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DEC 17 2024

The Supreme Court of South Carolina
The Honorable Chief Judge, John Kittredge
Post Office Box 11330
Columbia S.C., 29211

S.C. SUPREME COURT

Dear Honorable Chief Justice, John Kittredge:

I, Terron Gerhard Dizzley, has been researching my case for years through the Westlaw legal assistance provided by the South Carolina Department of Corrections, and for years have been filing habeas corpus petitions for my release from being held illegally incarcerated pursuant to an unlawful sentence without legal nor jurisdictional authority in violation of the Fifth Amendment's Double Jeopardy Clause. However, this Court has refused to adjudicate any of my petitions, resulting in a continuing illegal incarceration.

I have requested the support of my family in this matter, to incorporate the Honorable Judge Baxley's ruling from my first trial of 2012, word-for-word, and other relevant legal questions into various reliable search engines for the purpose of proving that the interpretations of the law pursuant to the circumstances of my case, corroborates with the interpretations provided by Westlaw, pursuant to the precedent controlling cases pursuant to Double Jeopardy. This is the result of my family's research.

FACT CHECK

In Terron's first trial of 2012, State v. Terron Dizzley, Case No. 2009-GS-22-007780, the Honorable Judge Michael Baxley stopped his jury from deliberating and discharged them on the grounds that: **"That's actually a strong message to the prosecution that they are unable to meet the burden of proof to the extent that they can bring back a unanimous verdict."**

United States Legal Glossary– defines **Acquittal** – **"A jury verdict that a criminal defendant is not guilty or the finding of a judge that the evidence is insufficient to support a conviction."**

My family typed the above ruling by Judge Baxley word-for-word into the following search engines, Westlaw, Google, AI, and several others and asked if the ruling is an acquittal. These search engines provided precedent cases such as *U.S. v. Martin Linen Supply Co.*, 430 U.S. 564 (1977); *Burks v. United States*, 437 U.S. 1 (1978); *Hudson v. Louisiana*, 45 U.S. 40 (1981); *U.S. v. Scott*, 437 U.S. 82 (1978), which establishes that when a judge discharges a jury on the grounds that the prosecution failed to meet their "burden of proof" or that there was "insufficient evidence" to convict, such as the aboved ruling by Judge Baxley in my case, such rulings are acquittals for double jeopardy purposes.

Ex parte Lange, 85 U.S. 163 (1873), which is the United States Supreme Court landmark precedent case on Double Jeopardy, establishes that a sentence imposed on a person which violates the Fifth Amendment's Double Jeopardy Clause, such as my sentence, is "void for want of power" to hold me a prisoner, and I must be discharged.

My family, typed the following question into Google: **"If a judge discharges a jury on the grounds that this is a strong message to the prosecution that they are unable to meet the burden of proof to the extent that they can bring back a unanimous verdict, is such ruling an acquittal for double jeopardy purposes."** Below is the response Google provided.

"AI Overview

Yes, if a judge discharges a jury on the grounds that the prosecution demonstrably cannot meet the burden of proof to reach a unanimous verdict, this would generally be considered an "acquittal" for double jeopardy purposes, meaning the defendant cannot be retried for the same offense due to the Fifth Amendment protection against double jeopardy.

Key points to consider:

Judge's interpretation of evidence:

When a judge discharges a jury due to insufficient evidence, it is essentially a finding that the prosecution cannot prove the case beyond a reasonable doubt, which is the legal standard for a conviction.

Double jeopardy implications:

If the judge discharges the jury based on a clear inability of the prosecution to meet the burden of proof, a retrial would be barred by double jeopardy protections."

I asked my family to type the following question into Google: **"Isn't it true, that according to clearly established United States Supreme Court precedent case *United States v. Martin Linen Supply Co.*, if a judge discharges a jury on the grounds that this is a strong message to the prosecution that they are unable to meet the burden of proof to the extent that they can bring back a unanimous verdict, such ruling is an acquittal for double jeopardy purposes despite the label the judge placed on the ruling as a mistrial."** Below is the response Google provided us.

"AI Overview

Yes, that is correct; according to the Supreme Court case "*United States v. Martin Linen Supply Co.*", if a judge discharges a jury because they believe the prosecution

cannot meet the burden of proof to achieve a unanimous verdict, and this is considered a “strong message” to the prosecution, then this ruling will be considered an acquittal for double jeopardy purposes even if labeled as a mistrial.

Key points from the case:

Judge’s intent matters:

The Court held that the judge’s intent in discharging the jury is crucial in determining whether the dismissal constitutes an acquittal for double jeopardy purposes.

“Strong message” as an acquittal:

If the judge’s decision to discharge the jury is essentially a finding that the prosecution cannot prove its case beyond a reasonable doubt, it is considered an acquittal even if labeled as a mistrial.”

I also asked my family to typed the following question into Google: “Isn’t it true that according to Ex Parte Lange, a sentence imposed on a person in violation of the Fifth Amendment’s Double Jeopardy Clause holds no legal nor jurisdictional authority to hold a person in prison and is literally a false imprisonment.” Below is the response Google provided us.

AI Overview

Yes, according to the landmark case “Ex Parte Lange,” a sentence imposed on someone in violation of the Fifth Amendment’s Double Jeopardy Clause is considered to have no legal authority to hold a person in prison, essentially constituting a “false imprisonment” because the punishment is deemed invalid due to the repeated prosecution for the same offense; meaning a person imprisoned under such a sentence could potentially seek legal relief to be released.

Key points about Ex Parte Lange and Double Jeopardy:

Double Jeopardy Clause:

This clause within the Fifth Amendment protects individuals from being prosecuted twice for the same offense.

Ex Parte Lange ruling:

The court in this case held that a sentence imposed in violation of the Double Jeopardy clause is void and cannot be used to justify imprisonment.

Implication of “false imprisonment”:

If someone is imprisoned under a sentence that violates Double Jeopardy, they could argue that their confinement is illegal and constitutes a “false imprisonment” due to the lack of legal authority to hold them.”

My family incorporated the next question into an AI, app called, NOVA: “Isn’t it true that a habeas corpus was created to challenge an illegal incarceration and cannot be denied or delayed without resolving the issue of illegal incarceration.” Below is the response provided.

AI Overview

“Yes, that’s correct. The principle of habeas corpus is a legal procedure that protects an individual’s right to be not unlawfully imprisoned. It allows a person to challenge the legality of their detention or imprisonment. The core idea is that if someone’s detention is unlawful, they should be released.

Habeas corpus cannot be suspended or denied without due process and must be resolved swiftly to ensure the rights of the individual are protected. This principle is enshrined in many legal systems, including common law jurisdictions, and serves as a fundamental safeguard against arbitrary detention.

This message has been generated by Nova .”

At the November 17, 2022, hearing held in the Georgetown County Court of General Sessions, pursuant to my “Emergency Motion For Immediate Release, Double Jeopardy, False Imprisonment, Lack of Trial Court’s Jurisdiction to Impose Sentence,” the Honorable Judge Culbertson admitted that the Honorable Judge Baxley’s ruling in my first trial 2012 was an acquittal. However, Judge Culbertson, after admitting this, then intentionally stated an error of law by saying that it was only an acquittal if my trial had been a bench trial, and that because I had a jury trial, it was not an acquittal.

See: Transcript of November 17, 2022, Hearing, Tr. P. 5, L. 8 – 25, - P. 6, L. 1 – 6.

8 THE COURT : Let me ask you, and I apologize for

9 interrupting and I’ll let you fully argue your motion ,

10 but was this a jury trial?

11 MR. YARBOROUGH : It was.

12 THE COURT : And it resulted in a hung jury?

13 MR YARBOROUGH : Mr. Dizzley, for years, since –

14 since he was retried has filed motions over and over
15 saying, look, you all did not have the authority to
16 try me that second time....

24 Now, if this was a bench trial and the judge said
25 they have not carried their burden of proof, then I

Page 6, L 1-6.

I agree with you, double jeopardy.

The above ruling by Judge Culbertson is contrary to clearly established United States Supreme Court law. The U.S. Supreme Court determined in, *United States v. Morrison*, 429 U.S. 1, 3 (1976), **“Double Jeopardy Clause treats bench and jury trials alike.”** The U.S. Supreme Court controlling case pursuant to “judgments of acquittals” based on “insufficient evidence to convict,” is, *United States v. Martin Linen Supply Co.*, 430 U.S. 564 (1977), which is a jury trial case. The controlling case on “judgments of acquittals” pursuant to bench trials is, *Smalis v. Pennsylvania*, 476 U.S. 140 (1986), and *Smalis* supports its decision using *Martin* and other jury trial cases. See: *Smalis v. Pennsylvania*, 476 U.S. 140 (1986), “The Supreme Court, Justice White, held that trial judge’s ruling on defendants’ demurrer holding that Commonwealth’s evidence was insufficient to establish factual guilt was an acquittal under double jeopardy clause and barred Commonwealth’s appeal. **Whether the trial is to a jury or, as here, to the bench, subjecting the defendant to post acquittal proceedings going to guilt or innocence violates The Double Jeopardy Clause.** *U. S. v. Scott*, 437 U. S. 82 (1978), “A judgment of an acquittal, whether based on jury verdict of not guilty **or on a ruling by the court that the evidence is insufficient may not be appealed and terminates the prosecution when a second trial would be necessitated by reversal.** *Evans v. Michigan*, 568 U. S. 313 (2013), **“An acquittal, is unreviewable on retrial, under The Double Jeopardy Clause, whether the judge directs the jury to return a verdict of acquittal or foregoes that formality by entering a judgment of acquittal herself.”**

The U.S. Supreme Court determined in *Fay v. Noia*, 372 U.S. 391 (1963), **“When a man is brought by habeas corpus to the Court, and upon return of it, it appears to the Court, that he was against law imprisoned and detained, he shall never be by the act of the Court remanded to his unlawful imprisonment, for then the Court should do an act of injustice in imprisoning de novo, against law.”**

Therefore, according to clearly established United States Supreme Court law, when I appeared before Judge Culbertson on November 17, 2022, and Attorney Yarborough

provided him with evidence supported by the record and clearly established U.S. and South Carolina Supreme Court precedents which proves that I am being held illegally incarcerated, Judge Culbertson was supposed to issue an order for my release. I was never supposed to be remanded to an unlawful imprisonment-Judge Culbertson's actions was an act of "injustice,"

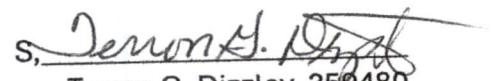
I have filed countless petitions for habeas corpus relief, emergency injunctions, and petitions for my immediate release throughout my ten years and counting of being held kidnapped/illegally incarcerated, in the Georgetown County Courts, S.C. Court of Appeals, and The Supreme Court of South Carolina. However, these Courts have refused to rule on my case, and always denies my petitions without an explanation, and has never provided a ruling on the merits of my illegal incarceration, which is a violation of my rights to due process and equal protection of laws under the Fourteenth Amendment, and an unlawful subjection to "slavery" in violation of the Thirteenth Amendment.

WHY IS THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS INTENTIONALLY HOLDING ME IN PRISON ILLEGALLY, AND THE COURTS CONTINUE TO TURN A "BLIND EYE" TO MY ILLEGAL INCARCERATION.

You recently replaced former, Chief Justice Beatty, as Chief Justice of the South Carolina Supreme Court. You can correct these acts of injustice and change the way South Carolina's judicial system has been operating to ensure a just, and fair judicial system which protects "all" citizens rights to due process and equal protection of laws moving forward. Citizens, such as I, who are innocent and have been wrongfully convicted should see the judicial system as a friend, an advocate and sanctuary where the truth can be presented and justice served. Instead, even an innocent man fears the very system and people that are supposed to protect him. It's time for a change. I hope that this letter will encourage you to see the change that is needed and encourage you to act to change things.

Date 12/12/2024

Sincerely,


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