

STATE OF SOUTH CAROLINA
SUPREME COURT

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Administrative Judge

Case No. 2010-CP-12-0394

Theodore Harrison, Jr. . . . Applicant,
v.
State of South Carolina . . . Respondent.

Applicant herein, pursuant to S.C. App. Ct. R. 243, provides to the Court, along with his Notice of Appeal, sufficient explanation as to why the Judge's dismissal of his Application for Post-Conviction Relief (APCR) as successive and barred by the statute of limitations, was improper.

In his APCR, Applicant raised the issue that:

1. The trial court lacked the jurisdiction to accept his plea of guilty to the indictments of murder No.(s) 90-GS-12-125 and 126, because the indictments had been rendered invalid by failing to state the statute of the S.C. Code of Law which Applicant was in violation of; and failed to state the elements of the murder statute "express or implied."

In effect, the trial court of General Sessions lacked the criminal jurisdiction to accept Applicant's plea of guilty to the murder indictments, when such jurisdiction is invested only by a valid true billed indictment by a Grand Jury. S.C. Constitution Art. I, § 11.

The indictments true billed by the Chester County Grand Jury against Applicant for the charge of murder, not only failed to state the S.C. Code of Law statute which Applicant was in violation of, but also failed to include the elements of the murder statute "express or implied", State v. Watson, 563 S.E.2d 336, 349 S.C. 372 (2002), thus rendering the indictments invalid, State v. Knuckles, 560 S.E.2d 426, 348 S.C. 593 (S.C. App. 2002), and the trial court's jurisdiction to accept Applicant's plea of guilty to said invalid indictments void. State v. Gentry, 610 S.E.2d 494, 363 S.C. 93 (2005).

In State v. Gentry, *id.*, the court held that a trial court's jurisdiction to try the class of cases for which Applicant was indicted, may be challenged at any time; even in a successive PCR application, Brown v. State, 540 S.E.2d 846, 848, 343 S.C. 342 (2001), which would supersede the statute of limitation. State v. Smalls, 519 S.E.2d 793, 336 S.C. 301 (Ct. App. 1999).

WHEREFORE, for the foregoing sufficient explanation and facts, the PCR Judge's dismissal of Applicant's APCR as successive and barred by the statute of limitation, was improper.

February 27, 2014

Respectfully submitted,

Theodore Harrison, Jr.

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Applicant