

2015-000540

Daniel E. Shearouse, Clerk of Court

Dated, April 8th

South Carolina Supreme Court

RECEIVED

2015

P.O. Box 11330

APR 13 2015

Columbia, S.C. 29211

S.C. Supreme Court

RE: Kenyon D. Gaither vs. STATE of South Carolina
APPEAL OF POSTCONVICTION.

CASE NO: 2013-CP-13-0140.

Dear Mr. Shearouse,

Please File The included Memorandum IN Support of APPEAL that was requested. Also A Certificate of Service is included showing that the Respondent, Attorney General of South Carolina Has Been served The Same.

Please Note: That I have Also Included As Evidence of my Claims "Exhibit Pg 1-4" of The Drug ANALYSIS Report Along with The Sentencing orders, Indictments of The Same.

I Thank you
for your kind
Assistance with this
matter.

Dated: 4-8-2015

Sincerely
~~Kenyon Gaither~~

F.C.I. Bennettsville,

P.O. Box 52020

Bennettsville, SC

29517

IN The Supreme Court of South Carolina
APPEAL From Chesterfield County

Kenyon D. Gaither, Applicant,

VS.

STATE OF South Carolina,

Respondent.

CASE NO. 2013-CP-13-0140

RECEIVED

APR 13 2015

S.C. Supreme Court
MEMORANDUM IN SUPPORT
OF APPEAL

The Applicant, Petitioner, Files This Cause of Action As a Pro-Se Petitioner and requests That This memorandum be construed liberally in light of Haines V. Kerner, 320 F.2d 652, 404 U.S. 519 (1972) And Ericksen Vs Pardus, 127 S.Ct., 2197, And Hugh Vs. Rowe, 101 S.Ct. 173 (1980)

AT ISSUE: "Lack of Subject Matter Jurisdiction"

Ground ONE: The Court Lacked Subject matter Jurisdiction of The Petitioner's Charge. (See) Indictments And Sentencing order, And "Compare" To "Forensic Laboratory" Results of Evidence Tested. "Please Note" That

There is only "ONE" Lab result For "ONE" Item (See) "Pages 1-4 of Drug Analysis Report" This Test Resulted IN "Crack Cocaine" Found, 0.08 grams (1.23 grains), C-11 (See) Page (1) of Analysis Report.

Note: However, The Petitioner, WAS sentenced on Three (3) Indictments in Violation of 44-53-370 To "Distribution of Powder Cocaine" (See) Included (3) Indictments And Sentencing orders.

Note: All (3) Indictments Are For Distribution of "Crack Cocaine" Violation of 44-53-0375(B)(3)

The Petitioner However, was sentenced on EACH OF THE (3) Three Indictments in violation of 44-53-370 South Carolina Code of Laws For "Distribution of "Powder Cocain"". IS NOT A Lesser Included Charge"

NOTE: By These said And Included Indictments The Court "Lacked Jurisdiction" OF The Charges. And The reason why is Because The Lab results was only Done On "ONE" Item For "ONE" Case. And The results OF The Item Found was "CRACK COCAIN" - 0.08 grams. Nothing Else was tested Concerning The Cases That The County Charged Petitioner For.

NOTE: Next issue is That The Petitioner Never "Waived" The "INDICTMENTS" THAT He was sentenced ON BY The Court. (See) All (3) Indictments For 44-53-0375(B)(3) And Compare To sentencing order By The Court For Distribution of "Powder Cocain" 44-53-370 S.C. Code of Laws. Therefore, The Court Never Had Jurisdiction OF The Charge of Distribution Powder Cocain, Because The Lab results Proves And Shows That The Item Tested Was CRACK And "NOT" Powder. Petitioner is NOT GUILTY OF The SENTENCED Charges. A person can Never Agree or Confer To Subject Matter Jurisdiction (See) DOVER VS. STATE. IT would Be A Mis-Carriage of Justice under The ACTUAL Innocent Clause TO Allow The Petitioners Indictments To stand when There was NO Jurisdiction OF The Sentencing Court.

Therefore, Petitioner's Sentence is in Violation of 6th And 14th Amendments Procedural Due Process. The Court Never Had Jurisdiction of The Indictments THAT IT Sentenced The Petitioner For. And The Charges Are Not Jesser included.

Therefore, Petitioner Prays That Based Upon The Foregoing Arguments And Legal Contentions, That This Court Will Grant Petitioner An Appeal, or VACATE Petitioner's Sentence And Conviction, on The Violations THAT Are Alleged herein on Lack of Subject Matter Jurisdiction of The Sentencing Indictments.

Respectfully submitted on This 8th Day of April, 2015.

Executed on: 4-8-2015

Kenyon D. Gaither

Signed on: 4-8-2015

Kenyon D. Gaither #15113-171
Fic. I. Bennettsville
P.O. Box 52070
Bennettsville, SC, 29512

Certificate of Service

I, Kenyon D. Gaither, do serve the memorandum in support of this appeal on the Attorney General and the Clerk of Supreme Court for Appeals by depositing an original and one copy of it in the United States mail, postage prepaid, on April 2015 at the listed below addresses.

Proof of Service ① Office of The Clerk
Supreme Court of South Carolina
Post Office Box 11330

② Attorney General Office
P.O. Box 11549
Columbia, SC 29211-1549

Respectfully submitted on this 8th day of April
2015

Kenyon D. Gaither #15113-101
F.C.I. Bennettsville
P.O. Box 52020
Bennettsville, S.C. 29512

15113-171
Kenyon Gaither
Po. Box 52020
Bennettsville, SC
Federal Correction Institute
Bennettsville, SC 29512
United States



FEDERAL CORRECTIONAL INST.
696 MUCKLEBERRY RD BENNETTSVILLE, S.C. 29512

DATE THE ENCLOSED LETTER WAS PROCESSED
THROUGH SPECIAL MAILING PROCEDURES
FOR FORWARDING TO YOU. THE LETTER
HAS BEEN NEITHER OPENED NOR INSPECTED.
IF THE WRITER RAISES A QUESTION OR
PROBLEM OVER WHICH THIS FACILITY HAS
JURISDICTION, YOU MAY WISH TO RETURN
THE MATERIAL FOR FURTHER INFORMATION
OR CLARIFICATION. IF THE WRITER
ENCLOSED CONSENTS TO THE ADDRESSSEE
FORWARDING TO ANOTHER ADDRESSSEE,
PLEASE RETURN THE ENCLOSURE TO THE
ORIGINATOR'S ADDRESS.

15113-171
Daniel E Shearouse
Court of Appeals
PO BOX 11330
Columbia, SC 29211
United States