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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Ernest Battle, #165247)
Petitioner,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-3865

ORDER OF DISMISSAL

FILED
2021 MAY 13 PM 12:28
JULIE J. ARMSTRONG
CLERK OF COURT
BY BL

I. Procedural History

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In August 1979, the Charleston County Grand Jury indicted Applicant for two counts of possession of unlawful drugs- marijuana (1979-GS-10-1111; -1112) and unlawful possession of a weapon (1979-GS-0704). Aaron Harvey, Esquire, represented Applicant. On August 9, 1979, Applicant pleaded guilty as indicted to all charges before the Honorable Klyde Robinson. Judge Robinson sentenced Applicant to imprisonment for concurrent terms of three years for each offense. Applicant did not appeal his convictions or sentences.

II. Current State Habeas Petition filed in Common Pleas

In his petition for writ of habeas corpus, Petitioner alleges that he is being held in custody unlawfully for the following reason:

“The circuit court lacked subject matter jurisdiction to enhance petitioner’s sentence utilizing prior marijuana offenses for simple possession, in which magistrate court was vested with Exclusive Jurisdiction over all criminal offenses in which the punishment does not exceed a fine of \$200 or imprisonment for 30 days. Petitioner’s sentence on prior and current marijuana offense should be vacated. The interest of law require it.”

III. Current Action Is Dismissed for Lack of Subject Matter Jurisdiction

This Court lacks subject matter jurisdiction of this matter and therefore, this action is dismissed pursuant to Rule 12(b)(1), SCRPC. Petitioner has filed a writ of habeas corpus in the Court of Common Pleas. However, a state habeas petition must be filed in the original jurisdiction of the South Carolina Supreme Court. See Keeler v. Mauney, 330 S.C. 568, 500 S.E.2d 123 (Ct. App. 1998)¹. Lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised *sua sponte* by the court. State v. Guthrie, 352 S.C. 103, 107, 572 S.E.2d 309, 311-12 (Ct. App. 2002) (citing State v. Brown, 351 S.C. 522, 570 S.E.2d 559 (Ct. App. 2002)). Furthermore, lack of subject matter jurisdiction may not be waived, even by consent of the parties. Id. (citing State v. Brown, 343 S.C. 342, 346, 540 S.E.2d 846, 848 (2001)). “The acts of a court with respect to a matter as to which it has no jurisdiction are void.” Id.

Moreover, “[a] person is procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in a [post-conviction relief] action.” Keeler, 330 S.C. 568, 500 S.E.2d 123. In fact, *any* matter that is cognizable under the Uniform Post-Conviction Procedure Act may not be raised by a petition for a writ of habeas corpus before the circuit or lower courts of this State. Simpson v. State, 329 S.C. 43, 495 S.E.2d 429 (1998); Gibson v. State, 329 S.C. 37, 495 S.E.2d 426 (1998); Keeler, 330 S.C. 568, 500 S.E.2d 123. The Uniform Post-Conviction Procedure Act is broadly inclusive and will rarely be inadequate or unavailable to test the legality of the detention. Gibson, 329 S.C. 37, 495 S.E.2d

¹ Before a petitioner may proceed in the original jurisdiction of the Supreme Court, the petition must set out a constitutional claim that meets the standard delineated in Butler v. State, 302 S.C. 466, 397 S.E.2d 87, cert. denied, 498 U.S. 972 (1990). In Butler, the South Carolina Supreme Court held that the writ of habeas corpus will only be issued when there has been a constitutional violation “which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice.” Butler, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (citing State v. Miller, 84 A.2d 459 (N.J. Super. Ct. App. Div. 1951)).



426. A petitioner may allege constitutional violations in post-conviction relief proceedings, unless the issue could have been raised on direct appeal. Id.; Keeler 330 S.C. 568, 500 S.E.2d 123.

A habeas corpus petition must support the requested relief. Gibson, 329 S.C. 37, 495 S.E.2d 426; Hunter v. State, 316 S.C. 104, 447 S.E.2d 203 (1994). Although the allegations in the petition are to be treated as true, a petitioner must make out a *prima facie* case showing he is entitled to relief, and he must present sufficient factual allegations to support the petition before he is entitled to a hearing. Gibson, 329 S.C. 37, 495 S.E.2d 426.

To warrant a hearing, the petition must include two specific allegations. First, the petition must allege the petitioner has exhausted all available post-conviction relief remedies. Gibson, 329 S.C. 37, 495 S.E.2d 426; Hunter, 316 S.C. 104, 447 S.E.2d 203; Pennington v. State, 312 S.C. 436, 441 S.E.2d 315 (1994). Exhaustion includes filing of an application, the rendering of an order adjudicating the issues, and petitioning for, or knowingly waiving, appellate review. Gibson, 329 S.C. 37, 495 S.E.2d 426. Second, the petition must allege sufficient facts to show why other remedies, such as post-conviction relief, are unavailable or inadequate. Gibson, 329 S.C. 37, 495 S.E.2d 426.

Here, the Petition must be dismissed because it is procedurally barred, leaving this Court without jurisdiction. Relief must be sought in the original jurisdiction of the South Carolina Supreme Court or in an application for post-conviction relief. The Petition wholly fails to meet the standards required for the issuance of this extraordinary writ. Petitioner provides no reason as to why his allegations could not have been raised in an application for post-conviction relief. Because the Petition is procedurally barred, the only remaining form of relief is left to the South Carolina Supreme Court under its original jurisdiction, leaving this Court without jurisdiction. The failure to file this action in the proper venue requires dismissal of the action for lack of subject matter

A handwritten signature or set of initials, possibly 'R3', written in black ink.



ALAN WILSON
ATTORNEY GENERAL

May 3, 2021

The Honorable Julie J. Armstrong
Charleston Clerk of Court
100 Broad St., Ste. 106
Charleston, SC 29401-2210

Re: Ernest Battle, #165247 v. State of South Carolina
2019-CP-10-3865

Dear Ms. Armstrong:

Enclosed please find the original **Return and Motion to Dismiss Petition for Writ of Habeas Corpus** of the Respondent, with its accompanying attachments, in the above-captioned case, for filing in your office.

Sincerely,

Benjamin H. Limbaugh
Assistant Attorney General

BHL/jaj
Enclosure

cc: The Honorable Roger M. Young, Sr., Chief Administrative Judge
Ernest Battle, #165247

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Ernest Battle, #165247)
Petitioner,)
v.)
State of South Carolina,)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-3865

**RETURN AND MOTION TO DISMISS
PETITION FOR WRIT OF
HABEAS CORPUS**

In response to the petition for writ of habeas corpus filed by Ernest Battle (Petitioner) on July 26, 2019, Respondent would show this Court:

I. Procedural History

Petitioner is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In August 1979, the Charleston County Grand Jury indicted Applicant for two counts of possession of unlawful drugs- marijuana (1979-GS-10-1111; -1112) and unlawful possession of a weapon (1979-GS-0704). Aaron Harvey, Esquire, represented Applicant. On August 9, 1979, Applicant pleaded guilty as indicted to all charges before the Honorable Klyde Robinson. Judge Robinson sentenced Applicant to imprisonment for concurrent terms of three years for each offense. Applicant did not appeal his convictions or sentences..

II. Current State Habeas Petition filed in Common Pleas

In his petition for writ of habeas corpus, Petitioner alleges that he is being held in custody unlawfully and “demand(s) to be released from Respondent’s custody immediately and stand on the grounds of the United States Constitutional Amendments I thru XIV too include however not limited; State v. Cole, 403 S.Ed 2d 171 (1991), Rule 6, motion of discovery Rule 5, Rule 5 subsection (A)(1) subsection (B)(1) of SCR CrimP and South Carolina Rules of Evidence, 702 and

703. See *Miranda v. Arizona* (1966), *Brady v Maryland/Edward* notice 373 U.S.83.”

Attached to this Return and Motion to Dismiss Petition of Writ of Habeas Corpus and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject indictments Petitioner’s records from the South Carolina Department of Corrections, and his current application for Habeas Corpus Relief.

III. Current Action Should be Dismissed for Lack of Subject Matter Jurisdiction

This Court lacks subject matter jurisdiction of this matter and therefore, this action should be dismissed pursuant to Rule 12(b)(1), SCRPC. Petitioner has filed a writ of habeas corpus in the Court of Common Pleas. However, a state habeas petition must be filed in the original jurisdiction of the South Carolina Supreme Court. See *Keeler v. Mauney*, 330 S.C. 568, 500 S.E.2d 123 (Ct. App. 1998)¹. Lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised *sua sponte* by the court. *State v. Guthrie*, 352 S.C. 103, 107, 572 S.E.2d 309, 311-12 (Ct. App. 2002) (citing *State v. Brown*, 351 S.C. 522, 570 S.E.2d 559 (Ct. App. 2002)). Furthermore, lack of subject matter jurisdiction may not be waived, even by consent of the parties. *Id.* (citing *State v. Brown*, 343 S.C. 342, 346, 540 S.E.2d 846, 848 (2001)). “The acts of a court with respect to a matter as to which it has no jurisdiction are void.” *Id.*

Moreover, “[a] person is procedurally barred from petitioning the circuit court for a writ of habeas corpus where the matter alleged is one which could have been raised in a [post-conviction relief] action.” *Keeler*, 330 S.C. 568, 500 S.E.2d 123. In fact, *any* matter that is cognizable under the Uniform Post-Conviction Procedure Act may not be raised by a petition for a writ of habeas

¹ Before a petitioner may proceed in the original jurisdiction of the Supreme Court, the petition must set out a constitutional claim that meets the standard delineated in *Butler v. State*, 302 S.C. 466, 397 S.E.2d 87, *cert. denied*, 498 U.S. 972 (1990). In *Butler*, the South Carolina Supreme Court held that the writ of habeas corpus will only be issued when there has been a constitutional violation “which, in the setting, constitutes a denial of fundamental fairness shocking to the universal sense of justice.” *Butler*, 302 S.C. 466, 468, 397 S.E.2d 87, 88 (1990) (citing *State v. Miller*, 84 A.2d 459 (N.J. Super. Ct. App. Div. 1951)).

corpus before the circuit or lower courts of this State. Simpson v. State, 329 S.C. 43, 495 S.E.2d 429 (1998); Gibson v. State, 329 S.C. 37, 495 S.E.2d 426 (1998); Keeler, 330 S.C. 568, 500 S.E.2d 123. The Uniform Post-Conviction Procedure Act is broadly inclusive and will rarely be inadequate or unavailable to test the legality of the detention. Gibson, 329 S.C. 37, 495 S.E.2d 426. A petitioner may allege constitutional violations in post-conviction relief proceedings, unless the issue could have been raised on direct appeal. Id.; Keeler 330 S.C. 568, 500 S.E.2d 123.

A habeas corpus petition must support the requested relief. Gibson, 329 S.C. 37, 495 S.E.2d 426; Hunter v. State, 316 S.C. 104, 447 S.E.2d 203 (1994). Although the allegations in the petition are to be treated as true, a petitioner must make out a *prima facie* case showing he is entitled to relief, and he must present sufficient factual allegations to support the petition before he is entitled to a hearing. Gibson, 329 S.C. 37, 495 S.E.2d 426.

To warrant a hearing, the petition must include two specific allegations. First, the petition must allege the petitioner has exhausted all available post-conviction relief remedies. Gibson, 329 S.C. 37, 495 S.E.2d 426; Hunter, 316 S.C. 104, 447 S.E.2d 203; Pennington v. State, 312 S.C. 436, 441 S.E.2d 315 (1994). Exhaustion includes filing of an application, the rendering of an order adjudicating the issues, and petitioning for, or knowingly waiving, appellate review. Gibson, 329 S.C. 37, 495 S.E.2d 426. Second, the petition must allege sufficient facts to show why other remedies, such as post-conviction relief, are unavailable or inadequate. Gibson, 329 S.C. 37, 495 S.E.2d 426.

Here, the Petition must be dismissed because it is procedurally barred, leaving this Court without jurisdiction. Relief must be sought in the original jurisdiction of the South Carolina Supreme Court or in an application for post-conviction relief.² The Petition wholly fails to meet

² If this Court construes the Petition as an application for post-conviction relief, the State reserves the right to file an appropriate return and to raise any applicable defenses.

the standards required for the issuance of this extraordinary writ. Petitioner provides no reason as to why his allegations could not have been raised in an application for post-conviction relief. Because the Petition is procedurally barred, the only remaining form of relief is left to the South Carolina Supreme Court under its original jurisdiction, leaving this Court without jurisdiction. The failure to file this action in the proper venue requires dismissal of the action for lack of subject matter jurisdiction. Thus, these claims cannot be raised in a petition for habeas corpus in the Circuit Courts of South Carolina. Accordingly, the Petition should be summarily dismissed.

IV. Conclusion

WHEREFORE, having made its Return and Motion to Dismiss, Respondent requests the matter be summarily dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN HUNTER LIMBAUGH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

May 3, 2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ERNEST BATTLE, #165247)
)
Applicant,)
)
vs)
)
STATE OF SOUTH CAROLINA,)
)
Respondent,)
_____)

IN THE COURT OF COMMON PLEAS

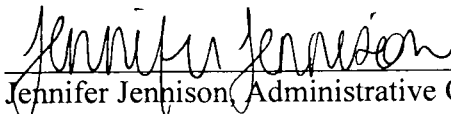
2019-CP-10-3865

CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ernest Battle, #165247 (B2D-0010-A)
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

DATED this 3rd day of May, 2021.



Jennifer Jennison, Administrative Coordinator
For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Ernest Battle, #165247

Plaintiff(s)

vs.

Edsel T. Taylor, Warden, MCI and State of South Carolina, et. al. Defendant(s)

Submitted By: Ernest Battle, #165247
Address: MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, S.C. 29472

Birch # 2 Unit

IN THE COURT OF COMMON PLEAS

2019-CP-10-3865

CIVIL ACTION COVERSHEET

-CP-

FILED
2019 JUL 26 PM 12:22
CLERK OF COURT

SC Bar #: _____
Telephone #: _____
Fax #: _____
Other: _____
E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|--|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) _____ | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20 <u>-NI-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) _____ | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Label (380) <input type="checkbox"/> Other (399) _____ | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) _____ |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input checked="" type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) _____ | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) _____ | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Incapacitated Adult Settlement (790) <input type="checkbox"/> Other (799) _____ | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) _____ |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) _____ <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) <input type="checkbox"/> Interpleader (690) | | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Pre-Suit Discovery (670) | |

Submitting Party Signature: _____

Date: _____

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-26-10 et. seq.

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

2019-CP-10-3865

State of South Carolina)
County of Charleston)
Ernest Battle, #165247,)
Petitioner,)
Vs.)
Edeal T. Taylor, Warden, MCI, and)
State of South Carolina, et. al.)
Respondent.)

NOTICE OF PETITION FOR WRIT OF
HABEAS CORPUS, PURSUANT TO S.C.
Code Ann. § 17-17-10.

I/We Ernest Battle, #165247, Petitioner, respectfully submit notice of
petition for writ of habeas corpus and petition for habeas corpus, pursuant to
S.C. Code Ann. z 17-17-10. S.C. Code of laws.

Respectfully submitted,

Ernest Battle
Ernest Battle

JULIE J. ARMSTRONG
CLERK OF COURT

2019 JUL 25 PM 12: 22

FILED

2019-CP-10-3865

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

P

State of South Carolina)
County of Charleston)
Ernest Battle, #165247,)
Petitioner,)
Vs.)
Edsel T. Taylor, Warden, MCI, and)
State of South Carolina, et. al.)
Respondent.)

PETITION FOR WRIT OF
HABEAS CORPUS, PURSUANT TO
S.C. Code Ann. § 17-17-10.

FILED
2019 JUL 26 PM 12:22
JULIE J. ASSISTANT
CLERK OF COURT

I/M Ernest Battle, #165247, Petitioner, respectfully petitions this Court for a writ of habeas corpus, pursuant to S.C. Code Ann. § 17-17-10., S.C. Code of laws for the following reason (s) thereof:

1. Petitioner is an I/A in the South Carolina Department of Corrections pursuant to commitment orders of the Clerk of Court Charleston County for trafficking in cocaine § 44-53-370(e)(2)(b) 28 to 100 grams.
2. Petitioner proceeded to trial and was subsequently convicted and sentenced to twenty-five (25) years for trafficking in cocaine and ten (10) years concurrent for school zone, Honorable Thomas L. Hughton, Jr. presiding.
3. Circuit Court was deprived of subject matter jurisdiction to enhance petitioner's current offense to 3rd offense by utilizing prior simple possession of marijuana offenses whereas prior circuit court had jurisdiction to accept petitioner's guilty plea because magistrate judge had "Exclusive Jurisdiction" over all criminal cases in which the punishment does not exceed a fine of \$200 or imprisonment for 30 days.
4. Petitioner has exhausted all other remedies including State post-conviction and federal remedies.
5. Petitioner's Constitutional right to due process and 14th Amendment to the U.S. Constitution and S.C. Constitution was violated, and violation which in the setting, constitutes a denial of fundamental fairness, shocking to the universal sense of justice.
6. The prior guilty pleas to indictment no. (s), 79-GS-10-1111, and 79-GS-10-1112, were utilized by prior circuit and current circuit court was insufficient as a matter of law to establish petitioner's guilty plea to marijuana simple possession offenses because both circuit court was void of subject matter jurisdiction, which magistrate court had "Exclusive Jurisdiction."

EXHIBITS

Pursuant to the South Carolina Rules of Evidence with respect to this Honorable Court, the Petitioner submit the following exhibits in support of his petition for writ of habeas corpus thereof:

- Exhibit (A) Indictment No. 79-GS-10-1111, Simple Possession of Marijuana
- Exhibit (B) Indictment No. 79_GS-10-1112, Simple Possession of Marijuana
- Exhibit (C) Commitment Order for Indictment No. 79-GS-10-1111
- Exhibit (D) Commitment Order for Indictment No. 79-GS-10-1112
- Exhibit (E) Warrant for Simple Possession of Marijuana
- Exhibit (F) Affidavit supporting warrant for Simple Possession of Marijuana
- Exhibit (G) Supplemental Information Form
- Exhibit (H) Commitment order for Indictment No. 99-GS-10-7109, trafficking in cocaine 28 to 100 grams
- Exhibit (I) True copy of sentencing transcript utilizing prior marijuana offenses to enhance current sentence to 3rd offense.

ALLEGATION I.

Circuit Court was deprived of subject matter jurisdiction to enhance petitioner's current offense to 3rd offense utilizing prior simple possession of marijuana offenses whereas prior circuit court had no jurisdiction to accept petitioner's guilty plea because Magistrate court had "Exclusive Jurisdiction" over all criminal cases in which the punishment does not exceed a fine of \$ 200 or imprisonment for 30 days.

Petitioner was indicted by the Charleston County Grand Jury during the August 6, term of Court 1979, for two(2) separate offenses of simple possession of marijuana. Indictment No. 79-GS-10-1111, and 79-GS-10-1112.

Petitioner was arrested and indicted on the same day, August 6, 1979. On August 9, 1979, Petitioner subsequently pled guilty to both indictments in General Sessions Court and was sentenced by the Honorable Clyde Robinson to a term of imprisonment for three (3) years on each indictment to be served under the Youthful Offender Act. 5(c).

Petitioner was indicted for the marijuana offenses under Title § 44-53-370(d)3., which provided:

.....That any person who violates this subsection with respect to twenty eight grams or one ounce or less of marijuana or ten or less grams of hashish shall be subjected to imprisonment for a term not to exceed 30 days or a fine of not less than \$100 nor more than \$200.

See S.C. Jur. Magistrates and Munciple Judges §19.

Exclusive vs. Concurrent Jurisdiction.

The South Carolina Code provides that a magistrate's jurisdiction shall be "exclusive" and only the magistrate (and by implication, the munciple judges) have exclusive jurisdiction over all criminal cases in which the punishment does not exceed a fine of \$200 or imprisonment for 30 days.

See; Article V, §21 of the South Carolina Constitution which provides as follows:

.....The magistrate shall have exclusive jurisdiction in such criminal cases as the General Assembly may prescribe provided, further, such jurisdiction shall not extend to cases where the punishment exceeds a fine of two hundred dollars or imprisonment for thirty days.

See; S.C. Const. Art. V. §11. Jurisdiction of Circuit Court. Currentness which held: The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law (1972957) 3176; (58) 161 1985 Act No.9.) See also *State v. Padgett*, 18 S.C. 317 (1892); *State v. Martin*, 261 S.C. 550, (1973). Where magistrate courts were by statute given exclusive jurisdiction of all criminal cases in which the punishment did not exceed a fine of \$100 or imprisonment for thirty days the court of General Sessions did not have jurisdiction. *State v. Castleman*, 219 S.C. 136, 64 S.E.2d 250 (1951).

The General Assembly has granted certain courts exclusive jurisdiction. We call particular attention to Section 15-1581.1 of the Code, as amended, which gives original and exclusive jurisdiction to municipal court of the City of Charleston of all offenses committed within the corporate limits of said city which may be subject to penalties of fines or forfeitures not exceeding thirty days, and all offenses which are now or may be hereafter within the jurisdiction of the magistrate or recorders; whether such offenses are in violation of a city ordinance, state statute, or common law.

A defendant may waive his objection to the jurisdiction of court over his person, but he cannot by consent, or his failure to protest, confer upon a court, authority to try him for a crime which the legislature has expressly placed within the exclusive jurisdiction of another tribunal. *American Agricultural Chemical Co. v. Thomas*, 206 S.C. 355, 34 S.E.2d 592, 160 A.L.R. 594.

Subject matter jurisdiction is the power of the court to hear cases in which the proceeding belongs. The lack of subject matter jurisdiction over a criminal case can be raised at any time, including for a first time on appeal, and can be raised *sua sponte* by the Court. *State v. Brown*, 351 S.C. 522, 570 S.E.2d 559 (2002); See *also* *State v. Ervin*, 333 S.C. 357, 510 S.E.2d 220 (Ct. App. 1998). Lack of subject matter jurisdiction over a criminal case may not be waived, even by consent of the parties, and should be taken notice of by the appellate court.

The acts of a court with respect to a matter as to which it has no jurisdiction are void. *Id.* at 346, 540 S.E.2d at 847; *State v. Funderburk*, 259 S.C. 256, 191 S.E.2d 520 (1972); *State v. Guthrie*, 352 S.C. 103, 107, 572 S.E.2d 309, 311 (Ct.App. 2002).

The inquiry on habeas corpus is limited to the legality of the prisoner's present detention. *McCall v. State*, 247 S.C. 15, 145 S.E.2d 419 (1965). Pursuant to §17-17-10, habeas corpus, if any person shall be or stand or detained for any crime, unless (a) for a felony the punishment of which is death or treason, plainly expressed in the warrant of commitment, (b) charged as accessory. Petition must at least make a *prima facie* showing entitling him to relief. *Crosby v. State*, 241 S.C. 40, 126 S.E.2d 843; *welch v. McDougall*, 246 S.C. 258, 143 S.E.2d 455.

Habeas corpus is available once petitioner has exhausted all post-conviction remedies. *Hunter v. State*, 316 S.C. 105, 447 S.E.2d 203 (1994); *Pennington v. State*, 312 S.C. 436, 441 S.E.2d 315 (1994); *Slack v. State*, 311 S.C. 415 429 S.E.2d 801 (1993), See also Art. 1, § 18 of the South Carolina Constitution,, which states that the writ of habeas corpus may not be suspended except when, in case of insurrection, rebellion, or invasion, public safety require it. *Butler v. State*, 303 S.C. 466, 397 S.E.2d 87 (1990).

Citing *Slacks* supra Defendant pled guilty to and was convicted of grand Larceny and Burglary third degree, Defendant's initial application for PCR was denied after hearing, his second PCR was dismissed as successive, and his appeal from denial of second PCR was dismissed and denied by the South Carolina Supreme Court. Defendant then filed a writ of habeas corpus which was denied by Circuit Court, Horry County, Ellis B. Drew, Special Judge. Defendant appealed. The South Carolina Supreme Court, Finney, J., held that:

(1) court erred in ruling that motion for writ of habeas corpus was untimely, since issue of subject matter jurisdiction could be raised at any time and (2) circuit court lacked jurisdiction to accept defendant's plea to grand larceny, since defendant had neither been indicted for nor waived presentment of that charge, and reversed and remanded and vacated sentence and plea.

Slack v. State, 429 S.E.2d 801 (S.C.1993).

It is fundamental that habeas corpus is a collateral remedy, subject to the limitations common to collateral proceedings, and calls into question only the jurisdiction of the court whose judgment is challenged. It is only when a judgment of conviction or sentence imposed is void, and not merely voidable, that relief may be had by habeas corpus....And the jurisdiction of the Court to render a particular judgment or impose a particular sentence may be a proper subject of inquiry on habeas corpus.

At common law, the writ of habeas corpus was available after conviction to attack the jurisdiction of the court that imposed sentence, *Ellerbe v.*

State, No. 2004-UP-644, submitted Dec. 1, 2004, Decided Dec. 21, 2004.

CONCLUSION

The circuit court lacked subject matter jurisdiction to enhance petitioner's sentence utilizing prior marijuana offenses for simple possession, in which magistrate court was vested with "Exclusive Jurisdiction" over all criminal offenses in which the punishment does not exceed a fine of \$200 or imprisonment for 30 days. Petitioner's sentence on prior and current marijuana offense should be vacated. The interest of law requires it.

Respectfully submitted,

SI Ernest Battle
Ernest Battle

1 MR. BOURDON: Mr. Battle's record starts in 1979. He
2 was convicted of unlawful possession of marijuana. He
3 received a youthful offender sentence. That would make the
4 first drug conviction. He also has a conviction in 1979 for
5 possession of marijuana which is from a different date in
6 March of 1979.

7 THE COURT: So it's two convictions of simple
8 possession of marijuana in '79?

9 MR. BOURDON: Correct, Your Honor.

10 THE COURT: All right.

11 MR. BOURDON: One from April of '79, and one from date
12 of arrest in August of '79. A simple possession of marijuana
13 in 1985. That was a magistrate level offense. Another ---

14 THE COURT: That's the third simple possession of
15 marijuana?

16 MR. BOURDON: Correct, Your Honor.

17 THE COURT: And the next one?

18 MR. BOURDON: November of '85, another possession of
19 marijuana offense.

20 1986, simple possession of marijuana, and that was
21 from January the 7th. On January 23rd of the same year of
22 '86, possession of marijuana. In June of 1986, simple
23 possession of marijuana.

24 In February of 1987, he was also found guilty of

 marijuana and domestic violence -- or excuse m

Exhibit



B3

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

THE STATE)
vs)
JAMES BATTLE)
DEFENDANT)

COURT OF GENERAL SESSIONS

SENTENCE NO: 79-69-10-704

COLOR: H AGE: 18

INDICTMENT: UNLAWFUL WEAPON

VERDICT: PL. G.

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 5 (c) OF THE YOUTHFUL OFFENDER ACT, THE DEFENDANT, JAMES BATTLE, IS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, YOUTHFUL OFFENDER DIVISION, FOR AN INDETERMINATE PERIOD OF TIME, NOT TO EXCEED THREE (3) YEARS.

DATE: MAY 9, 1979

S/ KLYDE ROBINSON
PRESIDING JUDGE

ATTEST A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.F. G.S. & F.O.

By [Signature]
DEPUTY CLERK

STATE OF SOUTH CAROLINA)	THE COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON)	THE NINTH JUDICIAL CIRCUIT
THE STATE OF SOUTH CAROLINA)	
)	
VS.)	CASE NO. 99-GS-10-7109,
)	99-GS-10-7110,
EARNEST BATTLE,)	99-GS-10-7111
)	
DEFENDANT.)	

VOLUME II OF II
(PAGES 241-244)

TRANSCRIPT OF RECORD

JUNE 4, 6, 7, 8, 2001

CHARLESTON, SOUTH CAROLINA

B E F O R E:

THE HON. THOMAS L. HUGHSTON, JR., JUDGE

A P P E A R A N C E S:

MIKE BOSNAK, ESQ.
MARK BOURDON, ESQ.
JOHN CROUT, ESQ.
ATTORNEYS FOR THE STATE

WILLIAM MCGUIRE, ESQ.
LESLIE SARJI, ESQ.
ATTORNEYS FOR THE DEFENDANT

STATE OF SOUTH CAROLINA)
 COUNTY OF Charleston)
 STATE VS.)
Earnest Battle)
 AKA:)
 Race: Black Sex: Male Age: 40)
 DOB: 11/27/60 SS#: 247-21-8681)
 Address: 3955 Old Pine Cir.)
N. Charleston, S.C.)
 DL# _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 1999-GS-10-7107 ✓
 A/W#: E 980726 ✓
 Date of Offense: 7/16/1999 ✓
 S.C. Code §: 44-53-370 ✓
 CDR Code #: 011/4/8 ✓
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Trafficking Cocaine 28 to 100 grams 3d offense ✓
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 011/4/8
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45
 The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:

Michael S. Callahan Solicitor Earnest Battle Defendant _____ Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 25 years or under the Youthful Offender Act not to exceed _____ years and to pay a fine of \$ 50,000; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The Defendant is to be given credit for _____ days/months jail time.
 CONCURRENT or CONSECUTIVE to sentence on: _____

ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK, P.P.S.
 By: Michael S. Callahan
 DEPUTY CLERK

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____
 Recipient: _____
 *Fine: _____ \$
 §14-1-206 (Assessments 100%) _____ \$
 §14-1-211(A)(1) (Surcharge) _____ \$ 100.00
 §14-1-211(A)(2) (Surcharge) _____ \$
 §56-5-2995 (DUI Assessment) _____ \$
 3% to County (if paid in installments) _____ \$ 3.00
 TOTAL _____ \$ 103.00

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol Testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: _____

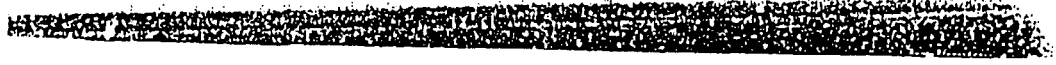
Michael S. Callahan
 Clerk of Court/ Deputy Clerk

PRESIDING JUDGE T. L. Hightower Jr.
 Judge Code: 0101018
 Sentence Date: 6/15/01

Court Reporter: Stacy Sheppard
 White - Clerk Green - Corrections

Cunary - Probation Pink - Defendant

Exhibit
G



SUPPLEMENTAL INFORMATION FORM

This form is used to record information for which sufficient space is not available on the Standard Intake Form. Additional Supplemental Forms may be used as required. Changes to original inmate information may also be recorded on this form.

TRANSACTION NARRATIVE DATE RECORDED

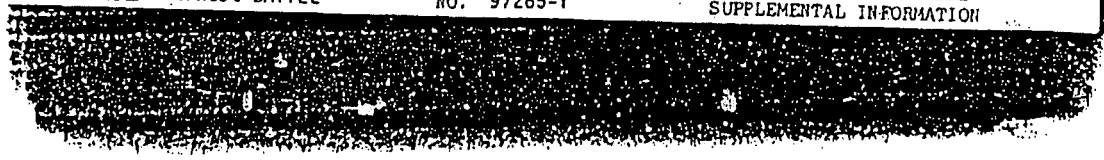
STATEMENT OF CRIME

Subject stated in April, 1979 in Charleston he was stopped by the Charleston City Police because they had an arrest warrant for Simple Possession of Marijuana. When subject was locked up, police found gun under the driver's seat. The gun belonged to subject and it was .32 caliber and it was loaded. Subject said that he only had the gun for protection. Bond was set at \$500.00 and subject was released after 45 days. Subject was arrested again for Failure to Appear in Court. Subject was charged with Simple Possession-Marijuana and Possession-Unlawful Weapon. Subject stated the marijuana was planted in his car by the police and his girlfriend saw them put it there. On August 9, 1979 subject pled guilty to Unlawful Drugs-Marijuana and Unlawful Weapon and was sentenced to YOA 5c not to exceed 3 years by Judge Clyde Robinson of Charleston County. Subject entered the SCDC on August 16, 1979. GB

NAME Ernest BATTLE

NO. 97265-Y

PAGE ____ of ____
SUPPLEMENTAL INFORMATION



Form Approved by
S.C. Attorney General
Section 17-13-300
March 15, 1979

Edmoff
E

STATE OF SOUTH CAROLINA
COUNTY OF Charleston

Arrest Warrant A 018922
ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF Charleston AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT

It appearing from the attached affidavit that there are reasonable grounds to believe that (name of defendant)
ARREST BATTLE JR
did on the 6th day of April, 1979
violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE

Viol Sec 44-53-370 D-3 State Code
Simple Poss of Marijuana 5-9g

Now, therefore, you are empowered and directed to arrest the said defendant and bring
before me forthwith to be dealt with according to law.

A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon
thereafter as is practicable.

Done at Charleston S. C. this 6th day
of April, 1979

D. J. [Signature]
Signature of Judge

STATE OF SOUTH CAROLINA
COUNTY OF Charleston

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one DET. [Signature]
who, first being duly sworn, deposes and says that (name of defendant)

ARREST BATTLE
did within this County and State on the 6th day of April,
1979 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

The Affiant states that there is probable cause to believe that the defendant named above did commit the
crime(s) set forth, and that such probable cause is based on the following facts:

[Empty lines for facts]

Sworn to and Subscribed before me
this 6th day of April, 1979

D. J. [Signature] (U.S.)
Signature of Judge

[Signature]
Address

Phone 577-7424

FORM CONTINUES ON BACK

DUPLICATE

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
[Signature]
DEPUTY CLERK

Exhibit

D

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
SENTENCE NO: 79-05-10-1112

COLOR: B AGE: 18

INDICTMENT: UNLAWFUL INGRESS

VERDICT: P.L. CL.

THE STATE
-VS-
L. J. BATTLE
DEFENDANT

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 5(c) OF THE YOUTHFUL OFFENDER ACT, THE DEFENDANT, L. J. BATTLE, IS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, YOUTHFUL OFFENDER DIVISION, FOR AN INDETERMINATE PERIOD OF TIME, NOT TO EXCEED THREE (3) YEARS, CONCURRENT WITH #79-70.

DATE: 05/24/1979

SAUL T. H. BILSON
PRESIDING JUDGE

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, O.P., G.S. & F.C.

by [Signature]
DEPUTY CLERK

Exhibit



C

STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON)	SENTENCE NO: <u>79-GS-10-1111</u>
THE STATE)	COLOR: <u>B</u> AGE: <u>18</u>
VS.)	INDICTMENT: <u>UNLAWFUL DRUGS</u>
ERNEST BATTLE)	VERDICT: <u>PL. CL.</u>
DEFENDANT)	

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 5(c) OF THE YOUTHFUL OFFENDER ACT, THE DEFENDANT, ERNEST BATTLE, IS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, YOUTHFUL OFFENDER DIVISION, FOR AN INDETERMINATE PERIOD OF TIME NOT TO EXCEED 18 MO. (3) YEARS. CONCURRENT WITH 79-706 & 79-1112

DATE: 1-10-79

S/ ALYDE ROBINSON
PRESIDING JUDGE

ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK, C.P., G.S. & F.C.

By Mark Beatty
 DEPUTY CLERK

B-2

The State of South Carolina

INDICTMENT FOR UNLAWFUL DRUGS

County of CHARLESTON

At a Court of General Sessions convened on the 6th day of August 1979, the Grand Jurors of Charleston County present upon their oath:

COUNT ONE - POSSESSION

That ERNEST BATTLE did in Charleston County on or about the 20th day of March 1979 knowingly and intentionally possess a quantity of Marijuana a controlled substance under provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 32-1510.21 et seq., Code of Laws of South Carolina, as amended), such possession not having been authorized by law.

COUNT TWO - POSSESSION WITH INTENT TO DISTRIBUTE

That ERNEST BATTLE did in Charleston County on or about the 20th day of March 1979 possess with intent to distribute a quantity of Marijuana a controlled substance under provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 32-1510.21 et seq., Code of Laws of South Carolina, as amended), such possession not having been authorized by law.

COUNT THREE - DISTRIBUTION

That ERNEST BATTLE did in Charleston County on or about the 20th day of March 1979 distribute to one ERNEST BATTLE a quantity of Marijuana a controlled substance under provisions of Act 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 32-1510.21 et seq., Code of Laws of South Carolina, as amended), such distribution not having been authorized by law.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CAPERS G. BARR, III, Sheriff

ATTEST: A TRUE COPY JULIE J. ARMSTRONG (SEAL) CLERK, C.P., G.S. & FC

By [Signature] DEPUTY CLERK

B-1 Exhibit

79-4-NO-774

79 GS 101112

The State of South Carolina
County of CHARLESTON

Witnesses

COURT OF GENERAL SESSIONS
August Term, 19 79

THE STATE

vs.
601 ERNEST BATTLE -18
1-21-60

(C. Henry R.)

INDICTMENT FOR
Possession of Marijuana
Unlawful-Drugs

Verdict

Presented by Grand Jury

ONE WHO HAS IN PERSON AND READ CAREFULLY TO THE WITHIN INDICTMENT

ASSIGNED GRAND JURY PRESENTMENT WAIVED
DATE 8/19/79

SIGNED Ernest Battle
ATTORNEY Ernest Battle

Ernest Battle

WITNESSES
DATE 8/19/79

Attest Ernest Battle

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 50 OF THE YOUTHFUL OFFENDER ACT, THE DEFENDANT, Ernest Battle, IS COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS, YOUTHFUL OFFENDER DIVISION, FOR AN INDEFINITE PERIOD OF TIME, NOT TO EXCEED 3 YEARS TO BE COMMENCED ON 8/19/79
DATE 8/19/79

PRESIDING JUDGE Ernest Battle

D.S. Journal 34-
Pg 534

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P. 63/A P.O.
DEPUTY CLERK

Exhibit
A-1

79-4-NO-774

5589
79 GS - J0-1111

Witnesses

The State of South Carolina
County of CHARLESTON

ARRAIGNED GRAND JURY PRESENTMENT WAIVED

DATE 8-9-79

SIGNED Ernest Battle
ATTORNEY Ernest Battle

IN WITNESS WHEREOF I HAVE SIGNED AND PLEAD GUILTY TO THE WITHIN INDICTMENT

Ernest Battle

COURT OF GENERAL SESSIONS

August Term, 1979

WITNESS DATE 8-9-79

Ernest Battle
Ernest Battle

THE STATE

Ernest Battle 18

IT IS THE SENTENCE OF THE COURT THAT PURSUANT TO SECTION 501 OF THE YOUNG OFFENDER ACT, THE DEFENDANT, Ernest Battle, BE COMMITTED TO THE CUSTODY OF THE OFFICE OF PROBATION AND PAROLE, TO SERVE A TERM OF 18 MONTHS.

TOTY VERDICT 3

2/9/79

DATE

Ernest Battle
Ernest Battle

B.S. Journal 34

pg 534

Verdict

INDICTMENT FOR

Public Intoxication

Unlawful Drive

FORWARD TO GRAND JURY

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (REAL)
CLERK, C.P., G.S. & FC.
BY Julie J. Armstrong
DEPUTY CLERK

The State of South Carolina

INDICTMENT FOR UNLAWFUL DRUGS

County of CHARLESTON

A-2

At a Court of General Sessions, convened on the 6th day of August

1979 the Grand Jurors of Charleston County present upon their oath:

COUNT ONE—POSSESSION

That ERNEST BATTLE

did in Charleston County on or about the 6th day of August

1979 knowingly and intentionally possess a quantity of Marijuana

a controlled substance under provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 32-1510.21 et seq., Code of Laws of South Carolina, as amended), such substance not having been obtained as authorized by law.

COUNT TWO—POSSESSION WITH INTENT TO DISTRIBUTE

That

did in _____ County on or about the _____ day of _____

19____ possess with intent to distribute a quantity (_____)

of _____

_____ a controlled substance under provisions of Act No. 445, Acts of 1971, General Assembly of South Carolina, as amended (Section 32-1510.21 et seq., 1962 Code of Laws of South Carolina, as amended), such possession not having been authorized by law.

COUNT THREE—DISTRIBUTION

That

did in _____ County on or about the _____ Day of _____

19____ distribute to one _____ a quantity of _____

_____ a controlled substance under provisions of Act 445, Acts of 1971, General Assembly of South Carolina, as amended, (Section 32-1510.2) et seq., 1962 Code of Laws of South Carolina, as amended), such distribution not having been authorized by law.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

CAPERS G. BARK, III, Sheriff

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK, C.S., S.S. & J.C.

by _____ DEPUTY CLERK

Hon: Julie J. Armstrong
Clerk of Court, GS & CP
100 Broad Street, Ste. 106
Charleston, S.C, 29401-2268

Mr. Ernest Battle.#165247
McDougall Corr. Inst.
1516 Old Gilliard Rd.
Ridgeville, S.C. 29472
Birch # 2 Unit D-5B

June 20, 2019

Dear Hon: Clerk:

Enclosed for filing please find one original Petition for Writ of Habeas Corpus along with exhibits attached and affidavit of service. Please return to me a clocked stamped copy with assigned case number for my records at the above listed address. Thanking you in advance.

Sincerely,

S/ 
Ernest Battle

2019-CP-10-3865

AFFIDAVIT OF SERVICE

I, Ernest Battle, #165247, being duly sworn, disposes and swears against the penalty of perjury that I did on this 24 day of June, 2019, forwarded for filing one original Habeas Corpus Petition to the Honorable Clerk/Julie J. Armstrong, Charleston County along with exhibits and a true copy to the respondent at the below listed address U.S. postage prepaid 1st Class.

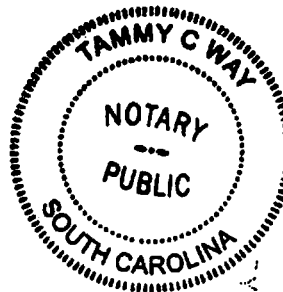
Respectfully submitted,

Ernest Battle
Ernest Battle

Hon: Julie J. Armstrong
Clerkof Court
Charleston County
100 Broad Street, Ste. 106
Charleston, S.C. 29401-2258

Edsel T. Taylor, Warden, MCI.
McDougall Correctional Inst.
1516 Old Gilliard Rd.
Ridgeville, S.C. 29472

NOTARY PUBLIC
STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES 3/4/2024
Thy C Way



2019 JUL 26 PM 12: 23
JULIE J ARMSTRONG
CLERK OF COURT

FILED

8



ALAN WILSON
ATTORNEY GENERAL

May 3, 2021

The Honorable Roger M. Young, Sr.
Chief Administrative Judge
100 Broad Street, Suite 368
Charleston, SC 29401

Re: Ernest Battle, #165247 v. State of South Carolina
2019-CP-10-3865

Dear Judge Young:

Enclosed please find the proposed Order of Dismissal in the above-captioned case. If this Order meets your approval, please sign and forward to the Charleston County Clerk of Court for filing.

Sincerely,

Benjamin H. Limbaugh
Assistant Attorney General

BHL/jaj
Enclosure(s)

cc: Ernest Battle, #165247