

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

[In The Supreme Court]

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

Thomas Cooper Circuit Court Judge

Case No. 2016-001627

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APR 28 2017
SC Court of Appeals

Jamaal Gittens

VS

John Rakowsky

Statements on issues on appeal

1. The trial court erred, I referenced what The United States Supreme court precedent was, pertaining to standing, the Supreme Court has ruled that standing is a necessary component of subject matter jurisdiction; a plaintiff must allege injury tractable to the defendant. An appearance ticket is not an accusatory instrument, nor does it contain an causes of action, which an essential of to filing complaint
2. Attorney hasn't referenced any Supreme Court cases that supports defendant judge Rakowsky Judicial practice, in the transcripts, nor in his petition, I mentioned Thompson v Smith 155 VA 367.154.SE.583, VA (1930) The Supreme court said that the judge of a municipal court, is acting as an administrator officer ,not in a judicial capacity when revocation driver licenses.

Statements of the case

7/23/2014 I received a ticket for allegedly speeding, I had written Lexington Municipal court a motion to dismiss due to lack of subject matter jurisdiction,, I was an over the road truck driver, plus I stayed 2hrs from Lexington SC. I'm aware that an officer cannot file his own service of summons, and that an appearance is not a accusatory instrument; I felt I could get this issue resolved by mail rather than coming to court

An Attorney name Clifford Koon responded to my motion; his argument was the same as the Defendants Attorney Alford Cox, I wasn't able to appear on the given court date which was 09/11/2014 Judge Rakowsky placed a speeding violation on my MVR, suspended my commercial drivers for failure to pay fines, I commenced a civil action against Judge Rakowsky because he acted in clear absence of jurisdiction, based off supreme court rulings. 6/20/2016 I appeared before Honorable Thomas Cooper for my civil appeal, judge cooper chose not to rule in my favor;

Argument, material facts

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)

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)

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.

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 by 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 Co v Marathon Pipeline Co 458 U.S 50,63,76 (1982) 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

On page 13 of the transcripts, I said under the supremacy clause, State courts 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**

Municipal Judge Acts an Administrative Officer

On page 14 of the transcripts, and in my petition, I reference Thompson v Smith 155 VA 367.154.SE.583, VA (1930) the supreme said that **The judge of municipal court is acting as an administrative officer and not in a judicial capacity when Revocation drivers license, courts in administrating, do not act judicially, but merely administratively;** Virginias supreme court also said 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. 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

Competent Fact Witness

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)

Failed to appear

Attorney Cox argument is that I failed to appeared 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.

Conclusion

I petition that this Void judgment be vacated, and that punitive damages be provided, based off my argument, 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 III App 3d 701,637 N.E2d 633(1st Dist.1994)

Type or printed notary name

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- Place Notary Signature Above -

My commission expires

_____ Date

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Fact 2

Argument

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Conclusion3

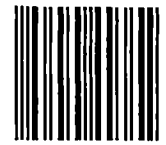
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