

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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**Feb 02 2023**

**S.C. SUPREME COURT**

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

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Clifton Newman, Circuit Court Judge

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Case No. 2023-000114

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Eric L. Spann ..... Appellant,

v.

State of South Carolina ..... Respondent.

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**PETITIONER'S *PRO SE* EXPLANATION  
PURSUANT TO RULE 243(c)**

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Feb 02 2023

S.C. SUPREME COURT

The State of South Carolina  
In The Court of Appeals

Appeal From The Aiken County Court of  
Common Pleas

Honorable Clifton Newman, Post-Conviction  
Relief Judge

Case No. 2019-CP-02-3131

Eric L. Spann, SCDC No. 00245840.... Appellant,

VS

State of South Carolina..... Respondent.

Megan Harrigan Jameson, Esquire

Explanation Requirement Pursuant To Rule  
243(c)(SCACR) South Carolina Appellate Court Rule.

[continue on next page]...

Ex. 1 of 9

...

"Rule 243(c) Explanation Required"

"Facts"

pursuant to Rule 243(c) Appellant hereby would show this Honorable Court that the lower court determination that Appellant's Post-conviction Relief (PCR) application is barred as being successive and/or as being untimely under the statute of limitations is improper.

"Argument"

The jurisdiction of a court over the subject matter of a proceeding is fundamental. SEE Anderson v. Anderson, 389 S.E.2d 897, 299 S.C. 110 (S.C. 1989). "Lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by...

E.g. of 7

... this court. It is well settled that issues related to subject matter jurisdiction may be raised at anytime, including for the first time on appeal in this court." SEE "State v. Funderburk," 191 S.E. 2d 520, 259 S.C. 256 (S.C. 1972). Carter v. State, 495 S.E. 2d 773, 329 S.C. 355 (S.C. 1998); Brown v. State, 540 S.E. 2d 846, 343 S.C. 342 (S.C. 2001).

In Brown v. State, the court finds that even though some of the issues raised have been raised previously in prior PCR applications, the court decides: "Since subject matter jurisdiction is an issue which is fundamental and may be raised at anytime, we decline to find that our review of this issue is precluded on procedural grounds." Brown, citing: Carter and Anderson.

Subsequently, Appellant by and thru undersigned Counsel P. Andrew Anderson filed a reply to the State's Conditional order of Dismissal entered...

... by the Aiken County clerk of Court on December 20, 2021 and served on the Appellant/Respondent and his counsel via mail and certificate of service dated January 5, 2022.

Appellant submitted a Motion before the Aiken County Court of Common Pleas pro se on December 19, 2019. This "Motion" was filed on form paperwork for the presentation of a PCR Application, however, the substance of the issue presented is the contestation of the underlying Court of General Sessions' subject matter jurisdiction at the time it entertained the guilty plea of Appellant/then Defendant's guilty plea.

It is undisputed that at the time the court entertained the guilty plea in the underlying matter that the Magistrate was vested with jurisdiction of the case due to the pending preliminary hearing request. The request was never waived nor withdrawn. Pursuant to S.C. code § 22-5-320...

...“ When such a hearing has been so demanded the case shall not be transmitted to the court of general sessions or submitted to the grand jury until the preliminary hearing shall have been had, the Magistrate to retain jurisdiction and the court of general sessions not to acquire jurisdiction until after such preliminary hearing.” citing Rule 2 (b), SCR Crim P, S.C. code Ann § 22-5-320, and State v. Funderburk, 191 S.E. 2d 520, 259 (S.C. 1972).

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“ Law Analysis ”  
“ Statutory Construction ”

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SEE, Hodges v. Rainey, 341 S.C. 79, 533 S.E. 2d 578 (June 12, 2000). “ The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 4, 437 S.E. 2d 6 (1993).

1.  
Please note State v. Funderburk, 191 S.E. 2d 520, 259 S.C. 1972) has not been overruled. ~~see~~

Under the plain meaning rule, it is not the Court's place to change the meaning of a clear and unambiguous statute. In re Vincent J., 333 S.C. 233, 509 S.E. 2d 261 (1998) (citations omitted). Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. I.d. at 233, 509 S.E. 2d at 262. (citing, Paschal v. State Election Comm'n, 317 S.C. 434, 454 S.E. 2d 890 (1995)).

"What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature." Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992). E.S. 6 OF 7

## - Conclusion -

Since Appellant/Defendant filed a preliminary hearing request, which had not been waived or withdrawn, the circuit court lacked subject matter jurisdiction when Appellant/Defendant's guilty plea was entered. Jurisdiction was still vested with the magistrate pursuant to Rule 2(b) SCR CrimP, S.C. Code Ann. § 22-5-320, and "State v. Funderburk", 191 S.E. 2d 520, 259 S.C. 256 (S.C. 1972).

Subject matter jurisdiction may be challenged at anytime and action by a court lacking subject matter jurisdiction is null and void. Appellant/Defendant incorporates herein the factual assertions and arguments in reference to exhibits (A) and (B) attached hereto.

Respectfully Submitted

This 14<sup>th</sup> Day of October,

E. L. Spano OF 9

S/ Eric L. Spano  
Eric L. Spano #245840  
LEE C. I.  
990 Wisacky Highway  
Bishopville, SC 29010  
PRO SE Appellant

" EXHIBIT "  
A

*Defender Corporation of Aiken County*  
*Aiken County Courthouse*  
*109 Park Avenue, S.E.*  
*P.O. Drawer 2247*  
*Aiken, South Carolina 29802*  
*Phone (803) 642-1732*  
*Facsimile (803) 642-1739*

STATE OF CAROLINA )

COUNTY OF AIKEN )

THE STATE )

VS. )

Eric L. Spann )  
DEFENDANT )

DEMAND FOR PRELIMINARY HEARING

TO THE CENTRALIZED PRELIMINARY HEARING COURT:

PLEASE TAKE NOTICE that the defendant does hereby demand a Preliminary Hearing upon the charge(s) against him/her contained in warrant number(s) F-186395

DATED: September 25, 1996

RECEIVED  
SEP 26 1996  
AIKEN COUNTY  
CLERK OF COURT

*Rogina P. Potts*  
Aiken County Public Defender  
P.O. Drawer 2247  
Aiken, South Carolina 29802

916-65-02-1545

" EXHIBIT "  
B

*Defender Corporation of Aiken County*

*Aiken County Courthouse  
109 Park Avenue, S.E.  
P.O. Drawer 2247  
Aiken, South Carolina 29802  
Phone (803) 642-1732  
Facsimile (803) 642-1739*

September 25, 1996

Eric L. Spann  
Aiken County Detention Center  
416 Hampton Avenue  
Aiken, South Carolina 29801

Subject: Pending Criminal Charges/Warrant(s) No. F-186395

Dear Client:

I have been appointed to represent you in the above-referenced charge(s) pending against you in General Sessions (Criminal) Court. A preliminary hearing will be held in your case on Wednesday, October 9, 1996 at 8:30 am.

Please be present at the Aiken County Magistrate's Office located at 420 Hampton Avenue, Aiken, South Carolina on the above date and time.

Sincerely,



Aiken County Public Defender

" EXHIBIT A "

was in the Aiken County Detention Center and Trial Counsel did take Ms. to the ...