

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

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CERTIORARI TO RICHLAND COUNTY  
Casey Manning, Circuit Court Judge

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MAX KNOTEN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

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PETITION FOR WRIT OF CERTIORARI

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Max Knoten, #253916

Petitioner

MCCI F1-A-191

386 Redemption Way

McCormick, S.C. 29899

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EXPLANATION AS TO WHY THE LOWER COURT'S  
DETERMINATION WAS IMPROPER

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The lower court's determination was improper in the summary dismissal of petitioner's second post-conviction relief (PCR) application, which alleged:

1. Richland County Court of General Sessions did not have proper nor legal subject matter jurisdiction to indict, try, convict or impose a sentence.
2. Ineffective Assistance of Counsel
3. Prosecutorial misconduct
4. Court exceeded the maximum sentence allowed
5. Issues 1-14 listed in application dealing with exculpatory evidence and witness credibility

PCR court relies on State v. Gentry to establish subject matter jurisdiction. Circuit courts obviously have subject matter jurisdiction to try criminal matters. While this is true, petitioner's argument is not whether courts have subject matter jurisdiction to try criminal matters but rather if the courts have subject matter jurisdiction to try matters that are not by definition "crimes".

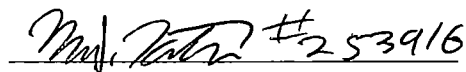
The court goes on to quote precedents that clarify the sufficiency of indictments which is not the issue at hand here. The petitioner seeks to challenge the sufficiency of the law itself where said offenses have not been properly made laws. The PCR court skirts the issue by attempting to focus on the indictments based on the assumption that the underlying criminal offense referenced in the indictments are valid SC laws.

The PCR court further held an indictment passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime. This is precisely the issue petitioner is arguing. There is no statute prohibiting the crime. The statutes referred to in indictments were never enacted. The PCR court additionally found that petitioner failed to establish a prima facie showing of newly discovered evidence...because...the claims raised are not material to the issue of innocence or guilt and would not have changed the result of a new trial. This reasoning is not founded on the principles of logic. Whether or not an act has been outlawed is obviously material to the issue of innocence or guilt. One cannot be guilty of committing a crime if no law has been passed defining what acts constitute said crime.

The court further held that petitioner did not meet his burden of showing he is entitled to relief under newly discovered evidence. The court relied on Hayden v. State, specifically the five prongs of newly discovered evidence. Petitioner argues these same five prongs were met:

1. Absent the erroneous assumption of the existence of a valid statute outlawing certain acts and defining them as crimes, if a new trial was has the result would be different because the elements of the crime would be different and the penalties for committing said offenses would also be different.
2. This evidence was discovered since the trial (as shown in argument)
3. This issue could not have been discovered through due diligence
4. This issue is material to the issue of guilt or innocence due to the elements defining the nature of the crime
5. This issue is not merely cumulative or impeaching.

Therefore, Petitioner has shown that he is indeed entitled to relief. Furthermore, under Pruitt v. State, 310 S.C. 254, this issue should be remanded to PCR court for a ruling on every issue presented.

 #253916

Max Knoten, Petitioner