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S.C. SUPREME COURT

SOUTH CAROLINA COURT OF APPEALS

P.O. BOX 11629

COLUMBIA S.C. 29211

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JAN 12 2022

SC Court of Appeals

Willie M. Green
Appellate

VS.

State Of South Carolina

Appellate

Case: 2021-00-1494

In. R.E. Explanation For Reconsideration under Rule 243(C) S.C.A.C.R. Of Error Of Lower Court determination was improper on mentally ill & retarded person § 44-25-410 evaluation issue.

* Explanation sufficient fact; arguable basis *

(1). The trial Court order the State solicitor thirty (30) day Mental Health Evaluation, see exhibit page number 50, paragraph one thur four of the trial transcript ;

(2). P.C.R. attorney was ineffective under the Sixth Amendment of the United States Constitution and Article I, § 14 of the South Carolina Constitution for not securing mental health issue to be heard and ruled upon in 1st P.C.R. action ;

(3). P.C.R. attorney was ineffective for not seeking mental health examiner to testify on appellate competence of mental illness ;

(4). See: Mental Health precedent [Criminal Law Key 625 10.(2.1)] * State v. Burgess, 590 S.E.2d 42 (S.C. App. 2003) * State v. Locklair, 535 S.E.2d 420, 121 S.Ct. 817, see also Order 3 § 44-23-410 health examination of the person by two examiners designated by Department Of Mental Health. Mental illness person committed for examination and observation for period not to exceed fifteen days. See, exhibits page 49 and 50 of the transcripts.

Date: 1/9/22

/s/ Willie M Green

WillieM.Green

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

JAN 12 2022
SC Court of Appeals

IN THE COURT OF COMMON PLEAS

WILLIE M GREEN, 334538

CASE No: 2016-CP-40-3992
2018-CP-40-1809
2019-CP-40-3973

Applicant,

VS.

Applicant's Return to Respondent's
Final Order of Dismissal

STATE OF SOUTH CAROLINA

Respondent.

The Respondent's final order of dismissal is without merit and miss-representation of the facts, as the trial court lacked subject matter jurisdiction to accept applicant's guilty plea, as the applicant has never been the subject of a lawful mental evaluation.

The respondent's version of a lawful mental evaluation is an examination administered from the county jail. Thus, this record alone establishes a sufficient reason why this matter should not be dismissed. See Matthews v. State, Supra.

S.C. Code Ann. 17-24-20(A)(1976), The solicitor had a duty to order al legal and proper mental evaluation, it was a structural denial of applicant's rights to due process when the trial court lacked subject matter jurisdiction to convict applicant upon a guilty plea that was void as indictment was void.

In as much, mental evaluation is mandatory, S.C. Const. Art. 5§21, primary purpose of judicial hearing is to determine if the accused is competent enough to stand trial for the charges he faced. State v. Jones, 330 S.E.2d 286 (S.C. 1985). Applicant's conviction must be set aside, void proceeded to the courts lack of subject matter jurisdiction to accept applicant's guilty plea. Anderson v. Anderson, 382 S.E.2d 897 (S.C. 1989).

The court held, we think it's elementary with no need for citation or authority that the acts of a court without respect to a matter which it has no jurisdiction are void. According to, Lillard v. Seatson, 304 S.E.2d 499 (S.C. 1933), 17-24-24, counsel should have motioned the court to order a lawful mental evaluation

instead of relying on the findings of an examination conducted at the Richland County jail. Moreover, applicant timely filed his Post-Conviction Relief application under 17-27-45(B), because applicant created a new rule that must be applied retroactively on collateral review. Thus, Respondent should be warned to minimize the cost of their claims and not waste the courts finances with frivolous omissions. Also see, Pelzer v. State, 662 S.E.2d 618 (S.C. 2008), Foxworth v. State, 274 S.E.2d 415 (S.C. 1981).

Date October 24, 2021

Signature: Willie M Green

Willie Green - 334538

Kershaw Correctional Institution
4848 Goldmine Hwy.
Magnolia B-37
Kershaw, SC 29067

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