

The Honorable V. Claire Allen Deputy  
Clerk  
South Carolina Court of Appeals  
Post office Box 11629  
Columbia, South Carolina 29211

~~RECEIVED~~

~~OCT 26 2015~~

~~SC Court of Appeals~~

Re: Jordan, Charles v. The State  
Appeal from Darlington County  
Appellate Case no. 2015-001479

Dear Ms. V. Claire Allen:

Enclosed please find the original and one copy of the Appellants Initial Brief and Designation of matter to be included in the record on appeal and final orders. By copy of this letter, I am serving the Respondents with a copy of each submissions.

cc;

Attorney General, Alan Wilson  
SC Court of Appeals  
Clerk of Court, Darlington County

Sincerely,  
Charles Jordan  
Charles Jordan

10/27/15:

Returned copy unclocked with note that this case has ended and no further filings are being accepted. (D)

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM DARLINGTON COUNTY  
Court of Common Pleas

SC Court of Appeals

Paul M. Burch,

Circuit Court Judge

Case no. 2015-001479

State of South Carolina

Respondent,

v.

Charles Jordan

Appellant,

[INITIAL] BRIEF OF APPELLANT

Charles Jordan  
7901 Farrow Rd.  
Bldg. 3 Fl. 3  
Columbia, SC 29203

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1. Did Appellant receive fair and equal protection in all prior review?

2. Did the 2013-CP-16-0678 PCR Court or Prior PCR Courts on White v. State review err by not directly address the Sentencing Courts lack of subject matter jurisdiction

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# TABLE OF AUTHORITIES.

## Cases

Campbell v. State, 535 S.E.2d 928 (SC 2000)

White v. State, 208 S.E.2d 35 (1974)

State v. Smalls, 581 S.E.2d 850 (Ct. of App. 2003)

## Statutes

SLC Ann. 44-48-30 (2)

## Other Authorities

SCRCP Rule 52 (A.)

SCRCP Rule 72

## STATEMENT OF THE C.A.

On this date on August 25, 2003, Convicted of lewd act upon an indictment for Assault with intent to Commit Criminal sexual Conduct. Judge Paul M. Burch, on March 16, 2004, The Appellant filed an Application for post-Conviction relief ("PCR") raising three grounds for relief. (1.) Ineffective assistance of Counsel; (2.) Involuntary guilty plea; (3.) Illegal sentence; was denied. On November 15, 2004, a hearing was held before the Honorable B. Hicks Harwell. The Appellant was represented by Henry Thad white Jr.. On December 8, 2004, Judge Harwell denied the Appellant's application for PCR. The Appellant appealed this order.

Acting Deputy Chief of Appellate Defense Wanda H. Carter, represented the Appellant on his PCR appeal. Carter filed a petition to be relieved as Counsel and a Johnson petition, raising one issue concerning whether trial Counsel was ineffective in failing to explain fully the sentencing consequences in the case. On March 23, 2007, the South Carolina Court of Appeals granted the petition to relieve Counsel and denied Appellant's petition for writ of Certiorari.

On April 12, 2007, The South Carolina Court of Appeal Re: Jordan, Charles v. The state 2004-CP-16-0257. Dear Mr. Suggs: The above referenced matter is hereby remitted to the lower Court. A Copy of the Judgment of this Court is attached. On August 10, 2007, Clerk of Court indexing update plaintiff's Case ID..... 2004-CP-16-0257 filed March 16, 2004, Status (E) Name Charge date 00/00/0000 Represents the assault with intent to Commit Criminal sexual Conduct, not the lewd act that was plead to. Trial judge was without subject matter jurisdiction to accept defendant's guilty plea to the unindicted charge of lewd act. See: State v. Smalls 581 S.E.2d 850 (Ct. of App. 2003)

## Argument Combined

See Campbell v. State 535 S.E.2d 928 (SC 2000) Lack of subject matter jurisdiction may not be waived and may be raised at any given time included on the Supreme Court.

Campbell does not say Appellant can not be repetitive in pursuing equal protection of the laws especially when each prior Court to this appeal. including the 2013-CP-16-0678 Court errored refused submit in writing exactly how, or why and by what legal Authority Subject matter jurisdiction was/is still retained which in turn caused this present Civil Commitment, SCCAnn. 44-48-30 (2).

Appellant argues that he has never received a fair hearing from any prior Court including the last PCR Court 2013-CP-16-0678 for all prior Court relied upon the prior. which refused to address the Sentencing Courts lack of Subject matter jurisdiction.

The proof in this is evident for the record is completely bear of any such discussion, reference, ruling. ie SCRPC Rule 52 (A.)

This Court must first ask:

- (1.) Did Appellant receive fair and equal protection in all prior reviews?
- (2.) Did the 2013-CP-16-0678 PCR Court or Prior PCR Courts on White v. State, review err by not directly address the Sentencing Courts lack of subject matter jurisdiction.

The fact is no prior Court has address either of the foregoing question of it's predecessors; which in turn makes this appeal not repetition in this Court; SCRCP Rule 72.

Conclusion

Where is there fair process when the Court provides equal protection and treatment to one and the same protection is not given to other person.

For this Court to afford equal protection is either to remand the issue of subject matter jurisdiction to the Sentencing Court in accordance to Smalls or withdraw Smalls Supra.

Prayer

Wherefore, this Court should order the issue of subject matter jurisdiction remanded pursuant to Smalls to the original sentencing Court of August 25, 2003.

Respectfully Submitted by,

DATED: October 19, 2015

Charles Jordan

Charles Jordan

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Case no. 2015-001479

State of South Carolina Respondent,  
v.  
Charles Jordan Appellant,

PROOF OF SERVICE

I certify that I have served the "Appellants Initial Brief and Designation of matter to be included in the record on appeal and final orders, on all parties, by depositing a copy in the United States mail as follows:

Charles Jordan

Charles Jordan

7901 Farrow Rd.

Bldg. 3 Fl. 3

Columbia, SC 29203

cc: Attorney General, Alan Wilson  
SC Court of Appeals  
Clerk of Court, Darlington County

DATED: October 19, 2015

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DESIGNATION OF MATTER  
TO INCLUDED IN THE RECORD ON APPEAL

Appellant propose the following to be included in the Record on Appeal:

1. Order of march 14, 2015
2. Order of July 1, 2015
3. PCR filed August 9, 2013
4. Answer; march 17, 2015
5. Transcript date for August 25, 2003
6. Appellant Exhibits 2, 3, and 4

I Certify that this designation contains no matter which is irrelevant to this Appeal.

Charles Jordan

DATED: October 19, 2015

Charles Jordan  
7901 Farrow Rd. Bldg. 3 Fl. 3  
Columbia, SC 29203