

IN THE SOUTH CAROLINA COURT  
OF APPEALS **RECEIVED**

MAR 05 2021

SC Court of Appeals

MARCUS A. JOSEPH  
V

RELATED APPEAL

STATE OF SOUTH CAROLINA  
ET AL

NOW HERE COMES THE PETITIONER WHO INVOKES  
THE JURISDICTION OF THIS COURT PURSUANT TO  
AUSTIN V STATE AND 17-25-45(A) HOPE V STATE  
328 SC 78

THE PETITIONER A RESIDENT OF PORT CHARLOTTE  
COUNTY FLORIDA WAS INTERROGATED UNLAWFULLY  
BY H.M. TURBERVILLE AND GARY MARTIN OF SLED.  
THE PETITIONER WAS COERCED BY THE TWO (2)  
OFFICERS INTO INCRIMINATING HIMSELF AND OTHERS  
THEY RECORDED THE STATEMENTS AND LEFT.

I DID NOT WAIVE MY MIRANDA RIGHTS OR MY  
RIGHTS UNDER THE MASSIAH DOCTRINE

I WAS REPRESENTED BY COUNSEL THOMAS MAR  
-RIOTT WHO FILED A MOTION FOR THE WRIT OF  
-HABEAS CORPUS FOR ME ALLEGING AMONG THINGS  
THAT THE WARRANT WAS SECURED BY THE USE OF  
FRAUD AND PERJURED TESTIMONY AND IT WAS NON-  
JUDICIAL HAVING COME FROM THE MAGISTRATE  
THE AFFIANT H.M. TURBERVILLE ON DEC 23rd 1987  
WENT TO MAGISTRATE ANNEILE G POWELL AND  
SWORE OUT AN ARREST WARRANT STATING THAT  
I ADMITTED THAT I DID THIS CRIME AND  
GAVE HIM AND SLED A FULL WRITTEN STATE  
-MENT

I WAS TAKEN TO COURT FOR AN INITIAL APPEARANCE, WHERE THE JUDGE ASK ME IF I WAS IN THE STATE OF SOUTH CAROLINA. I SAID NO AND THE HEARING WAS CONTINUED BUT BEFORE I GOT BACK TO COURT THE TWO SC OFFICER CAME AND TOOK ME FROM OUT OF THE COUNTY JAIL AND BROUGHT ME TO SOUTH CAROLINA ON THE 21ST OF FEB 1988. I WAS NOT SERVED WITH PROCESS FROM THE JUDICIAL BRANCH OF SOUTH CAROLINA GOVERNMENT ONCE IN SOUTH-CAROLINA MY TWO CO-DEFENDANTS AND MYSELF WAS ARRAIGNED AND WE ALL PLED NOT GUILTY

I WAS TAKEN TO RAY CHANDLER OFFICE ONE DAY AND THE SOLICITORS WAS ALSO THERE. THEY WANTED ME TO TESTIFY AGAINST MY CO-DEFENDANTS AND TO SIGN THE ORAL STATEMENT THAT WAS REDUCE TO WRITING. WHEN I REFUSE THEY GOT UPSET

THE CHARGES AGAINST MY CO-DEFENDANTS WERE DROPPED AND THEY SEEKED THE DEATH PENALTY AGAINST ME

THE LAWYER THAT WAS APPOINTED TO HELP DID NOT INVESTIGATE THE WARRANT EVEN THOUGH HE KNEW THAT THE OFFICER DID NOT SERVE ME WITH SUFFICIENT PROCESS AND THAT PERSONAL JURISDICTION WAS LACKING

I PLED GUILTY ON JUNE 7TH 1988 AND WAS SENT BY JUDGE JAMES MORRIS TO LIFE WITHOUT THE SERVICE OF 20YRS AND TEN YEARS FOR GRAND LARCENY. THE COURT SENTENCE ME THE SAME DAY AND DID NOT WAIT FOR 24HR AS REQUIRED BY LAW. ERROR WAS FURTHER COMMITTED WHEN I WAS NOT SENTENCE BY A JURY AS REQUIRED BY STATE STATUTE 17-25-130 (2) AND STATE V HARPER SC (1968) 251 SC 379 162 SE2d 712

STATE V HARPER PROVIDES THAT REGARDLESS OF  
PASS CUSTOM AND PRACTICE THE CHOICE BETWEEN  
LIFE IMPRISONMENT AND THE DEATH PENALTY MUST  
BE LEFT BY THE TRIAL COURTS IN THIS STATE TO  
THE JURY IN EVERY CASE IN ACCORDANCE WITH  
CODE 16-52 REGARDLESS OF HOW THE DEFENDANT  
GUILT HAD BEEN DETERMINE WHETHER BY VERDICT  
BY JURY OR BY GUILTY PLEA

NO APPEAL WAS FILED BECAUSE COUNSEL DID  
NOT DO SO OR GIVE ME NOTICE THAT I HAD  
THE RIGHT TO APPEAL FROM THE GUILTY PLEA  
OR FROM THE DISMISSAL OF FIRST (PCR)  
THE ADVICE TO PLEAD GUILTY BY COUNSEL WAS  
INCOMPETENT IN THAT THERE WAS NO EYEWITNESS  
OR PHYSICAL EVIDENCE LINKING PETITIONER TO THE  
OFFENSE AND THAT WITNESSES COMMITTED PERJURY  
IN THE AFFIDAVIT SECTION OF THE WARRANT  
THE PETITIONER CONFINEMENT IS ILLEGAL AND  
UNLAWFULL BECAUSE HIS ARREST WAS BASED  
UPON A NON-JUDICIAL WARRANT THAT WAS SEC  
URED BY THE USE OF FRAUD AND PERJURED  
TESTIMONY VIOLATING FRANKS V DELAWARE AND  
BRADY V MARYLAND.

THE PETITIONER'S CONFINEMENT IS UNLAWFULL  
BECAUSE IT WAS BASED UPON A SHAM LEGAL  
PROCESS

THE RESPONDENT IS USING A WARRANT THAT WAS  
ISSUED BY A MAGISTRATE THAT WAS USED TO  
PREPARE A FICTICIOUS INDICTMENT BY SOLICITOR  
WADE SKOLB.

NO GRAND JURY WAS SUMMONED BY THE CORONER  
AS REQUIRED BY 17-7-20-17-7-50

THERE WAS NO INQUEST OR JUDICIAL DETERM  
INATION OF PROBABLE CAUSE.

DURING THE PLEA THE COURT DID NOT  
MAKE ANY FINDINGS OR INQUIRE WHETHER  
OR NOT A FULL WRITTEN STATEMENT  
EXIST OR WAS GIVEN BY ME

PETITIONER FURTHER STATES THAT HIS CONFINEMENT IS ILLEGAL BECAUSE A SEPERATION OF POWERS DOCTRINE VIOLATION TOOK PLACE WHEN PROSECUTION OF THIS CASE BEGAN BY AN ARREST WARRANT FROM A MAGISTRATE INSTEAD OF BY THE PRESENTMENT OF AN INDICTMENT FROM THE CORONERS GRAND JURY

THE PROCEDURES OF TITLE 17-7 ET SEQ REQUIRES THAT THE CORONER TO SUMMON THE GRAND JURY SIX (6) OF THEM AND GIVE THE FOREMAN AN OATH AS REQUIRED BY STATE STATUTE 17-7-120 STATE STATUTE REQUIRES THAT THE CORONER EMPANELL A JURY AND ORDER THAT THE BODY BE TAKEN UP AND CONDUCT HIS EXAMINATION AS REQUIRED BY LAW

THE GRAND JURY MUST THEN PRESENT AN INDICTMENT TO THE CORONER FOR FILING WITH THE CLERK OF COURT BY THEIR HANDS AND SEALS AUTHENTICATING SUCH IN ACCORDANCE WITH STATE STATUTE 17-7-240

A GENUINE ISSUE OF MATERIAL FACT EXIST WHETHER OR NOT THE PETITIOVER WAS LEGALLY INDICTED?

AND WHETHER THE COURT HAD SUBJECT MATTER JURISDICTION OF THE CAUSE AND OF PETITIONER

"WHEN A STATUTE REQUIRES THE FILING OF A PAPER OR DOCUMENT: IT IS FILED WHEN DELIVERED TO AND RECEIVED BY THE PROPER OFFICER"

RECORDS KEY 7 17-27-45  
A DETERMINATION OF WHETHER A DEFENDANT WAS CONVICTED FOR A CRIME FOR WHICH HE WAS NOT INDICTED INVOLVES A QUESTION OF SUBJECT MATTER JURISDICTION CRIMINAL LAW

KEY 1032 (7)  
AND CAN BE RAISED FOR THE FIRST TIME ON APPEAL

THE COURT RECORD IS DEVOID THAT THE PROCEDURES IN THE AFOREMENTION STATUTES HAVE BEEN COMPLIED WITH.

THE PETITIONER WAS PREJUDICE BY HIS COUNSEL ADVICE TO PLEAD GUILTY IN THAT HE WAS NOT TOLD OF THE COLLATERAL CONSEQUENCES OF "DEPORTATION" AS A RESULT OF THE CONVICTION.

HAD PETITIONER BEEN INFORMED BY THE COURT AND COUNSEL OF THIS COLLATERAL CONSEQUENCE HE WOULD NOT OF PLEAD GUILTY BUT INSIST ON GOING TO TRIAL. PADILLA V KENTUCKY 130 S Ct 1473

MISCONDUCT WAS COMMITTED BY THE SOLICITORS OFFICE WHEN THEY FAIL TO CORRECT THE FALSE TESTIMONY USED IN THE AFFIDAVIT SECTION OF THE WARRANT. SEE NAPUE V ILLINOIS 360 US 264 79 S Ct 1173 3 L Ed 2d 1217 (1959) FRANKS V DELAWARE AND BRADY V MARYLAND

MISCONDUCT WAS FURTHER COMMITTED BY THE SOLICITOR WHEN THEY USED THE FALSE STATEMENT TO PREPARE A FICTITIOUS INDICTMENT TO A GRAND JURY AND AS SUCH DENIED AND DEPRIVE PETITIONER OF A FAIR TRIAL. GIBSON V STATE 334 SC 515, 514 SE 2d 320 (1999)

HAVING MADE THIS PETITION THE PETITIONER REQUEST THAT FINDINGS OF FACTS BE MADE AND CONCLUSIONS OF LAW INTO THE LEGALITY OF HIS CONFINEMENT

RESPECTFULLY SUBMITTED  
MARCUS A JOSEPH 147764  
PETITIONER

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CERTIFICATE OF SERVICE

I MARCUS A JOSEPH THE PETITIONER HAS CAUSED A COPY OF A PETITION FOR A BELATED APPEAL TO BE FILED IN THE COURT OF APPEALS AND HAS SERVED THE SAME ON THE RESPONDENTS BY PLACING SAME IN THE UNITED STATES MAIL AT KIRKLAND CORRECTIONAL INST ON THIS 26th DAY OF FEB 2021

PERSONS SERVED

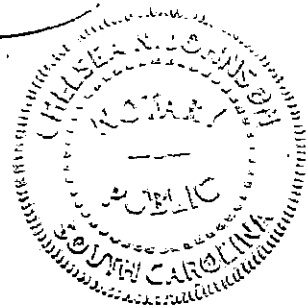
ATTORNEY GENERAL  
P.O. Box 11349  
COLUMBIA SC 29211  
OFFICE OF INDIGENT  
DEFENSE

~~Marcus a Joseph~~  
MARCUS A JOSEPH  
PETITIONER

SWORN TO AND SUBSCRIBED BEFORE ME  
THIS 26th DAY OF FEBRUARY 2021

NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES

CHELSEA N. JOHNSON  
Notary Public, State of South Carolina  
My Commission Expires 4/4/2027



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TO SOUTH CAROLINA APPEALS COURT

DEAR CLERK

PLEASE FIND FOR FILING  
PETITION FOR A BELATED APPEAL  
AND BY THIS LETTER PETITIONER  
GIVES NOTICE THAT HE HAS CAUSE THE  
SAME TO BE SERVED UPON RESPOND  
ENTS WITH ATTACHED EXHIBITS WAR  
-RANT AND LETTER FROM CHIEF MAGIST  
RATE

THANK YOU  
MARCUS A JOSEPH  
PETITIONER

