

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Cherokee County
The Honorable Robin B. Stilwell, Circuit Court Judge

Case No. 2017-001777

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APR 27 2020

SC Court of Appeals

Alonzo C. Jeter, III,

PETITIONER,

V

STATE OF SOUTH CAROLINA,

RESPONDENT.

**MOTION FOR LEAVE TO SEEK DECLARATION
OF UNCONSTITUTIONALITY OF STATUTE**
(Declaratory Judgment)

The Petitioner, Alonzo C. Jeter, III, motions this Court for leave to file a declaratory action wherein he would request the South Carolina Supreme Court to hear and issue a declaration that the statute which serves as South Carolina's recidivist/enhancement statue in regards of drugs offenders be declared unconstitutional.

Specifically, Petitioner would seek a ruling as to the constitutionality of S.C. Code Ann. §44-53-470, seeking that it be declared unconstitutional due to the ambiguity which results from its usage of the ambiguous term and grammar of "offense", which deprives an offender of the necessary understanding, fair notice, and consequently due process as required by the Fourteenth Amendment of the United States Constitution.

Petitioner would seek this declaration at this time as such declaration would also provide this Court with the necessary ruling from the court which can rule on the constitutionality of a statute. See Joseph v South Carolina Department of Labor, Licensing and Regulation, 417 SC 436, 790 SE2d 763 (2016) - It is the duty of the Supreme Court, not the legislature, to determine the constitutionality of a statute.

This ruling, in-turn, would allow this Court to make an equitable and just ruling in the issues and matters of this case.

Petitioner is also aware that this Court may choose to certify a question of law to the South Carolina Supreme Court pursuant to Rule 244, SCACR, which may or may not accomplish the same. However, Petitioner seeks the certainty that the constitutionality of this statute is ruled upon by the South Carolina Supreme Court as the certification may only pertain to the questions of law which exist in this case.

As this issue of constitutionality has come to this Court by way of a novel case which has within it several novelties and procedural irregularities, Petitioner seeks to make clear that he does in-fact challenge the constitutionality of this statute and does seek to preserve this challenge. Petitioner is aware that this Court will not address this matter unless it is clear to the Court that he is presenting a challenge of the constitutionality of the statute. Although Petitioner has consistently argued the constitutionality within his pleadings, again he attempts to seek certainty that the constitutionality is ruled on. See Langley v Boyter, 284 SC 162, 325 SE2d 550 (1984) - Appellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.

CONCLUSION

WHEREFORE, Petitioner seeks leave to file a declaratory action wherein he would request the South Carolina Supreme Court to hear and issue a declaration on the constitutionality of South Carolina's recidivist/enhancement statute S.C. Code Ann. §44-53-470.

Respectfully submitted,



Alonzo C. Jeter, III, #282902
PETITIONER/ Pro se

Tyger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335

This 23 day of April, 2020.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Certiorari to Cherokee County
The Honorable Robin B. Stilwell, Circuit Court Judge

Case No. 2017-001777

Alonzo C. Jeter, III,

PETITIONER
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State of South Carolina,

RESPONSE **SC Court of Appeals**

CERTIFICATE OF SERVICE

I, Alonzo C. Jeter, III, #282902, hereby certify that I have served the Motion For Leave To Seek Declaration of Unconstitutionality of Statute, and Motion For Judicial Notice, on the Respondent by placing a copy of the same inside of an postage prepaid envelope and placing said envelope in the hands of Tiger River Correctional Institution's mailroom personnel on this 23 day of April, 2020, for mailing via the United States Mail, addressed as follows: V. Henry Gunter, Esquire, Assistant Attorney General, Office of the Attorney General, Post Office Box 11549, Columbia, SC 29211-1549.

Sworn and Subscribed before me
this 23rd day of April, 2020

Paul Owen Reed

Notary Public for South Carolina

My Commission Expires: Dec 19, 2021

s/ Alonzo C. Jeter, III

Alonzo C. Jeter, III, #282902
Tiger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335

April 23, 2020

Alonzo C. Jeter, III, #282902
Tyger River Correctional Institution
200 Prison Road
Enoree, South Carolina 29335

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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APR 27 2020

SC Court of Appeals

RE. Alonzo C. Jeter, III, v State

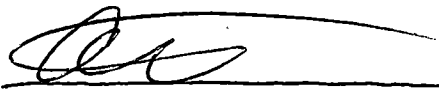
Appellate Case No. 2017-001777

Dear Honorable Kitchings:

Enclosed for filing, please find the Motion For Leave To Seek Declaration of Unconstitutionality of Statute, Motion For Judicial Notice, and Certificate of Service for the same.

Enclosed, please also find an additional copy of these said documents along with a self-addressed stamped envelope. Please return to me file-stamped copies of these documents by way of the provided SASE.

Thank you for your assistance in this matter.

Sincerely, 
Alonzo C. Jeter, III, #282902
PETITIONER/pro se

Alonzo C. Jeter, III, #282902
Tyger River Correctional Institution
200 Prison Road
Euree, South Carolina 29335

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APR 23 2020

TYRGI MAILROOM

The Honorable Jenny A Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals



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