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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Abunzo Tarell Jones
Petitioner

v.

STATE OF SOUTH CAROLINA
Respondent

Appellate Case No:
2022-000158

MEMORANDUM OF LAW
IN SUPPORT OF

Motion to Dismiss

Introduction:

Abunzo Tarell Jones (hereinafter "Jones") moves to dismiss pursuant to this present motion before the court. The court lacks subject matter jurisdiction over the [Gun] which is the cause of the action sub judice, because the state had subject matter over the [Gun]. The Federal court superseded the state court jurisdiction in a separate proceeding, thereby impairing or defeating the state court prior exclusive jurisdiction by enjoining the state court criminal case.

On April 8, 2014 Petitioner Application for Post-Conviction Relief pg. 1-3 line 11 stating that there was no evidence that ATF took possession of the evidence.

Argument:

Petitioner contends that this action must be dismissed under the prior exclusive jurisdiction doctrine, because the state court of South Carolina first obtained prior exclusive jurisdiction over the [GCU].

Ex(A) Petitioner Arrest Warrant Dated August 13, 2012 for Felony Possession of a Firearm. Ex(B) A copy of the ATF Agent Rachel when he took possession of the firearm on January 7, 2013 from the Camden Police Department. Ex(C) is the Petitioner's True Bill Indictment from the Court of General Sessions February Term 2013 for unlawful carrying of a pistol after ATF took possession of the pistol. Ex(D) Chain of Events between ATF Special Agent Rachel and CPD Investigators. Ex(E) Guilty Plea of the Petitioner on April 9, 2013 after the ATF took possession of the pistol. Ex(F) is Petitioner Presentence Report stating

3

THE FACTS WHEN AGENT BATHEL TOOK POSSESSION OF THE PISTOL FROM CAMDEN POLICE DEPARTMENT IN HIS REPORTS CASE # FOR FEDERAL CASE 3:13-CR-00967 TLW! EX(C) IS PETITIONER APPLICATION FOR POST-CONVICTION RELIEF pg. 1-3 line 11 STATING THAT THE ATF TOOK POSSESSION OF THE EVIDENCE AND WAS BROUGHT UP AT THE TIME AT PETITIONER P.C.R HEARING BY COUNSEL RONALD MOAK. EX.(H) IS TRANSCRIPTS OF THE RECORD CASE # 17-CR-28-00226 JANUARY 24, 2022 IN COURT OF COMMON PLEAS CROSS-EXAMINATION OF RONALD MOAK pg 22 lines 9-25 MR MOAK CLEARLY STATED THAT HE CALLED OVER TO THE CAMDEN CITY POLICE DEPARTMENT AND ASKED THEM IF THE GUN WAS STILL IN EVIDENCE AND THE GUN HAD BEEN HAND OVER TO THE ATF BEFORE THE STATE INDICTMENT AND GUILTY PLEA THAT WAS THE PURPOSE OF THE P.C.R HEARING FOR PETITIONER.

CONCLUSION:

FOR ALL THE REASON STATED, ABOVE AND THE EXHIBITS ATTACHED THIS COURT SHOULD GRANT PETITIONERS MOTION TO DISMISS BECAUSE THE STATE COURT DIDN'T EVEN HAVE THE EVIDENCE IN THEIR POSSESSION TO INDICT OR PROSECUTE.

(4)

RELEVANT BACKGROUND:

ON AUGUST 13, 2012 PETITIONER WAS ARRESTED FOR FELONY IN POSSESSION OF A FIREARM BY CAMDEN CITY POLICE DEPARTMENT. ON JANUARY 7, 2013 ATF SPECIAL AGENT JESSE LEE RATHEL TOOK POSSESSION OF THE PISTOL DESCRIBED AS SMITH AND WESSON BODY GUARD 380 (SERIAL # EAL 7965) WITH ONE MAGAZINE.

ON FEBRUARY TERM 2013 PETITIONER WAS INDICTED FOR UNLAWFUL CARRYING OF A PISTOL S.C. CODE 16-23-0500(B)

ON MARCH 6 2013 SUMMARY OF EVENTS AGENT RATHEL TALKED WITH CAMDEN POLICE DEPARTMENT (CPD) INM. D. BURRIS ABOUT PETITIONER INTERVIEW AND CAPTAIN FRASIER ABOUT PETITIONER MIRANDA WAIVER.

ON APRIL 9, 2013 PETITIONER PLEAD GUILTY IN THE STATE OF SOUTH CAROLINA COUNTY OF KERSHAW CASE # 2013-GS-28-0083
2013-GS-28-0334

IN JULY OF 2011 PETITIONER PRESENTS REPORT FROM FEDERAL CASE # 3:13-CR-00967 THAT STATING THE FACTS ON HOW THAT ATF SPECIAL AGENT JESSE LEE RATHEL TOOK POSSESSION OF THE FIREARM

aw Jones

ALBERT TARELL JONES # 70680-053

F.C.I BENNETTSVILLE

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CC HONORABLE JUDGE

TERRY L WOOTEN

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