

Court

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
TERRY L NORMAN 198543

IN THE COURT OF COMMON
PLEAS
SEVENTEEN JUDICIAL CIRCUIT

2022-CP-42-02696

WALLACE, WARDEN KIRKL
AND CORRECTIONAL INST.

REQUEST FOR ORDER

TO CHIEF ADMINISTRATIVE JUDGE:

I TERRY L NORMAN THE PETITIONER HEREBY STATES THAT HE IS UNLAWFULLY BEING CONFINED AT KIRKLAND CORRECTIONAL INST ON THE BASIS OF NOA--AUTHENTIC DOCUMENTS IN THE FOR AN ARREST WARRANT, INDICTMENT AND SENTENCE SHEET WITHOUT AN ORDER. FOR A VIOLATION OF AN OFFENSE THAT HAD BEEN DECLARED UNCONSTITUTIONAL AND DO NOT EXIST THE OFFENSE WAS RULE UNCONSTITUTIONAL BECAUSE IT REQUIRED A MANDATORY DEATH PENALTY.

THE RECORDS DO NOT MEET THE REQUIREMENTS FOR ADMISSION VIOLATING RULES OF EVIDENCE RULE 901 ATTACH IS THE PETITION AND SUMMON THESE CLAIMS.

THE PETITIONER REQUEST AN ORDER BE ISSUED DIRECTING WARDEN WALLACE TO BRING HIM BEFORE THE COURT TO DETERMINE IN THE TRUE CAUSE OF HIS CONFINEMENT.

IT IS SO ORDERED
THIS _____ DAY OF

Denied. *R. Keith Kelly*
2022 19 July 2022
Spartanburg, SC

CHIEF ADMINISTRATIVE JUDGE
SEVENTEEN JUDICIAL CIR

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

RE: PETITION FOR WRIT OF HABEAS CORPUS
DEAR CLERK/JUDGE PLEASE FIND FOR FILING WITHIN
THE OFFICE OF THE CLERK OF COURT. (1) PETITION
(2) SUMMONS TO BE SERVED ON RESPONDENTS AND
(3) EXHIBITS ATTACH AND BY THIS LETTER THE
PETITIONER REQUEST THE RETURN OF A COPY FOR HIS
FILES THE ORDER GRANTING WRIT OF HABEAS CORPUS
IF ISSUE

THANK YOU
T L NORMAN

FILED

2022 JUL 21 AM 11:39

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

COURT

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
TERRY L NORMAN 198543
PETITIONER

IN THE COURT OF COMMON
PLEAS
SEVENTEEN JUDICIAL CIRCUIT

V

S.U.M.M.O.N.S. IN

WARDEN WALLACE KIRKLAND
C INST. AND STATE OF SOUTH
CAROLINA ETAL

WRIT OF HABEAS-CORPUS.

RESPONDENTS

NOTICE IS HEREBY GIVEN THAT YOU ARE REQUIRED TO ANSWER
OR OTHERWISE PLEAD TO THE ALLEGATION WITHIN THE PETITION
WITHIN (30) DAYS OF RECEIPT THEREOF OR CAUSE THE PETITIONER
TO BE BROUGHT BEFORE THE COURT WITHIN THE SPACE OF
TO SHOW THE TRUE CAUSE OF HIS CONFINEMENT FOR
A FAILURE TO DO SO I HEREBY GIVE NOTICE THAT I WOULD MOVE
BEFORE THE COURT FOR AN ORDER GRANTING ME THE RELIEF PRAYED
FOR IN THE PETITION

ALL RESPONSIVE PLEADINGS MUST BE MADE RETURNABLE TO
TERRY L NORMAN 198543 KIRKLAND CORRECTIONAL INST 44
River Rd Columbia SC 29210 ICS UNIT F2 B234

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COLE

Terry L Norman
Pro-se Petitioner

COURT

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON
COUNTY OF SPARTANBURG		PLEAS
TERRY L NORMAN 198543)	SEVENTEEN JUDICIAL CIRCUIT
V		PETITION FOR A
WARDEN WALLACE KIRKLAND)	WRIT OF HABEAS-CORPUS
CORRECTIONAL INSTITUTION AND		PURSUANT TO 17-17-10
STATE OF SOUTH CAROLINA)	17-7-70
RESPONDENTS)	

NOW HERE COMES THE PETITIONER WHO HEREBY MOVE BEFORE THIS COURT FOR AN ORDER VACATING HIS CONVICTION AND SENTENCE OR ARREST JUDGEMENT THE PETITIONER HAVE EXHAUSTED HIS APPEAL AND POST-CONVICTION AVENUES AND IS WITHOUT ANOTHER MEANS OF GETTING RELIEF AND THERE EXIST EVIDENCE OF FACTS AND LAW NOT PREVIOUSLY RULED UPON WHICH VACATION OF MY CONVICTION AND SENTENCE

HISTORICAL BACKGROUND

THE RECORD AND EXHIBIT WOULD REFLECT PETITIONER WAS ARRESTED ON THE BASIS OF A NEW JUDICIAL WARRANT FOR MURDER PURSUANT TO 16-3-10-16-3-20 FOR STABBING BY AFFIANT RUSTY CLEVENSER THE WARRANT IS FACIALLY INVALID BECAUSE THE MAGISTRATE ISSUING THE WARRANT WAS NOT AUTHORIZED BY LAW TO ISSUE AN ARREST WARRANT IN CASES OF MURDER.

FILED
 2022 JUL 21 AM 11:39
 CLERK OF COURT
 SPARTANBURG COUNTY
 ANY W. COX

COURT

BASED UPON THIS WARRANT AN INDICTMENT WAS OBTAINED

THE RECORD WOULD REFLECT THAT THE INDICTMENT GIVES NOTICE THAT THE GRAND JURY CONVENED ON JULY 6TH 1995 AND ON THE 10TH OF JULY 1995 HOWEVER THE INDICTMENT WAS NOT OBTAIN IN 48 HRS AFTER ARREST AND WAS NOT FILED, BY THE CLERK OF COURT THAT WAS IN OFFICE AT THE TIME OF THE PROCEEDINGS AND WAS NOT CERTIFIED AUTHENTIC BEFORE SUBMITTING TO THE COURT AS A FORMAL CHARGE OR JUDICIAL DETERMINATION OF PROBABLE CAUSE.

THE RECORD WOULD ALSO REFLECT THAT THE COMMITMENT DOCUMENT WAS NOT ATTESTED TO UNDER SEAL RECORDED AND FILED BEFORE IT WAS SEALED UPON ME OR SENT TO SCDC AS AN AUTHENTIC RECORD TO SUPPORT THE JUDGEMENT OF THE COURT JURISDICTION UPON SCDC TO CONFINE ME DOES NOT CONTAIN AN ATTESTATION CLAUSE THEREFORE PETITIONERS CONFINEMENT IS UNLAWFULL BECAUSE HE IS BEING CONFINED WITH OUT LAWFULL AUTHORITY AND WITHOUT LEGAL PROCESS AMOUNTING TO FALSE ARREST, FALSE IMPRISONMENT, ABUSE OF PROCESS, SHAM LEGAL PROCESS AND FALSELY ASSERTING AUTHORITY AND FRAUD

FILED
2022 JUL 28 AM 11:39
CLERK OF COURT
SPARANBURG COUNTY
ANNEX 00X

Court

LAW ANALYSIS:

FALSE ARREST: THE PETITIONER WAS FALSELY ARRESTED AND WAS ILLEGALLY SEIZED AND CONFINED BY THE RESPONDENTS IN VIOLATION OF ARTICLE 6 C12 OF THE SUPREMACY CLAUSE BECAUSE HIS ARREST AND PROSECUTION IN VIOLATION OF MAPP V OHIO WHICH STATES THAT "STATES CRIMINAL PROCEEDINGS MUST CONFORM TO THE SAME FOURTH AMENDMENT STANDARD THAT APPLY TO FEDERAL PROCEEDINGS THIS REQUIREMENT OF THE FOURTH AMENDMENT WAS SPELLED OUT IN GEROSTEIN V. PUGH 420 US 103 95 S Ct 854 43 L Ed 2d 54 (1975) IN THE CONTEXT OF PRETRIAL ARREST AND DETENTION.

THE COURT HELD THAT THE FOURTH AMENDMENT REQUIRES A JUDICIAL DETERMINATION OF PROBABLE CAUSE AS A PREREQUISITE TO EXERCISE RESTRAINT OF LIBERTY FOLLOWING ARREST BECAUSE THE WARRANT IN THIS CASE WAS ISSUED BY A MAGISTRATE THE PETITIONER WAS FALSELY ARRESTED SEE STATE V. COVERT 368 SC 188, 628 SE 2d 482 STATING WARRANT NOT ISSUED UNTIL SIGN BY APPROPRIATE AUTHORITY THEREFORE THERE WAS NO LEGAL PROCESS SERVED UPON PETITIONER THEREFORE HE WAS NOT SUFFICIENTLY NOTICED OF THE CHARGES AGAINST HIM. DUE TO A LACK OF A JUDICIAL WARRANT.

FILED
2022 JUL 21 AM 11:38
CLERK OF COURT
SPRINGBURG COUNTY
ALAY W. COOK

COURT

FALSE IMPRISONMENT: THE PETITIONER WAS AND IS FALSELY BEING IMPRISONED DUE TO THE IMPOSITION OF LACK OF FREEDOM OF MOVEMENT BECAUSE THERE IS NO LAWFUL AUTHORITY TO JUSTIFY SUCH 35 CJS FALSE IMPRISONMENT IN THAT A WARRANT WAS AND IS LACKING AND THE INDICTMENT INVALID BECAUSE THE PETITIONER WAS INDICTED UNDER THE WRONG STATUTE AND IT WAS NOT AUTHENTICATED RECORDED AND FILED SO AS TO CONFERR JURISDICTION UPON THE COURT TO ENTERTAIN THE CHARGE AND TO GIVE NOTICE TO PETITIONER THE DUE-PROCESS AND PROCEDURAL DUE PROCESS REQUIRES THAT A DEFENDANT RECEIVE TRUE NOTICE OF THE NATURE OF THE CAUSE AND THE ACCUSATION AND OF THE PROCEEDING AGAINST HIM AND AN OPPORTUNITY TO BE HEARD.

HERE THE PROCESS RECEIVED BY THE PETITIONER WAS INADEQUATE AND THE ISSUES CONCERNING SUCH WAS NOT PREVIOUSLY HEARD.

THE INDICTMENT IS ALSO DEFECTIVE BECAUSE TWO ELEMENTS OF THE OFFENSE IS "Unlawfully" IN SOUTH CAROLINA NOT ALL KILLING IS MURDER IT COULD BE "VOLUNTARY MANSLAUGHTER", "INVOLUNTARY MANSLAUGHTER" AND JUSTIFIABLE HOMICIDE WHICH IS "LAWFUL" MURDER

THEREFORE THE PETITIONER WAS NOT SUBSTANTIALLY CHARGED WHICH IT IS THE BURDEN UPON THE STATE TO NOT ONLY PROVE EACH AN EVERY ELEMENT OF THE OFFENSE BUT TO DECLARE THE CURRENT AND CORRECT LAW SC CONST ARTICLE 5 § 21

FILED
 2022 JUL 21 AM 11:39
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY W. COX

COURT

IN WEST KEY DIGEST KEY 500 NOTE (D) THERE ARE DIFFERENT KINDS OF HOMICIDE THE TERM UNLAWFUL IN DEFINING CRIMINAL HOMICIDE DISTINGUISHES CRIMINAL HOMICIDE FROM THOSE HOMICIDES WHICH SOCIETY HAS DETERMINED TO JUSTIFIED OR EXCUSABLE THE CORRECT DEFINITION OF MURDER WAS NOT CONTAINED IN THE INDICTMENT AND WAS NOT GIVEN NOTICE OF TO THE PETITIONER SEE ALSO SC JUR HOMICIDE 4 § 4 STATE V JOHNSON 352 SE 2d 480 16-3-10 (1985) DEFINES MURDER AS THE "UNLAWFUL" KILLING.

ABUSE OF PROCESS THE PETITIONERS CONFINEMENT IS ILLEGAL AND UNLAWFUL BECAUSE IT WAS CAUSE IN PART DUE TO AN ABUSE OF PROCESS BY NOT INITIATING CRIMINAL PROSECUTION IN THIS CASE BY THE PROPER AUTHORITY

PURSUANT TO ARTICLE 1 SECTION 22 OF THE SOUTH CAROLINA CONSTITUTION PROVIDES THAT NO PERSON SHALL BE FINALLY BOUND BY A JUDICIAL OR QUASI-JUDICIAL DECISION OF AN ADMINISTRATIVE AGENCY AFFECTING PRIVATE RIGHTS EXCEPT ON DUE NOTICE AND AN OPPORTUNITY TO BE HEARD THE RIGHT TO JUDICIAL REVIEW.

HERE THE PROSECUTION WAS INITIATED BY WARRANT AND MAGISTRATES DO NOT HAVE JURISDICTION IN CASES OF MURDER AND THE WARRANT WAS SUBMITTED TO RECORDED AND FILED IN THE CIRCUIT COURT WHEN THE RESPONDENT KNEW OR REASONABLY SHOULD HAVE KNOWN THAT IT DID NOT ORIGINATE FROM ITS TRIBUNAL

FILED
2022 JUN 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COOK

COURT

THIS VIOLATED SCODE AM 30-5-30 WHICH REQUIRES PROOF OF EXECUTION OF COMPLIANCE WITH UNIFORM RECOGNITION OF ACKNOWLEDGEMENT ACT BEFORE ANY INSTRUMENT IN WRITING CAN BE RECORDED IN THIS STATE

THE PROCESS IN THIS CASE WAS MISUSE BECAUSE IT WAS NOT LAWFULLY WARRANTED DUE TO THE CONDUCT OF THE PROCEEDINGS AND WAS NOT REGULARLY USE IN CASES OF MURDER.

SHAM LEGAL PROCESS: THE PETITIONER CONFINEMENT IS IN VIOLATION OF THE CONSTITUTION AND LAWS OF THE UNITED STATES AND SOUTH CAROLINA. IN THAT HE WAS SUBJECTED TO A SHAM LEGAL PROCESS BY THE RESPONDENT WHO INITIATED PROSECUTION WITHOUT "ORIGINAL" EXCLUSIVE AND "PERSONAL JURISDICTION" AND

THE JUDGEMENT IS VOID AND WAS VOID FROM ITS INCEPTION SC CONST ARTICLE 1 § 22 PROVIDES THAT NO PERSON SHALL BE DEPRIVED OF LIBERTY OR PROPERTY UNLESS BY A PROCEDURE PRESCRIBED BY THE GENERAL ASSEMBLY.

SC CONST ARTICLE 5 § 11 PROVIDES THAT THE CIRCUIT COURT IS A TRIAL COURT WITH ORIGINAL JURISDICTION AND EXCLUSIVE JURISDICTION IN CASES OF MURDER. SEE SC CODE AM 17-19-40

By "ORIGINAL JURISDICTION" WE MUST UNDERSTAND IS DEFINED AS JURISDICTION IN THE FIRST INSTANCE OR JURISDICTION TO TAKE COGNIZANCE OF A CRIME/CAUSE AT ITS INCEPTION.

"EXCLUSIVE JURISDICTION" IS DEFINED AS JURISDICTION CONFINED TO A PARTICULAR TRIBUNAL BY IT TO THE EXCLUSION OF ALL OTHERS 21 CJS COURTS SECTION 18

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

Court

THE RESPONDENT KNEW OR REASONABLY SHOULD HAVE KNOWN THAT A VALID INDICTMENT COULD NOT BE RETURNED DUE TO THE MAGISTRATES COURT HAVING EXCLUSIVE PERSONAL JURISDICTION OF THE PETITIONER. AND COULD NOT SUMMON OR CONVEY A GRAND JURY ON THE BASIS OF SUCH BECAUSE THE GRAND JURY AS A BODY WOULD BE VOID, IN THAT THE STATE WAS NOT MADE A PARTY TO THE PROCEEDINGS BY ISSUANCE OF A "JUDICIAL WARRANT" FROM THE CIRCUIT COURT AND SUBJECT MATTER JURISDICTION WAS LACKING.

CITING STATE V FUNDERBURK 259 SC 256 WHERE THE COURT HELD "THE CRIMINAL JURISDICTION OF THE GRAND JURY IS 'CO-EXTENSIVE' WITH THE CRIMINAL JURISDICTION OF THE COURT FOR WHICH IT IS EMPANELED AND FOR WHICH IT IS TO MAKE INQUIRY SEE CJS 38 GRAND JURIES 3B PAGE 1029 SEE EXHIBIT WARRANT ATTACHED. # 1

WITH NO NEED FOR CITATION OR AUTHORITY THE ACTS OF A COURT AS TO A MATTER IN WHICH IT HAS NO JURISDICTION IS VOID. COURTS KEY 40

THEREFORE PETITIONER IS ENTITLED TO RELIEF FALSELY ASSERTING AUTHORITY: THE PETITIONER IS UNLAWFUL BECAUSE THE RESPONDENT HAS FALSELY ASSERTING AUTHORITY TO KEEP PETITIONER CONFINED WITHOUT A VALID COMMITMENT ORDER. INDICTMENT AND WARRANT, BY THE USE OF "FRAUD"

THE WARRANT IS NON-JUDICIAL AND VIOLATES THE SUPREMACY CLAUSE AND USCA CONST AMEND. 3 § 1
(7)

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
ANY VA COM

COURT

THE INDICTMENT, WAS NOT RECORDED AND FILED BY THE CLERK THAT WAS IN OFFICE AND THE COMMITMENT ORDER LIKE WISE WAS NOT ATTESTED TO BY THE CLERK UNDER SEAL RECORDED AND FILED BEFORE IT WAS SEALED UPON THE PETITIONER OR SEND TO SCDC AS EVIDENCE OR PROOF OF A VALID JUDGEMENT THEREFORE THE JUDGEMENT IS NOT FINAL AND CAN BE COLLATERALLY ATTACKED BECAUSE OF ITS NON-AUTHENTICITY AND IS NOT BINDING. SEE INDICTMENT EXHIBIT #2 "AUTHENTICATION" ALL EVIDENCE MUST BE AUTHENTICATED SEE 2 MCCORMICK ON EVIDENCE § 221 (THED 2016) "ALL JURISDICTIONS THE REQUIREMENT OF AUTHENTICATION APPLIES TO ALL TANGIBLE AND DEMONSTRATIVE EXHIBITS) AUTHENTICATION IS A SUBSPECIES OF RELEVANCE, FOR SOMETHING THAT CANNOT BE CONNECTED TO THE CAUSE CARRIES NO PROBATIVE FORCE.

HERE AS EVIDENCE OF EXHIBIT INDICTMENT WAS FALSE AUTHENTICATED BY ANOTHER CLERK AND THE COMMITMENT ORDER WAS AUTHENTICATED FILED WITH THE CLERK OF COURT AND ENDORSED AS AN ORDER VIOLATING RULES OF EVIDEN RULE "A SUMMARY PROCESS MUST BE SEALED IT IS A JUDICIAL PROCESS AND NOT A MERE RECORD OF THE COURT.

FILED
 2022 JUL 21 AM 11:39
 CLERK OF COURT
 SPARTANBURG COUNTY
 ANY WE COOK

ORDER IS NOT BINDING ON PARTIES UNTIL DELIVERED TO CLERK FOR FILING. SEE BOWMAN V RICHLAND MEMORIAL HOSP. 515 SE 2d 259. "ONLY AFTER THE ORDER IS FILED WITH THE CLERK OF COURT ARE THE PARTIES GIVEN NOTICE OF THE ORDER AND PROVIDED WITH THE OPPORTUNITY TO COMPLY WITH IT

Court

LACK OF SUBJECT MATTER JURISDICTION

PETITIONER CONFINEMENT IS UNLAWFULL BECAUSE HE WAS INDICTED AND CONVICTED FOR AN OFFENSE THAT WAS NOW EXISTENT, IN VIOLATION OF THE EX-POST FACTO CLAUSE OF ARTICLE I § 9 AND 10 OF USC AND SOUTH CAROLINA CONSTITUTION ARTICLE 1 § 14 AND USCA 14.

SUBJECT MATTER JURISDICTION OF THE COURTS CONSTITUTIONAL AND STATUTORY POWER TO ADJUDICATE A CASE. HERE THE CASE OR CHARGE WAS THAT THE PETITIONER COMMITTED THE OFFENSE BY STABBING

KILLING BY STABBING OR THRUSTING REQUIRES PROOF OF AN ELEMENT NOT REQUIRED TO PROVE THE CRIME OF MURDER IE USE OF A KNIFE OR SIMILAR WEAPON TO CAUSE DEATH.

THE STATUTE THAT DEFINES THIS OFFENSE IS 16-
ORIGINALLY ENACTED IN 1712 AND IS COMMONLY KNOWN AS
THE DUELLING STATUTE.

IT PROVIDES FOR AN AUTOMATIC PENALTY OF DEATH ON CONVICTION AND IS THEREFORE UNCONSTITUTIONAL BASED UPON THE HOLDING IN FURMAN V GEORGIA 408 US 238 92 S Ct 2726 33 L Ed 2d 346 (1972) SEE SCAGOPIMON WL 599295 (1990) CRIMINAL CONVICTION VIOLATES DUE-PROCESS IF AT TIME OF CONDUCT WHICH FORMS THE BASIS OF CONVICTION DEFENDANT DID NOT HAVE "FAIR NOTICE" THAT CONDUCT WAS CRIMINAL COURTS DOES NOT HAVE SUBJECT MATTER JURISDICTION TO PROSECUTE A DEFENDANT WHEN STATUTE MAKING THE OFFENSE CRIME HAS BEEN REPEALED

FILED
2022 JUL 21 AM 11:53
CLERK OF COURT
SPARTANBURG COUNTY
S.W. COX

COURT

THE GENERAL RULE IS THAT REPEAL STATUTE WITHOUT A SAVING CLAUSE ENDS PROSECUTION AND PUNISHMENT UNDER IT. TAYLOR V MURPHY 293 SC 316-318 -19,360 SE 2d 314,316 (1987) STATE V RUMSEY 276 SC 236 226 SE 2d 894,895.

THE COMMON LAW RULE IS EXTINCTION OF A STATUTE IS AN INDICATION THAT THE SOVEREIGN NO LONGER DESIRES THE FORMER CRIME BE RECORDED AS CRIMINAL STATE V SPENCER 177 SC AT 357, 181 SE 2d AT 222. SEE ALSO SC AC OPINION WL 2849799 CITING STATE V RUMSEY HOLDING STATUTE WHICH IMPOSED A MANDATORY DEATH PENALTY UPON CONVICTION AND FINDING OF MURDER IS UNCONSTITUTIONAL

THE PETITIONERS CONVICTION AND SENTENCE IS ILLEGAL AND VOID BECAUSE THE COURT WAS INSTRUCTED BY THE SOLICITOR THAT MALICE CAN BE INFERRED OR PRESUMED BY THE USE OF A DEADLY WEAPON VIOLATING STATE V WELCHER SEE TRANSCRIPT OF RECORD PAGE 380 LINES 19-20 "PLAIN ERROR" WAS ALSO COMMITTED BY THE COURT WHEN HE SENTENCE THE PETITIONER LIFE INSTEAD OF A JURY VIOLATING THE HOLDING IN STATE V WILLIAMS 166 SC 63 81 164 SE 415 STATING THE TRIAL JUDGE IS NOT A JUROR

A TRIAL JUDGE MAY NOT INVADE THE PROVINCE OF THE JURY OR SUBSTITUTE HIS VERDICT FOR THEIRS WATFORD V SC STATE HIGHWAY DEPT 269 SC 130, 133 236 SE 2d 558 SEE ALSO WEST SOUTH CAROLINA DIGEST CRIMINAL LAW KEY NO 935 SEE PETITIONERS EXHIBITS

FILED
2020 JUL 21 AM 11:39
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
MAIL ROOM

Court -

A SEPERATION OF POWERS VIOLATION TOOK PLACE IN THAT THE CASE WAS INITIATED OR OTHERWISE BROUGHT BEFORE THE COURT BY WAY OF AN ARREST WARRANT ISSUED BY THE MASISTRATES COURT

A MASISTRATE DOES NOT HAVE JURISDICTION IN CAPITAL CASES AT ALL

THE CONSTITUTIONAL AND STATUTORY CONDITIONS WERE NOT MET AND A VALID INDICTMENT COULD NOT BE OBTAINED BECAUSE THE MASISTRATES COURT HAS EXCLUSIVE PERSONAL JURISDICTION BECAUSE SOUTH CAROLINA CONSTITUTION CONST ARTICLE 5 § 11 AND STATE STATUTE 17-19-40, CONST ART 1 § 5 USCA 14

HERE THE STATUTORY WARRANT WAS NOT COMPLIED WITH WHICH IS A MANDATORY REQUIREMENT OF THE STATE AND FEDERAL CONSTITUTION IN INITIATING CRIMINAL PROSECUTION WHICH MUST CONFORM TO THE FOURTH AMENDMENT STANDARD REQUIRED BY GERNSTEIN V PUGH 2ND CONST ART 17 § 10

SEE STATE V COVERT. NOTE (3) STATUTE ISSUANCE, EXECUTION AND RETURN OF WARRANTS DO NOT SPECIFICALLY REQUIRE THAT WARRANT BE ISSUED BUT THAT IT "BE ISSUED" AND UNDER STATUTE WARRANT IS NOT "ISSUED" UNTIL SIGNED BY APPROPRIATE OFFICER IN THIS CASE A JUDGE OF A COURT OF RECORD IE CIRCUIT COURT JUDGE. COVERT (Ct App's) SC 368 SC 188, 628 S.E.2d

482

FILED
2022 JUL 21 AM 11:39
CLERK OF COURTY
SPARTANBURG COUNTY
JAMMY W. COX

Court

DENIAL OF ASSISTANCE OF COUNSEL (1)

PETITIONER ALSO STATES THAT HE WAS DENIED AND DEPRIVE OF THE RIGHT TO TWO (2) ATTORNEYS, THE LAW IN EFFECT AT THE TIME OF THIS OFFENSE WAS THAT "A DEFENDANT WHO IS INDICTED UNDER A STATUTE THAT CARRIES THE DEATH PENALTY AS A MAXIMUM SENTENCE IS ENTITLED TO ASSISTANCE OF TWO ATTORNEY EVEN THOUGH THE GOVERNMENT DID NOT SEEK THE DEATH PENALTY 18 USCA § 3005 SEE UNITED STATES V DAUGHTREY 874 F 2d 213, 213, 217 (4th CIR 1989) CITING US V BOONE 24 F F 3d 352 (4th CIR 2001) NOTES (1)(2)

HAD TWO COUNSEL BEEN APPOINTED THERE IS A REASONABLE PROBABILITY THE OUTCOME WOULD HAVE BEEN DIFFERENT, THEREFORE PREJUDICE EXIST WARRANTING RELIEF

DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL

COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO OBJECT TO THE WARRANT AND INDICTMENT BEING INVALID BECAUSE THE DOCUMENTS WERE NOT CERTIFIED, FILED IN ACCORDANCE AND THE COURT HAD LACKED JURISDICTION.

WHEN HE FAILED TO OBJECT TO THE COURT GOING DIRECTLY FROM THE GUILT PHASE TO THE SENTENCING PHASE WITHOUT THE (24 HRS) WAITING PERIOD.

HAD COUNSEL OBJECT THE PETITIONERS STATUTORY RIGHTS WOULD HAVE BEEN PRESERVE FOR APPEAL.

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPRINGFIELD COUNTY
CAMDEN, ME, COX

COURT

BOYKIN V ALABAMA VIOLATION

THE PETITIONER FURTHER STATES THAT HIS CONVICTION AND CONFINEMENT IS UNLAWFUL BECAUSE A RULE 11 VIOLATION TOOK PLACE

THE RECORD WOULD REFLECT ON PAGE 29 OF TRANSCRIPT COUNSEL FOR THE PETITIONER TOLD THE COURT THAT HE HAD TALK TO PETITIONER CONCERNING "A JURY TRIAL" OR "A BENCH TRIAL" AND THAT WAS HIS ADVICE, AND PETITIONER CONCURRED OR OTHERWISE AGREED TO GO AHEAD AS A BENCH TRIAL SEE LINES 7-15.

THE JUDGE THEN SAID COME AROUND HERE WITH YOUR ATTORNEY LET ME TALK TO YOU.

ON PAGE 30 THE JUDGE THEN BEGAN A COLLOQUY BY TELLING PETITIONER ABOUT THE INDICTMENT, TOLD PETITIONER THAT HE COULD GET A LIFE SENTENCE IF FOUND GUILTY. AND FIVE YEARS FOR THE KIDNAP. HE WENT ON TO TELL PETITIONER WHAT THE INDICTMENT ALLEGES ON PAGE 31 LINES 1-8 AND HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL LINE 8-25. ON PAGE 31-32. ON PAGE 34. THE COURT ASKED "WHAT IS YOUR DESIRE AS FAR AS A JURY TRIAL AT THIS TIME? LINES 1,2.?"

PETITIONER RESPONDED BY STATING 'I'D RATHER FOR YOU TO TRY ME.' SEE LINE 3 PAGE 34

AT NO TIME DID THE JUDGE ASKED PETITIONER IF HE DID THE CRIME

FILED
2022 JUL 21 AM 11:39
CLERK OF COURT
SPARANBURG COUNTY
AMSW. BOX

COURT

THE JUDGE DID NOT DECLARE THE CURRENT AND CORRECT LAW REQUIRED BY SC CONST ART 5 § 21 BY EXPLAINING THE ELEMENTS OF THE OFFENSE OF MURDER BY THROUSTING AND STABBING.

THE JUDGE DID NOT GIVE PETITIONER NOTICE OF THE MAXIMUM PENALTY OR THE MINIMUM PENALTY REQUIRED DISPIE LOOKING AT THE INDICTMENT THE COURT ENTERTAIN THE CHARGE EVEN THOUGH IT WAS NOT FILED WHICH THE LAW IN EFFECT AT THE TIME WOULD HAVE DEPRIVE THE COURT OF SUBJECT MATTER JURISDICTION BECAUSE OF THE DEFECT APPARENT ON THE FACE OF THE DOCUMENT

TO COMPOUND MATTERS THE COURT ENTERTAIN THIS OFFENSE AND CHARGE AS BOTH "A TRIAL" AND A BENCH TRIAL" AT THE SAME TIME WHICH IS MULTIPLE PROCEEDINGS

IN VIOLATION OF THE DOUBLE JEOPARDY CLAUSE ON PAGE 131 LINE 13 THE COURT SAID AS A

BENCH TRIAL WHICH IS SUPPOSE TO BE A BENCH TRIAL ON PAGE 362 MR THOMPSON STATE WERE READY TO

PROCEED YOUR HONOR LINES 16-25 HOWEVER ON THE VERY NEXT PAGE OF THE TRANSCRIPT TAKING UP FROM

LINE 25 OF PAGE 362 STATINS BE IT IMMATERIAL IN THAT MR. NORMAN HAS PRESENTED AN AFFIRMATIVE DEFENSE OF "NOT GUILTY" BY REASON OF INSANITY TOTALLY

INCONSISTENT WITH WHAT WAS STATED EARLIER THEREFORE PLAIN ERROR WAS ALSO COMMITTED WARRANTING A VACATION OF CONVICTION AND SENTENCE.

FILED
2022 JUL 21 AM 10:39
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

COURT

PETITIONER WAS DENIED OF HIS LIBERTY WITHOUT DUE-PROCESS OF LAW IN VIOLATION OF USCA 14 SC CONST Article 1§3 AND STATE STATUTE 17-25-45

THE RECORD WOULD REFLECT THAT THE PETITIONER WAS SENTENCE TO NATURAL LIFE HOWEVER THE PETITIONER WAS NOT PROVIDED WITH A WRITTEN NOTICE AT LEAST (90) DAYS BEFORE THE TRIAL AS REQUIRED BY STATUTE SEE APPENDIX WHEN COUNSEL FAIL TO OBJECT TO THE SENTENCE BECAUSE THE STATUTE WAS MANDATORY AND UNAMBIGUOUS IN ITS REQUIREMENT THAT BOTH A DEFENDANT AND HIS COUNSEL BE SERVED WITH "WRITTEN" NOTICE OF LWOP PRIOR TO TRIAL STATE V JOHNSON 347 SC. 67 552 SE 2d 339 (ct app 2001) CITING JAMES V STATE 368 SC 323, 325, 628 SE 2d 892, 893. (ct app 2006).

FILED

2022 JUL 21 AM 11:39

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

COURT

R.E.L.I.E.F

BASE UPON THE COMPLAINT MADE IN THE
PETITION THE PETITIONER REQUEST THAT HIS CONVICTION
AND SENTENCE BE VACATED AND THAT HE BE
RELEASED FROM THE DEPARTMENT OF CORRECTIONS.

Terry Norman

TERRY NORMAN
PETITIONER

FILED

2022 JUL 21 AM 11:39

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

515195

Computer
BEST WARRANT
470463

STATE OF SOUTH CAROLINA
County/ Municipality of

SPARTANBURG

THE STATE
against

NORMAN, TERRY LAMONT
Address: 794 REIDVILLE RD.
SPARTANBURG SC 29301

Phone: SSN: Weight:

Sex: Race: B Height: DL #:

DOB: 02/29/72 Agency ORI#:

Prosecuting Agency: SHERIFF'S DEPT.
Prosecuting Officer: CLEVELANGER, RUSTY
Offense: MURDER Offense Code: 115

Code/Ordinance Sec: 16-3-10/16-3-20

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: RETURN
copy of this arrest warrant was delivered to
defendant JERRY LAMONT NORMAN
on May 11, 1995

Signature of Constable/Law Enforcement Officer
Richard Brady

RETURN WARRANT TO:

SPARTANBURG MAGISTRATE COURT
SPARTANBURG COUNTY COURTHOUSE
SPARTANBURG, SC 29301
E470463

STATE OF SOUTH CAROLINA
County/ Municipality of

AFFIDAVIT

Form Approved by
SCA 615

Personally appeared before me the affiant CLEVELANGER, RUSTY
being duly sworn deposes and says that defendant NORMAN, TERRY LAMONT
did within this county and state on 05/11/95 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of)
in the following particulars:
DESCRIPTION OF OFFENSE:

MURDER
I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID FELONIOUSLY, INTENTIONALLY, AND WITH
MALICE AFORETHOUGHT CAUSE THE DEATH OF ONE TIMOTHY L.
MCCABBY STABBING, CUTTING, AND BEATING THE VICTIM ABOUT
THE BODY.

WARRANT BASED ON POLICE INVESTIGATION, EYEWITNESS, AND
POLICE REPORT.

Sworn to and subscribed before me
on 05/11/95
Signature of Issuing Judge (L.S.)

Signature of Affiant
Affiant's Address: SHERIFF'S DEPT.
Affiant's Telephone:

STATE OF SOUTH CAROLINA
County/ Municipality of

ARREST WARRANT

SPARTANBURG
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
If appearing from the above affidavit that there are reasonable grounds to believe that
on 05/11/95 defendant
did violate the criminal laws of the State of South Carolina (or ordinance of TERRY LAMONT
County/ Municipality of) as set forth below:
DESCRIPTION OF OFFENSE: MURDER

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of the execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)
Judge's Address: SPARTANBURG MAGISTRATE COURT
SPARTANBURG COUNTY, SPARTANBURG SC 29306
Judge's Telephone: 803-596-2569
Issuing Court: X Magistrate [] Municipal [] Circuit []

EDWARD H ORNMACASH, JR.

Courts

**Pay to Victim's Compensation Fund if subrogated.

Clerk of Court

K.R. Keady

*Costs and Assessments
Non-waivable \$
Not waived \$
Total \$

Date

2/7/96

Presiding Judge

[Signature]

Other conditions

Not governed by Section 17-34-70(a)

to clerk for

to be paid

Yes/No

Restitution

For physical injury \$

Property damage \$

months/years.

The defendant *[Signature]* is committed to the State Department of Corrections/County for a term of *life* months/years and/or to pay a fine of \$ _____; provided upon the service of _____ months/years and/or payment of \$ _____ plus pay/waive costs and assessments as applicable, the balance suspended with probation for _____ months/years.

SPARTANBURG COUNTY

County 1. Menden

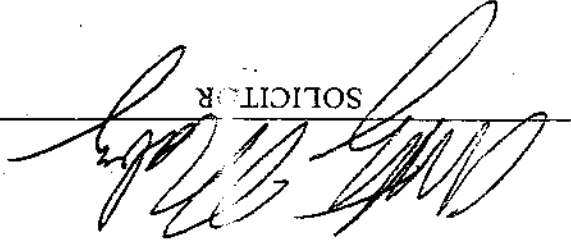
STATE OF SOUTH CAROLINA

CASE NO. *96-GS-42-3535*

S E N T E N C E

EXHIBIT # 2

COURT

SOLICITOR


provided.

Against the peace and dignity of the State, and contrary to the statute in such case made and

COUNT TWO - POSSESSION OF KNIFE DURING COMMISSION
OF OR ATTEMPT TO COMMIT A VIOLENT CRIME
That Terry Lamont Norman did in Spartanburg County on or about May 11,
1995, possess or visibly display a knife during the commission or attempted
commission of a violent crime, to wit: MURDER, in violation of Code Section
16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

COUNT ONE - MURDER
That Terry Lamont Norman did in Spartanburg County on or about May 11,
1995, feloniously, willfully and with malice aforethought, kill one Timothy L.
McCabe, by stabbing and cutting the victim about the body by means of a knife,
and that the victim died as a proximate result thereof.

At a Court of General Sessions, convened on _____
Spartanburg County present upon their oath:

INDICTMENT FOR
MURDER AND POSSESSION OF KNIFE
DURING COMMISSION OF OR ATTEMPT
TO COMMIT A VIOLENT CRIME
JUL 0 6 1995

STATE OF SOUTH CAROLINA)
COUNTY OF Spartanburg)

DIRECT INDICTMENT

E-470463 AND

428

FORM 32 (12/87)

Court

EXHIBIT
13-1-1

W

The judge indicated he was going to consider manslaughter, as well as murder as the two verdict forms. Defense Counsel Thompson objected to the consideration of manslaughter. He argued: "we firmly stand by our not guilty by reason of insanity defense, we, don't feel that voluntary, under the facts of this is shown from the stand so far, would be an appropriate charge in this case." R.p. 360, line 24 - p. 361, line 3.

Thompson said that Dr. Gunter-Justice's testimony showed: "Mr. Norman was not able to differentiate right from wrong in the particular situation that he found himself." R.p. 368, lines 1-13. He argued appellant could not appreciate the difference between moral and legal right from wrong. R.p. 368, lines 14-19.

JUDGE'S VERDICT

There was never any mention of the possibility of a guilty, but mentally ill verdict prior to the judge arriving at that verdict. The judge, as seen, found appellant guilty of murder but mentally ill. R.p. 383, lines 15-19.

MOTION FOR A NEW TRIAL

Defense Counsel moved for a new trial on the ground the guilty but mentally ill was not supported by the record. The judge denied the new trial motion. R.p. 386, lines 3-12. He sentenced appellant to life imprisonment for murder. R.p. 388, lines 20-25.

VERDICT FORMS DISCUSSED

E-113-7-4

Court

ARGUMENT

1.

The judge erred in refusing to grant a new trial where there was not any evidence to support his verdict of guilty.

but mentally ill.

Psychiatrist Dr. Gunter-Justice testified appellant lacked the capacity to distinguish moral or legal right from wrong. The psychiatrist opined appellant was unable to appreciate the consequences of his actions, and was not legally responsible. Under South Carolina law, appellant was insane. Davenport v. State, 301 S.C. 39, 389 S.E.2d 649 (1990); State v. Law, 270 S.C. 664, 244 S.E.2d 302 (1978).

There was never any mention of a guilty, but mentally ill verdict in this case. The judge's verdict was not supported by the record, and not urged by either appellant or the state. "A defendant is guilty but mentally ill if, at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize

Appellant understands that GBMI is considered when insanity is a verdict form. However, here there was no evidence of GBMI, and the verdict appears a compromise. GBMI only allows the convicted, as a practical matter, a short stay at a Department of Corrections psychiatric facility before he is moved into the general population. As such, it is a meaningless compromise. See State v. Rimer, S.C., 446 S.E.2d 400 (1994). This Court ordered the constitutionality of the GBMI verdict tried in State v. Brent Hornsby. That brief was filed with this Court on July 3, 1996. This "pseudo verdict" is unbecoming of the evidence of appellant's lack of criminal responsibility in this case.

E 470463

WITNESSES

Gusty Clevenger
Spartanburg County Sheriff's Dept.
Spartanburg, SC 29304

- 1. RETURNED TO SENDER
- 2. REPORTED
- 3. GRAND JURY COMPURED
- 4. RETURNED
- 5. CHECKED WARRANT
- 6. CHECKED SIGNATURE
- 7. ARREST WARRANT AND *Signature*
- 8. RETURNED TO SENDER COPY

ARREST WARRANT NO. *420*

420

ACTION OF GRAND JURY

Huan Bied
Johnnie V. ...
Foreman of Grand Jury

VERDICT at Bench Trial

1. Guilty of Murder 1st
2. Guilty of Possession of Knife with Intent to Commit a Violent Crime
3. Guilty of Possession of Knife
4. Guilty of Possession of Knife
5. Guilty of Possession of Knife
6. Guilty of Possession of Knife
7. Guilty of Possession of Knife
8. Guilty of Possession of Knife
9. Guilty of Possession of Knife
10. Guilty of Possession of Knife
11. Guilty of Possession of Knife
12. Guilty of Possession of Knife
13. Guilty of Possession of Knife
14. Guilty of Possession of Knife
15. Guilty of Possession of Knife
16. Guilty of Possession of Knife
17. Guilty of Possession of Knife
18. Guilty of Possession of Knife
19. Guilty of Possession of Knife
20. Guilty of Possession of Knife
21. Guilty of Possession of Knife
22. Guilty of Possession of Knife
23. Guilty of Possession of Knife
24. Guilty of Possession of Knife
25. Guilty of Possession of Knife
26. Guilty of Possession of Knife
27. Guilty of Possession of Knife
28. Guilty of Possession of Knife
29. Guilty of Possession of Knife
30. Guilty of Possession of Knife
31. Guilty of Possession of Knife
32. Guilty of Possession of Knife
33. Guilty of Possession of Knife
34. Guilty of Possession of Knife
35. Guilty of Possession of Knife
36. Guilty of Possession of Knife
37. Guilty of Possession of Knife
38. Guilty of Possession of Knife
39. Guilty of Possession of Knife
40. Guilty of Possession of Knife
41. Guilty of Possession of Knife
42. Guilty of Possession of Knife
43. Guilty of Possession of Knife
44. Guilty of Possession of Knife
45. Guilty of Possession of Knife
46. Guilty of Possession of Knife
47. Guilty of Possession of Knife
48. Guilty of Possession of Knife
49. Guilty of Possession of Knife
50. Guilty of Possession of Knife
51. Guilty of Possession of Knife
52. Guilty of Possession of Knife
53. Guilty of Possession of Knife
54. Guilty of Possession of Knife
55. Guilty of Possession of Knife
56. Guilty of Possession of Knife
57. Guilty of Possession of Knife
58. Guilty of Possession of Knife
59. Guilty of Possession of Knife
60. Guilty of Possession of Knife
61. Guilty of Possession of Knife
62. Guilty of Possession of Knife
63. Guilty of Possession of Knife
64. Guilty of Possession of Knife
65. Guilty of Possession of Knife
66. Guilty of Possession of Knife
67. Guilty of Possession of Knife
68. Guilty of Possession of Knife
69. Guilty of Possession of Knife
70. Guilty of Possession of Knife
71. Guilty of Possession of Knife
72. Guilty of Possession of Knife
73. Guilty of Possession of Knife
74. Guilty of Possession of Knife
75. Guilty of Possession of Knife
76. Guilty of Possession of Knife
77. Guilty of Possession of Knife
78. Guilty of Possession of Knife
79. Guilty of Possession of Knife
80. Guilty of Possession of Knife
81. Guilty of Possession of Knife
82. Guilty of Possession of Knife
83. Guilty of Possession of Knife
84. Guilty of Possession of Knife
85. Guilty of Possession of Knife
86. Guilty of Possession of Knife
87. Guilty of Possession of Knife
88. Guilty of Possession of Knife
89. Guilty of Possession of Knife
90. Guilty of Possession of Knife
91. Guilty of Possession of Knife
92. Guilty of Possession of Knife
93. Guilty of Possession of Knife
94. Guilty of Possession of Knife
95. Guilty of Possession of Knife
96. Guilty of Possession of Knife
97. Guilty of Possession of Knife
98. Guilty of Possession of Knife
99. Guilty of Possession of Knife
100. Guilty of Possession of Knife

REPORT NO. GS-42-3535
The State of South Carolina,

County of Spartanburg (02)
05/11/95

COURT OF GENERAL SESSIONS
JUL 10 1995 TERM

THE STATE

vs.

Terry Lamont Norman

Indictment for

MURDER AND POSSESSION OF KNIFE
DURING COMMISSION OF OR ATTEMPT
TO COMMIT A VIOLENT CRIME

Holman C. Gossett, Jr.

A CERTIFIED COPY

Marc Kitchener
CLERK OF COURT
SPARTANBURG COUNTY
BY: *Law McHugh* D.C.
DATED 7/2/2003

S E N T E N C E

STATE OF SOUTH CAROLINA
SPARTANBURG COUNTY

CASE NO. 95-GS-42-3535

10052

The defendant James S. Flowers is committed to the State

Department of Corrections/County for a term of 5 months/years

and/or to pay a fine of \$ _____; provided upon the service of

months/years and/or payment of \$ _____, plus pay/waive costs

and assessments as applicable, the balance suspended with probation for

_____ months/years.

Restitution

For physical injury \$ _____

Yes/No

property damage \$ _____

to be paid

to clerk for

Other conditions

Community

Date

2/2/95

Presiding Judge

[Signature]

*Costs and Assessments

Non-waivable

\$ _____

Not waived

\$ _____

Total

\$ _____

K.R. Haskelby

Clerk of Court

**Pay to Victim's Compensation Fund if subrogated.

515195

ARREST WARRANT

Completed - 470463

STATE OF SOUTH CAROLINA

County/ Municipality of

SPARTANBURG

THE STATE

against

NORMAN, TERRY LAMONT

Address: 790 REIDVILLE RD.

SPARTANBURG SC 29901

Phone: SSN:

Sex: Race: Height: Weight:

DL State: D.#:

DOB: 02/29/72 Agency ORI#:

Prosecuting Agency: SHERIFF'S DEPT.

Prosecuting Officer: CLEVENGER, RUSTY

Offense: MURDER

Code/Ordinance Sec. 16-3-10/16-3-20 Offense Code: 116

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

is to be arrested and brought before me to be dealt with according to law.

Date: Signature of Judge (L.S.)

RETURN

A copy of this arrest warrant was delivered to defendant Terry Lamont Norman on May 11, 1985

Richard Deary Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

SPARTANBURG MAGISTRATE COURT SPARTANBURG COUNTY COURTHOUSE SPARTANBURG, SC 29301 E470463

STATE OF SOUTH CAROLINA County/ Municipality of

AFFIDAVIT

Personally appeared before me the affiant CLEVENGER, RUSTY, A CERTIFIED CONSTABLE who being duly sworn deposes and says that defendant NORMAN, TERRY LAMONT, who did within this county, and state on 05-11-85, at the County/ Municipality of SPARTANBURG, D.C. State of South Carolina (of the County/ Municipality of SPARTANBURG, D.C.) in the following particulars:

DESCRIPTION OF OFFENSE:

MURDER 16-3-10/16-3-20 I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THE DEFENDANT DID FELONIOUSLY, INTENTIONALLY, AND WITH MALICE AFORETHOUGHT CAUSE THE DEATH OF ONE TIMOTHY L. MCCABY BY STABBING, CUTTING, AND BEATING THE VICTIM ABOUT THE BODY.

WARRANT BASED ON POLICE INVESTIGATION, EYEWITNESS, AND POLICE REPORT.

Sworn to and subscribed before me

Signature of Affiant (L.S.)

Rusty Cleverger Signature of Affiant

Affiant's Address SHERIFF'S DEPT.

Affiant's Telephone

STATE OF SOUTH CAROLINA County/ Municipality of

ARREST WARRANT

SPARTANBURG TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that on the criminal laws of the State of South Carolina (or) of TERRY LAMONT defendant did violate the criminal laws of the State of South Carolina (or) as set forth below:

DESCRIPTION OF OFFENSE:

MURDER 16-3-10/16-3-20

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of the execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)

Judge's Address SPARTANBURG MAGISTRATE COURT SPARTANBURG COUNTY, SPARTANBURG SC 29306

Judge Code: 482 Issuing Court: 803-556-2564 Municipal Court

EDWARD H. ORRIGAN, JR.

Response

RELIEF

BASE UPON THE COMPLAINT MADE IN THE
PETITION THE PETITIONER REQUEST THAT HIS CONVICTION
AND SENTENCE BE VACATED AND THAT HE BE
RELEASED FROM THE DEPARTMENT OF CORRECTIONS.

←
TERRY NORMAN
PETITIONER

FILED

2022 JUL 21 AM 11:41

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

DEAR CLERK

PLEASE FIND FOR FILMS WITHIN
YOUR OFFICE

(1) PETITION FOR WRIT OF HABEAS-CORPUS
WITH ATTACH EXHIBITS (2) CERTIFICATE OF SERVICE AND BY
THIS LETTER I HEREBY REQUEST A RETURN OF A CLOCKED STAMP
COPY FOR SERVICES RESPONDENTS ENCLOSED IS AN EXTRA COPY
AND AN ENVELOPE FOR THE RETURN

THANK YOU

TERRY L NORMAN
PETITIONER

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

2022 JUL 21 AM 11:41

FILED

-COVER-

Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON
 COUNTY OF SPARTANBURG) PLEAS
 TERRY L NORMAN 198549) SEVENTEEN JUDICIAL CIRCUIT
 V) PETITION FOR A
 WARDEN WALLACE KIRKLAND) WRIT OF HABEAS-CORPUS
 CORRECTIONAL INSTITUTION AND) PURSUANT TO 17-17-10
 STATE OF SOUTH CAROLINA) 17-7-70
 RESPONDENTS)

NOW HERE COMES THE PETITIONER WHO HEREBY MOVE BEFORE THIS COURT FOR AN ORDER VACATING HIS CONVICTION AND SENTENCE OR ARREST JUDGEMENT

THE PETITIONER HAVE EXHAUSTED HIS APPEAL AND POST-CONVICTION AVENUES AND IS WITHOUT ANOTHER MEANS OF GETTING RELIEF AND THERE EXIST EVIDENCE OF FACTS AND LAW NOT PREVIOUSLY RULED UPON WHICH REQUIRES A VACATION OF MY CONVICTION AND SENTENCE

HISTORICAL BACKGROUND

THE RECORD AND EXHIBIT WOULD REFLECT THAT THE PETITIONER WAS ARRESTED ON THE BASIS OF A NON JUDICIAL WARRANT FOR MURDER PURSUANT TO 16-3-10-16-3-20 FOR STABBING BY AFFIANT RUSTY CLEVELAND. THE WARRANT IS FACIALLY INVALID BECAUSE ANY WARDEN OR CLERK OF COURT IN SPARTANBURG COUNTY MAY NOT ISSUE THE WARRANT WAS NOT AUTHORIZED BY LAW TO ISSUE AN ARREST WARRANT IN CASES OF MURDER.

2022 JUL 21 AM 11:41
 FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 ANY WARDEN

Response

○

BASED UPON THIS WARRANT AN INDICTMENT WAS OBTAINED THE RECORD WOULD REFLECT THAT THE INDICTMENT GIVES NOTICE THAT THE GRAND JURY CONVENED ON JULY 6TH 1995 AND ON THE 10TH OF JULY 1995 HOWEVER THE INDICTMENT WAS NOT OBTAIN IN 48 HRS AFTER ARREST AND WAS NOT FILED. BY THE CLERK OF COURT THAT WAS IN OFFICE AT THE TIME OF THE PROCEEDINGS AND WAS NOT CERTIFIED AUTHENTIC BEFORE SUBMITTING TO THE COURT AS A FORMAL CHARGE OR JUDICIAL DETERMINATION OF PROBABLE CAUSE.

○

THE RECORD WOULD ALSO REFLECT THAT THE COMMITMENT DOCUMENT WAS NOT ATTESTED TO UNDER SEAL RECORDED AND FILED BEFORE IT WAS SERVED UPON ME OR SENT TO SCDC AS AN AUTHENTIC RECORD TO SUPPORT THE JUDGEMENT OF THE COURT AND TO CONFERR JURISDICTION UPON SCDC TO CONFIN ME. AND IT DOES NOT CONTAIN AN ATTESTATION CLAUSE.

○

THEREFORE PETITIONERS CONFINEMENT IS ILLEGAL AND UNLAWFULL BECAUSE HE IS BEING CONFINED WITHOUT LAWFULL AUTHORITY AND WITHOUT AMOUNTING TO FALSE ARREST, ARREST, ABUSE OF PROCESS, SHAM LEGAL PROCESS AND FALSELY ASSERTING AUTHORITY AND FRAUD

FILED
 2022 JUN 21 AM 11:47
 CLERK OF COURT
 SUPERIOR COURT
 AMY W. COOK
 JUDGE

Respondent

LAW ANALYSIS.

FALSE ARREST: THE PETITIONER WAS FALSELY ARRESTED AND WAS ILLEGALLY SEIZED AND CONFINED BY THE RESPONDENTS IN VIOLATION OF ARTICLE 6 C12 OF THE SUPREMACY CLAUSE BECAUSE HIS ARREST AND PROSECUTION IN VIOLATION OF MAPP V OHIO WHICH STATES THAT "STATES CRIMINAL PROCEEDINGS MUST CONFORM TO THE SAME FOURTH AMENDMENT STANDARD THAT APPLY TO FEDERAL PROCEEDINGS THIS REQUIREMENT OF THE FOURTH AMENDMENT WAS SPELLED OUT IN GERUSTEIN V PUGH 420 US 103 95 S Ct 854 43 L Ed 2d 54 (1975) IN THE CONTEXT OF PRETRIAL ARREST AND DETENTION.

THE COURT HELD THAT THE FOURTH AMENDMENT REQUIRES A "JUDICIAL DETERMINATION" OF PROBABLE CAUSE AS A PREREQUISITE TO EXTENDED RESTRAINT OF LIBERTY FOLLOWING ARREST.

BECAUSE THE WARRANT IN THIS CASE WAS ISSUED BY A MAGISTRATE THE PETITIONER WAS FALSELY ARRESTED SEE STATE V COVERT 368 S Ct 628 SE 2d 482 STATING WARRANT NOT ISSUED BY APPROPRIATE AUTHORITY THEREFORE HE WAS NOT SUFFICIENTLY NOTICED OF THE CHARGES AGAINST HIM. DUE TO A LACK OF A JUDICIAL WARRANT.

FILED
2022 JUL 31 11:41 AM
CLERK OF COURT
SPARTANBURG COUNTY
JANUARY

Respondent

FALSE IMPRISONMENT: THE PETITIONER WAS AND IS FALSELY BEING IMPRISONED DUE TO THE IMPOSITION OF LACK OF FREEDOM OF MOVEMENT BECAUSE THERE IS NO LAWFUL AUTHORITY TO JUSTIFY SUCH 35 CJS FALSE IMPRISONMENT IN THAT A WARRANT WAS AND IS LACKING AND THE INDICTMENT INVALID BECAUSE THE PETITIONER WAS INDICTED UNDER THE WRONG STATUTE AND IT WAS NOT AUTHENTICATED RECORDED AND FILED SO AS TO CONFERR JURISDICTION UPON THE COURT TO ENTERTAIN THE CHARGE AND TO GIVE NOTICE TO PETITIONER THE DUE-PROCESS AND PROCEDURAL DUE PROCESS REQUIRES THAT A DEFENDANT RECEIVE TRUE NOTICE OF THE NATURE OF THE CAUSE AND THE ACCUSATION AND OF THE PROCEEDING AGAINST HIM AND AN OPPORTUNITY TO BE HEARD. HERE THE PROCESS RECEIVED BY THE PETITIONER WAS INADEQUATE AND THE ISSUES CONCERNING SUCH WAS NOT PREVIOUSLY HEARD.

THE INDICTMENT IS ALSO DEFECTIVE BECAUSE IT OMITTS TWO ELEMENTS OF THE OFFENSE I.E. "UNLAWFULLY" AND "MURDER" IN SOUTH CAROLINA NOT ALL KILLING IS MURDER IT WOULD BE "VOLUNTARY MANSLAUGHTER", "IN VOLUNTARY MANSLAUGHTER" OR "BUT HOMICIDE WHICH IS "LAWFUL" MURDER

THEREFORE THE PETITIONER WAS NOT SUBSTANTIALLY HEARD WHICH IT IS THE BURDEN UPON THE STATE TO PROVE EACH AND EVERY ELEMENT OF THE OFFENSE BUT TO DECLARE THE CURRENT AND CORRECT LAW S.C. CONST. ARTICLE 5 § 21

FILED
 2022 JUL 21 AM 11:41
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY W. COX, CLERK

Response

IN WEST KEY DIGEST KEY 500 NOTE (D) THERE ARE DIFFERENT KINDS OF HOMICIDE THE TERM UNLAWFUL IN DEFINING CRIMINAL HOMICIDE DISTINGUISHES CRIMINAL HOMICIDE FROM THOSE HOMICIDES WHICH SOCIETY HAS DETERMINED TO JUSTIFIED OR EXCUSABLE THE CORRECT DEFINITION OF MURDER WAS NOT CONTAINED IN THE INDICTMENT AND WAS NOT GIVEN NOTICE OF TO THE PETITIONER SEE ALSO SC JUR HOMICIDE 4 § 4 STATE V JOHNSON 352 SE 2d 480 16-3-10 (1985) DEFINES MURDER AS THE 'UNLAWFUL' KILLING.

ABUSE OF PROCESS THE PETITIONERS CONFINEMENT IS ILLEGAL AND UNLAWFUL BECAUSE IT WAS CAUSE IN PART DUE TO AN ABUSE OF PROCESS BY NOT INITIATING CRIMINAL PROSECUTION IN THIS CASE BY THE PROPER AUTHORITY

PURSUANT TO ARTICLE 1 SECTION 22 OF THE SOUTH CAROLINA CONSTITUTION PROVIDES THAT NO PERSON SHALL BE FINALLY BOUND BY A JUDICIAL OR QUASIJUDICIAL DECISION OF AN ADMINISTRATIVE AGENCY AFFECTING PRIVATE RIGHTS EXCEPT ON DUE NOTICE AND AN OPPORTUNITY TO BE HEARD, INCLUDING THE RIGHT TO JUDICIAL REVIEW.

HERE THE PROSECUTION WAS INITIATED BY A M... WARRANT AND MAGISTRATES DO NOT HAVE JURISDICTION IN CASES OF MURDER AND THE WARRANT WAS RECORDED AND FILED IN THE CIRCUIT COURT WHEN THE... KNEW OR REASONABLY SHOULD HAVE KNOWN THAT IT DID NOT ORIGINATE FROM ITS TRIBUNAL.

FILED
2024 JUL 21 11:11 AM
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

Respondents

THIS VIOLATED SC CODE ANN 30-5-30 WHICH REQUIRES PROOF OF EXECUTION OR COMPLIANCE WITH UNIFORM RECOGNITION OF ACKNOWLEDGEMENT ACT BEFORE ANY INSTRUMENT IN WRITING CAN BE RECORDED IN THIS STATE

THE PROCESS IN THIS CASE WAS MISUSE BECAUSE IT WAS NOT LAWFULLY WARRANTED DUE TO THE CONDUCT OF THE PROCESS AND WAS NOT REGULARLY USE IN CASES OF MURDER.

SHAM LEGAL PROCESS: THE PETITIONER CONFINEMENT IS IN VIOLATION OF THE CONSTITUTION AND LAWS OF THE UNITED STATES AND SOUTH CAROLINA. IN THAT HE WAS SUBJECTED TO A SHAM LEGAL PROCESS BY THE RESPONDENT WHO INITIATED PROCESS WITHOUT "ORIGINAL" EXCLUSIVE AND "PERSONAL JURISDICTION" AND THE JUDGEMENT IS VOID AND WAS VOID FROM ITS INCEPTION. SC CONST ARTICLE 1 § 22 PROVIDES THAT NO PERSON SHALL BE DEPRIVED OF LIBERTY OR PROPERTY UNLESS BY A MODE OF PROCEDURE PRESCRIBED BY THE GENERAL ASSEMBLY.

SC CONST ARTICLE 5 § 11 PROVIDES THAT THE CIRCUIT COURT IS A TRIAL COURT WITH ORIGINAL JURISDICTION AND HAVE EXCLUSIVE JURISDICTION IN CASES OF MURDER. SEE SC CODE ANN 17-19-41

By "ORIGINAL JURISDICTION" WE MUST UNDERSTAND IS AS JURISDICTION IN THE FIRST INSTANCE OR JURISDICTION TAKE COGNIZANCE OF A CRIME/CAUSE AT ITS INFERENCE. "EXCLUSIVE JURISDICTION" IS DEFINED AS JURISDICTION

CONFINED TO A PARTICULAR TRIBUNAL BY IT TO THE EXCLUSION OF ALL OTHERS 21 CJS COURTS SECTION 18

FILED
2017 JUL 21 AM 11:11
CLERK OF COURT
Spartanburg County
South Carolina

Respondent

THE RESPONDENT KNEW OR REASONABLY SHOULD HAVE KNOWN THAT A VALID INDICTMENT COULD NOT BE RETURNED DUE TO THE MAGISTRATES COURT HAVING EXCLUSIVE PERSONAL JURISDICTION OF THE PETITIONER. AND COULD NOT SUMMON OR CONVENED A GRAND JURY ON THE BASIS OF SUCH BECAUSE THE GRAND JURY AS A BODY WOULD BE VOID, IN THAT THE STATE WAS NOT MADE A PARTY TO THE PROCEEDING BY ISSUANCE OF A "JUDICIAL WARRANT" FROM THE CIRCUIT COURT AND SUBJECT MATTER JURISDICTION WAS LACKING.

CITING STATE V FUNDERBURK 259 SC 256 WHERE THE COURT HELD "THE CRIMINAL JURISDICTION OF THE GRAND JURY IS 'CO-EXTENSIVE' WITH THE CRIMINAL JURISDICTION OF THE COURT FOR WHICH IT IS EMPANELED AND FOR WHICH IT IS TO MAKE INQUIRY SEE CJS 38 GRAND JURIES 3D PAGE 1029 SEE EXHIBIT WARRANT ATTACHED # 1

WITH NO NEED FOR CITATION OR AUTHORITY THE ACTS OF A COURT AS TO A MATTER IN WHICH IT HAS NO JURISDICTION IS VOID. COURTS KEY 40

THEFORE PETITIONER IS ENTITLED TO RELIEF.

FALSELY ASSERTING AUTHORITY: THE PETITIONERS CONFINEMENT IS UNLAWFUL BECAUSE THE RESPONDENT HAS AND FALSELY ASSERTING AUTHORITY TO KEEP PETITIONER WITHOUT A VALID COMMITMENT ORDER INDICTMENT WARRANT, BY THE USE OF FRAUD

THE WARRANT IS NON-JUDICIAL AND VIOLATES THE SUPREMACY CLAUSE AND USCA CONST AMEND. 3 § 1

FILED
2022 JUL 21 AM 11:41
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

Response

THE INDICTMENT, WAS NOT RECORDED AND FILED BY THE CLERK THAT WAS IN OFFICE AND THE COMMITMENT ORDER LIKE WISE WAS NOT ATTESTED TO BY THE CLERK UNDER SEAL RECORDED AND FILED BEFORE IT WAS SERVED UPON THE PETITIONER OR SEND TO SDC AS EVIDENCE OR PROOF OF A VALID JUDGEMENT THEREFORE THE JUDGEMENT IS NOT FINAL AND CAN BE COLLATERALLY ATTACKED BECAUSE OF ITS NON-AUTHENTICITY AND IS NOT BINDING. (SEE INDICTMENT EXHIBIT #2

"AUTHENTICATION" ALL EVIDENCE MUST BE AUTHENTICATED SEE 2 MCCORMICK ON EVIDENCE § 221 (THED 2016) "ALL JURISDICTIONS THE REQUIREMENT OF AUTHENTICATION APPLIES TO ALL TANGIBLE AND DEMONSTRATIVE EXHIBITS) AUTHENTICATION IS A SUBSPECIES OF RELEVANCE, FOR SOMETHINGS THAT CANNOT BE CONNECTED TO THE CAUSE CARRIES NO PROBATIVE FORCE.

HERE AS EVIDENCE OF EXHIBIT INDICTMENT WAS FALSE AUTHENTICATED BY ANOTHER CLERK AND THE COMMITMENT ORDER WAS AUTHENTICATED FILED WITH THE CLERK OF COURT AND ENDORSED AS PROOF OF AN ORDER VIOLATING RULES OF EVIDEN RULE 901 (A7)

"A SUMMARY PROCESS MUST BE SEALED AS A WRIT IT IS A JUDICIAL PROCESS AND NOT A MERE RULE OR ORDER OF THE COURT.

ORDER IS NOT BINDING ON PARTIES UNTIL DELIVERED TO THE CLERK FOR FILING. SEE BOWMAN V RICHLAND MEMORIAL HOSP. 515 SE 2d 259. "ONLY AFTER THE ORDER IS FILED WITH

THE CLERK OF COURT ARE THE PARTIES GIVEN NOTICE OF THE ORDER AND PROVIDED WITH THE OPPORTUNITY TO COMPLY WITH IT

2022 JUL 16 AM 11:41 FILED CLERK OF COURT SPARTANBURGH COUNTY SOUTH CAROLINA

Respondent

LACK OF SUBJECT MATTER JURISDICTION

PETITIONER CONFINEMENT IS UNLAWFUL BECAUSE HE WAS INDICTED AND CONVICTED FOR AN OFFENSE THAT WAS NOW EXISTENT, IN VIOLATION OF THE EX-POST FACTO CLAUSE OF ARTICLE I § 9 AND 10 OF USC AND SOUTH CAROLINA CONSTITUTION ARTICLE 1 § 14 AND USCA 14.

SUBJECT MATTER JURISDICTION OF THE COURTS CONSTITUTIONAL AND STATUTORY POWER TO ADJUDICATE A CASE. HERE THE CASE OR CHARGE WAS THAT THE PETITIONER COMMITTED THE OFFENSE BY STABBING

KILLING BY STABBING OR THUSTING REQUIRES PROOF OF AN ELEMENT NOT REQUIRED TO PROVE THE CRIME OF MURDER IE USE OF A KNIFE OR SIMILAR WEAPON TO CAUSE DEATH.

THE STATUTE THAT DEFINES THIS OFFENSE IS 16-3-40 WAS ORIGINALLY ENACTED IN 1712 AND IS COMMONLY REPEALED TO AS THE DUELLING STATUTE.

IT PROVIDES FOR AN AUTOMATIC PENALTY OF DEATH UPON CONVICTION AND IS THEREFORE UNCONSTITUTIONAL BASED UPON THE HOLDING IN FURMAN V GEORGIA 408 US 238 92 S Ct 2726 33 LEd 2d 346 (1972) SEE SCAGOPINION WL 599295 (1998)

CRIMINAL CONVICTION VIOLATES DUE-PROCESS IF AT TIME OF CONDUCT WHICH FORMS THE BASIS OF CONVICTION

DID NOT HAVE FAIR NOTICE THAT CONDUCT WAS CRIMINAL COURTS DOES NOT HAVE SUBJECT MATTER JURISDICTION TO

PROSECUTE A DEFENDANT WHEN STATUTE MAKING OFFENSE CRIME HAS BEEN REPEALED

FILED
2018 JUL 21 AM 11:41
CLERK OF COURT
SOUTH CAROLINA
PARTIALS
ANY W/CONS
COUNT

Respondents

THE GENERAL RULE IS THAT REPEAL STATUTE WITHOUT A SAVING CLAUSE ENDS PROSECUTION AND PUNISHMENT UNDER IT. TAYLOR V MURPHY 293 SC 316-318-19,360 SE 2d 314,316 (1987) STATE V RUMSEY 276 SC 236 226 SE 2d 894,895.

THE COMMON LAW RULE IS EXTINCTION OF A STATUTE IS AN INDICATION THAT THE SOVEREIGN NO LONGER DESIRES THE FORMER CRIME BE RECORDED AS CRIMINAL STATE V SPENCER 177 SC 471 181 SE 2d 472. SEE ALSO SC AC OPINION WL 2849799 CITING STATE V RUMSEY HOLDING STATUTE WHICH IMPOSED A MANDATORY DEATH PENALTY UPON CONVICTION AND FINDING OF MURDER IS UNCONSTITUTIONAL.

THE PETITIONERS CONVICTION AND SENTENCE IS ILLEGAL AND VOID BECAUSE THE COURT WAS INSTRUCTED BY THE SOLICITOR THAT MALICE CAN BE 'INFERRED OR PRESUMED' BY THE USE OF A DEADLY WEAPON VIOLATING STATE V BELCHER SEE TRANSCRIPT OF RECORD PAGE 380 LINES 19-21.

"PLAW ERROR" WAS ALSO COMMITTED BY THE TRIAL JUDGE WHEN HE SENTENCE THE PETITIONER LIFE INSTEAD OF A FINE VIOLATING THE HOLDING IN STATE V WILLIAMS 166 SC 63 81 164 SE 415 STATING THE TRIAL JUDGE IS NOT A JUROR."

A TRIAL JUDGE MAY NOT INVADE THE PROVINCE OF A JURY TO SUBSTITUTE HIS VERDICT FOR THEIRS WATFORD V SC DEPT 269 SC 130, 133 236 SE 2d 558 SEE ALSO CAROLINA DISTRICT CRIMINAL LAW KEY NO 935

SEE PETITIONERS EXHIBITS

2022 JUL 24
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA
FILED
AM 11:41

Response

A SEPERATION OF POWERS VIOLATION TOOK PLACE IN THAT THE CASE WAS INITIATED OR OTHERWISE BROUGHT BEFORE THE COURT BY WAY OF AN ARREST WARRANT ISSUED BY THE MASISTRATES COURT

A MASISTRATE DOES NOT HAVE JURISDICTION IN CAPITAL CASES AT ALL

THE CONSTITUTIONAL AND STATUTORY CONDITIONS WERE NOT MET AND A VALID INDICTMENT COULD NOT BE OBTAINED BECAUSE THE MASISTRATES COURT HAS EXCLUSIV

PERSONAL JURISDICTION BECAUSE SOUTH CAROLINA CONSTITUTION CONST ARTICLE 5 § 11 AND STATE STATUTE 17-19-40, CONST ART 1 § 3 USCA 14

HERE THE STATUTORY WARRANT WAS NOT COMPLIED WITH WHICH IS A MANDATORY REQUIREMENT OF THE STATE AND FEDERAL CONSTITUTION IN INITIATING CRIMINAL PROSECUTION WHICH MUST CONFORM TO THE FOURTH AMENDMENT STANDARDS REQUIRED BY GERNSTEIN V PUGH 52 CONST COD AN 17-1-10

SEE STATE V COVERT, NOTE (3) STATUTE GOVERNING ISSUANCE, EXECUTION AND RETURN OF WARRANTS DID NOT SPECIFICALLY REQUIRE THAT WARRANT BE SIGNED BUT THAT IT "BE ISSUED" AND UNDER STATUTE WARR NOT "ISSUED" UNTIL SIGNED BY APPROPRIATE

THIS CASE A JUDGE OF A COURT OF RECORD AND CIRCUIT COURT JUDGE. COVERT (ct appls) SC 368S

482

FILED
2024 JUL 21 AM 11:41
CLERK OF COURT
SOUTH CAROLINA
CIRCUIT COURT
SPARTANBURG COUNTY

Response

DENIAL OF ASSISTANCE OF COUNSEL (1)

PETITIONER ALSO STATES THAT HE WAS DENIED AND DEPRIVE OF THE RIGHT TO TWO (2) ATTORNEYS, THE LAW IN EFFECT AT THE TIME OF THIS OFFENSE WAS THAT "A DEFENDANT WHO IS INDICTED UNDER A STATUTE THAT CARRIES THE DEATH PENALTY AS A MAXIMUM SENTENCE IS ENTITLED TO ASSISTANCE OF TWO ATTORNEY EVEN THOUGH THE GOVERNMENT DID NOT SEEK THE DEATH PENALTY 18 USCA § 3005 SEE UNITED STATES V DAUGHTREY 874 F 2d 213, 213, 217 (4th CIR 1989) CITING US V BOONE 24 F F 3d 352 (4th CIR 2001) NOTES (1)(2)

HAD TWO COUNSEL BEEN APPOINTED THERE IS A REASONABLE PROBABILITY THE OUTCOME WOULD HAVE BEEN DIFFERENT, THEREFORE PREJUDICE EXIST WARRANTING RELIEF

DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL

COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO OBJECT TO THE WARRANT AND INDICTMENT BEING INVALID BECAUSE THE DOCUMENTS WERE NOT CERTIFIED AUTHENTIC AND FILED IN ACCORDANCE AND THE COURT HAD LACKED SUBJECT MATTER JURISDICTION

WHEN HE FAILED TO OBJECT TO THE COURT GOING FROM THE GUILT PHASE TO THE SENTENCING PHASE (24 HRS) WAITING PERIOD.

HAD COUNSEL OBJECT THE PETITIONERS STATEMENT WOULD HAVE BEEN PRESERVE FOR APPEAL,

FILED
2022 JUL 21 AM 11:41
CLERK OF COURT
SPARTANBURG COUNTY
AMANDA COX

Respondent

BOYKIN V ALABAMA VIOLATION

THE PETITIONER FURTHER STATES THAT HIS CONVICTION AND CONFINEMENT IS UNLAWFULL BECAUSE A RULE 11 VIOLATION TOOK PLACE

THE RECORD WOULD REFLECT ON PAGE 29 OF TRANSPORT COUNSEL FOR THE PETITIONER TOLD THE COURT THAT HE HAD TALK TO PETITIONER CONCERNING "A JURY TRIAL" OR "A BENCH TRIAL" AND THAT WAS HIS ADVICE, AND PETITIONER CONCURRED OR OTHERWISE AGREED TO GO AHEAD AS A BENCH TRIAL SEE LINES 7-15.

THE JUDGE THEN SAID COME AROUND HERE WITH YOUR ATTORNEY LET ME TALK TO YOU.

ON PAGE 30 THE JUDGE THEN BEGAN A COLLOQUY BY TELLING PETITIONER ABOUT THE INDICTMENT, TOLD PETITIONER THAT HE COULD GET A LIFE SENTENCE IF FOUND GUILTY AND FIVE YEARS FOR THE KNIFE.

HE WENT ON TO TELL PETITIONER WHAT THE INDICTMENT ALLEGES ON PAGE 31 LINES 1-8 AND HIS CONSTITUTIONAL RIGHT TO A JURY TRIAL LINE 8-25. CONTINUED FROM

PAGE 31-32. ON PAGE 34 THE COURT ASKED "WHAT IS YOUR DESIRE AS FAR AS A JURY TRIAL TIME? LINES 1, 2?"

PETITIONER RESPONDED BY STATING "I'D RATHER TRY ME!" SEE LINE 3 PAGE 34

AT NO TIME DID THE JUDGE ASKED PETITIONER IF HE DID THE CRIME

FILED
2022 JUN 21 AM 11:41
CLERK OF COURT
SPARTANBURG COUNTY
AMY M. COX

Respondent

THE JUDGE DID NOT DECLARE THE CURRENT AND CORRECT LAW REQUIRED BY SC CONST ART 5 § 21 BY EXPLAINING THE ELEMENTS OF THE OFFENSE OF MURDER BY THROUSTING AND STABBING.

THE JUDGE DID NOT GIVE PETITIONER NOTICE OF THE MAXIMUM PENALTY OR THE MINIMUM PENALTY REQUIRED DISPIE LOOKING AT THE INDICTMENT THE COURT ENTERTAIN THE CHARGE EVEN THOUGH IT WAS NOT FILED WHICH THE LAW IN EFFECT AT THE TIME WOULD HAVE DEPRIVE THE COURT OF SUBJECT MATTER JURISDICTION BECAUSE OF THE DEFECT APPARENT ON THE FACE OF THE DOCUMENT

TO COMPOUND MATTERS THE COURT ENTERTAIN THIS OFFENSE AND CHARGE AS BOTH A TRIAL AND A BENCH TRIAL AT THE SAME TIME WHICH IS MULTIPLE PROCEEDINGS IN VIOLATION OF THE DOUBLE JEOPARDY CLAUSE

ON PAGE 131 LINE 13 THE COURT SAID IT WAS A BENCH TRIAL WHICH IS SUPPOSE TO BE A GUILTY PLEA ON PAGE 362 MR THOMPSON STATE WERE READY TO PROCEED YOUR HONOR LINES 16-25 HOWEVER ON THE

VERY NEXT PAGE OF THE TRANSCRIPT TAKING UP FROM LINE 25 OF PAGE 362 STATINS BE IT IMMATERIAL THAT MR. NORMAN HAS PRESENTED AN AFFIRMATION OF "NOT GUILTY" BY REASON OF INSANITY

INCONSISTENT WITH WHAT WAS STATED EARLIER. A PLAN ERROR WAS ALSO COMMITTED WARRANTING VACATION OF CONVICTION AND SENTENCE.

FILED
2002 JUL 21 AM 11:41
CLERK OF COURT
SPRINGFIELD
MASSACHUSETTS

Response

PETITIONER WAS DENIED OF HIS LIBERTY WITHOUT DUE-PROCESS OF LAW IN VIOLATION OF USCA 14 SC Const Article 1§3 AND STATE STATUTE 17-25-45

THE RECORD WOULD REFLECT THAT THE PETITIONER WAS SENTENCE TO NATURAL LIFE HOWEVER THE PETITIONER WAS NOT PROVIDED WITH A WRITTEN NOTICE AT LEAST (90) DAYS BEFORE THE TRIAL AS REQUIRED BY STATUTE SEE APPENDIX WHEN COUNSEL FAIL TO OBJECT TO THE SENTENCE BECAUSE THE STATUTE WAS MANDATORY AND UNAMBIGUOUS IN ITS REQUIREMENT THAT BOTH A DEFENDANT AND HIS COUNSEL BE SERVED WITH "WRITTEN" NOTICE OF LWOP PRIOR TO TRIAL STATE V JOHNSON 347 SC 67 552 SE 2d 339 (Ct App 2001) CITING JAMES V STATE 368 SC 323, 325, 629 SE 2d 892, 893. (Ct App 2006).

FILED
2022 JUL 21 AM 11:41
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX