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Appellate Case No. 2024-000944

S.C. SUPREME COURT

Petitioner now Submits his Explanation why he should not be prohibited From doing Future Filings in the Circuit Court without First obtaining permission From the South Carolina Supreme Court.

Petitioner Filed this Current PCR application on June 12, 2023 as a new subject matter jurisdictional Issue that was never adjudicated or heard before any Court on its merits.

Petitioner contends that he received some legal documents (a letter and death Certificate) "enclosed as exhibits #1 and #2" from the marion County Coroner's office on June 07, 2021, and Petitioner Filed his Current PCR application as a new subject matter Jurisdictional Issue.

This Court in Tilley v. State, 334 S.C. 24 511 S.E.2d 689 (1999), disagreed with the state that Tilley's Fourth PCR application should be Considered successive.

The Court went on to say a successive application is one that raises grounds not raised in a prior

application, raises grounds previously heard and determined, or raises grounds waived in prior proceeding. S.C. Code Ann. § 17-27-90 (1976 & Supp. 1997). Successive applications are disfavored and the applicant has the burden to establish that any new grounds raised in a subsequent application could not have been raised by him in a previous application. Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992), cert denied, 507 U.S. 927, 113 S.Ct. 1302, 122 L.Ed.2d 691 (1993); Alice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981). This Court must affirm the findings of the PCR Court if they are supported by any evidence of probative value in the record.

This Court went on to say " we find Respondent's (applicant) claim concerning parole eligibility are not successive. Respondent learned he was ineligible for parole on October 26, 1995, and within a month he filed the current PCR application. He could not have raised this claim in a previous PCR application because he did not know of the claim until October 26, 1995.

Petitioner further contends that he received some legal documents (death certificate and a letter) from

the Marion County Coroner on June 07, 2021 and Filed his Current PCR application on June 12, 2023 as a new subject matter jurisdictional issue, which can be raised at any time and can never be waived or forfeited and requires correction.

Petitioner further contends that this Court was faced with a similar issue in Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001) overruled in part by State v. Genry, 363 S.C. 93, 610 S.E.2d 494 (2005).

Brown, supra, filed a second subject matter jurisdiction issue and the Respondent/State asked this Court to dismiss Brown's issue on procedural grounds but this Court refused to do so.

This Court went on to reason by saying:

Initially, we note that the State argues Petitioner is precluded from raising a subject matter jurisdiction argument because the issue of subject matter jurisdiction has been litigated once before and ruled upon by this Court. We are unpersuaded by the State's procedural argument.

The jurisdiction of a Court over the Subject matter is Fundamental. Anderson v. Anderson 299 S.C. 110, 115 382 S.E.2d 897, 900 (1989). Lack of Subject matter jurisdiction may not be waived, even by Consent of the parties, and should be taken notice of by this Court.

id. It is well-settled that issues related to Subject matter jurisdiction may be raised at any time, including for the first time on appeal in this Court. Carter v. State, 329 S.C. 355, 495 S.E.2d 773 (1998), State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 (1972). Furthermore, the acts of a Court with respect to a manner as to which it has no jurisdiction is void. Funderburk, Supra.

While it is true that both this Court and the PCR Court have addressed Subject matter jurisdiction arguments related to the Code Sections in the Indictments, neither this Court nor the PCR Court has addressed the precise challenge now at issue. Since Subject matter jurisdiction is an issue which is Fundamental and may be raised at any time, we decline to find that our review of this issue

is precluded on procedural grounds, Carter, Supra,
Anderson, Supra.

Petitioner contends that based upon this Court's list of legal authorities, that Brown's new subject matter jurisdictional issue cannot be barred on procedural grounds. Petitioner contends that the same case authorities must be applied to his new subject matter jurisdictional issue.

The South Carolina Appeals Court dealt with a similar issue in Carpenter v. South Carolina Dept. of Corrections, 431 S.C. 512 848 S.E.2d 346 (Ct. App. 2020).

The appeals court rejected the state's argument that the South Carolina Supreme Court denial of Carpenter's petition for original jurisdiction and a writ of Habeas action constituted res judicata or has any other preclusive effect in his case. The denial order was not based on the merits. See Plum Creek Dev Co. v. City of Conway, 334 S.C. 30, 34 512 S.E.2d 106, 109 (1999).

The petitioner contends that the denial order

In his case does not address the merits of his new Subject matter Jurisdictional Issue.

See United States v. Cotton, 535 U.S. 625, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002). In Cotton, Supra., the United States Supreme Court ruled that a lack of Subject matter jurisdiction can never be Forfeited or waived, and may be raised at any time.

Petitioner contends that because of the Facts of his case and the many Constitutional violations, State and Federal he should have liberty to the Circuit Court in the future but Petitioner contends IF his case is fully heard on the merits he will be granted relief and will not need to file any motions in the future.

The Petitioner,

Forever Prays.