

STATE OF SOUTH CAROLINA
In The Court of Appeals

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STATE,

Respondent,

SC Court of Appeals

-VS-

RAY EDWARD CHESTNUT, Appellant.

Appellate case No. 2025-001447

APPELLANT'S PRO SE SUPPLEMENTAL MEMORANDUM
REGARDING REVIEWABILITY OF TRIBUNAL-AUTHORITY CLAIM

Appellant respectfully submits this memorandum to clarify that his claim concerning two different judges presiding over trial proceedings without a lawful substitution or assignment order is reviewable notwithstanding the absence of a contemporaneous objection.

1. The Claim Challenges the Lawful Constitution of the Tribunal, Not Ordinary Trial Error.

Article V, section 1 of the South Carolina Constitution vests the judicial power of this State in unified courts. Article V, section 13 provides for

the assignment of circuit judges and the authority by which they preside.

A circuit judge's authority to act in a particular county or term derives from lawful election to that circuit or assignment by order of the Chief Justice or Supreme Court. Judicial authority does not arise by consent, waiver, or silence of the parties.

This Court has defined subject matter jurisdiction as:

"The power of a court to hear and determine cases of the general class to which the proceedings belong." — *State v. Gentry*, 401 S.C. at 500, 737 S.E.2d at 885.

While *Gentry* clarified that subject matter jurisdiction is limited to the court's power over the class of cases, it did not hold that a judicial officer may preside absent lawful authority. The issue here is not whether the circuit court generally has jurisdiction over felony offenses. It does. Rather, the issue is whether the specific judicial officer

who received the verdict and imposed sentence possessed lawful authority to act in this case.

where the record reflects no written substitution or reassignment order authorizing the second judge to preside, the challenge concerns the lawful constitution of the tribunal itself.

11. A Judgment Entered without Judicial Authority is void.

South Carolina courts have long recognized that a judgment entered by a court acting without authority is void and may be attacked at any time. see *Ex parte Davis*, 544 S.E. 2d 365 (2001) (recognizing that a judgment entered without authority is void and subject to collateral attack); see also *State v. Funderburk*, 191 S.E. 2d 257 (1972) (distinguishing between errors in the exercise of jurisdiction and a complete absence of authority).

A void judgment is a legal nullity. It is not insulated by waiver, procedural default, or failure to object.

Unlike sentencing-error cases such as *State v. Johnston*, 511 S.E.2d 155 (1999) — which involve misuse of lawful authority — this case presents the question of whether lawful authority existed at all.

If a judicial officer lacked constitutional or statutory authority to preside, the resulting judgment is void ab initio.

III. Preservation Doctrine Does Not Confer Judicial Power.

The purpose of the preservation rule is to allow the trial court to correct errors occurring within its authority. See *State v. Dunbar*, 587 S.E.2d 691 (2003).

However, preservation doctrine cannot create judicial authority where none exists. A party cannot, by silence, vest a judicial officer with constitutional power to act.

As the Supreme Court explained in *State v. Gentry*,

subject-matter jurisdiction concerns the court's power itself. While many procedural defects are no longer considered jurisdictional after Gentry, the lawful constitution of the tribunal remains foundational.

A criminal defendant has the right to trial and sentencing before a lawfully authorized judicial officer. If that authority is absent, the defect affects the structural integrity of the proceeding.

Structural defects are not subject to harmless error analysis because they affect the framework within which the trial proceeds.

IV. The Issue is Properly Before This Court.

The transcript reflects that two different judges presided over critical stages of the proceedings. The record does not reflect a written substitution or reassignment order authorizing the second judge (Eugene P. Warr, Jr.) to preside at the time the verdict was received and sentence imposed.

Because this claim challenges whether the judicial officer possessed lawful authority to render judgment, it concerns the validity of the judgment itself.

A void judgment may be challenged at any time. See *Bowers v. State*, 377 S.C. 1, 658 S.E. 2d 910 (2008)

Accordingly, this Court may review the issue on the merits notwithstanding the absence of a contemporaneous objection.

CONCLUSION

Appellant respectfully submits that his claim challenges the lawful authority of the judicial officer who rendered judgment. Because a judgment entered without lawful authority is void, and void judgments may be attacked at any time, the issue is properly reviewable by this Court.

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SC Court of Appeals

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing "Appellant's Pro-se Supplemental memorandum Regarding Reviewability of Tribunal-Authority Claim" was served on the Respondent addressed below by via United States mail on this 18th day of February, 2026 in a prepaid stamped envelope with appropriate postage.

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