

In The Supreme Court of South Carolina

James Edgar Hutchinson
Plaintiff.

v.

State of South Carolina
Respondent.

RECEIVED

FEB 24 2023

S.C. SUPREME COURT

In the ..., lower court case no. 2021-CP-21-1712
and also ..., appellate court case no. 2023-000004

This is my ..., "Explanation" as to why final order of dismissal is improper by the lower court and in response to letter sent by Post-Conviction Counsel Steve W. Fowler under Dennison v. State 639 S2d 35 (2006), on the attack of this invalid prior conviction under McDuffie v. State 277 S2d 595 (1991), Jackson v. State 489 S2d 915 (1997), Webb v. State 314 S2d 839 Brown v. State 814 S2d 146 (2018) and State v. Payne 504 S2d 335 (1998), as I have alleged throughout the litigation that I am still suffering adverse effects of this unconstitutionally invalid conviction... Presenting facts, Affidavits, Maps, etc. that are true asking court to view facts most favorable to me... United States v. Lesane 40 F.4th 191 (4ca 2022)... Respectfully requesting this Honorable Court to grant review, remand back to lower court, appoint new counsel, and grant me a post-conviction... hearing to show how I have been prejudiced by ineffective assistance of counsel, this is also an involuntary guilty plea in violation of my Due Process rendering plea "Void", judgment "Void", and sentence "Void", and therefore illegal and correctable at any time, as I am also attacking collateral consequences also see, Culver B, State of N.J. 79 Sct. 1387 (1957)... and Broughton v. State of North Carolina 104 Sct. 1917 (1984). Brown v. U.S. 443 F2d. 116 (4ca 1973). Respectfully submitted; on 2-21-2023 by U.S. Postal at Evans C.I. James E. Hutchinson

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"

"Facts"

"Counsel was Ineffective & Guilty Plea is Involuntary"

Had counsel filed any pretrial motions to suppress to exclude the evidence and informed me of the available defenses I would have went to trial and there is a reasonable probability the outcome would have been different because without the evidence I would have been entitled to a directed verdict of acquittal... "juror or trier of fact could have concluded guilt beyond a reasonable doubt. Even I have a right to complain that I have been unconstitutionally convicted as a burglar, State v. Odems 720 S.2d 48 (2011) Jackson v. Virginia 99 Sct. 2781 (1979)..."

This neighborhood consisting of about 100-hots that straddles the Florence and Darlington County lines along Interstate I-95 from High Hill Creek crossing near milemarker 166 down its confluence to Black Creek up said creek to Muse's Bridge starting a straight air-line crossing R. Bar. M. Ranch Rd. and back across Interstate I-95 is not truly a multi-county district and creating fire district was also unconstitutional. This is the same area that I lived in at end of R. Bar. M. Ranch Rd. right beside Interstate. See S.C. Code Ann. §4-23-1000 (Supp. 2017). County of Florence v. West Florence Fire District 811 S.2d 770 (2018). S.C. Code Ann. 4-3-260, 4-3-170, S.C. Code Ann. 27-1-20...

for summary disposition to be proper in post conviction proceedings, the state must be able to prevail as if it were filing summary judgment in a civil proceeding. The party moving for summary dismissal bears the burden of showing that no material fact exists... Schmidt v. State 909 N.W.2d 778 (2018), American v. Liberty Lobby Inc. 106 Sct. 2505 (1986) In terms of the nature of inquiry, there is no different from the consideration for a motion for acquittal in a criminal case beyond a reasonable doubt standard under Jackson v. Virginia 99 Sct. 2781 (1979)...

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"

Ineffective assistance of Counsel, Impermissible conduct, Illegal arrest, search & seizure by officer outside of his Territorial Jurisdiction, fraud upon the court, involuntary guilty plea, Illegal sentence..

By way of ineffective assistance of counsel the... court lacked jurisdiction to enter a valid judgment rendering plea, conviction, and sentence void & illegal correctable at any time... State v. Thomas 203 S.2d. 445 (1974), State v. Reedy 352 S.2d. 158 (1986), Housden v. Heverette 241 S.2d. 810 (1978), State ex rel. Widmeyer v. Boles 144 S.2d. 322 (1965) Ely v. Taugh 172 N.W.2d. 144 (1969)

Officer Phill Hanna had no authority to effectuate an illegal arrest, search & seizure outside of his... Territorial Jurisdiction and then make his false representations on the arrest warrant amounting to impermissible conduct that underpins the whole case against me rendering my guilty plea involuntary by being induced by misrepresentations that was fraud upon the court and upon myself rendering plea in violation of my due process therefore void... and sentence pronounced illegal & correctable anytime... Ward v. State of Texas 62 S.Ct. 1139 (1942), State v. Boswell 707 S.2d. 265 (2011), U.S. v. Fisher 711 F.3d. 460 (4ca 2013)... Beard v. State 88 S.2d. 769 (1949), Casey v. Louisiana 121 S.Ct. 104 (2000). Counsel should have informed me of my right to withdraw guilty plea under extraordinary circumstances & misrepresentations, Taylor v. Missouri 117 S.Ct. 1088 (1997), McCarthy v. U.S. 89 S.Ct. 1166 (1969), Parris v. Commonwealth 52 S.2d. 872 (1949)... a plea agreement is governed by contract principles Rollison v. State 552 S.2d. 290 (2001), Government contract tainted with "fraud" or "wrong doing" is void rendering plea void, illegal & sentence illegal correctable anytime... Godly v. U.S. 5 F.3d. 1473 (Fed. Cir. 1993), Jets Inc. v. United States 108 S.Ct. 2825 (1988), State v. Paladino 497 A.2d. 562 (1985)... Culver B State of N.J. 77 S.Ct. 1387 (1957), Lovejoy v. Skene 75 S.Ct. 786 (1955)...

"Explanation"

Lower court #2021-CP-21-1712 Appellate court #2023-000004

"Extraordinary Circumstances"

"State's Invited Errors"

Rebutting the state's assertion's on claim of Territorial Jurisdiction by their statements in the return, the conditional order of dismissal and final order of dismissal..

Officer Phill Hanna did not have authority to effectuate illegal arrest, search or seizure outside of his Territorial Jurisdiction. State v. Payne 504 S.2d 335 (1998). Preponderance of evidence standard is applicable to collateral attacks on prior convictions by persons seeking post-conviction relief. Citing Porter v. Bailey 113 S.Ct. 517 (1992). The contrary now appears rebutting state's presumption of regularity attached to this final judgment by showing that this guilty plea is also involuntary by misrepresentations and invalid under Boykin v. Alabama 89 S.Ct. 1709 (1969). That counsel was ineffective under Strickland v. Washington 104 S.Ct. 2052 (1984), and also failed to put the prosecution's evidence through adversarial testing a "structural error under U.S. v. Cronin 104 S.Ct. 2039 (1984). and I would not have pled guilty and insisted on a trial under Hill v. Lockhart 106 S.Ct. 366 (1985) and showing of "fraud" Starnes v. Thompson 92 S.Ct. 259 (1977)... citing Cornett v. Williams 87 U.S. 226 (1873) with secondary evidence to promote the ends of justice and guard against fraud. Dunn v. Kentucky 107 S.Ct. 121 (1986)... That if the defendant presents evidence through his testimony or other affirmative evidence which... then refutes the presumption of regularity the burden then falls back on the State to prove that this underlying judgment was entered in a manner which did in fact protect my rights... The standard was and also remains, whether the plea represents a voluntary and intelligent choice among alternative courses of action open to me. By attacking this prior conviction I have a substantial stake in the outcome ending in my favor to deprive it of its normal force, to gain parole eligibility, work credits, work release and other privileges within S.C.D.C., Counsel Ineffectiveness...

5

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"

"Substantial Stake, Standing, Justiciability cognizable"

I have a substantial stake in the litigation that also remains live throughout the controversy... To show that counsel in 1995-GS-21-110 was ineffective and to show that this prior conviction shall not be used for enhancement of my current sentence see State v. Cain 359 S.2d. 581 (1947). Prior conviction tainted with ineffective assistance of counsel shall not serve as a foundation to support recidivist enhancements, House v. Leverette 241 S.2d. 810 (1974), Marcum v. U.S. 350 F. Supp. 1115 (S.D. W. Va. 1972) U.S. v. Bryant 136 Sct. 1954 (2016). Brown v. U.S. 443 F.2d. 116 (4ca 1973). To also show that due to counsel ineffectiveness the court lacks jurisdiction to enter a valid judgment rendering the actions of the court void and sentence also illegal... Williams v. Coiner 392 F.2d. 210 (4ca 1968) To also make my current recidivist sentence fall by invalidation of either one or all prior convictions. Also that this is an involuntary guilty plea in violation of my due process rendering it "void" McCarthy v. U.S. 89 Sct. 1166 (1969)... That it was also tainted with fraud rendering plea contract "void" ab initio. Broughton v. N.C. 104 Sct. 1917 (1984). Where criminal conviction may result in an enhanced sentence should later be convicted of another crime petitioner's stake in relief permits court to exercise its judicial function long after being freed. Carr v. Cox 312 F. Supp. 433 (W.D. Va. 1970). State prisoner currently serving sentence on recidivist conviction could attack his fully served sentence on the basis of the subsequent recidivist conviction. Especially as to the burden of proof to attack prior convictions... Mounts v. Boles 326 F.2d. 186 (4ca 1963). The post-conviction and essential fairness dictates that the disposition of any issue determining the tribunal to inflict additional punishment must be accompanied by notice. Counsel Caroline Lawson failed to inform me of these defenses...

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"
"Fundamental Errors"

Due to Errors of the most fundamental character Counsel's ineffectiveness and multiple procedural errors violating my Due Process & fraudulent misrepresentations I respectfully ask & pray for court to grant me a new counsel and a hearing to invalidate this invalid prior conviction still causing adverse effects...

In the interest of fairness I ask the court to apply equitable tolling to state's fraudulent defense, as they are trying to further benefit from same said "Fraud" & multiple procedural errors and Due Process violations... as I was already granted a hearing and counsel until the state again reasserted its erroneous fraudulent defenses that was used to decoy from asserting rights earlier in order to conceal the truth of the officer's misconduct, counsel's ineffectiveness violations of my constitutional rights that I was misinformed of in 1995... See Gary v. State 557 S2d, 662 (2001), as I have raised issues of material fact regarding the applicability of the one year limitations... See also, Washington v. State 478 S2d, 883 (1996)... Wilkerson v. State 307 S03d, 1231 (2020). Defendant raised sufficient questions of fact as to whether defense counsel's failure to file a motion to suppress was deficient performance as would constitute an exception to time bar for filing PCR, thus warranting an evidentiary hearing... Law Enforcement's impermissible conduct, counsel's ineffectiveness are fundamental issues in violation of my Due Process. See, State v. Milne 355 N.J. Super 355 (2002)... citing... State v. Precioso 609 A2d, 1280 (1992) That when meritorious issues are presented, our interest in affording defendants access to both PCR and Habeas Corpus outweighs our interest in finality... we are not so convinced of our infallibility, or so jealous of our sovereignty as to deem review an undesirable intrusion on adjudications... Jefferson v. State 302 S03d, 694 (2020). See attached... affidavits of another supporting allegations/arrest warrants. Brooks v. State 46 S02d, 94 (1950). Errors that affect fundamental constitutional rights are an exception...

"Explanation"

Lower Court # 2021-CP-21-1712 Appellate court # 2023-020004

"Extraordinary Circumstances"

"Equitable Tolling"

After I went to court in 1995 on this case, I maxed out on parole in 1997. My mother had since moved from this residence that had mailing address of Rt. 4-box-143 Florence S.C. So I never had any reason to believe that it was not Florence County. So by the misrepresentations I never had a valid reason to file PCR. Now that I have filed a PCR application, once I had discovered the "fraud" by omitting Darlington County from the address I have been pursuing an attack on this wrongful conviction with Due Diligence, but the state still is trying to benefit from its own wrong to cover up the cop's "blunder" to set up such a fraudulent defense by trying to still conceal it... by asserting in its return that I have no proof that I lived in Darlington County. I ask this court to not allow State to take advantage of its own wrong as... Equity does not lend itself to fraud... causing my injury... archambault v. Sprouse 63 S.2d 459 (1951), as I did not knowingly or intelligently waive my claims nor did I intentionally sleep on my rights... I always thought that all government officials were correct by saying I lived in Florence County, which was not true. So long as there was no knowledge of the wrong committed and no refusals to embrace opportunity to ascertain the facts... there can be no laches, also I have never had any other reason to attack this prior conviction until the state claims that it legally used it to enhance my current conviction and sentence... on January 8th, 2019, where the court misinformed me and counsel failed to inform me that the burden of proof is on me to prevent the state from using prior convictions for enhancement purposes, see State v. Payne 504 S.2d 335 (1998). When I should have been told that I had a right to attack prior convictions any time before sentencing. Smith v. U.S. 94 S. Ct. 846 (1973)... as these are the valid reasons for not attacking earlier, I have no other remedy, adverse consequences exist, and the errors are of the most fundamental character. United States v. Hesare 40 F.4th 191 (4ca 2022)...

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"

S.C. Code ann. 17-27-20.(a)(b) also acts to comprehend that the act takes place of all other common law... , statutory or other remedies heretofore to challenge the validity of conviction or sentence. It "shall" be used exclusively in place of them. . . Justiciability. Because I alleged also in my application I am still suffering continuing consequences as a result of this invalid conviction I should be entitled to a hearing Jackson v. State 499 S.2d. 915 (1997). As the case is not moot, a case becomes moot when only it is shown that there is no possibility that any legal consequences will be imposed on the basis of the challenged... , conviction Sibron v. N.Y. 38 Sct. 1489 (1964). Spencer v. Kemner 118 Sct. 974 (1994) citing Carafas v. Havellue 48 Sct 1556 (1964) we have been willing to presume that wrongful convictions has continuing collateral consequences. That I also have a legitimate stake that remains live throughout the controversy to stop its use in a future proceeding for impeachment purpose and to prevent the state's use should I go to trial on any felony charges in the future. Benton v. Maryland 49 Sct. 2056 (1969). This is a concrete injury caused by the conviction and redressable by invalidation of the conviction. An incarcerated convicts... , challenge to the validity of his conviction always satisfies the case or controversy requirement. Since the state alleges that this prior conviction was used to enhance my current burglary sentence under S.C. Code 16-11-311(a)(2) two or more prior convictions I have a substantial stake in the vacatur, to set it aside, and invalidate to stop its normal function used for enhancement purposes, in order to regain the eligibility of parole and other privileges in S.C.D.C. To allow this conviction to stand would still cause also continued legal consequences. The controversy remains live. . . Williams v. Ozmint 134 Sct. 1294 (2014). . . The stigma of this wrongful conviction still exists. The state's argument that this 1995 conviction is too old to be attacked but not too old to enhance sentence is without merit. . .

"Explanation"

Lower Court #2021-CR-21-1712 Appellate court #2023-000004

"Extraordinary Circumstances"

Adverse consequences can be found through recidivist statutes. The consequences have survived completion of the sentence. See *Tharpe v. Head* 533 S.2d 368 (2000). *Zant v. Cook* 379 S.2d 740 (1989), as I did not become aware of the violations of my rights until years long after the conviction because I was deceived and tricked by my adversaries that induced me to accept as true and rely on through Law-Enforcement, Prosecution, Counsel, landlord, Government officials to believe that I lived in Florence County by a mere postal address that omitted Darlington County, thus inducing me to never know that I had any defenses or meritorious claims to raise in a post-conviction application or direct appeal due to counsel that was so incompetent that he failed to discover or inform me of any available defenses open to me, instead let me enter into an unknowing and unintelligent guilty plea by ignorance where the illegal arrest, search or seizure by officer outside his "Territorial Jurisdiction" or other violated rights were never brought to light by counsel or the prosecution therefore I never knowingly waived any fourth amendment claims or ineffective counsel claims, because of being placed under a "Genuine Misapprehension" regarding my legal position that did not constitute a waiver at a time that was "Futile" *Ritcher v. Minnesota* 88 S.Ct. 119 (1965), nor did I knowingly waive my claims pursuant to S.C. Code Ann. 17-27-90. Grounds for relief... The rights were abandoned due to counsel's ignorance and mine. See *State v. Armstrong* 211 S.2d 849 (1975), and I should have been allowed to withdraw plea for a fair & just reason for it was the "fraud and impermissible conduct by officer's misrepresentations which is also the extraordinary circumstances that did induce my involuntary guilty plea and induced me into not filing a post-conviction application on time. See... *Pelzer v. State* 662 S.2d 618 (2008). That the State wants to cover up... Maxim that no man may take advantage of his own wrong.

"Explanation"

Lower Court #2021-CP 21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"

"Rule of Law"

"Equal Protection & Due Process"

Persons who may institute proceedings: exclusiveness of remedy. S.C. Code ann. 17-27-20 of the S.C. post-conviction act... (A.) That: Any person who has been convicted or sentenced in violation of the Constitution of the United States or the Constitution or laws of this State. There is no in-custody... requirement, see Brown v. State 814 S.e2d. 146 (2014). Just because a court has subject matter jurisdiction over the class of cases a defendant is convicted of does not end appellate court's inquiry into whether a jurisdictional defect sufficient to survive a guilty plea exists. State v. Sims 814 S.e2d. 632 (2014)... as I have alleged from the very beginning in the instituting of the action "That I am suffering adverse effects from this invalid and unconstitutionally... obtained prior conviction pursuant to precedential case law in S.C. that also acts as an exception to the statutory time-bar or limitations period... I should also be entitled to benefit from the laws of this State just like the other petitioner's in the same class and with same allegation's I have alleged... That this conviction is also being used to deny me me parole eligibility, work credit, work release and other privileges within the S.C. D.C.... as I have also cited: McDuffie v. State 277 S.e2d. 595 (1981). Jackson v. State, Brown v. State 814 S.e2d. 146 (2014)... & United States v. Morgan 74 S.e2d. 247 (1954). That Pelquin v. State 469 S.e2d. 606 (1996) has neither abrogated or over-ruled... The State asserts in its order of dismissal that an... attack on prior convictions used for enhancement is a non-collateral attack, but see State v. Payne 504 S.e2d. 335 (1994). Preponderance of evidence is applicable to collateral attacks by persons seeking PCR-relief... to stop use of prior convictions...

"Explanation"

Lower Court #2021-CR-21-1712 Appellate court 2023-000004

Fundamentally "Extraordinary Circumstances" fundamental unfair
 fraud upon the Courts. Involuntary Injustice
 Guilty plea fundamentally unfair"

Law Enforcement's intentional misrepresentations on the arrest warrant was "fraud upon the Court" See *Casey v. Louisiana* 121 Sct. 104 (2000). That infected my decision to enter of the involuntary guilty plea. Had I not been misinformed I would not have pled guilty but would have insisted on going to trial. *Hill v. Lockhart* 106 Sct. 366 (1985). Law Enforcement's acts of omitting truth about address was impermissible conduct. Thus, making my guilty plea involuntary. The blatant misrepresentations antedated the entry of my plea. was material to that choice and did influence my decision to plead guilty. *Brady v. United States* 90 Sct. 1463 (1970). and the officer's misrepresentation underpins the whole case against me which induced my guilty plea there by rendering it involuntary U.S. v. Fisher 711 Fed. 460 (4ca 2013). Making it fraud upon the court and "fraud" upon myself. *Beard v. State* 88 Nezd. 769 (1949) *Sanders v. State* 45 Ind. 314 (1852). Under these extraordinary circumstances I should have been allowed to withdraw my guilty plea due to the fraudulent misrepresentations. Counsel's ineffectiveness was also an extraordinary circumstance for failure to inform me that I could withdraw my guilty plea See *Taylor v. Missouri* 117 Sct. 1084 (1997) *Christy v. Pennsylvania* 116 Sct. 194 (1995) *Com. v. Manning* 394 A2d. 212 (1979). *Com. v. Carbone* 707 a2d 1145 (1997) This plea is not an intelligent choice among the alternative courses of action that were open to me. This plea was unknowingly and unintelligent under *Boykin v. Alabama* 84 Sct. 1109 (1969). *McCarthy v. U.S.* 89 Sct. 1166 (1969) Consequently if a defendant's guilty plea is not equally voluntary and knowing it has been obtained in violation of my Due Process and is therefore "Void". *State v. Hazel* 291 sezd. 602 (1980). Guilty pleas are based upon contract principles, *Rollison v. State* 552 sezd. 290 (2001). *Godly v. U.S.* 5 Fed. 1473 (Fed. cir. 1993) Contract tainted by "fraud" or "wrong doing" is void. . . ab initio. *Jets Inc. v. U.S.* 108 Sct. 2425 (1985)

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Territorial Jurisdiction"

Officer Phill Hanna did illegally arrest, search & seize outside his Jurisdiction without a warrant for misdemeanor...

Although "Territorial Jurisdiction" is not a component subject matter jurisdiction, it is a "fundamental" issue that may be raised at any time in a proceeding.

The State's Attorney General's Office has misinterpreted my "Territorial Jurisdiction" as by erroneously and frivolously asserting that I claimed the court lacked jurisdiction to accept my guilty plea. My claims are related to the officer's misconduct by all of his actions that violated my fundamental fourth amendment rights that counsel failed to preserve...

By omitting Darlington County from the arrest-warrants in order to manipulate the magistrate judge to sign off on the warrant after being left in illegal detention without a warrant or an arraignment for a month in violation of my fourth amendment rights, also violating my South Carolina Right to Indigent Defense act... See... County of Riverside v. McLaughlin III 513 U.S. 1161 (1991)... He contacted Darlington County Sheriff's Dept. in reference to the checkbook he found during the illegal arrest, search & seizure. The checkbook had the address of 325, R. Bar, M. Ranch, Rd. Florence, S.C. The warrant from Darlington County was served on me by Florence County Sheriff's Dept. which had Virginia Warren 325, R. Bar, M. Ranch Rd. Florence, S.C. Darlington County, which is also before you get to my residence which is now 344, R. Bar, M. Ranch Rd. Florence, S.C. Darlington County. In 1989 my address was Rt. 8, box -143, Florence S.C. Darlington County, and 325, R. Bar, M. Ranch Rd. But I was led to believe that I lived in Florence County by the addresses showing Florence County and law-enforcement's misrepresentation...

"Explanation"

"Extraordinary Circumstances"

"Fundamentally Unfair & Reckless disregard for the Truth"
Law Enforcement's intentional omissions was an action of reckless disregard for the truth on the face of the warrant by not including Darlington County at tail end of address... that compelled me into further believing that I lived in Florence County to think also that Officer Phill Hanna had done no wrong and that his arrest was legit. But it significantly did work to my disadvantage. This is the "cause" also other external factors of other Government officials by Post-Office Services, Roads & Bridge's Department at Both Florence and Darlington County Public works which was no fault of my own or on part of my defense. Law Enforcement took advantage of this to assume and to manipulate the magistrate judge into thinking that I was lawfully arrested in Florence County to cover up his impermissible conduct, and also to neglectfully inform the magistrate that he had made a mistake and supply the correct information on the warrant where knew or had a duty to also correct it See Richter v. Minnesota 36 Sct. 119 (1965) Placing me under a "Genuine misapprehension" in regards to my legal position and induced to believe I had no constitutional right to exclude the evidence illegally seized that induced my involuntary guilty plea. Maryland v. Garrison 107 Sct. 1013 (1987) Officer had a duty to correct his "blunder". Siro v. American Express Co. 99 Conn. 95 (1923). I was deceived by false representations, deceitful contrivances, and wrongful device. citing... Hill v. Goodrich 32 Conn. 544 (1858). It was admitted by the creditor that had he actually... arrested Hill in Boston and brought him there and then served writ on him it would have been "void, you cannot do a wrong and on that build a right. Durham v. Horner 690 F3d, 183 (4ca 2012) citing... Miller v. Prince George City Md. 475 F3d, 621 (4ca 2007). Our Constitution does not allow an officer to act with disregard for the truth to make material misrepresentations or omissions to seek an arrest warrant...

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Extraordinary Circumstances"
"Ineffective Assistance of Counsel"

Counsel was ineffective that denied my fundamental rights protected under the S.C. Constitution article 1, section 14, and deprived my due process protected by article 1, section 3. In failing to preserve my fourth amendment rights that are also fundamental also protected under article 1, section 10, and of United State Constitutional amendments 4th, 5th, 6th, and 14th. Counsel's omissions as to these defenses did deprive me of my right to make an informed... choice causing me to enter an unknowing, involuntary, and unintelligent guilty plea also by coercing me by advising that the evidence found during search would be used against me if I was to proceed to trial. Counsel was ineffective and also incompetent for failure to file a motion to quash arrest and failure to file motion to suppress the evidence as "Fruit of the Poisonous Tree" People v. Little 750 Nezd. 745 (2001), and the veracity of the... arrest warrant based on its omissions to conceal fact that officer failed to include Darlington County in the arrest amounting to "fraud upon the Court". Northrop v. Trippett 265 F.3d. 372 (6ca 2000), People v. Spann 773 Nezd. 59 (2002). Had counsel been more... diligent in his investigation there is a reasonable probability the outcome would have been different... and had counsel informed me of these available & meritorious defenses against excludable evidence I would have insisted on going to trial. Counsel was ineffective in failure to preserve my fourth amendment claims. The officer had no authority to effectuate illegal arrest, search or seizure outside his "Territorial Jurisdiction" and whether or not it was in Florence or Darlington County evidence was excludable. See... State v. Odems 5720 Sezd. 49 (2011), State v. Cope and 469 Sezd. 620 (1996), State v. Alexander 818 Sezd. 455 Wong Sun v. United States 83 Sct. 907 (1963)...

Lower Court # 2021-LP-21-1712 Appellate Court # 2023-000004

Fundamentally "Extraordinary Circumstances" fundamental unfair "Ineffective Assistance of Counsel" Injustice Under the South Carolina Constitution art. 1, Sec. 14 I am entitled to effective assistance of counsel... Favours v. Tucker 74 Sct. 1153 (1958)... State v. Preeley 352 S.2d. 158 (1986). a trial court is without jurisdiction to enter a valid judgment of conviction against defendant in the absence of effective assistance of counsel... State v. Thomas 203 S.2d. 445 (1974). Conviction of an indigent accused who does not have effective assistance of counsel is void. By reason of the ineffective assistance of counsel the trial court did lack jurisdiction to enter a valid judgment against me... The right to assistance of counsel is also a fundamental right, essential to a fair trial. State v. Cowart 162 S.2d. 535 (1964). Rogers v. State 199 S.2d. 761 (1973). Effective assistance of counsel is necessary requisite of Due Process of law. Defendant who alleged not have effective assistance of counsel at trial... established prima facie violation of his constitutional rights. Wilkerson v. State 307 S.3d. 1231 (2020). Defendant raised sufficient questions of fact as to whether defense counsel's failure to file a motion to suppress was deficient performance as would constitute an exception to time bar for filing per warranting an evidentiary hearing... Sikes v. State 445 S.2d. 560 (1994) Counsel was ineffective for failure raise fourth... amendment claims and I was denied effective assistance of counsel for failure to suppress illegally seized evidence as a result of illegal arrest & search... State v. Thomas 203 S.2d. 405 (1973). Kimmelson v. Morrison 106 Sct. 2574 (1946). U.S. v. Calandra 94 Sct. 613 (1974). Mapp v. Ohio 81 Sct. 1684 (1961). Wong Sun v. U.S. 83 Sct. 407 (1963). The constitutionally ineffective assistance of counsel constitutes a jurisdictional defect of a constitutional magnitude, again the court lacks jurisdiction to enter a valid judgment making actions void. Ballard v. Ferguson 751 S.2d. 716 (2013).

#1

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Citations"

- McDuffie v. State 277 S.2d 515 (1981).
Jackson v. State 489 S.2d 915 (1997).
Webb v. State 314 S.2d 839 (1984).
Brown v. State 814 S.2d 146 (2018).
State v. Payne 504 S.2d 335 (1998).
U.S. v. Lesane 40 F.4th 191 (4ca 2022).
Culver B State of N.J. 77 Sct. 1347 (1957).
Broughton v. State of F.N.C. 104 Sct. 1917 (1984).
Brown v. U.S. 483 F.2d 116 (4ca 1973).
State v. Odums 720 S.2d 48 (2011).
Jackson v. Virginia 99 Sct. 2741 (1979).
County of Florence v. West Florence Fire Dist. 811 S.2d 770 (2018).
S.C. Code Ann. 4-3-260, 4-3-170, 27-1-20, 4-23-1000
Schmidt v. State 909 N.W.2d 774 (2018).
Liberty Lobby Inc. v. Anderson 106 Sct. 2505 (1986).
State v. Thomas 203 S.2d 445 (1974).
State v. Reedy 352 S.2d 154 (1986).
Houser v. Hevrette 241 S.2d 810 (1980).
State ex rel. Widmeyer v. Bole 514 S.2d 322 (1965).
Ely v. Haugh 172 N.W.2d 144 (1969).
Ward v. State of Texas 62 Sct. 1139 (1942).
State v. Boswell 707 S.2d 265 (2011).
U.S. v. Fisher 711 F.3d 460 (4ca 2013).
Beard v. State 88 N.W.2d 769 (1949).
Casey v. Louisiana 121 Sct. 104 (2000).
Taylor v. Missouri 117 Sct. 1084 (1997).
McCarthy v. U.S. 89 Sct. 1166 (1969).
Parris v. Commonwealth 52 S.2d 872 (1949).
Rollison v. State 552 S.2d 290 (2001).
Godly v. U.S. 5 F.3d 1473 (Fed. Cir. 1993).
Jets Inc. v. United States 108 Sct. 2825 (1988).
State v. Paladino 497 A.2d 562 (1985).
Lovejoy v. Sheen 75 Sct. 786 (1955).
Parke v. Bailey 113 Sct. 517 (1922).
Boykin v. Alabama 89 Sct. 1709 (1969).
Strickland v. Washington 104 Sct. 2052 (1984).
U.S. v. Cronk 104 Sct. 2039 (1984).

2

"Explanation"

Lower Court #2021-CP-21-1712 Appellate court #2023-00003

"Citations"

- Hill v. Lockhart 106 Sct. 366 (1945).
Starnes v. Thompson 92 S.E. 259 (1917).
Cornett v. Williams 87 U.S. 226 (1873).
Dunn v. Kentucky 107 Sct. 121 (1946).
State v. Cain 359 S.e2d. 541 (1947).
Marcum v. U. S. 350 F. supp. 1115 (S.D. W. Va 1972)
U. S. v. Bryant 136 Sct. 1954 (2016).
Williams v. Coiner 392 F2d. 210 (4ca 1968).
Carr v. Cox 312 F. supp. 433 (W.D. Va. 1970).
Mount v. Boles 326 F2d. 186 (4ca 1963).
Gary v. State 557 S.e2d. 662 (2001).
Washington v. State 479 S.e2d. 843 (1996).
Wilkinson v. State 307 S.o3d. 1231 (2020).
State v. Milne 355 N.J. Super 355 (2002).
State v. Preciose 609 A2d. 1280 (1992).
Jefferson v. State 302 S.o3d. 694 (2020).
Brooks v. State 46 S.o2d. 94 (1950).
Smith v. U. S. 94 Sct. 846 (1973).
Sibron v. N.Y. 88 Sct. 1849 (1968).
Spencer v. Kemna 118 Sct. 976 (1994).
Carafas v. Lauvelle 88 Sct. 1556 (1968).
Benton v. Maryland 89 Sct. 2056 (1969).
S.C. Code ann. 16-11-311(a)(2).
Williams v. Ozmint 134 Sct. 1294 (2014).
Therpe v. Head 533 S.e2d. 364 (2000).
Zant v. Cook 379 S.e2d. 740 (1989).
Richter v. Minnesota 88 Sct. 119 (1965).
State v. Armstrong 211 S.e2d. 889 (1975).
Pelzer v. State 662 S.e2d. 618 (2009).
State v. Sims 814 S.e2d. 632 (2018).
United States v. Morgan 74 Sct. 247 (1954).
Peloquin v. State 469 S.e2d. 606 (1996).
Brady v. United States 90 Sct. 1463 (1970).
Sanders v. State 85 Ind. 318 (1882).
Christy v. Pennsylvania 116 Sct. 194 (1995).
Com. v. Manning 398 A2d. 212 (1979).
Com. v. Carbone 707 a2d. 1145 (1998).

#3

"Explanation"

Lower Court #2021-CP-21-1712 Appellate Court #2023-000004

"Citations"

- Riverside v. McLaughlin 111 Sct. 1161 (1991).
- Maryland v. Garrison 107 Sct. 1013 (1947).
- Sirov v. American Express Co. 99 Conn. 95 (1923).
- Hill v. Goodrich 32 Conn. 584 (1858).
- Durham v. Horner 690 F3d. 183 (4ca 2012).
- Miller v. Prince George Cty. Md. 475 F3d. 621 (4ca 2007).
- Northropp v. Trippet 265 F3d. 372 (6ca 2001).
- People v. Spann 773 ne2d. 59 (2002).
- People v. Little 750 ne2d. 745 (2001).
- State v. Copeland 469 Sezd. 620 (1996).
- State v. Alexander 818 Sezd. 455 (2014).
- Wong Sun v. United States 83 Sct. 407 (1963).
- Favors v. Tucker 78 Sct. 1153 (1958).
- State v. Cowart 162 Sezd. 535 (1969).
- Rogers v. State 199 Sezd. 761 (1973).
- Sikes v. State 448 Sezd. 560 (1994).
- Kimmelson v. Morrison 106 Sct. 2574 (1986).
- U.S. v. Calandra 94 Sct. 613 (1974).
- Mapp v. Ohio 81 Sct. 1644 (1961).
- Ballard v. Ferguson 751 Sezd. 716 (2013).
- S.C. Code 17-27-20 and 90.
- South Carolina Const. Amendments
- United State Const. Amendments
- S.C. Jur. Post-Conviction Reliefs 434, Generally.
- S.C. Jur. Actions 22.1 § Mootness Doctrine.