

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

HONORABLE JESSICA A. SALVINI

APPELLATE CASE NO. 2026-001036

TRIAL CASE NO. 2023CP2304075

JAMES RUSSELL _____ APPLICANT

✓

THE STATE OF SOUTH CAROLINA _____ RESPONDENT

SUPPLEMENT TO INITIAL BRIEF

(ATTACHED PAGES 1 2 AND 3)

JAMES RUSSELL
200 PRISON RD
ENOREE, SC
29335

SL James Russell
6/21/26

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

JAMES F. RUSSELL

V.
STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
2023-CP-23-04075

APPLICATION FOR
POST-CONVICTION RELIEF

2023 NOV 26 AM 10:43
JAY GRESHAM COC GIL SC

PURSUANT TO S.C. CODE ANN. 17-27-70(B)
AND FOR ALL THE REASONS SET OUT BELOW, THIS
COURT SHOULD NOT DISMISS THIS APPLICATION FOR
POST-CONVICTION RELIEF FOR THESE SPECIFIC FAC-
TUAL AND LEGAL REASONS

- (1) DEFENDANT WAS INCOMPETENT TO STAND TRIAL
- (2) THE COURT LACKED JURISDICTION TO TRY AND
CONVICT AND SENTENCE DEFENDANT
- (3) NEWLY DISCOVERED EVIDENCE
- (4) ERROR IN APPLICATION OF 17-23-175
- (5) FAILURE TO PROVE ELEMENTS OF INDICTMENT

ARGUMENT (1)

THIS DEFENDANT AT BAR WAS PROPERLY DIAGN-
OSED AS NOT COMPETENT TO STAND TRIAL AND
THEREFORE SHOULD HAVE NEVER BEEN TRIED
CONVICTED OR SENTENCED. (SEE EXHIBIT #1).
ATTACHED

THE SOUTH CAROLINA SUPREME COURT IN HALL V. S.C.D.C. HELD 601 SE2D 335 (APRIL 2005) [6] "CONVICTION OF A CRIMINAL DEFENDANT WHO IS NOT COMPETENT TO STAND TRIAL VIOLATES THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT"

THE DEFENDANT AT BAR WAS NOT AFFORDED A COMPETENCY HEARING. THE UNITED STATES SUPREME COURT IN PATE V. ROBINSON 86 SCT 836 (MARCH 1996) RULED "UPON DETERMINATION THAT ACCUSED'S CONSTITUTIONAL RIGHTS WERE ABRIDGED BY HIS FAILURE TO RECEIVE ADEQUATE HEARING ON HIS COMPETENCE TO STAND TRIAL A WRIT OF HABEAS CORPUS MUST ISSUE AND ACCUSED MUST BE DISCHARGED, UNLESS GIVEN NEW TRIAL WITHIN REASONABLE TIME U.S.C.A. CONST AMEND. 14"

ARGUMENT (2)

BASED ON ARGUMENT (1), THE TRIAL COURT LACKED JURISDICTION TO TRY OR SENTENCE DEFENDANT. IN ARBUGH V. MOONLIGHT CAFE 126 SCT 1235, THE U.S. SUPREME COURT HELD "SUBJECT MATTER JURISDICTION CAN NEVER BE WAIVED"

ARGUMENT (3)

ARGUMENTS (1) AND ARGUMENT (2) ARE RAISED BASED ON NEWLY DISCOVERED EVIDENCE AND

THEREFORE COULD NOT AND WERE NOT RAISED PRIORLY BECAUSE I DID NOT SUBMIT ANY PLEADINGS TO ANY COURT ON BEHALF OF THIS CASE OR RESEARCH THIS CASE UNTIL 8/1/2025 SOME TWENTY PLUS YEARS AFTER THIS CONVICTION

ARGUMENT (4)

17-23-175 WAS NOT ENACTED UNTIL JULY OF 2006. DEFENDANT'S DATE OF OFFENSE IS JULY 10, 2005 AND AS SUCH WAS LEGALLY INAPPLICABLE IN THIS CASE (SEE STATES ADMISSION ON PAGE 31 OF TRANSCRIPT, ATTACHED).

ARGUMENT (5)

NEW CHANGE IN LAW MUST BE APPLIED TO THIS CASE. WHERE DATE IS MATERIAL ELEMENT OF OFFENSE, STRICT COMMON LAW PRACTICE REQUIRES INDICTMENT TO ALLEGE DAY OF MONTH AND YEAR WHEN OFFENSE WAS COMMITTED. CODE 1976, 16-3-655, 17-19-20, STATE V. THOMPSON 409 SE2D 420. THE STATE FAILS TO PROVE DEFENDANT COMMITTED ANY OFFENSE ALLEGED VIA INDICTMENT ON SAID DATE. UNDER NEW CHANGE IN LAW SEE STATE V. DENT 2025 WL 1947806 THE SOUTH CAROLINA SUPREME COURT HELD "VARIANCE BETWEEN THE PROOF AT TRIAL REGARDING SEXUAL BATTERY AND INDICTMENT AND AS SUCH DEFENDANT'S CONVICTION FOR CSCM COULD NOT STAND."

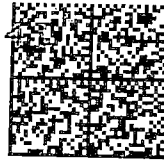
DRAFTED BY CURTIS RICHARDSON
FOR S/ James Russell
JAMES RUSSELL

JAMES RUSSELL
200 PRISON RD
ENOREE SC
29335

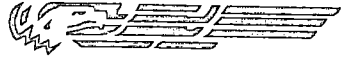
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THE SUPREME COURT OF SOUTH CAROLINA

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