



The Supreme Court of South Carolina

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July 12, 2013

Laura McCall Saunders, Esquire
P.O. Box 731
102 Church Street
Laurens, SC 29360

Re: The State v. Robert Dale Smart
Appellate Case No. 2013-000496
DNA Testing Application in 1998GS4400296

Dear Counsel:

Enclosed is correspondence from your client that is related, in part, to the notice of appeal in the above case. Apparently, he is unaware that you remain his counsel of record in this case, and that the South Carolina Court of Appeals dismissed the notice of appeal as being untimely by order dated July 5, 2013.

As to the "Motion on Jurisdiction" which is unrelated to the above appeal, that motion is being treated as a request for relief under Rule 245 of the South Carolina Court Rules (SCACR). Your client will be notified when this Court takes action on that motion.

Very truly yours,

CLERK

Enclosure

cc: Office of Indigent Defense
Ashley Anne McMahan, Esquire
Mr. Robert D. Smart, #272017
 The Honorable Jenny Abbott Kitchings (with copy of correspondence)

From:

July 5th, 2013

Robert Smart 272017
Ker. CJ MR-62
4848 Goldmine Hwy.
Kershaw, S.C. 29067

RECEIVED

JUL 11 2013

S.C. SUPREME COURT

Re; Smart vs. State of South Carolina

To the Supreme Court;

I would like to file this Motion on Jurisdiction. Please date stamp and send the extra copy back to me in the self-addressed envelope.

I filed a DNA application, it was turned down in General Sessions Court. I filed a notice of intent to appeal. I sent my indigent form to Appellate Defense, I have not heard back from them. Could I file my own appeal?

Respectfully submitted,

s/ *Robert D. Smart*

STATE OF SOUTH CAROLINA

UNION COUNTY

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Robert Smart #272017) Case no.
Petitioner,)
vs.)
State of South Carolina)
Respondent.)

JUL 11 2013

S.C. SUPREME COURT

The Petitioner in the above named case would like to move and take leave of this court to be allowed to file this MOTION TO PROVE JURISDICTION.

Did the Court have jurisdiction in this case?

1. In 1997, State law plainly stated that the only ones that could be charged and tried for abusing a child were the parents, a legal guardian, a day care operator, and or some one that stayed around the child daily. B.T. testified that she saw Petitioner about Tr-77 L-3: "Once a month". Petitioner was definitely not her baby sitter. Petitioner lived in the next county.
2. B.T. told DSS case worker "put his finger in my vagina, not that I know of." on page seven of the DSS report.
3. B.T. denied being molested to Kim Rosoborough, on her report and that the wound to B.T. was to fresh for Plaintiff to have done.
4. B.T. testified that Tr-81 L-1 : "Except I can't remember that far back."
5. B.T. testified: I was told what to testify to by the prosecutor (Tr-74 L-9), her mother (Tr-83 L-13) and Sharon Wright (Tr-72 L-11).
6. John Edward "Buddy" Tezner (SIC) signed the arrest warrant but never testified in this case at trial or any of the hearings.
7. South Carolina Rules of Court plainly state that a prosecutor has about ninety days after the arrest to get and indictment. The state waited two years and nine months after the arrest to get an indictment.
8. Detective Haney told Brady Smart that he never testified before the grand jury in this case. That South Carolina does not do indictment right. The indictment is not signed by Detective Haney. Under state law prosecutors **can not** be the sole witnesses before the grand jury. Brad Cranshaw rubber stamped the indictment which the state has not denied.
9. At trial the state presented no evidence that B.T. had been molested

during the indictment period except her coached testimony that made her testimony a rumor. At trial Dr. Hammond testified Tr-223 L-22: "The Likelihood is greater that it was after the 27th." No other doctor testified within a reasonable degree of medical certainty.

10. Attorney Mark Hayes Tr-330 L-14, requested a Directed verdict due to lack of evidence. Judge King never ruled on this issue. The Burden is always on the state to prove jurisdiction.

11. June Miller the Prosecutor in Union County refused to prosecute this case. Tommy Pope refused to prosecute this case. What law gives the state jurisdiction in this case.

12. The Tezners dropped this case in Family Court, Family Court should have had to transfer the case to General Sessions Court.

The Petitioner submits that in a case where the state does not establish the corpus delicti of a crime, the court has no subject matter jurisdiction to try a defendant for that particular crime. State v. Smith, 328 S.C. 622, 493 S.E.2d 506, 508 (S.C. Ct. App. 1997) Where there is no corpus delicti of a crime the defendant is entitled to a directed verdict. State v. Pppes 39 S.E.2d 796 (1946)

The burden is always on the state to prove jurisdiction, please explain where the state gets it jurisdiction in this case, that is proof beyond a reasonable doubt.

Respectfully submitted,

July 8th, 2013

s Robert D. Smart

Robert Smart 272017 Pro Se

Amendment

I have 83 days left in prison, I am in fear for my life since the Tezners were spraying poisons into my cars. I will be moving to another state. No judge sentenced me to community supervision or a leg monitor. Please rule on this issue. Plaintiff is seeking for a Directed verdict due to lack of jurisdiction and evidence.

Respectfully submitted,

July 8th, 2013

s Robert D. Smart

Robert Smart 272017 Pro Se