

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPELLATE CASE NO. 2021-001422

S.C. SUPREME COURT

APPEAL FROM SUMTER COUNTY
COURT OF COMMON PLEAS

CASE NO. 2017-CP-43-2263

ARTHUR McQUILLA,

PETITIONER/APPELLANT

Vs.

THE STATE OF SOUTH CAROLINA,

RESPONDENT

AFFIDAVIT OF FACTS GIVING JUDICIAL NOTION; MOTION TO
VACATE THE S.C. SUPREME COURT'S ORDER DENYING THE 28
U.S.C. § 1407 CHALLENGING THE COURT'S JURISDICTION TO
ISSUE IT; MOTION FOR A STAY; MOTION FOR AN EXTENSION
OF TIME TO RESET PURSUANT TO RULE 243(c), SCACR, AND
MOTION UNDER RULE 29 TO CHALLENGE ANY POTENTIAL PROHIBITION
UNTIL AFTER THE U.S. SUPREME COURT POTENTIAL REVIEW AND

MOTION TO MOTION THEREFOR

IN RE: CASE 2021-001422.

TO: THE S.C. SUPREME COURT,
THE S.C. ATTORNEY GENERAL ET. AL.,

HERE THE COURT AND PARTIES WILL FIND:

(1) EXHIBIT, "U.S. SUPREME COURT PETITION". THIS IS A COPY OF THE PETITION THAT WAS FILED BY CRAWFORD AND McCRAY PENDING BEFORE THE U.S. SUPREME COURT.

INASMUCH, THE APPELLANT OBJECTS TO THE S.C. SUPREME COURT'S STRICKING THE MOTION FOR 28 U.S.C. § 1407 TRANSFER STATING THAT IT IS MERITLESS AND MOTION THAT THE ORDER BE VACATED DUE TO AN ABUSE OF DISCRETION AND A RULING THAT DOES NOT COMPORT TO DUE PROCESS LAW THEREBY BEING UNCONSTITUTIONAL AND VOID. THE S.C. SUPREME COURT ABUSED ITS DISCRETION WHEN IT DETERMINED THAT 28 U.S.C. § 1407 TRANSFER ONLY APPLIES TO FEDERAL CASES. THE LAW IS CLEAR ON THIS ISSUE. WHERE COMMON FEDERAL ISSUES AND OR FEDERAL QUESTIONS EXIST, WHETHER AT THE STATE OR FEDERAL LEVEL, LIKE ESTABLISHING THE PROCEDURAL PROCESSING RULE RELIED UPON IN ALL THESE RELATED CASES PURSUANT TO UNITED STATES v. WHEELER, 886 F3d. 415 (4th.Cir.2018) AND FORTBEND COUNTY, TEXAS v. DAVIS, 139 S.Ct. 1843(U.S.2019) MADE APPLICABLE TO THE STATES VIA THE 5TH. AND 14TH. AMENDMENTS OF THE U.S. CONSTITUTION AND THE 14TH. AMENDMENT EQUAL PROTECTION OF THE LAWS CLAUSE OF THE U.S. CONSTITUTION; WHETHER THE S.C. SUPREME COURT ABUSED ITS DISCRETION IN THE STATE v. GENRTY 2005 CASE MAKING USE OF UNITED

STATES v. COTTON, WHICH IS A FEDERAL CASE PRODUCING FEDERAL QUESTION; WHETHER THERE ARE TWO PRONGS TO SUBJECT MATTER JURISDICTION, THE LEGISLATIVE PRONG AND THE CONSTITUTIONAL PRONG AND INDICTMENTS ARE TO BE ADJUDICATED UNDER THE CONSTITUTIONAL PRONG WHICH IS ALSO BEING ARGUED IN THE STATE OF NEW JERSEY FOR THE CRAWFORD 1986 WEAPON POSSESSION CHARGE AND THE S.C. SUPREME COURT DOES NOT HAVE JURISDICTION TO SETTLE CONTROVERSIES BETWEEN STATES SUCH AS HAVING ARTICLE III POWER; WHETHER OR NOT ALL PARTIES TO THE PROCEEDINGS ARE ENTITLED TO NON PARTY RES JUDICATA AND OR COLLATERAL ESTOPPEL EMERGING FROM CASES 2006-CP-400-3567 AND 2013-CP-400-0084 WHICH IS A JURISDICTIONAL CLAIM THAT CANNOT BE WAIVED OR FORFEITED AND CAN EVEN BE RAISED AFTER A FINAL ORDER WAS ISSUED SUPPORTED BY 4TH. CIRCUIT RULING UNDER WHEELER AND U.S. SUPREME COURT RULING UNDER FORTBEND COUNTY, TEXAS CASE, WHERE CRAWFORD MOVES BEFORE THE FEDERAL COURT TO HAVE ALL STATE CASES TRANSFERRED AS TAG ALONG CASES AS WELL DUE TO THESE FEDERAL QUESTIONS? AMONG ACTIONS IN MULTI-DISTRICT LITIGATION, THE PRESENCE OF DIFFERENT LEGAL THEORIES AMONG THE SUBJECT ACTIONS IS NOT A BAR TO CENTRALIZATION. CENTRALIZATION OF ACTIONS IN MULTI-DISTRICT LITIGATION DOES NOT REQUIRE A COMPLETE IDENTITY OF PARTIES. THE PENDENCY OF RELATED STATE COURT LITIGATION CANNOT BE DEEMED A VALID BAR TO CENTRALIZATION OF ACTIONS IN MULTI-DISTRICT LITIGATION. CENTRALIZATION IS WARRANTED WHERE THESE ISSUES ALSO INVOLVE THE FIDUCIARY DUTY OF THE SOLE CORPORATION AND THE LEGAL ISSUES THAT COMMONLY EXIST WITHIN ALL CASES INVOLVED, FOREIGN EXCHANGE TRANSACTION LITIGATION, 857 F.Supp.2d. 1371 (2012); IN RE: DARVOCET AND PROPOXYPHENE PRODUCTS LIABILITY LITIGATION, 780 F.Supp.2d. 1379(2011); IN RE: MARRIOTT INTERNATIONAL, INC., CUSTOMER DATA SECURITY BREACH LITIGATION, 363 F.Supp.3d. 1372(2019). THE S.C. SUPREME COURT ABUSED ITS DISCRETION GIVING WAY TO UNCONSTITUTIONAL ACTION WHICH VOIDS THE ORDER UNDER THE CONSTITUTIONAL PRONG TO SUBJECT MATTER JURISDICTION. THE APPELLANT MOTIONS TO VACATE THE ORDER AND HAVE IT STRICKEN FROM THE RECORD.

DUE TO THE SEEKING OF 28 U.S.C. § 1407 TRANSFER AND THE

FACT THAT THESE MATTERS ARE POTENTIALLY PENDING BEFORE THE UNITED STATES SUPREME COURT VIA THE CRAWFORD AND McCRAE PETITION SEEKING WRIT OF CERTIORARI WHICH WAS SENT BY CERTIFIED MAIL UNDER POSTAL NUMBER 7021 0950 0001 0779 5166. THE APPELLANT MOTIONS TO STAY THIS CASE UNTIL THE U.S. SUPREME COURT DETERMINES WHETHER OR NOT THEY ARE GOING TO HEAR THESE MATTERS, OR THE 3rd. CIRCUIT UNDER CASE 21-1330 DETERMINE IF THEY ARE GOING TO HEAR THESE MATTERS, CALSON v. SOUTH CAROLINA STATE PLASTERING, LLC., 404 S.C. 250, 743 S.E.2d. 868(S.C.App.2013); LIBERTY BUILDERS, INC. v. HORTON, 336 S.C. 658, 521 S.E.2d. 749(S.C.1999).

THE APPELLANT MOTIONS FOR AN EXTENSION OF TIME TO RESET ONCE THE S.C. SUPREME COURT RULES ON THE MOTION TO VACATE ITS ORDER, THE MOTION TO STAY, AND SEEK THAT THE APPELLANT BE GIVEN "JUST AND FAIR" TIME AFTER THESE MATTERS ARE ADDRESSED RELATED TO THE (20) DAY DEADLINE THAT THE COURT IMPOSED BY IT'S RECENT ORDER, TO MEET ANY RESPONSE THAT IS REQUIRED BEFORE THIS COURT. THE APPELLANT PRAYS THE COURT WILL GRANT THIS REQUEST TO INCLUDE ANY AND ALL OTHER RELIEF THE COURT WOULD DEEM JUST, FAIR AND PROPER.

RESPECTFULLY,

ARTHUR McQUILLA



DECEMBER 17, 2021

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