

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

[In The Supreme Court]

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APR 17 2017

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

Thomas Cooper Circuit Court Judge

Initial Briefing

Case No. 2016-001627

Jamaal Gittens

VS

John Rakowsky

Judge John Rakowsky placed a speeding violation on my MVR, suspended my commercial driver's license for failure to pay fines, Attorney Alfred Cox argument is the legislative branch allows him to acting in this judicial capacity, which is incorrect, Lower courts are bound to the Supreme courts proceedings" Adam v Dept of Juvenile Justice of New York City, 143 F.3d 61, 65 (2nd Cir. 1998) see Norton v Shelby County 118 U.S 425 (1886) The decisions of the United Sates Supreme Court whether right or wrong are the supreme ,they are binding in all courts of the land" Hoover v Holston Valley Community Hospital 545 F. Supp. 8, 13 (E.D. Tenn. 1981) see Jordan v. Gilligan, 500 F.2d 701, 707 (6th Cir. 1974)

In Anastasoff v U.S. 223.F.3d 898 (8th cir 2000) a judge is "sworn" to determine, not according to his own judgments, but to the known laws, the doctrine of precedent is essential for the separation of legislative and judicial powers, if judges had legislative power to "depart from" established legal principals, "the subject would be in the hands of arbitrary judges, whose decisions would then regulated only by their own opinions.

Precedent

United States Supreme Court precedent is that standing is a necessary component of subject matter jurisdiction "plaintiff must allege personal injury traceable to the defendant" See *Allen v Wright* 463 US 737, 751, (1984)

"Standing is perhaps the most important of [the jurisdictional] doctrines, standing represents a jurisdictional requirement which remains open to review at all stages of the litigation..." *NOW, Inc. v. Scheidler*, 510 US 249

Without standing, there is no actual or justifiable controversy, and courts will not entertain such cases." *Clifford S. v. Superior Court*, 45 Cal.Rptr.2d 333,335.

Beaufort Realty Co v SC Coastal Conservation League 346 S.C298 551 S.E 2d 588 (S.C Ct App 2001)
also *Blandon v Coleman* 285 S.C 472,330 S.E2d 298 (1985)

Common-law Jurisdiction

On page 13 of the transcripts, I said the United States Constitution created a system of law, where laws are not made by legislators, but courts and judges; Article III of the United States Constitution established a Common law system. In *South Carolina v United States* 199 U.S 437 (1905) The Supreme court said the constitution must be interpreted in the light of common law, the principals and history of which were familiarly known to the framers of the constitution.

The Supreme Court has explained that the power to adjudicate private rights must be vested in an Article III court *Northern Pipeline v* 458 U.S 50,63,76 (1992) see *Toth V Quarles* 350 U.S 11(1955)

In *Mugler v Kansas* 123 U.S 632 (1887) The United states Supreme Court said courts must obey the constitution **rather than the law making department of government**, there are limits beyond which legislation cannot rightfully go, the courts must upon their own responsibility determined in any particular case, whether limits have been passed *Marbury v Madison* 5 US. 137 (1803)

Supremacy Clause Article VI

State judges are bound by the Federal Constitution, The supremacy Clause states, laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land: and the Judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding

Right to Travel

Various supreme courts have ruled that the right to travel on public highways is a constitutional right, which a citizen cannot be deprived, no Supreme Court has ever cosigned defendant John Rakowsky judicial practice. Thompson v Smith 155 VA 367.154.SE.583, VA (1930) see Adams v City of Pocatello, 416 p.2d.46, 48; 91 Idaho 99 (1966) see Berbarian v Lussier 139 A. 2d 869, 872 87 RI 226, (1958) City of Chicago v Collins 175 III. 445 (III 1898)

Presentment, indictment, invalid complaint

Without a formal and sufficient indictment or information, court does not acquire subject matter jurisdiction, and thus an accused may not be punished for a crime Chandler v State 96 Okla., 344, 255, p.2d 299,301(1953) Without a valid complain any judgment or sentence is rendered is "Void ab inito" Nickell v State, 562 p, 2d 151 Okla. (Cr.1977)

The fifth Amendment in the United States Constitution says no person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a grand jury, interpreting the fifth amendment, we can conclude that the forefathers, higher courts, didn't have an appearance tickets, traffic infractions on their mind. People V Battle 202 CAL.App.2d 432 (1975)

An appearance Ticket is not accusatory instrument and its filing does not confer jurisdiction over the defendant people v Ashkindaze 636 N.YS 2d 554(1995) The face of the accusatory pleading filed invokes subject-matter jurisdiction in a criminal case State v. Vazquez, 450 So.2d 203 (Fla. 1984), 1984 Fla.S.Ct 2027; The general rule, then, is that jurisdiction is to be determined from the face of an indictment or information and any conviction based on information which does not properly allege jurisdiction is void." Zanger v. State 548 so2d 746(Fla Dist Ct App 1989)

Enacting Clause

On page 14 of the transcripts, I referenced the enacting clause, this wasn't meant to be an essential to my argument, but I will address it, and provide the court with an example. South Carolinas codes have been revised, published without the enacting clauses; a statute book published without the enacting clause is not a valid publication of laws, State of Nevada v. Rogers, 10 Nev. 120, 261 (1875) People v. Dettenthaler, 77 N.W. 450, 452, 118 Mich. 595 (1989) Kefauver v. Spurling, 290 S.W. 14, 15, 154 Tenn. 613 (1926);: People v. Dettenthaler, 77 N.W. 450, 452, 118 Mich. 595 (1989) Vinsant, Adm'x v. Knox, 27 Ark. 266, 284, 285 (1871) Commonwealth v Illinois cent R. co 170 S, W 171. 175, 160 Ky. 745 (1914) stickler v Higgins 106 S.W State of board of Equalization 96. P 2d 420,422 Mont (1939) Preckel v. Byrne, 243 N.W. 823, 826, 62 N.D. 356 (1932) see Ruling Case Law, vol. 25, "statues".22, p 776 133, p. 884; citing L.R.A. 1915 B p 1065

Conclusion

Defendant John Rakowsky didn't show up in court, attorney Alfred Cox is not a competent fact witness with firsthand knowledge to testify pertaining to whether or not defendant received the service of summons "statements of counsel brief or in argument is not sufficient for a summary judgment" Trinsey V Pagliaro 229 F. Supp.647 (1964) see Gonzales v Buist 224 U.S 126,56 L Ed 693,32,S Ct 463 (04/01/12) Dolbear v American Bell telephone company 126 U.S 1,31 L E.D 863,8 S. Ct778 (03/19/88)

Attorney Cox argument is that I failed to appear in court, John Rakowsky finding me guilty was within his jurisdiction, A party is not in default so long as he has a pleading on file which makes an issue in the case that requires proof on the part of the opposite party in order to entitle him to recover Millikan v Booth Okla., 4 Okla., 713, 46 p.489 (1896); I will forward the court a copy of attorney Clifford Koon's argument; which is the same as Alfred Cox, to show jurisdictional questions was raised prior to my court date with judge John Rakowsky.

Based on my argument above, Judge John Rakowsky didn't even come close to having jurisdiction. subject matter jurisdiction is only determined from pleadings" Hall v State, 933 S.W.2d 363,326 AR 1996 Palmer v Palmer 479 so,2d 221 Fla Dist ct App. (1985) without a petition on record, court has no jurisdiction Brown v VanKeuren, 340.118.122(1930) A complaint must state a cognizable cause of action against a party Charles V Gore, 248 Ill App 3d 441,618 NE.2d 633 (1st Dist. 1994) there must be a justifiable issues(cause of action) presented to the court through proper pleading Ligion v Williams 264 Ill App 3d 701,637 N.E.2d 633(1st Dist.1994)

Remedy sought

I petition that this void judgment be vacated and that punitive damages be provided. I had a career as a Professional Truck driver, October, 2014 my employer special logistics let me go because their insurance company wouldn't cover me do to this allege speeding violation, after I left special logistics, I applied for a company called global express, they would hire me, in fact they sent me my MVR, it shows a 47 in a 30 miles zone. January 31 2015 my car was repossessed because I didn't have any income; it damaged my credit report as well; it shows repossession. Judge John Rakowsky void judgment deprived me from pleasurable lifestyle; This void judgment has caused me a great deal of stress; it affected my social life with friends and family; I wasn't able to routinely provide for my family throughout the holiday's seasons the way I usually do. For the great deal of unnecessary stress, I accumulated thought this whole ordeal. I'm seeking one hundred thousand dollars in damages

Elana Jewel Williams

Type or printed notary name

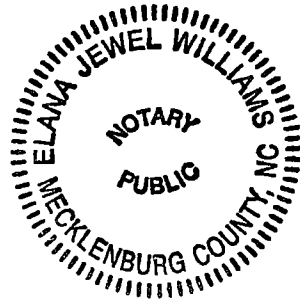
Elana Jewel Williams Seal

- Place Notary Signature Above -

September 13, 2020

My commission expires

4/12/2017 Date



Jamaal A Gittens

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Court System of South Carolina. They also conveyed upon the Municipal Judges the same jurisdiction and authority as Magistrates.

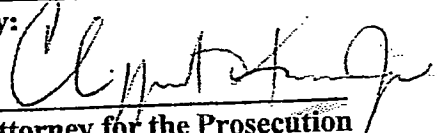
2. **THE COURT'S AUTHORITY FOR LAW ENFORCMENT AND TRIAL JURISDICTION**

General jurisdiction to hear certain criminal cases arising in the Town of Lexington is conveyed upon the Municipal Court by Section 14-25-5, CODE. Specific jurisdiction to hear traffic cases which arise in the Town of Lexington is conveyed upon the Municipal Court by Section 56-5-6150, CODE.

Respectfully Submitted,

Clifford O. Koon, Jr.
Deputy Town Attorney
SC Bar #3599
Post Office Box 397
Lexington, South Carolina 29202-3261
Tel. (803)-358-1572 / (803) 358-1567 Fax
ckoon@lexsc.com-email

August 4, 2014

By: 
Attorney for the Prosecution

CHAPTER 129.

AN ACT providing for the consolidation of the office of jailer with that of sheriff in each county of the State.

§ 1. The office of jailer is hereby consolidated with that of sheriff, in each county of the state, under the provisions of Section 105 of the Constitution. There are hereby transferred to and vested in the sheriff, all the powers and duties heretofore authorized by law to be exercised or performed by the jailer. Wherever in any law of the State, reference is made to the jailer, such reference shall be deemed to apply to the sheriff, except where the context requires otherwise.

CHAPTER 144

579

CHAPTER 144.

AN ACT to regulate, control and fix standard weights of wheat flour and the size of packages containing same; and to provide penalties for the violation of this Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Each package shall have the net weight printed or plainly marked on it.

Fig. 4 — Excerpt from, *Acts of the General Assembly of the Commonwealth of Kentucky, 1934*. Chapter 129 (above) was published with no enacting clause and was thus declared "invalid" in *Stickler v. Higgins*, 269 Ky. 260. Chapter 144 (below), from the same statute book, shows the constitutionally required enacting clause.

CHAPTER 199

An Act Requiring Licenses for the Operation, Maintenance, Opening or Establishment of Stores in This State, the Classifying of Such Stores, Prescribing the License and Filing Fees to Be Paid Therefor and the Disposition Thereof, and the Powers and Duties of the State Board of Equalization in Connection Therewith; and Prescribing Penalties for the Violation Thereof and Repealing Sections 2420.1, 2420.2, 2420.3, 2420.4, 2420.5, 2420.6, 2420.7, 2420.8, 2420.9, 2420.10, 2420.11, Revised Codes of Montana, 1935.

Be It Enacted by the People of the State of Montana:

Section 1. That from and after the first day of January A. D. 1938, it shall be unlawful for any person, firm, corporation, association or co-partnership, either foreign or domestic, to open, establish, operate or maintain any

TWENTY-FIFTH LEGISLATIVE ASSEMBLY

CHAPTER 202

An Act Providing the Method for Computing Certain Deductions Allowable on Mine Taxes in the Production of Petroleum and Natural Gas in Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The state board of equalization in computing the deductions allowable for expenditures under Section 2090 of the Revised Codes of the State of Montana on petroleum and natural gas production, shall compute and allow deductions for any such expenditures

Fig. 5 — Excerpt from, *Laws, Resolutions and Memorials of the State of Montana, 1937*. Chapter 199 was published with the wrong type of enacting clause and thus was held "invalid" by the State Supreme Court in the *Vaughn* case, 109 Mont. 52. Chapter 202 (below) shows the proper style of an enacting clause for a law of the State.

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Court of Common Pleas

Thomas Cooper Circuit Court Judge

Case No. 2016-001627

Jamaal Gittens v John Rakowsky

Attention Clerk of Court:

I'm forwarding you the initial briefing as requested; I certify that I forward a copy to defendants counsel Alfred Cox at Gallivan white & Boyd Po Box 7368 Columbia SC 29202

April 12, 2017

Elana Jewel Williams

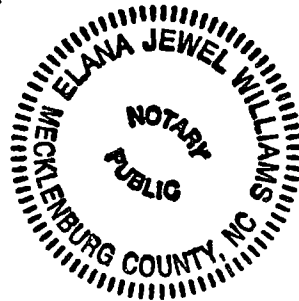
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Elana Jewel Williams Seal

- Place Notary Signature Above -
September 13, 2020

My commission expires

4/12/2017 Date



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Yours Truly

Jamaal A Gittens

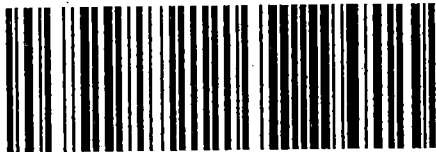
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