

ORIGINAL

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of General Sessions
The Honorable Frank R. Addy, Jr., Circuit Court Judge

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AUG 09 2013

SC Court of Appeals

Appellate Case No: 2013-000196

THE STATE,

APPELLANT,

v.

JAMES E. WISE,

RESPONDENT.

SUPPLEMENTAL RECORD ON APPEAL

JAMES E. WISE, #250411
Lieber Correctional Inst.

P.O. Box 205
Ridgeville, S.C. 29742

APPELLANT PRO SE

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Assistant Attorney General
S.C. Bar No: 1871

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Columbia, South Carolina 29211
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ATTORNEYS FOR RESPONDENT

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AND A LESSER INCLUDED OFFENSE WHEN THEY ARE ESTABLISHED BY THE SAME ACTS"]

Double Jeopardy; Multiple Punishment - Defendant was punished more than once for the same offense, Brown V. Ohio, 432 U.S. 161 (1977).

Multiple Punishment for the same act - Defendant was given UnConstitutional multiple sentences for a single criminal act... Benton V. Md., 395 U.S. 784 (1969).

Double Jeopardy Retrial on same elements from a Guilty Plea of a Bench Trial in Magistrates Court - Defendant was retried for an offense which includes as an essential element the same issue of critical fact that was decided in Magistrate Court already. Younger V. U.S. 129 S. Ct. 2360 (2009).

Double Jeopardy, rather than being a single doctrine, is comprised of three (3) separate through related rules, prohibiting (1) Re-prosecution for the same offense following acquittal, (2) Re-prosecution for the same offense following conviction, and (3) Multiple punishment for the same offense, U.S.C.A. Const. Amend 5. See: Criminal Law 1, D.S.C. 2000

See: Riley V. South Carolina, 82 F. Supp. 2d 474, appeal from denial of habeas Corpus 225 F. 3d 655

See: State V. Gorden, 588 S.E. 2d 105, 356 S.C. 143, rehearing denied

See: In re Matthews, 359 S.E. 2d 311, 345 S.C. 638, certiorari denied

Matthews V. S.C., 122 S. Ct. 1926, 535 U.S. 1062, 152 L. Ed. 2d 834

SEE: Attached Fortier Exhibit A - Disposition in Magistrates Court where Defendant had a Bench Trial resulting in a Guilty Plea.

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CONCLUSION

WHEREFORE, the Defendant respectfully ask the Court to Arrest the Sentence/Judgment in this instant matter, as this case clearly constitutes a "Denial of fundamental fairness shocking to the universal sense of justice". Butler V. State, 397 S.E. 2d 87, 88 (1990) "There sits an inherent power in every court to see that a Defendants fundamental rights are protected" State V. Kimbrough, 66 S.E. 2d 273 (S.C. 1948). And that an ORDER issue and the Defendant be released from the South Carolina Department of Corrections as a matter of Law, and 5th Amendment to United States Constitution and Article I, Section 12 of the South Carolina Constitution.

Respectfully Submitted,

181 James E. Wise

James E. Wise, 9230411

Defendant Pro Se

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ATTACHMENT

FORTIOR

EXHIBIT

A

Disposition in Magistrates Court where Defendant had
a Bench Trial / Plead Guilty

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James E. Wise, #250411
Lieber Corr. Inst. B-B-30
P.O. BOX 205
Ridgeville, S.C. 29472

November 1, 2012

Clerk of Court Newberry County
Attn: Ms. Jackie S. Bowers, Clerk
P.O. Drawer 10
Newberry, S.C. 29108-0010

Re: C/A No. 98-GS-36-402 / Filing Notice of motion & Motion to
Arrest Judgment/Sentence, certificate of service

Dear Ms. Bowers,

Please find here enclosed an Original courts copy for filing
with attachment fertier exhibit, and a copy to be clocked stamped
and returned in the envelope herein provided. By a copy of this I
have also sent the solicitor Mr. Jerry Peace, and the Chief Admin-
istrative Honorable Eugene C. Griffith, Jr. with a true and correc
copy. I thank you for all your time and help with this matter.

FILED
NEWBERRY COUNTY
2012 NOV -9 A 10:48
JACKIE S. BOWERS
CLERK OF COURT

Respectfully Submitted,

James E. Wise


James E. Wise, #250411

Defendant Pro se

cc. File
Mr. Jerry Peace, Solicitor
Chief Admint. Honorable Eugene C. Griffith, Jr.

CERTIFICATE OF COUNSEL

Counsel for Respondent certifies that this Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.


SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

August 9, 2013

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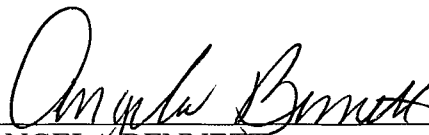
RESPONDENT.

PROOF OF SERVICE

I, Angela Bennett certify that I have served the Supplemental Record on Appeal on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to James E. Wise, #250411, Lieber Correctional Inst. P.O. Box 205, Ridgeville, South Carolina 29742.

I further certify that all parties required by Rule to be served have been served.

This 9th day of August, 2013.


ANGELA BENNETT
Administrative Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727