

The State of South Carolina

In The Supreme Court

Appeal From Florence County

Court of Common Pleas

The Honorable Michael G. ~~Wetzel~~, <sup>SO</sup> Court of Appeals  
Circuit Court Judge

RECEIVED

DEC 21 2021

Docket No: 2020-CP-21-1467

Appellate Case No: 2021-000905

Johnell Richardson 355032,  
Petitioner,

The State of South Carolina,  
Respondant.

Writ of Habeas Corpus

The Petitioner complaining of the above named Respondant and seeking a state Habeas Corpus pursuant to S.C. Code of Laws Chapter 17 section 17-17-10.

- (1) Petitioner is a resident of Richland county State of South Carolina.
- (2) Respondant is South Carolina Attorney General is the Custodiary of Petitioner.
- (3) The Petitioner Johnell Richardson, is presently ~~incarcerated~~ <sup>incarcerated</sup> at Broad River Correctional Institution of the South Carolina Department of Correction's.
- (4) On March 1<sup>st</sup> 2012, Petitioner was indicted by the Florence County Grand Jury.

# Issues

Argument One: Newly discovered evidence.

Argument Two: Lack of Subject Matter Jurisdiction.

Argument Three: Petitioner did not knowingly and voluntarily enter a guilty plea.

# Argument(1)

## Newly discovered Evidence

The applicant asserts that he has newly discovered evidence that has never been raised before on PCR. The issue he is raising is in regards to the Act and Law to which he was convicted and sentenced under. As this Honorable court know every Act and law which is set forth in this state must have the Great Seal of this state affixed to it in order for such Act or Law to become valid. In this particular case, the applicant was convicted and sentenced under an unconstitutional Acts and ~~laws~~ statutes that are not sealed in accordance to S.C. Const. Art. 3 § 18

Art. 3 § 18 (in part),

(No Act or Joint Resolution of the states Legislative Branch should have the "Force of Law" unless it has the Great Seal of this State affixed to it.)

Under state law the word affixed means securely attached to; Fixed or fastened in anyway or impressed upon permanently. By notification given from the South Carolina Department of Archives and History on March 18<sup>th</sup>, 2019 by Deputy Director of Archives and Records Management Steven Tuttle, The 1943 Act No. 184 was NOT sealed. (See Ex.A) Also, Mr. Tuttle provided me with a more definitive statement on April 15<sup>th</sup> 2021 and had it notarized, confirming his findings. (See Ex.B)

In this particular case the prosecution had no legal authority to convict and sentence applicant where the statutes §16-11-330 and §16-3-910 had no legal constitutional foundation from the General Assembly of this state where they were not under the Great Seal. Here, the applicant was arrested and charged unlawfully and unconstitutionally where the General Assembly of the State of South Carolina had not given proper legislative approval under seal. Here, the Act that give absolute constitutional foundation to the Law are not in anyway properly established within the Legislative guidelines, so statutes 16-11-330 and 16-3-910 is Null and Void of legal force. Due Process means fundamental importance as required compliance with Due Process Standards of fairness and Justice. Procedural and substantive rights of citizens against government action that threaten the denial of Life, Liberty, and Property. Here, the state violated the cruel and Unusal Punishment clause under the 8<sup>th</sup> amendment and violated the Equal Protection of Law clause to the U.S. Constitution and the S.C. Constitution Art. 1 § 3 by the Law under the 1993 Act No. 184 not being sealed in accordance to the S.C. Constitution Art. 3 § 18, it is an error that cannot be corrected or amended in anyway because they are invalid and unconstitutional. (See S.C. Code of Laws §2-7-230 and §2-7-240).

S.C. Code of Law 2-7-230 (in part)

"If upon examination of such errors as maybe called to their attention the clerk of the state and of the House of Representatives shall be in doubt as to their authority to make a correction as here in above provided Said clerks shall withhold the certificate of correction."

S.C. Code of Law 2-7-240 (in part)

"No Act or Joint Resolution lodged in the Secretary of State office over (15) fifteen days shall be corrected as here in above provided in this article."

Argument(2)  
Lack of subject matter Jurisdiction

The applicant asserts that the trial court lacked subject matter Jurisdiction over the offence and personal Jurisdiction over him because the State failed to charge him with valid criminal charges. (Criminal-Law-when 91, 92 (in part)) "If the <sup>state</sup> A is unconstitutional the court lacks subject matter Jurisdiction". Here, as stated previously the General Assembly had failed to properly insure that §16-11-330 and §16-3-910 were valid under the 1993 Act-No. 184. By the Act not having the Great Seal of this state embossed upon its face indicate that there was no legislative intentive approval in accordance to the S.C. constitution Art. 3 §18. The trial Judge, Prosecutor and the defence counsel knew beyond a shadow of doubt that the trial court failed to obtain Subject matter Jurisdiction over the applicants case.

S.C. Constitution Art. 3 §18

"No Act or Joint Resolution of the states Legislative branch shall have "The Force of Law" unless it has the Great Seal of the state affixed to it."

### Argument 3

Petitioner did not knowingly and Voluntarily enter a guilty Plea.

"Entering a guilty plea results in the waiver of several Constitutional rights, therefore the Due Process clause requires that defendant enter into guilty pleas. Voluntarily, knowingly, and intelligently." Burnett v. State, 352 S.C. 589, 576 S.E. 2d 144 (2003), To support finding that a guilty plea is voluntarily and knowingly entered record must show that the defendant had full ~~understanding~~ understanding of the consequences of his plea and charges against him, a guilty plea must be an informed and intelligent decision. State v. Lopez, 352 S.C. 373, 574 S.E. 2d 210 (2002). To be valid, a guilty plea must represent an intelligent choice among the alternatives available to a defendant. Had petitioner been informed that the state failed to charge him with valid criminal charges depriving it of subject matter jurisdiction, he would have never plead guilty. Petitioner acted reasonably in believing the state filed valid criminal charges; Petitioner had no prior reason for doubting the statutes was valid and could not have known that the Act that gives the statutes §16-11-330 and §16-3-910 constitutional foundation was not sealed in accordance with the S.C. Constitution Article 3 §18 at the time of his plea because of the solicitors fraud, perjury and conspiracy to keep this information hidden from the.

Petitioner. In other words, Petitioners ~~guilty~~ guilty Plea was not an "intelligent ~~choice~~ <sup>choice</sup> among the alternatives available" Lopez, supra, because he could have Plead not guilty and the court would have lacked subject matter jurisdiction to put Petitioner on trial, since the relevant information was hidden from Petitioner and he was ~~prevented~~ prevented from considering it in making the decision to plead guilty his guilty Plea was not knowingly and intelligently entered.

Carter V. State, 329 S.C. 355, 495 S.E.2d 773 (1998)

State V. Arthur, 374 S.E.2d 291 (1988). "A valid waiver of Constitutional or Statutory rights require a showing on the record that the defendant made the waiver knowingly and intelligently." The judge never informed Petitioner that the State ~~must~~ must obtain jurisdiction according to the States constitution and statutes and they failed to do so thus depriving the Court of Subject Matter Jurisdiction.

## Conclusion

Petitioner would ask this court to vacate his conviction and sentence and remand to the circuit court for a dismissal hearing and/or a new trial.

# EXHIBIT A

Exhibit 1



SOUTH CAROLINA DEPARTMENT OF  
**ARCHIVES & HISTORY**

18 March 2019

Mr. Johnell Richardson 355032  
McCormick Correctional Institution F3/B/244  
386 Redemption Way  
McCormick, SC 29899

Dear Mr. Richardson:

I checked the following act that you requested but could not locate a visible impression of the Great Seal: 1993 Act No. 184.

Sincerely,

A handwritten signature in black ink that reads "Steven D. Tuttle". The signature is written in a cursive style with a large initial 'S'.

Steven D. Tuttle  
Deputy Director  
Archives & Records Management

# EXHIBIT B



SOUTH CAROLINA DEPARTMENT OF  
ARCHIVES & HISTORY

15 April 2021

Affidavit of Steven D. Tuttle, Deputy Director for Archives and Records Management, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, South Carolina 29223.

On 18 March 2019, our agency received a letter from Mr. Johnell Richardson #355032, McCormick Correctional Institution F3/B/244, 386 Redemption Way, McCormick, South Carolina 29899. In this letter, Mr. Richardson asked if 1993 Act No. 184 had been affixed with the Great Seal.

I located the original copy of this act in our security vaults and found that it has 198 pages. I checked each of these pages but could not see an impression of the Great Seal. On 18 March 2019, I wrote Mr. Richardson a letter stating "I checked the following act that you requested but could not locate a visible impression of the Great Seal: 1993 Act No. 184."

Checking original acts for an impression of the Great Seal is a regular duty performed by our staff as we have received and answered more than 400 requests to do so since November 2017.

Signature: *Steven D. Tuttle*

State of South Carolina

County of Richland

Acknowledged before me on this date: *04-15-2021*

Notary Name: *Brenda C. House*  
*Brenda C. House*

My Commission Expires: *01-31-2024*

Notary Signature: *Brenda C. House*

Johnell Richardson 355032  
Broad River Co.I, SB/224H  
4460 Broad River Road  
Columbia, S.C. 29210



SC. Court of Appeals

**RECEIVED**

DEC 17 2021

BRCI  
MAILROOM

SCDC  
Christmas  
Packet

Chief Deputy Clerk

**RECEIVED**

V. Claire Allen

DEC 21 2021

P.O. Box 11629

SC Court of Appeals

Columbia, S.C. 29211