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S.C. SUPREME COURT

Why should this court entertain this case ? The answer is simple, Appellant is raising the factual predicate of lack of subject matter jurisdiction by the court of general sessions who purportedly excepted his guilty plea, and by the Court of Common pleas who adjudicated his post conviction application.

The net effect of this litigation is that the judicial announcement's in this case against Appellant are all null and utterly void. If so, Appellant is being held in custody in violation of the Constitution of the United States and of this State.

The genesis of this proposition is grounded in the S.C. Code Ann. § 14-5-670. Fact's are more powerful than words, (Facta Sunt Potentiera Verbis) and the invincible fact in this case is that both purported judicial proceedings were [n]ot authorized by the state legislature.

With that fact being infeasible, it raises the question of where did the judicial power come from for these court's stated to adjudicate ? Ex Rigore Juris, subject matter jurisdiction is a court's [s]tatutory, or [C]onstitutional power to adjudicate a case, United States "vs" Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002).

The facts in this case are pellucid, and it is accurate to say that the courts stated lacked [s]tatutory power to adjudicate as a command of legislative law.

The only question that remains relevant here is whether the lower court's had [C]onstitutional power to adjudicate, and the answer is no according to law.

To be sure, the Constitutional power for the Chief Justice of the Supreme Court to invoke Constitutional power under Article V §4 derives from the S.C. Code Ann. § 14-5-910 which requires a [w]ritten [p]etition filed in the lower court's, and presented to the lower court judge, and then filed in the S.C. Supreme Court.

This is not discretionary, but [m]andatory.

There is no petition forthwith by the state. The law is, "where a defendant alleges in a successive PCR application fact's that would establish an exception to either the statute of limitations or the prohibition against successive PCR applications, and those fact's are not conclusively refuted by the record before the PCR court, a question of fact is raised which can


only be resolved by a hearing, Robertson "vs" State, 418 S.C.505,
795 S.E.2d 29 (S.C. 2016).

The allegation of lack of subject matter jurisdiction is an exception to
the statute of limitations and the fact's pertaining to this allegation
are not conclusively refuted by the record. Being so, the lower court erred
by failing to grant Appellant a PCR hearing. Moreover he was also denied
counsel under rule 71.1 SCRPC

Appellant's 14th Amendment Rights were violated in this case.

10-3-23

date



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