

JOHN THOMAS ROBINSON  
P.O. BOX 10535  
ROCK HILL, SC 29731

APPELLATE CASE No. 2014 -002250

TO: THE HONORABLE DANIEL E. SHEAROUSE  
CLERK OF COURT  
P.O. BOX 11330  
COLUMBIA, SC 29211

RECEIVED  
APR 24 2015  
S.C. CLERK OF COURT

DATE: April 20th, 2015

DEAR SIR:

PLEASE FIND HERewith MY "PRO – SE" PETITION PURSUANT TO THE ABOVE APPELLATE CASE  
NUMBER; DO FILE AT YOUR EARLIEST CONVENIENCE.

RESPECTFULLY SUBMITTED,



JOHN THOMAS ROBINSON

SSWORN TO AND SUBSCRIBED BEFORE ME THIS

20 DAY OF April, 2015.  
Jana R Helbeck (LS)

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires  
MY COMMISSION EXPIRES: June 22nd, 2022

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED  
APR 24 2013

S.C. Supreme Court

-----  
CERTIORARI TO YORK COUNTY  
J. ERNEST KINARD, JR., CIRCUIT COURT JUDGE

-----  
JOHN THOMAS ROBINSON, ----- PETITIONER

V.

STATE OF SOUTH CAROLINA, ----- RESPONDENT.

APPELLATE CASE No. 2014 – 002250

-----  
JOHNSON PETITION FOR WRIT OF CERTIORARI  
-----

JOHN THOMAS ROBINSON ----- PRO-SE RESPONSE  
P.O. BOX 10535  
ROCK HILL, SC 29731

## ARGUMENT

- (1) WAS PETITIONER UNLAWFULLY ARRESTED FOR POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE, POSSESSION OF CRACK COCAINE WITHIN PROXIMITY, AND CONSPIRACY TO POSSESS WITH INTENT TO DISTRIBUTE CRACK COCAINE IF DRUGS WERE SEIZED BY PRETEXTUAL SEARCH AND FOUND IN PASSENGER'S PURSE?

ON AUGUST 24, 2012 PETITIONER WAS STOPPED BY THE YORK COUNTY MULTIDRUG ENFORCEMENT UNIT FOR A CLAIMED TRAFFIC VIOLATION, AN ILLEGAL U-TURN. SEE APPENDIX Pg. 30, LINES 17 – 25 AND Pg. 31, LINES 1 – 5.

HAVING SHOWN A VALID DRIVER'S LICENSE AND REGISTRATION, PETITIONER CONTENDS THAT A CITATION OR WARNING SHOULD HAVE BEEN ISSUED AND HE RELEASED TO GO; NOTWITHSTANDING, NEITHER A CITATION OR WARNING WAS ISSUED. SEE APPENDIX Pg. 31, LINES 6 – 13, RATHER THE OFFICERS MOVED TO SEARCH FOR EVIDENCE OF A GREATER CRIME PRETEXTUALLY, SEE APPENDIX, Pg. 32, LINES 1 – 11, Pg. 33, LINES 20 – 24, Pg. 9, LINES 19 – 25, AND Pg. 10, LINES 1 – 3.

IN STATE V. ABRAMS, 471 S.E. 2d 716 (1996) THAT COURT HELD:

ANY FURTHER SEARCH WAS IMPERMISSIBLE AND THE FRUIT OF THE FURTHER SEARCH SHOULD HAVE BEEN SUPPRESSED.

ALSO, SECTION 44-53-445, DISTRIBUTION OF CONTROLLED SUBSTANCE WITHIN PROXIMITY OF SCHOOL, SUBSECTION (C) PROVIDES THE FOLLOWINGS:

A PERSON MUST NOT BE CONVICTED OF AN OFFENSE PURSUANT TO SUBSECTION (A) IF THE PERSON IS STOPPED BY A LAW ENFORCEMENT OFFICER FOR THE CONTROLLED SUBSTANCE OFFENSE WITHIN A ONE – HALF MILE RADIUS OF THE GROUNDS OF A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, OR SECONDARY SCHOOL; A PUBLIC PLAYGROUND OR PARK; A PUBLIC VOCATIONAL OR TRADE SCHOOL OR TECHNICAL EDUCATIONAL CENTER; OR A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY, BUT DID NOT ACTUALLY COMMIT THE CONTROLLED SUBSTANCE OFFENSE WITHIN A ONE – HALF MILE RADIUS OF THE GROUNDS OF A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, OR SECONDARY SCHOOL; A PUBLIC PLAYGROUND OR PARK; A PUBLIC VOCATIONAL OR TRADE SCHOOL OR TECHNICAL EDUCATIONAL CENTER; OR A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY.

ALSO, THE CONSPIRACY CHARGE WAS UNLAWFULLY PRETEXTUALLY, AS ONE CANNOT CONSPIRE ALONE. SEE APPENDIX, Pg. 36, LINES 20 – 25, Pg. 37, LINE 1, AND LINE 25. Pg. 38, LINES 1- 4, Pg. 39, LINES 22 – 24.

(2) WAS PLEA UNDER CDR CODE 3014 (SECOND OFFENSE) PREJUDICIAL WHERE ATTORNEY FAILED TO MOTION FOR A DEMURRER AGAINST CDR CODE 3039 (<sup>Third</sup> ~~SECOND~~ OFFENSE) ?

PETITIONER WAS INDICTED FOR POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE UNDER CDR CODE 3039 (THIRD OFFENSE). SEE APPENDIX Pg. 43, LINES 7 – 14. NOTWITHSTANDING, PETITIONER PLED “NO CONTEST” THROUGH ATTORNEY’S ADVISEMENT TO A LESSER INCLUDED OFFENSE UNDER CDR CODE 3014 (SECOND OFFENSE). SEE APPENDEX, Pg. 5, LINES 1 – 14 AND Pg. 9, LINES 9 – 11.

PETITIONER CONTENDS THAT HIS HISTORY CONTAINS ONLY ONE CONTROLLED SUBSTANCE VIOLATION: POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE CRACK COCAINE IN 1999. THEREFORE, NOT HAVING ANOTHER CONTROLLED SUBSTANCE OFFENSE WITHIN THE PREVIOUS TEN YEARS, THE INSTANT OFFENSE LAWFULLY SHOULD HAVE BEEN INTERTAINED PURSUANT TO SOUTH CAROLINA CODE ANNOTATED SECTION 44-53-470, SUBSECTION (3), WHICH PROVIDES THE FOLLOWINGS:

SECTION 44-53-470. “SECOND OR SUBSEQUENT OFFENSE” DEFINED.

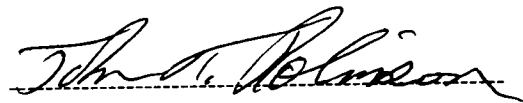
(A) AN OFFENSE IS CONSIDERED A SECOND OR SUBSEQUENT OFFENSE IF:

(3) FOR AN OFFENSE INVOLVING A CONTROLLED SUBSTANCE OTHER THAN MARIJUANA PURSUANT TO THIS ARTICLE, THE OFFENDER HAS BEEN CONVICTED WITHIN THE PREVIOUS TEN YEARS OF A FIRST VIOLATION OF A CONTROLLED SUBSTANCE OFFENSE PROVISION, OTHER THAN A MARIJUANA OFFENSE PROVISION, OF THIS ARTICLE OR OF ANOTHER STATE OR FEDERAL STATUTE RELATING TO NARCOTIC DRUGS, DEPRESSANTS, STIMULANTS, OR HALLUCINOGENIC DRUGS;

CONCLUSION

FOR THE FOREGOING REASONS, PETITIONER PRAYS THAT THIS COURT DENIES COUNSEL’S PETITIONER TO BE RELIEVED AND ORDER FULL BRIEFING ON THE ISSUES IN THE INTEREST OF JUSTICE.

RESPECTFULLY SUBMITTED,

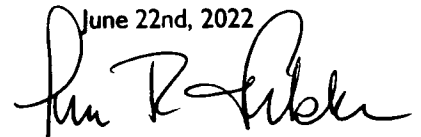


JOHN THOMAS ROBINSON

PRO – SE

DATE: April 20th, 2015

My commission expires  
June 22nd, 2022



U.S. POSTAGE  
PAID  
ROCK HILL, SC  
29730  
APR 20, 15  
AMOUNT  
**\$1.40**  
00111296-12



29211



1000

Mr. Bobson  
10535  
SC 29731

Mr. David E. Hancock  
PO Box 1133D  
Columbia SC 29811