

State of South Carolina
In The Court of Appeals

Appeal From Richland County
DeAndrea Benjamin - Court Judge

State of South Carolina
Respondent

v.

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CASEY LEWIS

DEC 27 2017

SC Court of Appeals

Appellant

Case No: 2016-000442

Motion of Rehearing

Comes Now, The appellant - Casey Lewis, Submitting
the Motion of Rehearing Pursuant to the South Carolina
Rules of Court Rules 221a and 240.

Casey Lewis #259254
Richland C.I. BA #34
P.O. Box 2039
Richland S.C. 29936

Pro Se

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Memorandum with Citation of Authorities

- John v. Johns 420 S.E2d 856-859
- Nelson v. Coker Opinion NO. 3626
- Pre. 325 S.C. at 437-38, 480 S.E2d at 460-61
- S.C. Code of law § 16-3-20 (1999 version)
- S.C. Code of law § 16-3-20 (2010 version "Amended")
- Garris v. S.C. Reinsurance Facility 511 S.E2d 48-57 (1998)
- Judy v. Judy Opinion No. 26987
- Beall v. Doe 315 S.E2d 190-91
- Ex Post Facto Clause
- Jernigan v. State 531 S.E2d 507
- U.S.C.A Const. Art 1 § 10, Cl. 1
- U.S.C.A Const. Art 1 § 4
- Ashburn v. Rogers 803 S.E2d 469 (2017 App Ct)
- Mr. T 662 S.E2d
- State v. Cat 541 S.E2d 541
- Due Process violation

Issue

Appellant, Casey Lewis, contends that the Honorable Court failed to consider the numerous exceptions to the application of Res Judicata and Collateral Estoppel. John v Johns 470 S.F2d 856, 859; Nelson v. Paker Decision No. 36216. In Pte 325 S.P. at 437-38, 480 S.F2d at 460-61. The Court adopted the restatement (Second) of Judgments Section 28, which states: Although an issue is actually litigated and determined by a valid and final Judgment, and the determination is essential to the Judgment, relitigation of the issue in the subsequent action between Parties is not precluded in the following circumstances: 2) The issue is one of law and b). A new determination is warranted in order to take account of an intervening change in a applicable legal context, or otherwise to avoid inequitable administration of the laws. Those laws, in the context of legal policy, being S.C. Code of law § 16-3-20 as it was codified in the year "1999" and the amended codification in the year "2010."

The Court of Appeals have found that the doctrine of res Judicata is not an "Ironclad" bar to later compelling circumstances that make it appropriate for the Party to be permitted to relitigate the issue. Garris v. S.C. Reinsurance Facility 511 S.F2d 48-57 (1998); Judy v. Judy opinion no. 21997; Beall v. Doe 315 S.F2d at 190-91. Furthermore, because of the Ex Post Facto Violation even if the appellant met all the required elements, res Judicata will not be applied "where it will contravene other important public policies; The Courts must weigh the competing public policies. For example, in most

Cases, the act of murder is a crime that is often punished with a prison sentence or death. The classification of murder as a crime and the punishments for the crime are both examples of how governments respond to the problem using public policy. In the Appellant's case legal policy covers the laws of what will be considered a crime and how that crime will be punished.

Henceforth, in the Appellant's case Lewis, Case An Ex Post Facto violation occurred when the Honorable Court and the Judicial Agencies increased the quantum and frequency of time increasing the measurement of punishment attached to the crime in violation of S.C. Code of Law § 16-3-20 as it was codified in the year appellant was sentenced ("1999") beyond the statutory construction of the legislative intent.

Also, an Ex Post Facto violation occurs when the change in the law retroactively changes or alters the definition of a crime or increases the punishment of a crime. Ternigan v. State 531 S.E2d 507.

As a matter of Constitutional Law a Court must look at the effect of the statute on the quantum of punishment to determine whether an amendment offends the Ex Post Facto Clause; U.S.C.A. Const. Art 1 § 10, Cl. 1; Const. Art 1 § 4. Appellant concludes that because of this unfairness and injustice res judicata is precluded because of the increase of his punishment. Ashburn v. Powers 803 S.E2d 469 (2017 App 4); Mr. T 1662 S.E2d. An Increase Twenty-Five (25) years beyond the legislative intent. State v. Gay 541 S.E2d 541.

Conclusion

The Constitutional Magnitude of this due Process Violation is to be held under an illegal Sentence that the Honorable Court did not have the Power to impose. The Honorable Court Silence on the Exception to Res Judicata on this issue is an acquiescence for the Appellant's rehearing to be granted on the above-mentioned issue.

December _____ 2017

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State of South Carolina
In The Court of Appeals

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DeAndre Benjamin, Court Judge.

State of South Carolina
Respondent

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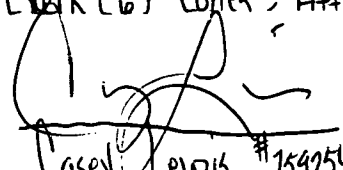
SC Court of Appeals

v.
Casey Lewis
Appellant

Case No: 2016-000442

Certificate of Service

The Appellant Casey Lewis #259254 hereby certifies that a true copy of Attached Motion of Rehearing of Appellant in the above-mentioned Case No. has been Served to the Appellate Court Clerk (6) Copies, Attorney General Alan Wilson (1) Copy.



Casey Lewis #259254
Ridgeland CI BA-#34
PO, Box 2039
Ridgeland S.C. 29936

State of South Carolina
Sworn to and Subscribed Before me this day 18
of December 2017
Severly Ferguson
Notary Public for S.C.

My Commission Expires: 10-1-25

South Carolina Court of Appeals
Honorable Madam Kitchens, Clerk
Post Office Box 11629
Columbia, S.C. 29211

Dec 18, 2017

Re: (Filing of Motion of Rehearing)

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DEC 27 2017

SC Court of Appeals

Dear Madam Kitchens:

Enclosed is one (1) original and five (5) copies, totalling six (6), of the Motion of Rehearing to be filed with your Honorable Court. The Motion is in accordance with S.C. rules of Court 221 a) and 240. Also, a copy has been forwarded to the Attorney General, Alan Wilson.

Thank You and May You have a
Propitious day ☺

Caswell Lewis
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