

State of South Carolina
IN the Supreme Court

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MAR 30 2018

S.C. SUPREME COURT

Certiorari to Richland County
DeAndrea Benjamin, Court Judge

CASEY LEWIS,

Petitioner

v.

State of South Carolina,

Respondent

Petition For Writ of Certiorari

CASEY LEWIS #259254
Ridgeland C.I. 3A #34
P.O. Box 2039
Ridgeland S.C. 29936

Pro Se

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Questions Presented

- 1). Whether the Court of Common Pleas Honorable Judge, Mrs. Benjamin, was correct in dismissing Appellants Declaratory Judgment under the doctrine of Res Judicata?
- 2). Whether the Court did an analysis and made a full determination established by South Carolina Jurisprudence concerning the Court's authority to determine the Legislature's Legislative intent as it relates to S.C. Code §16-3-20 as it was codified in the year "1999" as opposed to its current reading codified in the year "2010"?
- 3). Did the Court fail to consider the numerous exceptions to the application of Res Judicata enhancing the Constitutional Magnitude of Punishment attached to S.C. Code of law §16-3-20 Codified in "1999" Creating an Ex Post Facto Violation?

Statement of the Case

Petitioner Motioned the Court of Common Pleas Pursuant to S.C. Code of Laws § 15-53-10 through § 15-53-30 to make a Declaratory Judgment declaring the Statutory Construction of the S.C. Code of Law § 16-3-20, as it was Codified in the Year "1999" as opposed to its Current reading Codified in the Year "2010 (See Exhibit 1)".

Petitioner Motioned the Court of Common Pleas following his Attempt to Modify and Correct Sentence Pursuant to Title 17-23-110 and S.C. RCP Rule 29(b), Rule 60(b)1, Rule 60(b)3, and Rule 60(b)4 (See Exhibit 2 Transcript Lines 3-5). Though Captioned as a Motion Pursuant to Rule 29(b) and Rule 60(b) 1-4 S.C. RCP, the Honorable Court found that Motion to be the type Properly Brought Under S.C. Code Ann Title 17-27-20 (1) and (3), which did not Specifically address the Motion under Title 17-23-110. (See Attached order Page 2 Paragraph 1 Exhibit 3). Petitioner then filed a 59(e) Motion asking the Honorable W. Jeffrey Young to Alter or Amend Judgment. The Honorable Judge Young answered Affirming his dismissal (See order Exhibit 4). The Court of Appeals dismissed Petitioner's Appeal on Procedural Grounds noting that the Petitioner's Appeal was filed After Ten (10) days waiting on Judge Young's answer to Petitioner's 59(e) Motion (See Exhibit 5). Petitioner then Motioned the Court of Common Pleas through Declaratory Judgment to discover the legislature legislative intent of § 16-3-20, as it was Codified when Petitioner was Sentenced in the Year "1999." The Honorable Judge, Mrs. Benjamin, dismissed Declaratory Judgment due to Res Judicata (See Exhibit 6). Petitioner Appealed to the S.C. Court of Appeals which Affirmed the dismissal order under the doctrine of Res Judicata, but did not Answer Petitioner Second Question regarding the legislative intent and statutory interpretation of Section § 16-3-20 as Codified in "1999." Motion for rehearing was also denied (See Exhibit 7).

ISSUE 1

At issue is whether the Court of Common Pleas had the Authority to rely on a ruling in the Court of General Session Pursuant to title § 17-23-110. to review After-discovered evidence. The Honorable W. Jeffrey Young's order did NOT specifically address the Motion under title 17-23-110 (See Attached order Page 2 Paragraph 1 Exhibit 3), Instead, Gave his interpretation regarding what the statute intends relating to the Sentencing range allowed. Petitioner, Casey Lewis, asserts that the Honorable Judge Young's interpretation was premature as it relates to the Captioned Motion and the Court of Common Pleas Judge, Mrs. Benjamin, was premature in invoking the doctrine of Res Judicata. The Petitioner ONLY Motioned the Court to discover the Legislative Legislative Intent of § 16-3-20, as it was codified when the Petitioner was sentenced in the Year "1999."

Petitioner asserts that the Power of the Court and the Scope of inquiry in a declaratory Judgment is determined by the underlying issue and that no difficulty would be encountered regarding the underlying issue. Harry County v. Insurance Reserve Fund 544 S.E2d 637; Charleston and W.C. Ry. Co. v. Joyce 99 S.E2d 187.

The Courts 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. Reinsurance Facility 511 S.E2d 49-57 (1998); Judy v. Judy OPINION NO. 26987; Beall v. Doe 315 S.E2d at 190-91. 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 a subsequent action between the Parties is not precluded when a new determination is warranted in order to take account of an intervening change in an applicable legal context - or otherwise to avoid inequitable administration of the laws. Those laws being the Sentencing of the violator as it relates to S.C. Code of law § 16-3-20; Pye 325 S.C. at 437-38 480 S.E2d at 460-61; State v. Galt 541 S.E2d 541 (abrogated on other grounds); State v. Varner 310 S.C. 264.

ISSUE 2

The Courts have been familiar with interpreting Penal and Criminal Statutes through the framework of declaratory Judgment. Tack L. Hinton Jr v. S.C. Dept of Probation, Parole and Pardon Services, opinion No. 3797 (Ct. App); State v. Breech 417 S.E2d 873 (1997). South Carolina has long recognized the principle that Penal statutes are to be strictly construed against the state and any doubt must be resolved in favor of the defendant. State v. Lewis 139 S.E2d 386; State v. Dwyer 583 S.E2d 289, 299 (2000); State v. Rowson 531 S.E2d 922.

Petitioner asserts that as a matter of law (Constitutional) established by South Carolina Jurisprudence, a Court must look at the effect of the statute on the Quantum of Punishment to determine if any unfairness and injustice occurs because of the Increase in Punishment, beyond the legislative Intent. State v. Cox 541 S.E2d 541 (abrogated on other grounds); Ashburn v. Rogers 803 S.E2d 469 (2017 App Ct); Mc. T 662 S.E2d; U.S.C.A Const. Art 1 § 10, Cl. 1; Const. Art. 1 § 4; State v. Varner 310 S.C. 264.

Petitioner also asserts that the Constitutional Magnitude of failing to do a full analysis and make a full determination established by South Carolina Jurisprudence concerning the Courts Authority to determine the legislature's Legislative intent relating to §16-3-20 Codified in "1999" as opposed to its current reading Codified in "2010" is to hold for a sentence in violation of the Constitution of the United States and the Constitution of this state. The right to be free from Cruel and Unusual Punishment and the violation of due Process to be held under an illegal sentence.

ISSUE 3

Petitioner contends that the Honorable Court failed to consider the numerous exceptions to the application of Res Judicata and Collateral Estoppel. Johns v. Johns 410 S.F2d 856, 859; Nelson v. Coker Opinion No. 3626; In Re 325 S.C. at 437-38, 490 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 a intervening change in an 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 Courts 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 49-57 (1998); Judy v. Judy Opinion No. 76997; Beall v. Doe 315 S.F2d at 190-91. Furthermore, because of an Ex Post Facto violation even if the Petitioner met all the required elements, res Judicata will not be applied where it will contravene other important Public Policies. The Court must weigh the competing Public Policies. In the Petitioner's case legal Policy covers the laws of what will be considered a crime and how that crime will be punished.

Henceforth, in the Petitioner's case an Ex Post Facto violation occurred when the Court fail to consider the numerous exceptions to Res Judicata increasing 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 Petitioner was sentenced (1999) beyond the Statutory Construction of the legislative Intent. State v. Gail 541 S.F2d 541; Jernigan v. State 531 S.F2d 507; Eubanks v. S.C. Dept. of Corrections 06, 4th Cir Appeals; U.S. v. O'Neal - 180 F.3d 118, 122 (4th Cir 1999)

CONCLUSION

The Honorable Court is asked to Grant Certiorari ON ISSUE 1. The Court is asked to Grant Certiorari ON ISSUE 2. The Court is asked to Grant Certiorari ON ISSUE 3.

This day _____ of March, 2018

Respectfully Submitted

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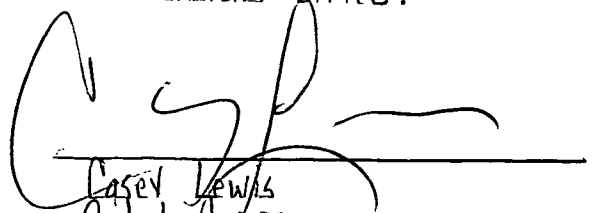
v.

State of South Carolina

Respondent

Certificate of Service

I certify that a true COPY and six (6) copies of the Petition for writ of Certiorari and a COPY of Appendix along with a COPY of Petition and Appendix have been serve to the Clerk of the Supreme Court and Alan Wilson of the Attorney General's office.



Casen Lewis
Richland Co. I
PO, Box 2039
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Sworn to before me this 21st day of March - 2018

Virginia Robinson
Notary Public of South Carolina

My Commission Expires: May 20, 2021