

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF SPARTANBURG ) SEVENTH JUDICIAL CIRCUIT

Jamaal Gittens, ) Case No. 2019-CP-42-00864  
Plaintiff, )

ORIGINAL

vs. )

State of South Carolina, ) HEARING BEFORE  
Defendant. ) THE HONORABLE ROBERT E. HOOD

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Date of Hearing: April 16, 2019  
Presiding Judge: The Honorable Robert E. Hood  
Attorney for Plaintiff: Pro Se  
Attorney for Defendant: Daniel H.H. Cude  
Court Reporter: Vickie J. Stewart, CVR

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A hearing was held in the above-referenced matter in Courtroom West B, Spartanburg County Judicial Center, Spartanburg, South Carolina, commencing at 2:32 p.m.

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1 By the Court:

2 We have Jamaal Gittens versus the State of South  
3 Carolina. Are you Mr. Gittens?

4 By the Plaintiff:

5 Yes, I am, sir.

6 By the Court:

7 All right. Come on up. Mr. Cude?

8 By Mr. Cude:

9 Good afternoon, Your Honor.

10 By the Court:

11 How are you?

12 By Mr. Cude:

13 Fine, sir. How are you?

14 By the Court:

15 Great. Thank you very much. All right, Mr. Gittens,  
16 raise your right hand.

17 Jamaal Gittens is sworn in by the Court at this time.

18 By the Court:

19 And Mr. Gittens, is this your appeal ---

20 By the Plaintiff:

21 Yes, it is.

22 By the Court:

23 --- from magistrate's court?

24 By the Plaintiff:

25 Yes.

1 By the Court:

2 And are you prepared to go forward?

3 By the Plaintiff:

4 Yes, I am, sir.

5 By the Court:

6 All right. I'm happy to hear from you.

7 By the Plaintiff:

8 I have filed a motion to vacate, motion to dismiss,  
9 simply because the magistrate court lacked jurisdiction.  
10 Because I lived out of state. I stayed in Charlotte,  
11 North Carolina. And they had gave me a court date, you  
12 know, which was February 21st. So when I appeared --  
13 you know what I'm saying -- before The Honorable Judge  
14 Woods, he said that the court had jurisdiction; you know  
15 what I'm saying? He didn't tell me what gave the court  
16 jurisdiction.

17 My argument is based off United States Supreme  
18 Court rulings, okay? So to avoid arguing with Judge  
19 Woods, I participated. And I would like to say, if I  
20 can -- call a bench trial only to really get it  
21 dismissed in this court, okay?

22 First off, the magistrate lacked jurisdiction,  
23 because the only way any competent court gets  
24 jurisdiction is basically through filing of an  
25 information, okay, an indictment and a complaint. There

1 was no sworn complaint filed with magistrate court,  
2 okay? So magistrate court was deprived jurisdiction,  
3 okay?

4 The United States Supreme Court said, under our  
5 system of government, the state does not claim to  
6 control him except through his conduct to others,  
7 leaving him the sole judge that affects themselves.  
8 okay? There was no complaint filed in magistrate court  
9 with the cause of action, nothing that basically, you  
10 know, led to some type of injury or anything, okay? So  
11 that deprived the court jurisdiction.

12 And the court cases that I provided is Tyler versus  
13 Judges of Registration -- that's the United States  
14 Supreme Court Case -- and Lord versus Veasey. The  
15 federal Constitution, Article III, limits -- you know  
16 what I'm saying -- the powers of the judicial branch.  
17 And basically, again, I'm -- and the specific court  
18 cases was the United States Supreme Court saying, if  
19 there's no two opposing parties in that courtroom, the  
20 court is deprived jurisdiction -- you know what I'm  
21 saying -- because, you know, the Constitution is based  
22 off cases and controversy. You understand where I'm  
23 coming from?

24 By the Court:

25 Yes.

1 By the Plaintiff:

2 So without a filing of an information -- and I've  
3 provided a whole bunch of court cases -- state court  
4 cases pertaining to, you know, where, you know, cases  
5 was dismissed because lack of a filing of information,  
6 and also because we have a common-law system -- you can  
7 read U.S. versus South Carolina. I didn't bring that  
8 case here, but we have a common-law system, and there  
9 was no injured party.

10 And I also didn't bring the case. I wanted to  
11 bring the Supreme Court case of -- I've forgot the case.  
12 But basically, the Supreme Court said the judge of  
13 administrative court is acting as administrative  
14 officer, not in official capacity, when reinstating and  
15 suspending driver's licenses. It's administration --  
16 it's administrative function, not a judicial function.

17 So based off the non-filing of an information and  
18 there was no cases of controversy, you know, and the  
19 court was deprived jurisdiction, I'm asking that this  
20 case be dismissed.

21 By the Court:

22 All right. Anything further?

23 By the Plaintiff:

24 That's it.

25 By the Court:

1           Okay. Mr. Cude?

2       By Mr. Cude:

3           Your Honor, one issue I wanted to bring up, I understand  
4           a return was not sent by the magistrate. I ---

5       By the Court:

6           Okay.

7       By Mr. Cude:

8           --- don't know how Your Honor wants to proceed.

9       By the Court:

10          well, I'm fine with proceeding without one, unless you  
11          would like to proceed with one.

12       By Mr. Cude:

13          Judge, you might -- in some cases, I know the  
14          magistrates don't send them up if the appellant didn't  
15          serve it on there. I -- you know, again, I'm --  
16          frankly, the only document we have to go off of is  
17          Mr. Gittens' P.I. All I know is, frankly, what's in his  
18          appeal. I can try to address his issues if Your Honor  
19          would like me to.

20       By the Court:

21          why don't you go ahead and address his issues, and then  
22          we can go from there.

23       By Mr. Cude:

24          And Judge, Mr. Gittens did say in his appeal that the  
25          traffic court lacked jurisdiction. Your Honor, South

1 Carolina Code of Laws 56-7-10 states that officers can  
2 issue uniform traffic tickets for traffic offenses. And  
3 section (C) states that jurisdiction for those traffic  
4 -- or excuse me, Your Honor. The service of the uniform  
5 traffic ticket vests traffic courts and magistrate  
6 courts with jurisdiction to hear and dispose of the  
7 charge. Does Your Honor want me to hand that up?

8 By the Court:

9 No. I have that statute.

10 By Mr. Cude:

11 And Your Honor ---

12 By the Plaintiff:

13 Can I say something, Your Honor?

14 By the Court:

15 Again, I get that.

16 By the Plaintiff:

17 Okay.

18 By Mr. Cude:

19 And Judge, in State versus Biehl, the South Carolina  
20 Supreme Court upheld this. And it's 271 S.C. 201. They  
21 did state again, "Issuance of a uniform traffic ticket  
22 vests jurisdiction in the traffic court," Judge. Our  
23 position is, that's the controlling law, and we ask that  
24 you dismiss his appeal. Does Your Honor want me to hand  
25 that up?

1 By the Court:

2 No. That's okay. I have that case.

3 All right. Now, Mr. Gittens, you may respond.

4 By the Plaintiff:

5 well, I don't know basically --- well, what the Supreme  
6 Court ruled on, I don't know the argument with that  
7 case. You understand where I'm coming from? But the  
8 United States Supreme Court said the power to adjudicate  
9 private rights must be vested in an Article III court.  
10 Really, magistrate court violates separation power  
11 clause in the federal Constitution. You know what I'm  
12 saying? Because I'm saying the United States Supreme  
13 Court -- and I didn't bring my cases, because I didn't  
14 bring -- I didn't come to argue that. But the United  
15 States Supreme Court was basically saying, when it  
16 pertains to my constitutional rights, there must be an  
17 Article III judge. You understand where I'm coming  
18 from? So -- you know, so any administrative judges,  
19 pursuant to the United States Supreme Court, are not  
20 judges ---

21 By the Court:

22 okay.

23 By the Plaintiff:

24 --- you know. But I -- what I'm saying, with this court  
25 case, I don't know what was -- you know, the Supreme

1 Court case he's referencing, I don't know the argument  
2 before that Supreme Court. But if I was to make an  
3 argument, whatever that court case pertaining to, I can  
4 persuade the Supreme Court to dismiss the charges based  
5 on what the United States Supreme Court ruled.

6 By the Court:

7 Okay.

8 By the Plaintiff:

9 You know what I'm saying? What the Constitution says,  
10 filing of an information, the United States Supreme  
11 Court said basically anything contrary to the  
12 Constitution is null and void. You understand where I'm  
13 coming from? So the only way the court will give  
14 jurisdiction is through indictment or information, you  
15 know. In all the court cases I provided, you know,  
16 state court cases, the court lacks subject matter  
17 jurisdiction.

18 Basically, what I would say is -- you know, I like  
19 to use the term legislating from the bench. You  
20 understand? You know what I'm saying? Judicial power  
21 is bound to precedent, to what the higher court has  
22 ruled. You know what I'm saying? The way it's supposed  
23 to work, it's supposed to be by the doctrine of  
24 precedent, not listening to the legislator. That's the  
25 way it's supposed to work, you know. But, you know,

1           this is just what it is. But the United States Supreme  
2           Court says everything that's contrary to -- with -- on  
3           -- with Judge Wood's -- you know, what he has done. So  
4           ---

5   By the Court:

6           Okay. Anything further, Mr. Gittens?

7   By the Plaintiff:

8           That's it.

9   By the Court:

10          Mr. Cude, anything further?

11   By Mr. Cude:

12          Judge, we just ask that you deny their appeal. And  
13          again, without going too far, Your Honor, I mean, the  
14          State Constitution and the State Code of Laws, you know,  
15          allows, through the creation of magistrate courts,  
16          judges that have certain jurisdiction over certain  
17          offenses. Your Honor, we feel Judge Wood did act within  
18          his jurisdiction and his decision to go forward with the  
19          trial was lawful.

20   By the Court:

21          All right. I'll let you all know my decision by the end  
22          of the week. Thank you very much.

23   By Mr. Cude:

24          Thank you, Your Honor.

25   By the Plaintiff:

1 I appreciate it. Thank you, sir.

2 By the Court:

3 All right.

4 (This hearing was concluded at 2:39 p.m.)

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Certificate

I, VICKIE J. STEWART, CVR, a Notary Public in and for the State of South Carolina, do hereby certify that the foregoing 11 pages represent a true and accurate transcript of the hearing held in this matter and taken by me on the 16th day of April, 2019 at Spartanburg County Judicial Center, Spartanburg, South Carolina.

That I am not related to nor an employee of any of the parties hereto, nor their counsel, and am not interested, financially or otherwise, in the outcome of this action.

In witness whereof, I have set my hand and official seal.

DATE: May 30, 2019

*Vickie J. Stewart*  
Notary Public for South Carolina  
My Commission Expires: 01/15/25

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THE STATE OF SOUTH CAROLINA In The Court of Appeals [In The Supreme Court]

APPEAL FROM SPATANBURG COUNTY Court of Common Pleas

Robert E.Hood, Circuit Court Judge

Case No. 2019-CP-4200864 \_\_\_\_\_

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SC Court of Appeals

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v.

Appellant.

Jamaal Gittens

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I certify that I have served transcripts, record of appeal to court of common pleas by depositing a copy of it in the United States Mail, postage prepaid, on July 1, 2019, addressed to clerk of court, Post Office Box 3483 Spartanburg, South Carolina 29304-3403

June 9, 2019 /Jamaal Gittens

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