

STATE of South Carolina  
IN THE Supreme Court

PAGE 1 of 4

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TRAVIS LAMAR BOWSER  
V. Petitioner

S.C. Supreme Court

STATE of South Carolina,  
Respondent

LEAVE to Amend  
Post Conviction Relief

APPELLATE CASE NO. 2014-002073

Amendment Complaint:  
SUBJECT MATTER JURISDICTION

Petitioner Mr. Travis Lamar Bowser is seeking to Add to the Previous PCR Action Case No. 2014-002073 The Matter of Subject Matter Jurisdiction Which Pursuant to State v. Ervin, 333 S.C. 351, 50 S.E.2d 220 (Ct. App. 1998) (holding issues related to Subject Matter Jurisdiction may be Raised at any time).

Furthermore, lack of Subject matter Jurisdiction may not be waived, Even by Consent of the Parties, and Should be taken Notice of by the Court. Brown, 343 S.C. @ 346, 540 S.E.2d @ 848. The Acts of A Court with respect to A Matter as to which it has NO Jurisdiction Are Void. Id. @ 346, 540 S.E. 2d @ 849; State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520 (1972).

Arguments

-1- Petitioner asserts that Chester County Court of General Session Lack Subject matter Jurisdiction Due to the fact PEA Counsel was ineffective for not Pursuing Petitioner line of Defense of Claiming that he is innocent of Armed Robbery that occurred on September 11, 2001 (PCR Trans. PP. 19-20), and on September 14, 2001 (PCR Trans. PP. 19-20).

-2- Also Petitioner also Asserts that Chester County Court of General Session lack Subject Matter Jurisdiction due to the fact that the State violated Petitioner Due Process right by not disclosing Discovery / Rule 5 Pursuant to SCRCrimP which equally amount to a Brady violation Pursuant to Brady v. Maryland, 373 U.S. 83 (1963) AND KYLES V. WHITLEY 514 U.S. 419; In Brady it was held that the suppression by the prosecution of evidence favorable to an accused upon requests) violates Due Process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. On page 19 of the PCR transcript Petitioner was asked "After you were arrested for this and before you pled, did you ever get a copy of your discovery pack?" Petitioner answer were "No, Sir, but I asked for it. I never received it though." Furthermore Plea Attorney states on page 29 lines 5-11 "You mentioned earlier that you filed your discovery motions. Did you receive discovery from the state?" Attorney replied "I did..." on line 12 Attorney state that he shared that with his client.

-3- Furthermore Petitioner Asserts that claim for Subject Matter should be given consideration and added because Chester County Court of General Session lack Subject Matter Jurisdiction because Plea Attorney did not investigate in matter(s) of Petitioner's claim of innocence to the crime of Armed Robbery.

Pursuant to Strickland v. Washington 466 U.S. 668, 80 L.Ed.2d 674 AS THE COURT OF APPEALS CONCLUDED, STRATEGIC CHOICES MADE AFTER THOROUGH INVESTIGATION OF LAW AND FACTS RELEVANT TO PLausible OPTIONS ARE VIRTUALLY UNCHALLENGEABLE; AND STRATEGIC CHOICES MADE AFTER LESS THAN COMPLETE INVESTIGATION ARE REASONABLE PRECISELY TO THE EXTENT THAT REASONABLE PROFESSIONABLE JUDGMENTS SUPPORT THE LIMITATIONS ON INVESTIGATION. BUT NO INVESTIGATION WAS DONE PURSUANT TO THE ASSERTION OF PLAINTIFF. FURTHERMORE IN STRICKLAND, IT STATE "COUNSEL HAS A DUTY TO MAKE REASONABLE INVESTIGATIONS OR TO MAKE A REASONABLE DECISION THAT MAKES PARTICULAR INVESTIGATIONS UNNECESSARY. IN ANY INEFFECTIVENESS CASE, A PARTICULAR DECISION NOT TO INVESTIGATE MUST BE DIRECTLY ASSESSED FOR REASONABLENESS IN ALL THE CIRCUMSTANCES, APPLYING A HEAVY MEASURE OF DEFERENCE TO COUNSEL'S JUDGMENTS-

### CONCLUSION

DUE TO THE FACTS LISTED ABOVE APPLICANT ASSERTS THE LEAVE TO AMEND HIS PCR SHOULD BE GRANTED AS A MATTER OF LAW. THUS APPLICANT WAS NOT GIVEN HIS DUE PROCESS OF LAW FIGHT, APPLICANT ALSO ASSERTS THAT HE WAS NOT AFFORDED HIS RIGHT TO A PRELIMINARY HEARING WHICH ALSO SHOWS A DUE PROCESS VIOLATION. WE KNOW THAT THE PRIMARY PURPOSE OF AN INDICTMENT ARE TO PUT THE DEFENDANT ON NOTICE OF WHAT HE IS CALLED UPON TO ANSWER, TO APPRISE HIM OF THE ELEMENTS OF THE OFFENSE AND ALLOW HIM TO DECIDE WHETHER TO PLEAD GUILTY OR TO STAND TRIAL... State v. Gentry 363 S.C. @ 102-103, 410 S.E.2d @ 500; S.C. CODE ANN.

§ 17-19-20 (2003).

SI Travis L. Bowser  
Travis Lamar Bowser  
Ridgeland Correctional Institution  
P.O. Box 2039  
Ridgeland S.C. 29936

State of South Carolina }  
County of Chester }

Verification

I Bowser, Travis L. 288475, duly being sworn upon my oath, depose and say that I have subscribed to the foregoing Application; that I know the contents thereof; that it includes every ground known to me for vacation, setting aside or correcting the conviction and sentence attached, and that the matters and allegations therein set forth are true.

SI Travis L. Bowser

Sworn to and subscribed before me this July  
day of 21<sup>st</sup>, 2015.

Virginia Robinson (L.S.)

My Commission Expires: May 20, 2021

Travis L Bowser

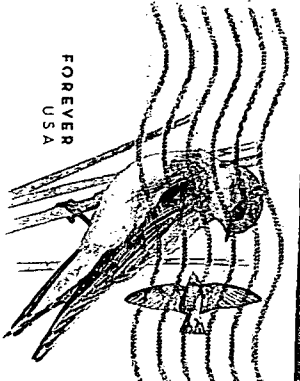
Statement of Facts

In June 2003, the Chester County Grand Jury indicted Travis L. Bowser on three counts of Armed Robbery (AR). On October 30, 2002, Bowser appeared before the Honorable Paul E. Short, Jr., and entered a Guilty PEA to the three charges of AR as indicted. Bowser was represented by Brian Gibbons, Judge Short sentenced Bowser to the negotiated CAP of twenty years on each charge with all to run concurrent. APP. 32, II. 4-22; APP. 73. On January 3, 2003, Bowser filed an Application for Post Conviction Relief (PCR). The State filed a Return July 14, 2009. An Evidentiary hearing was held February 3, 2010 before the Honorable Brooks P. Goldsmith. Bowser was represented by Ross Burton, and the State was represented by Susanne White. APP. 13. On March 9, 2010, Judge Goldsmith issued an order denying Bowser's PCR Application, and dismissing it with Prejudice. APP. 45- APP. 54. Bowser did not file an Appeal.

On April 12, 2013, Bowser filed a Second PCR Application. APP. 55. The State filed a Return and Motion to dismiss all claims except the Austin Review on December 18, 2013. An Evidentiary hearing was held on July 28, 2014 before the Honorable W. Jeffrey Young, Bowser was represented by Nathan J. Sheldon, and the State was represented by Croom Hunter. APP. 67. On August 16, 2014, Judge Young issued an order granting Bowser a belated Appeal of his first PCR Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), and denying all other issues and dismissing them with Prejudice. APP. 73- APP. 75. Bowser's Attorney filed a Notice of Appeal. This Petition for a Writ of Cert. Pursuant to Austin v. State id. Addressing the issues from the first PCR order as set forth in King v. State, 308 S.C. 348, 417 S.E.2d 808 (1992) is filed simultaneously with a Petition for a Writ of Certiorari.

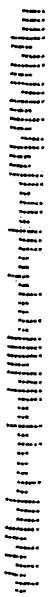
Travis Bowser # 288475  
Ridgeland Correctional Inst. Rm 43 Sev B  
P.O. Box 2039  
Ridgeland SC 29936

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The Supreme Court of South Carolina  
Daniel E. Shearouse, Clerk of Court  
P.O. Box 11330  
Columbia, SC 29211

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