

**The State of South Carolina**

**In the Court of Appeals**

**The State, Respondent**

v.

**Terron Gerhard Dizzley, Appellants**

**Appellate Case No. 2024-001176**

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DEC 28 2024  
SC Court of Appeals

Dear Clerk Jenny Kitchings:

This letter is in regards to, 1. The October 15, 2024 order dismissing my appeal pursuant to my illegal incarceration in the aboved matter for arbitrary and unjust reasons that was contrary to the law; 2. The clerk of court's order of the return of my "Amended Emergency Writ of Mandamus In Aid of Appellate Court's Jurisdiction," filed on November 6, 2024, alleging that this appeal was remitted on November 4, 2024, and as a result, the court no longer has jurisdiction over the matter. This court refuses to acknowledge that the original "Writ of Mandamus In Aid of Appellate Court's Jurisdiction," was filed on September 11, 2024, long before any remittitur was filed and never adjudicated despite emergency circumstances, and subject matter jurisdiction may be raised at any time even for the first time on appeal and is never time barred; 3. in regards to your November 21, 2024 letter returning my "Motion To Reinstate," filed November 8, 2024, alleging because of the remittitur that was filed on November 4, 2024, the court no longer has jurisdiction to hear my case.

The aboved appeal was filed pursuant to my illegal incarceration for ten years and counting pursuant to an illegal sentence imposed on me without jurisdiction in violation of the Fifth Amendment's Double Jeopardy Clause, and pursuant to an indictment that was null and void. The issues raised clearly challenges the trial court's subject matter jurisdiction to sentence me, and the South Carolina Department of Corrections legal and jurisdictional authority to hold me in prison, which is literally kidnapping/false imprisonment. According to clearly established South Carolina and United States Supreme Court law, as long as I remain kidnapped/false imprisoned pursuant to an unlawful conviction and sentence without legal nor jurisdictional authority, and as long as the motion I am filing challenges subject matter jurisdiction, the jurisdiction of the South Carolina Court of Appeals is never lost, and the South Carolina Court of Appeals **"must"** correct the wrong that has been done. Therefore, according to clearly established South Carolina and United States Supreme Court laws, 1. you have a ministerial duty to file, docket, and schedule my case to be adjudicated promptly; 2. this Court **"must"** on its own motion address my issues challenging the trial court's subject matter jurisdiction to impose a sentence on me in violation of the Fifth Amendment Double Jeopardy Clause, and pursuant to an indictment that was null and void, to ensure the orderly administration of justice and to ensure that am not being held under the present sentence unlawfully, without jurisdiction.

Tatnal v. Gardner, 350 S.C. 135 (2002), "Issue of subject matter jurisdiction may be raised at anytime including when raised for first time on appeal to an appellate court. Subject matter jurisdiction may not be waived even with consent of parties. **An appellate court "must," on its own motion, raise issue of subject matter jurisdiction to ensure orderly administration of justice."**

State v. Castleman, 219 S.C. 136 (1951), "we should raise the question of jurisdiction on our own motion, so as to preserve the orderly administration of justice and to prevent the punishment of the defendant under the present sentence."

Exparte Lange, 85 U.S. 163 (1873) "The Court initiated what has been described as a long process of expansion of the concept of the lack of jurisdiction. *Lange* contended that he had been twice sentence for the same offence, in violating the Fifth Amendment's Double Jeopardy Clause, when he had been re-sentenced to a term of imprisonment after having paid the fine originally imposed. Carefully disclaiming the use of habeas, as a writ of error, the Supreme Court ordered *Lange* released from imprisonment because the lower court's jurisdiction terminated upon the satisfaction of the original sentence. Where probable ground is shown that the party is in custody under or by color of authority of the United States, and is imprisoned without just cause, and, therefore, has a right to be delivered, **"the writ of habeas corpus then becomes a writ of right which may not be denied,"** as it ought to be granted to every man who is unlawfully committed or detained in prison or otherwise restrained of his liberty. A second judgment of the same verdict is, under such circumstances, **"void for want of power"** and it affords no authority to hold the party a prisoner, and he must be discharged."

Exparte Wilson, 114 U.S. 417 (1885), "Holding Petitioner to answer for such infamous crime, and sentencing him to such imprisonment without indictment or presentment by a grand jury... exceeds the jurisdiction of that court," and, "there is no authority to hold the prisoner under the sentence."

According to clearly established South Carolina and United States Supreme Court laws, the normal appeal process is not the adequate remedy for challenging double jeopardy issues and illegal incarceration issues, because the individual would suffer irreparable harm from the undue delay in normal appeal process. According to the law, an extraordinary writ is the proper remedy. See State v. Rearick, 417 S.C. 391 (2016), "A defendant may still challenge the denial of a motion to dismiss on double jeopardy grounds via (1) a petition for federal habeas corpus relief, or (2) a petition for this Court to issue an extraordinary writ; citing Livingston v. Murdaugh, 183 F. 3d 300, 301 (4th Cir. 1999); Gilliam v. Foster, 63 F.3d 287, 291 (4th Cir. 1995).

Therefore, the normal appellate court rules you are trying to impose on me to deprive me from obtaining a "swift and imperative remedy" to be released from being held illegally incarcerated does not conform to the circumstances of my case. This is why I filed a "Writ of Mandamus In Aid of Appellate Court's Jurisdiction," of which the circumstances of my case fits the criteria for issuance of writ of mandamus, and to refuse to adjudicate such writ deprives me of my rights to equal protection of laws and due process under the Fourteenth Amendment.

Although the circumstances of my illegal incarceration does not apply to the appellate court rules you cited, SCACR, Rule 221. Rule 221(a) states in part: "Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court."

Therefore, even if you were to incorrectly apply the normal appellate court rules to this case, you acknowledged yourself in your letter that my "Motion To Reinstate" was filed on November 8, 2024, and my "Amended Writ of Mandamus In Aid of Appellate Court's Jurisdiction," was filed on November 6, 2024, (not withstanding the fact that my original "Writ of Mandamus In Aid of Appellate Court's Jurisdiction" was filed on September 11, 2024), which is well within the (15) days as stated in Rule 221.

There are also other issues raised in my motion to reinstate which proves that according to the law my appeal should be reinstated, such as the countless motions I filed, one of which was a motion to alter and amend, that would have tolled the time for filing this appeal, and the fact that the same exact thing happened in 2022 pursuant to another case of mine which is pending in this court, in which this same court granted my motion to reinstate on the grounds that my motion to alter and amend tolled the time for filing an appeal. Also, according to SCRCR, Rule 65, under emergency circumstances, if the petitioner will suffer irreparable harm before notice or summons can be served to the adverse party, the courts should adjudicate the petition without service of notice of summons to the adverse party-which is the reason this court dismissed my appeal in the first place.

There are no laws, state or federal that gives you or any judge, or any one the authority to dismiss a petition for release from an illegal incarceration for any reasons without a ruling on the merits.

Your actions of depriving me from accessing the courts for relief from an illegal incarceration for any reason constitutes a felony crime of "willful blindness," "obstruction of justice," conspiracy to commit kidnapping and false imprisonment, and also constitutes conspiracy to an unlawful subjection to slavery in violation of my Thirteenth and Fourteenth Amendment rights, which also constitutes federal hate crimes.

My family has already formed a movement and organization to bring transparency to my illegal incarceration and everyone participating in the intentional deprivations of my constitutional rights to deprive me of my personal liberty. We have already, and will continue to go public calling out names, we will be seeking to press criminal charges against you, judges, etc., who have, and are participating in this conspiracy to continue to deprive me of my personal liberty without legal authority.

We will not stop until I am released and the government officials responsible are held accountable. Why would anyone, especially government officials who swore an oath to protect the rights of citizens do what you and the judicial system is doing to me.

I am requesting that my case is reinstated upon the “Writ of Mandamus In Aid of Appellate Court’s Jurisdiction” that I filed, and that my case is adjudicated promptly and on the merits pursuant to findings of facts and conclusions of law.

Exparte Lange, supra, 85 U.S. 163 (1873); Bell v. Hood, 327 U. S. 678 (1946), “Action against FBI officers for damages for illegal arrest, false imprisonment, and unlawful searches and seizures of property belonging to plaintiffs. A judgment dismissing the complaint for lack of jurisdiction was affirmed by the Circuit Court of Appeals, and plaintiff brings certiorari. Reversed. It is estimated practice for the Supreme Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution and to restrain individual state officers from doing what the Fourteenth Amendment forbids the state to do. Where federally protected rights have been invaded, courts will be alert to adjust their remedies so as to grant the necessary relief, and federal courts may use “any” available remedy to make good the wrong done.”

Sanders v U.S., 371 U.S. 1 (1963), “A prisoner who claims that his sentence was imposed in violation the Constitution or laws of the United States, may seek relief from the sentencing by filing a motion in the sentencing court stating the facts of his claim. **Conventional notions of finality of litigation have no place where life or liberty is at stake, and infringement of Constitutional Rights are alleged.**”

Fay v. Noia, 372 U.S. 39 (1963) “**Conventional notions of finality in criminal litigation cannot be permitted to defect manifest federal policy that federal constitutional rights of personal liberty are not to be denied without fullest opportunity for plenary federal judicial review. State courts, equally with federal court are charged with duty of protecting an accused in enjoyment of his constitutional rights.**”

U.S. v. Ohio Power Co., 353 U.S. 98, (1957), “**The interest in finality of litigation “must yield” where interest of justice would make unfair, strict application of Supreme Court’s rules.**”

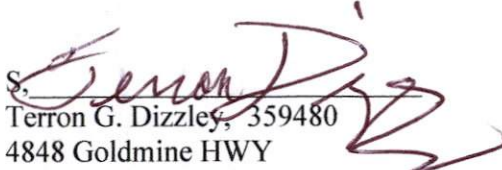
Therefore, it is clearly established by The Supreme Court of the United States that the Court’s rules, including jurisdictional rules, were not made to be strictly applied nor abused to deprive a person of their life, liberty and property and the finality in criminal litigations under such circumstances must yield, and the courts must make good the wrong done.

See: Exparte Virginia, 100 U.S. 339 (1879), “**Whoever by virtue of public position under a state government deprives another of property, life, or liberty without due process of law or denies or takes away the equal protection of law violates the Fourteenth Amendment of the Constitution, U.S.C.A., his act being that of the State. One purpose of The Thirteenth and Fourteenth Amendments to the federal constitution, was to raise the colored race from the conditions of inferiority and servitude into perfect equality of civil rights with all other persons within the jurisdiction of states.**”

For the foregoing reasons stated, subject matter jurisdiction may be raised at any time, even for first time on appeal and finality of litigation in criminal cases must yield where life and liberty are at stake. Therefore, I respectfully request that my appeal is reinstated.

Date: Dec. 18, 2024

With kind regards,

S.   
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