

STATE OF SOUTH CAROLINA
COUNTY OF SALUDA
Gerald Rudell Williams # 279073
Applicant

V.

STATE OF SOUTH CAROLINA
Defendant

THE SOUTH CAROLINA COURT
OF APPEALS.

Subject Matter Jurisdiction
Illegale Sentence;

Case # 2021-000783

Applicant, through the issue presented, and citations of authorities relied on will show unto this court, Applicants entitlement to the requested relief stated herein the grounds upon which this motion is based. (make at least a prima facie showing which would entitle Applicant to relief before an evidentiary hearing. Trial Transcript of Record dated October 14-17 2013 is attached.

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SC Court of Appeals

ISSUE Presented

Subject Matter Jurisdiction;
Illegal sentence;

Trial Court lacked jurisdiction and legal authority to convict defendant for attempted murder in the State of South Carolina. (See) State v. Sutton ~~340 S.C. 393~~; 340, S.C. 393, 532 S.E.2d 283 (2000), the South Carolina Supreme Court first addressed the issue of whether attempted murder was an offense in South Carolina. Declining to recognize the common law attempted murder offense, (See) also Michael Juan Smith, (2000), S.C. Supreme Court, stating; Felony attempted murder is not a recognized crime in this State of South Carolina.

STATEMENT OF THE CASE:

Defendant was indicted in July of 2013 by the Saluda County Grand Jury for three counts of attempted murder, APP. 1094-1102. Defendant's trial was held before the Honorable "J. Michael Baxley" and a jury from October 14-17, 2013. APP. 1. Defendant was represented by Bennett Castro and Robert Madsen. The state was represented by Ervin Max and H. Franklin Young, III. APP. 1. Defendant was found guilty as charged, APP. 722.123-723.1.10. Defendant was sentenced to concurrent terms of twenty-years imprisonment for each offense. APP. 738, 11.4-11. indictment numbers # (2013-GS-41-257, 258, 259)

ARGUMENT

Trial judge lacked jurisdiction, and legal authority to convict defendant at the time of Applicant's trial for attempted Murder. (see) State v. Sutton, 340 S.C. 393, 532, S.E.2d 283. (2000) stating the South Carolina Supreme Court first addressed the issue of whether attempted murder was an offense in South Carolina, declining to recognize the ~~Common~~ Law attempted murder offense. (see) also Michael Juan Smith (2000) v. State S.C. Supreme Court; stating Felony Attempted Murder is not a recognized crime in this state of South Carolina.

Relevant Facts

Defendant and his co-defendant, Orl Charley, were both charged with three counts of Attempted Murder. The alleged victims were Al Jerome Young, Ycedra Williams, and Joseph Wrighton.

Conclusion

Wherefore, Applicant believes that the issue presented and citations of authorities relied on that Applicant has shown unto this court that Applicant's constitutional rights were violated at trial and that Applicant is entitled to the requested relief stated herein.

Therefore, Applicant will forever pray that this court will grant the requested relief of a vacated conviction, and released at once.

STATE OF SOUTH CAROLINA
IN The Court of Appeals

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Case # 2021-00078 SC Court of Appeals

Gerald Rudell Williams, Applicant,

v.

STATE OF SOUTH CAROLINA,
Defendants,

Trial Transcript of
Record

Gerald R. Williams

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SC Court of Appeals

STATE OF SOUTH CAROLINA
in the court of Appeals

Appeal From SALUDA County
court of General Sessions

Gerald R. Williams

Applicant

v.

The STATE

Defendant

Proof of Service

I Gerald R. Williams certify that I have served this document by depositing ~~one~~ two copy of the same in the U.S mail postage pre-paid address to: Jenny Abbott Kichings clerk of court of Appeals, of S.C. P.O Box 11629 Columbia, S.C. 29211. AND TAYLOR ZAVNES smith Assistant Attorney General, office of the Attorney General P.O Box 11549 Columbia, SC 29211.

Gerald R. Williams #279073
F-5-B272

Lee Correctional Institution
440 Wisconsin Highway
Bishopville, SC 29010

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SC Court of Appeals

Clerk of Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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