and fraudulent supplemental-incentive system associated the Judges-Justices and other officers of the court employment for employing the fraudulent and unconstitutional custom under the generic term "person," SC Code § 2-7-30, as herein pleaded can be found that Chief Justice Donald Beatty, administrative head of the Judicial Department, is salaried \$4,160 higher his base pay, at \$2,7,160 annually after removing state lawmakers in 2019 to give himself and other judges a 33% pay raise. Four other Justices Tom Fee, Hoyt Hagan, George James, and John Kitzhaber receive a base salary of \$2,02,057. See *The News* article by Rick Brantlett.

The aforementioned article also disclosed that salary records of the Judicial Branch were being withheld under a long standing practice that protected South

Carolina's requirement for public disclosure of salaries for judicial-public officials to be published or released.

Appellant pleads that the aforementioned long standing non-disclosure is undoubtedly an element and necessity of keeping the People of South Carolina concerned, thereby ^{NOT} investigating, into the true nature of such high salaries. Said non-disclosure is a similarly natured fault of public officials like that of the non-disclosure of the species and particulars subject of this appeal that are connected.

It is Appellant's position that an adjudication of his claims for relief in his PCR Application, its dismissal, and said adversities being under a custom employed by officers of the court, recently found to be receiving enormous salaries, will unveil information that prove the salaries are related to excessive taxation of persons in their corporate capacities due to incorporation into SSA. This taxation includes matters of regulating, arresting, housing, imprisoning etc individuals in their corporate capacities; see D.C.A. 89-2-25, 9-2-29 and 48-5-220.

Conclusion

In order for Appellant to receive a fair and impartial adjudication of his claims of being a private person-citizen and have been fraudulently and unconstitutionally deprived of liberty by a court, proceeding acquiring and exercising jurisdiction under the generic term "reason" as codified SC Code 5-2-7-30 and employed the charging documents against him. Due Process requires officers of the court whom have and are participants of the unconstitutional and fraudulent use and permitting the use of the term to disqualify themselves. "Before one may be deprived of a protected interest, whether in a criminal/civil setting, *Marshall v Teague*, 446 US 208, 212, one is entitled as a matter of due process of law to an adjudicator who is not in a situation which would offer a possible temptation to the average man as a judge... which would lead him not to hold the balance nice, clear, and true..." *Ward v Village of Monroeville*, 409 US 57, 61-62

WHEREFORE upon inquiry into these pleadings Appellant prays that the Justices and Judges of South Carolina's courts be disqualified this matter; alternatively that the equitable powers of this Court be used in issuing a order requiring the production

of Appellant to a facility of South Carolina wherein he can have access to legal research materials and other resources in papers submitting evidence of his claims herein pleaded; and that he be granted any relief warranted under justice, law, and equity under the circumstances.

Submitted As of Right

Michael P. R.
Michael P. R. - Appellant

Sworn to or Affirmed before me
this 17th day of October, 2022

J. Thomas
J. THOMAS SIGNATURES



NOTE 1. Perhaps it is easy to forget, now more than two centuries removed from the events, that one of the ingredients of the Declaration of Independence was that King George III had combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; "in emitting legislation 'for imposing Taxes on us without our Consent.'" The Declaration of Independence para. 16 (US 1776)

The extraordinarily high salaries and granted 33% raise in salaries of the Judges-Justices must be deemed a cost to the taxpayers. The permitting of such salaries and raising of said salaries without the consent, and in fact consentment, of the People supports the position that there exists an excessive taxation that the People are unaware of. Such circumstances must be established with the universal application of South Carolina's laws and jurisdiction without regards to and in fact correcting the "unfairness" herein pleaded.