

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Max J. Knoten, #253916,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2018-CP-40-4638

FINAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2021 JUL 30 PM 2:28
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C.C.P. G.S. § 1-210

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed by Applicant Max J. Knoten on August 29, 2018. Respondent made its Return and Motion to Dismiss on June 2, 2021, requesting the application be summarily dismissed because it was untimely, successive to Applicant’s prior PCR actions, and failed to establish a *prima facie* showing of newly discovered evidence.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed June 8, 2021, provisionally denying and dismissing this action, while giving Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated July 2, 2021, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant submitted a response filed on July 6, 2021 titled “Response to Return and Motion to Dismiss, and Conditional Order of Dismissal.” In his response, Applicant argues the Richland County Court of General Sessions did not have proper nor legal subject matter jurisdiction to indict, try, convict, or impose a sentence, as the “unconstitutional” Anti-Terrorism Death Penalty Act classified and categorized all felonies, defined violent crimes, and the imposition of sentencing

structures. Applicant raises issues of subject matter jurisdiction in the response, and specifically argues the criminal acts Applicant challenges were not in substantial compliance with the requirements, and could not have been codified into the 1976 code. Applicant alleges the acts in question were amended and falsely passed in the 1990s, with the exception of the act for murder, “which does not exist.” To support his claim that the laws are not enforceable, Applicant claimed he would subpoena and call nineteen listed witnesses.

Applicant continues to claim the “South Carolina Code of Laws 1976 § 14-1-50 common law of England continues in currentness,” and that when the South Carolina legislature amended murder (§16-3-10) and the punishment for murder as a felony offense, “murder became anything but common” and was not consistent with the state constitution. Applicant then proceeds to argue due process requires an individual to be sentenced on accurate information, and claims he filed a motion for legal counsel to assist with a list of several discovery issues and investigative claims.

As a preliminary matter, this Court finds Applicant’s claims that the court lacked subject matter jurisdiction to charge, try, and convict Applicant to be without merit. “Circuit courts obviously have subject matter jurisdiction to try criminal matters.” *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005). Further, a circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment.” *State v. Wilkes*, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003) (citing *Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001)).

In this case, despite Applicant’s allegations against the indictments, and his claim of the invalid acts at the time he was charged, the record reflects the Richland County Grand Jury validly indicted Applicant. These indictments contain all the necessary elements of the offense, and further

cites the applicable statute. Further, “[a]n indictment is merely a notice document.” *State v. Baker*, 390 S.C. 56, 62, 700 S.E.2d 440, 442 (Ct. App. 2010) (citing *State v. Gentry*, 363 S.C. 93, 102-103, 610 S.E.2d 494, 500 (2005)). A presumption of regularity attaches to all proceedings in the courts of this State, and it is incumbent upon one who challenges a proceeding to prove his claims. *See, e.g., Tate v. State*, 345 S.C. 577, 549 S.E.2d 601 (2001); *Pringle v. State*, 287 S.C. 409, 339 S.E.2d 127 (1986). Here, Applicant cannot show any irregularity, because the indictments in question are sufficient on their face. Moreover, “an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood.” *Id.* at 63, 700 S.E.2d at 443 (citing *State v. Tumbleston*, 376 S.C. 90, 98, 654 S.E.2d 849, 853 (Ct. App. 2007.)) In order to challenge the sufficiency of an indictment, an objection must be made before the jury is sworn in. S.C. Code Ann. §17-19-90 (2003).

This Court additionally finds Applicant has failed to establish a *prima facie* showing of newly discovered evidence. Applicant’s various allegations including subject matter jurisdiction, the validity of the criminal statutes and indictments, and listed evidentiary and discovery issues do not constitute newly discovered evidence pursuant to section 17-27-45(C) of the South Carolina Code, and *Hayden v. State*, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983)¹. The claims raised in Applicant’s response are not material to the issue of innocence or guilt, and would not have changed the result of a new trial. Before the Court will hold an evidentiary hearing, Applicant must

¹An applicant requesting a new trial based on after-discovered evidence following a conviction must show that the evidence: (1) Is such as would probably change the result if a new trial was had; (2) Has been discovered since the trial; (3) Could not by the exercise of due diligence have been discovered before the trial; (4) Is material to the issue of guilt or innocence; and, (5) Is not merely cumulative or impeaching. *Id.* (citing *State v. Caskey*, 273 S.C. 325, 256 S.E.2d 737 (1979)).

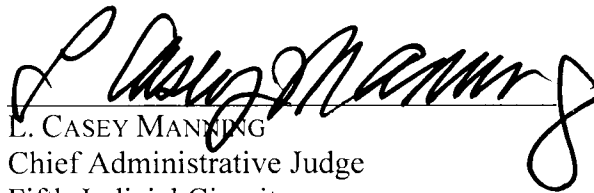
make a *prima facie* showing he is entitled to relief. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make a showing he is entitled to relief based on the information set forth above; therefore, he is not entitled to an evidentiary hearing in the matter.

This Court has reviewed Applicant's response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in this Court's Conditional Order of Dismissal, the application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. *See* Rule 203, SCACR. Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 29 day of July, 2021.


L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated Sgt B Phillips (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)

COUNTY OF McCormick

AFFIDAVIT OF PERSONAL SERVICE

On this 2nd day of July, 2021, I served the Conditional Order of Dismissal (2018-CP-40-4638), on Inmate Max J. Knoten, SCDC Inmate #253916 by delivering personally and leaving a copy of the same at McCormick Correctional Institution. Deponent is not a party to this action.

s/ Sgt Phillips

SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 2nd day of July, 2021

[Signature] (L.S.)
Notary Public for South Carolina

My Commission Expires: 2/26/2028

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal (2018-CP-40-4638) is admitted at the South Carolina Department of Corrections McCormick Correctional Institution), McCormick County, SC this 2nd day of July, 2021.

s/ [Signature]
Inmate
SCDC Inmate #: 253916