

In the State of South Carolina
In the Court of Appeals
Appeal from York County
Court of Common Pleas
Daniel D. Hall, Presiding Judge

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JUN 16 2017
SC Court of Appeals

Appellate Case No:2015-001004

Antonio Gordon,

Appellant,

V.

State of South Carolina,

Respondent.

Appellant's Petition to Expedite Appeal

Comes Now, Antonio Gordon, the Appellant in the above caption matter respectfully move in this Honorable Court on a Petition to Expedite Appeal. Appellant contends the public interest is involved and the fairness of administration of justice is an issue whereas the Lower Courts, Circuit Solicitor's and Trial Attorney's have been consistently misapplying written legislation over the course of twenty years and or the General Assembly has enacted unconstitutional law that effect particular citizens statutory and constitution rights under South Carolina Constitution Article 1. §3 and the 14th Amendment to the United States Constitution.

I.

In the instant case law enforcement officers took Appellant into custody on July 23, 1998, at approx 9:30a.m., at which time Appellant was "[s]ixteen" years of age. ~~At that particular time~~ Family Court Jurisdiction over the subject matter and Gordon and the statutory rights under the children code of laws pursuant to S.C. Code Ann §20-7-7205(a); 20-7-6605(1), (2) (Supp. 1998) attached. See Enl Undoubtly pursuant to fundamental principle of law this

Enl Appellant argued in his Initial brief that he was not "[c]harged" with a Class A, B, C, or D felony as defined in section 20-7-6605(1) prior to being taken into custody under section 20-7-7205(a). See Initial Brief of Appellant page 10 third paragraph

jurisdiction could not have been waived even by consent of the parties pursuant to Anderson v. Anderson, 382 S.E.2d 897,900 (S.C.1989); Carter v. State, 495 S.E.2d 773 (S.C.1998); State v. Funderburk, 191 S.E.2d 520 (S.C.1972).

II.

The Respondent on the other hand avers Gordon and other persons similarly situated to him does not possess certain statutory and constitutional rights because he was a person sixteen years old when he committed the offenses for which he was "[i]ndicted" and the crimes committed was class A,B,C or D felonies and the discretion to remand the case to family court was within the solicitor. Id 6605(1). See Initial brief of Respondent page 8 second paragraph

The Children Code of laws does exclude Gordon and persons like him when "[C]harged" with a Class A,B,C, Or D felony as define in section 20-7-6605(1), supra. See Fn2 Appellant contends that this ultimate waiver into adult system upon being "[i]ndicted" by the Grand Jury for a Class A,B,C, or D felony as alleged by Respondent is an unconstitutional procedure being practiced in South Carolina because it deprive him and other citizens alike their important statutory and constitutional rights as those similarly situated less than seventeen years of age found violating a criminal law and taken into custody under the children code of laws pending being [indicted] by the Grand Jury, as in the instant case. See Fn3 Delaware Supreme

Fn2 The General Assembly "did not" define the term "[c]harged" in section 20-7-6605(1) and undoubtedly Gordon was taken into custody under section 20-7-7205(a) before being [charged] with a Class A,B,C, or D felony under section 20-7-6605(1) via Grand Jury proceedings. Any ambiguity in the Children Code of Laws must be strictly construed against the State pursuant to the Rule Of Lenity Doctrine and any panel statutes under the children Code of Laws must be strictly construed against the State pursuant to William v. State, 410 S.E.2d 564 (1991).

Fn3 In the case sub judice Gordon was "indicted" 90 days after being taken into custody.

Court found a very similar practice unconstitutional under their children of code laws in Hughes v. State, 653 A.2d 247 (1994).

III.

The Court in Scott v. State, 513 S.E.2d 100 (S.C.1999) hold that "in the interpretation of statutes, our sole function is to determine and, within constitutional limits, give affect to the intention of the legislature, with reference to the meaning of the language used and the subject matter and purpose of the statute... A basic presumption exists that the legislature has knowledge of previous legislation when later statutes are passed on a related subject". Furthermore, penal statutes must be construed strictly against the Respondent and in favor of the Appellant. William v. State, supra. Construing the Children Code of Laws constitutionally and strictly against the State, as a matter of statutory law family court acquired the first jurisdiction and should have been the sole court for initiating an action pursuant to section 20-7-400(a), (3) (supp.1998) Title "Exclusive original jurisdiction of family court". And before the Grand jury could have exercise its authority in returning a true bill indictment, family court had to first relinquish its jurisdiction. State v. England, 245 S.E.2d 608 (S.C.1978).

Its clearly in the Record on Appeal that Appellant was taken into custody under section 20-7-7205(1), supra, first, before he was "[c]harged" with the class A, B, C, or D felony listed in section 20-7-6605(1), supra. Therefore, Appellant and persons similarly situated to Gordon are statutorily and constitutionally entitled to:

(a). Appointment of counsel and detention hearing within 48 hours after being taken into custody. See S.C. Code Ann § 20-7-7215(a) (supp.1998) Title "Detention hearing; psychological screening".

(b) Full Investigation and notice. See S.C. Code Ann § 20-7-7415(c), (d) (supp.1998) Title "Prre-hearing inquiry and investigation; notice".... Application of Gault,

(c) Hearing, counsel, access to material considered by the court and a statement

of reason in family court. See S.C. Code Ann § 20-7-7605(4), (6), (10) (supp. 1998)
Title "Transfer of Jurisdiction". - Kent v. United States, 86 S. Ct 1045 (1966).

Here, Appellant's indictments and guilty plea judgment is an absolutely
a nullity and void ab initio. He's entitled to his speedier and immediately
release from unlawful confinement as a matter of law.

Conclusion

It is respectfully asked that this Court expedite the appeal in the
interest of justice where the public interest is involved. This Court should
post-pone all pending cases in the circuit court that could be effected
by the court's ruling in this case since these same jurisdictional and
constitutional defects are ongoing in title 63 of the Juvenile Justice Act.

Sincerely Submitted

Antonio Lopez
June 12, 2011

IN THE STATE OF SOUTH CAROLINA

IN THE Court of Appeals

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Appeal from York County JUN 16 2017

Court of common pleas SC Court of Appeals

Daniel D. Hall, Presiding Judge

Appellate case NO: 2015-001004

Antonio Gordon,

Appellant,

State of South Carolina, Respondent.

certificate of service

I, Antonio Gordon, hereby certify I did serve
Appellant's petition to Expedite Appeal on:
South Carolina Attorney General office
Justin James Hunter, Esquire

P.O. Box 11549

Columbia, SC 29211

by depositing a copy in the mail with
sufficient funds on 12 day of June, 2017

Antonio Gordon

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JUN 16 2017

SC Court of Appeals

Dear Clerk:

Please find Enclosed
Appellant's petition to Expedite
the Appeal. The Respondent has
been served with the same.

Antony G. G.

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SCDC

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