

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

SOUTH CAROLINA

Plaintiff,

V

JAMAAL GITTENS

Defendants.

IN THE COURT OF COMMON PLEAS

RECEIVED

MAY 13 2019

SC Court of Appeals

**MOTION TO VACATE VOID
JUDGMENT LACK JURISDICTION**

COME NOW Jamaal Gittens with motion to vacate void judgment, magistrate court lacked subject matter jurisdiction

A void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally”, provided that the party is properly before the court, Long v. Shore bank Development Corp., 182 F.3d 548 (C.A. 7 Ill. 1999).

Statements of the case

I sent magistrate court a motion to dismiss, simply because the court lacked jurisdiction; it was in reference to a traffic ticket I received January 9, 2019 I appeared before judges woods February 21, 2019, he said the court reviewed my motion, and that it had jurisdiction, without supporting his claim, to avoid arguing with judges woods, I participated in a bench trial only to get it dismissed on appeal

Brief Argument

Magistrate court lacked jurisdiction for various reasons, first, The Judicial tribunal is limited determining the rights of persons or of property which is controvert Tyler v judges of the court of registration 179 U.S 405 at 179 U.S409 (12/17/1950)); the judicial power is limited to cases in controversy see lord v Veazie, 49 U.S 8 How, 251 251(1850) Cleveland v Chamberlain 66, U.S1 Black 419 419(1861)

Under our system of government upon the individuality and intelligence of the citizen, the state does not claim to control him, except to his conduct to others, leaving him the sole judge as to all that affects himself “Mugler v Kansas 123 US 623 at 123 U, S 660 (1887)

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” 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 Beaufort Reality 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)

An indictment or complaint in a criminal case is the main means which a court obtains subject matter jurisdiction, and is” the jurisdictional instrument upon which an accused stands trial” State v Chatmon, 671 p2d 531 538 (Kan 1983)

The complaint is the foundation of the jurisdiction of the **magistrate** or court thus if these charging instruments are invalid, there is **lack of jurisdiction** 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 *Honomichl v State* 333 NW 2d 797,798 (SD 1983)

Without a valid complain any judgment or sentence is rendered is "Void ab inito" *Ralph v police court of El Cerrito* 190 p.2d.632.634.84.Cal App 2d 257(1948)

Subject matter jurisdiction is only determined from pleadings" *Hall v State*, 933 S.W.2d 363,326 AR 1996

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)

It's been ruled that an "Appearance Ticket is not accusatory instrument and its filing does not confer jurisdiction over the defendant" *People v Askinadze* 636 N.Y.S 2d 554 (1995) see "people v Gabby 670.N.Y. S.2d 421 (1997) "traffic infractions are not a crime or public offence" *people V battle* 50 CAL.App.3d Supp (1975);

Conclusion

A Court has no jurisdiction to determine its own jurisdiction *Rescue Army v Municipal Court of Los Angeles* 331 US 549. (1947) 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)

Magistrate court only obtains jurisdiction through sufficient pleadings, opposing parties with a controversy, one that has suffered injury, *Dank v Benson*, 2000 OK 40, 5 P, 3d 1088, 1091 The United States Supreme Court said "only individual complaints maybe maintained," *Hague V Committee for industrial Organization* 307 U.S. 496 at 307 U.S 498 (1939)

WHEREFORE, the reasons stated herein, motion to vacate should be granted

Type or printed notary name

Seal

- Place Notary Signature Above -

My commission expires

Date

Sincerely

Jamaal A Gittens

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