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Nov 23 2022

SC Court of Appeals

The Court Of Appeals Of The State Of
South Carolina

Alan L. Burns, #143218,
Petitioner,

v.

State Of South Carolina,
Respondent.

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S.C. SUPREME COURT

Appellate Case No. : 2019 - 000380

BRIEF IN SUPPORT OF PETITION
FOR REHEARING

COMES NOW the above named Petitioner who hereby moves this Honorable Court to rehear this case based upon the following facts of law and evidence :

1) The PCR hearing Judge's order was clearly in error of law and supported by any facts or evidence ,

2) The South Carolina Supreme Court has held that the "standard of review of a petition for post conviction relief is that on certiorari in a post conviction action , the Supreme Court applies an any evidence standard of review , accordingly , it will affirm the post conviction relief courts findings if any evidence of probative value exists

in the record but reverse the postconviction relief judge's decision when it is controlled by error of law." Sanders v. State, 412 S.C. 611, 773 S.E.2d 580 (2015) (emphasis added).

3) The PCR judge based his decision upon the law that was in effect at the time the alleged offenses were committed, the charges were investigated by the police, and tried by the court, S.C. Code of Law Ann. §§ 23-20-50(A)(2D), which stated in pertinent part, "For agreements entered into prior to June 1, 2000, the agreement may be ratified by the governing body of each jurisdiction."

4) The PCR judge acknowledged in his ruling and decision that the agreements in this present case were entered into before June 1, 2000 (1993 and 1998 respectively). The judge stated specifically,

"Further, the Agreements in this case was entered into in before June 2000. As a result, section 23-20-50 does not require it be approved by the governing bodies of each county in order for it to remain in effect. The section states: "For agreements entered into prior to June 1, 2000, the agreements may be ratified by the governing body of each jurisdiction."

5) The evidence presented at hearing and entered into the record clearly showed that the alleged crimes were committed outside the Town of Mt. Pleasant's boundaries in rural Charleston County.

6) The testimony given by Assistant Solicitor was that

a contract was required and that the contracts of this case were expired at the time the alleged offense were committed, investigated and prosecuted and tried. Please see: ~~the~~ Petitioners / Applicants Exhibit # 1, 93 Contract; Exhibit # 2, 98 Contract; Exhibit # 3, Map.

7) This Court should not give weight to counselor James L. Falk's proclamation and request for this case to be dismissed for lack of merit. Appointed Counselor Christopher L. Murphy and James L. Falk, did admit to Petitioner that neither had ever heard of and had no knowledge of "territorial jurisdiction." Please see, Attachment A, paragraph 1, lines 1 thru 2.

8) The PCR Court ~~was~~ recognized that the Petitioner had the right to raise, argue and present evidence on this territorial jurisdiction issue. The Petitioner is entitled to an order specifically addressing each specific aspect of this territorial jurisdiction issue that is presently before this Court.

9) The South Carolina Supreme Court has held in State v. Dudley, that :


"Although territorial jurisdiction is not a component of subject matter jurisdiction, we hold that it is a fundamental issue that may be raised by a party or by a court at any point in the proceeding. *** The exercise of extraterritorial jurisdiction implicates the ——— sovereignty, a question so elemental that we hold it can not be waived by conduct or by consent." 11
See, State v. Dudley, 364 S.C. 578, 614 S.E. 2d 623, 626 (2005).

10) The records of the PCR hearing will clearly show that the Petitioner was the only party to present and submit

evidence or to call witnesses to testify.

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Nov. 18, 2022

Respectfully submitted,


Mr. Alan L. Burns, # 143218
Kirkland C.I., F-1-B-139
4344 Broad River Road
Col., SC 29210 - 4098

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S.C. SUPREME COURT



RESNICK & LOUIS, P.C.

ATTORNEYS AT LAW

Christopher L. Murphy
Admitted in SC
cmurphy@rlattorneys.com

REPLY TO THE CHARLESTON OFFICE
234 Seven Farms Drive, Suite 128
Charleston, SC 29492
(843) 800-1187

December 10, 2018

VIA U.S. MAIL

Alan Burns, SCDC #143218
Broad River Correctional
4460 Broad River Road
Columbia, SC 29210

Re: *Alan Burns v. State of South Carolina*
Case No.: 2017-CP-10-271
Post Conviction Relief

Attachment
A
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Dear Mr. Burns:

I enjoyed meeting you and was impressed with you knowledge. ~~I never heard of territorial jurisdiction and learned something.~~ With the holidays and the 30 day deadline, I will not have time to review your order, type in and suggest changes, but I did want to give you an outline of how I think you should organize your thoughts.

You have two issues, territorial jurisdiction and failure to get documents from grand jury and ultimately, no appeal asking for cert.

First, since you represented yourself, you can only claim errors by Appellate Counsel which greatly limits you to appeal issues. Therefore, in order to prevail, you need to show the court that you would have succeeded on the appealable issues. These are legal matters and the file contains the proper facts to address those issues.

I would start with the Territorial Jurisdiction claim. You have the maps, the place of the crime and the contracts. This is an easy issue and you either have it, or you don't. You can rely on the testimony in the original hearing to support your argument. I would present as follows:

- I. Place of the alleged crime
- II. The maps in evidence that show the jurisdictions
- III. The contracts and the trial explanation of ratification
- IV. The lack of law on the issue (1 case) and the lack of a ratification.
- V. The right to present that issue which *Hackett* decided against plus the lack of case law either way and your arguments.

Alan Burns, SCDC #1-18
Broad River Correctional
December 10, 2018
Page: 2

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I would then present Grand Jury issue as follows:

- I. Documents you wanted
- II. Reason you needed the documents - basically the age of the case
- III. Explanation given as to location of documents
- IV. *Hacket* denied your right to ask for cert.

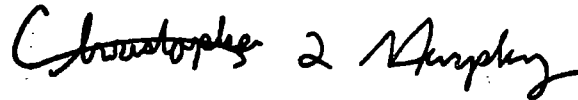
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This is a harder issue, but I would include.

Best of luck to you and call with any questions.

Kindest regards, I am,

Sincerely,



Christopher L. Murphy, Esq.
For the Firm

CLM/jh

Mr. Burns, Alan L., #143218
Kirkland C.I., F-1-B-139
4344 Broad River Road
Col., SC 29210-4098



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The Hon. Patricia A. Howard, Clerk
S.C. Court of Appeals
1231 Gervais Street
Col., SC 29201

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SC Court of Appeals

The South Carolina Court Of Appeals

Alan L. Burns, #143218,
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S.C. SUPREME COURT

Appellate Case No. : 2019-000380

PROOF OF SERVICE

Petitioner hereby certifies that he has on this 21st
day of November 2022, served the Respondent a true
hand written copy of his Brief In Support Of Petition For
Rehearing, by placing same in the U. S. Mail addressed as
follows :

S.C. Attorney General's Office P.O. Box 11549
Col., SC. 29211-1549.

I SO CERTIFY :



Alan L. Burns, #143218
Kirkland C.I., F-1-B-139
4344 Broad River Rd.
Columbia, SC. 29210-4098

Mr. Burns, Alan L., # 143218
Kirkland C.I., F-1-B-139
4344 Broad River Road
Col., S.C. 29210 - 4098

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Nov. 21, 2022

Hon. Patricia A. Howard, Clerk
S.C. Court of Appeals
1231 Gervais Street
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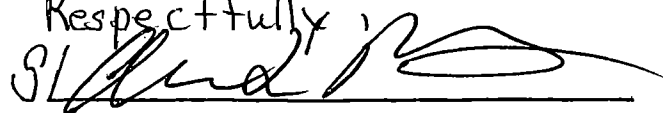
SC Court of Appeals

Re: C/A No.: 2019 - 000380
(Brief In Support Of Petition For Rehearing)

Dear Clerk:

Please find enclosed my brief and proof of service for filing and processing.

You will also find an additional copy, please check and return that copy.

Respectfully,


Alan L. Burns

ALB/alb

Enclosures

cc: S.C. Attorney General's Office