

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State,

Respondent,

v.

John Dodge Haynes,

Appellant.

Appellate Case No.: 2017-000799

Memorandum In Support of Petition

RECEIVED

APR 12 2017

Appeals Prior to Sentence

SC Court of Appeals

While it is well settled that the South Carolina Supreme Court has consistently ruled that **Title 14-3-330** does not allow for interlocutory appeals in criminal cases, the Court has nevertheless reviewed the cases and rendered a decision. Eg. **State v. Rearick No. 2014-001692 (S.C. 2016)**. However the Supreme Court in **Rearick** contained directives to potential appellants. Justice Beatty pointed out at Page 13 of the opinion that there were other remedies. **State v. Rearick** supra at Page 13. The opinion accompanied that with a footnote (Footnote 14) which clearly infers that there are remedies for Appellants prior to sentencing pursuant to the provisions of the State Constitution. **State v. Rearick** at Page 13 supra; Constitution of the State of South Carolina Article V.

This was not considered by this Honorable Court when it reviewed this matter and issued its order on the basis of the States two sentence “head note” reply.

It is respectfully submitted that the State avoided **Rearick** in its reply because it was well aware of the language contained therein. To be candid with this Court it must be noted that the **Rearick** decision was unanimous as to the result but only four (4) Justice’s concurred in the opinion. (Please see **State v. Rearick** supra).

The “Rule” is questioned. It is clear that the Supreme Court of South Carolina followed the “no Appeal until conclusion rule” prior to and after the adoption of the revised Article V. of the

South Carolina Constitution wherein there was adopted the unified Judicial System. Eg: **State v. Rearick** supra. However Article V. clearly sets out the powers of the Legislature in “defining” the Courts. Article V. Constitution of the State of South Carolina Article V., §4a sets out that all Rules of Practice laid down by the Supreme Court must be submitted to the Legislature. Article V. , §4a. Title 14-3-330 Code of Laws of South Carolina clearly sets out appellate rights. Title 14-3-330 Code of Laws S.C. 1976 as amended. The decisions of the Honorable Supreme Court have “read out” of the foregoing section appeals in criminal matters prior to sentencing. While a decision, it is effectively a Rule of Practice and this appellant has been unable to ascertain any submission to the Legislature. Accordingly can it be legitimate? Please see Article V. Section South Carolina Constitution. Article V. also sets out writ powers. Eg. See Article V. Section 5 supra.

Conclusion

It is therefore respectfully submitted that there are legitimate legal issues that, if answered in appellant’s favor, could justify the issuance of a writ of prohibition and/or mandamus. Additionally if this Honorable Court rejects appellant’s motion, he should be afforded his rights to seek certiorari under Rule 226 of the Rules of Appellate Practice.

William L. Runyon, Jr., Esquire
Eric Laquiere, Esquire

By: 

William L. Runyon, Jr., Esquire
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
(843)571-3515
SC Bar No: 4838

Dated this 11th day of April, 2017
in Charleston, South Carolina.