

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

APPEAL FROM SPARTANBURG COUNTY

Robert E Hood, Circuit Court Judge

Case No. 2018-CP4200864

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JUL 03 2019

SC Court of Appeals

Jamaal Gittens

v.

State Of South Carolina

RECORD ON APPEAL

OF APPELLANT

Jamaal Gittens
1206 Marlene street
Charlotte NC 28208
(704) 975-8173
Appellant

Clerk of court
P.O. Box 3483
Spartanburg SC 29304-3483
(803) 000-0000
State Of South Carolina Respondent

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Robert E Hood Cooper, circuit court Judge

Jamaal Gittens,Appellant

v.

State Of South CarolinaRespondent .

RECORD ON APPEAL

Jamaal Gittens
1206 Marlene street
Charlotte NC 28208
(704) 975-8173
Appellant

Court Of Common pleas
P.O. Box 7368
Columbia, SC 29202
(803) 000-0000
Attorney for Respondent

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SC Court of Appeals

CASES

Melo v US 505 f2d 1026 (1974)
Beaufort Reality Co v SC Coastal Conservation League 346 S.C298 551 S.E 2d 588 92001)
Blandon v Coleman 285 S.C 472,330 S.E2d 298 (1985)
NOW, Inc. v. Scheidler, 510 US 249
Allen v Wright 463 US 737, 751, (1984)
Northern Pipeline Co v Marathon Pipeline Co 458 U.S 50, 63, 76 at 458 U.S 57-87 (1982)
Toth V Quarles 350 U.S 11(1955)
Rafael Peretz v U.S 501 U.S 923(1991)
Cleveland v Chamberlain 66, U.S1 Black 419 419(1861)
Tyler v judges of the court of registration 179 U.S 405
Marbury n Madison 5 U.S 137
Zanger v. State 548 so2d 746(Fla Dist Ct App 1989)
U.S. Butler. 279 U.S. 116 at 297 U.S 2 (1936)
In Mugler v Kansas 123 U.S 632 at 123 US.661 (1887)
State v. Vazquez, 450 So.2d 203 (Fla. 1984)
Lord v Veazie, 49 U.S 8 How, 251 251(1850)
Norton v Shelby County 118 U.S 425 (1886)
Dank v Benson, 2000 OK 40, 5 P, 3d 1088, 1091
Hague V Committee for industrial Organization 307 U.S. 496 at 307 U.S 498

Statements on issues on appeal

Judge E Robert erred affirming magistrate court judgment;, I demonstrated that magistrate lacked jurisdiction based off United State Supreme Court Rulings, the fundamental principles of the federal constitution, the trial court judgment should be reversed

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 Q Michael 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, possible contempt of court, I participated in a bench trial only to get it dismissed on appeal

April 16, 2019 appeared before Honorable Robert E woods, the state used State v Biehl 271 S.C 201 245 S.E.2d 859 (1978) to demonstrated that magistrate had jurisdiction; when I appeared before judges Q Michael woods February 21, 2019, he didn't references this case, or provided a statutory authority for him to act, the case should have been dismissed then for lack of jurisdiction Once jurisdiction is challenge the court cannot proceed when it clearly appears the court lacks jurisdiction. The court has no authority to reach merits, but rather should dismiss the action Melo v US 505 f2d 1026 (1974)

Argument

Magistrate court lacked jurisdiction for various reasons, first off, 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)

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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 Realty 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)

Magistrate Article III judges

The state uses 56-7-10 to demonstrate the jurisdiction of uniform traffic tickets, magistrate duties, Traffic are kangaroo courts, the proceedings are contrary to the US constitution, magistrates are not judges pursuant to The United States Supreme Court “the judicial powers of the United States must be exercised by article III judges to ensure the independency of the judiciary from the control of the executive and legislative branch” Northern Pipeline Co v Marathon Pipeline Co 458 U.S 50, 63, 76 at 458 U.S 57-87 (1982) see Toth V Quarles 350 U.S 11(1955)

Where the court examined the question of whether a transfer to a non-Article III court could be waved, the court ruled that the constitutions mandate for a judicial hearing, meaning an Article III court was not subject to waver Rafael Peretz v U.S 501 U.S 923(1991)

An Act is invalid giving judicial power to officers who are not under the constitution of commonwealth, to deprive persons of their property without due process of the law Tyler v judges of the court of registration 179 U.S 405 at 179 U.S 406 (12/17/1950)

State v Biehl

Reviewing State v Biehl, the supreme made a ruling based of the argument that was presented to them, Based off legislative statues, circuit court upset Biehl conviction because No warrant, information was filed with magistrate's court pursuant to section 22-3-710, the Supreme Court ruled that no warrant was required because 56-7-10 vest traffic court's jurisdiction to hear dispose of cases; Biehl argument should have been the constitution, the supreme court may have ruled differently

The Fifth Amendment of The US constitution has set the rule; the only way a court obtains jurisdiction is from an indictment, or information, anything contrary denies due process "Due process of law, as used in the Fourteenth Amendment are intended to secure the individual from the arbitrary exercise of powers of government" Twining v State 211 U.S 78(1908)

The constitution is the supreme law of the land, ordained established by the people, and all legislation must conform to the principals it lays down US v Butler 297 U.S 1 at 297 U.S 62 (1937)

"Any law that is repugnant to the constitution is null and void of law Marbury n Madison 5 U.S 137

The United States Supreme Court said courts must obey the constitution rather than the law making department of government, there are limits beyond which legislation cannot rightfully go, In Mugler v Kansas 123 U.S 632 at 123 US.661 (1887)

Conclusion

Judicial branch has only one duty, to lay the Article of the Constitution which is involved beside the statute (rule or practice) when challenged, decide whether the latter squares with the former.”

U.S. Butler. 279 U.S. 116 at 297 U.S 2 (1936)

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)

The State only obtains jurisdiction through sufficient pleadings, Hall v State, 933 S.W.2d 363,326 AR 1996 opposing parties with a controversy, lord v Veazie, 49 U.S 8 How, 251 251(1850) 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

June 28/2019

Type or printed notary name

_____ Seal

- Place Notary Signature Above -

My commission expires

_____ Date

Sincerely

Jamaal A Gittens

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