THE STATE OF SOUTH CAROLINA

In The Court of Appeals

In The Supreme Court

RECEIVED

MAY - 1 2015

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA

V

Aaron Bryant Keys

Appellate Case No. 2015-000754

Lower Court Case No. 2014CP2304305

JURISDICTION

APPEAL FROM GREENVILLE COUNTY, Court of Common Pleas, Robin B. Stilwell, Chief Administrative Judge, Thirteen Judicial Circuit, order dated January 23rd, 2015.

ISSUE ONE

JUDGE R. B. STILWELL, ABUSED HER DISCRETION IN DENYING APPELLANT'S WRIT OF HABEAS CORPUS.

SUPPORTING FACTS AND ARGUMENT

1. Judge R. B. Stilwell, abused her discretion in denying appellant's writ of habeas corpus pursuant to the [DOCTRINE OF LACHES]. In support of Appellant's position;

2. Appellant's habeas corpus was based on a Miscarriage of Justice and Apellant's gulity plea to said prior conviction was not made voluntary and knowingly.

APPELLANT'S EXPLANATION, SUFFICIENT FACTS AND LEGAL ARGUMENTS THAT CLEARLY SHOWS THAT THE LOWER COURT'S "STATUTE OF LIMITATION" ASSERTION WAS IMPROPER.

3. It is an undisputed fact from the File and Records that Appellant's Claim is a result of a "Miscarriage of Justice". See Murray v. Carrier, 477 US 478, 496, 106 S.Ct. 2639.

4. It is also an undisputed fact from the File and Records that appellant's 2nd-degree burglary Non-dwelling Guilty Plea were entered Involuntarily, Unknowingly and in violation of Due Process. In support of this claim for not being time barred. See Boykin v. Alabama, 395 U.S. 238, 243-244 where the court held: "Presuming waiver from a silent record is impermissible".

5. See also the United States Supreme Court decision in McQuiggin v. Perkins, 185 L ED 2D 1019, at n.13 (2013) where the court held in pertinent part: "It would be (bizarre) to hold that a habeas petitioner who asserts a convincing claim of "actual innocence" may overcome the statutory time bar § 2244(d)(1)(D) erects, yet simultaneously encounter a court-fashioned diligence barrier to pursuit of her petition".

6. In light of the Lower Court's assertion in denying appellant where the lower court wrote in pertinent part: "The applicant's delay has greatly prejudiced the Respondent. A transcript of the Applicant's guilty plea is now unavailable".

7. In response to paragraph six (6). The Appellant contends that he didn't cause the destruction of these records/transcripts, moreover Appellant wasn't notified of the State's intention to destroy these records so he could seek a copy in order to preserve a copy. Hence, the State may not now cry foul when in fact it was the State that created this problem and any prejudice the State may complain of lies at its own feet and intentional destruction of one of a kind records.

There can be no prejudice to the state unless it opposes this motion, an act which would be futile because all fines and penlaties associated with this case have been satisfied, hence, no prejudice exist unless it is attached to appellant because of the stigma of an enhanced sentence

APPELLANT CONTENDS THAT HIS (1989) PRIOR CONVICTION FOR BURGLARY, (NON DWELLING) IS ["VOID"] AND THE DISTRICT COURT DID NOT HAVE SUBJECT MATTER JURISDICTION TO EXCEPT HIS GUILTY PLEA. (""THE FACTS PROVE THAT APPELLANT WAS FRAUDULENTLY COERCED INTO PLEADING GUILTY TO A CRIME THAT THE APPELLANT DID NOT COMMIT. THIS FACT MAKES THE CONVICTION AND SENTENCE NULL AND VOID"") FOR THE REASON(S) THAT FOLLOW; TO WIT:

8. Appellant's (1989) prior guilty plea conviction for Burglary of a Non dwelling is the result of a "Miscarriage of Justice", which was obtained in "Violation of Due Process" and said prior guilty plea is a violation of the "Ex Post Facto Clause" of the United State Constitution.

9. It is an undisputed fact from the File and Records that appellant did not have "any" prior convictions, "of any sort", to have subjected him to be charged with a 2nd-degree burglary offense. In support of this claim. See the Fourth Circuit Precedent in Wilson v. Lindler, 995 F.2d 1256 at (n.7) where the court wrote: "In deed, the common law notion that burglary of a dwelling is more heinous than breaking into a building not a dwelling still is reflected in the South Carolina statutory scheme, which requires that there be the aggravating factor of two prior conviction ["BEFORE"] breaking into a building can be second degree burglary. S.C. Code Ann. § 16-11-312(B)(Law. Co-op. Supp. 1992). WITHOUT THE PRIOR CONVICTIONS, BURGLARY OF A BUILDING IS BURGLARY IN THE THIRD DEGREE, WHICH CARRIES A LOWER PENALTY. See S.C. Code Ann. § 16-11-313(Law. Co-op. Supp. 1992).

10. Appellant keys, in (1989) did not have "any" prior convictions, "of any sort"; (2) Appellant contends that the "File and Records" clearly supports that his 2nd-degree burglary conviction have become invalidated by an EX POST FACTO VIOLATION and should be expunged accordingly. See U.S. Const. Art. 1, § 9, cl. 3; and U.S. Const. Art. 1., § 10 and (3). Appellant committed said prior offense in (1989) and (1990) the "Subsequent Violent Offender" provision (S.C. Ann. § 24-21-640) was enacted.

In Appellant's case the (1990) "subsequent violent offender" provision is being retroactively applied to appellant's (1989) offense derived through a guilty plea made before the statute was enacted.

APPELLANT CONTENDS THAT HE HAS SHOWN CLEAR AND OBVIOUS PROOF FROM THE "FILE AND RECORDS" IN THIS CASE, CITED AUTHORITY IN FOURTH CIRCUIT PRECEDENT IN WILSON, SUPRA AND FEDERAL LAW PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 60(b)(4) IN THAT SAID PRIOR CONVICTION WAS OBTAINED IN VIOLATION OF DUE PROCESS, INVOLUNTARY AND UNKNOWINGLY A VIOLATION OF THE EX POST FACTO CLAUSE THAT IS A RESULT OF A MISCARRIAGE OF JUSTICE.

11. When a judgment is void for lack of personal jurisdiction the Court must grant motion WITHOUT CONSIDERATION OF TIMELINESS, UNFAIR PREJUDICE, OR EXCEPTIONAL CIRCUMSTANCES. See Vinten v. Jeantot Marine Alliances, S.A., 191 F. Supp. 2d 642.

CONCLUSION

12. For the above and foregoing reasons and the "File and Records" in this case this Honorable Court should expunge Appellant's (1989) 2nd-degree non-dwelling burglary of a building Guilty Plea Conviction that were obtained in violation of Due Process, Involuntary and Unknowingly, without jurisdiction, In violation of the Ex Post Facto Clause of the United States Constitution. Appellant's (1989) 2nd-degree non-dwelling burglar of a building guilty plea conviction is contrary to the Fourth Circuit's Precedent in Wilson, supra which clearly results in a fundamental "Miscarriage of Justice".

Respectfully submitted,

Aaron B Keys

Aaron Bryant Keys
Reg. No. 12860-171
FCI Edgefield
P.O. Box 725
Edgefield, SC 29824

Excuted on April 27th, 2015

PROOF OF SERVICE

13. I, Aaron Bryant Keys, do swear or declare that on this date, April 27th, 2015, I have served the enclosed "Appellant's Appeal Brief" on the other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed with first-class postage prepaid to:
"Karen C. Ratigan, SADAG, P.O. BOX 11549, Columbia, SC 29211-1549".

I, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on April 27th, 2015.

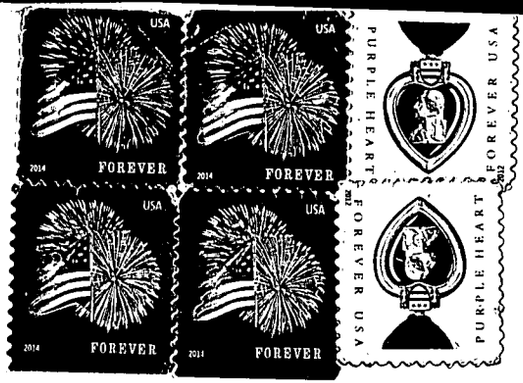
Aaron B Keys

Aaron B. Keys

WESLEY A. GLENN
Notary Public, South Carolina
My Commission Expires
October 01, 2023

4-27-15

AARON B KEYS #12860-171
FEDERAL CORRECTIONAL INSTITUTION
PO BOX 725
EDGEFIELD SC, 29824-0725



Federal Prison
PO Box 723
Edgefield, SC 29824

The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has been neither opened or 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 encloses correspondence for forwarding to another addressee, please return the enclosure to the above address.

Initials _____ Date 4/21/15

⇔12860-171⇔
Supreme Court Of S C
PO BOX 11330
Columbia, SC 29211
United States