THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

EXPARTE DIZZLEY

CASE NO. 2009-GS-22-00078

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SC Court of Appeals

EMERGENCY PETITION FOR

EXPARTE MOTION OF TERRON DIZZLEY PURSUANT TO

IMMEDIATE RELEASE, DOUBLE JEOPARDY, FALSE IMPRISIONMENT, LACK OF TRIAL COURT'S JURISDICTION TO IMPOSE SENTENCE

EQUAL PROTECTION OF LAWS

S. Terron Dizzley
Terron Dizzley, 359480
4460 Broad River Road
Columbia, South Carolina 29210

S. Gwendolyn B. Frasier
Gwendolyn B. Frasier
7996 Pennyroyal Road
Georgetown, South Carolina 29440

S.
LaQuesha Felder
1440 Baxter Street
Orangeburg, South Carolina 29115

JURISDICTIONAL STATEMENT

The jurisdiction of this case is invoked by: 28 U.S.C.A. § 1651, and the fact subject matter jurisdiction can be raised can be raised at any time, even for first time, on appeal. See: State v Guthrie, 352, S.C. 103 (2002); State v Funderburk, 259 S.C. 256 (1972); State v Kastleman, 219, S.C. 136 (1951). See also: State v Crosby, 108 S.C. 315, (2019); State v Jentry, 363 S.C. 93 (2005).

Petitioner, Terron Dizzley, is being held unlawfully in prison for eight years and counting under a sentence and order of Georgetown County Court of General Sessions, for which it had no legal nor jurisdictional authority to impose, which violated Petitioner's Fifth Amendment Right against Double Jeopardy and right not to be held for a capital, or otherwise infamous crime, unless on a presentment or an indictment of a Grand Jury. Exparte Lange, 85 U.S. 163 (1873), "Where probable ground is shown that the party is in custody under or by color of authority of the United States, and is imprisoned without just cause, and, therefore, has a right to be delivered, the writ of habeas corpus then becomes a writ of right which may not be denied, as it ought to be granted to every man who is unlawfully committed or detained in prison or otherwise restrained of his liberty. The Court initiated what has been described as a long process of expansion of the concept of the lack of jurisdiction. Lange contended that he had been twice sentence for the same offence, in violating the Fifth Amendment's Double Jeopardy Clause, when he had been re-sentenced to a term of imprisonment after having paid the fine originally imposed. Carefully disclaiming the use of habeas as a writ of error, the Supreme Court ordered Lange released from imprisonment because the lower Court's jurisdiction terminated upon the satisfaction of the original sentence. A second judgment of the same verdict is, under such circumstances, void for want of power, and it affords no authority to hold the party a prisoner and must be discharged." Exparte Wilson, 114 U. S. 417 (1885), "Holding Petitioner to answer for such infamous crime, and sentencing him

to such imprisonment without indictment or presentment by a Grand Jury, exceeded its jurisdiction and he is, therefore, entitled to be discharged. The United States Supreme Court, having no jurisdiction of criminal case by writ of error or appeal, cannot discharge, on habeas corpus, a person imprisoned under the sentence of a circuit or district court in a criminal case, unless the sentence exceeds the jurisdiction of that court, or there is no authority to hold the prisoner under the sentence." Exparte Virginia, 100 U.S. 339 (1879), "When a prisoner is held without any lawful authority, and by an order which an inferior court of the United States had no jurisdiction to make, this court will, in favor of liberty, grant the writ not to review the whole case, but to examine the authority of the court below to act at all. Exparte Hamilton, 3 Dall. 17 (1795). This court awarded a writ of habeas corpus, to review a commitment under a warrant of a district judge. In Exparte Burford, 3 Cranch, 448 (1806), Such a writ was awarded to review a commitment by a circuit court of The District of Columbia, not to review a decision of an inferior court upon a habeas corpus issued by it. So, in Exparte Jackson, 96 U.S. 727 (1877), in which the question of our power to issue the writ was raised, and the petition only averred that the circuit court had exceed its jurisdiction this court considered the merits of the case, without regard to the fact that there had been no habeas in the court below." Sanders v. U. S., 373 U. S. 1 (1963)., "Conventional notions of finality of litigation have no place where life or liberty is at stake, and infringement of Constitutional Rights is alleged." Bell v. Hood, 327 U. S. 678, (1946), "Where federally protected rights have been evaded, courts will be alert to adjust their remedies as to grant the necessary relief, and may use any available remedy to make good the wrong done." Faye v Noia, 372 U.S. 39 (1963) "Conventional notions of finality in criminal litigation cannot be permitted to defect manifest federal policy that federal constitutional rights of personal liberty are not be denied without fullest opportunity for plenary federal judicial review. State courts, equally with federal court are charged with duty of protecting an accused in enjoyment of his constitutional rights. U. S. Ohio

Power Co., 353 U.S. 98, (1957), "The interest in finality of litigation "must yield" where interest of justice would make unfair, strict application of Supreme Court's rules."

Gwendolyn B. Frasier and LaQuesha Felder

Petitioners Frasier and Felder's jurisdiction is evoked by their Fourteenth Amendment Right to life, liberty, and the pursuit of happiness in their household, family integrity, and familial and intimate association, pursuant to Terron Dizzley's false imprisonment for over seven years and counting, without any legal or jurisdictional authority.

In Games v. U. S., 2008 WL 11338003, wife Adda N. Games, filed an Exparte TRO to release her husband, Alberto R. Games, Sr., from unlawful detention by the State of California. The Courts denied her motion because Ms. Games did not provide any proof that her husband was falsely imprisoned and only made a vague statement that her husband is "not a ward of the State of California".

However, Petitioner, Ms. Frasier and Ms. Felder have provided proof pursuant to this Exparte Motion that Petitioner, Terron Dizzley, was acquitted of the crimes for which he is unlawfully convicted in his 2012 trial and was unlawfully tried again and convicted in 2014 for the same offense.

Petitioners Frasier and Felder contend that Petitioner, Terron Dizzley's, false imprisonment whereas Ms. Felder and Petitioner, Dizzley lived together as husband and wife and also have a child together, violate their Fourteenth Amendment Right to familial and intimate association and life, liberty, and pursuit of happiness in their household. See: Lee v. City of Los Angeles, 250 F. 3d 668 (2001). "Mentally disabled resident of California City and resident's mother, individually and as resident's conservator, sued city, city police officers, and New York officials for federal and state-law claims based on resident's wrongful arrests, and incarceration for two years in New

York: The Court of Appeals, held that: Allegations supported claims for alleged Fourteenth Amendment Due Process Familia Associations, and Fourth Amendment Violations. It is well established that a parent has a "fundamental liberty interest" in the companionship and society of his or her child and that the State's interference with that liberty interest without due process of law is remediable under 42 U.S.C.A. ₹ 1983. Santosky v. Kramer, 455 U. S. 745, 753 (1982), "This constitutional interest in familial companionship and society logically extends to protect children from unwarranted state interference with their relationship with their parents." Board of Directors v. Rotary Club, 481 U. S. 537, 545 (1987); Roberts v. Jaysees, 468 U. S. 609 (1984)." See: Curnow by and through Curnow v. Ridgecrest Police, 952 F. 2d 321 (1991), "Shooting victim's parents and children had due process liberty interest in relationship with victim who was fatally shot by police officers."

Rueda Vidal v Department of Homeland Security, 536 F. supp. 3d. 604 (2021), " Under The Fourteenth Amendment children have cognizable in associating with their parents free from official deprivation; this right to familial association also applies to the relationship between adult children and their parents." See: Deskovic v. Peetskil, 894 F. Supp. 2d 443 (2012); McGarr v. City of Peetskil, 975 F. Supp. 2d. 377 (2013). "Mother of Juvenile who had been convicted and later exonerated of rape and murder brought action against city police officers and other officials pursuant to Section 1983, alleging that county sheriff department investigators conducted polygraph examinations of suspect that preceded suspect's false confession to rape and murder in 1990…Investigator's actions with respect to suspect's prosecution led to her separation from him following his conviction, violated her constitutional right to familial association. The right to familial association under the First and Fourteenth Amendment is also called intimate association."

Patel v. Fearles, 305 F. 3d. 130 (2002); Wallis v. Spencer, 202 3d. 1126 (2000); Dole v. State of La, 2f. 3d. 1412 (1993). . Mission Power Engineering Co. v. Continental Gas Co., 883 F. Supp. 488 (1995)'

Judicial Notice

Petitioner contends that these Exparte and Proposed Motions contains evidence and facts established by the record of the above judicial proceedings, which proves that Petitioner, Terron Dizzley's rights has been violated resulting in false imprisonment for over seven years without any legal or jurisdictional authority.

This court cannot continue to condone, authorize, and turn a "blind eye" to Petitioner's false imprisonment and the crimes that government officials have committed against him to cover up these crimes. See: SCACR 501, Judicial Conduct, Cannon 3d;

(1), A judge who receives information indicating a substantial likelihood of that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the appropriate authority.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action.

A judge having knowledge that a lawyer has committed a violation of The Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority."

Special Responsibilities of a Prosecutor

Petitioner respectfully requests that this Court takes judicial notice of the recent amendment of August 11, 2021, to Rule 407, SCACR, Rule 3.8.

The prosecutor in a criminal case shall:

(a) Refrain from prosecuting a charge that the prosecutor knows that is not supported by probable cause.

(h) When a prosecutor knows of clear and convincing evidence or information establishing that a defendant in the prosecutor's jurisdiction was convicted of an offense that the defendant did not commit the prosecutor shall make reasonable efforts to seek to remedy the conviction.

This Court has the authority and must exercise this authority to remedy Petitioner's unlawful conviction.

Reasons Why Regular Noticed Motion Procedures Must Be Bypassed

The regular noticed motion procedures must be bypassed and motion for immediate release requested cannot be calendared in the usual manner because Petitioner is falsely imprisoned without any legal nor jurisdictional authority, which according to clearly established Federal Law as determined by the Supreme Court of the United States is kidnapping. The record shows that:

1.. Petitioner, Terron Dizzley, was acquitted of the charges for which he is falsely imprisoned in his first trial of 2012. He was, however, retried for the same offense in 2014, in violation of Fifth Amendment Double Jeopardy Clause.

2.. Petitioner, Terron Gerhard Dizzley, was arrested without probable cause, and after hiring Private Investigator, Bennie L. Webb, it was found that "False Declarations" were made to obtain his arrest warrant, in violation of his Fourth and Fourteenth Amendment Rights. See: Exhibits.

3.. Petitioner, Terron Dizzley, was illegally tried twice and held to answer for an infamous crime without presentment or indictment of a Grand Jury in violation of his Fifth and Fourteenth Amendment Rights. In Exparte Wilson, 114 U. S. 417 (1885), it was held that sentence under such circumstances exceeds the jurisdiction of that court, and there is no authority to hold the prisoner under the sentence.

Petitioner has already suffered irreparable harm by the State of South Carolina who has falsely imprisoned (kidnapped) him for over eight (8) years, and counting, in violation of his constitutional rights. It is well established that the alleged violation of a constitutional right triggers a finding of irreparable harm. Winter v Natural Res. Defense Counsel Inc., 555 U.S. 7, 20 (2008); Elrod v Burns, 427 U.S. 347, 373 (1976).

CERTIFICATE TO FILE EXPARTE MOTION WITHOUT NOTICE OR SUMMON

Petitioner requests that this Exparte Motion be granted without notice or summons, pursuant S. C. Code Ann. Section 62-5-108; Exparte Lexington, 314 S.C. 220 (1994), "Exparte is judicial proceedings taken for benefit of one party only and without notice to or contestation by any person adversely affected". According to clearly established Federal Law as determined by The Supreme Court of the United States, pursuant to Terron's case, there is no opposing parties because:

1. A judgment of acquittal terminates the prosecution and "May not be appealed". U .S. v. Scott, 437 U. S. 82 (1978); U. S. v. Wilson, 420 U. S. 332 (1975); U. S. v. Martin Linen Supply C., 430 U. S. 564 (1977); Fong Foo v. U. S. 369 U. S. 141 (1962); Sanabria v. U. S. 54 (1978).

Therefore, allowing any "So-called" opposing parties to refute a judgment of an "Acquittal" would be contrary to clearly established U. S. Supreme Court Law and would further violate (Terron' s) constitutional rights.

2. My son has been falsely imprisoned for over eight (8) years without any legal justification or jurisdictional authority. The entire time that my son has been illegally incarcerate, he has been deprived of his direct appeal, and according to my son, Clerk of Court, Alma White, intentionally deprived him access to the courts by refusing to file any of his motions throughout his entire period of incarceration, and government officials has conspired to keep my son from being heard to cover-up his false imprisonment. Therefore, putting anyone on notice that this motion is being filed will only further cause my son irreparable injury, because these government officials would try to keep this motion from being heard as they have been doing for over eight (8) years.

My son's false imprisonment is no fault of his own and this motion is made in "Good faith" according to clearly established law. Mission Power Engineering Co. v. Continental Gas Co., 883 F. Supp. 488 (1995); Exparte Lange, 85 U. S. 163 (1873).

Under clearly established law such illegal incarceration is nothing more than an assault and battery and kidnapping. See: U. S. v. Smith, 1974 WL 14097.

Petitioners request an emergency oral argument under SCACR, Rule 218, and §28 U.S.C.A., §1651, and provide Petitioners the opportunity to be present during the oral arguments to argument their own case which is necessary when a person alleges that he/she is illegally imprisoned or remand this case for an emergency hearing within 24 hours of receiving this motion. See: Price v. Johnson, 334 U.S. 266 (1948), "Where the production of a prisoner before a Circuit Court of Appeal to argue his own appeal in a case in which he alleges that he is illegally

imprisoned is essential to the proper disposition of the case, the issuance of an order commanding the production of the prisoner before the court for such purposes is "Agreeable to the usages and principles of law" within the Judicial Code authorizing the issuance of writs necessary for the exercise of jurisdiction and agreeable to the usages and principles of law. 28 U.S.C.A. ∂ 1651". See also: S. C. Code ∂ 20-4-50, More v More, 376 S.C. 467 (2008).

Petitioner contends that each day that this Court takes before adjudicating this case is another day that he further suffers irreparable prejudice by being falsely imprisoned/kidnapped, assaulted and subjected to "Cruel and unusual punishment" without any legal justification nor jurisdictional authority.

For the forgoing reasons, this Exparte Motion should be granted. In the interest of justice, Petitioner is requesting that a hearing is held on this matter within 24 hours of the Court's receipt of this Motion.

DATE: June 8, 2022

Respectfully submitted,

S Terron Dizzley

Terron Dizzley, 359480

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IN THE COURT OF APPEALS

EXPARTE DIZZLEY

CASE NO. 2009-GS-22-00078

CERTICATE OF SERVICE

Petitioners Terron Dizzley, Gwendolyn B. Frasier and LaQuesha Felder certify that on this 8 of June 2022, filed an "EXPARTE AND PROPOSED MOTION IN SUPPORT OF EXPARTE MOTION FOR EMERGENCY PETITION FOR IMMEDIATE RELEASE Of TERRON DIZZLEY PURSUANT TO DOUBLE JEOPARDY, FALSE IMPRISIONMENT, LACK OF TRIAL COURT'S JURISDICTION TO IMPOSE SENTENCE" by placing in U. S. Mail, Postage Pre-paid, sent to the addresses below:

Chief Judge, James Edward Lockemy
P.O. Box 750
Dillon, South Carolina 29536

Court of Appeals, SC
1220 Senate Street
Columbia, South Carolina 29201

Attorney General Office
P. O. Box 11549
Columbia, 29211

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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

EXPARTE DIZZLEY

CASE NO. 2009-GS-22-00078

Notice

Dear Clerk:

Enclosed, please find an original and three copies of an "EXPARTE AND PROPOSED MOTION IN SUPPORT OF EXPARTE MOTION FOR EMERGENCY PETITION FOR IMMEDIATE RELEASE Of TERRON DIZZLEY PURSUANT TO DOUBLE JEOPARDY, FALSE IMPRISIONMENT, LACK OF TRIAL COURT'S JURISDICTION TO IMPOSE SENTENCE", stamp filed. Please send copy to each party.

Date: June 8, 2022

With kind regards,

S, Terron Dizzley

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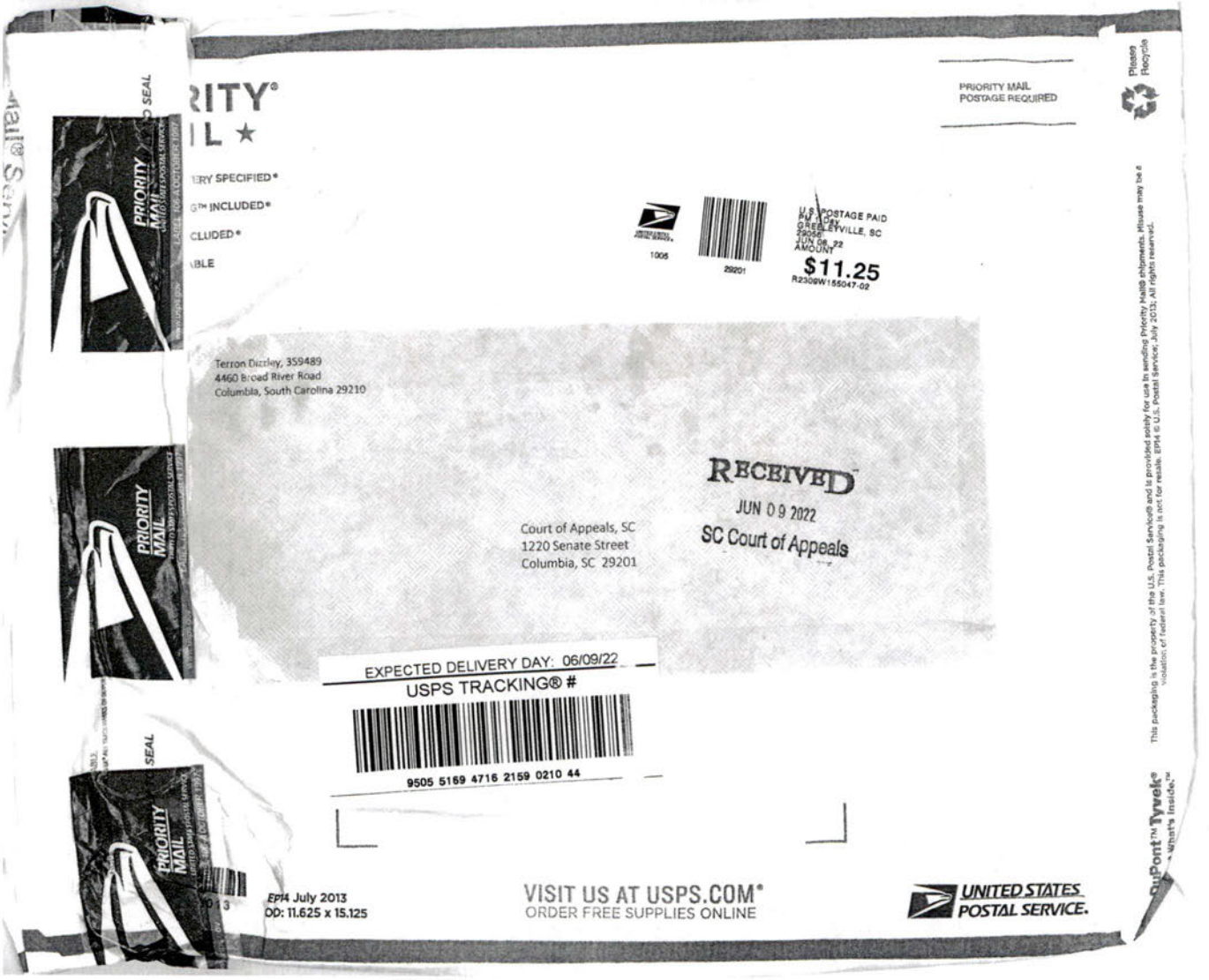

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