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OCT 27 2023

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. SUPREME COURT

Appellate Case No. 2023-001558

Louis Gainey, Jr. 00185519 )

v. )

State of South Carolina )

Respondent. )

Rule 243C EXPLANATION AND

Objection to prohibition

on future filing

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That our Supreme court in State v Heyward, 2023 WL 6475472 held as a matter of due process, a defendant in a criminal trial may not be required to wear handcuff, leg shackles, or other restraints in the presence of the jury unless the trial court makes specific finding on the record as to the particular reasons the restraints are necessary, it must make every reasonable effort to ensure the restraints are not visible to the jury. If the prohibition on future filing is made and I must get permission this claim could be lost, because it was bought before this court. The judge in this case never said why it was necessary for the defendant to wear shackles, he said, deferring security personnel in the courtroom. This is not specific finding on the record as to the particular reasons the restraints are necessary.

It is also part of the record, that judge and security agreed there was a need for Applicant to remain in his trial...

The record reflect that the trial court not in error in requiring defendant to wear restraints when the court took precautions to minimize any prejudice that may cause by the defendant being shackled. See Appx: Case No. 2013-0000535, P. 568 to 569.

The claim was: that trial counsel prejudice the defendant by failing to object to the defendant been seen in front of the jury members eyes with shackles on in the witness stand so prejudice to a fair trial by the members of the jury..This needs to be re-examined in light of State v Heyward, 2023-W1 6475472.

Another issue that needs further examination is §§ 14-5-910 to 940 has nothing to do with a grand jury being ordered by the trial judge. Section 14-5-910 requires the general sessions court to be ordered by the Chief Justice of the Supreme Court. Section 14-5-920: Calling of Special Session by presiding judge, designation of judge to hold court, section 14-5-930; call of special terms by resident judge, designation of judge to hold court, this statute give the resident judge, such term shall be held by the resident judge. The statute which follows don't mentioned a GRAND Jury. The State has incorporated false statement in its pleading that can only be resolve in a hearing.

Where an applicant alleges facts that would establish an exception to either the statute of limitations or the prohibition against successive PCR application and those facts are not conclusively refuted by the record before the PCR court, a question of fact raised which can only be resolved by a hearing. McCoy v State, 401 S.C. 263, 737 S.E.2d 623 (S.C. 2013)(quoting Delaney v. State, 269 S.C. 555, 238 S.E.2d 679, 670 (1977).

This is why prohibition on future filing must be denied.

The issue that the Great Seal was not attached to the manslaughter act must be decided by this court. 1993 Act No. 1884 § 159 did or did not have the Great Seal attached is a matter of law needs to be decided by this court.

The South Carolina Constitution provides: No bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each house, has had the Great Seal of the State affixed to it ....

The issue of the missing Great Seal has never been decided by this court and all the Respondent gives is conclusion allegations based on past laws.

17-25-45c provides where an applicant alleges facts that would established an exception to either the statute of limitation or the prohibition against successive PCR application and these facts are not conclusively refuted by record before the PCR court, a question of fact raised which can only be resolved by a hearing. McCoy at 401 S.C. 263.

The judge a sentencing never said that based on your prior conviction for manslaughter or arson, he just said based on your prior record, and you realized, they served you notice of life without parole sometime ago. See State v Phillips, 400 S.C. 460, 734 S.E.2d 650. Upon conviction of a serious offense, a person must be sentence to LWOP if the person has two or more prior

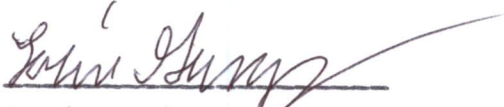
conviction for a serious offense. S.C. Code Ann. §17-25-45(B), And also Bryant v State, 364 S.C. 525, the court held, SECTION 17-25-45 operates to trigger LWOP sentence under two strikes and three strikes, which makes naming the prior conviction must be identified either in the Notice of life without parole or sentencing and judgment by the judge.. The judge identified the indictment number for Assault and battery with intent to kill and then sentenced Mr. Gainey to LWOP, he didn't mention 17-25-45 during sentencing.

If a defendant alleges that there is material facts that never been heard that requires vacation of conviction of sentence the applicant has one year .... These issues was just discovered when applying the plain language of the constitution to the Acts and the judgement and sentence of the Court.

#### CONCLUSION

Wherefore, the prohibition on future filing and Rule 243c explanation have been shown by the Applicant, there fore a hearing must be held to resolve this conflict.

Dated  
October 24 2023

  
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