

RECEIVED

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S.C. SUPREME COURT

1.)

Mr. Emory W. Roberts Jr.

Plaintiff, Prose

V.

State of South Carolina

Respondent,

Danielle Dixon, Esquire

Asst. Attorney General

South Carolina Supreme Court

Case No.: 2020-CP-08-01349

Appellate Case No.: 2024-001521

Date: 1-7-2025

Form: Pleading/Complaint

Re: } 6.1. Declaratory Relief Before
Supreme Court

: S.C. Code Ann. § 15-53-20

: S.C. CONST. Art. I. § 11

: Section 14-7-1630(B)

: Rule 57. Declaratory Judgments

: § 16-3-910. Kidnapping

: § 16-3-920. Conspiracy to Kidnapp

: Appearance of impropriety

Clerk of Court

Please Clock, Filed, Stamp

And Return A Copy To Mr. Roberts,

Thank You

2.)

Questions Presented For Declaratory Judgment.

- 1.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding S.C. CONST. Art. 1, § 11 and the State Grand Jury's impanelment outside of judicial circuit where alleged crimes or offenses were said to have occurred?
- 2.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding "evidence that fails to prove that any act material and essential to the offense's alleged and requisite to its consummation occurred in Richland County, Columbia S.C., where an alleged convening of the State Grand Jury occurred?"
- 3.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding the fact that there had [not] been a "presentment or indictment" against plaintiff in Berkeley County in violation of S.C. CONST. Art. 1, § 11?

3.)

4) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding "the fact that the initiation of the state grand jury in [Columbia], and its composition was unlawful and invalid as it is contrary to S.C. CONST. Art. 1. § 11 and § 14-7-1630(B)?"

5) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding "Christina Bass' [letter] labeled as a [memorandum] that secured the unlawful imprisonment of Mr. Roberts without arrest warrant in violation of his Federally protected right under the Fourth Amendment "to be free from unreasonable seizures?"

6) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding the fact that [no] arrest warrants issued as a result of any indictments and plaintiff was instead illegally held via "letter" from Christina Bass?

4.)

7.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding the "illegality" of Christina Bass' letter labeled "memorandum" that was used to illegally imprison Mr. Roberts?

8.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding the "arrest warrant" served on plaintiff on February 8, 2016 (enclosed) that did not have the /or bare the signature and seal of an issuing judge and that was filed by the Clerk of the State Grand Jury though it was an "unfinished paper"?

9.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding former Court Reporter Manager, Desiree Allen's correspondence to plaintiff advising him that "no court reporter had been assigned to record state grand jury proceedings, therefore, no transcript is available?"

5.)

10.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding... Misael Vasquez and Agent Justin Wingo's testimony hearsay offered to prove the truth of the matter (nature of substance) in violation of the Sixth Amendment's Confrontation Clause and Mr. Roberts' right to the due process of law?

(See PCR Brief 4-Page 3, Question #8; PCR Brief 4-Page 2, Question #5)

11.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding... the [structural error] in regards to the illegal composition of the grand jury outside judicial circuit which was in violation of S.C. CONST. Art. 1. § 11 and § 14-7-1630(B)?

12.) Whether the Supreme Court may properly issue a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding § 16-3-910 and § 16-3-920 (Kidnapping and Conspiracy to Kidnap), in regards to "Christina Bass' "overt act of supplying illegal means ("letter") to secure Mr. Roberts' unlawful imprisonment and the "Agreement" between Christina Bass; Corporal Frederick Samuels; and Agent Justin Wingo to accomplish the unlawful objective?
(See, Exhibit H)

6.)

Relevant Facts

- 1.) Mr. Roberts was arrested on February 8, 2016 in Berkeley County (9th Judicial Circuit) and taken "directly" to Alvin S. Glenn Detention Center in Richland County, Columbia (5th Judicial Circuit) unlawfully, and served with an "unsigned warrant", which is not capable of being issued within the meaning of § 17-13-140 (see unsigned warrant enclosed as exhibit 1).
- 2.) Mr. Roberts was unlawfully detained in the 5th Judicial Circuit (Alvin S. Glenn Detention Center) from Feb. 8, 2016 to June 9, 2016.
- 3.) On June 9, 2016, Mr. Roberts was released to the "custody" of Agent Justin Wingo and then taken to Hill Finklea Detention Center in Berkeley County (9th Judicial Circuit) where his unlawful imprisonment was established by "a letter" labeled as a "Memorandum" written by Christina Bass at the direction of Agent Justin Wingo and Agent Wingo then supplied this "letter" and accomplished Mr. Roberts illegal detention by presenting this "letter" labeled "Memorandum" to Corporal Frederick Samuels of Hill Finklea Detention Center who illegally "accepted this letter in the place of a warrant", in violation of Fourth Amendment principles and Mr. Roberts Federally protected rights under the Fourth Amendment. (see letter labeled "Memorandum" by Christina Bass dated June 9, 2016 enclosed as exhibit 2).

7.)

4.) Mr. Roberts wrote to former Court Reporter Manager, Desiree Allen in order to obtain [name] of court reporter that may have been assigned to record state grand jury proceedings on dates of Mr. Roberts indictments. In response to Mr. Roberts inquiry Ms. Desiree Allen responded by saying "no court reporter was assigned to record grand jury proceedings, therefore, no transcript is available." (see Desiree Allens correspondence enclosed as exhibit 3).

5.) At Mr. Roberts trial, when Mr. Roberts "moved for the production of the state grand jury impanelment documents" the "state suppressed" their non-existence and trial judge "concealed their non-existence" with erroneous rulings thereby committing fraud upon the court (Tr. July 24-28, 2017, Page 15, lines 5-9; Page 19, lines 8-16; Page 73, lines 3-6; Page 85, lines 5-7) (Emphasis).

6. At Mr. Roberts trial, the State offered "testimonial hearsay evidence" in violation of Mr. Roberts Sixth Amendment right to Confrontation through the testimony of Agent Justin Wingo and Misael Vasquez concerning lab reports.

8.)

7.) Impanelment documents, including the States petition, supporting materials, and the "impaneling judge's order" does not exist as it pertains to Berkeley County, which is contrary to § 14-7-1630 (B) and in violation of S.C. CONST. Art. I. § 11.

8.) Mr. Roberts was illegally taken out of the Judicial District or Circuit (9th Circuit) (Berkeley County) and taken to Richland County (5th Circuit) where he was illegally imprisoned for four months (Feb. 8, 2016 to June 9, 2016), and thereafter released to the custody of corrupt SLED Agent Justin Wingo who then illegally transported Mr. Roberts to Hill Finklea Detention Center where Mr. Roberts was held illegally by way of a letter labeled a "memorandum" in violation of the Fourth Amendment.

9.) Mr. Roberts contends that this prosecution was illegal from its inception. SLED officers "carried-away" Mr. Roberts out of the judicial circuit, without a valid arrest warrant. Prosecutors manufactured false evidence in the form of a rubber-stamped indictment and suppressed exculpatory evidence at Mr. Roberts trial committing "extrinsic fraud" and "fraud upon the court."

9.)

§ 6.1. Declaratory Relief Before Supreme Court

The Supreme Court can render a declaratory judgment when a justifiable controversy setting legal rights of the parties exists. Town of Hilton Head V. Coalition of Expressway Opponents, 307 S.C. 449, 415 S.E. 2d 801 (1992). The Court has expressly urged interested individuals to bring a declaratory judgment action in the Supreme Court's original jurisdiction to determine if questionable activity constitutes the unauthorized practice of law. RE: Unauthorized Practice of Law Rules Proposed by the South Carolina Bar, Order (SC Sup. Ct. Filed ___ 1992) (Davis Adv. Sh. No. 21).

Applicable Law: Pursuant to South Carolina's Uniform Declaratory Judgments Act (the Declaratory Act), "Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed." S.C. Code Ann. § 15-53-20. "Any person... whose rights, status or other legal relations are [affected] by a statute... may have determined any question of construction or validity arising under the statute... and obtain a declaration of rights, status or other legal relations thereunder." Id. § 15-53-20.

10.)

"To state a cause of action under the Declaratory Judgment Act, a party must demonstrate a justiciable controversy." Sunset Cay, L.L.C. v. City of Folly Beach, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004). "A justiciable controversy is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character." *Id.* (quoting Power v. McNair, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970)); see also Peoples Fed. Sav. & Loan Ass'n of S.C. v. Res. Planning Corp., 358 S.C. 460, 477, 596 S.E.2d 51, 60 (2004) (quoting Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co., 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983)).

It is Mr. Roberts' contention that he has a justiciable controversy "real and substantial" presented by the questions for declaratory judgment asked of this Court which is appropriate for judicial determination. The Court should liberally construe the Declaratory Judgment Act so as "to accomplish its intended purpose of affording a speedy and inexpensive method of deciding legal disputes and of settling legal rights and relationships, without awaiting a violation of the rights or a disturbance of the relationships." Graham v. State Farm Mut. Auto. Ins. Co., 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995).

11.)

"Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution." Kursec-hner v. City of Camden Planning Comm'n, 376 S.C. 165, 171, 656 S.E. 2d 346, 350 (2008).

Fundamentally, due process requires notice, a meaningful opportunity to be heard regarding "judicial review." *Id.*

Standing

The purpose of a declaratory judgment action is to settle and afford relief from uncertainty and insecurity to a party with respect to that party's rights, statutes, and other legal relations. S.C. Code Ann. § 15-53-130 (1976).

Declaratory Judgment claims are creatures of statute, and individual's [right] to pursue declaratory judgment derives from that statutory authority. S.C. Code Ann. § 15-53-20.

12.)

Discussion: Pursuant to S.C. CONST. Art. 1, § 11.

Presentment or Indictment... it states: "No person may be held to answer for any crime the jurisdiction over which is not within the magistrate's court, unless "on a presentment or indictment of a grand jury of the county where the crime has been committed"...

... Nothing contained in this Constitution is deemed to limit or prohibit the establishment by the General Assembly of a state grand jury with the authority to return indictments irrespective of the county where the crime has been committed...

Point #1

Mr. Roberts indictment reads as follows: "At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on April 12, 2016, the State Grand Jurors present upon their oath"...

Mr. Roberts offers Ind. 2016-GS-47-02 as direct evidence that in violation S.C. Const. Art. 1, § 11, that Mr. Roberts was held to answer for crimes without "presentment or indictment of a grand jury of the county where the "alleged" crimes had been committed. Mr. Roberts "alleged" crimes were said to have occurred in the 9th Judicial Circuit, yet the indictment says a state grand jury convened in Columbia (Richland County), which is the 5th Judicial Circuit and contrary to South Carolina State Constitution Art. 1, § 11,

13.)

And Due Process of Law pursuant to the United States Constitution's 14th Amendment (Emphasis). See also, § 17-19-10 "No person shall be held to answer in any court for an alleged crime or offense, unless upon indictment by a grand jury"... Clearly there was "no present^{ment} or indictment of a grand jury of the county (Berkeley County) where alleged crimes had been committed." (Emphasis).

Point 2

§ 14-7-1630 (A), states: "The jurisdiction of a state grand jury impaneled pursuant to this Article (Art. 15) extends throughout the State." State Grand Jury convenes in every county of the State. § 14-7-1630 (B), states: "When the Attorney General and the Chief of the South Carolina Law Enforcement Division consider a state grand jury necessary to enhance the effectiveness of investigative or prosecutorial procedures, the Attorney General may notify in writing to the chief administrative judge for general sessions [in the judicial circuit] in which he seeks to impanel a state grand jury that a state grand jury investigation is being initiated." Section 14-7-1650 (B), states: "the Attorney General shall [consult with the appropriate solicitor(s) of the jurisdiction(s) where the crime or crimes occurred]. After consultation, the Attorney General shall determine whether the investigation should be presented to a county grand jury or whether to initiate, under

14.)

Section 14-7-1630(B), a state grand jury investigation. Mr. Roberts contends that the Grand Jury was not lawfully assembled and had no authority to indict.

The initiation of the state grand jury and its composition was unlawful and invalid as it is in violation of South Carolina State Constitution Art. 1, § 11 and totally contrary to § 14-7-1630(B) (Emphasis).

Mr. Roberts was "seized" in the 9th Judicial Circuit (Berkeley County) for alleged offenses or crimes said to have occurred in this Judicial Circuit yet there had not been a state grand jury "presentment or indictment" of said crimes or offenses in this Circuit.

The State Grand Jury that "investigated and indicted Mr. Roberts was unlawfully convened, and any indictments related to him that were handed down by that State Grand Jury are a nullity.

Also, the illegal composition of grand jury deprived Mr. Roberts his Constitutional right to "Notice" pursuant to the 14th Amendment of the United States Constitution and his 6th Amendment right "to be informed of the nature and cause of the accusation against him, therefore prejudicing his right to the due process of law pursuant to State Constitution Art. 1, § 3 and the due process clause of the 14th Amendment. Evidence fails to prove that any act material and essential to the offense(s) and requisite to its consummation occurred in the County of Richland,

15.)

Columbia, South Carolina.

Point 3

While Mr. Roberts contends that Ind. # 2016-GS-47-02 was in violation of S.C. CONST. Art. 1, § 11 as well as S.C. CONST. Art. V, § 22... Mr. Roberts also offers exculpatory evidence in the form of 1.) Ms. Desiree Allen, Court Reporter Manager (Former) of South Carolina Supreme Court (Court Administration) correspondence (enclosed) that a state grand jury had not convened at all as "no court reporter had been assigned to record state grand jury proceedings on dates of Mr. Roberts indictments, therefore no transcript is available" (Emphasis); also offered as exculpatory evidence that a state grand jury had [not] convened and no warrants was issued as a result of such, is a "letter" labeled as a "Memorandum" by a Christina Bass, dated June 9, 2016 written at the direction of Agent Justin Wingo to secure the unlawful arrest and imprisonment of Mr. Roberts approximately 2 months [after] dates of indictments (April 12-13, 2016), in violation of Mr. Roberts federally protected right to "be free from unreasonable searches or seizures" pursuant to the 4th Amend. of the United States Constitution and Art. 1, § 10 of the South Carolina State Constitution (Emphasis). Christina Bass' correspondence is enclosed as exhibit.

16.)

Point 4

On February 8, 2016, Mr. Roberts was illegally seized in Berkeley County and taken "directly" to Alvin S. Glenn Detention Center in Richland County, Columbia, South Carolina and served an "arrest warrant" (Warrant # 2015 A 4700100017) (Enclosed), that was [not] 1.) Certified For Service; 2.) it was [not] signed by issuing judge (Emphasis). The Court has held, in the context of an arrest warrant, that such a warrant is not lawful where the issuing judicial officer failed to sign the warrant on the space provided on the warrant form. Davis V. Sanders, 40 S.C. 507, 19 S.E. 138 (1894). "Although the State would characterize such an omission as merely procedural or ministerial, we disagree. The Davis Court gave a persuasive explanation of the signature requirement, albeit in the context of an arrest warrant" when it is remembered that a sheriff or other officer, who undertakes to arrest a citizen under a warrant, is bound to show his warrant, if demanded, to the person proposed to be arrested, and if he refuses to do so the arrest may be lawfully resisted [internal citation omitted] we think it would be very dangerous to the peace of society for the court to hold that a paper, which shows on its face that it is an unfinished paper... would be a

17.)

Sufficient justification for an arrest.

Under South Carolina law an unsigned warrant is not a warrant, and is not capable of being issued within the meaning of § 17-13-140. see also, Davis, supra (good faith irrelevant where warrant is not signed). The Davis requirement that a warrant must be signed by the issuing judicial officer in order to be complete is a common law decision predicated on public policy considerations.

The signature is the assurance that a judicial officer has found that law enforcement has made the requisite probable cause showing, and serves as notice to the citizen upon whom the warrant is served that it is a validly issued warrant.

Without the signature, it is merely an "unfinished paper". Davis, supra; see also Dubose v. Dubose, 90 S.C. 87, 72 S.E. 645 (1911). (State v. Wimbush, 9 S.C. 309)

A warrant issued without probable cause violates the Fourth Amendment of the United States Constitution and Article 1, § 10 of the South Carolina Constitution and makes any seizure based solely on the warrant unlawful.

Point 5

The United States Court ruled that the Confrontation Clause of the Sixth Amendment requires that Forensic Laboratory reports used as evidence in criminal

18.)

trials [must] be presented by the analysts who conducted the tests. The case involved Bullcoming, whose DWI charge conviction was based on a lab report that stated his blood-alcohol level was above legal limits. The analyst who performed the test, Caylor, did not testify; instead, another analyst, Razatos, who was familiar with the testing procedures but did not perform Bullcoming's test, testified. The Supreme Court found this substitution inadequate, emphasizing that the accused has the right to confront the "specific analyst who prepared the testimonial report, unless that analyst is unavailable, and the defendant had a chance to cross-examine the analyst before trial. This decision highlights the court's commitment to ensuring that defendants can challenge the reliability and credibility of forensic evidence used against them. See, Bullcoming v. New Mexico, 564 U.S. 647 (2011). In the instant case, Mr. Roberts contends his Sixth Amendment right to Confrontation was violated when prosecution offered testimonial hearsay evidence, read into the record by Misael Vasquez, to prove the truth of the matter (nature of substance involved) in violation of the Confrontation Clause and Mr. Roberts due process of law. (Tr. July 24-28, 2017, Page 658, lines 11-15; Page 659, lines 20-24; Page 660, lines 21-25; Page 675, lines 9-12; Page 675, lines 16-18) (Emphasis).

19.)

Mr. Roberts was infringed his right to confront the specific analyst who prepared the testimonial report and prosecution made no attempts to explain the analyst unavailability to be present at trial, nor had Mr. Roberts had the opportunity to cross-examine the analyst before the trial. Such is the case also where prosecution offered testimonial hearsay evidence to prove the truth of the matter (nature of the substance involved) through testimony of Agent Justin Wings in violation of the Sixth Amendment's Confrontation Clause; Sixth Amendment's right to "effective assistance of counsel"; and Mr. Roberts right to due process of law pursuant to the Fourteenth Amendment. (Tr. July 24-28, 2017, page 703, lines 6-12; Page 710, lines 15-23; Page 713, lines 4-12). Where the prosecution used certificates from state laboratory analysts to prove that material linked to the defendant was cocaine, the United States Supreme Court ruled this practice violated the defendant's Sixth Amendment rights under the Confrontation Clause. This clause guarantee's a defendant the right to confront their accusers in court. The Court, citing the Crawford V. Washington decision, determined that the certificates were equivalent to testimony that should have been presented in person at trial, as they were critical in proving the nature of the substance involved. The Supreme Court rejected arguments that these certificates were just neutral, scientific results or akin to traditional official records, emphasizing

20.)

that the analysts who prepared them needed to be available for cross-examination. The case was reversed and remanded, re-affirming that testimonial evidence cannot be used against a defendant without giving them the opportunity to cross-examine the witness who created such evidence.

See, Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009).

Mr. Roberts asks for issuance of a declaratory judgment to declare the rights of plaintiff or status or other legal relations regarding his rights under the Sixth Amendment Confrontation Clause and Due Process of law?

21.)

* § 16-3-910 Kidnapping *

A person who [unlawfully seizes], [confines], inveigles, decoys, [Kidnaps], abducts, or [carries away] any other person [by any means whatsoever] [without authority of law], except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years.

Accordingly, Agent Justin Wingo, did "unlawfully" "seize" Mr. Roberts on June 9, 2016 from Alvin S. Glenn Detention Center, "without authority of law", and did "carry him away" to Hill Finklea Detention Center, by means of his (Agent Wingo) vehicle, and "unlawfully" "confined" Mr. Roberts via a "letter" that was "labeled" a "memorandum", written by a "Christina Bass" and supplied to a "Corporal Frederick Samuels" of Hill Finklea Detention Center as "an overt act towards carrying out such unlawful agreement, confederation, or conspiracy". See, § 16-3-920. Conspiracy to Kidnap.; See, Exhibit H (enclosed) (Emphasis).

The substance of (Exhibit H) clearly establishes an agreement, confederation, or conspiracy between "Christina Bass", Agent Justin Wingo and Corporal Frederick Samuels. "The gravamen of criminal conspiracy is an [agreement] or [combination]". Code 1976 § 16-17-410. Required mens rea for crime of Kidnapping is knowledge.

22.)

Evidence (Exhibit H) is sufficient to show that parties knew of and intended to participate in an [illegal] act to deprive Mr. Roberts of his Federally protected right under the Fourth Amendment to be free from unreasonable seizures. Agent Justin Wingo and Christina Bass entered into an agreement to commit a crime (Kidnapping) and (conspiracy). United States v. Wysinger, United States Court of Appeals, Fourth Circuit, March 30, 2023 64 F.4th 207 "Basic requirement of conspiracy offense is [proof] that two or more people agreed to commit crime;" exhibit H is clear proof of the agreement between Agent Justin Wingo, Christina Bass, and Corporal Frederick Samuels. A formal agreement is not necessary to establish a conspiracy, as the conspiracy may be proven by circumstantial evidence (exhibit H) and the [conduct] of the parties. Code 1976, § 16-17-410.

Agent Justin Wingo [unlawfully seized] Mr. Roberts without probable cause or warrant, and entered into an agreement, confederation, or conspiracy with Christina Bass and Corporal Frederick Samuels to have Mr. Roberts illegally held, detained, or imprisoned via "a letter" labeled "memorandum" which is wholly egregious and not compatible with law. U.S. v. Lonick, 753 F.2d 1295 "Unlawful seizure and holding are essential elements of Kidnapping offense." United States Court of Appeals, Fourth Circuit.

23.)

I, Mr. Emary W. Roberts Jr., attest upon the penalty of perjury that the enclosed facts are true and accurate. Further Affiant Says Th Not. Emary W. Roberts Jr.

Sworn To And Subscribed Before Me
This Day 31st of January, 2024 (2024)
December

Tamara Conwell

My Commission Expires
October 6, 2023

Notary Public of S. Carolina